National Security and Intelligence Committee of Parliamentarians

Special Report on the National Security and Intelligence Activities of Global Affairs Canada

Submitted to the Prime Minister on June 27, 2022 pursuant to subsection 21(2) of the National Security and Intelligence Committee of Parliamentarians Act
(Revised version pursuant to subsection 21(5) of the NSICOP Act)

Canada

The National Security and Intelligence Committee of Parliamentarians

Special Report on the National Security and Intelligence Activities of Global Affairs Canada (Revised version pursuant to subsection 21(5) of the NSICOP Act)

CP104-4/2022E-PDF
978-0-660-46011-6

CP104-4/2022E
978-0-660-46012-3

Special Report on the National Security and Intelligence Activities of Global Affairs Canada

The National Security and Intelligence Committee of Parliamentarians

The Honourable David McGuinty, P.C., M.P.
Chair

Submitted to the Prime Minister on June 27, 2022
Revised version tabled in Parliament in November 2022

Revisions

Consistent with subsection 21(2) of the National Security and Intelligence Committee of Parliamentarians Act (NSICOP Act), the Committee may submit a special report to the Prime Minister and the ministers concerned on any matter related to its mandate. Consistent with subsection 21(5) of the NSICOP Act, the Prime Minister may, after consulting the Chair of the Committee, direct the Committee to submit to him or her a revised version of the report that does not contain information the Prime Minister believes the disclosure of which would be injurious to national security, national defence or international relations or is information that is protected by solicitor-client privilege.

This document is a revised version of the Special Report provided to the Prime Minister on 27 June 2022. At the time, the document was classifed as 'Top Secret/Special Intelligence/Canadian Eyes Only/CODEWORD.' Revisions were made to remove information the disclosure of which the Prime Minister believes would be injurious to national security, national defence or international relations or which constitutes solicitor-client privilege. Where information could simply be removed without affecting the readability of the document, the Committee noted the removal with three asterisks (***) in the text of this document. Where information could not simply be removed without affecting the readability of the document, the Committee revised the document to summarize the information that was removed. Those sections are marked with three asterisks at the beginning and the end of the summary, and the summary is enclosed by square brackets (see example below).

EXAMPLE: [*** Revised sections are marked with three asterisks at the beginning and the end of the sentence, and the summary is enclosed by square brackets. ***]

THE NATIONAL SECURITY AND INTELLIGENCE COMMITTEE OF PARLIAMENTARIANS

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National Security and Intelligence Committee of Parliamentarians

Comité des parlementaires sur la sécurité nationale et le renseignement

Chair

Président

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister of Canada
Office of the Prime Minister and Privy Council
Ottawa, ON
K1A 0A2

Dear Prime Minister:

On behalf of the National Security and Intelligence Committee of Parliamentarians, it is my privilege to provide you with our Special Report on the National Security and Intelligence Activities of Global Affairs Canada for tabling in Parliament.

The Report includes five findings and four recommendations. The Committee's recommendations seek to:

- strengthen the accountability of the Minister of Foreign Affairs for her department's security and intelligence activities and those that it supports at partner organizations;
- ensure Canada's defence policies and military operations are aligned with its foreign policy objectives; and
- establish a clear government framework to better respond to terrorist hostage takings abroad.

On behalf of the Committee, I would like to reiterate a growing risk to the Committee's ability to fulfill its mandate: the government's broad claims of Cabinet confidence on documents or information. The Committee recognizes that it is not entitled to Cabinet confidences under its statute, although there is no prohibition on their provision. It also recognizes the importance of Cabinet confidence in maintaining Canada's tradition of Westminster government.

However, the Committee is concerned that the breadth of the definition of Cabinet confidence reflected in its statute and found in the *Canada Evidence Act*, together with the lack of a requirement for departments to inform the Committee of how many and which relevant documents are being withheld and on what basis, may hamper its ability to properly fulfil its mandate. By way of example, during the process to identify information that would be injurious in the context of the current report, departments identified four further instances of previously provided information from the Report, which they asserted were Cabinet confidences and should be removed. In some cases, this information was already released by the government as a public facing policy. In other cases, it was a simple statement that deputy ministers intended to brief their Ministers. In each case, the Committee argued that the claim was inappropriate and the Privy Council Office agreed to remove it.

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P.O. Box 8015, Station "T" / C.P. 8015, Succursale « T »
Ottawa, Canada K1G 5A6

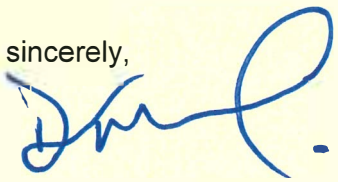
The Committee's concern is that, in the future, the definition will be applied to its full breadth and the Committee members, who take an oath and are bound by statute to not disclose any information that they obtained in the course of their work, will neither receive relevant information, nor be aware of its existence. The Committee will have no ability to challenge these claims. This stands in stark contrast to the Committee's right to see the most classified information, notwithstanding how injurious it may be, and its practice of participating in the process through which injurious information is identified, challenged and removed from the public version of its reports as appropriate.

At the core of the Committee's mandate is to improve Government accountability for national security and intelligence. If departments continue to apply the definition of Cabinet confidence to its full breadth, exercise their discretion to withhold information thus identified and do not inform the Committee of what relevant information has been withheld, the Committee's ability to transparently and comprehensively review the governance frameworks which support Ministerial accountability risks being compromised.

The Committee asks that these issues be addressed to ensure that it can continue to fulfill its important mandate. While a legislative change to the definition of Cabinet confidence is desirable, in the near term, solutions may include proactive disclosure of relevant documents that are withheld and on what basis, and a clear statement of policy that NSICOP should be barred from receiving only core Cabinet secrets.

The Committee notes that it intends to raise this issue in the context of the five-year review of the *National Security and Intelligence Committee of Parliamentarians Act*.

Yours sincerely,



The Honourable David McGuinty, P.C., M.P.

Table of Contents

Introduction

1. Global Affairs Canada (hereafter, GAC or the Department) has the broad mandate to manage all diplomatic and consular relations, encourage international trade, and lead international development and humanitarian assistance efforts.[1] Under this mandate, the Department is responsible to promote and advance Canada's political, economic and security interests abroad.[2] The Department is divided into three business lines: foreign affairs, trade and international development. The Department operates with a budget that exceeds $7 billion, employs some 12,000 staff and manages a global network of over 175 missions in 110 countries.[3] Its activities include the development of Canada's foreign policy, the management of Canada's bilateral and multilateral relations, the provision of consular services to Canadians abroad, the negotiation of treaties and trade agreements, and the pursuit of global poverty reduction, peace and security.[4]

2. The Department conducts activities in pursuit of its broad mandate under a combination of Crown prerogative and statutory authority. Its enabling legislation is the *Department of Foreign Affairs, Trade and Development Act*.[5] Under sub-section 10(1), the Minister of Foreign Affairs' mandate "extend[s] to and include[s] all matters of which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to the conduct of the external affairs of Canada."[6] In essence, the Department's activities – conducted on behalf of the Minister – fall under the Minister's Crown prerogative authority for the conduct of external affairs unless they are otherwise established in statute.[7] A number of statutes also confer specific authorities on the Minister, including with respect to controls on imports and exports of certain goods and the imposition of sanctions.[8]

3. GAC is a core member of the security and intelligence community. Many of Canada's most significant national security threats – from terrorism and foreign interference to weapons of mass destruction – emanate from abroad or involve a foreign nexus. As the Department responsible for advancing security interests abroad and managing bilateral relationships, it plays an important role in preventing and responding to threats to Canadians and Canadian interests. GAC is among the largest consumers of intelligence in the government. Intelligence on the capabilities, intentions and activities of foreign states collected by domestic and allied intelligence partners informs a wide range of the Department's activities, from *** and foreign

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[1] GAC, Orientation to Global Affairs Canada, May 2, 2016; *Department of Foreign Affairs, Trade and Development Act*, S.C. 2013, c.33, s.174, s.10(1).
[2] GAC, 2020-21 Departmental Plan – Raison d'être, mandate and role: who we are and what we do, 9 March 2020.
[3] GAC, *Departmental Results Report 2019–20*, 2020.
[4] GAC, *Departmental Plan 2021–22*, 2021, pp. 55–58.
[5] *Department of Foreign Affairs, Trade and Development Act* (DFATD Act) (S.C. 2013, c. 33, s. 174), URL.
[6] DFATD Act (S.C. 2013, c. 33, s. 174), s. 10(1).
[7] GAC, "Legal Authorities of the Minister of Foreign Affairs and Global Affairs Canada for National Security and Intelligence Activities," Response to RFI6 question 1, April 14, 2021.
[8] The Minister of Foreign Affairs administers the *Export and Import Permits Act*, and a number of acts governing Canada's sanctions regime, including the *United Nations Act*, the *Special Economic Measures Act* and the *Justice for Victims of Foreign Corrupt Officials Act (Sergei Magnitsky Law)*.

policy development, to the security of Canada's missions abroad. The Department also collects valuable intelligence in the form of privileged diplomatic reporting from its global network of missions. As well, it is an essential partner to Canada's security and intelligence organizations, supporting some of their most sensitive activities domestically ***, and ensuring those activities align with Canada's broader foreign policy interests and objectives.

4. GAC's national security and intelligence activities are difficult to define and differentiate from the Department's broader mandate. Its national security activities are both broad and specific, ranging from managing Canada's membership in multilateral forums promoting international peace and security, to a narrow regulatory function controlling the export, import and use of potentially injurious technologies and materials. Many of its foreign policy activities, in turn, serve as tools to respond to national security threats, such as démarches or the suspension of engagement in response to foreign interference activities against Canada. Finally, intelligence collected by partners, allies and the Department itself informs nearly all of GAC's activities, effectively placing the organization as a *** driver of the security and intelligence community's intelligence collection priorities and requirements.

Review methodology

5. In June 2020, the National Security and Intelligence Committee of Parliamentarians (NSICOP, or the Committee) decided to undertake a review of GAC's national security and intelligence activities under subsection 8(*b*) of the *National Security and Intelligence Committee of Parliamentarians Act*. On July 6, 2020, the Chair of the Committee provided letters to the ministers of Foreign Affairs, of Public Safety and Emergency Preparedness, and of National Defence notifying them of the review and requesting preliminary documentation dating primarily from January 2015 to July 2021 for the Committee's review and analysis. The Committee identified three main objectives for its review:

- to examine the authorities under which GAC conducts national security and intelligence activities and the governance of those activities;
- to provide an overview of the nature and scope of GAC's national security and intelligence activities, including a definition of those activities separate from the Department's wider mandate; and
- to explore GAC's involvement in other government departments' operations and its role in ensuring their adherence to the government's foreign, defence and security policies.

6. The Committee's approach for this review mirrors that of its previous activity reviews. It sought to be explanatory and exploratory, with an aim to understand GAC's role in the security and intelligence community. This was a significant challenge. The close interaction between foreign policy, national security and intelligence made it difficult to delineate the Department's national security and intelligence activities from its broader mandate. The Department's national security activities cover a broad spectrum, from those that are primarily driven by foreign policy concerns, such as the management of Canada's membership in multilateral organizations, to

those that are primarily driven by national security concerns, such as building foreign states' counter-terrorism capacity. Its intelligence activities, in turn, range from overt diplomatic reporting to ***. Finally, the Department's broader foreign policy mandate provides it with a central role in ensuring the coherence of its security and intelligence partners' activities with Canada's foreign policy interests.

7. Given the range of the Department's activities, the Committee narrowed its focus to those activities whose primary purpose is to prevent or respond to national security threats or any activity that could involve the collection of intelligence using covert, clandestine, or privileged sources or methods. While the Committee recognizes that GAC's foreign policy activities, such as its participation in multilateral organizations, can lead to important national security outcomes, such activities are included in the scope of this review only when they had tangible implications for national security or intelligence (for example, the inclusion of certain goods on export and import control lists). This approach is consistent with how the Committee defined "national security" and "intelligence" for the purposes of its reviews in its first annual report in 2018.[9] Moreover, the Committee remains interested in the potential implications of organizations' activities on the *Charter* rights of Canadians; however, the Department's activities covered in this review did not significantly engage those rights. The Committee makes no findings or recommendations in this area.

8. The Committee's review encompassed any part of the Department with authorities, roles or responsibilities relevant to security and intelligence. That said, the Department's International Security and Political Affairs Branch was a specific focus. This branch is responsible for addressing international crises and the security of Canadians through policy, analysis and programming on global security challenges such as international crime and terrorism, weapons proliferation, and foreign interference.[10] The branch's annual expenditures amount to approximately $450 million and it is staffed by some 313 full-time employees.[11] The branch has five bureaus:

- Intelligence Bureau (created in 2019): responsible for intelligence activities, including threat assessments, coordination with domestic partners and intelligence programs;
- Human Rights, Freedoms and Inclusion Bureau: responsible for human rights, international digital policy and international cyber policy;
- International Crime and Counter-Terrorism Bureau: responsible for international crime and counter-terrorism policy and programming;
- International Security Policy Bureau: responsible for coordinating international and defence policy with DND/CAF, non-proliferation and disarmament policy and

[9] In its 2018 annual report, NSICOP defined national security activities as those relating to threats to the security of Canada as defined in the *Canadian Security Intelligence Service Act*, or criminality of national scope or gravity, and intelligence as activities involving the use of covert, clandestine, or privileged sources or methods. See: NSICOP, *Annual Report 2018*, p. 13.
[10] GAC, International Security and Political Affairs Branch (IFM), Briefing note for Assistant Deputy Minister (ADM) of International Security and Political Affairs, January 2020.
[11] GAC, Written response to NSICOP, May 14, 2021.

programming, and managing Canada's membership in multilateral security and defence organizations; and
- Peace and Stabilization Operations Program Bureau: responsible for policy, programming and deployments under the Peace and Stabilization Operations Program.[12]

9. From September 2020 to July 2021, the Committee received documents from GAC and its security and intelligence partners, including the Canada Border Services Agency (CBSA), the Canadian Security Intelligence Service (CSIS), the Communications Security Establishment (CSE), the Department of National Defence and the Canadian Armed Forces (DND/CAF), and the Royal Canadian Mounted Police (RCMP). The NSICOP Secretariat also held a number of working-level briefings with GAC, CSIS, CSE, DND/CAF and RCMP officials on the Department's national security and intelligence activities. The Committee held two appearances and one briefing with senior officials from GAC, CSIS and CSE in June 2021, including with the Deputy Minister of Foreign Affairs. A list of witnesses is at Appendix A.

Rationale for review

10. This report marks the Committee's third review of the activities of a core member of the security and intelligence community. The Committee applied the same criteria as in its previous activity reviews to inform its decision to examine GAC's national security and intelligence activities, namely:

- whether the organization was previously subject to review;
- the extent of its national security or intelligence activities and the degree to which they are known; and
- whether the activities are governed by specific legislation or formal government direction.[13]

11. The Department's national security and intelligence activities meet the above criteria. First, the full spectrum of the organization's national security and intelligence activities has never been subject to independent external review. Second, the Department's national security and intelligence activities are broad and not clearly defined. In addition, they are not well known by parliamentarians or Canadians. Finally, the Department's authority to conduct most of its activities, including its national security and intelligence activities, derives from a complex combination of Crown prerogative and statutory authority.

12. This review also sought to build on the Committee's previous examinations of GAC's role in specific security and intelligence activities. Relevant observations and findings from those reviews are summarized below.

[12] GAC, International Security and Political Affairs Executive (EX) Organizational Structure, July 31, 2020.
[13] National Security and Intelligence Committee of Parliamentarians (NSICOP), *Annual Report 2018*, April 9, 2019.

- **Review of the Process for Setting Intelligence Priorities (2018)**: This review discussed how Cabinet and the security and intelligence community set and respond to intelligence priorities and requirements. The Committee identified GAC as the largest client and driver of the standing intelligence requirements (the breakdown of detailed intelligence collection and assessment requirements) and concluded that GAC's collection and assessment demands required further focus and better prioritization.[14]

- **Review of the Department of National Defence and the Canadian Armed Forces' Intelligence Activities (2018)**: This review examined the intelligence activities conducted by DND/CAF in support of its defence mandate. As part of the review, the Committee examined the interdepartmental consultation process between DND/CAF and GAC prior to the deployment of defence intelligence capabilities abroad. The Committee found that no formal mechanism was in place for such consultations, which in at least one case prevented GAC from conducting its own assessment of the foreign policy risks of a deployment. The Committee recommended that DND/CAF implement a standardized process for interdepartmental consultations on the deployment of defence intelligence capabilities, including a minimum standard of documentation.[15]

- **Review of the Government Response to Foreign Interference (2019):** As part of its review of the government's response to the threat posed by foreign interference, the Committee examined the Department's responsibility for taking measures to address foreign interference and for managing Canada's bilateral relationships and promoting its interests abroad. The report outlined the tools at the Department's disposal to respond to this threat, ranging from public attribution and suspended engagement, to multilateral sanctions. Ultimately, the Committee expressed concern that GAC's leadership role in responding to foreign interference meant that foreign policy considerations often take precedence over considerations of domestic harms.[16]

This review seeks to more fully explain the Department's role in the security and intelligence community.

Previous external reviews

13. The full spectrum of GAC's national security and intelligence activities has never been subject to independent external review. In the past 10 years, the Office of the Auditor General and parliamentary committees have examined discrete elements of GAC's national security and intelligence activities relating to export controls, mission security and the government's

[14] NSICOP, *Annual Report 2018*, April 9, 2019.
[15] NSICOP, *Annual Report 2018*, April 9, 2019.
[16] NSICOP, *Annual Report 2019*, March 12, 2020.

response to hostage-takings by terrorist groups.[17] Their focus and relevant conclusions are summarized below.

- **Office of the Auditor General of Canada, *Controlling Exports at the Border* (2015)**: The Auditor General's fall 2015 report examined whether CBSA and its key federal partners, including GAC, had sufficient information, practices and controls in place at the border to prevent the export of goods that contravened Canada's export laws. Concerning GAC, the audit examined whether the Department issues permits for strategic and military goods controlled under the *Export and Import Permits Act* within the timeframes listed in its published service standards (mostly yes).[18]

- **Office of the Auditor General of Canada, *Physical Security at Canada's Missions Abroad* (2018)**: The Auditor General's fall 2018 report examined whether GAC had met the physical security needs at missions abroad to protect its staff and its assets. The audit found that GAC had not taken all measures necessary to respond to evolving security threats and identified security deficiencies that required immediate attention and incomplete or absent security assessments for many missions. The Auditor General recommended that GAC ensure all threat and vulnerability assessments are up to date and conducted in accordance with the Department's security standards.[19]

- **House of Commons Standing Committee on Foreign Affairs and International Development, *Strengthening Consular Service Today and for the Future* (2018)**: This House of Commons committee examined the Department's provision of consular services to Canadians abroad. As part of this study, it discussed GAC's role in coordinating the government's response to hostage-takings of Canadians abroad by terrorist entities. The committee made six recommendations on this issue, including that the government clarify that Canadians who pay a ransom for the release of kidnapping victims will not be subject to criminal prosecution, and that the government review each kidnapping case to identify lessons learned, and to establish best practices for family engagement.[20]

- **Senate Standing Committee on Foreign Affairs and International Trade, *Safety and Security for Global Affairs Canada Employees and Canadians Abroad* (2019):** This Senate committee addressed the findings of the Auditor General's 2018 report on mission security. It discussed additional safety and security issues, including security awareness training, employee mental health and consular communications. The committee endorsed the Auditor General's recommendations

[17] The 2014 Fall Report on Support for Combating Transnational Crime discussed challenges related to information sharing between GAC and the Royal Canadian Mounted Police (RCMP) on Canadians detained abroad.
[18] Office of the Auditor General of Canada, *2015 Fall Reports: Report 2 – Controlling Exports at the Border*, 2015.
[19] Office of the Auditor General of Canada, *2018 Fall Reports: Report 4 – Physical Security at Canada's Missions Abroad – Global Affairs Canada*, 2018.
[20] House Committee Standing Committee on Foreign Affairs and International Development, *Strengthening the Canadian Consular Service Today and for the Future*, 42nd Parliament, 1st session, November 2018.

and called for greater mental health services for GAC employees posted in high-risk countries.[21]

Structure of the review

14. The following chapters examine GAC's national security and intelligence activities. The first chapter focuses on GAC's legal framework, which includes a mixture of authorities ranging from the Crown Prerogative to statute. The second chapter examines the Department's broad 'foreign policy cohesion' role to ensure the national security and intelligence activities of other departments and agencies are aligned with Canada's foreign policy. The third chapter focuses on the Department's facilitation role [*** One sentence was deleted to remove injurious or privileged information. The sentence described the Department's role. ***]. The fourth chapter describes GAC's leadership role; that is, activities exclusively carried out by the Department or at its direction. The review ends with the Committee's assessment, findings and recommendations.

[21] Standing Senate Committee on Foreign Affairs and International Trade, *Safety and Security for Global Affairs Canada Employees and Canadians Abroad*, 42nd Parliament, 1st Session, June 2019.

Chapter 1: Legal Framework

15. The Department's duties and functions are outlined in the *Department of Foreign Affairs, Trade and Development Act* (DFATD Act). The Department derives its authority to perform these duties and functions, including those involving national security and intelligence, from a combination of the broad Crown prerogative and a number of specific statutes. The following section describes the authority structure for GAC's national security and intelligence activities.

16. The Department's enabling legislation has expanded the organization's mandate and operations since its founding in 1909. In its initial iteration under the 1909 *External Affairs Act*, the Department's mandate consisted primarily of managing the country's communications with foreign states.[22] Its international footprint and operations evolved over subsequent decades, as Canada's foreign policy and relations grew increasingly independent of the United Kingdom's. In 1983, the Department of External Affairs merged with the Canadian Trade Commissioner Service to become External Affairs and International Trade Canada, a change codified first through the *Government Organization Act* and then the 1995 *Department of Foreign Affairs and International Trade Act*.[23] In 2013, the Department's mandate was further expanded by its amalgamation with the Canadian International Development Agency, which was reflected in the *Department of Foreign Affairs, Trade and Development Act* (DFATD Act).[24]

17. The DFATD Act lays out the mandate, duties and functions of the Minister of Foreign Affairs.[25] Under subsection 10(1), the Minister of Foreign Affairs' mandate extends to and includes "all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to the conduct of the external affairs of Canada." Subsection 10(2) of the Act lays out additional specifics of the Minister's broad mandate, which includes the responsibility to conduct all diplomatic and consular relations, lead international negotiations, coordinate international economic relations, and manage Canada's diplomatic and consular missions. In pursuit of this broad mandate, subsection 10(3) of the Act allows the Minister to develop and implement programs for the promotion of Canada's interests abroad.

[22] GAC, "'Punching Above Our Weight' – A History of the Department of Foreign Affairs," History of Global Affairs Canada, webpage, undated.URL
[23] GAC, Response to the Secretariat's written questions, May 5, 2021; and GAC, History of Global Affairs Canada, webpage, undated.URL
[24] GAC, Orientation to Global Affairs Canada, training material, February 5, 2016.
[25] The specific duties of the ministers of International Trade and of International Development are outlined in sections 13 and 14 of the Act and include fostering trade relations and undertaking activities related to international development and humanitarian assistance, respectively. *Department of Foreign Affairs, Trade and Development Act* (S.C. 2013, c. 33, s. 174).

Crown prerogative

18. The DFATD Act does not confer specific lawful authority on the Minister of Foreign Affairs. Rather, the Minister's authority derives primarily from the Crown prerogative.[26] The Crown prerogative is a source of discretionary executive power of the Crown.[27] British constitutional theorist A. V. Dicey describes the Crown prerogative as "the residue of discretionary or arbitrary authority, which at any time is left in the hands of the Crown."[28] The Crown prerogative over foreign affairs is one of a few remaining areas of government, alongside powers relating to the armed forces, in which the Crown prerogative is an important source of authority. This reliance on the Crown prerogative as the source of the Minister's authority is long-standing, dating back to when Canada first began conducting its own foreign affairs independently from the United Kingdom.[29]

19. The Committee previously examined the government's exercise of a Crown prerogative, and the limits on its powers, in its 2018 review of defence intelligence. The Committee described the Crown prerogative as "the authority exercised by the government to make decisions in areas where the prerogative has not been displaced, or otherwise limited, by Parliament through the enactment of statute or by the courts."[30] It noted that the Crown prerogative has some limits. Over time, Parliament has narrowed the government's exercise of the Crown prerogative by subjecting it to statutory authority.[31] Even where the prerogative has not been displaced by statute, the Crown may not conduct an activity under the Crown prerogative if the activity would violate Canadian law.

20. Subsection 10(1) of the DFATD Act reflects Parliament's intention to limit the Minister's remit under the Crown prerogative by stipulating that the Minister's powers extend to matters "over which Parliament has jurisdiction, *not by law assigned to any other department, board or agency of the Government of Canada*."[32] [emphasis added]

21. The Minister of Foreign Affairs exercises their Crown prerogative authority in the development and pursuit of Canada's foreign policy, the management of relations with foreign countries, and the support for Canadians and Canadian interests abroad. The Minister's

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[26] GAC, "Legal Authorities of the Minister of Foreign Affairs and Global Affairs Canada for National Security and Intelligence Activities," Response to RFI6 question 1, April 14, 2021.
[27] Peter W. Hogg, *Constitutional Law of Canada*, Loose-leaf ed., Thomson Carswell, at 1.9, note 76, cited in NSICOP, *Annual Report 2018*, April 2019, p. 73.
[28] *Reference as to the Effect of the Exercise of the Royal Prerogative of Mercy Upon Deportation Proceedings*, [1933] S.C.R. 269, at p. 272, per C. J. Duff, quoting A. V. Dicey, *Introduction to the Study of the Law of the Constitution*, 8th ed., 1915, p. 240, cited in NSICOP, *Annual Report 2018*, April 2019.
[29] GAC, "Legal Authorities of the Minister of Foreign Affairs and Global Affairs Canada for National Security and Intelligence Activities," Response to RFI6 question 1, April 14, 2021.
[30] NSICOP, *Annual Report 2018*, April 2019.
[31] A pertinent example of this displacement of the prerogative is the continuance of CSE in legislation in 2001, which incorporated in statute intelligence activities previously conducted under the prerogative authority. See: CSE, Before the Beginning; the Examination Unit and the Joint Discrimination Unit. www.cse-cst.gc.ca/en/about-apropos/history-histoire/before-avant; CSE, The Beginning: The Communications Branch of the National Research Council. www.cse-cst.gc.ca/en/about-apropos/history-histoire/beginning-histoire; and CSE, Frequently Asked Questions, www.cse-cst.gc.ca/en/about-apropos/faq, cited in NSICOP, *Annual Report 2018*, p. 73.
[32] *Department of Foreign Affairs, Trade and Development Act*, S.C. 2013, c. 33, s. 174, ss. 10(1).

activities in relation to the management of bilateral relations ranges from routine diplomatic engagement to the negotiation of trade agreements. The management of the country's membership in multilateral organizations includes the promotion of Canadian interests and values in international forums, and the domestic application of international obligations. The support for Canadians and Canadian interests abroad ranges from the provision of consular services to ensuring the safety and security of government employees, and their dependants, working at missions abroad.

