

**Does Canada Need a
Foreign Intelligence Agency?**

March 2003

Ottawa

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Executive Summary:

When the McDonald Commission recommended the creation of the Canadian Security Intelligence Service (CSIS) in 1981, it also acknowledged the potential need for a Canadian foreign intelligence agency. Adequately addressing Canada's evolving intelligence priorities requires a centralized and focussed agency to gather foreign intelligence.

Currently, Canada has only a limited capability to collect foreign intelligence abroad. Although CSIS does some work abroad, their work falls short of a full-scale foreign intelligence gathering service. Even T. D'Arcy Finn, a former director of CSIS who is not a supporter of a Canadian foreign intelligence agency, has said that despite CSIS' occasional foreign activity, Canada will not get the information it needs to make the best, most favourable decisions for itself. As well, there is concern about CSIS operating beyond its mandate and beyond its level of competence.

Intelligence from alliances

As the only G8 country without an independent foreign intelligence-gathering agency, Canada relies on its allies for the bulk of its intelligence. In 1992, it was estimated that Canada derives over 90% of its signals intelligence and much of its human intelligence from allies.

During the Cold War, Canada's geographical proximity to Russia made it an important contributor to UKUSA, our most significant intelligence-sharing agreement. But today, our capacity to deliver intelligence to share has declined. There are concrete risks inherent in collecting more from our allies than we contribute: If we rely primarily on our allies for foreign intelligence, we have no way of ensuring that questions vital to our national interests are being addressed in the information we receive. A separate Canadian foreign intelligence agency which generates our own intelligence product would allow greater independence in policy formulation, based on a Canadian perspective and Canadian interests, while allowing us become a proportionate contributor to existing arrangements.

Military intelligence

This section argues that a foreign intelligence agency could enhance the effectiveness of our military operations. The Canadian deployments in both Somalia and Rwanda exemplify some of the problems that stem from inadequate intelligence. In 1997, the report of the Somalia Inquiry concluded that intelligence failures contributed to the difficulties experienced by that mission. The Canadian Forces relied on information from U.S. sources, but had trouble getting information from them in a timely and responsive manner. In Rwanda, DND reported that Canadian troops arrived without a full understanding of the situation at hand.

This section concludes that our ability to respond appropriately to international crises and to ensure the safety of our troops while deployed, requires both military and foreign intelligence capabilities. An independent foreign intelligence agency would allow us to gather intelligence for ourselves where the UN does not and where allied information may not be sufficient.

Economics and trade

Canada's economic security would be well served by an independent foreign intelligence collection capability, as the competitive nature of international trade does not leave much room for cooperation and sharing by our allies. In fact, CSIS has acknowledged that foreign governments conduct economic espionage against Canadian interests to enhance their economic competitiveness.

To enhance our economic competitiveness, Canadian businesses and the Canadian government need independently collected foreign intelligence, suited to Canadian needs and unfiltered by an economic competitor. A foreign intelligence service would allow us to monitor trade agreements and collect information about potentially unfair trade practices of other governments – offsetting the potential losses incurred when foreign governments conduct operations against us.

A separate agency

To truly be effective, a Canadian foreign intelligence agency would best be positioned as a completely separate organization from CSIS. Rather than allowing the gradual, unmandated

expansion of CSIS' abilities, legislating official parameters for the functioning of a foreign intelligence agency would provide a clear legal framework for Canadian foreign intelligence gathering activities.

Conclusion

The report concludes that there are compelling reasons for Canada to establish an independent foreign intelligence service. The changed intelligence priorities of Canada and its allies mean that we can no longer rely exclusively on existing capabilities and intelligence sharing agreements. To meet its own intelligence requirements and become a more proportionate contributor to allied intelligence arrangements, Canada now needs to expand its existing capabilities, creating a central and separate agency responsible for the collection of foreign intelligence.

Introduction

*“People who insist on keeping their hands clean
are likely to find themselves without hands.”*

- Charles Péguy

When the McDonald Commission recommended the creation of the Canadian Security Intelligence Service (CSIS) in 1981, it also acknowledged the potential need for a Canadian foreign intelligence agency. “The costs of *not* having a capacity for collecting foreign intelligence relevant to distinctive Canadian interests must be considered,” the Commission concluded. “How much more security and intelligence information would Canada receive from its allies if it contributed more to the common pool? While this cannot be answered firmly, it is not unreasonable to suppose that the amount of intelligence available to Canada would increase.”¹

In the two decades since the Commission’s report, arguments have been made many times both for and against the creation of a foreign intelligence agency for Canada. But while the issue has received much attention in academic circles, there has been little official interest and almost no public debate on the subject.

The international environment has changed significantly since 1981, and with it, Canada’s intelligence priorities have evolved. During the Cold War, Canada’s intelligence efforts were largely focussed on Communist military and espionage threats.² Today, the focus is instead on economic intelligence, ethnic and religious conflict, the proliferation of weapons of mass destruction, transnational organized crime, uncontrolled migration,³ as well as cell-based international terrorism. Since the events of September 11th, 2001, Canada has focussed increasingly on national security and on averting potential terrorist threats emanating from outside our borders. Intelligence plays an extremely important role in assessing and

¹ Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police. “Second Report – Volume 1. Freedom and Security under the Law,” (August 1981), 644.

