



**Privacy Impact Assessment Update
for the
Beyond the Border
Entry/Exit Program Phase II
DHS/CBP/PIA-004(g)**

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Abstract

U.S. Customs and Border Protection (CBP), as a component of the Department of Homeland Security (DHS), is publishing this Privacy Impact Assessment Update to give notice of an update to the Beyond the Border Entry/Exit Program, which is an initiative of the U.S.-Canada Beyond the Border Action Plan. The Beyond the Border Entry/Exit Program will expand the sharing of border crossing information with the Canada Border Services Agency (CBSA) by exchanging biographic, travel document, and other border crossing information collected from individuals entering the United States from Canada and vice versa at land ports of entry. This PIA update covers Phase II of the Entry/Exit Program, which transitions the program from a pilot phase to an implementation phase. During Phase II the United States and Canada intend to exchange and take operational action based on border crossing information for certain third-country nationals, permanent residents of Canada, and lawful permanent residents of the United States at all automated common land border ports of entry. DHS will publish additional updates to this PIA in advance of deployment of any subsequent phases to the Beyond the Border Entry/Exit Program.

Overview

To further its immigration and law enforcement missions, DHS is participating in the Beyond the Border Entry/Exit Program, a part of the U.S.-Canada Beyond the Border Action Plan (Action Plan).¹ Through this program, the United States and Canada seek to develop a system to exchange biographic information (such as name and date of birth) on the entry of travelers at the common land border, such that a record of an entry into one country could be considered as a record of an exit from the other. Canada and the United States intend to reconcile the biographic entry and exit information of travelers to and from their respective countries. The program is to be implemented in three phases. Upon full implementation, this program will exchange data regarding U.S. and Canadian citizens, permanent residents, and third country nationals.

The framework for entry/exit information sharing between Canada and the United States, as identified in the Action Plan, allows for a common technological data sharing mechanism between the two countries. Deploying an exit mechanism in this manner has been deemed to be the most cost-effective and practical method for establishing exit information. In addition, certain land ports of entry do not have the capacity to physically expand operations to otherwise deploy a different exit mechanism due to their location in densely populated urban areas. The implementation of the Entry/Exit Program at the

¹ *United States–Canada Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness Action Plan* (December 2011), available at: http://www.whitehouse.gov/sites/default/files/us-canada_bt看_action_plan3.pdf.



common U.S.-Canada land border thus supports the mutual goal of efficiently facilitating lawful trade and travel while still achieving immigration objectives. All information sharing is informed and guided by the Beyond the Border Action Plan: Statement of Privacy Principles.²

Implementation of Entry/Exit enables both countries to: identify persons overstaying their lawful period of admission; enable the potential closure of immigration warrants; reconcile entry and exit records that indicate a lawful exit from either country; identify individuals who may have failed to meet residency requirements for permanent resident status or citizenship applications; and identify persons subject to a removal or departure order and who are recorded as having departed.

Phase I Pilot Program Results:

Phase I of the Entry/Exit Program consisted of a proof of concept that enabled both governments to obtain and evaluate border crossing data exchanged for statistical and analytical purposes, and to identify the steps necessary to improve subsequent phases. During the Phase I pilot, the United States and Canada limited the scope of the exchange to border crossing data related to third country nationals and permanent residents collected at four automated common land border ports of entry over the time period of September 30, 2012, until January 15, 2013. The information was exchanged in four transmissions using secure means previously established between DHS and CBSA and stored in secure test environments. The information was then matched against existing entry records already held for those individuals, in order to determine matching entries and exits for specific travelers.

The United States and Canada issued a joint report evaluating the Phase I pilot program.³ The results significantly exceeded expectations in terms of the ability of both countries to match entry and exit records. Canada matched 94.5% of the records received from the United States, while the United States matched 97.4% of the records it received from Canada. Both countries believe that these percentages can increase in additional phases of the project.

As described in the Phase I Letter of Intent,⁴ the United States and Canada placed several restrictions on the pilot to properly safeguard the information. The Phase I pilot program limited the use of the data exchanged to:

² The Beyond the Border Action Plan: Statement of Privacy Principles was issued by Canada and the United States on May 30, 2012. Available at: <http://www.dhs.gov/xlibrary/assets/policy/beyond-the-border-action-plan-statement-of-privacy-principles.pdf>.

³ "Entry/Exit Information System Phase I Joint Canada-United States Report." Available at: http://www.cbp.gov/linkhandler/cgov/newsroom/highlights/canada_usreport.ctt/canada_usreport.pdf.

