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Communications Security Establishment

**Memorandum of Understanding
between
The Communications Security Establishment
and
The Canada Border Services Agency
on
Improving Cooperation to Optimize Products and Services**

Directorate of [REDACTED]

27 February 2007

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INTRODUCTION

1. (U) The Communications Security Establishment (CSE) and the Canada Border Services Agency (CBSA, and together with CSE, the Parties) recognize the importance of improved cooperation for the benefit of protecting Canada and Canadians at home and abroad.
2. (U) The Parties intend to pursue projects and implement policies that will promote strategies to ensure that information is received on a timely basis by officials to fulfill each Party's commitment to the shared national security principles articulated in *Securing an Open Society: Canada's National Security Policy* (NSP). The Parties anticipate that improved cooperation will optimize their respective products and services.

PURPOSE

3. (U) CSE and CBSA legacy departments have a long history of mutual assistance and are committed to improving cooperation with CBSA. This Memorandum of Understanding (MOU) is intended to formalize this longstanding relationship.
4. (U) This MOU provides guidelines on the use and dissemination of information by CSE and CBSA pursuant to this MOU.

SHARED VISION

5. (U) The Parties will strive to improve cooperation in two key areas, the provision of: (i) foreign intelligence in accordance with Government of Canada (GoC) intelligence priorities by CSE to CBSA; and (ii) support to CSE's foreign intelligence mandate by CBSA.

AUTHORITIES

6. (U) CSE's mandate, powers and authorities are defined in Part V.1 of the *National Defence Act*, as amended by the *Anti-terrorism Act* in December 2001. In broad terms, CSE provides: foreign signals intelligence in accordance with Government of Canada (GoC) intelligence priorities; advice, guidance and services to help protect electronic information and information infrastructures of importance to the GoC, and technical and operational assistance to federal law enforcement and security agencies in the performance of their lawful duties. CSE is also the cryptology and information technology security authority under the *Government Security Policy* (GSP).
7. (U) CBSA's mandate, powers and authorities are defined in the *Canada Border Services Agency Act* (CBSA Act). CBSA is responsible for administering and/or enforcing program legislation appointed to CBSA to support national security and public safety priorities while facilitating the free flow of persons and goods.
8. (U) CBSA is delegated to administer and/or enforce the following program legislation pertinent to this MOU: the *Immigration and Refugee Protection Act* (IRPA), the *Customs Act*, and any other Act of Parliament that CBSA officials have partial authority to administer.

FRAMEWORK FOR COOPERATION

9. (U) The Parties recognize that their relationship will develop further over time. As a starting point, the Parties agree to strengthen their partnership through improved cooperation in the following areas:
 - o Provision of CSE products and services specific to CBSA needs;

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- o Improvement of bilateral communications and information sharing; and
- o Expansion and improvement service delivery mechanisms.

SPECIFIC AREAS OF COOPERATION

10. (U) The following sections outline areas the Parties will cooperate on. Detailed appendices for each area will be developed and added to this MOU as required.

Provision of CSE Products and Services Specific to CBSA Needs

11. (U) The NSP recognizes that an integrated and coordinated approach to border security will help ensure that threat information is provided to border service agents on a timely basis.
12. (C) The Parties will continue to investigate SIGINT pilot project opportunities to produce actionable intelligence in support of CBSA intelligence programs.

Improvement of Bilateral Communications and Information Sharing

13. (U) The Parties recognize that maximizing the exchange of information is critical to achieving a collaborative approach to border security. The NSP encourages departments and agencies to cooperate closely and, wherever appropriate, to share relevant information with each other.
14. (U) The Parties appreciate the necessity for a clear and robust policy and legal framework to facilitate information sharing. To this end, the Parties will work closely with their respective policy and legal advisors to develop and implement information sharing agreements and procedures that enable the Parties to exchange information in a format and at a classification level suitable to each other's business processes and within each Party's existing legal framework.
15. (U) The Parties recognize that the use and dissemination of information by CSE and CBSA pursuant to this MOU must comply with existing legislation concerning the collection, use, retention and disclosure of information.
16. (C) CSE will maintain its [REDACTED] to facilitate bilateral communications and other business processes.
17. (U) The Parties will work together to identify and create opportunities for knowledge sharing at the operational level, including working-level briefings/exchanges.

