



## Appendix B-1

### U.S. Canada Biometric Visa and Immigration Information Sharing

#### Background

On February 4, 2011, the Prime Minister of Canada and the President of the United States issued a joint statement: “Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness.”<sup>1</sup> The declaration established a new long-term partnership to work together to increase security, counter fraud, promote mobility, and improve efficiency within, at, and beyond our shared border. On December 7, 2011, the Canada-U.S. Beyond the Border Perimeter Security and Economic Competitiveness Action Plan (“Action Plan”)<sup>2</sup> established a common approach to perimeter screening to promote security and border efficiency as one of its priorities. The two countries committed to screening travelers seeking to enter either country in order to:

- Identify individuals who seek to enter the perimeter for *mala fide* purposes;
- Prevent individuals from assuming different identities within each country;
- Identify individuals who have committed serious crimes or violated immigration law in the other country to enable informed decisions; and
- Create a shared responsibility concerning those entering the Canada-United States perimeter, while facilitating on-going efforts to streamline procedures at the shared border.

Canada and the United States committed to develop and implement a systematic, automated process for conducting immigration information exchanges. In December 2012, both countries entered into *The Agreement Between the Government of Canada and the Government of the United States of America for the Sharing of Visa and Immigration Information* (“the

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<sup>1</sup> Declaration by President Obama and Prime Minister Harper of Canada -Beyond the Border (February 4, 2011), available at <https://www.whitehouse.gov/the-press-office/2011/02/04/declaration-president-obama-and-prime-minister-harper-canada-beyond-bord>.

<sup>2</sup> United States-Canada Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness (December 2011), included as an addendum to this Appendix (beginning on page 14), and available at <http://www.dhs.gov/xlibrary/assets/wh/us-canada-btb-action-plan.pdf>. “To preserve and extend the benefits our close relationship has helped bring to Americans and Canadians alike, we intend to pursue a perimeter approach to security, working together within, at, and away from the borders of our two countries to enhance our security and accelerate the legitimate flow of people, goods, and services between our two countries.”



Agreement”), which lays out mutual obligations for relevant biographic<sup>3</sup> and biometric-based information sharing.

In order to carry out the biometric information sharing called for in the Agreement, Canada and the United States (“the Participants”) developed the *Implementing Arrangement between the Department of Citizenship and Immigration Canada, the Canada Border Services Agency, and the Department of State and the Department of Homeland Security of the United States concerning Biometric Visa and Immigration Information Sharing* (“the Arrangement”).<sup>4</sup> The Arrangement establishes guidelines for vetting biometrics associated with visa application and immigration matters against the other parties appropriate biometric repositories through automated processes. The implementation of biometric immigration information sharing (IIS) was developed to support the Action Plan and to assist in the effective administration and enforcement of the Participants’ respective immigration laws. The outline below summarizes how Canada and the United States intend to achieve its high-level objectives:

- Expand existing biometric information sharing of asylum claimants, in a phased approach, with the goal of sharing 100% of this population.
- Expand biometric information sharing to include overseas refugees applying for resettlement to either country, in accordance with domestic and international obligations.
- Implement a systematic and automated sharing capability to support admissibility screening of visa-required third-country nationals, and in support of other administrative and enforcement actions.

This sub-appendix to Appendix B provides public notice about information sharing under this program, and resulting privacy impacts. Information shared pursuant to the Agreement and its implementing arrangement falls under the scope of work for both the Five Country Conference and Beyond the Border Action Plan. As such, Canada and the United States incorporated the Beyond the Border Privacy Principles<sup>5</sup> into the Agreement and Arrangement to guide and inform sharing under this initiative. The Beyond the Border Privacy Principles are aligned with the *DHS Fair Information Practice Principles* (FIPPs). Information shared is consistent with the Participants’ respective domestic laws and policies.

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<sup>3</sup> See DHS/CBP/PIA-023 Biographic Visa and Immigration Information Sharing with Canada may be accessed at [http://www.dhs.gov/sites/default/files/publications/privacy\\_pia\\_cbp\\_biographicvisa\\_feb2014.pdf](http://www.dhs.gov/sites/default/files/publications/privacy_pia_cbp_biographicvisa_feb2014.pdf).

<sup>4</sup> The Arrangement is also included as an addendum to this Appendix, following the Agreement.

<sup>5</sup> Beyond the Border Action Plan: Statement of Privacy Principles by the United States and Canada (May 30, 2012), available at <http://www.dhs.gov/xlibrary/assets/policy/beyond-the-border-action-plan-statement-of-privacy-principles.pdf>.



## **Overview of Sharing**

The biometric visa and immigration information sharing initiative allows Canada and the United States to make electronic fingerprint queries against each other's fingerprint database(s). When a biometric match is made in the database, exchange and subsequent use of relevant information, listed below, may occur.

## **Organizations**

For Canada:

The Department of Citizenship and Immigration Canada

The Canada Border Services Agency

For the United States:

The U.S. Department of State

The U.S. Department of Homeland Security

## **Purpose and Use**

The purpose of this initiative is to assist in the effective administration and enforcement of the Participants' respective immigration laws. Information exchanged under this initiative will be used to enforce or administer the Participant's respective immigration laws.

## **Individuals Impacted**

The Participants will make queries on individuals whom the requesting Participant believes to be nationals of a third country, based on data such as application responses, identity documentation, or the nature of the application or investigation, and who have applied for admission or a visa or other immigration benefit. The Participants will query individuals believed to be third country nationals and who are a subject of an investigation in order to establish the basis for admissibility, eligibility for a visa or other immigration benefit, or their eligibility to remain in the territory of the requesting country.



