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BRIEFING NOTE FOR THE MINISTER
OF NATIONAL DEFENCE

SUBJECT Canadian Forces Policy on Sexual Orientation

BACKGROUND

1. Current National Defence policy renders persons who engage in sexual acts with those of the same gender ineligible for service in the CF.

2. The existing Canadian Forces Administrative Order (CFAO) which reflects policy on this subject is CFAO 19-20. The members of the CF to whom this CFAO applies are those who are determined with reasonable certainty, after full investigation, to have a sexual propensity for persons of the same gender. Normally, such members are deemed not advantageously employable, and are honourably released under Item 5(d) of the Table to article 15.01 of the Queen's Regulations and Orders for the Canadian Forces (QR&O), which is a regulation made by the Governor in Council. Similarly, persons who are not already serving and are seeking enrolment are deemed ineligible for service when it is determined with reasonable certainty, through their own acknowledgement or otherwise, that they fall in the same category.

3. After a policy statement was made by the Minister on 11 February 1987, the obligation for members to report suspected homosexuality was removed and the continuing exclusion of homosexuals became based on conduct or behaviour rather than on orientation alone. A further change resulting from Mr. Beatty's policy statement was

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that, although recommendations for release received from unit authorities continue to be staffed at NDHQ, cases involving members who object to their release on grounds solely of sexual orientation have not been finalized pending confirmation of applicable policy. There are currently 17 of these cases awaiting career disposition.

4. A new CFAO 19-36 has been drafted, with the intention that, upon approval, it will replace the existing CFAO 19-20 referred to above. Whereas it reaffirms the existing policy of exclusion from service of persons who have participated in sexual acts with others of the same gender, it incorporates a number of substantive and procedural safeguards which include, among others, maximum confidentiality and protection of the privacy and dignity of the persons involved and review of all cases by a committee at National Defence Headquarters.

CURRENT SITUATION

5. From mid-1986 to the present, implementation of this policy, as it relates to members already serving who object to honourable release as being not advantageously employable, has been suspended, pending a political decision that it is to continue notwithstanding the Government's announced position concerning sexual orientation as a proscribed ground of discrimination throughout the Federal Public Service. Continued deferral of these cases is causing serious administrative problems for the CF, and is unfair to the members who have a legal and moral right to

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have their cases dealt with properly and expeditiously under
clearly-defined policy as reflected in Service Orders.

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