² Auditor General of Canada, “The Canadian Intelligence Community: Control and Accountability,” Chapter 27, *1996 Report of the Auditor General of Canada*. Sec. 27.30. <<http://www.oag-bvg.gc.ca/domino/reports.nsf/html/9627me.html>> (21 February 2003).

³ Auditor General.

intercepting such threats and Canada must be sure it has adequate intelligence capabilities to meet these needs. Today's security and intelligence priorities warrant a reassessment of the means by which we gather foreign intelligence. Adequately addressing them requires a centralized and focussed agency for the collection of foreign intelligence.

Security vs. Foreign intelligence

It may be helpful to start by making clear the difference between security intelligence and foreign intelligence. Understanding this difference is key to understanding the gaps in Canada's intelligence capabilities and the danger they pose.

Security intelligence is defined in the *CSIS Act* as relating to "threats to the security of Canada." Those threats include: espionage or sabotage; foreign influenced activities that are detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person; politically-motivated violence; and unlawful acts intended to lead to the overthrow of the government.⁴

With respect to foreign intelligence, one of the best definitions is provided by former Assistant Director of CSIS Alistair Hensler. He describes it as:

Information about the plans, intentions and activities of foreign individuals, governments and entities. This may also apply to security intelligence, but in that respect the plans, intentions and activities must have a connection to "threats to the security of Canada." Foreign intelligence is not so restricted and need not have a threat component. It can apply broadly to political, military, economic and commercial issues.⁵

The two terms are not mutually exclusive and as Hensler further points out, practice in the Canadian context has blurred the distinction between them.⁶ An important difference lies in the methods of collection: Hensler explains that in general, security intelligence is collected only inside Canada, while foreign intelligence is usually collected abroad.

⁴ Security Intelligence Review Committee, "Office Consolidation – Chapter C-23, Canadian Security Intelligence Service Act," <<http://www.sirc-csars.gc.ca/5000.html>> (21 February 2003).

Likewise, there is a need to distinguish between signals intelligence (SIGINT), and human intelligence (HUMINT). The latter is the clandestine collection of intelligence using human sources. It involves recruiting individuals to become sources, directing them to collect intelligence on identified targets and maintaining secret relationships with them. SIGINT focuses instead on intercepts of radio, radar and other electronic transmissions.

What are the limitations of our current capabilities?

Canada has only a limited ability to collect foreign intelligence abroad. As Stuart Farson writes, Canada “has no agency mandated to collect human source intelligence (HUMINT) abroad by covert means or to conduct other covert actions.”⁷ As is often cited in the literature on the subject, Canada is the only G8 country without such an agency.

The Communications Security Establishment (CSE) is Canada’s main source of independently collected foreign intelligence, but deals only in signals intelligence. The SIGINT that CSE collects comes both from abroad and from within Canada. As John Harker explains, “it gathers signals intelligence in support of Canada’s foreign and defence policies, based on the collection of foreign radio, radar and other electro-magnetic transmissions, and distributes reports on what such intelligence reveals. The CSE also provides for the security of data processing by and communications between federal agencies.”⁸ Its collection must be directed against “foreigner persons, foreign governments, and foreign entities.”⁹ In the absence of a HUMINT capability, the SIGINT collected by CSE is our most important contribution to our intelligence-sharing alliances.

Here in Canada, the Canadian Security Intelligence Service (CSIS) is responsible for the collection of security intelligence. Many Canadians mistake CSIS for a full-blown intelligence agency such as the CIA, but in reality, it has only a limited mandate to operate outside of

⁵ Alistair S. Hensler. “Creating a Canadian Foreign Intelligence Service.” *Canadian Foreign Policy* 3, no.3, (Winter 1995): 16.

⁶ Hensler, “Canadian Foreign Intelligence Service,” 16.

⁷ Stuart Farson, “Accountable and Prepared? Reorganizing Canada’s Intelligence Community for the 21st Century.” *Canadian Foreign Policy* 1, no. 3, (Fall 1993): 48.

⁸ H. John Harker, “The Architecture of Canada’s Foreign Intelligence System.” (December 1994), 7.

⁹ Hensler, “Canadian Foreign Intelligence Service,” 16.

Canada. According to section 12 of the *CSIS Act*, any information collected by CSIS must relate explicitly to “threats to the security of Canada,” as defined by the *Act*. Alistair Hensler writes, “security intelligence may be collected abroad from so-called “friendly” security and intelligence agencies, as well as law enforcement bodies. In addition, CSIS may collect security intelligence from human sources living abroad within the terms of strictly controlled government policy.”¹⁰ CSIS can only collect foreign intelligence inside Canada, and even then must have a specific request from the Minister of Foreign Affairs and International Trade or the Minister of National Defence in order to do so.¹¹