## Data Elements

The Participants intend to send, in response to a query, the following data elements when there is a biometric match, subject to availability and practicability in the providing Participant's applicable database or databases (for the United States, IDENT; for Canada, Global Case Management System (GCMS)):

- (a) Providing Participant subject specific reference number;
- (b) Providing Participant event specific reference number;
- (c) Date fingerprinted;
- (d) Reason fingerprinted;
- (e) Location fingerprinted;
- (f) Last name;
- (g) First name;
- (h) Date of birth;
- (i) Passport nationality;
- (j) Country of birth;
- (k) Gender;
- (l) Current immigration status;
- (m) Other names;
- (n) Alias last name(s);
- (o) Alias first name(s);
- (p) Travel document number;
- (q) Travel document type;
- (r) Travel document issuing authority/country;
- (s) Travel document expiry date;
- (t) Reason for alert;<sup>6</sup>
- (u) Visa Refusal code;

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<sup>6</sup> Alerts are from the DHS enforcement process where a flag has been placed on a person primarily as a Recidivist. "Recidivist with alert" categories include categories for officer safety, smuggling, and individuals flagged for expedited removal.



- (v) Watchlist Indicator;<sup>7</sup>
- (w) Scan of travel document biodata page;
- (x) Scan of other marked travel document pages;
- (y) Facial image;
- (z) Previous immigration status;
- (aa) Date removed;
- (bb) Date of arrival;
- (cc) Location of arrival;
- (dd) Date of departure;
- (ee) Location of departure;
- (ff) Date of immigration application or non-biometric encounter;
- (gg) Type of immigration application or non-biometric encounter;
- (hh) Date of outcome of immigration application;
- (ii) Outcome of immigration application;
- (jj) Reason for outcome of immigration application; and
- (kk) Expiry date of current leave/stay or visa.

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<sup>7</sup> For purposes of this sharing, “watchlist indicator” is an indication of derogatory information held in IDENT. For a full description of the IDENT watchlist, please *see* DHS/NPPD/PIA-002 Automated Biometric Identification System (IDENT) PIA (December 7, 2012) at page 6, *available at* <http://www.dhs.gov/sites/default/files/publications/privacy-pia-nppd-ident-december2012.pdf>. Canadian responses to U.S. queries will not populate the “watchlist indicator” field because the Global Case Management System (GCMS) does not contain such holdings.



Following the receipt of a match response, the providing Participant may request that the requesting Participant provide the following data elements for the individual who was the subject of the initial query in order to support further domestic operations relevant to the original record.

- (a) Requesting Participant subject specific reference number;
- (b) Requesting Participant event specific reference number;
- (c) Date fingerprinted;
- (d) Reason fingerprinted;
- (e) Location fingerprinted;
- (f) Last name;
- (g) First name;
- (h) Date of birth;
- (i) Passport nationality;
- (j) Country of birth;
- (k) Gender;
- (l) Other names;
- (m) Alias last name(s);
- (n) Alias first name(s);
- (o) Travel document number;
- (p) Travel document type;
- (q) Travel document issuing authority/country;
- (r) Scan of travel document biodata page;
- (s) Facial image;
- (t) Current immigration status;
- (u) Previous immigration status; and
- (v) Date removed.



## Applicable SORN Routine Uses

### *Biometrics/Biographic Information*

#### DHS/USCIS-001 Alien File, Index, and National File Tracking SORN,<sup>8</sup>

Routine Use H: To appropriate federal, state, tribal, local, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, when DHS believes the information would assist in enforcing applicable civil or criminal laws.

#### DHS/USCIS-003 Biometric Storage System SORN,<sup>9</sup>

Routine Use F: To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or treaty where DHS determines that the information would assist in the enforcement of civil or criminal laws

#### DHS/CBP-007 Border Crossing Information (BCI) SORN,<sup>10</sup> and

Routine Use I: To the CBSA for law enforcement and immigration purposes, as well as to facilitate cross-border travel when an individual enters the United States from Canada.

#### DHS/CBP-006 Automated Targeting System (ATS) SORN<sup>11</sup> (*for legacy NSEERS data only*)<sup>12</sup>

Routine Use G: To appropriate federal, state, tribal, local, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation,

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<sup>8</sup> DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking SORN, 78 FR 69864 (November 21, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-11-21/html/2013-27895.htm>.

<sup>9</sup> DHS/USCIS-003 Biometric Storage System SORN, 72 FR 17172 (April 6, 2007), available at <http://www.gpo.gov/fdsys/pkg/FR-2007-04-06/html/07-1643.htm>.

<sup>10</sup> DHS/CBP-007 Border Crossing Information (BCI) SORN, 80 FR 26937 (May 11, 2015), available at [http://www.regulations.gov/#!documentDetail;D=DHS\\_FRDOC\\_0001-1331](http://www.regulations.gov/#!documentDetail;D=DHS_FRDOC_0001-1331).

<sup>11</sup> DHS/CBP-006 Automated Targeting System (ATS) SORN, 77 FR 30297 (May 22, 2012), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-05-22/html/2012-12396.htm>.

<sup>12</sup> NSEERS was first implemented in 2002 as a temporary measure in the aftermath of the September 11, 2001 terrorist attacks and was designed to record the arrival, stay, and departure of individuals from certain countries chosen based on an analysis of possible national security threats emanating from those locales. DHS officially ended the NSEERS program in 2011. DHS is sharing this information in the same manner as all other entry-exit information. Any match to individuals who were required to register under NSEERS should not be treated as derogatory information absent any other information. For additional information, please see <http://www.dhs.gov/dhs-removes-designated-countries-nseers-registration-may-2011>.



order, or license, where CBP believes the information would assist enforcement of applicable civil or criminal laws.

