

CONFIDENTIAL

MEMORANDUM OF UNDERSTANDING
[hereinafter referred to as "MOU"]

between

Passport Canada
[hereinafter referred to as "PPTC"]

An Agency of Foreign Affairs and International Trade Canada
[hereinafter referred to as "DFAIT"]

and

The Canadian Security Intelligence Service
[hereinafter referred to as "CSIS"]

[hereinafter jointly referred to as "the Parties"]

Concerning the Establishment of a
Framework for the Sharing of Information and
Other Collaborative Initiatives

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PREAMBLE

WHEREAS, pursuant to section 12 of the *Canadian Security Intelligence Service Act (CSIS Act)* it is a duty and function of CSIS to collect information and intelligence respecting activities that may on reasonable grounds be suspected of constituting threats to the security of Canada;

WHEREAS, subsection 17(1) of the *CSIS Act* authorizes CSIS, with the approval of the Minister of Public Safety, to enter into a cooperative arrangement with any department of the Government of Canada for the purpose of performing its duties and functions;

WHEREAS, pursuant to the Royal Prerogative and the *Canadian Passport Order (CPO)*, the Minister of Foreign Affairs has charged PPTC with authority over the issuance, the refusal of issuance, revocation, withholding, recovery and use of Canadian passports, wherever issued, including the refusal and withholding of any passport services;

WHEREAS, more specifically, section 10.1 of the *CPO* provides for the refusal to issue, or the revocation of, a passport if, in the opinion of the Minister of Foreign Affairs, such action is necessary for the national security of Canada or another country;

WHEREAS, all the authority vested in PPTC with regard to the regular passport governs correspondingly the issuance of other types of passports, such as the diplomatic and special passports, the emergency travel document such as the refugee travel document issued to a person in Canada with protected person status under the *Immigration and Refugee Protection Act*, including convention refugees within the meaning of the United Nations Convention Relating to the Status of Refugees, 1951 and its Protocol of 1967, and persons in need of protection, and the certificate of identity issued to persons legally landed in Canada for less than three years who are stateless or are unable to obtain a national passport for a valid reason;

WHEREAS, PPTC plays an important role in the safety and security of the community and Canada's national security, and, through its mission, aims at issuing secure Canadian travel documents through authentication of identity and entitlement, facilitating travel and contributing to international and domestic security;

WHEREAS, the context surrounding the passport program derives from, is informed and governed by the *CPO*, the passport application form incorporated by reference into the *CPO*, the standards and best practices established by the International Civil Aviation Organization, Parliament's decision to make it an indictable offence to provide false or misleading information under section 57 of the *Criminal Code*, and Canada's international obligations and undertakings under various international conventions;

WHEREAS, PPTC has lawful authority to collect personal information to deliver its mandate, including, with the consent of the applicant, to conduct routine verifications and security queries for the determination of current and ongoing entitlement of the applicant to a passport;

WHEREAS, the management of intelligence regarding threats to the integrity of the passport program, the conduct of administrative investigations with regard to passport entitlement in accordance with the CPO, and ensuring the security of the passport document fall within the responsibility of the PPTC Security Bureau;

WHEREAS, pursuant to the *Privacy Act* and the regulations made under, PPTC's Security Bureau and CSIS are both investigative bodies for the purpose of that *Act*; and

WHEREAS section 19 of the *CSIS Act*, in particular subsection 19(2)(b) respecting information related to the international affairs of Canada, and subsections 8(2)(a), (b) and (c) of the *Privacy Act* authorize disclosure of information between the Parties;

NOW THEREFORE the Parties have come to the following understanding:

SECTION 1: PURPOSE AND SCOPE

- 1.1 This MOU replaces the Memorandum of Understanding between the Department of External Affairs and the Canadian Security Intelligence Service (CSIS) of February 18, 1986.
- 1.2 The purpose of this MOU is to establish:
 - (a) a framework to govern the sharing of information, including personal information, between the Parties concerning
 - (b) a framework to govern cooperation between the Parties; and
 - (c) a collaborative initiative with regard to support and training between the Parties in their respective areas of expertise.
- 1.3 This MOU also serves to specify the Parties' respective roles and responsibilities, the conditions under which the Parties may request and release personal information and the procedure which shall apply to such releases of information.

- 1.4 Nothing in this MOU precludes further development of collaborative initiatives.

