

NDIA Questions & Answers

1) Defense Development Sharing Agreement (DDSA) program: who owns the IP? The company or US DoD?

The principle objectives of the 1963 Defence Development Sharing Program are:

- A. To assist in maintaining the Defense Production Sharing Program at a high level by making it possible for Canadian firms to perform research and development work undertaken to meet the requirements of U.S. armed forces.
- B. To utilize better the industrial scientific and technical resources of the United States and Canada in the interest of mutual defense.
- C. To make possible the standardization and interchangeability of a larger amount of the equipment necessary for the defense of United States and Canada.

Intellectual property for R&D with the U.S. DoD is largely negotiated case-by-case (licensing, joint ownership, exclusive rights, sole ownership, etc.). Usually it depends on issues such as who initiated the design, who does the design and who pays for the work but each agreement can be different.

Negotiation of IP for the Defense Development Sharing Agreement (DDSA) can be fairly complex. As the party setting the requirements and providing a grant, the US Government (usually DoD) would typically want rights and license to the IP.

Canada's Innovation & Science Department (ISED) would also have IP considerations through its Strategic Innovation Fund. Additionally, the company would wish to retain certain rights.

In practice, there has not been a DDSA project in many years. The USG does not tend to be particularly keen on it for a variety of reasons, though may be willing to consider it on an exceptional basis.

Additional information on the program: <https://www.ic.gc.ca/eic/site/ad-ad.nsf/eng/ad01691.html>

2) When reviewing procurement options, is DND considering allies' needs (systems currently used and how to "align" with those - namely NATO), or does it consider more heavily the job creation aspect (ie: for shipbuilding)?

Canada feels it is important to do business with trusted partners. As such, the evaluation of proposals will include an assessment of bidders' impact on Canada's economic interests. Following a formal RFP, procurement recommendations coming out of Canada's Department of National Defense (DND) will have cost and inter-operability needs as key evaluation criteria. Alignment with military allies such as the USA is an ongoing priority for DND and the Government of Canada.

That being said, the Canadian government will also seek balanced benefits when it comes to executing those large contracts. It is of the government responsibility to ensure the Canadian economy benefits from those, mainly in terms of growth and job creation.

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3) Are all of the announced future acquisitions under the new defense policy approved?

YES, in principle

Are contracts awarded? NO, DND publishes its procurement plans on an annual basis. Visit www.buyandsell.gc.ca for additional details.

Is this money really going to be spent? YES, in principle.

4) Is there an ITAR "relaxation" between Canada and the US? Those are hurdles the industry would love to see more flexibility on.

There are a significant number of Canadian exemptions in ITAR. The relevant section of the Regulations is **126.5**. Here's a link (see also PDF included):

<https://www.gpo.gov/fdsys/granule/CFR-2002-title22-vol1/CFR-2002-title22-vol1-sec126-5>

Questions from US companies about ITAR should be directed to the US Department of State Directorate of Defense Trade Controls: <https://www.pmddtc.state.gov/>