⁴ See DHS/CBP/PIA-004(f) - Western Hemisphere Travel Initiative (WHTI) Beyond the Border Entry/Exit Program Phase I, Appendix: *Letter of Intent between the United States Department of Homeland Security and*



- Determine the ability to reconcile exit data to data previously collected as entry data for those same individuals;
- For statistical and analytical purposes to support the development of future technology; and
- For other improvements for subsequent phases of the Entry/Exit Program.

The exchanged records were limited by record type, timeframe, type of individual, and location. Neither country is retaining the data exchanged from the Phase I pilot beyond July 16, 2013, and the pilot abided by domestic privacy laws and regulations, as well as the Beyond the Border Action Plan: Statement of Privacy Principles jointly developed by both countries.

As part of the Phase I pilot, both countries excluded the sharing of information about any U.S. citizen or national, any Canadian citizen, any person who holds registered Indian status under Canada's Indian Act, and any person eligible to cross U.S. borders pursuant to Section 289 of the Immigration and Nationality Act (INA), based on the travel document the individual presents at the respective ports of entry. If there were inaccuracies in the information received, the countries were expected to take corrective action upon notification from the other country.

The United States and Canada made reasonable efforts to ensure that the information shared was accurate, timely, and relevant. Both countries were prepared to take corrective action had they received notification from the other that there were inaccuracies in the information originally provided. To reinforce this concept, the data was exchanged in a series of transmissions to allow for continual improvement and application of lessons learned in subsequent stages. For example, during the first of the four transmissions of data, the United States sent border crossing records about lawful permanent residents (LPR) of the United States, which were within the scope of the pilot. However, some of the individuals were both U.S. LPRs and Canadian citizens. Canada destroyed the records upon determining that the individuals were beyond the scope of the pilot and informed the United States. The United States corrected its process to exclude U.S. LPRs that are also Canadian citizens, and no further out-of-scope records were transmitted in the subsequent exchanges. The correction has been incorporated into Phase II of the Entry/Exit Program.

Phase II Implementation:

Phase II moves the Entry/Exit Program out of the pilot phase to exchange border crossing information for third-country nationals, permanent residents of Canada, and LPRs



of the United States at all automated common land border ports of entry. Phase II also permits the United States and Canada to take operational action based on the records. The objectives of Phase II complement and build upon those identified in Phase I. Biographic entry data exchanged in Phase II serves U.S. and Canadian objectives related to compliance with citizenship and immigration laws.

Specifically, the exchange assists with the:

- Reconciliation of entry and exit data that indicate a lawful exit from either country;
- Identification of persons overstaying their lawful period of admission;
- Potential cancellation of immigration lookouts and warrants for those determined to have exited the relevant country;
- Identification of individuals who may have failed to meet residency requirements;
- Identification of persons subject to removal or departure orders;
- Improved management of immigration enforcement;
- Development of more concise and reliable exit data that can be applied to increase the effectiveness of border management and enable targeted policy development and implementation in the future; and
- Improvement in the degree of confidence in data quality before full implementation in Phase III, which includes exchanging information on citizens.

Phase II uses the same secure connection as Phase I to transmit information between the United States and Canada. Border crossing records received from CBSA are stored in CBP's Border Crossing Information (BCI) system of records⁵ as an implied exit from the United States to Canada. As appropriate, such exit records received from Canada are then transmitted along with other BCI records regarding third country nationals and LPRs to the DHS National Protection and Programs Directorate's (NPPD) Office of Biometric Identity Management's (OBIM) Arrival and Departure Information System (ADIS)⁶. ADIS matches the CBSA exit records with entry records about the individual for the immigration and law enforcement purposes mentioned above. When available, ADIS sends an implied exit record to CBP's Nonimmigrant Information System (NIIS)⁷ to record the corresponding exit of a nonimmigrant alien's entry in that system.

⁵ <http://www.gpo.gov/fdsys/pkg/FR-2013-05-28/pdf/2013-12388.pdf> and the Phase I PIA at http://www.dhs.gov/sites/default/files/publications/privacy/PIAs/privacy_pia_cbp_whtibtb_sept2012.pdf

⁶ <http://www.gpo.gov/fdsys/pkg/FR-2013-05-28/pdf/2013-12390.pdf> and the PIA at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_usvisit_adis_2007.pdf.

⁷ <http://www.gpo.gov/fdsys/pkg/FR-2008-12-19/html/E8-29792.htm>.



