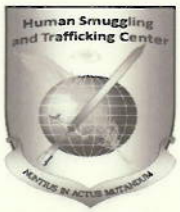

Royal Canadian Mounted Police | Gendarmerie royale du Canada

Memorandum of Understanding

between

The United States' Human Smuggling and Trafficking Center

and

The Royal Canadian Mounted Police

On the Dissemination and Exchange of Information

The United States' Human Smuggling and Trafficking Center (HSTC), and the Royal Canadian Mounted Police (RCMP) hereinafter referred to as the "Participants";

Wishing to share information and to cooperate in accordance with the provisions detailed herein, subject to their respective domestic laws;

Considering that the HSTC is a U.S. Government multi-agency center which brings together expertise from policy-making, law enforcement, diplomatic and intelligence professionals, and that the HSTC has been directed to ensure cooperation among all relevant policy, law enforcement, diplomatic and intelligence agencies of the U.S. Government to improve effectiveness and to convert all information available to the U.S. Government relating to human smuggling and human trafficking into tactical, operational and strategic intelligence that can be used to combat such illegal activity;

Considering that the HSTC is committed to combating human smuggling and human trafficking and to protecting the rights of migrants who become victims of traffickers;

Considering that the RCMP is the national police service of Canada, and is a national, federal, provincial and municipal policing body;

Considering that the RCMP has an Immigration and Passport (I&P) program to disrupt organized human smuggling and human trafficking and investigate organizations involved in illegally procuring, distributing and/or using Canadian travel documents, and that a component of the I&P program is the Human Trafficking National Coordination Centre (HTNCC);

Considering that the HTNCC's role is to provide a focal point for law enforcement in their efforts to combat and disrupt criminal organizations involved in human trafficking activities, and that its mandate is to develop and coordinate human trafficking activities/initiatives related to the four pillars of prevention, protection, prosecution and partnership with domestic and international partner agencies, non-government organizations (NGOs) and the community at large;

Considering that the HTNCC's priorities are to develop tools, protocols and guidelines to facilitate human trafficking investigations; coordinate national awareness/training and anti-trafficking initiatives; identify and maintain lines of communication; develop and maintain international partnerships and coordinate international initiatives; and coordinate intelligence and facilitate the dissemination of all sources of information/intelligence to operational units across the country and promoting the advancement of intelligence in support of enforcement;

Have come to the following mutual understanding:

1. DEFINITIONS

For the purposes of this Memorandum of Understanding (MOU):

"Smuggling of Migrant" or **"Human Smuggling"** means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person who is not a national or a permanent resident into the territory of a Participant.

"Human Trafficking" or **"Trafficking in Human Beings"** means the recruitment, transportation, transfer, harbouring, or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, or practices similar to slavery, servitude or removal of organs.

"Counter-Smuggling/Trafficking Information" means any information obtained and used by law enforcement during the course of investigations involving Human Smuggling and Human Trafficking that enables a Participant to identify, investigate, and prosecute criminal organizations involved in human smuggling or human trafficking.

"Information Relating to Human Smuggling and Human Trafficking" means a collection of facts and data with an established link to human smuggling or human trafficking as defined above.

2. PURPOSE

a) The purpose of this MOU is to contribute to the prevention and reduction of human smuggling and human trafficking through effective cooperation between the Participants.

b) The Participants intend to give the most importance to the concern for and promotion of the safety, human rights, and best interests of trafficking victims and potential victims, within their legal framework and having due regard to applicable international law.

c) This MOU between the Participants reflects, and is in accordance with, the ratified international standards and guidance set out in the *United Nations Protocol Against The*

Smuggling Of Migrants By Land, Sea and Air and the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the *U.N. Convention Against Transnational Organized Crime*.

3. ACTIVITIES OF THE PARTICIPANTS

a) The Participants intend to exchange information relating to human smuggling and/or human trafficking.

b) The Participants intend to accord the highest level of sensitivity and confidentiality legally permissible according to their respective laws with respect to information provided by, or about, trafficking victims.

c) Each Participant intends to identify and nominate a point of contact to be available for the dissemination and exchange of information.

d) The Participants may, in their discretion, and in accordance with relevant legal provisions, provide one another with information concerning counter-human smuggling and human trafficking. This may include feedback of how information has been used.

e) The Participant may make requests for specific intelligence/information in writing when reasonably practicable and will maintain appropriate records concerning the transmission and receipt of information/intelligence exchanged.