According to its director, CSIS does have officers stationed overseas. At a meeting of the Citizenship and Immigration committee of the House of Commons in October, 2001, Ward Elcock stated that that agency has “liaison officers” stationed overseas. According to Elcock, the officers “conduct liaison with foreign agencies and assist the immigration department,”¹² but do not engage in covert foreign operations. Those capabilities, however, do not provide the full benefit of an independent foreign intelligence agency. Responding to a question in the House about those capabilities, then-Foreign Minister John Manley stated at the time that CSIS’ work is not equivalent to a full-scale foreign intelligence gathering service.¹³ Even T. D’Arcy Finn, a former director of CSIS who is not a supporter of a foreign intelligence agency, writes, “even with the foreign liaison, and occasional foreign operational activity conducted by CSIS, Canada will not get what it needs to assist in taking the best, most favourable decisions for itself. There is a genuine concern about CSIS operating beyond its mandate and beyond its level of competence.”¹⁴ The fact that CSIS has a need to operate overseas serves to demonstrate that there is a demand for the type of intelligence which would be gathered by an independent foreign intelligence agency – an agency whose staff would be focussed on foreign intelligence, rather than simply adding to CSIS’ existing responsibilities.

¹⁰ Hensler, “Canadian Foreign Intelligence Service,” 16.

¹¹ Security Intelligence Review Committee, “Office Consolidation.”

¹² Standing Committee on Citizenship and Immigration. Evidence, 18 Oct 2001.

<<http://www.parl.gc.ca/InfoComDoc/37/1/CIMM/Meetings/Evidence/cimnev31-e.htm>> (18 February 2003).

¹³ Debates of the House of Commons, 37th Parliament, 1st Session. 17 October 2001. Oral questions.

¹⁴ Finn, T. D’Arcy. “Does Canada Need a Foreign Intelligence Service?” *Canadian Foreign Policy* 1, no. 3 (Fall 1999): 159.

Within the Department of National Defence, a third organisation, the J2 Division, is responsible for Canada's defence intelligence capability. J2 "is responsible for providing the Canadian Forces (CF) with all-source strategic, military and security intelligence, imagery ... and counter-intelligence."¹⁵ Intelligence collected by J2 is distributed to CF commanders. The Division also provides assistance for CF operations and peacekeeping missions and shares the information it collects with CSIS, CSE, and other Canadian intelligence agencies.

Intelligence from alliances

While CSIS, the CSE and J2 provide some measure of independent foreign intelligence to Canada, they are not unified under a single mandate, and even taken together do not provide the full range of foreign intelligence capabilities. CSIS, despite some operations abroad, remains focussed on security intelligence, and the CSE's SIGINT capability provides only a partial intelligence picture because Canada lacks a foreign intelligence HUMINT capability. As a result, Canada relies on its allies for the bulk of its intelligence information. In 1992, it was estimated that Canada derives "almost all of its imagery intelligence, over 90% of its signals intelligence, and much of its human intelligence from the allied community."¹⁶

The foreign intelligence information we do receive from our allies comes to us via arrangements set out in various intelligence-sharing agreements. The most significant of these is the UKUSA treaty, signed in 1948. Through UKUSA, Canada cooperates with the SIGINT agencies of the United States, the United Kingdom, Australia, and New Zealand.¹⁷ The agreement covers global intelligence targeting, operational procedures, transfers of technologies and full exchanges of intelligence product.¹⁸

Throughout the Cold War, Canada made a significant contribution to the UKUSA alliance. Today, however, Canada's contribution to its partners in intelligence sharing is no longer what

¹⁵ Martin Rudner. "Contemporary Threats, Future Tasks: Canadian Intelligence and the Challenges of Global Security." *Canada Among Nations 2002: A Fading Power* (Toronto: Oxford University Press, 2002): 12.

¹⁶ Security Intelligence Review Committee, *Counter-Intelligence Study 93-06*. (28 January 1994; expurgated version July 1995).

¹⁷ Hensler, "Canadian Foreign Intelligence Service," 13.

¹⁸ Rudner, 13.

it once was, and the benefit of this and other agreements has been undermined by our limited and diminishing reciprocal contribution. As Martin Rudner argues, Canada's contribution "was valued not so much for this country's inherent capabilities in intelligence production, as for the distinct geographic advantage that this country offered by way of SIGINT coverage of the Soviet Union, especially its Arctic and Far Eastern regions, and the adjacent Atlantic, Pacific and Arctic Oceans."¹⁹ Today, with new threats and priorities having eclipsed those of the Cold War period, Canada's position no longer looks quite so valuable. Allied intelligence has shifted away from Russia and the former Soviet States, and consequently, as Alistair Hensler writes, "Canada's unique contribution has been considerably devalued."²⁰

Since the terror attacks on the Pentagon and the World Trade Centre on September 11th, 2001, Canada and its allies have begun reinvesting in intelligence capabilities, which clearly are more important than ever. This renewed focus is to be applauded as a positive step in protecting Canada and its allies from terrorist threats. However, as well as reinvesting funds in existing agencies, those funds need to be directed towards enhanced collection and analysis capabilities, especially in the area of foreign intelligence.

The work of the CSE, while useful, cannot stand alone as a Canadian contribution to allied intelligence sharing arrangements. In fact, Hensler argues, developments in technology and encryption techniques mean that signals intelligence is becoming harder and harder to intercept, and the importance of signals intelligence is being undermined by changing technology: "The increasing sophistication of communications technology which is used to encode written and oral messages is making interception less profitable."²¹ Specifically, Martin Rudner suggests that a shift by telecommunications systems to high-capacity fibreoptic networks - which cannot be readily intercepted by current SIGINT technology - will undermine the ability of CSE and its partner organizations to monitor communications traffic.²²

¹⁹ Rudner, 13.