To ensure that the information is properly limited in scope, exchanged and accessed securely, and used responsibly, the United States has signed or issued the following documents:

- Letter of Intent between the United States Department of Homeland Security and the Canada Border Services Agency for Phase I of the Entry-Exit System (LOI);
- Entry/Exit Information Systems Phase I Joint Canada-United States Report; and
- Annex Regarding the Sharing of Biographic Entry Data to the 2003 Statement of Mutual Understanding on Information Sharing Between The Canada Border Services Agency (CBSA), The Department of Citizenship and Immigration Canada (CIC) and The U.S. Department of Homeland Security (DHS) (Annex to the Statement of Mutual Understanding (SMU)) (for Phase II).⁸

Reason for the PIA Update

CBP is providing this PIA update to notify the public that the Beyond the Border Entry/Exit Program is moving from Phase I, a pilot, into Phase II, implementation. This change allows CBP to share certain border crossing records with Canada for their operational use, as well as allows CBP and OBIM to retain the records received from Canada in BCI, NIIS, and ADIS for operational use.

Privacy Impact Analysis

Authorities and Other Requirements

The Entry/Exit Program is part of the Beyond the Border Action Plan.⁹ DHS has existing authorities to collect and use border crossing records. However, as part of the implementation of Phase II, CBP is updating its Border Crossing Information (BCI) System of Records Notice (SORN) to account for the new records received from CBSA.¹⁰ CBP maintains information in BCI pursuant to the Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. No. 107-173, 116 Stat. 543 (2002); the Aviation and Transportation Security Act of 2001, Pub. L. No. 107-71, 115 Stat. 597 (2001); the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Pub. L. No. 108-458, 118 Stat. 3638 (2004); the Immigration and Nationality Act (INA), as amended, including, 8 U.S.C. §§ 1185 and 1354; and the Tariff Act of 1930, as amended, including, 19 U.S.C. §§ 66, 1433, 1454, 1485, 1624 and 2071.

⁸ See Appendix A.

⁹ *United States–Canada Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness Action Plan* (December 2011), available at:

http://www.whitehouse.gov/sites/default/files/us-canada_btb_action_plan3.pdf.

¹⁰ DHS/CBP-007 - Border Crossing Information (BCI) System of Records (May 28, 2013) 78 FR 31958, available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-05-28/html/2013-12388.htm>.



CBP maintains records in NIIS pursuant to IRTPA; INA, as amended; the Homeland Security Act of 2002, Public Law 107-296; 8 U.S.C. §§ 1103, 1184, and 1354.¹¹

OBIM maintains information in ADIS pursuant to 6 U.S.C. § 202; 8 U.S.C. §§ 1103, 1158, 1201, 1225, 1324, 1357, 1360, 1365a, 1365b, 1372, 1379, and 1732.¹²

Characterization of the Information

No new types of information will be collected by CBP from individuals as part of Phase II of the Beyond the Border Entry/Exit Program. The information collected from persons and shared with Canada consists of information already collected as part of the border crossing process. Specifically, CBP intends to transmit to CBSA the border crossing information listed below (excluding data regarding U.S. and Canadian citizens),¹³ which is collected during an individual's primary inspection upon arrival in the United States at any automated common land port of entry along the U.S.-Canadian border. CBSA intends to transmit to CBP's BCI the same information for individuals arriving in Canada at corresponding locations.

Information shared from CBP's BCI with CBSA and received from CBSA from CBP's BCI includes:

- Name (First, Middle, Last);
- Date of Birth;
- Nationality (citizenship);
- Gender;
- Document Type;
- Document Number;
- Document Country of Issuance;
- Port of entry location (Port code);
- Date of entry; and
- Time of entry.

¹¹ DHS/CBP-016 - Nonimmigrant Information System (NIIS) (December 19, 2008) 73 FR 77739, available at: <http://edocket.access.gpo.gov/2008/E8-29792.htm>.

¹² DHS/NPPD-001 Arrival and Departure Information System (ADIS) (May 28, 2013) 78 FR 31955, available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-05-28/html/2013-12390.htm>.

¹³ For Phase II, CBP will also refrain from sending data on categories of aliens in certain sensitive classifications that, by law, have additional data protections. These include: refugees, asylees, and those in T, U, or Violence Against Women Act (VAWA) status. See 8 U.S.C. § 1367 and 8 C.F.R. 208.6.



The United States and Canada have limited the exchange of information to this biographic border crossing data because it is the minimum necessary to accurately match entry and exit data. Because the information is collected from the individual at the time of crossing, the United States and Canada ensure the information is the most timely, accurate, and relevant records for these purposes. Both countries also intend to apply corrective action if notified that the data is incorrect. Each country has procedures in place to notify the other in the event corrective action is necessary.