4. ROLES OF THE PARTICIPANTS

a) The HSTC intends to:

i) Disseminate counter-human smuggling and human trafficking information only to the point of contact nominated by the RCMP, through the use of its nominated point of contact, unless the Participants identify additional persons as appropriate recipients of the information.

ii) Avoid disseminating any information provided by the RCMP to the members of the media for any purpose, unless specifically authorized by the RCMP to so do.

iii) Retain any information disseminated by the RCMP under conditions of strict confidentiality and security, and use it only in support of its functions.

b) The HSTC may:

i) Disclose information to the RCMP and may decline to disseminate information it may have in its possession to the RCMP.

ii) Use counter-human smuggling and human trafficking information received from the RCMP, in accordance with the HSTC policies and procedures, and not disseminate

such information outside of government entities within the United States without permission from the RCMP (third party rule).

c) The RCMP intends to:

i) Disseminate counter-human smuggling and human trafficking information only to the point of contact nominated by the HSTC, through the use of its nominated point of contact, unless the Participants identify additional persons as appropriate recipients of the information.

ii) According to the Third Party Rule, mark documents sent to HSTC with the following caveat: "This document is for intelligence purposes only. Contact the originator for permission to release any information. This document is not to be reclassified, copied, reproduced, used in whole or in part or further disseminated without the consent of the originator".

iii) Avoid disseminating any information provided by the HSTC to members of the media for any purpose, unless specifically authorized by the HSTC to so do.

iv) Retain any information disseminated by the HSTC under conditions of strict confidentiality and security, and use it only in support of its functions.

d) The RCMP may:

i) Disclose information to the HSTC and may decline to disseminate information it may have in its possession to the HSTC.

ii) Use counter-human smuggling and human trafficking information received from the HSTC, in accordance with the RCMP policies and procedures, and not disseminate such information outside of government entities within Canada without permission from the HSTC (third party rule).

5. OBSERVING CONFIDENTIALITY

a) The Participants understand that inquiries, information and requests for information received by each Participant under this MOU are provided pursuant to a strict understanding of confidentiality and should be treated as sensitive. Any information provided should be accorded protection from disclosure to any third parties outside the government of the receiving Participant to the greatest extent provided for under applicable laws of the receiving country with regard to privacy and data protection.

b) To prevent the unauthorized disclosure, copying, use, or modification of information provided to a Participant under this MOU, the receiving Participants should restrict access to such information on a need to know basis and use recognized security mechanisms such as passwords, encryption or other reasonable safeguards to prevent unauthorized access.

c) A receiving Participant should provide notice to any third party to which it discloses information received in confidence under the MOU that the third party is prohibited from further disclosure unless it obtains authorization from the providing Participant.

6. DISCLOSURE OF INFORMATION

a) Each Participant intends to fully maintain, respect, and protect the confidentiality of the information exchanged under this MOU.

b) Each Participant intends to not release the information exchanged under the MOU to any entity outside the government of the receiving Participant; including the individual to whom it relates, except if the release is by written consent of the providing Participant of the information or if disclosure is legally required in the receiving Participant's country concerned.

c) Each Participant intends to inform the other Participant on request of any rules of disclosure or legal requirements to which it is subject and could give rise to a future obligation to disclose shared information.

7. OTHER PROVISIONS

a) The Participants intend to resolve any difference in the interpretation and the application of this MOU through negotiation and consultation.

b) This MOU is not a legally binding agreement, nor is it a formal expression of a legally binding agreement, but it is an expression of the purpose and intent of the Participants.

c) Each Participant intends to pay for any expenses it incurs as a result of activities under this MOU, unless otherwise decided.

8. FINAL DISPOSITIONS

a) Activities under this MOU will commence upon signature of the Participants.

b) The Participants may modify this MOU at any time and for any reason upon their mutual written consent.

c) Either Participant may end activities under this MOU by giving a written notice to the other Participant.

d) If at the time of discontinuing activities there are still ongoing activities those should be carried out pursuant to this MOU and completed, as appropriate, in accordance with the provisions of this MOU. Upon termination of activities under this MOU and thereafter, both Participants intend to continue to treat information previously received under the

provisions of this MOU as sensitive and apply the same limitations identified in this MOU on the further dissemination of such information to third parties.

Signed in duplicate at Ottawa on this 2 day of March 2012, in the English and French languages.

For the United States' Human Smuggling and Trafficking Center:

Janet Napolitano
Secretary
U.S. Department of Homeland Security

Eric H. Holder, Jr.
Attorney General of the United States

For the Royal Canadian Mounted Police:

Vic Toews
P.C., Q.C., M.P.
Minister of Public Safety