²⁰ Hensler, "Canadian Foreign Intelligence Service," 26.

²¹ Hensler, "Canadian Foreign Intelligence Service," 26.

²² Rudner, 19.

The gaps in our current foreign intelligence capabilities, then, are many: CSE limits itself to the collection of signals intelligence, while CSIS has a limited mandate to collect foreign intelligence of any kind. At the same time, the events of September 11th, 2001 have meant that both Canada and its allies now place enormous emphasis on national security and the prevention of future terrorist attacks. Even as our intelligence partners are expecting us to contribute more, our Cold War geographical advantage has been diminished. Overall, these developments mean that Canada is today – and has been for some time - a net consumer rather than a net producer of foreign intelligence. We currently get far more out of our intelligence-sharing arrangements than we contribute to them – and the gap is growing.

What are the risks inherent in an uneven intelligence-sharing arrangement?

Our curious dependence on others has not gone unnoticed by our allies: “Canada long ago stopped subcontracting its diplomacy to Britain and set up its own embassies abroad. It seems curious in Britain that Canada is still willing to subcontract its HUMINT, though not its SIGINT, to its allies,”²³ writes Christopher Andrews, a renowned British expert on intelligence.

There are concrete risks inherent in “subcontracting” our HUMINT capabilities. First of all, if we rely primarily on our allies for foreign intelligence, we have no way of independently ensuring that questions vital to our national interests are being addressed in the information we receive. As the Standing Committee on National Defence and Veterans Affairs concluded in its 2002 report, “Facing Our Responsibilities: the state of readiness of the Canadian Forces, “Cooperation with our allies is essential and productive, but we would be foolhardy to assume that our allies always view events through the same lens we do or that their national interests are always in harmony with ours.”²⁴ In other words, our allies collect foreign intelligence for their own purposes. While we may have access to some of what they collect, issues specific to Canada – of which we may not even be aware – may go unaddressed. As British Prime

²³ Andrew, Christopher, “The British View of Security and Intelligence,” in Farson, Stuart, David Stafford and Wesley Wark, eds. *Security and Intelligence in a Changing World: New Perspectives for the 1990s* (London: Frank Cass, 1991), 10.

²⁴ Standing Committee on National Defence and Veterans Affairs. “Facing Our Responsibilities: The State of Readiness of the Canadian Forces” (House of Commons, Canada, May 2002).

Minister Lord Palmerston said in 1848, "We have no eternal allies and we have no perpetual enemies. Our interests are eternal and perpetual, and those interests it is our duty to follow."²⁵

As well, it is clear that if Canada relies predominantly on its allies for foreign intelligence, there will always be gaps in our knowledge, and our allies will always withhold certain information, when it is in their interests to do so: They decide what they want us to know. We do not know how much information our allies are not passing on to us, and they are also very aware of the depth and scope of the limitations of our knowledge. This has the potential to limit Canada's ability to formulate independent foreign policy or even to be aware of bilateral relations among our allies. "It seems clear that Canada was shut out of the ring of knowledge during the recent Middle East Peace negotiations, and would also be in the dark about, for example, bilateral negotiations between the United States and the European Union (EU) on various issues such as telecommunications that have serious implications for Canada,"²⁶ Finn writes.

In the expurgated version of a counter-intelligence study carried out by the Security Intelligence Review Committee in 1994, that committee also suggests the benefits an independent foreign intelligence agency would have for Canada's foreign policy. An independent agency would allow greater independence in policy formulation, based on a Canadian perspective and Canadian interests, the report suggests.²⁷ Canada has historically come under criticism for blindly following the United States in the promulgation of our foreign policy. Having our own independent sources of information provided by our own foreign intelligence agency would be invaluable and would allow us to fight both the perception and the potential reality of such a situation. Conversely, and ironically, in certain circumstances access to our own intelligence may make us even stronger and more reliable allies.

Nevertheless, there are real risks in too heavy a dependence on intelligence supplied by our allies. In a situation where Canada contributes less than it takes from the common pool of intelligence, our allies may be reluctant to share their intelligence with us. In general, an

²⁵ Roskin, Michael G., "National Interest: From Abstraction to Strategy," *Parameters*, Winter 1994: 4-18 <http://carlisle-www.army.mil/usawc/Parameters/1994/roskin.htm> (23 February 2003).

²⁶ Finn, 159.

²⁷ Security Intelligence Review Committee, "Counter Intelligence Study," 9.

independent foreign intelligence gathering ability would help us both become a proportionate contributor to existing arrangements and would mean a reduced reliance on allies whose interests may not match our own.