Uses of the Information

As part of Phase II, the United States and Canada use the records received from the other country for operational purposes related to compliance with citizenship and immigration laws. CBP intends to use the records received from CBSA to create an exit record in BCI and NIIS, as appropriate. OBIM intends to use the records received from CBSA through BCI to match the entry and implied exit records for an individual. By permitting the United States and Canada to match the entry and exit records for an individual, the Phase II exchange assists with the:

- Reconciliation of entry and exit data that indicate a lawful exit from either country;
- Identification of persons overstaying their lawful period of admission;
- Potential cancellation of immigration lookouts and warrants for those determined to have exited the relevant country;
- Identification of individuals who may have failed to meet residency requirements;
- Identification of persons subject to removal or departure orders;
- Improved management of immigration enforcement;
- Development of more concise and reliable exit data that can be applied to increase the effectiveness of border management and enable targeted policy development and implementation in the future; and
- Improvement in the degree of confidence in data quality before exchanging information on citizens in Phase III.

Notice

The individual receives notification that the information is being collected for immigration and law enforcement purposes when CBP Officers or CBSA Officers collect the information from the traveler as he or she enters the United States or Canada, respectively. In addition, DHS provides general notice to the public through this PIA, the PIA for Phase I, the BCI SORN, NIIS SORN, ADIS SORN, ADIS PIA, and the Beyond the Border Action Plan.



Data Retention by the project

Information exchanged under the Beyond the Border Entry/Exit Program is to be retained according to the retention period for the destination system. Records from BCI transmitted to CBSA are to be retained by CBSA according to the retention periods for its relevant systems, currently seventy-five (75) years.

Information in BCI that is related to a LPR's particular border crossing is maintained by CBP for fifteen years from the date that the traveler was admitted or paroled into or departed the United States, at which time it is deleted from BCI. For non-immigrant aliens, the information is maintained for 75 years from the date of admission/parole into or departure from the United States in order to ensure that the information related to a particular border crossing is available for providing any applicable benefits related to immigration or for other law enforcement purposes. For non-immigrant aliens who become U.S. citizens (USC) or LPRs following a border crossing that leads to the creation of a record in BCI, the information related to border crossings prior to that change in status will follow the 75-year retention period, but all information regarding border crossing by such persons following their change in status will follow the 15-year retention period applicable to USCs and LPRs. However, for all travelers, BCI records that are linked to active law enforcement lookout records, CBP matches to enforcement activities, and/or investigations or cases will remain accessible for the life of the primary records for the law enforcement activities to which they may be or become related, to the extent retention for such purposes exceeds the normal retention period for such data in BCI.

The information collected and maintained in NIIS is used for entry screening, admissibility, and benefits purposes and is retained for seventy five (75) years from the date obtained. However, NIIS records that are linked to active law enforcement lookout records, CBP matches to enforcement activities, and/or investigations or cases will remain accessible for the life of the law enforcement activities to which they may become related. The current disposition for paper copy is 180 days from date of departure.

For records retained in ADIS, records will be purged after 75 years or after the statute of limitations has expired for all criminal violations, whichever is longer.

Information Sharing

Phase II of the Entry/Exit Program expands the sharing of entry records between DHS and CBSA to crossings at all automated common land ports of entry along the U.S.-Canadian border. This expansion is based on the successful conclusion and evaluation of the Phase I pilot program, which shows that the exchange of information can assist both countries in accomplishing the immigration and law enforcement purposes listed above.



To safeguard the information received, both countries intend to limit the onward disclosure of this information according to the terms described in the Annex to the SMU.¹⁴ Records received from CBSA are identified in BCI, NIIS, and ADIS as having come from Canada to assist DHS in limiting the onward disclosure of the information to those permissible purposes.

Redress

No new access, redress, or correction measures are being instituted in Phase II of the Beyond the Border Entry/Exit Program. Individuals may use the existing access, redress, and corrective measures for border crossing information to correct information described in the BCI, NIIS, and ADIS systems of records.

Individuals seeking notification of and access to records contained in BCI or NIIS, or seeking to contest its content, may submit a Freedom of Information Act (FOIA) or Privacy Act request to CBP at <https://foia.cbp.gov/palMain.aspx>, or by mailing a request to:

CBP FOIA Headquarters Office
U.S. Customs and Border Protection
FOIA Division
90 K Street NE, 9th Floor
Washington, DC 20002
Fax Number: (202) 325-0230

For ADIS, individuals may request access by contacting the NPPD FOIA Officer, Department of Homeland Security, 245 Murray Drive SW, Building 410, STOP-0655, Washington, DC 20528-0675. Requests for information are evaluated to ensure that the release of information is lawful; will not impede an investigation of an actual or potential criminal, civil, or regulatory violation; and will not reveal the existence of an investigation or investigative interest on the part of DHS or another agency.