### *Derogatory Information*

DHS/ICE-011 Immigration and Enforcement Operational Records System (ENFORCE) SORN,<sup>13</sup> and

Routine Use M: To foreign governments for the purpose of coordinating and conducting the removal of aliens to other nations; and to international, foreign, and intergovernmental agencies, authorities, and organizations in accordance with law and formal or informal international arrangements.

DHS/CBP-011 - U.S. Customs and Border Protection (TECS) SORN<sup>14</sup>

Routine Use G. To appropriate Federal, State, local, tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or treaty where DHS determines that the information would assist in the enforcement of civil or criminal laws.

### *Transactional Information*

DHS/USVISIT-004 DHS Automated Biometric Identification System (IDENT) SORN,<sup>15</sup>

Routine Use A: To appropriate federal, state, local, tribal, foreign, or international agencies seeking information on the subjects of wants, warrants, or lookouts, or any other subject of interest for the specific purposes of administering or enforcing the law, national security, immigration, or intelligence, or carrying out DHS mission-related functions.

### **Partner Notice**

[Placeholder for Canada link]

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<sup>13</sup> DHS/ICE-011 Immigration and Enforcement Operational Records System (ENFORCE) SORN, 80 FR 24269 (April 30, 2015), available at <http://www.gpo.gov/fdsys/pkg/FR-2015-04-30/html/2015-09615.htm>.

<sup>14</sup> DHS/CBP-011 TECS SORN, 73 FR 77778 (December 19, 2008), available at <http://www.gpo.gov/fdsys/pkg/FR-2008-12-19/html/E8-29807.htm>.

<sup>15</sup> DHS/NPPD/USVISIT-004 Automated Biometric Identification System (IDENT) SORN, 72 FR 31080 (June 5, 2007), available at <http://www.gpo.gov/fdsys/pkg/FR-2007-06-05/html/07-2781.htm>.



## Retention

The Participants intend to destroy the fingerprints submitted as part of a query. Response data, sent in the case of a fingerprint match, will be retained only so long as necessary for the purpose for which the data was provided, in accordance with the receiving Participant's respective applicable retention and disposition schedules and respective domestic laws.

For the United States: The United States will not send queries at this time and therefore will not receive response data at this time. This sub-appendix will be updated before the United States begins querying to account for retention periods.

For Canada: Citizenship and Immigration Canada (CIC) intends to retain information consistent with the departmental "Temporary & Permanent Migration Retention and Disposition Schedule." The Canada Border Services Agency (CBSA) intends to retain information consistent with the "Institution Specific Disposition Authority."

## Review and Performance Monitoring

The Participants intend to review on an annual basis the volume of transactions and the outcomes and the timeliness of the responses to queries based on mutually decided performance and management measurements, which may include:

- The number and severity of any security breaches and a summary of remedial actions taken
- The number and severity of any privacy breaches and a summary of remedial actions taken

The Participants intend to carry out regular quality assurance activities, including a review of applicable privacy safeguards. For Canada, quality assurance activities will be carried out by Citizenship and Immigration Canada's Centralized Information Sharing Unit (CISU). For the United States, quality assurance activities will be carried out by the Office of Biometric Identity Management. These activities may include, but are not limited to, determining:

- Whether information has been retained when it should have been destroyed
- Whether information has been disclosed in a manner inconsistent with the Agreement
- The number of correction requests and whether information has been corrected in a manner consistent with the Agreement



## Access, Correction, and Redress

Individuals who wish to access response data held by the Government of Canada may visit:

- CIC Website: <http://www.cic.gc.ca/english/department/atip/requests-atip.asp>
- CBSA Website: <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/pia-efvp/atip-aiprp/req-dem-info-eng.html> for additional information on how to make an online or written request to access their personal information.

Individuals who wish to request access to response data held by the Government of the United States may contact:

U.S. Department of State:

Director  
Office of Information Programs and Services (A/GIS/IPS)  
U.S. Department of State  
515 22nd Street NW, Room 8100, SA-2  
Washington, D.C. 20522-6001

U.S. Department of Homeland Security:

<http://www.dhs.gov/freedom-information-act-and-privacy-act> or  
Chief FOIA Officer  
The Privacy Office  
U.S. Department of Homeland Security  
245 Murray Lane SW, STOP-0655  
Washington, D.C. 20528-0655

Individuals who wish to correct response data held by the Government of Canada, or to request to add a notation to indicate a correction request was made, may submit a correction request to:

Access to Information and Privacy Division  
Citizenship and Immigration Canada  
Ottawa, Ontario  
K1A 1L1

or to:



Canada Border Services Agency  
Access to Information and Privacy Coordinator  
410 Laurier Avenue West, 10<sup>th</sup> floor  
Ottawa, ON  
K1A 0L8

Individuals who wish to correct response data held by the Government of the United States, or to request to add a notation to indicate a correction request was made, may submit a correction request to the Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP):

<http://www.dhs.gov/dhs-trip>, or:

United States Department of Homeland Security  
Traveler Redress Inquiry Program (DHS TRIP)  
601 South 12th Street, TSA-901  
Arlington, VA 20598-6901

Correction requests, or requests to add a notation to indicate a correction request was made, may also be directed to:

The Chief Privacy Officer  
The Privacy Office  
U.S. Department of Homeland Security  
245 Murray Lane SW  
STOP-0655  
Washington, D.C. 20528-0655

The DHS Office of Citizenship and Immigration Services Ombudsman also assists individuals who wish to resolve issues regarding applications submitted to U.S. Citizenship and Immigration Services (USCIS). The contact information is as follows:

Office of the Citizenship and Immigration Services Ombudsman  
Department of Homeland Security  
Mail Stop 0180 Washington, D.C. 20528  
Phone: 1-855-882-8100 (toll free) or 202-357-8100 (local)  
Fax: 202-357-0042  
[cisombudsman@dhs.gov](mailto:cisombudsman@dhs.gov)



## Privacy Risks and Mitigation

Information exchanged under this program will be done in accordance with the Participants' respective laws and policies, as well as the Beyond the Border Privacy Principles. In addition to risks and mitigations already addressed in the IDENT PIA<sup>16</sup>, the following are specific risks associated with the biometric visa and immigration information sharing program:

**Privacy Risk:** Although the Agreement prohibits sharing information about U.S. citizens, nationals, and LPRs, or Canadian citizens and permanent residents, there is a risk that the Participants may unintentionally exchange this information.

