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**Canada
and
United States of America**

Agreement between the Government of Canada and the Government of the United States of America for the sharing of visa and immigration information. Ottawa, 13 December 2012

Entry into force: *21 November 2013 by notification, in accordance with article 13*

Authentic texts: *English and French*

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**Canada
et
États-Unis d'Amérique**

Accord entre le Gouvernement du Canada et le Gouvernement des États-Unis d'Amérique concernant l'échange de renseignements sur les visas et l'immigration. Ottawa, 13 décembre 2012

Entrée en vigueur : *21 novembre 2013 par notification, conformément à l'article 13*

Textes authentiques : *anglais et français*

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[ENGLISH TEXT – TEXTE ANGLAIS]

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 Canada and the United States*, 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:
 - (a) using Information in order to enforce or administer the immigration laws of the Parties;
 - (b) 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
 - (c) 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

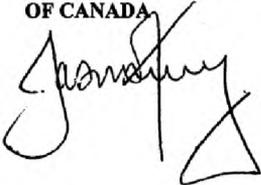
Entry into Force

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 Ottawa, Canada, this 13th day of December 2012,
in duplicate in the English and French languages, each text being equally authentic.

**FOR THE GOVERNMENT
OF CANADA**



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