22. Several of the Department's activities in the pursuit of foreign policy objectives and support for Canadians abroad contribute to national security and the management of bilateral relations. For example, the Department promotes peace and stability abroad through programming designed to build states' capacity to address national security threats, like terrorism or weapons of mass destruction, before they reach Canada's shores.[33] The Department's responsibility to conduct consular affairs places it at the forefront of the government's response to hostage-takings of Canadians by terrorist entities abroad.[34] Finally, the Department's responsibility for managing bilateral relations makes it responsible for many of the measures to address important domestic security issues, from responding to foreign interference by hostile states through sanctions or démarches, to public attribution of state-sponsored cyber attacks against Canadian institutions.[35]

23. The Department's responsibility to manage the country's membership in multilateral organizations can also carry important national security implications. GAC advances Canada's foreign policy objectives at the United Nations (UN), the Group of 7 (G7), the North Atlantic Treaty Organization, and the Global Counterterrorism Forum among others.[36] While GAC's participation in and of itself might not have direct national security implications, the resolutions or agreements struck at these forums can generate important domestic national security outcomes. Illustrative examples include the domestic application of UN Security Council resolutions relating to terrorist listings in Canada, and the imposition of domestic controls on the export of certain goods to certain countries, deriving from Canada's multilateral non-proliferation commitments.[37]

24. The Minister also exercises their prerogative authority in the use of intelligence and the collection of privileged diplomatic reporting. The Department is among the largest consumers of intelligence in the government. The Department uses intelligence to inform a wide range of its activities, from the development of foreign policy and the management of bilateral relations, to

[33] Canada's 2004 national security policy states that Canada's "diplomatic pursuit of international peace and security is also driven, in large part, by our national security interests." See: Canada, Securing an Open Society: Canada's National Security Policy, April 2004, p. 47. URL
[34] Canada's 2016 International Emergency Response Framework states that "the authority of the Minister of Foreign Affairs for coordinating the Government's response to emergencies derives from the royal prerogative over Canada's foreign affairs." See: GAC, Canada's International Emergency Response Framework, December 2016, p. 6.
[35] In its 2019 review of the government's response to foreign interference, the Committee described GAC's role as the "foreign policy end of a domestic security problem." See: NSICOP, *Annual Report 2019*, p. 115.
[36] GAC, International Security and Political Affairs Branch (IFM), January 2020.
[37] GAC, Canada's Terrorist Listing Regimes, 2019; GAC, *Export and Brokering Controls Handbook*, August 2019, p. 14; and GAC, "Global Counter Terrorism Forum," Briefing note for IFM, no date.

the negotiation of trade agreements, assessments of threats to Canadian missions and responses to international crises.[38] The Department in turn leverages its global network to collect privileged and specialized diplomatic reporting on economic, political, human rights and security issues of strategic interest, in accordance with the *Vienna Convention on Diplomatic Relations*.[39]

Statutory authority

25. Distinct from their Crown prerogative, the Minister of Foreign Affairs derives specific authorities from several statutes linked to national security and intelligence. The Minister's statutory authorities in this regard allow the Department to:

- control the trade or use of certain materials or equipment that could be injurious to national security;
- impose penalties on foreign states or individuals in pursuit of foreign policy or national security objectives;
- contribute to the activities of security and intelligence partners with a foreign policy component; and
- share information with partners in the security and intelligence community.

26. Each of these functions, and the associated legislation, are discussed below.

Control of the trade or use of certain materials

27. The Department administers three acts regulating the export, import, trade and use of certain goods, materials and technology that could threaten Canada's national security. All three acts derive from broader bilateral or multilateral obligations relating to the control of certain goods or the regulation of certain activities.

Export and Import Permits Act

28. The *Export and Import Permits Act* and its associated regulations establish the regime for controlling the export and import of specific goods and technologies, including those that could be detrimental to national security. The Minister of Foreign Affairs is responsible for administering the Act and developing the associated regulations. The Minister has two main roles in the administration of the Act. First, the Minister may recommend to the Governor in Council to establish control lists for the export, import and brokering of certain goods, including

[38] GAC, "Transition Briefing to USS," Presentation, May 2019.
[39] The 1961 *Vienna Convention on Diplomatic Relations* outlines the rules of diplomatic law, including the rules relating to the exchange and treatment of diplomats between states. It was ratified by Canada in 1966 and is implemented in Canadian law by the *Foreign Missions and International Organizations Act*. Article 3 of the Convention states that the functions of a diplomatic mission include "ascertaining by all lawful means conditions and developments in the receiving State, and developing their economic, cultural and scientific relations." *Vienna Convention on Diplomatic Relations* (1961) 500 U.N.T.S. 95; 1966 Can. T.S. No. 29, in force 1964, in force for Canada 1966, and GAC, "Transition Briefing to USS," May 2019.

dual-use items and missile technology, and the export of goods to certain countries (e.g., North Korea).[40] The items included on the export control list derive primarily from Canada's obligations under multilateral export control regimes.[41] Second, the Minister can issue permits for items listed on the control lists and subject them to certain terms and conditions.[42] The Canada Border Services Agency (CBSA) and the Royal Canadian Mounted Police (RCMP) are responsible for enforcing the Act.[43]

29. The Department's Export Controls Division reviews export applications and issues permits on the Minister's behalf.[44] Permit officers assess applications for consistency with applicable laws, regulations, international obligations, and foreign, defence and national security policies.[45] High-risk applications undergo additional review from experts in partner departments and senior-level committees prior to the issuance of a permit.[46] In 2019, Parliament passed *An Act to amend the Export and Import Permits Act and the Criminal Code (amendments permitting the accession to the Arms Trade Treaty and other amendments)*, which added the Arms Trade Treaty criteria to the assessment of export and brokering permit applications.[47] These criteria include whether the export would undermine peace and security or if it could be used to commit or facilitate a serious violation of international humanitarian or human rights law. Section 27 of the Act requires the Minister to table an annual report in Parliament on the export of military goods and technology from Canada.[48]

Remote Space Sensing Systems Act

30. The *Remote Space Sensing Systems Act* and its associated regulations establish the framework for regulating the operation of remote sensing satellite systems by Canadians or foreign operators in Canada and the distribution of data collected by those systems.[49] The Act

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[40] The Minister may establish, in regulations, an export control list, a brokering control list, an import control list, and an area control list. See: *Export and Import Permits Act* (R.S.C. 1985, c. E-19), ss. 3-5, URL; and GAC, Canada's Export and Brokering Controls, Briefing Note, November 18, 2020.

[41] The Wassenaar Arrangement promotes transparency and greater responsibility in transfers of military items and dual-use goods and technology. The Nuclear Suppliers Group aims to ensure nuclear trade for peaceful purposes does not contribute to the proliferation of nuclear weapons. The Missile Technology Control Regime works to address concerns about the proliferation of missiles and other weapons systems capable of delivering weapons of mass destruction. The Australia Group has the objective of preventing the proliferation of chemical and biological weapons through the control of chemical substances. See: GAC, Canada's Export and Brokering Controls, November 18, 2020.

[42] *Export and Import Permits Act* (R.S.C. 1985, c. E-19), s. 7.

[43] *Export and Import Permits Act* (R.S.C. 1985, c. E-19), s. 24.

[44] GAC, Export and brokering controls handbook, August 2019.

[45] GAC, Canada's Export and Brokering Controls, Briefing Note, November 18, 2020.

[46] If concerns are raised during the assessment of a high-risk application, a director general review committee reviews the file and may forward it for additional review to an assistant deputy minister committee. If neither review committee endorses the issuance of a permit, the review process is escalated to the Minister of Foreign Affairs for a final decision. GAC, Canada's Export and Brokering Controls, November 18, 2020.

[47] GAC, Canada's Export and Brokering Controls, November 18, 2020.

[48] *Export and Import Permits Act* (R.S.C. 1985, c. E-19), s. 24

[49] Section 2 of the Act defines remote space sensing systems as "satellites and the mission control center and other facilities used to operate the satellites; and the facilities used to receive, store, process or distribute raw data from the satellites, even after the satellites themselves are no longer in operation." See: *Remote Space Sensing Systems Act* (S.C. 2005, c-45), s. 2, URL; and Ram S. Jakhu and Aram Daniel Kerkonian, *Independent Review of the* Remote Space Sensing Systems Act, Institute of Air and Space Law, Faculty of Law, McGill University, February 17, 2017.

originates from a 2002 bilateral agreement with the United States seeking to ensure state control over private remote sensing activities in the interest of protecting the two countries' shared national security and foreign policy interests.[50] The Minister of Foreign Affairs administers the Act and its associated regulations, and issues licences for satellite systems operating from Canada or by Canadians around the world.[51] GAC's Space Section reviews applications to ensure remote sensing activities are not injurious to national security, defence or international affairs, and that they are consistent with Canada's international obligations. Through the licensing process, GAC officials consult with officials from the Department of National Defence and the Canadian Armed Forces (DND/CAF), Public Safety Canada, Innovation, Science and Economic Development Canada, and the Canadian Space Agency.[52]

31. The Department's administration of the Act is governed by an internal advisory committee and is subject to regular review. In 2019, the Department established the Ad Hoc Review Advisory Committee comprising experts from government, academia and industry to provide external expert information, advice and recommendations on the Act, its regulations and its implementation.[53] The Act requires an independent review of the Act every five years.[54] The Institute of Air and Space Law at McGill University conducted the two most recent reviews of the Act, in 2012 and 2017, with the latter focusing primarily on the Act's impact on technological developments and the implementation of international agreements.[55]

Chemical Weapons Convention Implementation Act

32. The *Chemical Weapons Convention Implementation Act* establishes the legal regime for the implementation of Canada's obligations under the *Chemical Weapons Convention*.[56] The Minister of Foreign Affairs administers the Act and its associated regulations, which includes the designation of a National Authority.[57] The National Authority to the *Chemical Weapons Convention* is housed at GAC. Its role is to advise domestic stakeholders on declaration and licensing regulations, collect declaration data from Canadian entities subject to the *Chemical Weapons Convention*, forward declarations to the Organization for the Prohibition of Chemical Weapons (OPCW), and support Canada's permanent representation in the OPCW.[58]

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[50] Ram S. Jakhu and Aram Daniel Kerkonian, *Independent Review of the* Remote Space Sensing Systems Act, Institute of Air and Space Law, Faculty of Law, McGill University, February 17, 2017, p. 4.URL
[51] *Remote Space Sensing Systems Act* (S.C. 2005, c-45), s. 3; and GAC, "Space Policy and the Remote Space Sensing Systems Act," January 13, 2021.
[52] GAC, "Space Policy and the Remote Space Sensing Systems Act," January 13, 2021. URL
[53] GAC, "Space Policy and the Remote Space Sensing Systems Act," January 13, 2021.
[54] *Remote Space Sensing Systems Act* (S.C. 2005, c-45), s. 45.1.
[55] Ram S. Jakhu and Aram Daniel Kerkonian, *Independent Review of the* Remote Space Sensing Systems Act, Institute of Air and Space Law, Faculty of Law, McGill University, February 17, 2017, p. 3.
[56] *Chemical Weapons Convention Implementation Act* (S.C. 1995, c. 25), s. 4, URL.
[57] *Chemical Weapons Convention Implementation Act* (S.C. 1995, c. 25), s. 3.
[58] GAC, Canadian National Authority to the Chemical Weapons Convention, January 14, 2021.

Imposition of penalties

33. The Department administers four acts related to the imposition of penalties, including asset freezes, arms embargoes, export restrictions or financial prohibitions, in accordance with its international obligations or in response to a domestic or international security threat.

United Nations Act

34. The *United Nations Act* (UN Act) allows for the domestic implementation of UN Security Council resolutions. The Minister of Foreign Affairs is responsible for the administration of this Act and its associated regulations. By virtue of this authority, the Minister oversees two terrorist listing regimes: the *United Nations Al-Qaida and Taliban Regulations* and the *Regulations Implementing the United Nations Resolution on the Suppression of Terrorism*.[59] Both resolutions require federally regulated financial institutions to freeze the assets of individuals and organizations listed in the regulations. The Minister's authority under the UN Act also allows for the imposition of economic sanctions or arms embargoes against countries the Security Council has determined committed an act of aggression or a breach of peace.[60] Once regulations are in place, CBSA and the RCMP share responsibility for the enforcement of sanctions.

Special Economic Measures Act

35. The *Special Economic Measures Act* allows the Minister of Foreign Affairs to recommend that the government impose sanctions outside of the UN Security Council resolution process.[61] Under the Act, the Minister is responsible for enforcing any sanctions imposed by the Governor in Council, including arms embargoes, asset freezes and financial prohibitions, and export and import restrictions, if one of four thresholds has been met:[62]

- an international organization of which Canada is a member calls on its member states to take economic measures against a foreign state;
- a grave breach of international peace and security has occurred and is likely to trigger a serious international crisis;
- gross and systemic human rights violations have been committed in a foreign state; or
- a national of a foreign state is responsible for or complicit in acts of significant corruption.

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[59] Public Safety Canada is responsible for Canada's domestic listing regime established under the *Criminal Code*. GAC, Canada's Terrorist Listing Regimes, 2019.
[60] Under *United Nations Act* regulations, the Minister of Foreign Affairs has imposed sanctions on 12 states: Central African Republic, the Democratic Republic of the Congo, Eritrea, Iran, Iraq, Lebanon, Libya, North Korea, Somalia, South Sudan, Sudan and Yemen. See: GAC, Canadian Sanctions Legislation, March 24, 2021. URL.
[61] In April 2017, the House of Commons Standing Committee on Foreign Affairs and International Development conducted a study of Canada's sanctions regime. See: House of Commons Standing Committee on Foreign Affairs and International Development, *A Coherent and Effective Approach to Canada's Sanctions Regime: Sergei Magnitsky and Beyond*, 42nd Parliament, 1st Session, April 2017. URL
[62] *Special Economic Measures Act* (S.C. 1992, c. 17), ss. 4(1.1), URL.

In this context, GAC officials advise the Minister on the establishment of sanctions and develop associated regulations, in consultation with the Department of Justice.[63] Once regulations are in place, CBSA and the RCMP share responsibility for their enforcement. The Act requires that the Governor in Council report to Parliament when the government decides to lift sanctions.[64]

Justice for Victims of Foreign Corrupt Officials Act (Sergei Magnitsky Law)

36. The *Justice for Victims of Foreign Corrupt Officials Act (Sergei Magnitsky Law)* is the government's third tool for the imposition of sanctions. Under this Act, the Minister of Foreign Affairs may recommend that the government freeze assets and impose financial prohibitions against foreign nationals responsible for, or complicit in, gross violations of human rights or significant corruption.[65] The Act requires that designated Senate and House of Commons committees conduct a comprehensive review of the Act every five years.[66]

State Immunity Act

37. Another of the Minister's tools in pursuit of national security or foreign policy objectives is the *State Immunity Act*. The Act allows the Governor in Council, on the recommendation of the Minister of Foreign Affairs, to establish a list of foreign state supporters of terrorism.[67] The Minister of Foreign Affairs must review the list every two years, in consultation with the Minister of Public Safety.[68] Under the *Justice for Victims of Terrorism Act*, a person may initiate legal proceedings in Canada against a state listed as a supporter of terrorism.[69]

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[63] House of Commons Standing Committee on Foreign Affairs and International Development, *A Coherent and Effective Approach to Canada's Sanctions Regime: Sergei Magnitsky and Beyond*, 42nd Parliament, 1st Session, April 2017, p. 18.
[64] *Special Economic Measures Act* (S.C. 1992, c. 17), ss. 7(9).
[65] *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)* (S.C. 2017, c. 21), ss. 4(2), URL.
[66] *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)* (S.C. 2017, c. 21), s. 16.
[67] *State Immunity Act* (R.S.C. 1986, c. S-18), s. 6.1(2), URL.
[68] Currently, Iran and Syria are the only two states listed under the Order Establishing a List of Foreign State Supporters of Terrorism. See: *State Immunity Act* (R.S.C. 1986, c. S-18), ss. 6.1(7); and *Order Establishing a List of Foreign State Supporters of Terrorism*, SOR/2012-170, Schedule 1.
[69] *Justice for Victims of Terrorism Act* (S.C. 2012, c. 1, s. 2), ss. 4(1), URL.

Contributions to security and intelligence activities

38. Three acts confer authorities on the Minister of Foreign Affairs to request or consult on the intelligence activities and operations of security and intelligence partners.

Canadian Security Intelligence Service Act

39. The Minister of Foreign Affairs has a formal role under two sections of the *Canadian Security Intelligence Service Act*. Section 16 of the Act allows the Minister of Foreign Affairs to request assistance from the Canadian Security Intelligence Service (CSIS) in the collection of foreign intelligence within Canada.[70] Section 17 of the Act requires that the Minister of Public Safety consult the Minister of Foreign Affairs prior to allowing CSIS to enter into arrangements with foreign states and institutions or international organizations.[71] The Committee examines GAC's role in these areas later in this report.

Communications Security Establishment Act

40. The Minister of Foreign Affairs has a formal role under three sections of the *Communications Security Establishment Act*.[72] Under subsection 29(2), the Minister of National Defence is required to consult the Minister of Foreign Affairs prior to issuing authorizations for defensive cyber operations. Under subsection 30(2), the Minister of Foreign Affairs must request or consent to the Minister of National Defence's issuance of authorizations for active cyber operations. Under subsection 54(2), the Minister of National Defence must consult the Minister of Foreign Affairs prior to allowing the Communications Security Establishment to enter into arrangements with foreign states, institutions or organizations. The Committee examines GAC's role in these areas later in this report.

Investment Canada Act

41. The *Investment Canada Act* allows for the review of investments in Canada by non-Canadians that could be injurious to national security.[73] GAC is listed as an investigative body under the Act's regulations governing the national security review process.[74] Under this process, the Department provides a consolidated trade and security perspective by identifying potential implications for Canada's foreign and commercial relations and potential national security risks related to the proliferation of certain goods and materials.[75] The Committee examines GAC's role in this process later in this report.

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[70] *Canadian Security Intelligence Service* (CSIS Act) (R.S.C. 1985, c. C-23), s. 16, URL.
[71] CSIS Act (R.S.C. 1985, c. C-23), s. 17.
[72] *Communications Security Establishment Act* (S.C. 2019, c. 13, s. 76), URL.
[73] *Investment Canada Act* (R.S.C. 1985, c. 28), s. 2, URL.
[74] *National Security Review of Regulations*, SOR/2009-271, para. 7(i).
[75] GAC, "Foreign Investment Reviews (*Investment Canada Act*)," June 2016.

Information sharing

42. The *Security of Canada Information Disclosure Act* (SCIDA) provides GAC with the authority to disclose and receive information from other federal institutions in the interest of national security.[76] Pursuant to the Act, the Department may disclose information on its own initiative or at the request of a designated government institution if it is satisfied that this disclosure would assist the institution in carrying out its mandate related to activities that undermine the security of Canada.[77] GAC is listed under the Act as a recipient organization of those disclosures. A number of principles guide the sharing of information under the Act, including the importance of effective and responsible disclosure and the respect for caveats and originator control.[78] The Act further allows organizations to enter into information sharing arrangements where appropriate. GAC entered into such an arrangement with CSIS in 2016.[79] The *National Security and Intelligence Review Agency Act* (NSIRA Act) requires that the National Security and Intelligence Review Agency (NSIRA) report annually on activities under SCIDA.[80]

43. The Department's ability to disclose certain information to foreign partners is also subject to statutory limits. The *Avoiding Complicity in Mistreatment by Foreign Entities Act* seeks to prevent the mistreatment of individuals resulting from the sharing of information between a government department and a foreign entity.[81] In July 2019, the Governor in Council issued the Order in Council *Directions for Avoiding Complicity in Mistreatment by Foreign Entities* to the Deputy Minister of Foreign Affairs. The direction prohibits the disclosure of information that would result in the substantial risk of mistreatment by a foreign entity; the making of requests for information that would result in a substantial risk of mistreatment; and certain uses of information that was likely obtained through mistreatment by a foreign entity.[82] In accordance with the Act, the Department reports annually to the Minister of Foreign Affairs on the implementation of those directions, a copy of which is provided to this Committee and NSIRA. In addition, the NSIRA Act requires that NSIRA review annually the implementation of all directions issued under the *Avoiding Complicity in Mistreatment by Foreign Entities Act*.[83]

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[76] GAC is listed as a recipient institution under Schedule 3 of the Act. *Security of Canada Information Disclosure Act* (SCIDA) (S.C. 2015, c. 20, s. 2), URL.
[77] SCIDA (S.C. 2015, c. 20, s. 2), s. 5(1).
[78] SCIDA (S.C. 2015, c. 20, s. 2), s. 4.
[79] GAC, Information Sharing Arrangement between Global Affairs Canada's Consular Operations and the Canadian Security Intelligence Service Concerning the *Security of Canada Information Sharing Act*, 2016.
[80] See: *National Security and Intelligence Review Agency Act* (S.C. 2019, c. 13, s. 2), s. 39(1); and NSIRA, *NSIRA's 2019 Annual Report on the Disclosure of Information under the* Security of Canada Information Disclosure Act, 2019.
[81] *Avoiding Complicity in Mistreatment by Foreign Entities Act* (S.C. 2019, c. 13), s. 49.1, URL.
[82] GAC, "Ministerial direction to Global Affairs Canada: Avoiding Complicity in Mistreatment by Foreign Entities," *Annual Report 2018–2019*, 2019.
[83] NSIRA, Review of Departmental Implementation of the *Avoiding Complicity in Mistreatment by Foreign Entities Act* for 2019, December 16, 2020.

Chapter 2: Foreign Policy Coherence

44. The Department's broadest role in the security and intelligence community is to ensure foreign policy coherence. The Minister of Foreign Affairs is both responsible for advancing Canada's foreign policy interests and accountable for the foreign policy implications of the government's activities domestically and abroad. In effect, the Minister of Foreign Affairs is responsible for managing the government's foreign policy risk for security and intelligence activities with a foreign nexus. Given this broad responsibility and accountability, one of GAC's core functions is to ensure that security and intelligence organizations consider the full range of Canada's foreign policy interests when determining how to respond to a security threat or when planning an intelligence activity abroad.

45. How GAC does so in practice is through a variety of formal and informal mechanisms. Domestically, the Department consults regularly with its core partners in the community through formalized processes and committee structures. Globally, the heads of Canadian missions (embassies, consulates) play a central role in ensuring the foreign policy coherence of the security and intelligence community's activities abroad. Finally, the Department's foreign policy perspective and responsibilities are a central consideration in the government's broader response to a wide range of national security threats, most prominently hostile activity by state actors. This chapter examines the different facets of GAC's role in ensuring the national security and intelligence activities of other departments and agencies are aligned with Canada's foreign policy.

Formal engagement with security and intelligence partners

46. One of the principal ways GAC ensures foreign policy coherence is through regular consultation with its core security and intelligence partners on strategic and operational matters. In the past decade, the Department's consultations with the Canadian Security Intelligence Service (CSIS), the Communications Security Establishment (CSE) and, to a more limited extent, the Department of National Defence and the Canadian Armed Forces (DND/CAF), have become increasingly formalized. This evolution reflects changes in the activities and authorities of the Department's security and intelligence partners, and a growing recognition of GAC's role in managing foreign policy risk.

Canadian Security Intelligence Service

47. GAC's relationship with CSIS, Canada's security intelligence service, dates back to that organization's founding in 1984. The *Canadian Security Intelligence Service Act* (CSIS Act) provides a role for the Minister of Foreign Affairs in requesting the collection of foreign intelligence within Canada (see paragraphs 88-96) and requires CSIS to consult GAC prior to entering into arrangements with foreign entities.[84] In the subsequent decades, the two

[84] *Canadian Security Intelligence Service Act* (CSIS Act) (1985, R.S.C. 1985, c. C-23), ss. 16 and 17.

organizations have concluded a number of arrangements formalizing and strengthening consultation on activities and operations domestically and abroad.

Joint Management Team

48. Cooperation between the two organizations was formalized in 2009 with the signing of a joint GAC-CSIS Memorandum of Understanding on Intelligence Cooperation ***. In addition to outlining the reporting relationships and accountability for ***, the agreement established the Joint Management Team structure as the principal forum for intelligence cooperation and coordination between the two organizations.[85] Under the 2009 agreement, Joint Management Team meetings were to be held monthly at the director general-level between GAC's Intelligence Bureau and CSIS's *** division. The Joint Management Team's mandate was to manage all aspects of intelligence cooperation between the two organizations, from coordination of and collaboration on activities and operations to resolving potential challenges in the relationship. In 2013, GAC and CSIS created an Executive Joint Management Team, co-chaired by the Deputy Minister of Foreign Affairs and the Director of CSIS, and tasked it with addressing high-priority strategic issues.[86] Though this executive team had no fixed schedule, meeting records from 2015 to 2020 suggests discussions took place annually, with a gap in 2017. In 2019, the two organizations made the director general–level meetings that had been supporting the Executive Team a formal part of the Joint Management Team structure in an effort to improve working-level collaboration.[87] This group meets quarterly to discuss all aspects of cooperation, including activities to collect foreign intelligence in Canada, CSIS' foreign relationships, and foreign policy risk assessments.

Arrangements and information sharing with foreign entities

49. Under the *CSIS Act*, the Minister of Public Safety must consult the Minister of Foreign Affairs prior to authorizing CSIS to enter into an arrangement or otherwise cooperate with a foreign government, institution or international organization.[88] In practice, the consultation process begins with a written request from CSIS's *** Unit to GAC's Intelligence Bureau with the rationale and scope of the proposed arrangement.[89] Once the Intelligence Bureau confirms its support, Public Safety prepares the formal correspondence from the Minister of Public Safety to the Minister of Foreign Affairs. GAC, in turn, prepares briefing material and correspondence for its minister outlining the foreign policy considerations of the arrangement and raising potential human rights concerns associated with the foreign partner.[90]

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[85] GAC and CSIS, "Memorandum of Understanding between GAC and CSIS on Intelligence cooperation ***," 2009.
[86] GAC and CSIS, "Memorandum of Understanding between GAC and CSIS on Intelligence cooperation ***," 2017 update.
[87] GAC, "Improving Cross-Agency Collaboration with GAC through Better Governance," January 16, 2019.
[88] CSIS Act (1985, R.S.C. 1985, c. C-23), s. 17.
[89] The section 17 arrangements fall into three broad categories: [*** One sentence was deleted to remove injurious or privileged information. The sentence described the three categories. ***]. CSIS, CSIS Procedures: ***, 2014.
[90] GAC, "Canadian Security Intelligence Service establishment of a Section 17 foreign liaison arrangement with ***," Memorandum for Action for the Minister of Foreign Affairs, 2020; GAC, "Canadian Security Intelligence Service establishment of a Section 17 foreign liaison arrangement with ***," Memorandum for Action for the Minister of Foreign Affairs, 2020; and GAC, Letter from the Minister of Foreign Affairs to the Minister of Public Safety and Emergency Preparedness on a section 17 foreign liaison arrangement with ***, 2020.