**Mitigation:** The Participants intend to send queries only on individuals believed to be third country nationals based on data such as benefit application responses, identity documentation provided, or the nature of the benefit application of investigation. Unintentional sharing could happen if the individual withholds information from the providing Participant that indicates he or she is a citizen, resident, or national, as applicable, of the United States or Canada.

To mitigate this privacy risk:

- The providing Participant will not return information on individuals believed to be U.S. citizens, nationals, and LPRs, or Canadian citizens and permanent residents.
- DHS has limited the categories of information that it will return to only those that have been identified as unlikely to include U.S. citizens, nationals, and LPRs.
- These exchanges will undergo review and performance monitoring to ensure that information is exchanged in accordance with the Agreement. While these records may be shared on a case-by-case basis under the terms of the SMU, DHS will review the responses it provides to Canadian queries and make adjustments as necessary to exclude any further exchanges of information likely to be out of scope of the Agreement.

Additional privacy risks first mentioned in the original IDENT PIA are particularly applicable to this information sharing initiative. There is a risk of sharing IDENT data with foreign partners, where it is more difficult for DHS to externally impose the same controls that govern the data internally. These risks are mitigated by those foreign partners' audit and redress provisions, which are identified in the process of negotiating a data sharing agreement. This sub-Appendix details how individuals may contact the United States or Canada for redress options. Also noted above, the Participants will conduct regular quality assurance checks on data exchanged.

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<sup>16</sup> Please see DHS/NPPD/PIA-002 Automated Biometric Identification System (IDENT) PIA (December 7, 2012) at page 7, available at <http://www.dhs.gov/sites/default/files/publications/privacy-pia-nppd-ident-december2012.pdf>



Finally, there is a risk of information about special, legally protected classes of individuals being shared inappropriately. IDENT contains information related to aliens who receive special legal protections generally prohibiting disclosure to anyone beyond DHS, the U.S. Department of Justice, and the U.S. Department of State, unless the disclosure fits within certain delineated exceptions (e.g., to a law enforcement official for a legitimate law enforcement purpose). IDENT has technological filters in place that check if a record belongs to an individual in a protected class (VAWA, T, or U visa holders). If so, the record is filtered out from the response that is sent to the foreign partner.

**AGREEMENT**

**BETWEEN**

**THE GOVERNMENT OF CANADA**

**AND**

**THE GOVERNMENT OF THE UNITED STATES OF AMERICA**

**FOR THE SHARING OF VISA**

**AND IMMIGRATION INFORMATION**

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA** (hereinafter referred to as the “Parties”);

**NOTING** the importance of a new approach to migration that takes into account the global patterns of both regular and irregular migration and the increasingly sophisticated methods of identity fraud and abuse of their respective immigration laws;

**RECOGNIZING** that border security and border management are significantly enhanced by cooperation and collaboration;

**EMPHASIZING** that it is critically important to have timely access to current and accurate information to inform inadmissibility assessments or other immigration-related determinations that are vital to their common security;

**CONSIDERING** that the administration and enforcement of their respective immigration laws are important to protect the health and safety of their populations, to maintain the security of their societies, and to promote international justice and security by denying access to their territories to persons who are criminals or security risks;

**CONVINCED** that greater cooperation through the exchange of information can make their actions in achieving these objectives more effective;

**NOTING** the need to supplement existing information sharing arrangements between them, including the *Statement of Mutual Understanding on Information Sharing among the Department of Citizenship and Immigration (CIC) and the U.S. Immigration and Naturalization Service (INS) and the U.S. Department of State (DOS)*, 27 February 2003 (the “Statement of Mutual Understanding”) and the *Annex Regarding the Sharing of Information on Asylum and Refugee Status Claims to the Statement of Mutual Understanding on Information Sharing between the Department of Citizenship and Immigration Canada (CIC) and the Bureau of Citizenship and Immigration Services (BCIS), of the U.S. Department of Homeland Security (DHS)*, 22 August 2003 (the “Asylum Annex”);

**RECOGNIZING** the need to establish a mechanism to exchange Information in a manner that respects privacy, civil liberties, and human rights; and,

**COMMITTED** to advancing their shared vision, as expressed in *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness*, a joint declaration issued by the Prime Minister of Canada and the President of the United States on 4 February 2011 and in *Beyond the Border Action Plan: Statement of Privacy Principles by the United States and Canada*, issued by Canada and the United States on 30 May 2012;

**HAVE AGREED** as follows:

## **ARTICLE 1**

### **Definitions**

For purposes of this Agreement,

- (a) “**National of a Third Country**” means a person who is not a citizen of Canada or a permanent resident of Canada or a citizen or national of the United States of America (the “United States”) or a lawful permanent resident of the United States, and includes a person not having a country of nationality.

