



National
Defence

National Defence Headquarters
Ottawa, Ontario
K1A 0K2

Défense
nationale

Quartier général de la Défense nationale
Ottawa (Ontario)
K1A 0K2

TOP SECRET//COMINT
Canadian Eyes Only

MINISTERIAL AUTHORIZATION

INTERCEPTION ACTIVITIES CONDUCTED IN SUPPORT OF CANADIAN FORCES OPERATIONS IN AFGHANISTAN

1. In the exercise of the power conferred on me by the *National Defence Act*, I have read the submission of John Adams, Chief, Communications Security Establishment (CSE), and I am satisfied that the conditions enunciated in subsection 273.65(2) of the *National Defence Act* have been met.
2. I therefore authorize CSE with the assistance and operating in conjunction with the Canadian Forces, to intercept private communications acquired through the class of activities described as Interception Activities Conducted in Support of Canadian Forces Operations in Afghanistan for the sole purpose of obtaining foreign intelligence in accordance with the Government of Canada intelligence priorities.
3. As required by the *National Defence Act*:
 - a) Activities carried out pursuant to this Ministerial Authorization shall be directed at foreign entities located outside Canada.
 - b) Activities carried out pursuant to this Ministerial Authorization shall be subject, as a minimum, to measures to protect the privacy of Canadians, contained in the following operational policies and other operational policies referred to therein:
 - (i) OPS 1 – “Protecting the Privacy of Canadians and Ensuring Legal Compliance in the Conduct of CSEC Activities”, as revised on 16 September 2010; and
 - (ii) OPS 1-13 – “Procedures for Canadian [REDACTED] and Joint CSEC-CF Activities”, as revised on 16 September 2010.
 - c) For the purposes of paragraph 273.65(2)(d) of the *National Defence Act*, a private communication intercepted pursuant to this Ministerial Authorization shall be considered essential to international affairs, defence or security, and used or retained only if it contains information that is clearly related to the intelligence priorities of the Government of Canada.

4. Pursuant to subsection 273.65(5) of the *National Defence Act*, I consider it advisable, for the protection of the privacy of Canadians, that the following additional measures apply to the interception of private communications carried out in accordance with this Ministerial Authorization:
- a) The activities carried out pursuant to this Ministerial Authorization shall be in strict compliance with the Ministerial Directives "Privacy of Canadians" and "Accountability Framework" issued to CSE on 19 June 2001, the Ministerial Directive "Integrated SIGINT Operational Model" issued to CSE on 20 May 2004, and the Ministerial Directive "Collection and Use of Metadata" issued to CSE on 9 March 2005.
 - b) In cases where an analyst recognizes a communication directly related to the seeking, formulating or giving of legal advice between a client and a person authorized to practice as a lawyer or a notary in the province of Quebec or as a barrister or solicitor in any territory or other province of Canada, or any person employed in the office of such a lawyer, notary, barrister or solicitor ("solicitor-client communication"):
 - (i) the analyst shall annotate that communication for destruction unless the analyst believes it may contain foreign intelligence;
 - (ii) if the analyst believes that a solicitor-client communication may contain foreign intelligence, then the analyst shall annotate that communication for retention and forthwith bring the communication to the attention of his/her director (via the reporting chain);
 - (iii) the director shall forthwith obtain legal advice from the Department of Justice, CSE Directorate of Legal Services, on whether the continued retention or use of the solicitor-client communication would be in conformity with the laws of Canada, and not bring the administration of justice into disrepute; and
 - (iv) where legal advice has been obtained that the continued retention or use of a solicitor-client communication containing foreign intelligence would be in conformity with the laws of Canada, and not bring the administration of justice into disrepute, CSE may only use or retain the information derived from the solicitor-client communication in conformity with the legal advice received.

- c) To facilitate the review by the Commissioner of CSE of the statutory requirement that interceptions of private communications must be directed at foreign entities located outside Canada, CSE shall establish and maintain an automated directory of selectors which it is satisfied relates to foreign entities located outside Canada.
- d) CSE shall record the following information, and shall send the report to me within four (4) months following the expiration of this Ministerial Authorization, or at any time upon request:
 - (i) the number of recognized private communications intercepted pursuant to this Ministerial Authorization that are used or retained on the basis that they are essential to international affairs, defence or security;
 - (ii) the number of recognized solicitor-client communications intercepted pursuant to this Ministerial Authorization, that are used or retained on the basis that they are essential to international affairs, defence or security and in conformity with the legal advice received;
 - (iii) the number of intelligence reports produced from the information derived from private communications intercepted pursuant to this Ministerial Authorization; and
 - (iv) the foreign intelligence value of these reports, as they relate to international affairs, defence or security.
- 5. CSE shall report to me when any serious issue arises in the implementation of this Ministerial Authorization, including but not limited to a sustained substantial decrease in the value of this source of foreign intelligence, or any sustained major increase in the number of recognized private communications or solicitor-client communications intercepted pursuant to this Ministerial Authorization.
- 6. Pursuant to section 273.63 and subsection 273.65(8) of the *National Defence Act* the Commissioner of CSE is charged with the review of activities carried out under this Ministerial Authorization to ensure that they are in compliance with the law and authorized, and CSE shall support and assist the Commissioner in carrying out such reviews.

7. This Ministerial Authorization shall have effect for one year, from 1 December 2010 to 30 November 2011 and supersedes the "Ministerial Authorization Interception Activities Conducted in Support of Canadian Forces Operations in Afghanistan" dated 3 November 2009.

Dated at Ottawa, Ont this 16th day of November 2010.



The Honourable Peter MacKay, P.C., M.P.
Minister of National Defence