50. While the consultation process for foreign arrangements is long-standing, GAC has not developed any policies or procedures to govern or guide its consultations on such arrangements. The Committee gleaned GAC's internal process from a series of memoranda to the Minister of Foreign Affairs, rather than from clear procedures outlining the Department's consultation process and considerations for supporting or opposing an arrangement. The Department has no internal mechanisms to review the status of previously approved arrangements or any reporting requirements to the Minister of Foreign Affairs on the status of those arrangements.[91] By way of comparison, CSIS has formal procedures to govern its internal process for requesting a section 17 arrangement and reports annually to the Minister of Public Safety on the status of section 17 arrangements, in accordance with the agency's Ministerial Direction for Accountability.[92]

51. Separate from the section 17 process, CSIS consults GAC on information sharing with foreign entities through its Intelligence Sharing Evaluation Committee. This committee is responsible for determining whether to share information with a foreign entity while ensuring CSIS's compliance with the *Avoiding Complicity in Mistreatment by Foreign Entities Act*.[93] GAC provides a foreign policy and human rights perspective to the committee's deliberations.[94]

Foreign policy risk assessments

52. [*** This paragraph was revised to remove injurious or privileged information. ***] Two important operational and legislative developments spurred closer operational consultation between GAC and CSIS. The first ***.[95] The event had important implications for Canada's bilateral relations and confirmed the need for stronger consultation between the two organizations.[96] The second important development was the passing of the *Anti-Terrorism Act, 2015*, which granted CSIS the authority to take measures within or outside of Canada to reduce a threat to national security.[97] In this context, senior officials recognized a need for greater accountability, including a new role for GAC to assess the foreign policy risk of such measures.[98] The role was formalized in CSIS's 2015 Ministerial Directive on Operations and Accountability, which directs CSIS to maintain "a robust consultation mechanism with [GAC] to facilitate joint consideration and management of the risk of operational activity outside of Canada."[99] The directive added an additional requirement for consultations with the Deputy Minister of Foreign Affairs,[100] and laid out GAC's four foreign policy risk considerations.

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[91] GAC, Response to RFI1, RFI5 and RFI6, April 14, 2021.
[92] CSIS, "Ministerial Direction for Operations and Accountability," 2015.
[93] In making its determination, the Intelligence Sharing Evaluation Committee considers potential threats to Canada's national security, the value of information sharing, the status of the relationship with the foreign entity, the entity's human rights record and the risk of mistreatment. See: GAC, Information Sharing Evaluation Committee, September 2017.
[94] GAC, "Global Affairs Canada: Cooperation with Canada's Security and Intelligence Community," Presentation to NSICOP Secretariat, March 3, 2021.
[95] CSIS, NSICOP appearance, June 11, 2021.
[96] GAC, NSICOP appearance, June 11, 2021.
[97] *CSIS Act* (1985, R.S.C. 1985, c. C-23), s. 12.1
[98] GAC, "Global Affairs Canada's Foreign Intelligence Programs," Transition briefing to IFM, August 1, 2019.
[99] CSIS, "Ministerial Direction for Operations and Accountability," 2015.
[100] CSIS, "Ministerial Direction for Operations and Accountability," 2015.

53. In 2016, GAC and CSIS developed two formal consultation mechanisms to guide the Department's provision of foreign policy risk assessments. The *** first consultation mechanism guides GAC's provision of foreign policy risk assessments for CSIS operations in the context of *national security investigations* under section 12 of the CSIS Act.[101] The *** second consultation mechanism guides the provision of foreign policy risk assessment for CSIS's *threat reduction measures* under section 12.1 of the CSIS Act.[102] Under both mechanisms, CSIS consults GAC on all operations with a foreign policy nexus, in other words, operations taking place outside of Canada or which could affect foreign policy interests or objectives. [*** Two sentences were deleted to remove injurious or privileged information. The sentences described different requirements between the two mechanisms. ***]

54. In practice, CSIS *** initiates the above consultation processes by providing *** of the CSIS operation and *** to GAC's Intelligence Bureau.[103] The Department's Intelligence Bureau subsequently conducts internal consultations with relevant stakeholders, including the geographic desks, relevant heads of mission, the Department of Justice and the Department's legal services unit (both as required), to assess the operation's potential impact on Canada's bilateral or multilateral relations, and compliance with international legal obligations and sanctions legislation.[104] GAC may request additional details or discussion prior to completing its risk assessment.[105] CSIS then incorporates GAC's assessment into its broader risk assessment to determine the operation's overall risk level.[106] GAC and CSIS officials explained that their staff remain in close contact throughout the consultation process to ensure effective information sharing and risk mitigation for all operations.[107] GAC noted that consultations have increased since the mechanisms were introduced, with the Department providing some *** risk assessments in 2019 and *** in 2020.

55. The joint management teams at the director general and deputy minister levels govern the joint implementation of the two consultation mechanisms. In support of this governance structure, GAC and CSIS jointly prepare an annual report for the Joint Management Team on the implementation of the *** Consultation Mechanism. These reports include the total number

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[101] CSIS and GAC, *** Consultation Mechanism between the Department of Foreign Affairs, International Trade and Development, styled as Global Affairs Canada, and the Canadian Security Intelligence Service Regarding Foreign Policy Risk Assessment, February 2017. Since then, the two organizations started to use this mechanism for other risk assessments, including for foreign intelligence collected under section 16 of the CSIS Act.
[102] CSIS had been consulting GAC on threat reduction activities since 2016, but the process was formalized in 2018. *** Consultation Mechanism between the Department of Foreign Affairs, International Trade and Development, styled as Global Affairs Canada, and the Canadian Security Intelligence Service Regarding Foreign Policy Risk Assessment, 2018.
[103] CSIS and GAC, *** Consultation Mechanism between the Department of Foreign Affairs, International Trade and Development, styled as Global Affairs Canada, and the Canadian Security Intelligence Service Regarding Foreign Policy Risk Assessment, February 2017.
[104] GAC, GAC FPRA [foreign policy risk assessment] Internal Consultation Process Chart, 2020; and GAC, Internal FPRA Process, 2021.
[105] GAC, Director General – Counter-Terrorism, Crime and Intelligence Bureau (Intelligence Bureau), NSICOP appearance, June 11, 2021.
[106] CSIS's assesses the operational, reputational, legal and foreign policy risk for all of its operational activities. The overall risk rating of an operation is determined based on the highest risk level attributed to any of the four pillars (operational, reputational, legal and foreign policy). CSIS, ***, NSICOP appearance, June 11, 2021.
[107] GAC, Director General – Intelligence Bureau, and CSIS, Director General – Human Source and Operations Support, NSICOP appearance, June 11, 2021.

of consultations and a breakdown of the amount of operations assessed to pose a low, medium or high foreign policy risk.[108] The reports also note ongoing challenges in the consultation process and potential areas for improvement. Reports from *** to *** noted an improvement in the consultation process and identified where the two organizations could reduce the number of consultations for operations [*** Two sentences were deleted to remove injurious or privileged information. The sentences described risks and information sharing. ***] with a foreign policy nexus. Between 2015 and 2018, CSIS conducted *** threat reduction measures with a foreign policy nexus.[109]

56. From an internal governance perspective, GAC developed an internal consultation chart and an approvals template for its risk assessment process in 2021.[110] However, the two-page chart provides limited details on the consultation process. For example, it does not include a comprehensive list of who to consult within the Department or how to document those consultations. The one-page template, in turn, provides little detail on the process or criteria upon which assessments are reviewed and approved. The Department has no other policies, procedures or internal committee structures to guide or oversee its provision of foreign policy risk assessments, nor does it have any reporting requirements to the Minister of Foreign Affairs on its provision of foreign policy risk assessments for CSIS operations. GAC explained that, despite an absence of formal policies or procedures, officials consult regularly and substantively with relevant units within the Department to ensure a comprehensive assessment of risk.[111] By way of comparison, CSIS has formal policies and procedures to govern the conduct of its activities under sections 12 (national security investigations) and 12.1 (threat reduction measures) of the *CSIS Act*.[112] These documents outline the internal risk assessment, approval process and reporting requirements for all operational activities conducted abroad under section 12 and section 12.1. In accordance with its Ministerial Direction for Accountability, CSIS also reports annually to the Minister of Public Safety on its operational activities abroad and its use of threat reduction measures.[113]

Other areas of coordination and consultation

57. GAC and CSIS cooperate on broader elements of CSIS's activities abroad. Under their *** Memorandum of Understanding, CSIS must consult GAC and receive the concurrence of the relevant head of mission prior to the deployment of a CSIS officer ***. The Director General Joint Management Team reviews proposals to establish new *** positions abroad and both the Deputy Minister of Foreign Affairs and the Director of CSIS are briefed annually on these developments.[114] In a similar vein, CSIS and GAC developed agreements for ***. In both cases, the Deputy Minister of Foreign Affairs and the Director of CSIS exchanged letters establishing

[108] CSIS and GAC, ***, no date.
[109] CSIS, CSIS Threat Reduction Measures 2015, 2016, 2017, 2018.
[110] GAC, FPRA Internal Consultation Process Chart, 2021; GAC, FPRA Internal Consultation Process Chart, 2021.
[111] GAC, Director General – Intelligence Bureau, NSICOP appearance, June 11, 2021.
[112] See: CSIS, CSIS Procedure: *** 2017; and CSIS, ***, 2020.
[113] CSIS, "Ministerial Direction for Accountability," no date.
[114] CSIS has a total of ***. CSIS and GAC, "Memorandum of Understanding between GAC and CSIS on Intelligence Cooperation ***," 2009.

the terms and conditions ***.[115] Finally, under its 2015 Ministerial Directive on Operations and Accountability, CSIS must inform GAC of its designation of a dangerous operating environment in which certified CSIS employees are permitted to carry firearms.[116] GAC and CSIS have procedures to notify the Deputy Minister of Foreign Affairs, the relevant head of mission and the Director General of GAC's Intelligence Bureau when such environments are designated and when armed employees will be travelling to such an area.[117]

Communications Security Establishment

58. GAC's collaboration with CSE, Canada's national signals intelligence agency for foreign intelligence and the technical authority for cybersecurity and information assurance, dates back to the creation of CSE in 1946. GAC has long been a client of CSE's foreign intelligence collection ***. While GAC has had a formal consultation role for some of CSE's most sensitive activities since 2002, the coming into force of the CSE Act in 2019 provided GAC a more significant role in CSE's new authorities for cyber operations.

Senior Management Team

59. GAC and CSE formalized their cooperation with the signing of a General Framework Agreement in 2009. The agreement recognized the organizations' cooperation in the collection of foreign intelligence, their long-standing collaboration on the implementation of Canada's Export Control legislation, and their response and handling of cyber incidents targeting GAC.[118] The agreement also created a Senior Management Team structure to serve as a principal forum for discussion on their respective plans and priorities, areas of collaboration and dispute resolution. The Senior Management Team meets quarterly and is co-chaired by the Director General of GAC's Intelligence Bureau and the Director General of CSE's Strategic Policy and Planning Division. A review of records from 2015 to 2019 showed consistent discussions on intelligence priorities, ***, section 16 and relevant legal and policy updates.

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60. The first formal agreement on consultation between CSE and GAC concerned the agency's *** activities. These activities use *** for the purpose of collecting foreign intelligence. In 2002, GAC and CSE signed a memorandum of understanding under which CSE would inform GAC prior to undertaking its most *** outside of Canada. The agreement also granted GAC a role in challenging CSE's conduct of certain activities ***.[119] While the 2002 memorandum of understanding remains in place, the two organizations streamlined elements of the agreement

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[115] Letter from Deputy Minister of Foreign Affairs to Director of CSIS, January 31, 2008; and ***, 2016.
[116] CSIS, "Ministerial Direction on Operations and Accountability," 2015.
[117] GAC, "Memorandum to the Deputy Minister on CSIS notification of Dangerous Operating Environment (DOE) Designation," September 26, 2014.
[118] CSE and GAC, General Framework Agreement between DFAIT and CSE, 2009.
[119] [*** Two sentences were deleted to remove injurious or privileged information. The sentence described targets and activities. ***] CSE and GAC, Annex 1 and Annex 2, "Memorandum of Understanding between the Department of Foreign Affairs and International Trade and the Communications Security Establishment," 2002.

in 2015.[120] Currently, CSE is required to provide GAC with quarterly email updates *** and prior notification ***.[121]

Foreign arrangements

61. Similar to CSIS, CSE is required to consult GAC prior to entering into an arrangement with a foreign government institution. This requirement was first outlined in a policy document, the June 2001 Ministerial Directive Accountability Framework, then formalized in the 2006 and 2012 Ministerial Directives on Third Party Relationships.[122] This latest directive required CSE to prepare a rationale for the establishment of a potential relationship, including expected benefits, the nature of the relationship, possible foreign policy implications and any associated risks. In doing so, CSE was required to consult the Deputy Minister of Foreign Affairs on potential foreign policy implications of the arrangement. Finally, CSE was required to conduct an annual review of all of its foreign arrangements to assess risk and ensure their continued alignment with Canada's foreign policy interests.[123] The coming into force of the *CSE Act* in 2019 put this requirement into statute, providing a formal role for the Minister of Foreign Affairs with regards to CSE's foreign arrangements. Similar to GAC's responsibilities under the CSIS Act, the CSE Act requires the Minister of National Defence to consult the Minister of Foreign Affairs prior to approving CSE's arrangement with foreign states or institutions.[124] Given the recent nature of this authority, CSE has not consulted GAC prior to entering into such an arrangement at the time of writing.[125] The Department does not have internal policies or procedures to govern its role in this process.

Defensive cyber operations

62. The CSE Act granted GAC a formal consultation role in CSE's new authority for defensive cyber operations. The Act authorizes CSE to conduct cyber operations to protect government networks or systems designated as being of importance to the government.[126] In the conduct of this activity, CSE can target foreign cyber threat activity to diminish or disrupt the activity.[127] Similar to CSE's active cyber operations (see paragraphs 97-103), defensive cyber operations have important foreign policy implications, including that their exposure or discovery could damage bilateral relations, their conduct could violate international legal norms or obligations ***. In recognition of these implications, the CSE Act requires the Minister of National Defence *to consult* the Minister of Foreign Affairs prior to issuing an authorization for defensive cyber operations.[128]

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[120] GAC noted that officials from both organizations have launched discussions aimed at updating the 2002 Memorandum of Understanding. GAC, Written response to NSICOP Secretariat, May 12, 2021.
[121] GAC, Written response to NSICOP Secretariat, May 12, 2021.
[122] CSE, "Communications Security Establishment Third Party Relationships," Ministerial Directive, August 18, 2006; and CSE, "Communications Security Establishment Third Party Relationships," Ministerial Directive, 2012.
[123] CSE, "Communications Security Establishment Third Party Relationships," Ministerial Directive, 2012.
[124] *Communications Security Establishment Act* (CSE Act) (S.C. 2019, c. 13, s. 76), s. 54(2).
[125] GAC, Response to RFI1, RFI5 and RFI6, April 14, 2021.
[126] GAC, "Memorandum for Action to the Minister of Foreign Affairs Authorizing Cyber Operations," August 19, 2020.
[127] CSE, CSE Act Ministerial Authorizations for CSE Cyber Operations, August 2019.
[128] CSE Act (S.C. 2019, c. 13, s. 76), s. 29(2).

63. The Minister of National Defence issued the first authorization for defensive cyber operations in *** 2019.[129] CSE officials developed this authorization in consultation with GAC. In recognition of the potential risks posed by these new activities, the authorization ***.[130] At the operational level, GAC provides foreign policy risk assessments for all of CSE's planned defensive cyber operations. As part of its assessment of the proposed operation, GAC considers potential implications for Canadian interests, the operation's compliance with international law and cyber norms, alignment with broader foreign policy interests, the nature of the target (***) and whether the operations ***. Unlike risk assessments for active cyber operations, which are intended to fulfill the statutory requirement for the Minister to consent to or request authorizations for active cyber operations, GAC's risk assessment for defensive cyber operations are only intended to *inform* CSE's decision-making process and operational planning (however, the Department noted that the same level of effort is required to support the Minister's consultation for defensive cyber operations and for the Minister to request or consent to active cyber operations).[131] Between *** and ***, CSE planned but did not conduct any defensive cyber operations, because separate defensive cyber measures taken by CSE obviated the need for the planned cyber operations.[132]

64. CSE and GAC's collaboration on defensive cyber operations is governed through the Active Cyber Operation/Defensive Cyber Operations Working Group (see paragraph 186).[133] GAC's internal policies and procedures for the governance of its role in this process consist of a risk assessment template and chart. Until March 2022, the Department had not instituted any formal reporting requirements to the Minister of Foreign Affairs with respect to defensive cyber operations. By contrast, CSE has developed policies, procedures and oversight committee structures to govern its cyber operations (see paragraph 102-103). CSE's Ministerial Authorization also imposes reporting requirements to the Minister of National Defence, which include quarterly updates on defensive cyber operations and, consistent with provisions in the CSE Act, a report within 90 days of the expiry of the authorization on the outcome of the activities carried out, the latter of which is also provided to the Minister of Foreign Affairs.[134]

Department of National Defence and the Canadian Armed Forces

65. The Canadian Armed Forces are an important part of Canada's foreign policy. Given the significant scope and potential sensitivity of CAF's activities abroad, including those directly related to national security and intelligence, there is a clear need for close coordination between

[129] CSE, End of Authorization Report For the Minister of National Defence Defensive Cyber Operations Authorization *** Defensive Cyber Operations ***, undated.
[130] The authorization limits operations to those designed to disrupt the theft of sensitive information from government or designated systems [*** Two sentences were deleted to remove injurious or privileged information. The sentences described objectives and activities authorized. ***]
[131] CSE, "Annex A: Governance Framework," CSE-GAC ACO/DCO Working – Group Terms of Reference, October 2020.
[132] CSE, End of Authorization Report For the Minister of National Defence Defensive Cyber Operations Authorization *** Defensive Cyber Operations ***, undated.
[133] CSE, CSE-GAC ACO/DCO Working Group – Terms of Reference, October 2020.
[134] CSE, Defensive Cyber Operations Authorization, Communications Security Establishment *** Defensive Cyber Operations, August 25, 2021. See also CSE Act, s. 52.

DND/CAF and GAC to ensure foreign policy coherence. However, aside from the engagement on proposed memoranda to Cabinet common to all departments, consultations between DND/CAF and GAC have remained largely ad hoc and informal until recently.[135] In 2016, GAC and DND/CAF started to develop a number of more formal and structured processes in response to government direction to improve consultation between the two organizations. These are described below.

Joint Consultative Mechanism

66. In 2016, GAC and DND/CAF established the Joint Consultative Mechanism as part of a joint commitment in the government's Middle East strategy to ensure alignment between foreign and defence policy.[136] Initially developed as a forum to discuss and coordinate the Middle East strategy and DND/CAF's Operation IMPACT, GAC and DND/CAF have since expanded the mechanism to include discussions on a broad range of issues, including current CAF operations, Canada's peacekeeping commitments, membership in multilateral organizations like NATO and the United Nations (UN), and GAC's administration of the *Export and Import Controls Act*.[137] The mechanism consists of discussions held as needed at the assistant deputy minister (ADM) level to discuss recent or upcoming events or developments and ensure mutual awareness, alignment and coordination between the two organizations on strategic issues of mutual interest.[138] However, GAC officials noted that these consultations have yet to reach a sufficient level of detail for GAC to ensure that DND/CAF activities – particularly special forces, intelligence and cyber operations – are consistently aligned with foreign policy objectives.[139]

Consultation mechanisms in development

67. More recently, the Prime Minister, the ministers of Foreign Affairs and National Defence, and this Committee have called for more robust consultation between the organizations. In its 2018 review of defence intelligence, NSICOP identified a weakness in consultation between GAC and DND/CAF and recommended that the organizations develop a formal interdepartmental consultation mechanism for the deployment of defence intelligence capabilities.[140] In his 2019 mandate letters, the Prime Minister directed the ministers of Foreign Affairs and National Defence to work together to ensure CAF deployments align with Canada's foreign policy interests, priorities and multilateral commitments.[141] Both ministers further highlighted the imperative for more robust operational consultation in subsequent years. In May 2019, the Minister of National Defence directed his officials to work with GAC to develop a consultation framework for the CAF's activities in the South China Sea. [*** One sentence was

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[135] DND/CAF stated, "Given the rapidly changing and unpredictable nature of international events, the consultation process with GAC is typically ad hoc and as required." DND/CAF, Written response to NSICOP, February 15, 2021.
[136] GAC, NSICOP appearance, June 11, 2021.
[137] GAC, "JCM [Joint Consultative Mechanism] Annotated Agenda," November 18, 2020; and GAC, "JCM Minutes," May 20, 2020.
[138] DND/CAF, Written response to NSICOP, February 15, 2021.
[139] GAC, NSICOP appearance, June 11, 2021.
[140] NSICOP, *Annual Report 2018*, pp. 90 and 99.
[141] Prime Minister Justin Trudeau, Mandate Letter to the Minister of National Defence, December 13, 2019; and Prime Minister Justin Trudeau, Mandate Letter to the Minister of Foreign Affairs, December 13, 2019.

removed due to a government claim of Cabinet confidence. The Committee disagrees that the claim is valid. ***].[142] These latter two initiatives are important: the first because of the sensitivity of Canadian military operations around Taiwan and the South China Sea ***; the second because CAF cyber operations hold the same risks as CSE active cyber operations, but are not subject to the same statutory requirements, including Ministerial approvals and consultations.

68. In response, GAC and DND/CAF have started to develop consultation mechanisms across a number of areas. First, in response to NSICOP's 2018 recommendation, the two organizations drafted a plan and memorandum of understanding to guide consultation on the deployment of defence intelligence capabilities.[143] The draft includes provisions for annual briefings on ongoing and projected defence intelligence activities, briefings on likely defence intelligence support for Cabinet-approved operations, quarterly meetings between GAC's Intelligence Bureau and the Canadian Forces Intelligence Command, and the development of GAC foreign policy risk assessments for defence intelligence deployments requiring ministerial approval.[144] The second mechanism is a draft policy framework governing DND/CAF's activities in the South China Sea. The document states that DND/CAF will consult GAC annually on its Navy 'sail plan' in the region, and outlines the scope of consultation with GAC according to the nature of the activity or operation.[145] Finally, DND/CAF and GAC are developing a formal consultation mechanism on DND/CAF active cyber operations. The draft document proposes the creation of a forum with CSE and GAC for consultation on cyber operations and the development of a governance framework for consultation.[146] None of these mechanisms has been finalized.

Community-wide committees

69. In addition to formalized engagement with partners, GAC ensures foreign policy coherence through its participation in key interdepartmental forums for national security and intelligence. The Department participates in three deputy minister-level committees: the Committee on Operations, which meets weekly and covers ongoing operations in the national security and intelligence community; the Committee on National Security, which meets monthly to examine broader policy frameworks for national security and intelligence; and the Intelligence Committee, which meets monthly to discuss a range of matters, including the review of intelligence assessments with a view to evaluating their implications for Canada.[147] All three committees are supported by equivalent discussions at the ADM level. GAC officials characterized these forums as central components of the Department's foreign policy coherence

[142] GAC, ***, June 4, 2020.
[143] DND/CAF, Placemat on the Implementation of a Consultation Process with GAC, February 3, 2021.
[144] According to DND/CAF, GAC would provide foreign policy risk assessments for ***. DND/CAF, Placemat on the Implementation of a Consultation Process with GAC, February 3, 2021; and DND/CAF, Written response to NSICOP, April 29, 2021.
[145] DND/CAF, DND/CAF South China Sea Proposed Decision Support Framework, April 7, 2021.
[146] DND/CAF, Interdepartmental Engagement Process on Cyber Issues: DND Proposal, no date.
[147] GAC, NSICOP appearance, June 11, 2021.

role, noting that they allow the Department to apply a foreign policy lens to the activities and policies of security and intelligence organizations.[148]

70. In 2019, GAC, CSIS, CSE and DND/CAF began meeting at a director general–level through the established GAC-CSIS Joint Management Team structure to discuss issues of mutual interest. Over the course of two annual meetings, the group of four launched discussions and drafted terms of reference for a separate *** Coordination Committee.[149] According to the draft, the Committee's purpose would be to review foreign intelligence collection efforts and ensure their alignment with foreign policy priorities or objectives. It would be chaired by GAC and meet quarterly or as required.[150] In a written response to the Committee's request for further information, GAC noted that the Joint Management Team "continues to discuss the possibility of establishing" this committee, but that no final decisions has been made.[151]

Heads of mission

71. Globally, GAC's heads of mission play a central role in ensuring the foreign policy coherence of the activities of other government departments abroad.[152] Under the *Department of Foreign Affairs, Trade and Development Act*, the head of mission is responsible for the "management and direction of their mission and its activities and the supervision of the official activities of the various departments and agencies of the Government of Canada" in their area of accreditation. In practice, the head of mission is accountable to the host government for all aspects of the bilateral relationship, including activities that are not under GAC's area of responsibility.[153] Importantly, while the head of mission *supervises* official activities of other departments or agencies, they do *not direct* those organizations' programs abroad.[154] According to GAC, the head of mission and other government departments are jointly responsible "to ensure coordination between the different activities of the government, with a view to preventing different programs running counter to the government's policy objectives in the relevant foreign state."[155]

72. The head of mission's supervisory role and responsibilities are set out in policy and through non-binding agreements. Under the Treasury Board Policy on Common Services, GAC is a common service provider to departments and agencies abroad.[156] In accordance with this policy, GAC and its partner departments adhere to an Interdepartmental Memorandum of

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[148] GAC, NSICOP appearance, June 11, 2021.
[149] Documents provided to the Committee show that the four organizations met under the CSIS-GAC Joint Management Team meeting structure in November 2019 and March 2020.
[150] GAC, *** Coordination Committee Draft Terms of Reference, September 23, 2019.
[151] GAC, Written response to NSICOP Secretariat, March 30, 2021.
[152] According to section 15 of the *Department of Foreign Affairs, Trade and Development Act*, heads of mission are ambassadors, high commissioners, consul-generals or any other person who is chosen to represent Canada internationally (e.g., permanent representatives for international organizations or diplomatic conferences).
[153] GAC, Response to NSICOP request for information, May 5, 2021
[154] GAC, Director General – Intelligence Bureau, NSICOP appearance, June 11, 2021.
[155] GAC, Response to NSICOP request for information, May 5, 2021.
[156] GAC, Response to NSICOP request for information, May 5, 2021; and Treasury Board Secretariat, Common Services Policy, October 26, 2006.

Understanding on Operations and Support at Missions. This agreement sets out the arrangements for routine services, including human resources, property and information technology services, as well as the governance and accountability structure. Under the agreement's accountability structure, the program manager of every represented organization is accountable to the head of mission *and* their respective headquarters for the management and direction of all program-related activities.[157] In addition to the broad interdepartmental agreement, GAC has concluded separate annexes with CSIS, DND/CAF and the Royal Canadian Mounted Police (RCMP), related primarily to human resources, property and material.