- (b) “**Query**” means an electronic search process, requiring minimal human intervention, initiated by a Party under the authority of, and for the purposes delineated in, this Agreement, resulting in the exchange of data limited to the data described in the relevant non-legally binding implementing arrangement.
- (c) “**Information**” means biographic or biometric data on Nationals of a Third Country seeking authorization to travel, work, or live in Canada or the United States, and other immigration-related data about Nationals of a Third Country, including data from admissibility decisions rendered in accordance with the respective immigration laws of the Parties. For Queries on Refugee Status Claimants, Information is limited to data related to a visa application and excludes data otherwise provided under the Asylum Annex.
- (d) “**Refugee Status Claimant**” means any person who, in the territory or at a port of entry of one of the Parties, makes a claim for protection against persecution consistent with the *Convention relating to the Status of Refugees*, done on 28 July 1951 (the “1951 Refugee Convention”) or the *Protocol relating to the Status of Refugees*, done on 31 January 1967 (the “1967 Protocol”), or who has made a claim for protection against torture in accordance with the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, done on 10 December 1984 (the “Convention against Torture”), or has made a claim for protection on similar grounds in accordance with the Parties’ respective domestic law.

## ARTICLE 2

### Scope and Purpose

1. This Agreement specifies the terms, relationships, responsibilities and conditions for the sharing of Information between the Parties that occurs by means of a Query and in accordance with the Parties' respective domestic law.

2. The purpose of this Agreement is to assist in the administration and enforcement of the Parties' respective immigration laws by:

- using Information in order to enforce or administer the immigration laws of the Parties;
- furthering the prevention, investigation, or punishment of acts that would constitute a crime rendering a National of a Third Country inadmissible or removable under the immigration laws of the Party providing the Information; or
- facilitating the Parties' adjudication of an application for a visa, admission, or other immigration benefit, or determination of whether an individual is to be ordered removed by providing Information regarding the admissibility of the individual.

3. The Parties shall handle all Information exchanged under this Agreement in accordance with the terms of this Agreement, and their respective international legal obligations and domestic law.

4. This Agreement is solely intended to facilitate the sharing of Information between the Parties. The provisions of this Agreement shall not give rise to a right on the part of a private party, including to obtain, suppress, exclude or impede the sharing of any Information that is the subject of this Agreement.

### **ARTICLE 3**

#### **Exchange of Information and Implementation**

1. The Parties shall develop, by mutual consent, non-legally binding implementing arrangements under this Agreement that are consistent with their respective international legal obligations and domestic law.
2. The non-legally binding implementing arrangements shall set forth the data to be exchanged within each category of Information, the operational procedures to be followed, and the security mechanisms and other safeguards to be maintained.
3. The Parties shall provide each other with Query access to the data described in the non-legally binding implementing arrangements.

## **ARTICLE 4**

### **Use and Disclosure of Information**

1. The Parties shall hold Information exchanged under this Agreement in strict confidence and, shall use it only for purposes identified in Article 2, paragraph 2. The Parties agree to protect exchanged Information, and limit its use and subsequent disclosure, in accordance with this Agreement.
2. The Parties shall not interpret this article to preclude the use or disclosure of Information if their respective domestic law requires that use or disclosure in an immigration proceeding.
3. The Parties shall not interpret this article to preclude the use or disclosure of Information if their respective domestic law requires that use or disclosure in a criminal prosecution, or if obligated by the relevant Party's domestic law, in response to a written request from a body with jurisdiction to compel the production of Information. In these circumstances, the Party requiring such use or disclosure shall notify the other Party in advance and provide details of that use or disclosure. In the exceptional case where advance notice is not practicable, the Party using or disclosing the Information shall notify the other Party as soon as possible.

4. A Party may disclose Information exchanged under this Agreement with the express consent, in writing, of the Party providing the Information, subject to any caveats, restrictions or conditions imposed by the Party providing the Information, to:

(a) a domestic court or in a domestic judicial proceeding, for the purposes identified in Article 2, paragraph 2; or

(b) a government of a third country, for the purposes of verifying identity or establishing the provenance of identity documents, in connection with re-documentation or return of an individual to that country. However, the Parties shall make best efforts to ensure that the exchange, use or disclosure of Information:

(i) could not cause the Information to become known to any government, authority or person of a third country from which the subject of the Information is seeking or has been granted protection under the 1951 Refugee Convention, the 1967 Protocol, the Convention against Torture, or under either Party's domestic laws implementing the relevant Conventions or Protocol;

(ii) does not occur in circumstances where, by virtue of that government, authority or person becoming aware of such Information, the subject of the Information may become eligible for the protections set out in paragraph 4(b)(i) above;

(iii) does not occur if, as a result of such exchange, use or disclosure, the subject of the Information or their family members could be placed at risk of refoulement, or another type of harm contemplated under the 1951 Convention, the 1967 Protocol, or the Convention against Torture.

5. In order to prevent the unauthorized disclosure, copying, use, or modification of Information exchanged under this Agreement, each Party shall restrict access to that Information to its government agencies and individuals authorized to be responsible for pursuing the purposes set out in Article 2, paragraph 2. Each Party shall use recognized security mechanisms such as passwords, encryption, or other reasonable safeguards to prevent unauthorized access.

6. Each Party shall promptly notify, by telephone or in writing (including electronic mail), the other Party, within 48 hours after becoming aware of any accidental or unauthorized access, use, disclosure, modification or disposal of Information exchanged under this Agreement and shall furnish necessary details of the accidental or unauthorized access, use, disclosure, modification or disposal of that Information.

7. Each Party shall promptly notify, by telephone or in writing (including electronic mail), the other Party, within 24 hours where practicable, if there is a situation that disrupts the intended transfer of Information between the Parties.

## **ARTICLE 5**

### **Access, Correction and Notation**

To the extent specified in their respective domestic law, the Parties shall provide persons who are the subject of Information exchanged under this Agreement with opportunities to request access to the Information, to correct erroneous Information or to request to add a notation to indicate a correction request was made.

## **ARTICLE 6**

### **Accuracy of Information**

1. Each Party shall provide the other Party with access to the most current and accurate Information available in its databases.