Military intelligence

It is likely that Canada will continue to play a role in combat, peacemaking and peacekeeping activities abroad. Our capabilities in these areas would benefit substantially from an enhanced foreign intelligence capacity. Last May's report by the Standing Committee on National Defence and Veterans' Affairs included a specific recommendation that the government study our intelligence capabilities, and determine whether or not an independent foreign intelligence agency should be established. To date, no such study has been undertaken. Such an agency could arguably enhance the effectiveness of our military operations – providing what Anthony Forster calls a “force multiplier” to our cash-strapped armed forces.²⁸

Retired British General Sir David Ramsbotham identifies six intelligence requirements for peace support operations, which Canada should be able to provide both for its own purposes and to assist our allies:

1. Strategic intelligence: To assess the milieu in which troops have been deployed;
2. Political intelligence: To determine the nature and intention of the leadership of the target country;
3. Economic and social intelligence: To identify socio-economic concerns which might affect the deployment;
4. Operational intelligence: To plan the deployment of resources and to carry out the UN mandate, particularly in fluid and politically turbulent situations;
5. Tactical intelligence: For troops on the ground to monitor ceasefires in border areas and to alert personnel to potential dangers;

²⁸ Anthony Forster. “A Question of Intelligence: Foreign Intelligence Gathering and Analysis, and the Canadian Government.” Unpublished discussion paper, 2002.

6. Counter-intelligence/counter-espionage: To pre-empt intelligence operations by hostile parties.²⁹

The United Nations, which mandates our peacekeeping activities, does not collect military-style intelligence to meet these six requirements – intelligence gathering is considered incompatible with the impartiality of UN missions and could undermine support to the UN forces from the belligerents.³⁰ Nor are they met by Canada's current intelligence capabilities.³¹ We are again left in a situation of relying on our allies to meet Canadian requirements – if our allies fail to provide the intelligence we need, we are left with none.

The Canadian deployment in Somalia exemplifies some of the problems that stem from inadequate intelligence. In 1997, the report of the Somalia Inquiry concluded that intelligence failures contributed to the difficulties experienced by that mission. A witness before the Commission, Major Kampman, Officer Commanding the armoured squadron of the Canadian Airborne Regiment Battle Group, testified that “the entire mission constituted a failure of military intelligence.”³² The report concurred with Maj. Kampman's assessment, citing “serious deficiencies in direction, doctrine, co-ordination, and quality control,”³³ which resulted in difficulties for the mission: “troops in the field did not know where they were going or what to expect when they got there, and especially how to relate to members of the local population with whom they came into contact.”³⁴

In particular, the report cited Canadian reliance on U.S. intelligence as being a major problem. “The UN had rejected any involvement in intelligence collection at that time and had

²⁹ General Sir David Ramsbotham (Ret.), “Peace Reinforcement Organizational Planning and Technical Requirements.” *US Congress, Office of Technology Assessment, Improving the Prospects for Future International Peace Operations – Workshop Proceedings*, (Washington: US Government Printing Office, 1995), p.77.

³⁰ Commission of Inquiry into the Deployment of Canadian Forces to Somalia, “Dishonoured Legacy: The Lessons of the Somalia Affair” (Ottawa: Canadian Government Publishing, 1997), 3:879.

³¹ Richard Kott. “Reinventing the Looking Glass: Developing a Canadian Foreign Intelligence Service.” Thesis submitted to the Faculty of Graduate Studies, Centre for Military and Strategic Studies, University of Calgary (April 2002).

³² Commission of Inquiry into the Deployment of Canadian Forces to Somalia, 897.

³³ Commission of Inquiry into the Deployment of Canadian Forces to Somalia, 897.

³⁴ Commission of Inquiry into the Deployment of Canadian Forces to Somalia, 897.

accumulated very little information on the situation in Somalia before its involvement,³⁵ the report states. As a result, Canadian forces relied on information from U.S. sources – only to encounter “difficulties obtaining information from them in a timely and responsive manner.”³⁶ In many cases, the Commission found, Canadian troops relied on media reports from CNN in the absence of adequate information from intelligence sources. A lack of centralized control and co-ordination was also a problem: “Information was received by all intelligence branches from a variety of sources, when ideally information should be assessed by a single organization, the G2 (*sic*) branch.”³⁷ What is needed, then, is a foreign intelligence ability which can supplement our military intelligence collection efforts, increasing its usefulness to our troops operating abroad.

Likewise, Richard Kott argues that the Rwandan peacekeeping mission in 1994 suffered from intelligence failure. A lack of support by the permanent five members of the UN Security Council meant that the Canadian-led deployment lacked intelligence guidance. “Intelligence support was committed in a piecemeal fashion and the lack of intelligence architecture within the federal government blocked the passage of critical information,”³⁸ Kott writes. According to a report by the Army Lessons Learned Centre on the mission, “there was a requirement for a national strategic assessment team to reconnoitre the area of operations prior to the commitment of Canadian troops ... As it happened, lead Canadian elements arrived in theatre blind and gravely deficient regarding the current situation.”³⁹

These examples clearly illustrate how the gaps in Canada’s intelligence abilities affect our international peacekeeping operations. Our ability to respond appropriately to international crises, and the safety of our troops overseas, requires both military and foreign intelligence capabilities. As Finn writes, “Peacekeeping has also changed in the very recent past. No longer can there be reasonable assurances given that Canadian troops, aid workers, police and others will be free from attack ... One of their supports, and ultimately a protection is the day-to-day

³⁵ Commission of Inquiry into the Deployment of Canadian Forces to Somalia, 897.