73. The central governance mechanism through which heads of mission ensure the coherence of activities at their mission is the Committee on Mission Management. The head of mission chairs this committee, which is composed of program managers and serves as the principal forum for discussion on mission management issues, emergency planning and security, and inter-program coherence and coordination.[158] GAC acknowledged that it remains possible that neither GAC nor the head of mission are aware of certain activities, particularly in countries where security and intelligence organizations have extensive bilateral relationships with their foreign counterparts. However, the Department explained that when such issues arise, there are interdepartmental consultative governance mechanisms in place to resolve conflict and identify areas of policy clarification or change.[159]

74. In the context of the review, the Committee canvassed the views of the Canada Border Services Agency (CBSA), CSIS, DND/CAF and the RCMP on the role of the head of mission. Their responses demonstrated a common recognition of the shared accountability for their conduct and official activities to their respective headquarters and the head of mission. However, interpretations differed on the nature and scope of the reporting relationship between deployed personnel and the head of mission. CBSA and CSIS stated that their officials were responsible for reporting on the general elements of their activities insofar as they relate to the bilateral relationship with the host country, but not on specific operational details.[160] DND/CAF distinguished between deployed Canadian defence attachés, who provide military advice and support to the head of mission, and operational CAF personnel deployed on mission, who have no formal reporting relationship with the head of mission (though they are expected to be transparent and collaborative).[161] For its part, the RCMP asserted, "there are no reporting relationships between RCMP personnel and the head of mission," pointing to the primacy of police independence.[162] These differing interpretations are largely reflected in departments' pre-deployment training materials and policies. While CBSA, CSIS and DND/CAF have developed materials outlining roles and responsibilities of deployed personnel and defence attachés

[157] GAC, "Interdepartmental Memorandum of Understanding (MOU) on Operations and Support at Missions," September 2014.
[158] GAC, Canadian Foreign Service Institute, Heads of Mission Handbook 2020, 2020.
[159] GAC, Response to NSICOP request for information, May 5, 2021.
[160] CSIS, Written response to NSICOP on the role of the head of mission, February 2021; and CBSA, Written response to NSICOP on the role of the head of mission, February 2021.
[161] DND/CAF, Written response to NSICOP on the role of the head of mission, February 15, 2021.
[162] RCMP, Written response to NSICOP on the role of the head of mission, February 12, 2021. It should be noted that RCMP liaison officers have no policing powers when deployed abroad and their responsibilities focus on exchanging information with their policing counterparts.

related to the head of mission, the RCMP has not developed materials to this effect, noting instead that this role is "discussed informally" prior to deployment.[163]

Hostile activity by state actors

75. The final mechanism through which GAC ensures foreign policy coherence can be illustrated by the government's response to hostile activity by state actors. As GAC explained, the core challenge in responding to threats from foreign states is that Canada's interests are broad and interconnected. A decision to respond to a foreign state's espionage activity, for example, could have significant implications on trade relations with that country. GAC's contribution to the government's response on this issue is to bring a foreign policy lens and "calibrate Canada's answer" to those threats.[164] The following section examines GAC's contributions to the national security review process under the *Investment Canada Act*, and the government's response to state-sponsored malicious cyber activity and foreign interference.

National security reviews under the *Investment Canada Act*

76. The *Investment Canada Act* allows for the review of an investment by a non-Canadian in Canada on national security grounds.[165] The Minister of Innovation, Science and Industry administers the national security review process in consultation with the Minister of Public Safety.[166] Along with core members of the security and intelligence community, GAC is listed as a prescribed investigative body under the Act's *National Security Review of Investment Regulations*. Organizations responsible for such reviews have developed criteria to assist in identifying investments of potential concerns, including investments by state-owned enterprises, those related to sensitive sectors or those with ties to organized crime.[167]

77. The national security review process involves a series of escalating interdepartmental committees comprising the prescribed investigative bodies, which are responsible for advising the Minister of Public Safety on foreign investments of concern. Under this structure, Public Safety Canada chairs the weekly Director Review Committee, which is the forum to review all transaction notifications under the *Investment Canada Act* and proactively identify potential cases.[168] Transactions of concern are subsequently raised to the Director General Economic Security Management Committee, then to the equivalent ADM committee, and finally to the Deputy Minister Investment Review Committee, which ultimately advises the Minister of Public Safety. In turn, this advice informs the Minister's recommendation to the Minister of Innovation, Science and Industry, who ultimately decides whether to allow an investment.[169] Once a review

[163] RCMP, Written response to NSICOP on the role of the head of mission, February 12, 2021.
[164] GAC, NSICOP appearance, June 11, 2021.
[165] *Investment Canada Act* (R.S.C. 1985, c. 28), s. 2, URL.
[166] GAC, "NSICOP Briefing – Role of Global Affairs Canada as an investigative body of the *Investment Canada Act*," Presentation to NSICOP Secretariat, February 16, 2021.
[167] GAC, "Foreign Investment Reviews (*Investment Canada Act*)," June 2016.
[168] GAC, "Foreign Investment Reviews (*Investment Canada Act*)," June 2016.
[169] The prescribed investigatory bodies under the *Investment Canada Act* are Public Safety Canada, ISED, CSIS, CSE, RCMP, DND, PCO and GAC.

is under way, investigatory bodies are responsible for exploring risks, developing risk mitigation options, and providing advice to the Minister of Public Safety to inform his or her recommendation to the Minister of Innovation, Science and Industry on whether to allow the investment, to allow it with mitigation measures or to block the transaction. In 2018–2019, the government received 962 filings, of which seven underwent a national security review.[170]

78. GAC provides a consolidated trade and security perspective to the national security review process.[171] For each potential decision to permit or block an investment, the Department is responsible for identifying the potential foreign and commercial implications, views and reactions of allies, effects on Canada's investment regime and foreign direct investment attraction efforts, and any ramifications on international trade law. The Department also identifies potential national security risks, particularly in areas where GAC plays a lead role, such as remote sensing space systems and the proliferation of weapons of mass destruction. A designated team within the Investor Services Division leads the Department's contributions to the process, consulting with the Intelligence Bureau, the Export Controls Division and relevant geographic or other divisions.[172] GAC describes its internal process as a "blended governance model that combines international security and commercial perspectives."[173] Officials from the Investor Services Division consult internal stakeholders to determine the Department's recommendation on an ad hoc basis depending on the specifics of the transaction, including the country of origin, the use of sensitive technologies or potential for sanctions violations.[174]

State-sponsored malicious cyber activity

79. Under the National Cyber Security Strategy, GAC contributes to the government's response to state-sponsored malicious cyber activity through diplomatic efforts to promote international norms for appropriate state behaviour in cyberspace.[175] Since 2004, GAC has worked to promote Canada's interests in cyberspace through its participation on the UN Group of Governmental Experts charged with advancing responsible state behavior in cyberspace. While Canada was not selected to participate in this forum for the 2019–2021 period, the Department continues to represent Canada at the UN Open-Ended Working Group, a similar forum created by Russia that is open to all states.[176] Other forums through which GAC promotes Canada's cyber foreign policy interests are: the Ottawa Five, a group for strategic policy coordination on cyber security issues among Five Eyes countries; the G7, where cyber threats remain a priority issue for member states; and the Organization for Security and Cooperation in Europe, where Canada has supported a number of cyber confidence-building measures.[177]

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[170] GAC, "NSICOP Briefing – Role of Global Affairs Canada as an investigative body of the *Investment Canada Act*," Presentation to NSICOP Secretariat, February 16, 2021.
[171] GAC, "Foreign Investment Reviews (Investment Canada Act)," June 2016.
[172] GAC, "Briefing on Investment Canada Act (ICA)," no date.
[173] GAC, "NSICOP Briefing – Role of Global Affairs Canada as an investigative body of the *Investment Canada Act*," Presentation to NSICOP Secretariat, February 16, 2021.
[174] GAC, Written response to NSICOP, March 3, 2021.
[175] GAC, International Cyber Policy, no date; Public Safety Canada, *National Cyber Security Strategy: Canada's Vision for Security and Prosperity in the Digital Age,* May 28, 2019, p. 32.
[176] GAC, "Background GGE and OEWG Processes," no date.
[177] GAC, Update on Canada's Cyber Foreign Policy Strategy, no date.

80. Beyond diplomatic efforts, GAC plays a lead role in determining whether to publicly attribute malicious cyber activity to a state actor.[178] In 2019, the government developed a Framework for Public Attribution of Responsibility for Malicious Cyber Activity. The framework governs the government's process for publicly attributing behaviour in cyberspace that is prohibited under international law, in contravention of non-binding international norms, or poses a threat to Canada's security or economic interests. Under this process, GAC consults relevant government stakeholders to assess potential implications of attribution and consults allies to assess the foreign policy implications and objectives of a public attribution. It then recommends to the Minister of Foreign Affairs whether and by whom an attribution should be made. Once an attribution is public, GAC monitors the response, conducts lessons learned, and coordinates engagement with foreign partners to share assessments and best practices.[179]

Foreign interference

81. The Committee's 2019 review of the government's response to foreign interference noted GAC's integral role in the efforts of the security and intelligence community to counter this threat. The report explained that the Department's responsibility for managing Canada's bilateral and multilateral relationships render it a key decision-maker in determining how to respond to a state's attempts at interfering in domestic affairs. The Department has a number of diplomatic tools at its disposal to induce behavioural change, from bilateral measures, like suspending diplomatic engagement or denying admissibility to diplomatic officials, to multilateral approaches, such as developing diplomatic responses with like-minded states or raising a country's behaviour for consideration by international organizations. The Committee recognized, however, that when considering possible measures, the Department had to calibrate the government's response against broader foreign policy interests.[180]

82. In the lead-up to the 2019 federal election, GAC undertook diplomatic initiatives aimed at countering foreign interference threats. At the April 2018 G7 Foreign and Security Ministers Summit in Toronto, Canada led efforts to reach an agreement on countering foreign interference threats to democratic institutions and processes.[181] At the June 2018 G7 Summit in Charlevoix, leaders announced the creation of the Rapid Response Mechanism. This Canada-led initiative sought to strengthen coordination across G7 countries to respond to foreign interference by sharing information and identifying opportunities for coordinated responses.[182] Under this mechanism, G7 countries share information through their designated focal points. Since its establishment in 2018, the Rapid Response Mechanism has shared information on threats to European Union parliamentary elections, Ukrainian presidential elections and the Canadian

[178] As part of its National Cyber Security Strategy, the government works with like-minded partners to promote stability in cyberspace, including through public condemnation of countries that violate international law and fail to abide by accepted norms of behaviour in cyberspace. See: GAC, "Attribution Framework for Malicious Cyber Activity," Briefing note for IFM, January 2020.
[179] *Government of Canada's Framework for Public Attribution of Responsibility for Malicious Cyber Activity*, no date.
[180] NSICOP, *Annual Report 2019*, pp. 90–91.
[181] GAC, Background Note: G7 Rapid Response Mechanism, November 2020.
[182] GAC, G7 Rapid Response Mechanism (RRM) Action Plan (2021), no date.

federal election. It has also expanded its information sharing network to include Australia, New Zealand, the Netherlands, Lithuania, Sweden and NATO.[183]

83. GAC's Rapid Response Mechanism Coordination Unit manages and disseminates information from G7 focal points. This unit also serves as Canada's focal point for the Mechanism. Its activities include monitoring digital information sources for signs of foreign state-sponsored disinformation and interference activity, and sharing relevant information and analysis with its domestic security and intelligence partners.[184] In 2019, the unit developed an Ethical and Methodological Framework for Open Source Data Monitoring and Analysis to ensure its open source data monitoring and information sharing activities respect relevant privacy legislation and meet certain thresholds for identifying accounts associated with foreign interference.[185] The framework outlines the protocols for its monitoring and information sharing, noting that the unit examines indicators of coordinated foreign interference campaigns, including the use of fake accounts, the artificial amplification of content and the covert foreign nature of the activity.[186]

84. In addition to its efforts as part of the Rapid Response Mechanism, GAC contributed to several government initiatives aimed at protecting the 2019 federal election. GAC's Rapid Response Mechanism Coordination Unit participated in the Security and Intelligence Threats to the Election Task Force alongside CSIS, CSE and the RCMP, to address covert, clandestine and criminal activities interfering with Canada's electoral process. GAC's contributions to the task force related primarily to its work on the Rapid Response Mechanism, including sharing international lessons learned and data analysis. The Deputy Minister of Foreign Affairs also sat on the Critical Election Incident Public Protocol Panel of five senior public servants tasked with determining whether and how the Canadian public would be informed of a serious threat to the integrity of the federal election.[187]

Hostile state actor and state activity working group

85. In recognition of the Department's broader role in responding to hostile activity by state actors, GAC established the Hostile State Actors and State Activity Working Group in January 2021. The group's purpose is to ensure the coordination and coherence of relevant divisions within the Department working on domestic and international policy, operations and communication related to hostile state activity. Between January and April 2021, the working group met monthly and convened officials from GAC's geographic bureaus covering Russia and China, the Investor Services Division, the Intelligence Bureau, legal services, the export controls

[183] GAC, G7 Rapid Response Mechanism (RRM) Action Plan (2020), no date; GAC, G7 Rapid Response Mechanism (RRM) Action Plan (2021), no date.
[184] GAC, Background Note: G7 Rapid Response Mechanism, November 2020.
[185] GAC, Ethical and Methodological Framework for Open Source Data Monitoring and Analysis, Rapid Response Mechanism Canada, June 2019.
[186] GAC, RRM Canada Indicators and Thresholds for Open Source Data Monitoring and Analysis, no date.
[187] GAC, "Foreign Interference – Protecting National Election (Role of GAC)," Briefing note to IFM, no date.

division, human rights division and international cyber policy groups.[188] Its ultimate objective was to advance foreign policy considerations in broader government policy and programming decisions related to hostile state activity.[189] It has not met since April 2021.

[188] Membership on the committee includes representatives from the Department of Justice legal services unit and GAC's legal bureau.
[189] GAC, Hostile State Actors and State Activity Working Group – Terms of Reference, January 2021.

Chapter 3: Global Affairs Canada's Facilitation Role

86. Beyond its role in ensuring foreign policy coherence, GAC is an important partner in several of the security and intelligence community's most sensitive activities. The *Canadian Security Intelligence Act* (CSIS Act) and the *Communications Security Establishment Act* (CSE Act) grant the Minister of Foreign Affairs a role in the collection of foreign intelligence within Canada and the conduct of cyber operations. The Department's management of Canada's diplomatic relations and foreign missions, in turn, renders it a player in intelligence collection activities abroad. While GAC is a *** beneficiary of much of the collected information, this function also carries risks. The Minister of Foreign Affairs is responsible for managing the risks these activities pose to Canada's bilateral and multilateral relations, international reputation, and the safety and security of Canadian personnel and assets abroad.

87. This chapter examines GAC's role in facilitating the activities of its security and intelligence partners. It describes the nature of the activity; the Department's role in the activity; and the governance of the activity both across organizations and within the Department.

The collection of foreign intelligence within Canada

Background and authority

88. Section 16 of the CSIS Act is the authority for the collection of foreign intelligence within Canada.[190] The Act grants the ministers of Foreign Affairs and of National Defence the authority to request the assistance of the Canadian Security Intelligence Service (CSIS) in the collection of information on the capabilities, intentions or activities of foreign states or individuals in relation to the conduct of international affairs or national defence within Canada.[191] Under this authority, the Minister of Foreign Affairs can request information in support of any matter within their broad mandate. [*** Three sentences were deleted to remove injurious or privileged information. The sentences described types of requested information, techniques and targets. ***][192] [193]

The Department's role

89. [*** This paragraph was revised to remove injurious or privileged information. ***] GAC is one of two possible sources of requests for section 16 intelligence collection.[194] The Department launches the process, consults with CSIS and then drafts a rationale outlining information on the

[190] *Canadian Security Intelligence Service Act* (CSIS Act) (R.S.C., 1985, c. C-23), s. 16.
[191] Subsection 16(3) of the Act specifies that the Minister must personally request the assistance from CSIS in writing. CSIS Act (R.S.C., 1985, c. C-23), ss. 16 and 16(3).
[192] GAC, *** Transition briefing to IFM, August 1, 2019.
[193] PCO, ***, January 20, 2021.
[194] Both the Minister of National Defence and the Minister of Foreign Affairs may request CSIS to assist in the collection of foreign intelligence within Canada, ***. CSIS, CSIS Comments on NSICOP Review, undated.

specific details contained in the rationale.[195] [196] [197] A committee considers the rationale and decides whether to recommend the section 16 target for approval to the requesting minister. Should the Minister of Foreign Affairs agree, the Department prepares the formal request to the Minister of Public Safety. If the Minister of Public Safety consents to the request for assistance, he or she directs CSIS officials to begin collection. Finally, CSIS officials may seek a warrant from the Federal Court incorporating the rationale provided by GAC.

90. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described targets, collection requirements and risks. ***][198]

Interdepartmental governance

91. The governance structure for the section 16 program has evolved considerably since the authority came into force in 1984. The program's initial governance, in place from 1987 to 2008, did not include any formal procedures, oversight committees or criteria against which collection requests were evaluable and approved.[199] In 2008, officials from participating organizations introduced a formalized governance model, which included a requirement to assess potential subjects against criteria linked to Canada's intelligence priorities and a permanent oversight committee structure (the *** Committee) with the responsibility to evaluate and endorse section 16 rationales before they are submitted for approval to the relevant ministers.[200] The new system established the Privy Council Office (PCO) as the central governance body for section 16 and as chair of the *** Committee.

92. The governance structure of the section 16 process was further refined in 2020. In December 2020, the *** Committee finalized its terms of reference, which laid out its mandate and membership, and the roles and responsibilities of participating organizations.[201] The document also outlines the *** Committee's accountability structure. Under this structure, *** committee is responsible for reviewing the committee's operating procedures and information handling and dissemination standards related to section 16, and for discussing issues related to section 16 litigation at the Federal Court. The *** committee meets to review requests, and to discuss section 16 priorities and keep deputy ministers informed of important issues. The *** committee is supposed to meet annually to review the *** requirements and intelligence priorities (although no information was provided to confirm that these meetings take place). The committee also developed standard operating procedures to guide the *** process *** and

[195] PCO, *** Committee, "Annex C: Standard Operating Procedures," Terms of Reference, December 17, 2020.
[196] CSIS, ***, 2014.
[197] PCO, ***, 2020.
[198] GAC, ***, 2015.
[199] PCO, "Memorandum for the Prime Minister: ***, 2008.
[200] PCO, "Memorandum for the Prime Minister: ***, 2008.
[201] PCO, *** Committee, Terms of Reference, December 17, 2020.

developed a handling and dissemination standard for intelligence collected under this authority.[202]

93. [*** This paragraph was revised to remove injurious or privileged information. ***] As part of these efforts, the Committee introduced a documented risk assessment process. Until 2020, foreign policy risk assessments for proposed section 16 targets were not documented as part of the rationale or the approval process.[203] Rather, on deciding to endorse a section 16 target, the committee chair would orally confirm that officials were aware of the risks of undertaking the collection and comfortable with mitigation measures in place.[204] [205] In 2020, the Committee formalized the risk assessment process with the introduction of assessments that officials from the requesting department (GAC or the Department of National Defence) and from CSIS were required to complete.[206] Importantly, however, the results are only considered by the Committee; they are not included by GAC as part of the rationale submitted for Ministerial approval.

Internal governance

94. GAC's role in the section 16 process involves multiple steps, including the initial request, the rationale and the foreign policy risk assessment. While the committee's standard operating procedures provide some detail into GAC's internal processes, including key considerations and consultation requirements for risk assessments, the Department itself does not have any policies, procedures or guidelines governing GAC's role in this process. The Department also does not have any requirements in place for reporting to the Minister of Foreign Affairs on the information collected under section 16, outside of the *** target renewal process.

95. By way of comparison, CSIS has developed a number of policies, procedures and guidance documents on its role and responsibilities under the section 16 process. CSIS's *** is the most relevant.[207] This document outlines CSIS's foreign intelligence mandate and authority, and the various steps of the section 16 process, including a delineation of roles and responsibilities of various units within CSIS, as well as the program's interdepartmental governance structure. CSIS has also implemented specific policies related to compliance requirements for section 16 activities.[208] CSIS's section 16 activities are included under its policy

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[202] PCO, *** Committee, "Annex C: Standard Operating Procedures," Terms of Reference, December 17, 2020; PCO, Section 16 *CSIS Act*: Handling and Dissemination Standard, November 2, 2020.
[203] The Committee received a number of briefing notes from GAC *** for the *** in relation to upcoming *** Committee meetings. None of the documents include information on the foreign policy risks of undertaking section 16 collection against proposed targets.
[204] Scenario notes for the Chair of the *** Committee includes a series of discussion prompts prior to the Committee's endorsement of a rationale. [*** One sentence was deleted to remove injurious or privileged information. The sentence described priorities, value of collection and risks.***] PCO, Assistant Deputy Minister Scenario Note Binder for Assistant Deputy Minister *** Committee ***; PCO, Assistant Deputy Minister Scenario Note *** Committee ***; PCO, Record of Discussion from Assistant Deputy Minister *** Committee ***; and PCO, Assistant Deputy Minister Scenario Note *** Committee ***.
[205] PCO, Scenario note for the Assistant Deputy Minister for *** Committee meeting ***.
[206] PCO, *** Committee, "Annex C: Standard Operating Procedures," Terms of Reference, December 17, 2020.
[207] CSIS, ***, 2014.
[208] CSIS, ***, 2020.

***, which outlines the agency's principles of lawfulness, proportionality and effectiveness that govern its activities, the various operational tools at its disposal, risk factors and potential mitigation measures, and the warrant application process.[209] Finally, CSIS reports annually to the Minister of Public Safety on a number of operational activities.[210] Its reporting includes a list of section 16 targets, and the nature and value of intelligence collected against them.

Legal challenges

96. [*** This paragraph was revised to remove injurious or privileged information. ***] In the past three years, the section 16 program has faced legal challenges in the Federal Court that undermine the effectiveness of the program and its ability to provide intelligence of value. Specifically, the Federal Court refused to authorize certain intelligence collection techniques under section 16 warrant applications over concerns that the proposed collection activity would occur outside of Canada, effectively violating the "within Canada" limitation under the Act.[211] This increased scrutiny and strict interpretation of the "within Canada" limitation by the Federal Court raises concerns about CSIS's continued ability to acquire warrants that will be effective in collecting foreign intelligence.[212] This challenge will likely worsen as global trends continue.

[209] CSIS, CSIS Policy: ***, 2014.
[210] CSIS, 2019-2020 Annual Report to the Minister on Operational Activities, December 7, 2020.
[211] Decisions from Justices Noel (2018), O'Reilly (2020) and Gleeson (2020) have all considered the issue of the "within Canada" limitation under section 16 of the CSIS Act. Justices Noel and Gleeson in particular have placed considerable emphasis on Parliament's intent behind the "within Canada" limitation, noting that it limits collection activities to that which occurs within Canada. The Attorney General has appealed the decisions. See: Justice Noel, *In the Matter of an Application by *** for Warrants Pursuant to Sections 16 and 21 of the Canadian Security Intelligence Service Act RSC 1985, c. C-23 and in the Matter of ***, February 2018; Justice O'Reilly, *In the matter of an Application by X for warrants pursuant to sections 16 and 21 of the Canadian Security Intelligence Service Act, RSC 1985, c. C-23 and in the Matter of X*, June 16, 2020; Justice Gleeson, *In the matter of an Application by X for warrants pursuant to sections 16 and 21 of the Canadian Security Intelligence Service Act, RSC 1985, c. C-23 and in the Matter of X*, July 27, 2020.
[212] Department of Justice, ***, 2020.

Active cyber operations

Background and authority

97. The *CSE Act* granted new authorities to CSE and created a key role for the Minister of Foreign Affairs. One of these new authorities allows CSE to conduct active cyber operations to degrade, disrupt, influence or interfere with the capabilities or intentions of foreign entities.[213] The Minister of National Defence authorizes these activities through the annual issuance of ministerial authorizations.[214] Active cyber operations can have broad objectives, including in pursuit of Canada's foreign, defence or security interests. They also carry important foreign policy risks, including potential damage to Canada's bilateral or multilateral relations, or potential violations of the country's international legal commitments in cyberspace.[215] In recognition of the foreign policy implications of these activities, the Act stipulates that the Minister of National Defence may issue this authorization only if the Minister of Foreign Affairs has requested or consented to its issue.[216]

The Department's role

98. In the two years since the authority has been in place, GAC's role has been to contribute to the development of ministerial authorizations and provide foreign policy risk assessments. The Minister of National Defence issued CSE's first authorization for active cyber operations in 2019.[217] CSE officials developed this ministerial authorization in close consultation with GAC.[218] In recognition of the potential risks posed by this new authority, the authorization ***.[219] At the operational level, GAC is responsible for providing foreign policy risk assessments in writing to CSE for each planned active cyber operation.[220] GAC's risk assessment considers the operation's potential impact on Canadian interests, its compliance with international law and cyber norms, its alignment with broader foreign policy interests and the nature of the target ***.[221] Between 2019 and 2020, CSE planned four active cyber operations and carried out one.[222]

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[213] CSE Act (S.C. 2019, c. 13, s. 76), s. 19; and GAC, "Memorandum for Action to the Minister of Foreign Affairs Authorizing Cyber Operations," August 19, 2020.
[214] CSE, "CSE Act: Ministerial Authorizations for CSE Cyber Operations," August 2019.
[215] GAC, ***, 2020; *Communications Security Establishment Act* (CSE Act) (S.C. 2019, c. 13, s. 76), s. 30(2).
[216] CSE Act (S.C. 2019, c. 13, s. 76), s. 30(2).
[217] CSE, *End of Authorization Report for the Minister of National Defence Active Cyber Operations Authorizations for *** Activities ***,* 2020.
[218] GAC, ***, 2020.
[219] *** CSE, *End of Authorization Report for the Minister of National Defence Active Cyber Operations Authorizations for *** Activities ***,* 2020.
[220] CSE, "Annex A: Governance Framework," CSE-GAC ACO/DCO Working Group – Terms of Reference, October 2020.
[221] CSE, "Annex A: Governance Framework," CSE-GAC ACO/DCO Working Group – Terms of Reference, October 2020.
[222] CSE, *End of Authorization Report for the Minister of National Defence Active Cyber Operations Authorizations for *** Activities ***,* 2020. CSE conducted one active cyber operation to disrupt the activities of terrorists and violent extremists. CSE planned but did not conduct three other active cyber operations: to disrupt foreign cyber threats to the 2019 federal election, which was not conducted because no specific state-led operations were detected; to counter the dissemination by specific terrorist groups of extremist material on-line, which was not conducted due to

Interdepartmental governance

99. In August 2019, the Minister of Foreign Affairs directed GAC officials to work with CSE to develop a formal governance mechanism to ensure CSE's cyber operations align with Canada's foreign policy and international legal obligations.[223] In the subsequent year, officials from both organizations built on their existing consultation mechanism to create the CSE-GAC Active Cyber Operations/Defensive Cyber Operations Working Group and a comprehensive governance framework for consultation on cyber operations (GAC and CSE's consultation mechanism and CSE's defensive cyber operations are discussed at paragraphs 62-64).[224] The working group is the central forum for communication and collaboration on active and defensive cyber operations, including for the development of ministerial authorizations. CSE and GAC co-chair regular working group meetings, which are held at the director general-level. The group includes representation from CSE ***, the Department of Justice, the Department's legal services unit, and various units with the Department. Over the course of its work, the working group developed a governance framework for the conduct of cyber operations. The framework outlines the procedures for the provision of GAC's foreign policy risk assessments ***.[225]

100. The National Security and Intelligence Review Agency (NSIRA) conducted a review of CSE's ministerial authorizations and ministerial orders in 2019. As part of this review, it examined the ministerial authorization process for CSE's active cyber operations and made one finding and one recommendation relevant to the governance of that process. Specifically, NSIRA found that CSE and GAC did not sufficiently document their consultation on letters of consent from the Minister of Foreign Affairs to the Minister of National Defence. The agency recommended that CSE ensure the consultation process with GAC for cyber operations be documented "as precisely as possible to allow for an easy verification of its compliance with the sequencing required in the Act."[226]

Internal governance

101. Documentation on GAC's internal governance of its role in cyber operations is contained in the working group's governance framework. As mentioned, the document outlines ***. The document also includes GAC's internal foreign policy risk assessment chart, which lists the Department's key risk considerations, namely domestic and international legal obligations, the impact on bilateral and multilateral relations and reputation, and the possible threat posed to GAC's network of missions and personnel abroad.[227] The document also lists the divisions to be consulted in the process, including the Department of Justice, the Department's legal services

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operational restrictions arising from COVID; and to mitigate threats posed by foreign cybercriminal groups targeting Canadians, which was not conducted due to operational restrictions arising from COVID.

[223] GAC, "Memorandum for Action to the Minister of Foreign Affairs Authorizing Cyber Operations" August 19, 2020.