2. In the event that a Party has reason to believe that the other Party is using or relying on inaccurate Information exchanged under this Agreement, it shall promptly notify the other Party, in writing and provide correcting Information, if it is available.

3. When a Party receives correcting Information, the Party shall destroy or correct any inaccurate Information and any Information derived from it. The Party shall notify the other Party, in writing, that it has made the corrections.

## **ARTICLE 7**

### **Retention and Disposition**

1. Each Party shall retain Information exchanged under this Agreement in accordance with the terms of this Agreement and its domestic law. Each Party shall maintain a system of database and document control that provides for the orderly disposition of Information exchanged under this Agreement.

2. A Party shall destroy, as soon as practicable, any data exchanged pursuant to a Query that it determines is not relevant to that Query or was erroneously provided.

## **ARTICLE 8**

### **Security and National Interest Exemptions**

If a Party determines that sharing Information under this Agreement would be inconsistent with its domestic law, or detrimental to its national sovereignty, national security, public policy, or other important national interest, the Party may decline to provide all or part of the Information,

or offer to provide all or part of the Information subject to such terms and conditions as it may specify.

## **ARTICLE 9**

### **Requests for Additional Data**

If, based on access to Information provided under Article 3, a Party has reason to request additional data not covered by this Agreement and its non-legally binding implementing arrangements, such request should be governed by applicable laws, regulations, arrangements, or agreements.

## **ARTICLE 10**

### **Review and Consultation**

1. The Parties shall designate points of contact, and require them to consult regularly to promote the effective implementation and administration of this Agreement.
2. The Parties shall, through their points of contact, jointly review this Agreement. The first review shall take place not earlier than one year from the date of the entry into force of this Agreement, and as the Parties mutually decide thereafter.
3. A Party shall advise the other Party of changes to its laws, regulations, policies, technology, or systems that may affect the implementation or administration of this Agreement.

## **ARTICLE 11**

### **Settlement of Disputes**

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt to arrive at a mutually satisfactory resolution of any matter that might affect its implementation or administration.

2. If the Parties cannot, through discussions, arrive at a mutually satisfactory resolution of a dispute regarding the interpretation or application of this Agreement, they shall resolve the dispute through diplomatic channels.

## **ARTICLE 12**

### **Amendment and Termination**

1. The Parties may amend this Agreement by mutual consent, in writing.

2. A Party may terminate this Agreement at any time by giving notice in writing to the other Party. The termination is effective six months after receipt of the notice. Articles 4, 5, 6 and 7 shall continue to apply to Information exchanged under this Agreement, even after the Agreement is terminated.

## **ARTICLE 13**

### **Entry into Force**

This Agreement shall enter into force on the date of the last note in an exchange of diplomatic notes in which the Parties notify each other of the completion of their respective internal procedures necessary for the entry into force of this Agreement.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

**DONE** at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 2012, in  
duplicate in the English and French languages, each text being equally authentic.

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**FOR THE GOVERNMENT  
OF CANADA**

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**FOR THE GOVERNMENT  
OF THE UNITED STATES  
OF AMERICA**



**IMPLEMENTING ARRANGEMENT BETWEEN  
THE DEPARTMENT OF STATE AND THE DEPARTMENT OF HOMELAND SECURITY  
OF THE UNITED STATES OF AMERICA, ON THE ONE SIDE,  
AND THE DEPARTMENT OF CITIZENSHIP AND IMMIGRATION OF CANADA  
AND THE CANADA BORDER SERVICES AGENCY, ON THE OTHER SIDE,  
CONCERNING BIOMETRIC VISA AND IMMIGRATION INFORMATION SHARING**

**THE DEPARTMENT OF STATE (DOS) AND THE DEPARTMENT OF HOMELAND SECURITY (DHS) OF THE UNITED STATES OF AMERICA, ON THE ONE SIDE AND THE DEPARTMENT OF CITIZENSHIP AND IMMIGRATION OF CANADA (CIC) AND THE CANADA BORDER SERVICES AGENCY (CBSA), ON THE OTHER SIDE, each side hereinafter referred to as a “Participant,” and the two sides referred to as the “Participants,”**

**REGARDING** the *Agreement between the Government of the United States of America and the Government of Canada for the Sharing of Visa and Immigration Information*, done at Ottawa on 13 December 2012 (“the Agreement”);

**CONSIDERING** that the Government of the United States of America and the Government of Canada are Parties to the Agreement, which provides in Article 3 for the development of implementing arrangements;

**NOTING** that the DoS and DHS are the departments responsible for the administration and enforcement of immigration laws for the United States and that CIC and CBSA are the department and agency responsible for the administration and enforcement of immigration laws for Canada; and

**NOTING** the need to supplement, but not to limit the scope of, existing information sharing arrangements, including the *Statement of Mutual Understanding on Information Sharing*, 27 February 2003 (the “Statement of Mutual Understanding”) and the *Annex Regarding the Sharing of Information on Asylum and Refugee Status Claims to the Statement of Mutual Understanding on Information Sharing*, 22 August 2003 (the “Asylum Annex”);

**HAVE COME** to the following understanding:

**DEFINITIONS**

1. The Participants understand that:
  - (a) The definitions in the Agreement are incorporated by reference in this Implementing Arrangement;
  - (b) “Requesting Participant” means the Participant in this Implementing Arrangement that has initiated the primary Query; and

- (c) “Providing Participant” means the Participant in this Implementing Arrangement that receives the primary Query from the Requesting Participant.

#### **PURPOSE**

- 2. Consistent with Article 2 of the Agreement and with their respective domestic laws and policies, the Participants intend to exchange Information to assist in the effective administration and enforcement of the immigration laws of their respective countries.
- 3. Pursuant to Article 3 of the Agreement, this Implementing Arrangement is intended to govern the initiation of a direct, electronic fingerprint Query of the Providing Participant’s applicable fingerprint database or databases and, on the basis of a fingerprint match, the exchange and use of relevant Information.