³⁶ Commission of Inquiry into the Deployment of Canadian Forces to Somalia, 897.

³⁷ Commission of Inquiry into the Deployment of Canadian Forces to Somalia, 897.

³⁸ Kott, 46.

³⁹ Department of National Defence Army Lessons Learned Centre. “Analysis Report: Op Assurance” (Ottawa: Department of National Defence, 1997).

tactical and operational intelligence available to them.”⁴⁰ Despite the important information provided to Canada’s military by J2, there is a need to improve the intelligence resources available to our troops operating overseas. Their efforts “must be supported at home and in the field by good foreign intelligence. Without it, neither military general staffs, nor their political masters are capable of taking informed policy and operational decisions.”⁴¹

An independent foreign intelligence agency would allow us to gather intelligence for ourselves where the UN does not, and where allied information may not be sufficient. Canada should be sending our troops overseas fully prepared, not reliant on American news broadcasts for information. If we want to formulate Canadian responses to international crises, we need Canadian information from independent sources, not an allied interpretation based on our allies’ national interests. As our involvement in international peacekeeping, peacemaking, war fighting and humanitarian assistance operations grows, so does our need for timely, accurate information gathered and analysed with Canada’s goals and interests in mind.

This is an issue that has been with us for some time. As military strategist Sun Tzu wrote more than 2,000 years ago,

Now the reason the enlightened prince and the wise general conquer the enemy whenever they move and their achievements surpass those of ordinary men is foreknowledge [...] Foreknowledge cannot be elicited from spirits, nor from gods, nor by analogy with past events, nor from calculations. It must be obtained from men, men who know the enemy situation.⁴²

Economics and trade

*“In trade and economic matters, nation to nation, there are no friends,
only competitors at best and enemies at worst.”*

- T. D’Arcy Finn, former director of CSIS

Canada’s economic security would be well served by an independent foreign intelligence collection capability. Since the end of the Cold War, economic advantage in international trade

⁴⁰ Finn, 155.

⁴¹ Finn, 156.

⁴² Sun Tzu, *The Art of War*, trans. Samuel B. Griffith (New York: Oxford University Press, 1963).

has become the focus of both Canada and its Western allies, with whom we are now competing, rather than collaborating. As a consequence, the gathering of economic intelligence has become increasingly important. Even if our allies in general share information in areas where we have a mutual interest, the competitive nature of international trade does not leave much room for cooperation.

Clearly, we cannot rely on our traditional ‘friends’ – who have today become our strongest economic competitors - to provide us with the economic intelligence that would give Canadian businesses a competitive edge. As Alistair Hensler writes,

In this competitive economic environment, no ally will be prepared to disseminate foreign intelligence that might provide an edge to a competitor. The type of foreign intelligence needed to sustain the many jobs in Canada dependent on international trade will simply not be available in the required quality and quantity from allies or from Canada’s limited existing collection capabilities.⁴³

That means that to remain competitive internationally, Canadian businesses and the Canadian government will need independently collected foreign intelligence, suited to Canadian needs and unfiltered by an economic competitor. Hensler suggests that by monitoring trade agreements and collecting information about unfair trade practices, a foreign intelligence service could provide economic intelligence to government decision makers. That intelligence would, he argues, help Ottawa to offset potential losses to Canada’s economic security.⁴⁴

Despite an agreement not to spy on each other, there is also the risk that foreign governments will conduct economic intelligence operations against us. In 1993, former CSIS director T. D’Arcy Finn argued against the creation of a Canadian foreign intelligence agency. Nevertheless, he went on to conclude that economics and trade were an area in which our allies could not be relied upon to provide the intelligence we need. In fact, Finn argued, “In a crunch our friends may conduct foreign intelligence operations against us, particularly in the economic

⁴³ Hensler, “Canadian Foreign Intelligence Service,” 27.

⁴⁴ Hensler, “Canadian Foreign Intelligence Service,” 27.

and trade arenas. Therefore, we should be equipped not just to counter those activities, but, in our own interests, to pursue them for our own ends.”⁴⁵

In its 2001 Public Report, CSIS itself acknowledged that foreign governments do in fact conduct economic espionage against Canadian interests to enhance their economic competitiveness.⁴⁶ For instance, the report states, “Certain foreign governments direct their departments, state-owned corporations and intelligence services to engage in economic espionage against Canada. Visiting foreign students and scientists, exchange personnel, delegations, business persons and members of émigré communities in Canada can be used to clandestinely collect economic intelligence.”⁴⁷ CSIS further cites a number of our industries that are particularly vulnerable to such activities: aerospace, biotechnology, chemicals, communications, information technology, mining and metallurgy, nuclear energy, oil and gas, and the environment.⁴⁸

Canada is also developing trade relationships with new countries, and is entering into more complex multilateral agreements through negotiations at the WTO. Hensler writes,

The need for independent foreign intelligence will escalate as Canada’s international economic interests become more complex (*e.g.* the push for hemispheric and transatlantic free trade agreements and the protection of intellectual property rights), as Ottawa begins to embark on strategic alliances with non-traditional partners ... and as there are more diplomatic spats with traditional partners such as the United States and the European Union.⁴⁹

The work of CSE does provide us with some economic intelligence, derived from SIGINT, which has reportedly been used in international trade negotiations in the past.⁵⁰ Likewise, Canada’s substantial capacity for collecting open-source commercial information, through the work of our embassies and consulates, is a source of some economic intelligence. Taking these

⁴⁵ Finn, 159.