All FOIA requests must be in writing and include the requestor's daytime phone number, email address, and as much information as possible of the subject matter to expedite the search process.

Persons who believe they have been improperly denied entry, refused boarding for transportation, or identified for additional screening by CBP may submit a redress request through DHS Traveler Redress Inquiry Program (TRIP). DHS TRIP is a single point of contact for persons who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs – like airports, seaports,

¹⁴ See Appendix A, Section 8.



and train stations or at U.S. land borders. Through DHS TRIP, a traveler can request correction of erroneous data stored in DHS databases through one application. DHS TRIP redress requests can be made online at <http://www.dhs.gov/dhs-trip> or by mail at:

DHS TRIP
601 South 12th Street, TSA-901,
Arlington, VA 20598-6901

Auditing and Accountability

Technical access is provided to CBSA through an existing secure electronic connection, which will be used to transmit information between CBP and CBSA. By using this existing secure connection, CBP and CBSA control and restrict the information that may be transmitted between the agencies, thus mitigating the risk of improper disclosures.

The United States and Canada have signed an Annex to the SMU,¹⁵ which specifies that each country intends to protect personal information by appropriate technical, security, and organizational procedures and measures to guard against such risks as loss, corruption, misuse, unauthorized access, alteration, disclosure or destruction, or any other risks to the security, confidentiality, or integrity of the information. Further, each country intends to notify the other in writing as soon as practicable, but no later than 24 hours after any accidental or unauthorized access, use, disclosure, modification, or disposal of information received under the Annex to the SMU, and within 24 hours of becoming aware of the breach, to furnish all necessary details of the accidental or unauthorized access, use, disclosure, modification, or disposal of that information.

¹⁵ See Appendix A.



Records maintained by DHS may only be disclosed to authorized individuals with a need to know and only for uses that are consistent with the intended purposes of the program. All information stored in BCI, NIIS, and ADIS, including information received from Canada under this program, is secured in accordance with DHS system security requirements and standards. Users of these systems must complete annual privacy training and be provisioned in the system to view the records based on their official need to know. User access is audited and misuse may subject the user to disciplinary consequences in accordance with DHS policy, as well as criminal and civil penalties.

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Original signed and on file with the DHS Privacy Office.

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Annex Regarding the Sharing of Biographic Entry Data to the 2003 Statement of Mutual Understanding on Information Sharing

Between

The Canada Border Services Agency (CBSA),
The Department of Citizenship and Immigration Canada (CIC)

And

The U.S. Department of Homeland Security (DHS)

The Canada Border Services Agency (CBSA), the Department of Citizenship and Immigration Canada (CIC), and the United States Department of Homeland Security (DHS), hereinafter referred to as the "Participants",

HAVING REGARD FOR the long-standing co-operative relationship between the immigration authorities in Canada and the United States (U.S.);

CONSIDERING the increasing global patterns of both regular and irregular migration or international people movements, and that the compelling need to welcome genuine migrants, whilst tackling identity fraud and abuse of our countries' immigration laws, is important to maintaining the prosperity and security of the societies of their respective countries;

RECOGNISING that the Participants share a common desire to implement the concepts articulated in the *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness Action Plan* (herein referred to as the "BBAP") relating to the initiative to establish and coordinate entry and exit information systems, including a system that would permit information sharing in a manner such that a record of a land entry into one country can be utilized to establish an exit record from the other (herein referred to as "Entry/Exit"), whose operations would be set out in this Annex to the *Statement of Mutual Understanding on Information Sharing* (SMU) signed in February 2003;

COMMITTED to upholding individual privacy rights as outlined in the *Beyond the Border Action Plan: Statement of Privacy Principles by the United States and Canada*, issued by Canada and the U.S. on May 30, 2012;

CONFIRMING that this Annex is intended to facilitate the systematic exchange of Biographic Entry Data between the Participants for their collective benefit and furthering the successful work conducted on Phase I of Entry/Exit.

Have come to the following understanding:

1. Preamble

- a) As part of the implementation of this BBAP item, the Participants implemented Phase I of Entry/Exit through a Letter of Intent (LOI) in September 2012. In Phase I, Biographic Entry Data information collected at four predetermined ports of entry by Canada and the U.S., about Third Country Nationals, Permanent Residents of Canada and Lawful Permanent Residents of the United States was exchanged:
 - i. To determine the ability to reconcile exit data to data, previously collected, as entry data, for those same individuals;
 - ii. For statistical and analytical purposes to support the development of future technology; and other improvements to this BBAP item.
- b) Phase I was launched on September 30, 2012 and the data exchanges concluded on January 16, 2013. A report for Phase I was concluded in May 2013.