SECTION 2: DEFINITIONS AND INTERPRETATION

Definitions

- 2.1 “**MOU**” means this Memorandum of Understanding and any amendments made thereto and, for greater certainty, include all of its Annexes and any amendments made thereto;
- 2.2 “**Annex**” means any arrangement or document referred to in this MOU that is appended as an Annex to this MOU and is incorporated and forms part of this MOU;
- 2.3 “**Administrative investigation**” means a process undertaken in accordance with procedural fairness and the rules of natural justice, to acquire, review and analyze information from various sources to determine current and ongoing passport entitlement in accordance with the CPO;
- 2.4 “**Passport events**” refer to the issuance, refusal to issue, revocation, withholding, recovery and use of passports, including the refusal and withholding of any passport services, the management and investigation of reported lost, stolen and forged passports, the determination of administrative actions concerning same, the investigation into passports and passport malfeasance and misuse, and the determination of passport entitlement;
- 2.5 “**Information**” means records of data in any form, whether oral or written, whether readable by person or machine, and whether capable of being transmitted by mail, telephone, facsimile, computer or any other physical or electronic means, including personal information within the meaning of the *Privacy Act* and intelligence information, where applicable;
- 2.6 “**Intelligence Information**” means threat related or national security-related information that has been analyzed;
- 2.7 “**Security Bureau**” means the section of PPTC responsible for ensuring the security of the passport document and integrity in passport entitlement and issuance, including intelligence and investigative functions for the purpose of administering the CPO, and charged with communicating with CSIS particularly to administer section 10.1 of the CPO, and to provide information requested by CSIS in accordance with subsections 8(2)(a), (b) and (e) of the *Privacy Act*. It also means Security Section of the Passport Office, Department of External Affairs for the purposes of section 5 of the *Privacy Regulations*;

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- 2.8 "System Lookout Files" means the PPTC Info Source Data Bank FAI PPU 020, which contains information on persons whose requests for passport services might be subject to refusal or limitation;
- 2.9 "Threats to the security of Canada" has the meaning ascribed to it in section 2 of the *CSIS Act*.

Interpretation

- 2.10 For ease of reference, in this MOU, reference to a passport also includes any other Canadian document that is issued for travel purposes such as the diplomatic and special passports, the emergency travel document, the refugee travel document issued to a person in Canada with protected person status under the *Immigration and Refugee Protection Act*, including convention refugees within the meaning of the United Nations Convention Relating to the Status of Refugees, 1951 and its Protocol of 1967, and persons in need of protection, and the certificate of identity issued to persons legally landed in Canada for less than three years who are stateless or are unable to obtain a national passport for a valid reason.
- 2.11 Where there is a discrepancy between a provision of the MOU and a provision of an Annex, the Parties agree that the provision of the Annex shall prevail.

SECTION 3: MOU GOVERNANCE

- 3.1 The Parties are represented by their Head of Institution who act as signatories to this MOU and any amendments to this MOU.
- 3.2 For the purpose of this MOU, the Head of Institution for CSIS is:
Director
Canadian Security Intelligence Service
Ottawa, Ontario K1G 4G4
- 3.3 For the purpose of this MOU, the Head of Institution for PPTC is:
Chief Executive Officer
Passport Canada
Gatineau, Québec K1A 0G3
- 3.4 The Designated Representatives of the Parties provide the overall direction and leadership for the purpose of this MOU.
- 3.5 The Designated Representatives may act as signatories to appended Annexes to this MOU.

- 3.6 The Designated Representative for CSIS is:
Director General
Security Screening Branch
Canadian Security Intelligence Service
Ottawa, Ontario K1G 4G4
- 3.7 The Designated Representative for PPTC is:
Director General
Security Bureau
Passport Canada
Gatineau, Québec K1A 0G3
- 3.8 The Delegates of the Designated Representatives act as points of contact for the purpose of this MOU and handle all information exchanges. The Delegates are also responsible for managing and coordinating information provided to the other Party, and managing and coordinating all information received from the other Party.
- 3.9 The Delegate for CSIS is:

Security Screening Branch
Canadian Security Intelligence Service
Ottawa, Ontario K1G 4G4
- 3.10 The Delegates for PPTC are:
- | | |
|---|---|
| (a) Director
Intelligence Division
Security Bureau
Passport Canada
Gatineau, Québec K1A 0G3 | (b) Director
Investigations Division
Security Bureau
Passport Canada
Gatineau, Québec K1A 0G3 |
|---|---|

SECTION 4: DISPUTE RESOLUTION

- 4.1 The Parties agree to make all reasonable efforts, in good faith, to resolve any dispute arising from the implementation of this MOU through informal discussions and the development of mutually satisfactory options.
- 4.2 Where the Parties fail to resolve the matter to their mutual satisfaction as per section 4.1, they agree to refer the matter to the Parties Delegates.
- 4.3 Where the Parties fail to resolve the matter to their mutual satisfaction as per section 4.2, they agree to refer the matter to the Parties Designated Representatives.