[224] CSE, CSE-GAC ACO/DCO Working Group – Terms of Reference, October 2020.

[225] *** CSE, "Annex A: Governance Framework," CSE-GAC ACO/DCO Working Group – Terms of Reference, October 2020.

[226] National Security and Intelligence Review Agency, *Review of the Communications Security Establishment's (CSE) Ministerial Authorizations and Ministerial Orders under the CSE Act*, 2019, p. 4.

[227] CSE, "Appendix 2: GAC Internal Cyber Operations Foreign Policy Risk Assessment Process Chart," CSE-GAC ACO/DCO Working Group – Terms of Reference, October 2020.

unit, *** and various groups within the Department. The Department has not developed other policies, procedures or guidance on its role in CSE's active cyber operations. The Department does not have any requirements to report to the Minister on its activities with respect to active cyber operations; however, it produced its first Annual Foreign Cyber Operations Report for 2021, which was briefed to the Minister in March 2022.[228]

102. By way of comparison, CSE's internal governance for cyber operations is a combination of internal oversight committees, policies and a comprehensive risk assessment framework. First, the Cyber Operations Group and the Cyber Management Group oversee CSE's cyber operations.[229] These are executive bodies, at the director- and director general-level respectively, that review and approve cyber operation plans and risk assessments. The Director of *** and the Deputy Chief of Signals Intelligence chair the respective committees, and membership depends on ***. Participants are responsible for representing concerns and considerations from their respective areas of expertise, provide a challenge function for operations, and communicate decisions or information to relevant parts of the organization. CSE's Mission Policy Suite: Cyber Operations, in turn, explains the agency's authorities and core principles, provides guidance on the conduct of cyber operations, describes the broader governance framework surrounding these activities, and explains the agency's compliance and review responsibilities.[230] Finally, CSE's SIGINT [signals intelligence] Operations Risk Acceptance Form outlines the agency's comprehensive risk assessment process. The form includes requirements for records of consultation with relevant internal and external stakeholders, and questions on privacy protection, compliance and various risk factors.

103. CSE's ministerial authorization for active cyber operations describes in detail the agency's reporting requirements to the Minister of National Defence and the Minister of Foreign Affairs.[231] The authorization requires the Chief of CSE to update the Minister of National Defence every three months on CSE's active cyber operations. The Minister of National Defence can share this information with the Minister of Foreign Affairs. The authorization also requires CSE to provide the Minister of National Defence with a report on the outcome of the activities carried out under the authorization, including the number of operations conducted, the value of those operations and any serious implementation challenges, within 90 days after the expiry of the authorization. CSE also provides this report to the Minister of Foreign Affairs.

[228] GAC, Global Affairs Canada 2021 Annual Foreign Cyber Operations Report: Executive Summary, undated 2021.
[229] CSE, *** Terms of Reference, September 2019.
[230] CSE, Mission Policy Suite: Cyber Operations, September 22, 2020.
[231] CSE, "Communications Security Establishment Active Cyber Operations Authorization for *** Activities," Active cyber operations ministerial authorization, August 2020.

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Background and authority

104. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described a program. ***].[232] [233] [234] [235]

105. GAC states that it derives its authority for the program from the Crown prerogative. [*** This rest of this paragraph was deleted to remove injurious or privileged information. The paragraph described an authority. ***].[236] [237]

The Department's role

106. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described the department's role. ***].[238]

107. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described the department's role. ***].[239] [240]

108. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described the department's role. ***].[241]

Governance

109. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described governance mechanisms. ***].[242] [243]

110. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described governance mechanisms. ***].[244] [245] [246]

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[232] [*** Two sentences were deleted to remove injurious or privileged information. ***]
[233] [*** Two sentences were deleted to remove injurious or privileged information. ***]
[234] [*** Three sentences were deleted to remove injurious or privileged information. ***]
[235] [*** One sentence was deleted to remove injurious or privileged information. ***].
[236] [*** Two sentences were deleted to remove injurious or privileged information. ***]
[237] [*** One sentence was deleted to remove injurious or privileged information. ***]
[238] [*** One sentence was deleted to remove injurious or privileged information. ***]
[239] [*** One sentence was deleted to remove injurious or privileged information. ***]
[240] [*** One sentence was deleted to remove injurious or privileged information. ***]
[241] GAC, *** NSICOP appearance, June 11, 2021.
[242] [*** One sentence was deleted to remove injurious or privileged information. ***]
[243] [*** One sentence was deleted to remove injurious or privileged information. ***]
[244] [*** One sentence was deleted to remove injurious or privileged information. ***]
[245] [*** One sentence was deleted to remove injurious or privileged information. ***]
[246] [*** One sentence was deleted to remove injurious or privileged information. ***]

Internal governance

111. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph noted that the Department does not have any policies, procedures or documents to govern its involvement, and does not have any reporting requirements to the Minister. ***].[247]

112. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph noted challenges regarding the management of risk. ***].[248] [249] [250]

113. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described how another organization approached the management of risk. ***].[251] [252] [253] [254] [255]

The future ***

114. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph noted the Department's failure to inform the Minister of important issues. ***].[256] [257] [258] [259] [260]

Logistical support ***

Background and authority

115. The final element of GAC's facilitation role concerns the Department's infrequent but critical provision *** The Department's authority to provide this support derives from the Crown prerogative.

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116. GAC provides ***.[261] [262]

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[247] GAC, Written response ***, 2021.
[248] ***
[249] ***
[250] ***
[251] ***
[252] ***
[253] ***
[254] ***
[255] ***
[256] GAC, NSICOP appearance, June 11, 2021.
[257] ***
[258] ***
[259] GAC, Written response to NSICOP, June 23, 2021.
[260] GAC, NSICOP appearance, June 11, 2021.
[261] GAC, Additional responses to questions from RFI #1, #6, #9 and #11, Written response to NSICOP, May 5, 2021.
[262] GAC, Additional responses to questions from RFI #1, #6, #9 and #11, Written response to NSICOP, May 5, 2021.

117. GAC has no written policies, procedures or guidelines in place to govern its provision of *** with one partial exception. In 2021, the Department developed a one-page document outlining the internal process ***.[263] ***.[264]

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118. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described a process. ***].[265] [266]

119. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described GAC's role in a process, and that it lacked policies or procedures to manage its role. ***].[267]

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120. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described GAC's role in a process, and that it lacked policies or procedures to manage its role. ***].[268] [269] [270]

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121. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described GAC's role in a process, and that it lacked policies or procedures to manage its role. ***].[271] [272] [273]

[263] GAC, ***, 2021.
[264] GAC, Additional responses to questions from RFI #1, #6, #9 and #11, Written response to NSICOP, May 5, 2021.
[265] ***, NSICOP appearance, June 11, 2021.
[266] ***, NSICOP appearance, June 11, 2021.
[267] GAC, ***, 2018.
[268] GAC, ***, 2016.
[269] GAC, ***, 2016.
[270] GAC, ***, 2019.
[271] GAC, ***, 2016; and ***.
[272] GAC, ***, 2016.
[273] GAC, ***, 2016.

Chapter 4: National Security and Intelligence Activities

122. GAC conducts a number of national security and intelligence activities by virtue of the Crown prerogative and responsibility for the Department's global network abroad. The following section examines the activities that are led by GAC and are either exclusively carried out by the Department or are conducted at its direction. It first describes the Department's intelligence collection and assessment activities, which involve specialized diplomatic reporting from its global network of missions and assessments of threats to government personnel and assets abroad. It then discusses GAC's national security activities that seek to "push the border out" through international security programming. Finally, it describes the Department's role in responding to national security-related incidents abroad, lessons learned from past incidents and two recent case studies of terrorist hostage takings of Canadians.

Global Affairs Canada's Intelligence Activities

123. Intelligence informs a wide range of the Department's activities, from the management of bilateral relations to the promotion and protection of Canada's interests abroad.[274] The critical role of intelligence in its activities renders GAC a primary driver of the government's intelligence collection priorities and among the largest consumers of intelligence in government.[275] By virtue of its network of missions abroad, GAC is also an important collector and assessor of intelligence. Its collection activities are largely confined to privileged diplomatic reporting, which ranges from traditional political and economic reporting to specialized reporting on security and intelligence issues.[276] GAC's intelligence assessment activities, in turn, are focused on evaluating threats to Canada's missions and personnel abroad. The following section examines the Department's intelligence collection and assessment activities, with a focus on the authorities, history and governance of those activities.

GAC's intelligence activities

124. The Committee defines intelligence as activities involving the use of covert, clandestine or privileged sources or methods. GAC's intelligence collection activities are limited to privileged diplomatic reporting on security and intelligence issues and liaison with specific countries. The Department's authority to collect this form of intelligence derives from the Crown prerogative. Diplomatic reporting and foreign intelligence is an integral part of the conduct of diplomacy and is essential to support the Minister's responsibilities over foreign relations outlined in section 10 of the DFATD Act.[277] GAC's activities are overt and form part of routine diplomatic reporting. GAC conducts these reporting activities in accordance with Article 3 of the *Vienna Convention*

[274] GAC, Global Affairs Canada: Roles in the Intelligence Cycle, Transition deck for incoming USS, May 3, 2019.
[275] The Committee's 2018 review of the intelligence priorities setting process discussed GAC's prominent role in setting intelligence priorities and the associated standing intelligence requirements. NSICOP, *Annual Report 2018*, April 9, 2019.
[276] GAC, Global Affairs Canada: Roles in the Intelligence Cycle, Transition deck for incoming USS, May 3, 2019.
[277] DFATD Act (S.C. 2013, c. 33, s. 174), s. 10.

on Diplomatic Relations, which defines one of the functions of a diplomatic mission as ascertaining "by all lawful means, conditions and developments in the receiving state and reporting thereon to the government of the sending state."[278]

Intelligence Liaison Officer Program

125. GAC's Intelligence Liaison Officers (ILOs) represent Canada's security and intelligence community in key allied capitals of Washington, London, Canberra ***. The ILO program originated in 1946, when non-military departments first joined Canada's Joint Intelligence Committee.[279] At the time, the Joint Intelligence Committee was responsible for the policy direction and planning of Canada's foreign intelligence capabilities and served as the focal point for liaison with counterpart committees in Five Eyes capitals. In the early 1950s, diplomats from the Department were assigned as Joint Intelligence Committee liaison officers in Washington and London in an effort to enhance this liaison function.[280] In 1972, the Joint Intelligence Committee was reorganized into the Intelligence Advisory Committee and the liaison officer role was expanded to include a post in Canberra. ***.

126. The role of the ILO has evolved since it was first established. Initially, ILOs were the primary contact point for the intelligence and security agencies of Canada's closest allies. Over time, bilateral relationships between counterpart organizations matured and the ILO's role pivoted more toward coordination and liaison with intelligence assessment and policy counterparts. GAC and PCO's Security and Intelligence Secretariat jointly manage today's ILO program, though the Department provides funding and staff for these positions.[281] The primary responsibilities of ILOs are to exchange information with the host country's intelligence assessment and policy groups, monitor and report on the host country's intelligence priorities and national security policy developments, and coordinate the activities of other mission-based security and intelligence liaison officials.[282] The ILOs also play an important role in promoting Canada's contributions to the Five Eyes alliance, and provide the security and intelligence community with a strategic perspective on developments in allied capitals.[283]

127. The ILO's role differs from country to country. The ILO in Washington manages Canada's relationship with the U.S. State Department's Bureau of Intelligence and Research, the CIA's Directorate of Analysis, and the National Intelligence Council. The ILO in London represents Canada at the U.K. Joint Intelligence Committee, the body responsible for intelligence assessment and coordination, and liaises with the Joint Intelligence Organization, the National

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[278] *Vienna Convention on Diplomatic Relations*, Article 3.
[279] GAC, "NSICOP Briefing: Intelligence Liaison Office Program," Presentation to NSICOP Secretariat, February 18, 2021.
[280] GAC, "NSICOP Briefing: Intelligence Liaison Office Program," Presentation to NSICOP Secretariat, February 18, 2021.
[281] GAC, "Presentation to Outgoing Heads of Mission: Welcome to the Intelligence Community," May 24, 2016.
[282] Letter to *** from Assistant Deputy Minister for International Security Policy at the Department of Foreign Affairs and International Trade and the Assistant Secretary to Cabinet in the Security and Intelligence Secretariat of the Privy Council Office, 2006.
[283] GAC, "NSICOP Briefing: Intelligence Liaison Office Program," Presentation to NSICOP Secretariat, February 18, 2021.

Security Secretariat in the Cabinet Office, and the Foreign, Commonwealth and Development Office's Research Analyst Group. In Canberra, the ILO manages engagement with both Australia and New Zealand, and its main interlocutors are the Office of National Intelligence and the Department of Foreign Affairs and Trade for Australia, and the National Assessment Bureau and Ministry of Foreign Affairs and Trade for New Zealand. ***.[284]

128. There are no policies or procedures governing the ILO program nor is it subject to regular review or reporting requirements. Documentation provided to the Committee on this program was composed entirely of job descriptions for individual postings. The ILO's coordination role at missions is not formalized in written procedures or through formal committee structures, but rather, it involves frequent interactions with security and intelligence partners at missions to exchange information and manage visits from senior Canadian officials. The program has never been subject to internal evaluation or audit to assess its performance, and the Department has not instituted any reporting requirements to the Minister on the program's activities.[285]

Global Security Reporting Program

129. The Global Security Reporting Program (GSRP) is a specialized diplomatic reporting program whose purpose is to collect information on security and stability in select countries abroad using overt diplomatic means. The government created the GSRP in 2002 to increase the Department's capacity to report on security issues in countries and regions of strategic interest to Canada, following decades of decline in this type of reporting after the end of the Cold War.[286] Funding initially came through the Public Safety and Anti-Terrorism Initiative, a broader government effort to increase federal capacity for security, policing and international counter-terrorism capacity building in the wake of the September 11, 2001, terrorist attacks.[287] In the following decades, the GSRP grew from 11 positions in 2002 to 31 in 2021, providing reporting coverage across the Caribbean, Central and South America, the Middle East, Africa, and East and Southeast Asia.[288] While still principally focused on security and stability reporting, the program's mandate has also expanded to include reporting on threats to missions and mission personnel.[289] The Intelligence Assessment and Reporting Division manages the program and operates on an annual budget of $1 million.[290]

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[284] GAC, "NSICOP Briefing: Intelligence Liaison Office Program," Presentation to NSICOP Secretariat, February 18, 2021.
[285] GAC response to Secretariat written questions, March 30, 2021.
[286] GAC, Office of Audit, Evaluation and Inspection, *Summative Evaluation of the Global Security Reporting Program*, September 2013, p. 2; and GAC, Diplomacy, Trade and Corporate Affairs Evaluation Division, *Evaluation of the Global Security Reporting Program*, November 28, 2018.
[287] GAC, Office of Audit, Evaluation and Inspection Evaluation Division, *Global Security Reporting Program: Summative Evaluation Final Report*, September 2013.
[288] Global Security Reporting Program officers are located in [*** One sentence was deleted to remove injurious or privileged information. The sentence listed the countries where GSRP officers are deployed. ***] GAC, "Global Security Reporting Program – Global Coverage," September 12, 2019; and GAC, Diplomacy, Trade and Corporate Affairs Evaluation Division, *Evaluation of the Global Security Reporting Program*, November 28, 2018.
[289] GAC, Office of Audit, Evaluation and Inspection, *Global Security Reporting Program: Summative Evaluation Final Report*, September 2013.
[290] GAC, Diplomacy, Trade and Corporate Affairs Evaluation Division, *Evaluation of the Global Security Reporting Program*, November 28, 2018, p. 5. The division is composed of the Intelligence Liaison Officer Program, the Global Security Reporting Program and the Departmental Intelligence Support Unit.

130. GSRP officers are accredited and declared diplomats whose primary responsibility is to collect information overtly through networks of government and non-governmental contacts on intelligence priorities or requirements not covered by other members of the security and intelligence community.[291] They are expected to dedicate 90% of their time to reporting, and produce single-source reports based on interviews with local contacts including government officials, journalists, academics and activists. GSRP reports are disseminated within the security and intelligence community and across the Five Eyes.[292] GSRP officers do not recruit sources or offer money, services or promises in exchange for information.[293] According to a 2018 internal evaluation, domestic and allied partners ascribe a high value to GSRP reporting, characterizing it as a "uniquely valuable product, which fills a clear niche within the security and intelligence community."[294]

131. Governance of the GSRP has evolved since its creation in 2002. In response to recommendations from a 2008 evaluation, the program established an interdepartmental committee to provide guidance and oversight for the program and ensure alignment with the national intelligence priorities.[295] In 2010, the Department established a performance management framework with performance standards based on the number of reports produced, the timelines of those reports and client satisfaction.[296] In 2012, the program developed the *Global Security Reporting Handbook*, outlining the program's guiding principles, reporting process and guidance on interview methods.[297] The program's updated 2016 Management Accountability Framework further details the program's governance and accountability structure at missions abroad and at headquarters.[298] The program is subject to Treasury Board's Policy on Results. As such, the program relevance and performance has undergone internal evaluations in 2008, 2013 and 2018. The most recent evaluation noted that one of the program's forward planning priorities is to increase governance and the specialization of officers.[299]

132. In 2020, the National Security and Intelligence Review Agency (NSIRA) conducted a review of the GSRP program. To avoid duplication, the Committee did not review the program other than to describe it here. That said, a number of NSIRA's findings are consistent with the Committee's own findings in some areas, including as they relate to governance and authority

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[291] GAC, "Intelligence Coordination and Reporting Division," no date; and GAC, Office of Audit, Evaluation and Inspection Evaluation Division, *Global Security Reporting Program: Summative Evaluation Final Report*, September 2013.
[292] GAC, Diplomacy, Trade and Corporate Affairs Evaluation Division, *Evaluation of the Global Security Reporting Program*, November 28, 2018.
[293] GAC, "Intelligence Coordination and Reporting Division," no date.
[294] GAC, Diplomacy, Trade and Corporate Affairs Evaluation Division, "Annex C: Contact Types (from sample)," *Evaluation of the Global Security Reporting Program*, November 28, 2018.
[295] GAC, Office of Audit, Evaluation and Inspection Evaluation Division, *Global Security Reporting Program: Summative Evaluation Final Report*, September 2013, p. 38; and GAC, *GSRP* [Global Security Reporting Program] *Management Accountability Framework*, 2016.
[296] GAC, Office of Audit, Evaluation and Inspection Evaluation Division, *Global Security Reporting Program: Summative Evaluation Final Report*, September 2013.
[297] GAC, *Global Security Reporting Handbook*, August 2012.
[298] GAC, *GSRP Management Accountability Framework*, 2016.
[299] GAC, Diplomacy, Trade and Corporate Affairs Evaluation Division, *Evaluation of the Global Security Reporting Program*, November 28, 2018.

structures, oversight, risk assessments and deconfliction with other government organizations.[300] The Committee may conduct a review of this program under its own mandate at an appropriate time in the future.

GAC's intelligence assessment activities

133. The Intelligence Bureau prepares intelligence assessments related to threats to missions, personnel and assets abroad, and to support the policy deliberations of senior officials and Ministers. It also works to secure the Department's most classified communications network. The following section briefly describes these responsibilities.

134. GAC manages over 175 missions in 110 countries. As part of its management responsibilities, the Department has a duty of care for all Canada-based staff and their dependants 24 hours a day and to locally engaged staff during working hours.[301] GAC's Intelligence Bureau monitors classified and open source information to assess and identify threats to Canadian missions.[302] The Intelligence Bureau produces baseline threat assessments for over 175 missions every one to three years, depending on the overall threat level of the mission.[303] The Intelligence Bureau's assessments examine threats to diplomatic personnel, assets and information in six categories: criminality, civil unrest, terrorism and extremism, armed conflict, espionage, and natural disasters.[304] The assessments measure the frequency and severity of events that could affect the area surrounding the mission, and compare it to what officials could expect in the national capital region. Each threat category is assigned a threat rating from low to critical, and each threat category is assessed against its potential harm to personnel, assets and information.[305] Starting in 2019, the Intelligence Bureau also prepares a wide range of intelligence assessments and other analytic products to support policy deliberations of senior officials and to brief Ministers.

135. Responsibility for the protection of Canada's global network of missions resides with the Chief Security Officer in the Consular, Security and Emergency Management branch. However, the Intelligence Bureau plays an important role in the development of risk assessments and the protection of missions connected to the Canadian Top Secret Network. There are currently *** missions with access to the Top Secret network.[306] In 2017, GAC established a division within the Intelligence Bureau responsible for the management of highly classified communications at

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[300] See NSIRA, *Review of Global Affairs Canada's Global Security Reporting Program*, December 2020.
[301] GAC, "NSICOP Briefing: Mission Security," Presentation to NSICOP Secretariat, December 15, 2020.
[302] GAC, "NSICOP Briefing: Mission Security," Presentation to NSICOP Secretariat, December 15, 2020.
[303] Assessments for the highest-risk missions are updated annually. GAC's highest-risk missions as of February 2021 were located in Kabul, Afghanistan; Port-au-Prince, Haiti; Baghdad, Iraq; Moscow, Russia; Juba, South Sudan; Mexico City, Mexico; and Dhaka, Bangladesh. GAC response to NSICOP Secretariat written questions, March 30, 2021; GAC, List of missions – high risk, February 2021.
[304] GAC, Intelligence Bureau, Threat Assessment and Intelligence Services Division, Threat Methodology, October 21, 2020.
[305] GAC, Intelligence Bureau, Threat Assessment and Intelligence Services Division, Threat Methodology, October 21, 2020.
[306] GAC, ***, February 2021.

missions abroad.[307] This Intelligence Access and Countermeasures section works closely with CSE to accredit and protect GAC's signals intelligence secure areas. This section is responsible for ensuring the security of the Top Secret communications infrastructure in Ottawa and at missions abroad, and its analysis team specializes in threat and briefing products focused on the security and integrity of GAC's secure areas.[308]

International security programming

136. The government has long recognized that Canada's national security is inextricably linked to global stability. The 2004 national security policy, *Securing an Open Society: Canada's National Security Policy*, outlines the government's three core national security interests: protecting Canadians at home and abroad, ensuring Canada is not a base for threats to its allies, and contributing to international security. To protect those interests, the government committed to addressing threats before they reach Canada's shores by increasing stability in fragile states, preventing the proliferation of weapons of mass destruction, and enhancing states' capacity to combat terrorism and crime.[309]

137. Since the early 2000s, the Department's International Security and Political Affairs Branch has established three key stabilization and capacity-building programs. The programs primarily involve the funding of projects abroad through the provision of grants and contributions. The Peace and Stabilization Operations Program is the largest of the three. It operates with an annual budget of $150 million and has a broad mandate to deliver conflict prevention, stabilization and peace-building projects abroad.[310] The Weapons Threat Reduction Program operates with an annual budget of $73.4 million and has a mandate focused on countering threats posed by chemical, biological, radiological and nuclear proliferation and terrorism. The Counter-Terrorism Capacity Building Program and the Anti-Crime Capacity Building Program (hereafter Counter-Terrorism Program and Anti-Crime Program, respectively) operate with a total annual budget of $64.5 million and have a mandate to build states' capacity to respond effectively to threats posed by terrorism and serious organized crime. The Department's authorities, activities and governance for each program are discussed below.

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[307] This request was funded under GAC's efforts to strengthen its duty of care, in which the Threat Assessment and Intelligence Services Division received $220 million in new operational and capital funds over a 10-year period to allow the division to meet the intelligence-related component of security personnel, assets and information.
[308] GAC, "NSICOP Briefing: Mission Security," Presentation to NSICOP Secretariat, December 15, 2020.
[309] Canada, Securing an Open Society: Canada's National Security Policy, 2004.
[310] The $150 million in funding authority for PSOPs includes transfers of $1.6 million to the Department's International Humanitarian Assistance Bureau and $8.7 million to the Department's Office for Human Rights, Freedoms and Inclusion. PSOPs regularly receives additional funding to support peace and stabilization efforts (for example, in the Middle East) from other specific authorities. GAC, Counter-Terrorism, Crime and Intelligence Bureau (Intelligence Bureau), International Security and Political Affairs Branch, "Enhancing Security through Capacity Building Programs," Briefing Note for the ADM International Security and Political Affairs, 2019 and GAC comments on first draft of NSICOP Report.