⁴⁶ Canadian Security Intelligence Service. “2001 Public Report.” Canadian government publication (2001), 9.

⁴⁷ Canadian Security Intelligence Service, 9.

⁴⁸ Canadian Security Intelligence Service, 9.

⁴⁹ Hensler, “Canadian Foreign Intelligence Service,” 27.

things into account, however, Canada will, as some of our competitors do, have to develop its own collection capability of difficult to obtain commercial information in order to acquire the type of foreign intelligence that is necessary to sustain the many jobs dependent on international trade. Despite our SIGINT ability, Canada has no capability in what Hensler calls the “more efficient and productive” and “more highly valued” human source intelligence from abroad.⁵¹ A foreign intelligence service would allow us to develop that capacity in order to monitor trade agreements and collect information about potentially unfair trade activities of other governments – offsetting the potential losses incurred when foreign governments conduct operations against us.⁵²

Like-minded allies

It should also be noted that many other countries, with international profiles, objectives and levels of influence similar to Canada’s, have independent foreign intelligence services. Spain, the Netherlands, Australia and Germany all have foreign intelligence capabilities. Australia, for instance, collects foreign intelligence through the Australian Secret Intelligence Service (ASIS). That organization’s website lists its mandate as “to obtain and distribute information, not readily available by other means, about the capabilities, intentions and activities of individuals or organisations outside Australia, which may impact on Australian interests, and the well-being of its citizens.”⁵³

If Canada were to establish a foreign intelligence agency, we would be joining the world’s other middle powers – among whose ranks we generally count ourselves – and bringing our capabilities in line with theirs.

A separate agency

It has been suggested that our foreign intelligence goals could be met by simply expanding CSIS capabilities. To truly be effective however, a Canadian foreign intelligence agency would be better positioned as a completely separate organization from CSIS. As John Harker writes in

⁵⁰ Rudner, 6.

⁵¹ Hensler, Alistair. “Canada slow on economic espionage,” *The Financial Post*, 7 March 1998, 34.

⁵² Hensler, “Canadian Foreign Intelligence Service,” 27.

his study of Canada's existing foreign intelligence capabilities, "The objectives of a foreign intelligence service are fundamentally different from those of a domestic security service. While the former seeks to learn of the capabilities and intentions of foreign states, and must conduct its intelligence gathering on the territory of foreign states, the latter is more narrowly focussed on domestic counter-intelligence and counter-terrorism objectives."⁵⁴ Different objectives require different procedures, services and controls – a main reason why other Western democracies maintain separate agencies for the two.⁵⁵ The McDonald Commission made a similar assessment, concluding that "it would be unwise to combine very different intelligence collection responsibilities within a single agency."⁵⁶

The Commission listed further important reasons for separating foreign intelligence gathering ability from our security intelligence service. In particular, it cited the so-called "dangers of contagion."⁵⁷ In carrying out its work, a foreign intelligence agency would potentially have to violate the laws of other countries – a practice not acceptable to CSIS and not permitted under its mandate. To avoid such practices spilling from foreign intelligence practices to security intelligence practices, the Commission concluded, it would be preferable to create two separate agencies.

Finally, the report said, "there is a danger of creating a security and intelligence monolith in a democratic state. Demarcation lines between the two services, dealing with the foreign and domestic overlap of the two, would have to be carefully drawn."⁵⁸ As Hensler writes, "Western democratic governments have always maintained a separation between security and foreign intelligence collection. Highly centralized repressive governments with less concern for human rights have tended to combine the two functions within one agency, probably to enhance control of both the populace and the organization."⁵⁹ Canada would clearly wish to avoid the

⁵³ Australian Secret Intelligence Service, "The Role of the Australian Secret Intelligence Service," 31 August 2002. <<http://www.asis.gov.au/asiscorpinfo.html>> (21 February 2003).

⁵⁴ Harker, 37.

⁵⁵ Harker, 37.

⁵⁶ Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police, 645.

⁵⁷ Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police, 645.

⁵⁸ Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police, 645.

⁵⁹ Hensler, "Canadian Foreign Intelligence Service," 32.

latter situation, and an independent agency would provide a safeguard against any such developments.

The opposing view

Three arguments are commonly advanced against the creation of a foreign intelligence agency for Canada: First, the potential negative impact on our relations with our allies, and the “loss of reputation” we could incur; second, the risk that a Canadian agency would become a puppet of the CIA; and third, the so-called “moral” argument, objecting to the methods a foreign intelligence agency might employ in carrying out its work. All three of these arguments merit a discussion, and should be part of any debate on the topic. Ultimately, however, none stands up as a true barrier to the establishment of a Canadian foreign intelligence service.