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- 4.4 Where the Parties fail to resolve the matter to their mutual satisfaction as per section 4.1 to 4.3, the dispute may be reported to the Parties Head of Institution at such times that it is deemed appropriate or required.

SECTION 5: INFORMATION MANAGEMENT AND SECURITY

Request and Release of information

- 5.1 The Parties agree to request and release information as per the present section of this MOU and any arrangement appended as an Annex to this MOU that the Parties may deem required.
- 5.2 The Parties agree to use, establish or maintain a method for tracking any communications between the Parties for the purpose of providing or receiving information.
- 5.3 It is understood that requests for information and releases of such information will be conducted only through Delegates, in writing or electronically.
- 5.4 Subject to Section 5.4.1, it is understood that the Parties will limit access to the information received in the context of this MOU to only those of their respective employees, agents or mandataries who require access thereto for the purposes for which that information was provided. Prior to disclosure of the information to its own employees, agents or mandataries, the Parties will issue, or have issued, appropriate instructions to satisfy their obligations under this MOU.
- 5.4.1 The Parties agree that PPTC may disclose CSIS information to DFAIT where it is required for the purpose of administering passport services in Canada or at Canadian missions abroad. However, the Parties agree that PPTC shall consult CSIS prior to such disclosures except where the disclosure is to the office of the DFAIT Associate Deputy Minister, the office of the DFAIT Deputy Minister or the office of the DFAIT Minister.
- 5.5 Requests for disclosure of information pursuant to paragraph 8(2)(e) of the *Privacy Act* shall contain the following:
- a) date of the request;
 - b) description of information requested;
 - c) name of individual to whom information relates and other identifiable information if available;
 - d) name of the federal investigative body and the name, title and signature of the officials making the request; and
 - e) space for the name, title and signature of the official who makes the disclosure, and date of disclosure.

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- 5.6 In the event of an emergency situation, requests for the release of information pursuant to paragraph 8(2)(e) of the *Privacy Act* and the disclosure of that information may be made verbally. That request shall nevertheless contain the details listed above and shall be confirmed in writing or electronically at the earliest possible opportunity thereafter, in accordance with the procedure set out above.
- 5.7 While conducting an administrative investigation for the purpose of administering section 10.1 of the CPO, PPTC may request from CSIS information with regard to potential national security cases by telephone, but the Parties shall confirm in writing or electronically the information where the request generates follow-up and further investigation.
- 5.8 Potential national security cases may also be referred to the Royal Canadian Mounted Police (RCMP) for criminal investigation, and possible referral to prosecution. Where the activities of a passport applicant are suspected of constituting a threat to the security of Canada, and are referred to the RCMP for investigation, PPTC will also inform CSIS. PPTC will attach to the referral request any evidence gathered during its administrative investigation and, if any, information about administrative measures that were taken.
- 5.9 CSIS may disclose to PPTC information, including summaries of classified information, it obtains during its mandated investigations. PPTC may store the information and summaries in _____ for future reference against which passport applications may be matched during the screening process for determining passport entitlement.
- 5.10 At any time, PPTC may disclose to CSIS biographic details of individuals who are suspected of constituting a threat to the security of Canada. Such disclosures shall be made according to Sections 5.1 to 5.3 above. When that individual's identification is confirmed, CSIS may then brief PPTC concerning this individual for the purposes of administering section 10.1 of the CPO.
- 5.11 PPTC may further disclose to CSIS whether an individual holds a passport when that individual is the subject of a lawful investigation by CSIS. Such disclosures shall be made according to Sections 5.1 to 5.3 above. When that individual's biographic details are confirmed, CSIS may then brief PPTC concerning this individual for the purposes of administering section 10.1 of the CPO.
- 5.12 Classified CSIS information that concerns a passport applicant or passport holder that is disclosed by CSIS to brief PPTC pursuant to section 10.1 of the CPO, will be in the form of a classified summary. Classified CSIS summaries shall not be disclosed to the applicant or holder, or any other person representing the applicant or holder, by PPTC during its administrative investigations or at any other time.

Accuracy of Personal Information

- 5.13 Should the personal information, as defined in section 3 of the *Privacy Act*, provided by one Party to the other require an update or an amendment, the Party that provided the information will, as soon as practicable, communicate in writing the required update or amendment to the recipient of the information.