Peace and Stabilization Operations Program

Background and authority

138. The Peace and Stabilization Operations Program (PSOPs) is the government's main platform for conflict prevention, stabilization and peace-building abroad. The origins of the program date back to 2005 with the creation of the Stabilization and Reconstruction Task Force (START) established to address a programming gap between immediate humanitarian assistance efforts and longer-term development and security interests in fragile states.[311] The program provided a standing capacity to monitor crises abroad and deliver programs using the knowledge and capability of other federal departments. Following a comprehensive evaluation of the program from 2010 to 2015, the Department replaced START with PSOPs in 2016, narrowed its mandate to focus exclusively on peace and security in fragile and conflict-affected states, established a new performance measurement framework, and developed a variety of resources to reduce corporate memory loss.[312] In 2018, PSOPs obtained ongoing authorities and updated terms and conditions. PSOPs further prioritized its efforts in its 2019–2022 strategy by identifying priority countries for comprehensive engagement, focused engagement and conflict prevention.[313]

139. The Department's legal authority for PSOPs derives from the Crown prerogative. Subsection 10(3) of the *Department of Foreign Affairs, Trade and Development Act* (DFATD Act) further describes their mandate to "develop and carry out programs related to the Minister's powers, duties and functions for the promotion of Canada's interests abroad."[314] Like all programs, the Department derives its policy authority for PSOPs from Cabinet approvals,[315] and its funding authorities from Treasury Board funding decisions.[316]

Mandate and activities

140. The PSOPs mandate is to contribute to improved peace, security and stability for fragile and conflict-affected states. Under this mandate, the program has both a policy and a programming function.[317] Its policy function is to provide leadership on the government's peace and stabilization efforts, including through the coordination of the government's response to political crises abroad. PSOPs provides policy advice on engagement in fragile and conflict-affected states to missions, geographic desks and other government departments, leads the

[311] GAC, *Final Report on the Evaluation of the Stabilization and Reconstruction Task Force (START) and Global Peace and Security Fund (GPSF)*, September 2016.
[312] Prior to 2016, the START program's mandate had expanded to areas like democracy promotion and natural disaster response. The policy authority and funding received in 2016 allowed the program to prioritize its activities and focus its mandate on peace and security in conflict-affected and fragile states. GAC, Peace and Stabilization Operations Program Progress Review, International Assistance Evaluation, October 2018.
[313] In its 2019–2022 strategy, GAC identified: Colombia, Iraq, Mali, South Sudan and Ukraine for comprehensive engagement; Afghanistan, Burkina Faso, Haiti, Lebanon, Myanmar, Syria, West Bank and Gaza, and Yemen for focused engagement; and Cameroon, Guyana and Sri Lanka for prevention efforts. See: GAC, *2019-2022 Strategy: Peace and Stabilization Operations Program (PSOPs)*, March 20, 2021.
[314] *Department of Foreign Affairs, Trade and Development Act* (DFATD Act) (S.C. 2013, c. 33, s. 174), ss. 10(3).
[315] GAC, Terms and Conditions for the Peace and Stabilization Operations Program, December 3, 2019.
[316] GAC, Terms and Conditions for the Peace and Stabilization Operations Program, December 3, 2019.
[317] GAC, *2019–2022 Strategy: Peace and Stabilization Operations Program (PSOPs)*, March 20, 2021.

government's implementation of the Women, Peace and Security agenda, and develops the government's policy on peace operations.[318]

141. The PSOPs programming function supports peace and security efforts by funding projects and facilitating the deployment of government experts.[319] Eligible PSOPs programming activities include the provision of technical advice and assistance, training programs, the provision of equipment and services, and the provision of emergency assistance.[320] PSOPs delivers over $110 million in grants and contributions annually in geographic and thematic priority areas.[321] Between 2016 and 2021, PSOPs supported over 250 projects, with a median cost of $1 million per project.[322] PSOPs funds projects with large multilateral organizations like the United Nations Development Programme (UNDP) and smaller non-government organizations like Lawyers without Borders. It supports initiatives like the UNDP Stability Fund in Libya and Afghan National Army Trust Fund of the North Atlantic Treaty Organization. The program also deploys Canadian police and civilian experts abroad and with international organizations.[323] In 2018–2019, PSOPs coordinated the deployment of Canadian police officers to peacekeeping or peace support operations or bilateral missions, including in Haiti, Ukraine, and Mali; and 17 civilian experts to support allies' stabilization efforts in Syria and Afghanistan.[324]

Governance

142. The governance structure for PSOPs activities comprises policies, procedures, oversight committees, and regular program monitoring and review. The program's terms and conditions serve as its central policy and procedures document. They outline the program's objectives, the criteria for eligible projects and funding recipients, and the maximum program expenditures.[325] The document also describes the project approval process, and the financial and performance reporting requirements.[326] Given the high-risk environment in which PSOPs-funded projects take place, the program has also developed a risk management framework and risk management guide to assess each project proposal in areas like reputation or security risks.[327]

143. Three separate advisory groups provide oversight of PSOPs activities. The PSOPs Advisory Board is an interdepartmental forum held at the director general-level that consults and provides feedback on PSOPs policy, programming and priorities, and that discusses strategic

[318] GAC, *2019–2022 Strategy: Peace and Stabilization Operations Program (PSOPs)*, March 20, 2021.
[319] GAC, *2019–2022 Strategy: Peace and Stabilization Operations Program (PSOPs)*, March 20, 2021.
[320] GAC, Terms and Conditions for the Peace and Stabilization Operations Program (PSOPs), December 3, 2019.
[321] GAC, "Overview of PSOPs Programming and Deployments," ADM Briefing Note, January 2020.
[322] GAC, NSICOP Review Data – PSOPs Projects 2016–2021, no date. This period included large allocations to two specific projects, making the median for all projects unrepresentative of normal programming.
[323] As part of this responsibility, PSOPs co-manages the Canadian Police Arrangement alongside the Royal Canadian Mounted Police (RCMP) and Public Safety Canada. GAC, *2019–2022 Strategy: Peace and Stabilization Operations Program (PSOPs)*, March 20, 2021.
[324] GAC, Peace and Stabilization Operations Program: Year-end Summary 2017/18.
[325] GAC, Terms and Conditions for the Peace and Stabilization Operations Program (PSOPs), December 3, 2019.
[326] GAC, Terms and Conditions for the Peace and Stabilization Operations Program (PSOPs), December 3, 2019.
[327] GAC, "Annex F: Risks and Risk Responses," *2019–2022 Strategy: Peace and Stabilization Operations Program (PSOPs)*, March 20, 2021.

policy objectives.[328] The PSOPs Policy Board addresses issues related to strategy, policy, development and planning at the program level. Finally, the PSOPs Program Accountability Team endorses projects and confirms their alignment with PSOPs' mandate and priorities.

144. PSOPs activities are assessed against a comprehensive performance measurement framework and are subject to regular evaluations and audits. The program is subject to Treasury Board's Policy on Results, which requires that departments establish performance information profiles detailing the program's objectives, expected outcomes and performance indicators.[329] PSOPs developed its most recent performance information profile in March 2019.[330] The Department also has a legal obligation under the *Financial Administration Act* to conduct reviews of ongoing programs every five years.[331] PSOPs underwent a progress review in October 2018 and a formal evaluation of the program is scheduled to be completed by 2024.[332] The program also produces an annual report on its results and activities, including its policy leadership and advocacy, programming, and deployment results. PSOPs program activities are included in GAC's annual Departmental Results Report.[333]

Weapons Threat Reduction Program

Background and authority

145. The Weapons Threat Reduction Program is Canada's contribution to the G7 Global Partnership against the Spread of Weapons and Materials of Mass Destruction (the Global Partnership).[334] In 2002, leaders at the then G8 Summit established the G8 Global Partnership as a 10-year initiative to address the threat posed by weapons of mass destruction to non-state actors and states of proliferation concern.[335] While the initiative's initial focus was on Russia and countries of the former Soviet Union, G8 leaders expanded its mandate at a summit in 2011 to encompass all countries that possess weapons of mass destruction or related materials and do not have the capacity to secure them.[336] In 2018, the Global Partnership expanded its mandate to also support specific conventional arms regimes: the Arms Trade Treaty and the Anti-Personnel Mine Ban convention.[337]

146. The Department's legal authority for this program derives from the Crown prerogative. Subsection 10(3) of the DFATD Act further describes the Minister's mandate to "develop and

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[328] GAC, "Annex A: Governance, People Strategy, and becoming a High Performance Organization," *2019–2022 Strategy: Peace and Stabilization Operations Program (PSOPs)*, March 20, 2021.
[329] Treasury Board Policy on Results, s. 4.5.2.
[330] GAC, Performance Information Profile for the Peace and Stabilization Operations Program, March 28, 2019.
[331] *Financial Administration Act* (R.S.C., 1985, c. F-11), s. 41.1.
[332] GAC, Peace and Stabilization Operations Program (PSOPs) Progress Review, International Assistance Evaluation, October 2018; and GAC, Peace and Stabilization Operations Program: Year-end Summary 2017/18, undated.
[333] GAC, Peace and Stabilization Operations Program: Year-end Summary 2017/18, undated.
[334] GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018.
[335] GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018.
[336] GAC, Diplomacy, Trade and Corporate Evaluations Division, *Evaluation of the Weapons of Mass Destruction Threat Reduction Program Final Report*, December 2017.
[337] GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018.

carry out programs related to the Minister's powers, duties and functions for the promotion of Canada's interests abroad."[338] The Department derives its policy authority for this program from a number of Cabinet approvals, notably in June 2009, March 2012 and December 2016.[339] Its funding authorities derive from two Treasury Board approvals dating from February 2011 and January 2018.[340]

Mandate and activities

147. The Program's mandate is to reduce the threat posed by the proliferation and use of weapons of mass destruction and certain conventional weapons. The Program pursues this mandate through the funding of projects designed to address threats posed by weapons of mass destruction and to strengthen international non-proliferation regimes. GAC's Weapons Threat Reduction Program Division manages programming across five priority areas: Nuclear and Radiological Survey; Biological Security; Chemical Weapons; Conventional Weapons; and United Nations (UN) Security Council Resolution 1540, which aims to prevent non-state actors from acquiring weapons of mass destruction.[341]

148. The program funds projects across a wide range of issues in partnership with domestic partners, allies and international organizations. Funded projects include needs assessments, provision of training or technical assistance, infrastructure improvements and awareness-raising activities on proliferation threats.[342] Between 2015 and 2021, the program funded over 220 projects with a median cost of $625,000 per project. Initiatives funded during the review period include nuclear monitoring and verification activities in North Korea and COVID-19 vaccine research and development.[343] The program works with domestic and international partners, including the Canada Border Services Agency (CBSA) and the U.S. Department of Energy, and international organizations like the International Atomic Energy Agency.[344]

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[338] DFATD Act (S.C. 2013, c. 33, s. 174), ss. 10(3).
[339] Cabinet approved the following initiatives: the June 2009 Geographic Expansion of the Global Partnership Program, the March 2012 Protecting Canada from WMD Terrorism: the Global Partnership Program's WMD Threat Reduction Strategy, and the December 2016 Building an Inclusive World: A New International Assistance Policy for Canada. See GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018, p. 3.
[340] Treasury Board approved funding for the following initiatives: in February 2011 for the Global Partnership Program – Expansion of the Geographic Area of Programming and the [date] Approval of the Continuation of the Weapons Threat Reduction Program. See: GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018.
[341] GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018; and United Nations Office for Disarmament Affairs, UN Security Council Resolution 1540 (2004), www.un.org/disarmament/wmd/sc1540, undated.
[342] GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018.
[343] The Program's funding of the Coalition for Epidemic Preparedness Innovations' COVID-19 vaccine research falls under its biological security priority area. The Program also supports a number of other vaccine research and epidemic and pandemic preparedness initiatives under this priority area. GAC, WTRP Project List April 2015 – Present, no date.
[344] Examples of programs funded under the Weapons Threat Reduction Program include a contribution of $741,967 to INTERPOL for the Bioterrorism Evidence Exploitation project in Iraq and Southeast Asia from 2016 to 2018 to enhance law enforcement's ability to respond to biological attacks; and a three-year project with the Organization for the Prohibition of Chemical Weapons (OPCW) to support its efforts to destroy remaining chemical weapons in Libya, from 2016 to 2019. See: GAC, "Bioterrorism Evidence Exploitation Assistance for Iraq and South East Asia," *Global Partnership Program Final Report*, June 28, 2018; and Organization for the Prohibition of Chemical Weapons, Grant

Governance

149. The governance structure for the program comprises policies, procedures, and regular program monitoring and review. The program's terms and conditions form the program's policies and procedures.[345] They describes the program's objectives and performance indicators, the criteria for eligible projects and recipients, and details on expenditures.[346] The document also describes the project proposal, assessment and approval process, and lays out the reporting requirements for recipient organizations, including requirements for progress reports and final reports on the project's successful implementation.[347] Other documents detail the roles and responsibilities of project leaders, funding recipients and senior management throughout the project proposal review, approval, implementation and conclusion phases.[348]

150. Programming priorities undergo regular review domestically and as part of the broader G7 initiative. The Global Partnership Working Group meets twice annually to assess threats posed by weapons of mass destruction, and to establish programming priorities.[349] Canada has co-chaired several working groups over the course of its participation in the Global Partnership, including the working group on chemical security in 2016 and the working group on biological security in 2018.[350] The program itself conducts annual priority review exercises to validate and update its programming priorities. As part of this review, the program consults relevant GAC stakeholders and other government departments, including DND/CAF, CBSA, RCMP, the Public Health Agency of Canada and Natural Resources Canada.[351] The program formalized and strengthened its priority-setting process in 2018 in response to recommendations from an internal program evaluation.[352] In line with the Department's obligations under the *Financial Administration Act*, the program is subject to regular internal evaluation and audit, most recently in 2017.[353] The program's activities and programming results are also included in GAC's Departmental Plan and annual Departmental Results Report.[354]

Arrangement: Support to the OPCW for Activities Related to the Complete Destruction of the Remaining Chemical Weapons in Libya, March 29, 2019.

[345] GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018.

[346] Under the Weapons Threat Reduction Program terms and conditions, the maximum amount payable to an eligible recipient per project per year is $10 million. GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018.

[347] GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018.

[348] GAC, Weapons Threat Reduction Program Process Flow, no date.

[349] GAC, Diplomacy, Trade and Corporate Evaluation Division, *Evaluation of the Weapons of Mass Destruction Threat Reduction Program Final Report*, December 2017.

[350] GAC, Summary of 2019-20 WTRP [Weapons Threat Reduction Program] Formal Consultations, no date.

[351] GAC, Summary of 2019-20 WTRP Formal Consultations, no date.

[352] GAC, Evaluation Recommendation Follow-up: Annual Progress Report on the Implementation of the Evaluation Management Response and Action Plan (MRAP) for the period covering FY April 2018-March 2019, no date.

[353] *Financial Administration Act*, R.S.C., 1985, c. F-11, s. 41.2.; and GAC, Diplomacy, Trade and Corporate Evaluation Division, *Evaluation of the Weapons of Mass Destruction Threat Reduction Program Final Report*, December 2017.

[354] GAC, Terms and Conditions for the Weapons Threat Reduction Program, June 7, 2018.

Counter-Terrorism Capacity Building and Anti-Crime Capacity Building programs

Background and authorities

151. The Counter-Terrorism and Anti-Crime Capacity Building programs were established in recognition of the threat posed by international organized criminal and terrorist activities to the security and prosperity of Canadians. The Counter-Terrorism Program was established in 2005 under the government's 2004 national security policy, *Securing an Open Society: Canada's National Security Policy*. The government provided the Counter-Terrorism Program with a global mandate to assist states in building capacity to counter terrorist activity.[355] In 2010 and 2016, the government provided additional funding for programming in the Sahel region of Africa and the Middle East and North Africa, through the Sahel Envelope and the Middle East Strategy.[356] The Anti-Crime Program was established in 2009 to address national, regional and international security threats posed by criminal activity, with a particular focus on programming in the Americas.[357] The government provided additional funding under the Anti-Crime Program in 2012 to support the prevention of and response to human smuggling ventures destined for Canada.

152. The Department's legal authority for these two programs derives from the Crown prerogative. Subsection 10(3) of the DFATD Act further describes the Minister's mandate to "develop and carry out programs related to the Minister's powers, duties and functions for the promotion of Canada's interests abroad."[358] Like all programs, the Department derives its policy authority for both programs from Cabinet approvals, and its funding authorities from Treasury Board funding decisions.

Mandate and activities

153. GAC's International Crime and Counter-Terrorism section manages the Counter-Terrorism and Anti-Crime programs. The programs' overarching purpose is to build the capacity of states that lack the resources or expertise to address organized criminal and terrorist activity. In doing so, the programs aim to increase the security of Canadians and Canadian interests. Both programs fund projects in concert with domestic and international partners. The programs pursue their objectives by funding capacity-building projects abroad, in coordination with

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[355] GAC, Amended Terms and Conditions for Grants and Contributions for the Anti-Crime and Counter-Terrorism Capacity-Building Programs; Afghanistan Counter-Narcotics Program; and Annual Voluntary Contributions to the United Nations Office on Drugs and Crime and Organization of American States – Inter-American Drug Abuse Control Commission, September 2018.
[356] GAC, Evaluation Division, Office of the Inspector General, "Summative Evaluation of the Sahel Envelope of the Counter-Terrorism Capacity Building Program: Evaluation Findings and Recommendations," May 2015; GAC, International Security and Political Affairs Branch, Intelligence Bureau, "Enhancing Security through Capacity Building Programs," 2019.
[357] GAC, Amended Terms and Conditions for Grants and Contributions for the Anti-Crime and Counter-Terrorism Capacity-Building Programs; Afghanistan Counter-Narcotics Program; and Annual Voluntary Contributions to the United Nations Office on Drugs and Crime and Organization of American States – Inter-American Drug Abuse Control Commission, September 2018.
[358] DFATD Act (S.C. 2013, c. 33, s. 174), s. 10(3).

domestic and international partners, including federal departments, foreign governments and non-governmental organizations.[359]

154. The Counter-Terrorism Program operates with an annual budget of $21 million.[360] The program's mandate is to assist states in building their capacity to prevent and respond to terrorism through the provision of training, equipment, funding, and legal and technical assistance.[361] The program provides assistance in six thematic areas: border, transportation and critical infrastructure security; legislative assistance; law enforcement, security, military and intelligence; terrorist financing; countering violent extremism and foreign terrorist fighters; and countering improvised explosive devices.[362] Between 2015 and 2020, the Counter-Terrorism Program funded over 130 projects, with a median cost of $500,000 per project.[363] Implementing partners include DND/CAF, ***, the RCMP, INTERPOL, the UN Office of Counter-Terrorism and the World Bank. Examples of Counter-Terrorism Program projects include open source intelligence training *** and countering violent extremism programming *** in collaboration with the UN Educational, Scientific and Cultural Organization.[364]

155. The Anti-Crime Program operates with an annual budget of $26 million.[365] The program provides assistance in six thematic areas: illicit drugs; corruption; human trafficking and migrant smuggling; money laundering; security system reform; and crime prevention (including cyber crime).[366] Programming focuses primarily on projects in the Americas and, under its Human Smuggling envelope, in Southeast Asia and West Africa. The funding envelope consists of $14 million for the overall program, $8.5 million for human smuggling and an additional $3.5 million earmarked for contributions to the Organization of American States and the UN Office on Drugs and Crime. Examples of projects funded under the Anti-Crime Program include the Intelligence Management and Operation Course to Combat Illegal Migration in Asia *** and the Enhancing

[359] GAC, Amended Terms and Conditions for Grants and Contributions for the Anti-Crime and Counter-Terrorism Capacity-Building Programs; Afghanistan Counter-Narcotics Program; and Annual Voluntary Contributions to the United Nations Office on Drugs and Crime and Organization of American States – Inter-American Drug Abuse Control Commission, September 2018.
[360] In addition to the CTCBP's annual allotment of $21 million for the years 2016-2019, CTCBP was allocated $15 million annually through Canada's Middle East Strategy and $4.5 million for 2019-2021. As described below, DND transferred $90 million to GAC to support CTCBP programming for the 'Jordan Road Project.' GAC comments on first draft of NSICOP Report. See also GAC, 2017-18 Priority Review of the Capacity Building Programs, March 2017, p. 15; and GAC, International Security and Political Affairs Branch, Intelligence Bureau, "Enhancing Security through Capacity Building Programs," Presentation, 2019.
[361] GAC, 2017-18 Priority Review of the Capacity Building Programs, March 2017.
[362] GAC, Amended Terms and Conditions for Grants and Contributions for the Anti-Crime and Counter-Terrorism Capacity-Building Programs; Afghanistan Counter-Narcotics Program; and Annual Voluntary Contributions to the United Nations Office on Drugs and Crime and Organization of American States – Inter-American Drug Abuse Control Commission, September 2018.
[363] GAC, Counter-Terrorism Capacity Building Program (CTCBP) Operational Project List, February 2020.
[364] GAC, Counter-Terrorism Capacity Building Program (CTCBP) Operational Project List, February 2020; and GAC, ICC Master Project List 2015–2016 to 2019–2020, February 16, 2021.
[365] GAC, 2017-18 Priority Review of the Capacity Building Programs, March 2017.
[366] GAC, Amended Terms and Conditions for Grants and Contributions for the Anti-Crime and Counter-Terrorism Capacity-Building Programs; Afghanistan Counter-Narcotics Program; and Annual Voluntary Contributions to the United Nations Office on Drugs and Crime and Organization of American States – Inter-American Drug Abuse Control Commission, September 2018.

Capacity of West African Law Enforcement to Prevent Human Smuggling in cooperation with INTERPOL.[367]

Governance

156. The Counter-Terrorism and Anti-Crime programs' governance structure includes a combination of procedures, oversight, monitoring and evaluation. The programs' terms and conditions are the principal guiding document. They define the programs' objectives, expected outcomes and performance indicators. They outline the types of projects that can be funded and the maximum amounts payable for each project annually.[368] Finally, they lay out the project application and review process, and reporting requirements.[369] The terms and conditions specify that projects are assessed based on their eligibility under the terms and conditions, the complexity of the project, the risks and the percentage of Canadian funding.

157. The programs' governance is supported by a two-tiered committee structure that provides strategic direction and oversight of project approvals. The first tier is a director general steering committee chaired by GAC that provides strategic direction, ensures the programs' alignment with government priorities related to counter-terrorism and anti-crime, and reviews the programs' annual performance. A second tier of review committees – one for the Counter-Terrorism Program and one for the Anti-Crime Program – support the director general steering committee. These review committees focus on the operational matters related to the implementation and delivery of the two programs, and are responsible for reviewing and endorsing project proposals. The steering committee includes directors general representing all federal departments with a direct mandate to address international crime and terrorism, including CSIS, CBSA, the RCMP and DND/CAF, whereas the review committees include directors and working-level officials from these same organizations.[370]

158. The programs are subject to regular review. They conduct an annual priority-setting exercise, in consultation with government partners, to ensure activities are aligned with Canada's policies, practices, and national security and foreign policy interests. During this exercise, program officials consult stakeholders within the Department and across the government to determine priorities for the upcoming three years. Those priorities are assessed based on considerations of existing foreign policy priorities, threats and risks to Canadian interests, the efficacy of capacity-building programs in addressing those threats, the ability to coordinate with key allies, and the ability of the recipient state to implement capacity-building

[367] GAC, 2017-18 Priority Review of the Capacity Building Programs, March 2017, pp. 10 and 12.
[368] GAC, Amended Terms and Conditions for Grants and Contributions for the Anti-Crime and Counter-Terrorism Capacity-Building Programs; Afghanistan Counter-Narcotics Program; and Annual Voluntary Contributions to the United Nations Office on Drugs and Crime and Organization of American States – Inter-American Drug Abuse Control Commission, September 2018.
[369] GAC, Amended Terms and Conditions for Grants and Contributions for the Anti-Crime and Counter-Terrorism Capacity-Building Programs; Afghanistan Counter-Narcotics Program; and Annual Voluntary Contributions to the United Nations Office on Drugs and Crime and Organization of American States – Inter-American Drug Abuse Control Commission, September 2018.
[370] GAC, Governance Structure for the Capacity-Building Programs, January 24, 2012.

programming.[371] The programs are subject to Treasury Board's Policy on Results and they developed their most recent performance information profile in March 2022.[372] The programs are also subject to regular internal audit and evaluation; the most recent was in 2016.[373]

[371] GAC, Priority Review of the Anti-Crime and Counter-Terrorism Capacity Building Programs for Fiscal Year 2017/18, March 2017.
[372] GAC, Performance Information Profile for the Anti-Crime and Counter-Terrorism Capacity Building Programs, January 25, 2017.
[373] GAC, Priority Review of the Anti-Crime and Counter-Terrorism Capacity Building Programs for Fiscal Year 2017/18, March 2017.

Case study: The Jordan Road Rehabilitation Project

159. To illustrate the Department's international security programming activities, the Committee examined the Counter-Terrorism Program's Jordan Road Rehabilitation Project. The project, completed between 2016 and 2020, involved the rehabilitation and construction of a road along Jordan's northwestern border with Syria in support of regional border security and counter-terrorism efforts.[374] The project was of interest to the Committee due to its cost, complexity and alignment with broader security, foreign policy and defence priorities.

160. In February 2016, GAC and DND/CAF officials travelled to Jordan to identify potential capacity-building opportunities in support of the government's Middle East Strategy and the CAF's Operation IMPACT.[375] During this trip, officials identified Jordan's porous border with Syria as a threat to regional security and stability. In July 2016, the Jordanian Armed Forces formally requested Canada's assistance in rehabilitating a 60-kilometre stretch of road along its northwestern border, pointing to the challenge of terrorist smuggling in the area.[376] After considering their own authorities and technical capacity to fulfill Jordan's request, DND/CAF consulted GAC and the departments agreed in June 2017 that GAC would manage and implement the project on DND/CAF's behalf given GAC's programming authority and experience in managing projects of this nature and scale.[377]

161. In August 2017, the government granted DND/CAF the policy authority for capacity-building projects in Jordan, Lebanon and Iraq under Operation IMPACT. However, the programming authority to implement projects of this nature rested with GAC, consistent with Treasury Board guidelines and regulations. Three months later, the Prime Minister endorsed DND/CAF's allocation of Operation IMPACT funding for capacity-building projects on the understanding that they would be implemented in close collaboration with GAC. In July 2018, GAC and DND signed a memorandum of understanding to govern their collaborative implementation of capacity-building projects in the region. DND would transfer $54.2 million to GAC for capacity building under Operation IMPACT, including the road rehabilitation project in Jordan, in exchange for GAC's management of these projects through the Counter-Terrorism Capacity Building Program. The high cost of the Jordan road project in particular – some $18 million – required an increase to the expenditure limits under the program's terms and conditions, which the Minister of Foreign Affairs approved in September 2018.[378]

162. Under the program's management, the project underwent a rigorous review and approval process. In October 2018, DND/CAF and the UN Office for Project Services submitted their

[374] GAC, GAC Capacity Building Programs (IDC) Other Government Department (OGD) Project Proposal and Approval Document – Border Road Design and Environmental Assessment Initiative 2017/2018, March 19, 2017.
[375] GAC, Needs Assessment Report – Jordan and Lebanon, June 10, 2016.
[376] GAC, Memorandum of Understanding between the Department of National Defence of Canada and Global Affairs Canada Concerning Op IMPACT Programming, July 2018.
[377] Department of National Defence and Canadian Armed Forces (DND/CAF), "Jordan Border Road Expansion Project," Briefing note for the Chief of the Defence Staff, June 28, 2017.
[378] The limit was increased to $15 million per project per year, and specially $25 million for the Jordan Road Rehabilitation Project in 2018-19.

project proposal.[379] In the two months that followed, the program's review committee worked to ensure the project's broader strategic value and alignment with the capacity-building program's principles of sustainability and gender-equity considerations.[380] Program officials also supported the development of a comprehensive performance measurement framework and accountable project management. The review committee endorsed the project in November, and it received approval from the Minister of Foreign Affairs two months later.

163. The rehabilitation of the border road project lasted from February 2019 to July 2020. The project's implementation required close coordination between domestic and international partners. Program officials in Ottawa managed the project in coordination with the UN Office for Project Services, who provided monthly reports on the road's construction progress. GAC's mission staff in Jordan facilitated discussions between officials in Ottawa, Jordanian officials and the UN partner.[381] Meanwhile, the CAF members in Jordan managed relations with the Jordanian Armed Forces, effectively facilitating access to the road area, responding to their concerns on the project's implementation and providing additional progress updates to GAC.[382] The road was completed under budget and program officials reported no significant challenges in its overall implementation

164. The project's successful identification and implementation demonstrates the strength of the program's governance and its responsiveness to foreign policy, security and defence priorities. The recognition by DND/CAF of GAC's capacity-building programming authority and experience resulted in an appropriate division of labour in the funding, management and implementation of the project. The program's long-standing governance mechanism ensured both a rigorous assessment of the project's strategic value and alignment with capacity-building principles, and the development of strong performance measurement and accountability mechanisms. The effective collaboration between GAC and DND/CAF from the project's identification through to its completion represents a positive example of foreign and defence policy coherence and demonstrates the program's effective support to broader foreign policy, security and defence priorities.

[379] GAC, "Project Review Committee feedback and comments on Op IMPACT project proposal 'Jordan Border Road Rehabilitation'," October 24, 2018.
[380] GAC, "CTCBP-DND Op Impact Project Proposals (October 23, 2018) Project Reviews: General Comments," October 24, 2018.
[381] GAC, "RE: JAF Road Project Scope Revision," Email, September 9, 2016.
[382] GAC, Briefing to NSICOP on Counter-Terrorism Capacity Building Case Study, April 29, 2021.

Responding to international critical incidents

165. One of the Department's key national security activities is leading the coordination of the government's response to international critical incidents. The Department defines critical incidents as "unforeseen security incidents which may pose a significant risk to the safety of a Canadian citizen and may impact Canada's broader national security interests."[383] Critical incidents could have national security implications based on the identity of the attackers or hostage-takers (e.g., terrorist group), the motives of the attack or the objectives sought (e.g., financial gain or policy concessions), and the identity of the victim (e.g., a government employee or a Canadian internationally protected person).[384] The vast majority of international critical incidents are hostage-takings by terrorist entities.

166. The Department's responses to hostage-takings abroad differs significantly from that of kidnappings.[385] For crime-related kidnappings, GAC's Consular Operations manage cases with local police, who are primarily responsible for investigating and resolving the incident.[386] For hostage-takings by terrorist entities, the Department's Task Force on International Critical Incidents (FCID) is responsible for coordinating the government's response. In these cases, military, police and intelligence organizations work together toward the safe release and return of the hostages.