First, the Security Intelligence Review Committee suggests that merely having a service, coupled with the inevitable failures it would experience, might result in a “loss of reputation” by Canada in the eyes of our allies.⁶⁰ Hensler refutes this argument, however, pointing out that during the Cold War, agents were being expelled from other countries for both real and alleged espionage activities, without any long-term adverse impact on relations between the opposing parties.⁶¹ “Even recent allegations of spying between allies ... have not marred bilateral relationships significantly,”⁶² he states.

The SIRC report further suggests that a Canadian foreign intelligence service would be at risk of becoming a branch plant of the CIA or other agencies.⁶³ But as Hensler points out, “a service with a clearly defined mandate and established priorities, which reflect Canada’s national interests, and with appropriate accountability will not become subservient to any other foreign intelligence service.” Indeed, by legislating official parameters for the functioning of a foreign intelligence agency, Canada could provide a clearer framework for its existing capabilities at the same time as it expands them.

⁶⁰ Security Intelligence Review Committee, “Counter Intelligence Study,” 9.

⁶¹ Hensler, “Canadian Foreign Intelligence Service,” 24.

⁶² Hensler, “Canadian Foreign Intelligence Service,” 25.

⁶³ Security Intelligence Review Committee, “Counter Intelligence Study,” 9.

A third commonly raised argument against the creation of a foreign intelligence agency for Canada cites the “unsavoury methods”⁶⁴ such an agency would use abroad. Finn writes that the agency’s potential rules of operation “are not particularly close to the norms that most of us would deem to be acceptable.”⁶⁵ He suggests that political and economic subversion, bribery, coercion and, “at the outer limits, even the use of force” could be used by the service⁶⁶ – all things alien to the Canadian mindset.

Whether or not this is an accurate assessment, it is already clear that Canada cannot do without foreign intelligence. If we do not collect it ourselves, we will continue to rely on information shared by our allies. Whatever reservations we may have about the use of “unsavoury” or clandestine methods, we must realize that the information shared with us is gathered using these same means. It is no more ethical to accept intelligence from these sources than it is to collect it ourselves. In fact, it is arguably preferable in this situation to have a Canadian foreign intelligence service over which Canadians have control.

Hensler has suggested the possibility of restricting the activities of a Canadian foreign intelligence service to intelligence gathering, ruling out explicitly participation in covert action such as the overthrow of governments, financing revolutions or conducting assassinations.⁶⁷ The McDonald Commission similarly argued that while political costs might be incurred, “risks of this kind can be reduced but not eliminated by confining a foreign intelligence agency to the collection of intelligence and denying it any mandate for political intervention or paramilitary operations.”⁶⁸

These are all important issues that must be part of the debate on the creation of a foreign intelligence agency. Understanding the potential dangers of such an endeavour is an important part of assessing its overall merits. However, none presents as great a threat as has sometimes been suggested, and an agency with clearly established responsibilities and limitations would minimize any risk.

⁶⁴ Hensler, “Canadian Foreign Intelligence Service,” 32.

⁶⁵ Finn, 160.

⁶⁶ Finn, 160.

⁶⁷ Hensler, “Canadian Foreign Intelligence Service,” 29.

What needs to be added to our current capabilities?

As outlined at the beginning of this paper, Canada does have some foreign intelligence capabilities, although as has been shown, they are not sufficient to meet our needs. What, then, should be developed? Martin Rudner argues that Canada's focus should be on expanding our HUMINT capability.

Recent experience discloses that terrorist methods of communication may no longer be vulnerable to SIGINT interception. Intelligence collection will therefore have to concentrate on offensive covert methods for penetrating suspect target groups. Given the high value of the intelligence to be derived, the historical primacy of SIGINT will likely make way to a more balanced fusion with this HUMINT effort to identify, penetrate, monitor and counter the elusive terrorist threat.⁶⁹

Likewise, Hensler states that despite the variety of Canadian organizations engaged in some form of collection and analysis of foreign intelligence, our capabilities are

largely unfocussed, to a degree uncoordinated, and too reliant on allied intelligence. The principal missing element ... is the capacity to clandestinely collect foreign intelligence from human sources abroad. The development of that capacity and the co-ordination of the existing foreign intelligence components, all under one cabinet minister, would provide Canada with the necessary foundation for an effective foreign intelligence service.⁷⁰

With these new capabilities, however, must also come a structure permitting effective analysis of information collected and the timely dissemination of intelligence product to those agencies and departments which can benefit from it – primarily, the Department of Foreign Affairs and International Trade, the Department of National Defence, Citizenship and Immigration Canada, Industry Canada, the Canadian International Development Agency, the Solicitor General, the Department of Justice, the Canada Customs and Revenue Agency, and the Ministry of Transport.

⁶⁸ Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police, 644.

⁶⁹ Rudner, 20.

Conclusion

There are compelling reasons for Canada to establish an independent foreign intelligence service. And indeed, many of the pieces are already in place for the creation of such an agency. The changed intelligence priorities of Canada and its allies mean that we can no longer rely exclusively on existing capabilities and intelligence sharing agreements. To meet its own intelligence requirements and become an equal partner in those agreements, Canada now needs to expand existing capabilities and create a separate agency responsible for the collection of foreign intelligence.

⁷⁰ Hensler, "Canadian Foreign Intelligence Service," 29.

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