Expansion and Improvement of Service Delivery Mechanisms

18. (U) The Parties will continue to collaborate in the expansion and improvement of service delivery mechanisms.
19. (C) The Parties will work together to ensure that relevant SIGINT end-product reporting is disseminated to key CBSA consumers in a timely fashion. In addition, the Parties will examine ways to improve the quality and quantity of feedback on CSE products and services.
20. (C) The Parties will actively promote the expanded deployment of the [REDACTED] Client Service Interface [REDACTED]

CONFIDENTIALITY AND SECURITY OF INFORMATION

21. (U) Information provided by a Party pursuant to this MOU will only be used for the specific purpose for which it is provided. The Parties will ensure that appropriate procedures are in place to protect the information from any further disclosure.

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22. (U) The Parties will not disclose any information provided pursuant to this MOU to a third party without the permission of the originating Party.

CONTACTS

23. (U) The primary CSE contact person is the CSE [REDACTED]
24. (U) The primary CBSA contact person is the Manager of the CBSA Intelligence Coordination and Research Section (ICR).

MODIFICATION

25. (U) This MOU may be modified at any time with the written consent of the Parties.

EFFECTIVE DATE

26. (U) This MOU will come into effect when signed by the Parties and remain in effect until terminated.

TERMINATION

27. (U) Either Party, upon written notice, may terminate this MOU at any time.

REVIEW

28. (U) This MOU will be reviewed by the Parties on an annual basis to ensure it remains current with operational requirements and administrative changes.



Shelly Bruce
Director General Intelligence
Communications Security Establishment

Date 4 April 07



Caroline Melis
Director General Intelligence
Canada Border Services Agency

Date 20 March 07

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APPENDIX "A" – Dissemination for Immigration Purposes

CBSA-CSE Agreement concerning the Dissemination of SIGINT End-Product Reporting within CBSA to clients authorized to administer or enforce the *Immigration and Refugee Protection Act*

INTRODUCTION

1. (C) The Parties recognize the need to work together to expand and improve service delivery mechanisms within CBSA. In the past year, circumstances surrounding the dissemination of SIGINT end-product reporting within CBSA and a key CBSA client department, Citizenship and Immigration Canada (CIC), have progressed and improved to a point requiring a formal recognition and clarification of roles and responsibilities.

RESPONSIBILITIES

2. (U) CBSA recognizes CSE's authority to manage the distribution of SIGINT as outlined in Appendix "A", Section 4.2, of the GSP.
3. (U) Under this authority, CSE recognizes the mandate of CBSA's ICR to disseminate SIGINT end-product reporting within CBSA and its legacy department, CIC.
4. (C) CSE also recognizes the procedures and processes underpinning CBSA's ICR and the provisions in sections 86 and 87 of IRPA that permit the Minister to make an application for non-disclosure of information in certain circumstances.
5. (C) CSE will support CBSA's efforts to strengthen CBSA's internal dissemination program by granting access to [REDACTED] to specific employees of the ICR. This will permit such ICR members to enter client profiles, feedback and requirements, allowing CSE, in turn, to track and measure SIGINT end-product usage, and to optimize SIGINT performance for clients at CBSA.
6. (C) It is understood that all SIGINT material (including historical reports) provided to CBSA will eventually be delivered via [REDACTED] meaning that:
 - CBSA clients who have access to a MANDRAKE terminal can request [REDACTED] accounts;
 - Existing MANDRAKE buckets will be deleted for all CBSA clients who receive [REDACTED] accounts; and
 - Designated CBSA employees, mutually approved by CSE and CBSA, will perform internal dissemination of SIGINT end-product reporting at CBSA through [REDACTED] in accordance with the Client Service Staff Reference guide.
7. (C) CBSA understands that it is responsible to keep CBSA's information in [REDACTED] accurate including creating, maintaining and deleting client profiles, requirements and feedback according to the Client Service Staff Reference guide.
8. (C) CBSA understands and agrees that all handling, dissemination, retention and destruction of SIGINT material will be executed in accordance with the *Canadian SIGINT Security Standards* (CSSS) and other applicable policies and procedures. Unless otherwise approved by CSE, dissemination of SIGINT end-product reporting by ICR is limited to SIGINT clients within CBSA and CIC according to each individual client's security clearance and need to know requirements. CSE reserves the right to conduct random on-site security audits on the handling of SIGINT material.
9. (C) CSE is committed to providing CBSA training, policy and operational support relating to CBSA's internal dissemination role. Likewise, CBSA is committed to keeping CSE apprised of any changes to its dissemination policies and procedures.

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10. (C) The Parties agree to manage the implementation of commitments made herein through the mechanism provided by the joint discussion between CSE's [REDACTED] for CBSA and CBSA Enforcement Branch management.

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APPENDIX "B" - Dissemination

CBSA-CSE Agreement concerning the Dissemination of SIGINT End-Product Reporting within CBSA to clients authorized to administer or enforce the Customs Act and any other Act of Parliament CBSA officials have partial authority to administer or enforce.

