



Global Affairs
Canada

Affaires mondiales
Canada

Deputy Minister
of Foreign Affairs

Sous-ministre
des Affaires étrangères

File Ref.: INA-PA 0018-21

The Honourable Marie Deschamps
Chair
National Security and Intelligence Review Agency
P.O. Box 2430, Station "D"
Ottawa, ON
K1P 5W5

Dear Ms. Deschamps:

Thank you for your Agency's letter of March 1, 2021 to Minister Garneau, enclosing the National Security Intelligence Review Agency's (NSIRA) first dedicated review of Global Affairs Canada on the Global Security Reporting Program (GSRP or Program).

I was pleased to receive NSIRA's report, and have read it with interest. Noting the request for Global Affairs Canada to consider and respond to NSIRA's recommendations, Departmental officials have conducted a detailed examination of the report's findings and recommendations.

Along with my colleagues here at Global Affairs Canada, I consider NSIRA's report and recommendations a timely and valuable resource. Your review has come at a time when the Program has been looking at renewal and reinvigoration in order to be more targeted and responsive to the current needs of its clients. While the Program has many strengths and an established record of accomplishment, areas for improvement always exist. As the Department looks ahead to further strengthen the Program, the results of this review will undoubtedly aid us in advancing important improvements and investments.

Regarding NSIRA's recommendation that the GSRP develop a governance framework, the Department will prioritize the establishment of a new overarching program governance framework to build on existing Program governance and accountability mechanisms. Steps already undertaken include the creation of a Departmental GSRP Advisory Committee and Program Guiding Principles endorsed by the Advisory Committee.

The Department is in full agreement with NSIRA's recommendation that the GSRP enforce data retention and information management practices laid out in existing Government of Canada (GC) policies. We will indeed develop or acquire necessary information management applications to better collate, organize and manage its information holdings in accordance with GC policies. With respect to NSIRA's recommendation that the GSRP develop risk protocols and security guidelines specific to the Program, the Department will continue to review its risk management protocols and security guidelines to ensure the safety and security of its personnel and assets

abroad. We will also continue to work with subject matter experts to review protocols and guidelines relevant to the Program to ensure sufficient specific guidance to GSRP officers.

Regarding the recommendation that Global Affairs Canada complete a thorough legal assessment of GSRP activities and that GSRP officers should receive applicable training based on the results of the assessment, the Department will consult with its legal and policy authorities to clarify and document the Program's legal authority to operate as part of the overseas diplomatic reporting apparatus, and it will update its training programme to ensure coherence across program activities (including the training programme for outgoing GSRPs). As it pertains to the related recommendation that the GSRP develop best practices for interactions with contacts, based on consultation with GAC legal advisors, the Department notes that, as is the case for all Canadian diplomats with contacts overseas, GSRP officers conduct their duties in line with embassy security protocols, which are tailored to their specific operating environment. Finally, the Department will seek advice from its legal and privacy experts on the best approach to produce a Privacy Impact Assessment (PIA), in response to NSIRA's recommendation that Global Affairs Canada conduct a PIA of the GSRP.

Regarding the Program's relationship with the Canadian Security Intelligence Service (CSIS), we acknowledge the report's determination that there is insufficient de-confliction between our two organizations, and the recommendation to develop clear de-confliction guidelines with CSIS. Global Affairs Canada has been working with the Service for some time to address this issue, and will continue in this endeavor. While there were no issues related to difficulties or disputes between the Program and CSIS identified in any of my Department's audits of management practices at four of the missions implicated in this review, there is still progress to be made in the overall quality of our relationship. To this end, I have instructed the GSRP management team to work more closely with CSIS, to draw from each other's experiences, as appropriate to their mandated roles, and to minimize areas of potential conflict.

While we broadly accept the above findings and recommendations of the review, we do have concerns with some specific interpretations reflected in the final report, and the analysis that led to specific findings and recommendations, which we feel do not adequately account for Global Affairs Canada's overall leadership role in the conduct of foreign relations, including its foreign intelligence function, and how a foreign ministry operates abroad.

