

CCM# 17458  
SECRET  
For Decision

**MEMORANDUM TO THE MINISTER**

**S. 17 OF THE CSIS ACT ARRANGEMENT WITH  
THE CANADA BORDER SERVICES AGENCY**

**BACKGROUND:**

The Canadian Security Intelligence Service (CSIS) and the Canada Border Services Agency (CBSA) are seeking to establish an arrangement for the purposes of conducting national security investigations, sharing information and providing mutual assistance.

**DISCUSSION:**

The establishment of an overarching Framework Memorandum of Understanding (MOU) will set the terms and conditions as well as the general principles of the administration and management of arrangements between the two organizations. This Framework MOU will also authorize the Service to enter into more specific arrangements with the CBSA, as required, without the necessity to seek your approval each time, recognizing that they will comply with the guiding principles of the Framework MOU and be attached as Annexes.

The Service and the CBSA are currently in the process of negotiating an arrangement which will govern the disclosure, use, management and retention of personal information collected

Other arrangements regarding Information Sharing  
are also being considered.

The *CSIS Act* requires that I seek your approval to enter into an arrangement with a department of the Government of Canada. Thus, pursuant to sub-paragraph 17(1)(a)(i) of the *CSIS Act*, I am seeking your approval of this MOU with CBSA.

I am available to discuss this matter at your convenience.

\_\_\_\_\_  
Michel Coulombe

I approve:

I do not approve:

\_\_\_\_\_  
Steven Blaney, P.C., M.P.  
Minister of Public Safety and  
Emergency Preparedness

\_\_\_\_\_  
Date

Enclosures (1)

c.c. : Deputy Minister, Public Safety  
President, Canada Border Services Agency

This document constitutes a record which may be subject to mandatory exemption under the *Access to Information Act* or the *Privacy Act*. The information or intelligence may also be protected by the *Canada Evidence Act*. The information or intelligence must not be disclosed or used as evidence without prior consultation with CSIS.

*Unofficial English version  
Accompanies official French Memorandum,  
Signed by Director of CSIS*

**MEMORANDUM OF UNDERSTANDING**

between

**THE CANADA BORDER SERVICES AGENCY**

(herein referred to as "The CBSA")

and

**THE CANADIAN SECURITY INTELLIGENCE SERVICE**

(herein referred to as "The CSIS")

Collectively referred to as the 'Participants'

**Concerning an arrangement for ongoing  
cooperation on joint operations, operational assistance  
and collaboration as well as information sharing**

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SUR LA PROTECTION DES RENSEIGNEMENTS  
PERSONNELS ET/OU DE LA LOI SUR L'ACCÈS  
À L'INFORMATION

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## PREAMBLE

The relationship between the Canada Border Services Agency (CBSA) and the Canadian Security Intelligence Service (CSIS) is vital to ensuring an effective administration of the *Canada Border Services Agency Act (CBSA Act)* and the *Canadian Security Intelligence Service Act (CSIS Act)*; the administration and enforcement of the *Immigration and Refugee Protection Act (IRPA)* and the *Customs Act* as well as maintaining the security and the safety of Canada and its citizens. Both organizations report directly to the Minister of Public Safety and Emergency Preparedness.

## SECTION 1: MANDATES AND AUTHORITIES

The CBSA, as per subsection 5(1) of the *CBSA Act*, is responsible for providing integrated border services that support national security priorities and facilitate the free flow of people and goods, including food, plants and animals, across the border. The CBSA has primary responsibility for administering and enforcing the *Customs Act*, *IRPA* and other border-related legislation at all ports of entry (POEs).

Paragraphs 5(1)(d) and (e), subsection 5(2) and paragraph 13(2)(b) of the *CBSA Act* provide authority for the CBSA to enter into an agreement or arrangement with a department or agency of the Government of Canada (GoC), such as the CSIS.

The CSIS is dedicated to the protection of Canada's national security interests and the safety and security of Canadians. Pursuant to section 12 of the *CSIS Act*, the duties and functions of the CSIS include the collection, by investigation or otherwise, to the extent that is strictly necessary, and the analysis and retention of information and intelligence respecting activities that may on reasonable grounds be suspected of constituting threats to the security of Canada.

The CSIS also assists the GoC in preventing individuals who pose a threat to the security of Canada from either entering or obtaining status in this country and from obtaining access to sensitive government sites, assets or information. Pursuant to section 15 of the *CSIS Act*, the CSIS may conduct such investigations as are required for the purpose of providing security assessments pursuant to section 13 or advice pursuant to section 14 of the *CSIS Act*.