Protection of Information, Confidentiality and Security

- 5.14 The Parties will abide by all applicable legislation, policies, directives and guidelines governing access, exchange, collection, use, disclosure, retention and disposal of information. The Parties will take all reasonable measures to comply with the information management requirements described below.
- 5.15 Without restricting the generality Section 5.14, under this MOU, information received by one Party from the other Party that qualifies as personal information (within the meaning of the law governing the protection of personal information) will be collected, used, disclosed, retained and disposed of in accordance with the CPO, the *CSIS Act* (particularly section 19 thereof, in terms of disclosure and retention of information), the *Privacy Act*, the *Access to Information Act*, the *Library and Archives of Canada Act*, the Government of Canada's Policy on Government Security and other supporting legislation, operating directives and guidelines of both Parties covering the administrative, technical, and physical safeguarding of the personal information.
- 5.16 The Parties shall maintain, respect and protect the confidentiality of information shared under this MOU and shall respect, and retain all attached caveats, and not further disseminate the information to a third party except as provided in Sections 5.18 and 5.19.
- 5.17 Information disclosed under this MOU may be exchanged by hand or electronically in accordance with the Policy on Government Security (PGS), and as agreed upon by the Parties in an appended Annex.
- 5.18 PPTC agrees that it will not disseminate CSIS classified information outside PPTC unless CSIS has given its express written consent to do so, or unless PPTC is specifically advised in writing by its legal counsel that PPTC is required by law to do so in which event PPTC shall, prior to any potential disclosure,
- (i) immediately give CSIS written notice of such legal requirement to disclose or disseminate CSIS classified information, and
 - (ii) provide prompt and reasonable cooperation to CSIS in any efforts taken by CSIS to protect the information from disclosure.

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- 5.19 CSIS agrees that it will not disseminate PPTC information outside CSIS unless PPTC has given its express written consent to do so, or unless CSIS is specifically advised in writing by its legal counsel that CSIS is required by law to do so in which event CSIS shall, prior to any potential disclosure,
- (i) immediately give PPTC written notice of such legal requirement to disclose or disseminate PPTC classified information, and
 - (ii) provide prompt and reasonable cooperation to PPTC in any efforts taken by PPTC to protect the information from disclosure.
- 5.20 In the event of the loss or unauthorized disclosure or dissemination by PPTC of CSIS classified information, PPTC shall advise CSIS immediately upon discovery of the unauthorized disclosure or dissemination of classified information and assist CSIS in preparing a damage assessment on the impact of the loss, unauthorized disclosure or dissemination of the information.
- 5.21 In the event of the loss or unauthorized disclosure or dissemination by CSIS of PPTC classified information, CSIS shall advise PPTC immediately upon discovery of the unauthorized disclosure or dissemination of classified information and assist PPTC in preparing a damage assessment on the impact of the loss, unauthorized disclosure or dissemination of the information.
- 5.22 In the event of an occurrence described in Sections 5.20 and 5.21, the Parties will, where applicable, notify the person responsible for overseeing Access to Information and Privacy (ATIP) responsibilities within their respective organizations who may coordinate the process which may include notification to the Office of the Privacy Commissioner (OPC) of Canada. The Parties will take into account their respective policies and directives on privacy breaches as the case may be. The Parties will also promptly take all reasonable steps to prevent a recurrence of the event.

Audit

- 5.23 While each Party remains responsible for their own procedures to ensure compliance with this MOU, the initiative may be the subject of an internal audit by either of the Parties. The terms of reference of the audit of the MOU will be subject to negotiation between the two Parties. The Parties agree to provide auditors with full access to the data necessary to carry out the audit as defined by the terms of reference.
- 5.24 The Parties will share a copy of the pertinent audit results and, where applicable, share any action to be taken that may be prompted by the audit results. Audit reports and action plans will be sent to the appropriate level of Designated Representatives, or their Delegates, listed in this MOU.

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- 5.25 Where a deficiency is identified in the information management practices of either of the Parties that affect compliance with the requirements of the MOU, through an audit or otherwise, or where the integrity of information received under this MOU is at risk, that Party, in consultation with the other Party, will take appropriate corrective action to remedy those deficiencies.

Privacy Impact Assessment (PIA)

- 5.26 Each Party remains responsible for determining the requirement for and conducting of a PIA for the implementation of this MOU and its appended Annexes, and agrees to make any required revisions in the event that this MOU or an appended Annex is amended.

