

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENTS OF GREAT
BRITAIN AND CANADA PERTAINING TO THE SHIPWRECKS *HMS EREBUS* AND
HMS TERROR (5, 8 AUGUST 1997)

This Memorandum of Understanding between the Government of Great Britain ("Britain") and the Government of Canada ("Canada") pertains to activities surrounding the exploration, recovery and disposition of the *HMS Erebus* and *HMS Terror*, two wrecked ships of Her Majesty's Royal Navy within Canada ("the wrecks") that have been designated by the Minister of Canadian Heritage to be National Historic Sites.

1. The Parties desire to ensure the commemorative integrity of the wrecks through the orderly and scientific exploration, recovery and disposition of the wrecks and their contents. The Parties further intend that proper archaeological research and disclosure shall prevail over interests of financial gain and media coverage.

2. Britain, as owner of the wrecks, hereby assigns custody and control of the wrecks and their contents to the Government of Canada, and acknowledges Canada as its agent for purposes of this Understanding. In so doing, Britain does not waive ownership or sovereign immunity with respect to the wrecks or their contents while they are on the seabed, but accepts that any site investigation, excavation or recovery of either of the wrecks or their contents will be under Canada's control.

3. In exercising custody and control, Canada has the discretion to take any actions with respect to the wrecks and their contents that it considers appropriate. Canada may accordingly deny at any time permission for investigation, excavation or recovery of the wrecks or their contents, and will seek to ensure that any such permission will only be granted to approved organizations or persons in accordance with an approved plan and procedure.

4. Once either of the wrecks has been positively located and identified, Britain will assign to Canada ownership of everything recovered from that wreck and its contents, except that

- a) any gold recovered from the wrecks, apart from coins considered to have been in private ownership, will after deduction of any share which may by law be due to any third party be shared equally between Canada and Britain, and
- b) any recovered artifacts identified by Britain as being of outstanding significance to the Royal Navy will be offered to Britain for display in an appropriate museum. Britain will assume responsibility for all reasonable costs associated with the recovery, conservation and transportation of such artifacts.

5. Canada will seek to ensure that any recovered contents are dealt with in accordance with applicable Canadian law and with a plan and procedures approved by marine archaeologists of the Government of Canada, and are properly conserved and made available for public display or other museological purposes, education or research. British historians and archaeologists will be given reasonable access for research purposes to information derived from site investigations, to artifacts raised, and to all reports produced.

6. Canada will seek to ensure that anyone dealing in any way with either of the wrecks and their contents treat reverently, and refrain from disturbing or bringing to the surface, any human remains that are discovered at the sites of the wrecks or in their vicinity. Any human remains that must be removed in order to conduct archaeological work, or that are inadvertently recovered, will be re-interred with proper respect and reverence, and in consultation with Britain.

7. Canada will keep Britain apprised on a regular basis of developments relating to the recovery of the wrecks.

8. In order to facilitate the implementation of, amendments to, or the resolution of any dispute arising under this Understanding, either Party may request consultations to be held between their representatives, including any of their concerned institutions.

9. This Understanding may be amended on the mutual consent of the Parties.

10. This Understanding will take effect when it is signed by both Parties, and will remain in effect until one of the Parties provided thirty days notice in writing of its intention to terminate.

Signed this 5th day of August, 1997

Signed this 8th day of August, 1997

For the Government of Canada:

For the Government of Great Britain:

PHILIPPE KIRSCH
Legal Adviser
Dep. Of Foreign Affairs and
Int. Trade

His Excellency
Sir ANTHONY GOODENOUGH
High Commissioner to Canada