An illustrative example is the report's conclusion in relation to Global Affairs Canada's foreign intelligence mandate. Although CSIS, through Section 17 of its Act, has cooperative relationships with a number of international partners, Global Affairs Canada remains the lead agency for the strategic management of the Government of Canada's foreign engagement, including on intelligence matters. This long-standing principle recognizes the primacy of my Minister's mandate and accountabilities, as the lead Minister responsible for the conduct of foreign relations supported by foreign intelligence, and the primary risk owner for foreign intelligence collection activities.

For example, under Section 17 of the *CSIS Act*, the Minister of Foreign Affairs is consulted in instances where CSIS seeks to enter into a cooperative arrangement with a government of a foreign state or an institution thereof or an international organization. In 2020, Global Affairs

Canada responded positively to requests from CSIS to enter into foreign liaison relationships

Similarly, according to Section 54(2) of the *CSE Act*, the Minister of National Defence (MND) is required to consult the Minister of Foreign Affairs (MFA) when seeking to enter into arrangements with “entities that have powers and duties similar to the Establishment’s [CSE’s] – including entities that are institutions of foreign states or that are international organizations of states or institutions of those organizations.” In the summer of 2021, MND consulted MFA on such an arrangement, in that instance on a proposed arrangement with the overarching purpose of which was to enhance cooperation, including information sharing, skill development and capacity building.

The Intelligence Bureau is the Department’s foreign policy lead on intelligence. It has a long history of maintaining relationships at headquarters and in the field, ranging from analytical exchanges to facilitating operational activity. The GSRP, managed by the Intelligence Bureau, is a specialised reporting program. In that context, GSRP officers are not sent abroad for the purpose of engaging in intelligence liaison activities, and they do not proactively seek contact with foreign intelligence agencies. Liaison activities between the Department and foreign intelligence agencies are strictly managed and coordinated between our Intelligence Liaison Offices (ILO) abroad and the Intelligence Assessments and Reporting Division at headquarters in Ottawa, which has oversight responsibility for the ILO program. The GSRP is a key asset in the Department’s broader relationship management toolkit. Our core partners, both Canadian and allied, have underlined how highly they value the Program’s views and reporting.

The report’s finding that the Program’s activities have the potential to cause reputational and political harm to the Government of Canada in our view gives inadequate consideration to the fact that GSRP officers operate overtly under a transparent and well-established mandate in full accordance with the *DFATD Act* and its authorities, and the *Vienna Convention on Diplomatic Relations*, including Article 3 paragraph 1 which defines one of the functions of a diplomatic mission to be, “(d) *ascertaining by all lawful means conditions and development in the receiving State, and reporting thereon to the Government of the sending State.*” The Department has never experienced any instance of such harm in the context of the GSRP since its inception in 2002.

The advancement of Canada’s interests abroad in ways that limit the risk of reputational and political harm to the Government of Canada is a well-established priority and practice of my Department and its officials. All Canadian diplomats mandated to provide diplomatic reporting are equally exposed to possible perceptions by host States that their diplomatic reporting activities interfere with its internal affairs. While diplomats are subject to a duty not to interfere in the internal affairs of the host State, a sending State has no control over the subjective characterization of the host State of diplomatic reporting carried out by diplomats of the sending State. Ultimately, such characterization does not affect the protection provided by the *VCDR* to the essential function of diplomatic reporting.

Let me reassure you that despite these specific concerns, we welcome NSIRA’s report and recommendations as a timely and valuable resource. As noted in Minister Garneau’s letter to

your predecessor, Departmental officials will pursue with vigour the recommendations in your Agency's report in the interest of continuous improvement and greater effectiveness in our work.

I look forward to ongoing engagement with you and your colleagues.

Sincerely,


Marta Morgan