#### **SCOPE AND PROCESS FOR THE EXCHANGE OF INFORMATION**

- 4. For the purpose of clarity, the Participants understand that:
  - (a) If a Participant determines exchanging Information is inconsistent with the laws of its country, or detrimental to its national sovereignty, national security, public policy, or other important national interest, the Participant may decline to provide any such Information, or offer to provide all or part of the Information subject to terms and conditions as it may specify. The United States’ Participant may, in particular, decline to provide Information regarding applicants for or beneficiaries of applications, including for T or U non-immigrant status, or *Violence Against Women Act* relief, under 8 U.S.C. Section 1367.
  - (b) Regarding Refugee Status Claimants, the Participants intend to adhere to the privacy protections of, and to use the mechanism described in, this Implementing Arrangement for the sharing of data pursuant to and within the scope of the *Asylum Annex*.
- 5. After completing the exchange of Information articulated in paragraphs 9 through 12 of this Implementing Arrangement, a Participant may request additional information about the subject of the match pursuant to the *Statement of Mutual Understanding*.

#### **SENDING QUERIES**

- 6. The Participants intend to send Queries to each other on those individuals believed to be Nationals of a Third Country having applied for admission or a visa or other immigration benefit, or who are a subject of an investigation in order to establish the basis for an individual’s admissibility, eligibility for a visa or other immigration benefit, or their eligibility to remain in the territory of the Requesting Participant’s country, or any other matter consistent with Article 2 of the Agreement.

7. The Participants do not intend to send Queries pertaining to persons identified to be, on the basis of data such as application responses, identity documentation, or the nature of the application or investigation:
  - (a) A citizen or national of the United States of America, or a citizen of Canada;
  - (b) For Canadian Queries, a Permanent Resident of Canada; or
  - (c) For U.S. Queries, a Lawful Permanent Resident of the United States of America.
8. The Participants intend to mutually establish the estimated maximum annual volume of Queries that may be initiated pursuant to this Implementing Arrangement. This estimated maximum may be adjusted at any time by mutual consent.
9. The Participants intend that a Query include the following Information:
  - (a) Relevant fingerprints;
  - (b) A unique reference number for each set of fingerprints; and
  - (c) The case type of the Query. In no circumstance should the case type disclose an individual's identity or protected status, including for the U.S. under 8 U.S.C. Section 1367.

#### **RESPONDING TO QUERIES**

10. Subject to paragraph 4 of this Implementing Arrangement, the Participants intend to respond to a Query when either:
  - (a) A fingerprint match is established; and
  - (b) The match is believed to be a National of a Third Country; and
  - (c) Information associated with the fingerprint record may reveal details relevant to assisting in the effective administration and enforcement of the other Participant's immigration law, consistent with the Agreement and the Participants' respective domestic law; or
  - (d) To communicate with the Requesting Participant that no fingerprint match has been established.
11. Where the requirements of paragraph 10 of this Implementing Arrangement have been met, the Participants intend to send, in response to a Query, the following data elements, subject to availability and practicability in the Providing Participant's applicable database or databases:
  - (a) Providing Participant subject specific reference number;
  - (b) Providing Participant event specific reference number;

- (c) Date fingerprinted;
- (d) Reason fingerprinted;
- (e) Location fingerprinted;
- (f) Last name;
- (g) First name;
- (h) Date of birth;
- (i) Passport nationality;
- (j) Country of birth;
- (k) Gender;
- (l) Current immigration status;
- (m) Other names;
- (n) Alias last name(s);
- (o) Alias first name(s);
- (p) Travel document number;
- (q) Travel document type;
- (r) Travel document issuing authority/country;
- (s) Travel document expiry date;
- (t) Reason for alert;
- (u) Visa Refusal code;
- (v) Watchlist Indicator;
- (w) Scan of travel document biodata page;
- (x) Scan of other marked travel document pages;
- (y) Facial image;
- (z) Previous immigration status;
- (aa) Date removed;
- (bb) Date of arrival;
- (cc) Location of arrival;
- (dd) Date of departure;
- (ee) Location of departure;
- (ff) Date of immigration application or non-biometric encounter;
- (gg) Type of immigration application or non-biometric encounter;

- (hh) Date of outcome of immigration application;
- (ii) Outcome of immigration application;
- (jj) Reason for outcome of immigration application; and
- (kk) Expiry date of current leave/stay or visa.

#### **RECIPROCAL QUERIES**

12. Following the receipt of a match response with the available data elements listed in paragraph 11 of this Implementing Arrangement, and subject to paragraph 4 of this Implementing Arrangement, the Providing Participant may request that the Requesting Participant provide the following data elements for the individual who was the subject of the initial Query:
- (a) Requesting Participant subject specific reference number;
  - (b) Requesting Participant event specific reference number;
  - (c) Date fingerprinted;
  - (d) Reason fingerprinted;
  - (e) Location fingerprinted;
  - (f) Last name;
  - (g) First name;
  - (h) Date of birth;
  - (i) Passport nationality;
  - (j) Country of birth;
  - (k) Gender;
  - (l) Other names;
  - (m) Alias last name(s);
  - (n) Alias first name(s);
  - (o) Travel document number;
  - (p) Travel document type;
  - (q) Travel document issuing authority/country;
  - (r) Scan of travel document biodata page;
  - (s) Facial image;

- (t) Current immigration status;
- (u) Previous immigration status; and
- (v) Date removed.