167. The following section looks at GAC's role in the broader government response to hostage-takings by terrorist entities. The section examines the Department's authority to respond to international critical incidents, efforts to develop a policy framework to guide the government's response, and GAC's responsibilities in this area. The section concludes with two case studies exploring the practical application of GAC's role in the government's response to two recent hostage-takings of Canadians in *** in 2016 and in the Sahel region in 2018.

Authorities

168. The Minister's authority to lead the coordination of the government's response to international critical incidents derives from the Crown prerogative, which includes the mandate of the Minister to conduct all diplomatic and consular affairs on behalf of Canada.[387] This authority extends to the broader provision of emergency assistance to Canadians abroad, including repatriation, evacuation and humanitarian assistance in response to natural disasters,

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[383] GAC, "Managing International Critical Incidents," Presentation to NSICOP Secretariat, February 17, 2021.
[384] GAC, "Managing International Critical Incidents," Presentation to NSICOP Secretariat, February 17, 2021.
[385] Sub-Section 279(1) of the *Criminal Code* distinguishes between hostage-takings and kidnappings. A hostage-taking is defined as "the intent to induce any person other than the hostage, or any group of persons or any state or international or intergovernmental organization to commit or cause to be committed any act or omission as a condition, whether express or implied, of the release of the hostage." A kidnapping is defined as "the unlawful confinement of someone against their will." See: GAC, "Managing International Critical Incidents," Presentation to NSICOP Secretariat, February 17, 2021; and *Criminal Code*, R.S.C. 1985, c. C-46, ss. 279(1) and ss. 279.1(1).
[386] GAC, Government of Canada Response to International Critical Incidents, December 10, 2020; and GAC, Terms of Reference – Interdepartmental Task Force on International Critical Incidents, January 2019.
[387] GAC, Canada's International Emergency Response Framework, December 2016, p. 6; and DFATD Act (S.C. 2013, c. 33, s. 174), ss. 10(2).

pandemics or terrorist attacks.[388] Canada's International Emergency Response Framework describes GAC's two core responsibilities in responding to emergencies abroad, namely to monitor international events to identify potential or immediate threats to Canadians or Canadian interests, and to lead the coordination of the response by mobilizing relevant capabilities from across the government by creating an interdepartmental task force.[389] The Framework is considered in more depth at paragraph 175.

The government's strategic approach to terrorist hostage-takings

169. Over the last 20 years, the Department has attempted to develop a policy framework to manage international terrorist hostage-takings. These policies sought to establish a governance framework outlining the government's objectives and principles while clarifying the roles and responsibilities of implicated federal organizations. Despite these efforts, no formal policy has ever been adopted. That said, implicated departments use elements of the proposed framework to determine whether an abduction constitutes a critical incident requiring an interdepartmental approach. The Prime Minister has also publicly declared the government's position and principles: Canada will make no ransom payments for Canadian citizens taken hostage by terrorist organizations.[390] As part of the approach, GAC has generally conducted retrospective analyses of the effectiveness of the response through various lessons learned exercises.

Attempts at developing a policy framework

Initial policy drafts

170. The Department's efforts to develop a formal critical incident policy framework began in the mid-2000s following a November 2005 terrorist kidnapping incident in Iraq. Between 2006 and 2009, the Department developed draft policy frameworks to establish the broad objectives, principles and organization-specific activities to guide the government's response to terrorist hostage-takings. The first iteration in 2006 sought to establish the following objectives:

- to achieve the early and safe release of the kidnapped victim(s);
- to facilitate the prosecution of the kidnappers; and
- to respond to incidents of international terrorist kidnappings in a manner that seeks to prevent or mitigate further kidnappings.[391]

171. The draft policy framework also defined the government's key response principles. The most notable was that the government would make no substantive concessions to kidnappers, including that the government would make no major policy changes, would not exchange prisoners for victims, would not allow immunity from prosecution, and would not facilitate or make a ransom payment. The 2006 draft stated that GAC would be the lead federal department to coordinate and facilitate the response, proposed the creation of an interdepartmental task

[388] GAC, Canada's International Emergency Response Framework, December 2016.
[389] GAC, Canada's International Emergency Response Framework, December 2016.
[390] "Canada does not negotiate with terrorists. Except ...," *Toronto Star*, December 4, 2016, www.thestar.com/news/canada/held-hostage/2016/12/04/canada-does-not-negotiate-with-terrorists-except-.html.
[391] GAC, Canadian Framework Document on International Terrorist Kidnapping, Version 5 Draft, March 30, 2006.

force, and outlined preliminary response procedures for the key security and intelligence organizations contributing to the proposed task force.[392] In support of this draft policy, GAC started to define its own role and responsibilities through the establishment of internal procedures in 2007. The 2006 policy was not finalized and GAC's 2007 procedures were not completed.

172. In 2009, the Department updated the draft policy. The new draft reiterated the 2006 objectives and further defined a number of key aspects of a potential governance framework. From a strategic and governance perspective, the draft policy established the roles and responsibilities of senior officials, including the Minister of Foreign Affairs, the deputy heads from the RCMP, CSIS, the CAF and the Communications Security Establishment (CSE), and GAC's heads of mission. The GAC Assistant Deputy Minister (ADM) for International Security (or a senior member from GAC appointed by the Deputy Minister) was to be the chair of the interdepartmental task force and this forum would serve as the principal body for determining the implementation of the policy and response of the government in a specific case. From an operational perspective, the document presented specific roles and responsibilities for incident management (e.g., ***).[393]

173. The 2009 draft policy identified a number of factors to consider when determining whether to invoke the policy. Factors weighing in favour of invoking the policy included that the victim was a Canadian citizen and that the possible or presumed identity of the kidnapper may have links to a terrorist group. Factors weighing against invoking the policy included whether the incident was motivated primarily by financial considerations, the location of the incident (particularly if a GAC travel advisory was in place), ***. The draft policy stated that decision-makers would need to make a contextual assessment in each case to determine applicability.[394]

174. The 2009 draft emphasized that the no concessions principle would guide officials, and provided direction in the event that a third party engaged in paying a ransom ***.[395] Similar to the 2006 draft, this policy was not formally approved, but departments did use it in subsequent years as a basis for its response to international terrorist hostage-takings.

[392] GAC, Canadian Framework Document on International Terrorist Kidnapping, Version 5 Draft, March 30, 2006.
[393] GAC, Draft Canadian Policy for International Security-Related Kidnapping, February 4, 2009.
[394] GAC, Draft Canadian Policy for International Security-Related Kidnapping, February 4, 2009.
[395] GAC, Draft Canadian Policy for International Security-Related Kidnapping, February 4, 2009.

Contemporary policy initiatives

175. In December 2016, the government published the International Emergency Response Framework. The Framework provides a general integrated approach for GAC to lead an "all hazards" response to emergencies abroad (e.g., natural disasters, intentional or accidental human-induced catastrophe such as terrorism or a technological incident).[396] The Framework also formalized the Interdepartmental Task Force (the Task Force) to facilitate coordination of operations, information sharing, development of policy recommendations, and decision-making for emergency response. It provides functional groupings for various roles, responsibilities and activities that may be required in response to an emergency, such as diplomatic engagement, humanitarian assistance, communications, intelligence and security assistance, and logistics. It also directs GAC to coordinate information sharing through standardized situation reports shared with relevant government partners.

176. In 2018, the Department sought to refine the Task Force's specific terms of reference and policy framework for responding to terrorist hostage-takings. GAC's January 2019 draft terms of reference for the Task Force sought to establish the criteria to invoke the use of the coordination mechanism.[397] It reiterated the 2006 and 2009 draft principles for the government's response – *** [398]

177. The 2019 draft policy framework for critical incidents described key strategic and operational functions for the Task Force and participating organizations. From a strategic management perspective, it outlined that the Task Force would make a recommendation to deputy ministers to set the broad parameters of the government's response on receiving notification of a known or suspected critical incident. In setting the strategic direction, the National Security and Intelligence Advisor, as the official responsible for coordinating the national security and intelligence community, could consult deputy ministers prior to engaging the Prime Minister and recommending a meeting of the Incident Response Group, a dedicated emergency committee chaired by the Prime Minister and attended by relevant ministers and officials depending on the circumstances.

178. From an operational perspective, the draft critical incident policy framework identified the Task Force's participating organizations and a series of non-exhaustive actions or functions these departments should consider following the invoking of the framework (e.g., ***).[399] The draft framework prescribed specific roles and functions for the FCID coordinator, who chairs the Task Force under the direction of the Deputy Minister of Foreign Affairs. The Task Force Chair convenes and coordinates the activities of the Task Force, including by establishing priorities,

[396] GAC, International Emergency Response Framework, December 2016.
[397] For example, a terrorist entity has links to the hostage-taking, there is a risk of sale or trade of hostages to a terrorist group, or the hostage is a Canadian internationally protected person. GAC, Terms of Reference – Interdepartmental Task Force on International Critical Incidents, Draft ADM-approved, January 2019.
[398] GAC, Terms of Reference – Interdepartmental Task Force on International Critical Incidents, Draft ADM-approved, January 2019.
[399] GAC, Terms of Reference – Interdepartmental Task Force on International Critical Incidents, Draft ADM-approved, January 2019.

coordinating taskings, producing situation reports, and hosting meetings to facilitate deconfliction between partners, among other activities.[400] In practice, the Task Force adopted a tiered structure, including a working level, ADM level and deputy minister level, with each level convened on an as needed basis.

179. The government did not formally adopt the policy in 2019, similar to 2009. Departmental resources to advance this draft policy were diverted to respond to the hostage-taking of Edith Blais in late 2018, though government officials stated that the draft approach served as the basis for their response.

Key lessons learned from previous critical incidents

180. The government typically prepares after action reports following the conclusion of a case. The Department provided all of the reports for national security–related hostage-takings that were prepared from 2010 to 2021. Though these lessons learned exercises varied in scope and methodology, they generally identified best practices and concerns or issues with the approach. These exercises identified both strategic and operational considerations, but the Committee focused primarily on issues regarding the strategic management of cases, policy considerations, and GAC's roles and responsibilities in interdepartmental coordination.

2009: The Coulter report

181. In 2009, the Department and PCO commissioned former Chief of CSE Keith Coulter to assess the government's response to the terrorist hostage-taking ***.[401] The report made findings and recommendations in a number of areas, including prioritizing the government's level of effort, strategic decision-making, coordination and leadership.

182. First, on prioritizing and determining the government's level of effort, the Coulter report stated that organizations involved in this incident generated an unprecedented response in scale and activities for a terrorist hostage-taking, and that this was the appropriate level of effort. Organizations made the determination of effort themselves. Best practices identified in this report included ***, the establishment of the interdepartmental committee process, the development of a strong intelligence-driven response, and the successful leveraging of diplomatic engagement. However, the report also noted that there was no strategic decision to determine the level of priority nor to assess the government's national security interests. It noted that this gap in prioritization and decision-making would be critical for future incidents to determine the level of effort or priorities:

> The reality, of course, is that not all kidnapping cases abroad can be treated the same. While the value of human life is equal in each case, there are clear differences in terms of the broader interests at stake,

[400] GAC, Terms of Reference – Interdepartmental Task Force on International Critical Incidents, Draft ADM-approved, January 2019.
[401] GAC, "Managing International Critical Incidents," Presentation to NSICOP Secretariat, February 17, 2021.

> including national security and foreign policy interests. … We need to be able to make distinctions and take tough decisions, and our national security interests need to be the critical driver in determining the priority.[402]

183. Second, the report stated that when there is tension between the "no concessions and no ransom policy" and potential options to ensure the safe return of hostages, the government must be prepared to make a clear decision on another option that does not involve concessions or the payment of ransoms. [*** Two sentences were deleted to remove injurious or privileged information. The sentences described an instance where the government declined to make a decision. ***] Ultimately, the report made three recommendations to address these issues:

- Canada should maintain its declaratory no ransom/no concessions policy and continue to place pressure on states where kidnappings occur to find solutions.
- When placing pressure on states results in clear tensions with the no ransom/no concessions policy, PCO and GAC should work together to ensure that the options and implications are fully addressed, as appropriate, for decision-making by deputy ministers, ministers and the Prime Minister.
- *** PCO and GAC should work to ensure that a comprehensive follow-up action plan is approved by the government with clear objectives, deliverables, timelines and accountabilities.[403]

184. Third, the report noted that gaps in senior-level direction and decision-making challenged the coordination and management of interdepartmental activities of the Task Force. For example, the report noted that the lack of consensus at the Task Force regarding rescue operations polarized the position of some participating departments while leaving others to take decisions on their own. Similarly, the report noted that the RCMP's emphasis on the criminal investigation impeded the activities of other organizations from pursuing activities within their own mandates focused on the safe return of the hostages. The lack of agreement and coordination on these issues, and gaps in leadership at the Task Force prevented senior decision-makers from prioritizing certain activities or options.[404]

185. Fourth, the report found that the interdepartmental task force formula was well established and generally worked well. However, it found that deputy ministers did not play a strong management role in providing strategic guidance to set the parameters of the government's response. This had the corresponding effect of leaving the operational level with no sense of the parameters for managing the case. At the same time, the operational level and the Task Force did not seek further strategic guidance from deputy ministers, resulting in a

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[402] Keith Coulter, Response to the Kidnapping of ***: Independent Assessment and Recommendations, October 26, 2009.
[403] Keith Coulter, Response to the Kidnapping of ***: Independent Assessment and Recommendations, October 26, 2009.
[404] Keith Coulter, Response to the Kidnapping of ***: Independent Assessment and Recommendations, October 26, 2009.

general lack of clarity of what might constrain the government's position or inform its activities in response to the incident.[405]

186. In summary, the report found that that the government needed to enhance its strategic-level management of the incident. This is relevant for decisions regarding the policy positions of the government, to determine its level of effort, and the prioritization of operational activities. The report also found that establishing leadership within the Task Force is necessary, as this would facilitate greater clarity in the strategic and operational management of the response.[406] The government responded to a portion of these issues by formalizing permanent capacity within GAC to lead and coordinate the Task Force through the establishment of FCID.

2005–2009 lessons learned

187. The Department provided the Committee with an overview note summarizing key lessons learned from four separate hostage-takings between 2005 and 2009 and a separate lessons learned document for a 2008 incident. While the documents do not describe the methodology or the participants, the documents highlight a series of recurring issues.

188. In assessing the strategic considerations of an incident in 2005, the Department highlighted that the absence of written policy limited the government's response insofar as there was no clearly delineated direction to participating departments.[407] Following a 2008 critical incident, GAC identified a need to develop formal protocols and standard operating procedures for officials to quickly build knowledge and understanding of how the government responds to hostage-takings.[408] It also emphasized the importance of establishing a policy framework to set the parameters of the response and to determine the government's level of effort, stating that "deciding which cases to engage in or to what degree the group needs to engage was also noted as a critical issue requiring policy guidance: defining where those cases sit in terms of national interest is important."[409] Similar to other cases, the absence of a formal framework or a prioritization scheme generated recurring questions for decision-makers at the outset of an incident.

189. In 2009, the Department conducted a lessons learned exercise that echoed the findings of the Coulter report insofar as no permanent capacity existed in any federal department or agency to respond to international hostage-takings. Departments and agencies coordinated efforts through an ad hoc interdepartmental committee mechanism, but no central entity existed to formalize policies or to retain knowledge and expertise. This gap in standing capacity was highlighted by the Department in response to the *** hostage-taking. Similar to the Coulter

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[405] Keith Coulter, Response to the Kidnapping of ***: Independent Assessment and Recommendations, October 26, 2009.
[406] Keith Coulter, Response to the Kidnapping of ***: Independent Assessment and Recommendations, October 26, 2009.
[407] GAC, Kidnapping Lessons Learned, undated.
[408] GAC, Kidnapping Lessons Learned, undated.
[409] GAC, Kidnapping of *** – Lessons Learned – DFAIT/ICT, GSD/***, undated.

report's finding, GAC identified the need for standing internal capacity to establish and maintain an appropriate framework to manage complex consular cases.[410]

*2014: Critical incident in ****

190. Following the resolution of a critical incident *** in 2014, GAC submitted an open-ended questionnaire to Task Force members asking for recommendations to inform the development of formal policy. Respondents stated that the government's approach was still constrained by the absence of formal policy to inform strategic decision-making. For example, Task Force organizations identified the need for senior decision-makers to reconcile potential differences or contradictions between the Government of Canada's policy positions (i.e., no ransom/no concession) with a host nation's right to manage an incident.[411]

191. Task Force participants also identified a need to develop a contemporary and concise document defining the roles and responsibilities of each participating department to alleviate any confusion or concerns at the outset of an incident. Participants noted that the absence of formal policy also played a role in delaying the sharing of information and intelligence, and recommended that clear guidelines be established to manage the flow of information.[412]

2017: Policy workshops

192. In 2017, GAC and PCO organized a series of workshops in response to direction from deputy ministers to prepare a policy paper to assess key strategic questions on the government's response to hostage-takings. While the draft policy was developed for deputy ministers, the Committee was informed by GAC that the document was not releasable to the Committee as it was deemed a Cabinet confidence in its entirety. The workshop included Task Force participating organizations and considered four broad issues: policy and practice; governance framework; military support; and family engagement, media and communications. For the purposes of this review, the Committee considered the key policy and governance issues from these workshops.

193. Workshop participants again identified the need for clear strategic guidance in managing an incident.[413] They raised the *** system as a potential model, wherein the *** convenes a meeting at the outset of an incident to facilitate the provision of "clear intent and authorities going forward."[414] Similarly, participants reiterated that the lack of a clear policy framework creates challenges in how departments respond to and prioritize incidents.[415] More pointedly, they noted that deputy ministers need to decide ***.[416] The workshop participants emphasized

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[410] GAC, Kidnapping Lessons Learned, undated.
[411] GAC, After Action Lessons Learned Report – Case: ***, September 12, 2014.
[412] GAC, After Action Lessons Learned Report – Case: ***, September 12, 2014.
[413] GAC, Military Support Workshop Summary, March 24, 2017.
[414] GAC, Military Support Workshop Summary, March 24, 2017.
[415] GAC, Policy and Practice Workshop Summary, March 20, 2017.
[416] GAC, Policy and Practice Workshop Summary, March 20, 2017.

that the government's policies, roles and responsibilities, and decisions in managing an incident must be clearly articulated and reasonable to avoid claims of negligence and legal liability.[417]

GAC's operational role in responding to international critical incidents

194. Prior to 2009, the Department's operational management of international critical incidents was ad hoc, with no permanent unit responsible for addressing cases as they arose. Following a string of critical incidents from 2005 to 2008 and the Coulter report in 2009, the Department established FCID as a permanent unit to support the operational management of these cases. The unit was initially under the responsibility of the Department's Consular, Security and Emergency Management Branch, but was moved to the International Security and Political Affairs Branch's Intelligence Bureau in 2010 because of the intelligence-led nature of these cases.[418]

195. FCID's core responsibility is to serve as the secretariat for the Task Force. This unit has three full-time employees: a coordinator, a deputy coordinator and a family response officer.[419] In close cooperation with the Department's Emergency Watch and Response Centre, FCID provides 24/7 response service for new incidents, notifies members of the Task Force of a potential critical incident and convenes a meeting of the Task Force to coordinate a response.[420] Once the Task Force determines that a case constitutes an international critical incident, FCID coordinator chairs the Task Force and the Joint Intelligence Group;[421] coordinates the Task Force's activities; provides logistical support to the Task Force, including the dissemination of situation reports to Task Force members; manages family relations in cooperation with the RCMP; and serves as the central focal point for liaison with missions ***.[422] FCID is also responsible for preparing and facilitating the reception and repatriation of hostages upon their release.

196. Beyond its activities in response to critical incidents, FCID is also responsible for developing policies, procedures and training materials in support of the government's response to such incidents.[423] FCID has produced a number of internal procedures to guide the Department's initial response to an incident, including guidance on notification protocols for the Department's Emergency Watch and Response Centre, guidance to missions for terrorist hostage-takings, and a series of questions and considerations for the first 24 to 48 hours of a case.[424] The unit has recently developed draft documents outlining the Department's

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[417] GAC, Governance Framework Workshop Summary, March 31, 2017.
[418] GAC, "Managing International Critical Incidents," Presentation to NSICOP Secretariat, February 17, 2021.
[419] GAC, "Managing International Critical Incidents," Presentation to NSICOP Secretariat, February 17, 2021.
[420] GAC, Government of Canada Response to International Critical Incidents, December 10, 2020.
[421] The Joint Intelligence Group is composed of representatives from IDTF participating organizations. It is responsible for providing intelligence assessments to the Task Force to support decision-making.
[422] GAC, Terms of Reference – Interdepartmental Task Force on International Critical Incidents, April 8, 2019.
[423] GAC, "Managing International Critical Incidents," Presentation to NSICOP Secretariat, February 17, 2021.
[424] GAC, Government of Canada Response to International Critical Incidents, December 10, 2020; GAC, Critical Incident Reports – Template, no date; GAC, "Emergency Watch and Response Centre – Notification Protocol for Hostage Takings Overseas and FCID on-Call Duty Roster," March 2021; GAC, "Questions – First 24-48 hours," no date; GAC, "Reception and Repatriation Plan," no date; GAC, "Hostage Takings – Guidance to Missions," no date.

communications approach and media strategy for critical incidents, and templates for officials responsible for engaging with victims' families.[425] In terms of training materials, FCID provided the Committee with recent documentation on planned hostage recovery and victim support training programs.[426]

197. Although FCID has existed since 2009, it seems to have been primarily focused on managing critical incidents themselves rather than preparing for them. It produced draft documents relating to the Department's internal processes and responsibilities only between 2018 and 2021. The unit's limited resources and the need to focus on case management left important policy gaps. It has not addressed its broader role of government coordination, producing no documents to coordinate or assist other government departments. In the area of training, the Department's internal documents account for the participation of other departments and agencies participating in the Task Force, but no training was scheduled for Task Force members scheduled prior to 2021 and FCID has not facilitated routine tabletop simulation exercises with Task Force members in preparation for future cases.[427]

198. In sum, several key themes consistently emerge from government lessons learned reports and exercises: the need for a clear policy on the government's response to terrorist hostage-takings, the importance of leadership and clear decision-making throughout an incident, and the need for clarity on roles and responsibilities. The Committee will examine the practical application of the government's response framework through two recent case studies.

[425] GAC, "Communications Approach," no date; GAC, "Communications Strategy for Terrorist Hostage Taking Cases," no date; GAC, "Government of Canada Family Engagement Team Communication and Support Plan," no date; GAC, "Family engagement report," no date.
[426] GAC, "Conceptual outline of GOC Hostage Recovery Training," March 2021; GAC, Task Force on International Critical Incidents (FCID) Training Proposal, no date; and Hostage International, GAC Family and Hostage Support: Training Workshop Proposal, 2021.
[427] GAC, "Managing International Critical Incidents," Presentation to NSICOP Secretariat, February 17, 2021.

International critical incidents case studies

199. [*** This paragraph was revised to remove injurious or privileged information. Four sentences were deleted. They described the basis upon which the Committee chose the case studies, and similarities and differences between them. ***] The Committee decided to examine two case studies (the abduction of Edith Blais in the Sahel in 2018 and the abduction of *** in *** in 2016) where Canadian citizens were taken hostage and the events were declared critical incidents. It did so to better understand an activity where the Department states that it has a clear leadership role, and where it is responsible for coordinating the activities of other security and intelligence organizations implicated in the government's response. The Committee found that the cases had important differences and similarities, and, in some circumstances, reinforced findings from government studies of previous incidents. Both cases occurred in high-risk regions where the government had travel advisories in place, and where the host government had limited capacity to address the incidents.[428]

200. The Committee did not request information held by all departments on these incidents. Rather, it primarily focused on material received from the Department. The Committee therefore focused the majority of its assessment on the role that GAC plays in these incidents. However, the Committee cannot ignore other issues that came to its attention through the course of its review. In the absence of conducting a review of the entire government framework for responding to terrorist hostage-takings, the Committee limited its assessment to the role and activities of the Department and issues which significantly affect it.

201. The Committee recognizes that terrorist hostage-takings are difficult to resolve. They involve a number of domestic and foreign individuals, groups, partners and allies, some of whom have motives that are unknown, malign or, at the very least, different from Canada's. Government officials working for the hostage's safe return do so under stressful circumstances where information is limited and the stakes are high ***. The Committee also recognizes the painful experiences of the families whose loved ones are taken hostage, often for long periods of time and sometimes with tragic outcomes. It is for these reasons that the Committee believes the government must have a clear, principled approach to such incidents.

202. The Committee notes a number of concerns regarding the documentary record provided by GAC. The Department provided a number of documents for these case studies, the overwhelming majority of which consisted of emailed situation reports and a handful of joint briefing notes for deputy ministers. The Committee found clear gaps in information where it would otherwise expect a documentary record (for example, for the resolution of cases). Moreover, it did not receive any documents prepared by the Department for the Minister of Foreign Affairs (the Department noted that officials commonly provide oral briefings to the Minister and their staff; nonetheless, the Committee would expect the department to retain preparatory material used in such briefings). For the Committee, these gaps reveal concerning

[428] GAC, Interdepartmental Task Force (IDTF) on *** critical incident, September 21, 2016; and, GAC, Meeting on *** critical incident: Talking Points, *** 2016; GAC, Second DM-level meeting on critical incident in ***: USS talking points, ***, 2016; GAC, Foreign Policy Engagement Strategy, July 22, 2019.

lapses in the Department's information management and retention practices, which in turn have significant implications for the Department's governance and accountability for these incidents.

*Case study: *** 2016 (***)*

203. On *** 2016, Canadian *** arrived in *** on behalf of his Montréal-based employer to work on a *** project ***. On ***, *** and two *** co-workers were abducted at gunpoint.[429] In a matter of hours, GAC was advised of the hostage-taking. Initial information suggested that a local criminal gang perpetrated the incident rather than a terrorist entity. This is a critical distinction: criminal kidnappings are managed by GAC's Consular, Security and Emergency Management Branch; terrorist hostage-takings are deemed a national security incident and managed by the separate FCID structure. FCID convened the first working-level Task Force meeting on *** and identified the case as a critical incident.[430] The RCMP notified the family and in the following days contacted *** employer.[431]

204. The working-level Task Force undertook a number of preliminary steps to collect more information.[432] These included:

- confirming *** was a Canadian citizen (some reports suggested he had Canadian and *** citizenship), as this would inform the government's interest in the case;
- identifying the captors (i.e., criminals or terrorists), as this would inform the government's approach; and
- understanding the Government of *** expected level of engagement, as this would inform the government's potential deployment of resources and level of effort.[433]

As part of these efforts, GAC initiated diplomatic engagement through its missions in *** and Tunis.[434] For its part, Immigration, Refugees and Citizenship Canada confirmed on *** that *** was a Canadian citizen. With respect to the identity of the captors, information highlighted that the location of the abduction was a known terrorist transit way between *** and Algeria.[435]

205. On ***, GAC convened the first meeting of the ADM-level Task Force to consider operating assumptions and establish the government's preliminary approach to the incident. Briefing material for this meeting acknowledged that the difficult security situation in *** would limit the government's response options ***. The ADMs were also advised of *** different response mechanisms and rules of engagement for these types of incidents ***. During this

[429] GAC, "FCID Sitrep: Canadian hostage-taking in ***," Email, *** 2016.
[430] Task Force participants include GAC, the Canadian Security Intelligence Service (CSIS), the Communications Security Establishment (CSE), DND/CAF, the Privy Council Office's Security and Intelligence Secretariat, Public Safety Canada, and the RCMP. GAC, IDTF [Task Force] on *** critical incident, Briefing, *** 2016.
[431] GAC, *** Critical Incident: Summary of Interactions, undated.
[432] GAC, Hostage taking of Cancit in ***: guidance to missions and request for info, Briefing, *** 2016.
[433] GAC, Interdepartmental Task Force (IDTF) on *** critical incident, Briefing, *** 2016.
[434] Canada closed its embassy in *** in 2014 and maintains its diplomatic presence for *** in Tunis.
[435] GAC, "Sitrep_***_*** abduction," Email, *** 2016.

meeting, GAC stated that ***.[436] ADMs noted that experience also supported such an approach, as establishing a parallel line of effort could potentially jeopardize negotiations with captors.[437] GAC officials consulted the Department of Justice and were satisfied that this approach would be consistent with the Department's consular obligations.[438]

206. The ADM-level Task Force also considered departmental roles and responsibilities during this meeting. ***. GAC would "convene the [Task Force] and coordinate the Government of Canada's response, including diplomatic engagement and operational support from missions."[439] ADMs also considered key messages for use with ***, notably that all three hostages should be treated as a group.[440]

207. The government would continually emphasize that Canada wanted the victims treated as a group throughout the incident. During a call with the *** ambassador, GAC's ADM utilized these key messages and emphasized the importance of treating the victims as a group.[441] FCID reiterated to the mission in *** that general interactions with the *** government should convey this type of messaging while also noting that "we would not want the Canadian hostage to be left behind."[442] ***.[443] In the following days, *** responded that the victims would be treated as a group if they remained a group, but that this could change should the captors separate the victims.[444] While there were important strategic considerations in keeping the hostages together, notably to limit the number of potential communications channels with the captors, which could have raised potential demands, the Committee notes that Canada ***.