- c) This Annex covers Phase II of Entry/Exit. Phase II expands the initiative by:
 - i. Including all automated common land border ports of entry, and
 - ii. Eliminating the Phase I proof of concept, such that each Participant may make operational use of the exchanged data.

2. Purpose and Scope

- a) The purpose of this Annex is to:
 - i. specify the terms and conditions to facilitate the systematic exchange of Biographic Entry Data to administer the entry/exit initiative between the Participants.
 - ii. assist in the administration and enforcement of the respective immigration laws of the Participants, in part by:
 - A. Reconciling Biographic Entry Data received from a Participant to Biographic Entry Data previously retained on the same individuals;
 - B. Facilitating the Participants' determination of whether any Third Country National or Permanent Resident, as defined in paragraph 3 of this Annex, has exceeded the period for which they were lawfully eligible to remain within Canada or the United States;
 - C. Facilitating the Participants' ability to focus immigration enforcement actions and investigations on Third Country Nationals or Permanent Residents within their respective territories who may be inadmissible for reasons of, but not limited to, security, criminality, or immigration violations as per the Participants' respective laws.
- b) This Annex is not intended to affect the exchange of information between the Participants pursuant to the SMU, other annexes to the SMU or other established information sharing arrangements or agreements.
- c) The Participants do not intend to share biometric information under this Annex.
- d) The Participants intend to carry out all work under this Annex in accordance with their respective domestic laws and policies.

3. Definitions

For the purposes of this Annex,

“Automated Common Land Border Port of Entry” means a port of entry on the shared Canada-U.S. land border with a primary processing capacity to

capture traveller (land, ferry and pedestrian) passage as an electronic record. This does not include large cruise vessels deemed to be sea crossings under the laws of Canada and the United States.

“Biographic Entry Data” means the data elements systematically exchanged between the Providing and Receiving Participants on Third Country Nationals and Permanent Residents:

- A. First/Given Name;
- B. Last Name/Surname;
- C. Middle Name;
- D. Date of Birth;
- E. Nationality/Citizenship;
- F. Gender;
- G. Document Type;
- H. Document Number;
- I. Work Location Code/US Port of Entry Code;
- J. Date of Entry;
- K. Time of Entry; and
- L. Document Country of Issuance.

“Citizen of Canada” means a person who has been granted citizenship in Canada as defined under section 3 of the *Citizenship Act*.

“Lawful Permanent Resident of the United States” means a person who has been lawfully admitted for permanent residence, as defined in section 101(a)(20) of the U.S. Immigration and Nationality Act, as amended.

“National or Citizen of the United States” means a person described in 8 U.S. Code Section 1401, who has acquired U.S. citizenship through the naturalization process, or is a “national of the United States” as defined in section 101(a)(22) of the U.S. Immigration and Nationality Act, as amended.

“Permanent Resident” means a person meeting the classification for Permanent Resident of Canada or Lawful Permanent Resident of the United States, but who is not a citizen of Canada nor of the United States.

“Permanent Resident of Canada” means a person who has acquired permanent resident status in Canada and has not subsequently lost that status under section 46 of the *Immigration and Refugee Protection Act*.

“Providing Participant” means the Participant who provides Biographic Entry Data to the Receiving Participant.

“Receiving Participant” means the Participant who receives Biographic Entry Data from the Providing Participant.

“Registered Indian of Canada” means any person registered as an Indian under Canada’s *Indian Act*.

“Third Country National” means a person who is not a Citizen of Canada or a Registered Indian of Canada or a citizen or national of the United States, and includes a person not having a country of nationality.

4. Data Exchange Criteria

The Participants intend to exchange Biographic Entry Data on Third Country Nationals and Permanent Residents who cross the common land border through an Automated Common Land Border Port of Entry on or after June 30, 2013.

5. Procedures for the Exchange of Information

- a) The Participants intend to exchange Biographic Entry Data through existing secure electronic channels that have been previously established.
- b) The Receiving Participant intends to reconcile the Biographic Entry Data received from the Providing Participant with biographic data contained in its own system of records to ensure a biographic record of exit is recorded for the corresponding Permanent Resident or Third Country National.
- c) The Participants intend that the exchange of Biographic Entry Data will occur after the actual passage event.
- d) The Participants intend to notify the other Participant by telephone or in writing, within 24 hours where practicable, of an event that disrupts the exchange of Biographic Entry Data.

