

Annex

GAC Management Response to Recommendations in NSIRA's annual review of Departmental Implementation of the *Avoiding Complicity in Mistreatment by Foreign Entities Act for 2021*

Recommendation 5: NSIRA recommends that GAC ensure that accountability for compliance with the ACA clearly rests with the Avoiding Mistreatment Compliance Committee.

GAC's Response: Accepted.

(U) In accordance with the Order in Council Directions for Avoiding Mistreatment by Foreign Entities, accountability for GAC's compliance with the ACA rests with the Deputy Minister of Foreign Affairs (the Deputy). GAC agrees that responsibility for compliance with the ACA rests with the Avoiding Mistreatment Compliance Committee (AMCC) alongside senior level management, including Heads of Mission (HOMs) serving abroad and Directors General at headquarters (DGs).

(U) Under GAC's escalation framework for ACA cases outlined in its policy guidance documents for employees, the first level of responsibility for decision-making is delegated to HOMs and DGs. When these senior managers are unable to determine whether an information exchange complies with the ACA, the case is referred to the AMCC for decision.

(U) It is important to note that whether in the context of decisions made by senior managers or the AMCC, mission staff are the most knowledgeable POCs, within GAC, on their host country and countries of accreditation. Therefore, they are best placed to assess risks in the context of the ACA and inform decision makers. However, GAC's process requires them to consult with the geographic desk as well as with the intelligence bureau (AMCC Secretariat advisors) for advice and to ensure proper coordination within headquarters before the HOM—as the Chief Executive Officer at missions—makes a decision concerning an ACA case. In cases where an AMCC meeting is required, a DG-level representative of the relevant geographic desk is always present, and is responsible for conveying the expertise and point of view of the mission.

(U) The AMCC may refer a case to the Deputy if it is unable to reach a consensus on whether or not information should be shared with a foreign entity. This framework enables timely decision making and action (notably on time-sensitive issues threatening Mission security) in cases where there is not a substantial risk of mistreatment, while also ensuring complex cases are carefully considered through the AMCC mechanism or, ultimately, the Deputy.

(U) In addition to its decision-making function, the AMCC plays an important role in supporting departmental officials in the exercise of their responsibilities

under the ACA. Following an internal review and update of the AMCC's Terms of Reference in 2023, the committee's mandate has been expanded to include guiding policy development related to the ACA and promoting compliance within the department. To address NSIRA's recommendation, and with the AMCC's endorsement, GAC will continue to develop and communicate its policy guidance and resources to ensure that GAC's senior management and employees are properly informed of their responsibilities when sharing information with foreign entities and to enhance overall compliance with the ACA by the department.

Recommendation 6: NSIRA recommends that GAC conduct a formal internal mapping exercise of other possibly implicated business lines to ensure it is meeting its obligations set out in the ACA.

**GAC's Response:
Accepted.**

(U) GAC will conduct an internal mapping exercise of its business lines to ensure the department is meeting its obligations under the ACA. GAC will determine an appropriate methodology for this exercise in consultation with the AMCC, noting that this undertaking will be complex given the size and geographic distribution of the department's personnel.

Recommendation 7: NSIRA recommends that GAC make ACA training mandatory for all rotational staff.

**GAC's Response:
Accepted.**

(U) GAC will leverage the expertise of its Canadian Foreign Service Institute (CFSI) to develop and deliver updated training concerning the department's obligations under the ACA. GAC is also exploring options to include ACA training within the department's training curriculum for deploying staff.

Recommendation 8: NSIRA recommends that GAC ensure countries' Human Rights Reports are updated more regularly to ensure evolving human rights related issues are captured.

**GAC's Response:
Accepted.**

(U) Global Affairs Canada (GAC) uses a country selection process to determine the number of human rights reports that will be developed annually. To improve tracking of human rights reports over time, GAC will develop a monitoring system that will include reference to completion rate and exemptions that may have impacted reporting timelines. The aim will be to reduce the intervals of reporting for each country. Using the tracking tool, GAC will include 'regularity of reporting' as an additional consideration in the selection process. This information will be reflected in internal guidelines, which would supplement the

country selection process that already occurs annually, ensuring it remains robust and well defined.

Recommendation 9: NSIRA recommends that GAC establish a centralized system to track caveats and assurances provided by foreign entities and document any instance of non-compliance for use in future risk assessments.

**GAC's Response:
Accepted.**

(U) GAC agrees to establish a system to track caveats and assurances provided by foreign entities in the context of ACA cases. Once in place, this system would be helpful for ensuring caveats and assurances are respected as well as for assessing risk in the context of subsequent disclosures. GAC will consult with internal stakeholders to leverage existing tools and resources the department has at its disposal to fulfill this objective.

(U) GAC's annual human rights reports include a detailed section concerning torture and mistreatment used to inform risk assessments related to ACA cases. GAC updated the guidelines and templates for human rights reports in 2022, requiring missions to document/track caveats and assurances provided by foreign entities and document any instance of non-compliance. This information will guide future decision-making related to ACA cases.