The CSIS may assist the Minister of National Defence or the Minister of Foreign Affairs in the collection within Canada of information or intelligence relating to the capabilities, intentions or activities of foreign states or persons (other than Canadian citizens, Permanent Residents, or corporations incorporated by or under an Act of Parliament or Legislature of a Province), pursuant to section 16 of the *CSIS Act*, with the personal consent in writing of the Minister of Public Safety and Emergency Preparedness and in relation to the defence of Canada or the conduct of international affairs of Canada.

The CSIS may, with the approval of the Minister of Public Safety and Emergency Preparedness, enter into an arrangement or otherwise cooperate with any department or agency of the GoC pursuant to subsection 17(1) of the *CSIS Act*.

The CSIS reports to, and advises the GoC on national security issues and activities that threaten the security of Canada. In accordance with subsection 19(2) of the *CSIS Act*, the CSIS may disclose information obtained in the performance of its duties for the purposes of performing its obligations under the *CSIS Act*, including the duty to advise the GoC as authorized by law.

## SECTION 2: PURPOSE

- 2.1 The purpose of this Memorandum of Understanding (MOU) is to define, in general terms, the basis for cooperation between the CBSA, which is responsible for administering and enforcing border-related legislation and the CSIS in conducting national security investigations as well as sharing information in accordance with their respective mandates and applicable laws.
- 2.2 Specific areas of cooperation and related parameters are to be found in Annexes to this MOU all of which form an integral part of this MOU and may be amended from time to time.

## SECTION 3: SCOPE OF COOPERATION

### Joint Operations, Operational Assistance and Collaboration

- 3.1 Activities undertaken by one Participant to allow the other Participant to meet its operational requirements can take the form of investigative techniques, the provision of equipment, the sharing of information, resources or personnel and the facilitation of conditions to allow the other Participant to safely and effectively meet its operational requirements. These activities may be conducted jointly between the Participants, or by one Participant on behalf of the other Participant, subject to their respective mandates and authorities.

### Information Sharing

- 3.2 The Participants will exchange information or intelligence ("information") in the possession of one Participant related to the operational requirements of the other Participant or for the purpose of de-conflicting investigations, subject to their respective mandates and authorities.

### Compliance

- 3.3 The Participants intend to mutually establish shared processes for the handling of information in compliance with their respective legislation, policies, procedures and guidelines and in respect of any caveats placed on the information regarding its use, classification or further dissemination.

### Implementation

- 3.4 Each Participant recognizes that to ensure the effectiveness of this MOU, joint Annexes between the Participants may be required to implement the cooperation described in this section.

## SECTION 4: GOVERNANCE

4.1 The Participants are represented by their respective Deputy Head, who act as Signatories to this MOU. For the purposes of this MOU, the Deputy Heads are:

- a) for the CBSA,
  - President
  - Canada Border Services Agency
- b) for the CSIS,
  - Director
  - Canadian Security Intelligence Service

### Designated Representatives

4.2 The Designated Representatives are responsible for the overall administration of this MOU. For the purposes of this MOU, the Designated Representatives are:

- a) for the CBSA,
  - Director General, Corporate Secretariat
  - Canada Border Services Agency
- b) for the CSIS,
  - Director General, Security Screening Branch
  - Canadian Security Intelligence Service

### Joint Management Teams

4.3 To ensure a shared understanding of each Participant's responsibilities and authority, thus facilitating a more effective administration of their respective legislative mandates, the Participants will oversee their responsibilities under this MOU by means of Joint Management Teams.

4.4 The Senior Joint Management Team (SJMT) consisting of the President of the CBSA, the Director of the CSIS, and their respective executive level managers who report to them directly, will meet to address issues of mutual interest and to modify or confirm priority activities for cooperation. The SJMT meetings will occur on a bi-annual basis or as required.

- 4.5 The Joint Management Team (JMT), consisting of Director Generals as designated by the CBSA and the CSIS will report progress to the SJMT through their respective executive level managers on outstanding issues, maintain a cooperation priorities list, and provide recommendations as necessary. The JMT meetings will occur on a tri-annual basis or as required.
- 4.6 Working groups may be established by the SJMT and the JMT for the purpose of addressing specific matters, including those relating to the implementation and administration of this MOU as well as any measure described in its Annexes, if applicable.

#### **Dispute Resolution**

- 4.7 Any dispute arising from the interpretation or operation of the arrangement described in this MOU or its Annexes will be referred to the JMT. These discussions will also include the Director General, Corporate Secretariat, at the CBSA and the Director General, Security Screening Branch, at the CSIS. As necessary, unresolved issues will be elevated to the SJMT.