Information Technology and Threat and Risk Assessments (TRA)

- 5.27 Each party remains responsible for determining the requirement for and the conducting of a TRA for the implementation of this MOU and its appended Annexes or in order to maintain administrative, technical and physical safeguards to ensure privacy, confidentiality, security or integrity of personal information through the use of information technology or systems used for carrying out this MOU and appended Annexes.
- 5.28 It is understood that the Parties are responsible for the maintenance and protection of their own IT infrastructures and for data integrity.
- 5.29 The Parties will notify each other in advance of any information technology or systems changes that may affect the availability, confidentiality, cost, means of access, integrity or reliability for carrying out this MOU.

SECTION 6: DOCUMENT SECURITY

- 6.1 PPTC may request that CSIS provide expertise and technical support and participate in the study and elaboration of technical aspects in relation to the security of passports issued by PPTC.

SECTION 7: FINANCIAL ARRANGEMENTS

- 7.1 Except where otherwise specified, PPTC and CSIS will cover their costs incurred as a result of carrying out their responsibilities as outlined in this MOU.

SECTION 8: LIABILITY

- 8.1 Each Party is liable for any loss or damage that may arise as a result of the actions or omissions of their respective officers, employees, agents or mandataries in respect of its obligations and responsibilities under this MOU.
- 8.2 Any disagreement that may arise in respect of the application of this Section will be resolved in accordance with section 4 of this MOU.

SECTION 9: EFFECTIVE DATE, AMENDMENT AND TERMINATION

Effective Date

- 9.1 This MOU will commence on the date on which it is signed by the last of the Parties and will remain in effect until it is terminated in accordance with the Section 10.6 of this MOU.

Amendment

- 9.2 This MOU may be amended at anytime upon mutual consent of Parties as represented by their Head of Institution as defined in Section 3. Such amendment will be effected by an exchange of letters between the Parties.
- 9.3 The Annexes to this MOU may be amended in writing at any time with the mutual consent of the Parties, as represented by their Designated Representatives.
- 9.4 Amendments will be effected as follows:
- (a) The Party proposing the change will submit in writing to the other Party the proposed amendments.
 - (b) The proposed amendments will be reviewed by the other Party and contentious issues will be negotiated by the Designated Representatives or their respective Delegates.
 - (c) The formal amendments will be signed by both Parties.
 - (d) In the event a dispute arises that cannot be resolved, the Dispute Resolution provision in Section 4 will apply.
- 9.5 Changes being considered or proposed to legislation, policy or operations by either PPTC or CSIS, which may impede the function of this MOU, shall be the subject of early consultations between Delegates of the Parties.

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Termination

- 9.6 Either PPTC or CSIS may terminate this MOU by providing, in writing, 90 days notice of intention to terminate.
- 9.7 Notwithstanding any termination of this MOU or any appended Annex, provisions concerning information management, confidentiality, use and disclosure, dispute resolution and liability shall survive the termination.

SECTION 10: NOTICES

- 10.1 The termination notice to either PPTC or CSIS with respect to this MOU will be effectively given if delivered by courier or sent by registered mail to the other Party's Head of Institution at the address set out in either Section 3.2 or 3.3 as the case may be.
- 10.2 Any notice or correspondence to either PPTC or CSIS in relation to an amendment to this MOU will be effectively given if delivered by courier or sent by registered mail to the other Party's Designated Representative at the address set out in either Section 3.6 or 3.7 as the case may be.
- 10.3 Any notice or correspondence in relation to the addition of or an amendment to an Annex to this MOU and any other notices to be given and reports, information, correspondence and other documents to be provided by either Party under this MOU will be effectively given if delivered by courier or sent by letter or other means that the Party see fit to the other Party's Delegate at the address set out in either Section 3.9 or 3.10 as the case may be.
- 10.4 Notices, reports, information, correspondence and other documents will be deemed to have been given on the date of personal delivery or delivery by email, courier service, or in the case of delivery by registered mail five days after the date of mailing, or in the case of notices and documents sent by facsimile, one working day after they are sent.

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SECTION 11: LEGAL EFFECT

11.1 This MOU, its Annexes, and any amendment thereto, are administrative in nature and are not intended to be legally binding on the Parties.

In witness whereof, the Parties signed this MOU:

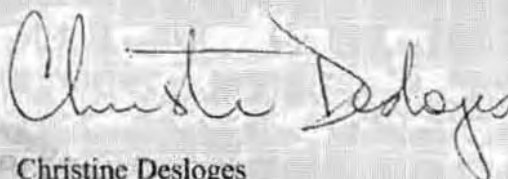
For CSIS



Richard Fadden
Director

signed at OTAWA
this 11 day of Aug
2010 in duplicate

For PPTC



Christine Desloges
Chief Executive Officer

signed at Gettysburg
this 28 day of July
2010 in duplicate