INTRODUCTION

1. (C) The Parties recognize the need to work together to expand and improve service delivery mechanisms within CBSA aimed at achieving the mandate of CBSA under the *Customs Act* and any other Act of Parliament that CBSA officials have partial authority to administer or enforce.

RESPONSIBILITIES

2. (U) CBSA recognizes CSE's authority to manage the distribution of SIGINT as outlined in Appendix "A", Section 4.2, of the GSP.
3. (C) Under this authority, CSE recognizes the mandate of CBSA's ICR to disseminate SIGINT end-product reporting within CBSA to clients authorized to administer or enforce the Customs Act and any other Act of Parliament that CBSA officials have partial authority to administer or enforce.
4. (C) CSE also recognizes the procedures and processes concerning the information collected for the purposes of administering or enforcing the *Customs Act* are subject to the legislative provisions found at section 107 of the *Customs Act* (Disclosure of Information).
5. (C) CSE will support CBSA's efforts to strengthen the Customs program by granting access to [REDACTED] to specific employees of ICR. This will permit such ICR members to enter client profiles, feedback and requirements, allowing CSE, in turn, to track and measure SIGINT end-product usage, and to optimize SIGINT performance for clients at CBSA.
6. (C) It is understood that all SIGINT material (including historical reports) provided to CBSA will eventually be delivered via the [REDACTED] system meaning that:
 - CBSA clients who have access to a MANDRAKE terminal can request [REDACTED] accounts;
 - Existing MANDRAKE buckets will be deleted for all CBSA clients who receive [REDACTED] accounts; and
 - Designated CBSA employees, mutually approved by CSE and CBSA, will perform internal dissemination of SIGINT end-product reporting at CBSA through [REDACTED] in accordance with the Client Service Staff Reference guide.
7. (C) CBSA understands that it is responsible to keep CBSA's information in [REDACTED] accurate including creating, maintaining and deleting client profiles, requirements and feedback according to the Client Service Staff Reference guide.
8. (C) CBSA understands and agrees that all handling, dissemination, retention and destruction of SIGINT material will be executed in accordance with the *Canadian SIGINT Security Standards* (CSSS) and other applicable policies and procedures. Unless otherwise approved by CSE, dissemination of SIGINT end-product reporting by ICR is limited to SIGINT clients within CBSA and CIC according to each individual client's security clearance and need to know requirements. CSE reserves the right to conduct random on-site security audits on the handling of SIGINT material.
9. (C) CSE is committed to providing CBSA training, policy and operational support relating to CBSA's internal dissemination role. Likewise, CBSA is committed to keeping CSE apprised of any changes to its dissemination policies and procedures.

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10. (C) The Parties agree to manage the implementation of commitments made herein through the mechanism provided by the joint discussion between CSE's [REDACTED] for CBSA and CBSA Enforcement Branch management.

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APPENDIX "C" - Disclosure

CBSA-CSE Agreement on policies and procedures to minimize the disclosure risk to SIGINT-derived information.

INTRODUCTION

1. (U) The Parties assess that the risk of disclosure of SIGINT material is low in either admissibility hearings conducted under the IRPA or criminal proceedings under the *Customs Act*.
2. (C) The Parties recognize that IRPA sections 86 and 87 will be applied to protect SIGINT information in the event that CBSA, with the approval of CSE, seeks to use the information as evidence to be disclosed during a tribunal hearing.
3. (C) The Parties acknowledge that notes taken from SIGINT material by CBSA personnel are strictly for steerage to information in other sources. Information from these notes is not to be included in briefings, correspondence, reports, working aides, memoranda, EII lookouts, or databases, nor will action be taken on the basis of such information (e.g., denial of a visa), without the approval of CSE.

Immigration

4. (C) The Parties recognize that sections 86 and 87 of IRPA will be applied to protect SIGINT information in the event that CBSA, with the approval of CSE, seeks to use the information as evidence to be disclosed during a tribunal hearing.

Customs

5. (C) The Parties recognize that section 107 of the *Customs Act* will be applied to protect SIGINT information from use as evidence in legal proceedings.

Canada Evidence Act

6. (C) The Parties further recognize that the process outlined in section 38 of the *Canada Evidence Act* may be invoked to protect SIGINT from disclosure, as appropriate.

Responsibilities

7. (C) CBSA will not disclose the existence or content of SIGINT provided to it by CSE to any third party without CSE's express written consent.
8. (C) Requests by CBSA to disclose SIGINT to a third party or to take action on the basis of SIGINT information will be forwarded to CSE's Manager for Operational Policy (D2) for approval.

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