## **SECTION 5: INFORMATION MANAGEMENT**

### **Security of Information**

- 5.1 Each Participant will restrict access of information to their employees who have the appropriate security clearance and who require access for the purposes for which that information was provided (need-to-know).
- 5.2 The Participants will mark the information disclosed to one another with the appropriate security classification and protect the information in accordance with its security classification. Participants will respect any caveats placed upon the information regarding its use, classification or further dissemination.
- 5.3 Classified or protected information exchanged by the Participants will be transferred only through secure Government channels or through channels approved by the designated security authorities of the Participants.
- 5.4 Each Participant will ensure that the standards and requirements of the Policy on Government Security, the *Library and Archives of Canada Act*, the *Security of Information Act*, more specifically the Operational Standard, any other applicable laws and relevant GoC policies are adhered to.

### **Personal and Customs Information**

- 5.5 Procedures with respect to the collection, use, disclosure, retention and disposal of personal information and customs information will conform to all relevant Canadian legislation, regulations and government policies including the *Access to Information Act*, the *Privacy Act*, the *Customs Act*, the *CSIS Act*, *IRPA*, the *Canadian Charter of Rights and Freedoms*, the Policy on



Government Security, the Treasury Board (TB) policy on the sharing of personal information, policies relating to the management of information and any other applicable Canadian federal laws.

### Third Party

- 5.6 In the event that either the CBSA or the CSIS receives a request under the *Privacy Act* or the *Access to Information Act* to disclose information supplied by the other Participant, it will notify and consult the other Participant prior to processing the request in accordance with the law.
- 5.7 Where either Participant is subject to a subpoena, warrant or other court order to disclose information supplied by the other Participant, the Participant in receipt of the subpoena, warrant or other court order will immediately and prior to processing the file, notify the other Participant and provide details of the information to which it refers, to permit the other Participant to take the necessary measures to protect the information. Notice must be given as soon as possible after the receipt of the subpoena, warrant or other court order and before the information is disclosed.

### Loss or Unauthorized Disclosure

- 5.8 In the event of the loss or unauthorized disclosure or dissemination by one Participant of the other Participant's classified information, the Participant responsible for the loss, disclosure or dissemination will advise the other immediately of its discovery and will assist in preparing a damage assessment.

## SECTION 6: FINANCIAL ARRANGEMENTS

- 6.1 The CBSA and the CSIS agree that sufficient specified funding may be necessary to fully implement this MOU. This MOU will not in and of itself impose any financial responsibilities on either Participant, unless set out in subsequent forms of cooperation provided for in an Annex to this MOU. Any cost recovery from Participants will be in accordance with TB policies and directives.

## SECTION 7: EFFECTIVE DATE, REVIEW, AMENDMENT AND TERMINATION

### Effective Date

- 7.1 This MOU will come into effect on the date on which it is signed by the last of the Participants and will remain in effect until it is terminated in accordance with the procedure set out in this MOU. Annexes to this MOU are effective from their date of signing by both Participants.

### **Review**

- 7.2 The Participants via the SJMT will meet every five years or as required to review and assess the efficiency and effectiveness of this MOU and its Annexes. The five year period will commence once the MOU comes into effect.

### **Amendment**

- 7.3 This MOU may be amended at any time upon mutual consent of the Participants. Such amendment will be effected by an exchange of letters between the Participants' Deputy Heads. Amendments that change the nature or scope or alter the substance of the arrangement described in this MOU must first be approved by the Minister of Public Safety and Emergency Preparedness.
- 7.4 Annexes to this MOU may be amended at any time upon mutual consent of the Participants as represented by their Designated Representatives. Amendments to the Annexes may not change the nature or scope or alter the substance of the arrangement described in this MOU.
- 7.5 Changes being considered or proposed to legislation, regulations, mandate, policy, technology, systems or operations by either Participants, that may affect the implementation or administration to either the Annexes or the MOU, will be the subject of early consultations between representatives of the Participants.

### **Termination**

- 7.6 Either Participant may terminate this MOU upon providing the other with advance written notice of no less than sixty (60) business days. All information obtained up to the date of termination must continue to be treated in accordance with the MOU.

## **SECTION 8: ANNEXES**

- 8.1 The Annexes comprise an integral part of this MOU and are to be interpreted in a manner consistent with this MOU.
- 8.2 All existing MOUs between the Participants are intended to be updated and consolidated by subject matter into specific Annexes to this MOU.
- 8.3 New Annexes may be developed and updated as required at any time with the approval of the SJMT.
- 8.4 The Designated Representatives are identified in each Annex.

## SECTION 9: LEGAL EFFECT

9.1 This MOU is an administrative understanding between the Participants and is not intended to be legally binding or enforceable before the Courts.

This MOU, in both official languages, was signed in duplicate, each copy being equally authentic.

**For the Canada Border Services Agency:**

\_\_\_\_\_  
Luc Portelance  
The President of the CBSA

\_\_\_\_\_  
Date

**For the Canadian Security Intelligence Service:**

\_\_\_\_\_  
Michel Coulombe  
The Director of the CSIS

\_\_\_\_\_  
Date