#### **POINTS OF CONTACT**

13. The Participants' Points of Contact for the application and administration of this Implementing Arrangement are:
  - (a) For CIC: Director General, Operational Management and Coordination, Operations Sector;
  - (b) For CBSA: Director General, Traveller Programs, Programs Branch;
  - (c) For DoS: Managing Director, Visa Services, Bureau of Consular Affairs; and
  - (d) For DHS: Deputy Assistant Secretary, Information Sharing Policy, Office of Strategy, Policy and Plans.
14. A Participant may change its Points of Contact through written notification to the other Participant's Points of Contact.

#### **PRIVACY SAFEGUARDS**

15. The Participants intend to collect, use, and disclose any Information shared pursuant to this Implementing Arrangement in accordance with the Agreement, the domestic laws and policies of their respective countries, and the *Beyond the Border Action Plan: Statement of Privacy Principles by the United States and Canada, issued on May 30, 2012*.
16. The Participants intend to notify each other of their respective mechanisms for providing individuals access and correction opportunities, as addressed in Article 5 of the Agreement, for Information received under this Implementing Arrangement.
17. The Participants intend to protect the technical connection between their relevant systems through appropriate means, including mutually decided upon technical and physical safeguards.
18. The Participants intend to mark Information retained as having been received from the other Participant.
19. The Participants do not intend to retain, in any form, the fingerprint submitted as part of a primary Query. The Participants only intend to retain the unique reference number submitted as part of a primary Query, to be used for audit, correction, performance monitoring and quality assurance purposes.

20. The Participants understand that Information obtained in response to a Query is to be retained only so long as necessary for the purpose for which the Information was requested, in accordance with the Participant's respective applicable retention and disposition schedules, and in accordance with the laws of its respective country.

#### **REVIEW AND PERFORMANCE MONITORING**

21. For purposes of the review processes described in Article 10 of the Agreement, the Participants intend to review on an annual basis the volume of transactions and the outcomes and the timeliness of the responses to Queries based on mutually decided performance and management measurements, which may include:
  - (a) The number of Queries sent and percentage of total application volume;
  - (b) The number and percentage of matches;
  - (c) The number of cases of identity discrepancies detected;
  - (d) The number of exchanges from which Information was provided to visa, immigration and border control decision makers before they made a decision;
  - (e) The number and severity of any security breaches of the information sharing system, databases, or personal information shared under this Implementing Arrangement, as well as a summary of remedial actions taken; and
  - (f) The number and severity of any privacy breaches of the information sharing system, databases, or personal information shared under this Implementing Arrangement as well as a summary of remedial actions taken.
22. The Participants intend to carry out regular quality assurance activities, including a review of applicable privacy safeguards, using a mutually decided methodology to ensure that the activities carried out under this Implementing Arrangement are consistent with its terms. These activities may include, but are not limited to, determining:
  - (a) Whether Information has been retained when it should have been destroyed;
  - (b) Whether Information exchanged under this Implementing Arrangement has been marked as having been received from the other Participant;
  - (c) Whether Information has been disclosed in a manner inconsistent with Article 4 of the Agreement; and
  - (d) The number of correction requests and whether Information has been corrected in a manner consistent with the Agreement.

23. The Participants may conduct additional performance monitoring and review of the activities carried out under this Implementing Arrangement by mutual consent which should be given in writing.

#### **MATERIAL CHANGES**

24. The Participants intend to inform each other of any changes to the technical systems, laws, policies or international obligations of their respective countries that may materially affect the operation or application of this Implementing Arrangement.

#### **COSTS**

25. The Participants understand that performance of this Implementing Arrangement is subject to their respective availability of funds. Each Participant intends to pay for its own costs and use its own equipment and personnel in performing its activities under this Implementing Arrangement. This Implementing Arrangement is not intended to be interpreted to require the obligation or payment of funds in violation of the laws of the Participants' respective countries.

#### **CONSULTATIONS**

26. The Participants intend to resolve any difference in the interpretation or application of this Implementing Arrangement by mutual consultation.

#### **FINAL PROVISIONS**

27. This Implementing Arrangement is not a legally binding instrument; nor is it a written expression of a legally binding instrument. It is an expression of the purpose and intent of the Participants. Participation under this Implementing Arrangement is intended to be in accordance with each Participant's domestic legal authorities and resources.
28. This Implementing Arrangement is not intended to be interpreted in a manner that would restrict practices relating to mutual assistance and cooperation that are already in place between the Participants.
29. Participation under this Implementing Arrangement is intended to commence on the date of last signature.
30. The Participants may modify this Implementing Arrangement, including the data elements listed in paragraphs 11 and 12, by mutual consent, which should be expressed in writing.

31. A Participant may cease participation under this Implementing Arrangement by giving notice to the other Participant, which the Participants intend to do in writing. Consistent with Article 12 of the Agreement, cessation of participation in this Implementing Arrangement is intended to become effective six (6) months after receipt of such notice. In such event, the terms of paragraphs 15 to 20 of this Implementing Arrangement continue to apply to Information shared pursuant to this Implementing Arrangement.

**SIGNED** in duplicate, in the English and French languages, each version being equally valid.

**For the United States of America Side**

**For the Canadian Side**

\_\_\_\_\_  
**THE DEPARTMENT OF STATE  
OF THE UNITED STATES OF AMERICA**

\_\_\_\_\_  
**THE DEPARTMENT OF CITIZENSHIP  
AND IMMIGRATION OF CANADA**

**At** \_\_\_\_\_

**At** \_\_\_\_\_

**Date** \_\_\_\_\_

**Date** \_\_\_\_\_

\_\_\_\_\_  
**THE DEPARTMENT OF HOMELAND SECURITY  
OF THE UNITED STATES OF AMERICA**

\_\_\_\_\_  
**THE CANADA BORDER SERVICES  
AGENCY**

**At** \_\_\_\_\_

**At** \_\_\_\_\_

**Date** \_\_\_\_\_

**Date** \_\_\_\_\_