6. Designation of Officials

- a) The Participants intend to designate officials to administer this Annex.
- b) The Participants intend to inform each other in writing or by email of any such designations or changes.
- c) The Participants intend to ensure that all information requests and information provided in response thereto is communicated between their designated officials.

7. Use of Biographic Entry Data

The Participants intend to use the Biographic Entry Data received under this Annex as outlined in paragraph 2(a) (ii).

8. Disclosure of Biographic Entry Data

- a) The Receiving Participant intends to disclose Biographic Entry Data under this Annex only in the following circumstances provided that the Participant intends to ensure that any entity to which a disclosure is made has arrangements in place to protect the Biographic Entry Data, and limits its subsequent disclosure, in a manner consistent with this Annex.

Biographic Entry Data may be disclosed:

- i. To a domestic court or in a domestic administrative or judicial proceeding for the purposes identified in paragraph 2(a)(ii);
 - ii. To any domestic government agency for any law enforcement purpose, to include the enforcement of immigration laws consistent with each Participant's respective domestic laws;
 - iii. With any domestic government agency when the disclosure is otherwise required by the Participants' respective domestic laws;
 - iv. To any domestic government agency with a counterterrorism or national security mission of, for a counterterrorism or national security purpose, within the same framework established for domestic information collected and provided to those same agencies consistent with each Participants' respective domestic laws; and
 - v. To partner countries in the Five Country Conference (the United Kingdom, Australia, and New Zealand) in accordance with applicable international agreements or arrangements and where the primary purpose of the exchange is to assist in the effective administration and enforcement of their respective immigration laws.
- b) The Participants understand that any other disclosure not covered in 8(a) or 8(d) requires the express written consent of the Providing Participant.
- c) The Providing Participant may apply additional restrictions as to the use or disclosure of Biographic Entry Data which it has provided under this Annex. Where this is done the Receiving Participant should comply with the restrictions subject to its domestic laws.
- d) The Participants do not intend to interpret this article to preclude the use or disclosure of information if the Participants' respective domestic law requires or allows that use or disclosure in a criminal prosecution, or if obligated by the relevant Participants' domestic law, in response to a written request from a body with jurisdiction to compel the production of information. In these circumstances, the Participant requiring such use or disclosure intends to notify the other Participant in

advance and provide details of that use or disclosure. In the exceptional case where advance notice is not practicable, the Participant using or disclosing the information intends to notify the other Participant as soon as possible.

- e) The participants do not intend to interpret this article to preclude the disclosure of information if their respective domestic law requires that disclosure in immigration proceedings.

9. Accuracy of Information

- a) The Participants intend to provide each other with the most current and accurate Biographic Entry Data available in their respective databases. In the event that either Participant becomes aware that the Biographic Entry Data being relied upon was inaccurate at the time it was provided, they intend to notify the other Participant immediately, as well as provide the correct information, where available.
- b) The Participants intend to take corrective action as soon as possible if they receive notification from the other Participant that there are inaccuracies in the Biographic Entry Data originally provided, including informing any entity to whom the Biographic Entry Data was provided and requesting that corrections be made where correct information is available.

10. Right of Access and Rectification

- a) To the extent specified in their respective domestic law, the Participants intend to provide persons who are the subject of Biographic Entry Data exchanged under this Annex with opportunities to request redress, access to the Biographic Entry Data to correct erroneous information or to request to add a notation to indicate a correction request was made. Any disclosure of Biographic Entry Data received under this Annex is subject to the provisions contained in paragraph 8.
- b) In order to prevent the unauthorised disclosure, copying, use, or modification of Biographic Entry Data received under this Annex, each Participant intends to restrict access to Biographic Entry Data to its government agencies and individuals authorized to be responsible for pursuing the purposes set out in paragraph 2(a)(ii) or as otherwise required by domestic law.

11. Retention and Disposition of Information

Each Participant intends to retain and destroy the Biographic Entry Data received under this Annex consistent with its domestic laws and policies.

12. Transactions, Performance and Management Reporting

The Participants intend to maintain records of Biographic Entry Data provided and received under this Annex. The Participants intend to use this information to create joint reports based on jointly decided upon performance and management measures which may include, but not be limited to:

- i. The number of exchanges on which Biographic Entry Data was provided;
- ii. Percentage of match rates between the entry and exit records obtained by each Participant;
- iii. Number of persons detected overstaying their lawful period of admission in Canada or in the United States;
- iv. Number of entry and exit records indicating an exit from either country;
- v. Number of persons identified as failing to meet residency requirements under the immigration or other laws of either country;
- vi. Number of persons subject to a removal or departure order, but who can be identified as having departed from either country; and
- vii. The number and severity of any security/ privacy breaches of Biographic Entry Data exchanged under this Annex as well as a summary of the actions taken.

13. Compliance and Review

- a) The Participants accept that they are accountable to ensure compliance with their respective domestic law and policies on the protection of personal information.
- b) Either Participant may request assurances from the other that sufficient safeguards are being maintained with regard to the Biographic Entry Data exchanged under this Annex, which may include a review of the safeguards.
- c) The Participants intend to address as soon as possible any deficiencies in safeguards identified as a result of actions taken under paragraph 13(b). Should a Participant consider it necessary to decline to provide further Biographic Entry Data pending the resolution of the issue, it is expected that that Participant provide written notice to the other Participant.
- d) Each Participant intends to protect personal information by appropriate technical, security, and organizational procedures and measures to guard against such risks as loss, corruption, misuse, unauthorized access, alteration, disclosure or destruction, or any other risks to the security, confidentiality, or integrity of the information.
- e) Each Participant intends to inform the other in the event that Biographic Entry Data is exchanged on citizens of Canada or citizens or nationals of the United States. The Participants intend to delete all erroneously transferred Biographic Entry Data from applicable systems upon notification of the exchange of such information.

- f) Each Participant intends to notify the other Participant in writing as soon as practicable, after any accidental or unauthorised access, use, disclosure, modification or disposal of Biographic Entry Data received under this Annex, and within 24 hours of becoming aware of the security breach, to furnish all necessary details of the accidental or unauthorised access, use, disclosure, modification or disposal of that Biographic Entry Data.
- g) The Participants intend to designate representatives to jointly review the Annex. The first review for the Annex is not intended to take place earlier than 1 year from the date this Annex comes into effect and no later than 2 years, and as mutually decided thereafter.

14. Application and Interpretation

- a) This Annex is not intended to create legally binding obligations, nor create or confer any right, privilege or benefit on any person or Participant, private or public.
- b) The Participants intend to resolve any differences arising out of the interpretation, or application of this Annex by mutual consultation.
- c) The Participants intend to carry out the activities under this Annex in accordance with the laws of their respective countries as well as applicable international agreements to which their respective countries are a party.
- d) The Participants intend to exchange Biographic Entry Data in accordance with the provisions of the SMU, which facilitates the sharing of immigration information between Canada and the United States. The Participants have made every attempt to ensure no aspect of this Annex conflicts with the SMU; however, where the parameters for exchanges of Biographic Entry Data outlined in this Annex differ from those in the SMU, the parameters outlined in this Annex should prevail.

15. Financing

The Participants intend to pay their own costs and use their own equipment and personnel resources in performing their work under this Annex.

16. Public Notification

The Participants intend to notify the public of the parameters of the collection of this Biographic Entry Data. The Participants intend to provide individuals, as required by law, with general notice to the purpose of the collection, disclosure, and use of personal information that concerns the individual, the identity of the entity controlling that information, the applicable policies or laws, the types of third parties to whom information may be subsequently disclosed, as well as other information insofar as is

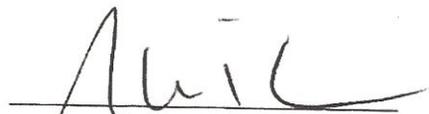
necessary to seek effective sanctions and/or remedies. In addition, the Participants intend to coordinate such notifications to the public, within the parameters of their respective domestic laws and policies.

17. Modification and Termination

- a) The Participants may amend this Annex by their written mutual consent.
- b) Either Participant may discontinue or suspend its activities under this Annex at any time by giving written notice to the other Participant. Discontinuance or suspension becomes effective sixty (60) days after receipt of such notice, except that the provisions of paragraphs 7, 8, 9, 10 and 11 should continue to apply to Biographic Entry Data shared pursuant to this Annex.
- c) This Annex should take effect upon the last signature by the Participants.

The Participants have signed this *Annex Regarding the Sharing of Biographic Entry Data to the 2003 Statement of Mutual Understanding on Information Sharing*

FOR THE CANADA BORDER SERVICES AGENCY

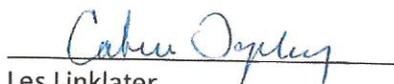


Cathy Munroe
Vice-President
Programs Branch
Canada Border Services Agency

JUN 19 2013

Date _____

FOR THE DEPARTMENT OF CITIZENSHIP AND IMMIGRATION CANADA



Les Linklater
Assistant Deputy Minister
Strategic and Program Policy Sector
Citizenship and Immigration Canada

Date June 20 2013

FOR THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY



David Heyman
Assistant Secretary for Policy
U.S. Department of Homeland Security

Date June 21, 2013