208. Over the next two weeks, there were no significant updates or changes in the case. FCID convened a number of working-level Task Force meetings, distributed regular situation reports to Task Force members and worked with the RCMP to engage *** family.

209. The Committee received limited information regarding the roles played by ministers throughout the incident. The Minister of Foreign Affairs held a call with *** family and informed them that the Prime Minister would be informed of any developments.[445] Following this call, the Minister's office sought additional information from the working-level Task Force ***.[446] [447] The Committee is not entitled to receive information that is Cabinet Confidence. However, in the records provided, it did not see indication of senior-level, strategic direction to the Task Force

[436] GAC, Interdepartmental Task Force (IDTF) on *** critical incident, Briefing, *** 2016; and GAC, Meeting on *** critical incident: Talking Points, *** 2016.
[437] GAC, Interdepartmental Task Force (IDTF) on *** critical incident, Briefing, *** 2016.
[438] GAC, Meeting on *** critical incident: Talking Points, *** 2016.
[439] GAC, Interdepartmental Task Force (IDTF) on *** critical incident, Briefing, *** 2016; and GAC, Meeting on *** critical incident: Talking Points, *** 2016.
[440] GAC, Interdepartmental Task Force (IDTF) on *** critical incident, Briefing, *** 2016.
[441] GAC, "SitRep_***_*** abduction, "Email, *** 2016.
[442] GAC, Questions for the Crisis Unit, *** 2016.
[443] GAC, Questions for the Crisis Unit, *** 2016.
[444] GAC, "SitRep_***_*** abduction," Email, *** 2016.
[445] GAC, Report on MINA call to family – *** critical incident, *** 2016.
[446] GAC, "RE: *** Update," Email, *** 2016.
[447] GAC, "RE: *** Update," *** 2016. The response to the tasking is GAC, "JIG Discussion," *** 2016.

that would suggest that a ministerial or Cabinet-level meeting was convened as part of this case.

210. On ***, the working-level Task Force convened a Joint Intelligence Group meeting to review the case. The Group concluded that the government had not collected enough intelligence to make a proper assessment of the identity of the captors, but that involvement of al-Qaida in the Islamic Maghreb could not be ruled out.[448] The following day, FCID convened the second ADM-level Task Force meeting. Officials considered a number of issues, including the absence of sufficient information to identify the captors or the location of the victims. [*** Two sentences were deleted to remove injurious or privileged information. The sentences described government considerations. ***]

211. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described government considerations, including that the case met the criteria for a critical incident "given the significant risk that a terrorist group may be involved in the hostage taking." ***].[449] [450] [451]

212. On ***, the Deputy Minister of GAC provided a status update to the *** Committee (which is separate from the deputy minister–level Task Force). [*** The rest of this paragraph was deleted to remove injurious or privileged information. The paragraph described government considerations. ***].[452] [453] [454] [455]

213. Following this *** meeting, the working-level Task Force further refined options for government action. [*** The rest of this paragraph was deleted to remove injurious or privileged information. The paragraph described government considerations. ***].[456]

214. During the second deputy minister–level Task Force meeting on ***, the Deputy Minister of GAC provided a significant update on the case. The Deputy Minister noted that Canada's Ambassador to *** was notified on *** of the existence of two videos of the victims, and that the captors were a group of criminals threatening to transfer the hostages to Daesh if their demands were not met. [*** The rest of this paragraph was deleted to remove injurious or privileged information. The paragraph described government considerations. ***].[457]

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[448] GAC, ADM-level IDTF Meeting on *** critical incident: IFM talking points and discussion paper, *** 2016.
[449] GAC, ADM-level IDTF Meeting on *** critical incident: IFM talking points, *** 2016.
[450] GAC, ADM-level IDTF Meeting on *** critical incident: IFM talking points and discussion paper, *** 2016.
[451] GAC, ADM-level IDTF Meeting on *** critical incident: IFM talking points, *** 2016.
[452] GAC, DM-level meeting on critical incident in ***, *** 2016.
[453] GAC, USS talking points – critical incident in ***: DMOC [Deputy Ministers Operations Committee] Meeting, *** 2016.
[454] GAC, DM-level meeting on critical incident in ***, *** 2016; and GAC, DM-level meeting on critical incident in ***: USS talking points, *** 2016.
[455] GAC, DM-level meeting on critical incident in ***, *** 2016.
[456] GAC, *** Critical Incident – Possible Scenarios and Government of Canada (GoC) Response, *** 2016.
[457] GAC, Second DM-level meeting on critical incident in ***: USS talking points, *** 2016.

215. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described government considerations. ***].[458]

216. These options ultimately proved unnecessary. On ***, officials were informed that *** and the two *** nationals had been released following 47 days in captivity. *** was flown to ***, provided consular support and returned to Canada on ***. The Department has no documents that addressed the resolution of the incident, but a document prepared in the context of a separate case ***.[459]

Lessons learned

217. On ***, FCID organized a working-level Task Force lessons learned exercise to examine the government's management of this incident. On the issue of decision-making and guidance from senior officials, departmental representatives generally shared the view that "the lack of clear direction from ADM- and DM-level meetings hampered the Task Force's ability to manage the case and align resources effectively."[460] The group recommended that FCID develop a template for seeking decisions from deputy minister–level and ADM-level meetings. On the issue of situation reports and general reporting, participants agreed that each organization needed to tailor briefing materials for their respective mandates and priorities, but that FCID needed to "develop a more robust template for [situation reports] to ensure all aspects of a critical incident are covered."[461] No similar lessons learned exercise was conducted at the ADM- or deputy minister–level.

[458] GAC, *** Critical Incident – Possible scenarios for further Government of Canada Actions, *** 2016.
[459] GAC, Foreign Policy Engagement Strategy, *** 2019.
[460] GAC, Hotwash on *** Critical Incident: Meeting Report, *** 2016.
[461] GAC, Hotwash on *** Critical Incident: Meeting Report, *** 2016.

Case study: Sahel 2018–2020 (Edith Blais)

218. On December 17, 2018, Canadian Edith Blais and Italian *** were taken hostage in Burkina Faso while transiting from Italy to Togo by car. On December 31, *** mother reported the pair as missing to the Canadian mission in Rome. GAC initially treated the case as a missing person, but FCID convened a working-level Task Force meeting on January 5, 2019, and declared the case a critical incident due to the location, pattern of hostage-takings in the region and length of silence from the victims, a decision later endorsed by the Deputy Minister and the Minister of Foreign Affairs.[462]

219. Based on the records provided, the Committee saw no indication that the Department was implementing strategic direction to frame the scope of the government's response at the beginning of this case. In response to Committee questions, the Department stated, "there are no records of any role played by the Minister of Foreign Affairs at the outset of this case," but that the "Minister and her office maintained situational awareness on the case."[463] In mid-January 2019, the Minister of Foreign Affairs met with Ms. Blais' family ***.[464] In late January, the Prime Minister's Office requested a briefing for the Prime Minister in the days following a TVA report on the hostage-taking,[465] and he was briefed again in February.[466]

220. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described government actions, including that the RCMP initiated a criminal investigation. ***].[467] [468] [469] [470] [471]

221. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described government actions, and noted that the Committee saw no indication that the Task Force conducted a whole-of-government assessment of the best way forward, coordinated the approach or defined the government's overall level of effort, issues which had been identified in previous lessons-learned exercises. ***].[472] [473]

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[462] GAC, "SITREP: BLAIS/Burkina Faso," Email, 5 January 2019; and GAC, Untitled, January 8, 2019.
[463] GAC, Fact checking: first draft of the NSICOP review of GAC S&I activities, April 11, 2022.
[464] GAC, "Sitrep #12: BLAIS, Burkina Faso (2019-01-17)," Email, January 17, 2019.
[465] GAC, "Sitrep #18: BLAIS, Burkina Faso (2019-01-28)," Email, January 28, 2019.
[466] GAC, "Sitrep #24: BLAIS, Burkina Faso (2019-02-20)," February 20, 2019; \ GAC, "UPDATE: BLAIS," Email, 20 February 2019; and PCO, Memorandum for the Prime Minister: The potential hostage taking of Canadian Edith Blais in Burkina Faso, undated.
[467] The Five Eyes are Canada, Australia, New Zealand, the United Kingdom and the United States.
[468] Similar to the *** case study from the preceding pages, the Committee did not receive any documentation related to the government's Joint Intelligence Group meetings. GAC, "Burkina Faso: Sitrep #3 (2019-01-07)," Email, January 7, 2019; and GAC, Guidance to missions re: hostage-taking, January 6, 2019.
[469] GAC, Joint Deputy Ministers' Brief on the Blais Case, February 5, 2019.
[470] GAC, "Burkina Faso: Sitrep #3 (2019-01-07)," Email, January 7, 2019; and GAC, "Burkina Faso: Sitrep #5 (2019-01-09)," Email, January 9, 2019.
[471] GAC, "Burkina Faso: Sitrep #3 (2019-01-07)," Email, January 7, 2019.
[472] GAC, "Burkina Faso: Sitrep #7 (2019-01-11)," Email, January 11, 2019; GAC, "Burkina Faso: Sitrep #8 (2019-01-13)," Email, January 13, 2019; and GAC, Joint Deputy Ministers' Brief on Blais Case, undated.
[473] GAC, "Burkina Faso: Sitrep #10 (2019-01-15)," Email, January 15, 2019.

222. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described government actions, and noted a minor incident which highlighted gaps in central leadership, decision-making and coordination that would continue throughout the case. ***].[474] [475] [476]

223. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described government actions. ***].[477] [478] [479]

224. At the end of January and in early February, officials prepared possible options and resolution scenarios. The working-level Task Force decided that no resolution option should be discounted, while noting that it would be difficult to plan and approve a hostage rescue operation without a higher degree of confidence in the location of the victims and the captor group.[480] GAC and DND/CAF officials agreed that a formal request for assistance from the Deputy Minister of GAC to the Chief of the Defence Staff would ***.[481] ***.

225. On February 8, deputy ministers held their first meeting and received a joint briefing on the case. [*** One sentence was deleted to remove injurious or privileged information. It discussed government deliberations. ***].[482] The joint briefing also recommended that the working-level Task Force simultaneously explore all options to resolve the incident. The briefing highlighted the following considerations:

*In the absence of a formalized hostage taking policy, the GoC's [Government of Canada] response and pursuit of its objectives in resolving a hostage-taking incident is framed by a set of no ransom/no concessions principles. GoC's primary objective in all hostage cases is preservation of life, and early and safe release of hostages, with investigation of the crime being a secondary objective. … In multi-national hostage takings, best practice of our [Five Eyes] partners and historical GoC practice has been to ***.*[483]

Similar to the previous case study and the lessons learned portion of this chapter, the government was again faced with the question of managing its stated no ransom or concessions principles with the objective of a safe return of the victim.

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[474] GAC, "Burkina Faso: Sitrep #8 (2019-01-13)," Email, January 13, 2019.
[475] GAC, "Update: Sitrep# 16. BLAIS, Burkina Faso (2019-01-23)," Email January 23, 2019. Burkina Faso: Sitrep #13 (2019-01-18)," Email, January 18, 2019; and GAC, "Sitrep #15: BLAIS, Burkina Faso (2019-01-21)," Email, January 21, 2019.
[476] GAC, Burkina Faso: Sitrep #13 (2019-01-18)," Email, January 18, 2019; and GAC, "Sitrep #15: BLAIS, Burkina Faso (2019-01-21)," Email, January 21, 2019.
[477] GAC, "Sitrep #17: BLAIS, Burkina Faso (2019-01-25)," Email, January 25, 2019.
[478] *** GAC, "Sitrep 5: IDTF In-Theatre Coordinator," Email, January 25, 2019.
[479] GAC, "Sitrep #17: BLAIS, Burkina Faso (2019-01-25)," Email, January 25, 2019.
[480] GAC, "Sitrep #18: BLAIS, Burkina Faso (2019-01-28)," Email, January 28, 2019.
[481] GAC, "FW: Message from DM [GAC] to DM [DND] and [CAF/CDS]," Email, February 7, 2019.
[482] GAC, DM IDTF mtg 8 February 2019: key issues and decisions, February 12, 2019; and GAC, "Sitrep #23: BLAIS, Burkina Faso (2019-02-14)," Email, February 14, 2019.
[483] GAC, Joint Deputy Ministers' Brief on Blais Case, February 2, 2019.

226. [*** This paragraph was deleted to remove injurious or privileged information. The paragraph described government considerations of courses of action, including a hostage rescue operation. ***].[484] [485]

227. On April 11, 2019, Deputy ministers of the implicated Task Force organizations held a meeting to discuss the incident and to provide strategic direction. First, deputy ministers charged the working-level Task Force with developing a range of scenarios, ***. The Task Force was to determine required authorities, risks and resource needs for each option and scenario. Deputy ministers raised the importance of briefing ministers on the case so that they may make decisions on short notice. GAC's summary of the meeting also noted *** an issue to be raised to Ministers.[486]

228. On May 6, GAC's newly appointed Deputy Minister proposed holding a deputy minister–level meeting. [*** The rest of this paragraph was deleted to remove injurious or privileged information. The paragraph described decisions by Deputy Ministers in June to direct the Task Force to prepare a briefing for ministers and to maintain the government's current level of effort. All materials related to preparing this briefing and its content were redacted or withheld for reasons of Cabinet confidence.***].[487] [488] [489]

229. [*** This paragraph was revised to remove injurious or privileged information. ***] By mid-June, the Task Force decided to prioritize the planning of a hostage rescue mission. During a deputy ministers meeting, the Chief of the Defence Staff noted that the government must determine the process for documenting the Prime Minister's decision regarding this operation, with the Task Force recommending that the mechanism be "light" given that it was a precedent-setting decision.[490] [491] [492] [493]

230. Over the course of the following months, the viability of a rescue option steadily diminished. [*** The rest of this paragraph was deleted to remove injurious or privileged information. The paragraph described challenges. ***].[494] [495] [496] [497]

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[484] GAC, "Sitrep #27, BLAIS, Burkina Faso (2019-03-04)," Email, March 4, 2019.
[485] GAC, Joint Deputy Ministers' Brief on Blais case, March 26, 2019.
[486] GAC, "Sitrep #37: BLAIS, Burkina Faso (2019-04-12)," Email, April 12, 2019.
[487] GAC, "Sitrep #48: BLAIS, Burkina Faso (2019-05-23)," Email, May 23, 2019.
[488] GAC, "Sitrep #52: BLAIS, Burkina Faso (2019-06-03)," Email, June 3, 2019.
[489] GAC, "Sitrep #55: BLAIS, Burkina Faso (2019-06-13)," Email, June 13, 2019.
[490] GAC, Edith Blais case – High level Chronology, Provided for NSICOP Briefing, May 12, 2021.
[491] GAC, "Sitrep #57: BLAIS, Burkina Faso (2019-06-20)," Email, June 25, 2019.
[492] GAC, "Sitrep #58: BLAIS, Burkina Faso (2019-06-27)," Email, June 27, 2019.
[493] GAC, "Sitrep #58: BLAIS, Burkina Faso (2019-06-27)," Email, June 27, 2019.
[494] GAC, "Sitrep #62 BLAIS, Burkina Faso (2019-07-19)," Email, July 19, 2019.
[495] GAC, "Sitrep #63 BLAIS, Burkina Faso (2019-07-25)," July 26, 2019; and GAC, Executive Summary: Closure of the hostage case of Edith Blais, undated.
[496] GAC, Terrorist Hostage Taking: Edith Blais, July 29, 2019.
[497] GAC, "Sitrep #64 BLAIS, Burkina Faso (2019-09-01)," Email, August 13, 2019; GAC, "Sitrep #65 BLAIS, Burkina Faso (2019-08-12)," Email, August 13, 2019; GAC, "Sitrep #66 BLAIS, Burkina Faso (2019-08-19)," Email, August 19, 2019; GAC, "Sitrep #67 BLAIS, Burkina Faso (2019-08-22)," Email, August 23, 2019; GAC, "Sitrep #68 BLAIS, Burkina Faso (2019-08-26)," Email, August 26, 2019; and GAC, "Sitrep #74 BLAIS, Burkina Faso (2019-09-23)," Email, September 23, 2019.

231. Deputy ministers met regularly in early August. [*** The rest of this paragraph was deleted to remove injurious or privileged information. The paragraph described government deliberations. ***][498] [499]

232. In mid-September, a federal election was called and the government entered the caretaker convention.[500] [*** The rest of this paragraph was deleted to remove injurious or privileged information. The paragraph described government deliberations. ***].[501] [502] [503]

233. [*** This paragraph was revised to remove injurious or privileged information. ***] Following the federal election, deputy ministers met before a new Cabinet had been appointed. Their discussions focused on a number of issues, and they agreed to separately brief their ministers prior to a joint briefing in early 2020.[504] [505]

234. In mid-January 2020, the Minister of Foreign Affairs travelled to Mali. [*** The rest of this paragraph was deleted to remove injurious or privileged information. The paragraph described government deliberations. ***].[506]

235. Resolution of the case would come over the span of three weeks. [*** Five sentences were deleted to remove injurious or privileged information. They described government actions. ***].[507] [508] On March 13, the UN notified the Canadian Embassy to Mali that Ms. Blais and *** were at a UN base in northern Mali following 452 days in captivity. Thereafter, Ms. Blais was transported to a U.S. military medical facility in Germany and returned to Canada; *** was repatriated to Italy.[509]

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[498] GAC, "Sitrep #65 BLAIS, Burkina Faso (2019-08-12)," Email, August 13, 2019.
[499] GAC, "Sitrep #67 BLAIS, Burkina Faso (2019-08-22)," Email, August 23, 2019; GAC, ": Update: Blais case, 27 Aug 2019," Email, August 27, 2019; and GAC, "Sitrep #68 BLAIS, Burkina Faso (2019-08-26)," Email, August 26, 2019.
[500] The caretaker convention comes into force when an election is called and Parliament is dissolved. Under this convention, government activity should be restricted to matters that are routine, non-controversial, urgent and in the public interest, reversible by a new government without undue cost or disruption, or with the agreement of opposition parties. See: Privy Council Office, Guidelines on the Conduct of Ministers, Ministers of State, exempt staff and public servants during an election, September 2019.
[501] GAC, "Update: Blais case, 3 September 2019," Email, September 4, 2019.
[502] GAC, "Sitrep #71 BLAIS, Burkina Faso (2019-09-09)," Email, September 9, 2019; GAC, "Sitrep #73 BLAIS, Burkina Faso (2019-09-18)," Email, September 19, 2019; GAC, Foreign policy engagement strategy, undated; and GAC, "Sitrep #74 BLAIS, Burkina Faso (2019-09-23)," Email, September 23, 2019.
[503] GAC, Joint Deputy Ministers' Brief on Blais Case, Appended to sitrep #87, undated.
[504] GAC, "Sitrep #78 BLAIS, Burkina Faso (2019-11-14)," Email, November 19, 2019; and GAC, "Sitrep #79 BLAIS, Burkina Faso (2019-11-21)," November 22, 2019.
[505] GAC, "Sitrep #82 BLAIS, Burkina Faso (2019-12-19)," Email, December 22, 2019.
[506] GAC, "Sitrep #85 BLAIS, Burkina Faso (2020-01-23)," Email, January 27, 2020.
[507] GAC, "RE: Sitrep #88 BLAIS, Burkina Faso (2020-02-24)," Email, February 26, 2020; and GAC, "Sitrep #90 BLAIS, Burkina Faso (2020-02-27)," Email, February 28, 2020.
[508] GAC, "Sitrep #90/#91 BLAIS, Burkina Faso (2020-03-02/2020-03-05)," Email, March 8, 2020.
[509] GAC, Executive Summary: Closure of the hostage case of Edith Blais, undated.

Challenges

236. It is inevitable that a Task Force composed of multiple departments and charged with addressing a critical incident over unknown and often lengthy periods will experience challenges. A few are notable.

- The RCMP provided inconsistent support to the Task Force at the beginning of the incident. [*** The rest of this paragraph was deleted to remove injurious or privileged information. It described how the inconsistent support affected the Task Force. ***].[510]
- Information sharing was problematic, particularly at the beginning. [*** The rest of this paragraph was deleted to remove injurious or privileged information. It described specific instances of problems with information sharing. ***].[511]
- There were gaps in governance and a lack of clarity around roles and responsibilities. [*** The rest of this paragraph was deleted to remove injurious or privileged information. It described specific instances of gaps in governance and lack of clarity around roles and responsibilities. ***].[512]

Lessons learned

237. Two meetings were held in June to discuss the conclusion of the case. [*** The rest of this paragraph was deleted to remove injurious or privileged information. It described specific working-level discussions. ***].[513] [514]

238. Deputy ministers also met to discuss the incident. Among the key issues identified, deputy ministers were briefed that:

- the absence of any formal policy and governance framework had a negative impact on efficient interdepartmental coordination at all levels;
- the government's approach was ad hoc and not institutionalized;
- there were challenges in determining the level of effort and consistency in prioritization of resources across organizations;
- the case was labour-intensive and the government lacked appropriate funding mechanisms, challenges that were exacerbated by limited human resources expertise.

Deputy ministers agreed to contract an independent review of the government's response to this case and the case of ***, who was taken hostage on January 15, 2019, in Burkina Faso and was murdered by his hostage-takers two days later.[515] This review would consider the policy

[510] Information from GAC Sitreps #19 (February 1, 2019); #21 (February 6, 2019); #27 (March 4, 2019); #29 (March 14, 2019); #34 (April 2, 2019); #43 (May 2, 2019); #55 (June 13, 2019); and #57 (June 25, 2019).
[511] Information from GAC Sitreps #24 (February 20, 2019) and #26 (February 27, 2019).
[512] Information from GAC Sitreps #41 (April 26, 2019) and #44 (May 6, 2019).
[513] GAC, Executive Summary: Closure of the hostage case of Edith Blais, undated; GAC, MALI: Review of the resolution of Edith Blais's hostage taking, April 9, 2021.
[514] CSIS, ***, 2021. In her book on the incident, Edith Blais described her escape from her captors. Edith Blais, *The Weight of Sand: My 450 Days Held Hostage in the Sahara*, Greystone Books, 2021.
[515] GAC, Terrorist Hostage Taking: Edith Blais – Key Takeaways and Initial Lessons Learned, May 29, 2020.

and governance framework, ***, key partner engagement, family and victim support, media engagement, and overall sustainability from a financial and human resources perspective.[516]

239. The Committee received a draft of this independent assessment in July 2021. Prepared by a former Director of CSIS and Deputy Minister of National Defence, the report echoes a number of findings from previous lessons learned exercises (see paragraphs 92-103), notably:

- the current governance structure is "ineffective;"
- there was no decision regarding the level of effort for the government's response to the hostage-taking, leaving individual departments to determine their response;
- ministerial direction is necessary regarding Canada's hostage policy, ***; and,
- implicated organizations must agree on roles and responsibilities.[517]

The Committee considers the broader implications of the case studies along with the issues identified in the preceding section in the following Committee's Assessment.

[516] GAC, Terms of Reference for Lessons Learned: Reviewing the Government of Canada response to the hostage taking of Edith Blais and ***, July 3, 2020.
[517] GAC, After Action Review – BLAIS and *** 2021.

Chapter 5: The Committee's Assessment

240. In conducting this review, the Committee set out to examine GAC's national security and intelligence activities, its authority to conduct those activities and the governance of those activities. As a result, the Committee has come to understand that the Department, by virtue of its responsibility for managing Canada's international relations and global network of missions, plays an integral role in the security and intelligence community. Among its key roles, GAC works to ensure that the activities of its security and intelligence partners are coherent with the government's broader foreign policy interests and objectives; supports the collection of foreign intelligence within and outside of Canada; and advances Canada's national security interests abroad through its international security programming and its role in responding to terrorist hostage-takings.

241. However, the Committee's review of the Department's activities has revealed a significant imbalance between the Department's broad and significant roles and the governance mechanisms which underpin these responsibilities and activities. Governance is the combination of internal and external structures and processes – including formalized policies, procedures and oversight committees – that ensure continuity and institutional memory, and support decision-making and accountability. In other words, governance is the foundation upon which decisions are made, activities are conducted and accountability is maintained. The Committee identified three areas where the weaknesses in governance are most prominent: the Department's role in the government's response to terrorist-hostage-taking; GAC's support to foreign intelligence activities; and the Department's management of foreign policy risk. These areas are addressed in turn below.

Coordination of the response to hostage-takings by terrorist entities

242. The government's response to terrorist hostage-takings suffers from important challenges. Responsibility for some of these rest with GAC, the organization charged with leading the coordination of the government's response. While the Department has consistently conducted some form of lessons learned exercise following critical incidents, it is clear that the findings from those exercises are not being implemented. Many of the same challenges repeatedly arose over time, including in the most recent incidents: an absence of clear policy and governance on the parameters of the government's response; gaps in leadership and centralized decision-making throughout incidents; unclear roles and responsibilities; and the absence of an institutionalized approach. At least some of these challenges could be addressed through the development of formal policies, protocols and standard operating procedures to guide the response of the Department and its partners. The specialized unit established by the Department in 2009 to develop those very documents has heretofore failed to do so.

243. This undermines the Department's claim to "lead the coordination" of government responses to critical incidents. Based on its review, the Committee believes that the Department provides little coordination or management of the government's response, ***. Nor can it in the

current circumstances. Other key organizations on the government's Task Force, namely the Department of National Defence and the Canadian Armed Forces (DND/CAF), the Canadian Security Intelligence Service (CSIS) and the Royal Canadian Mounted Police (RCMP), play significantly greater operational roles in addressing actual incidents ***. They bring to each incident an abundance of experience and operational tools, each of which is subject to distinct departmental and ministerial accountabilities. Among other things, this leads departments to individually determine their levels of effort and tends to skew the government's response towards the mandate of the organization that brings the most capabilities in a given circumstance (for example, prioritizing a criminal investigation in the case of the RCMP and military options in the case of CAF). More broadly, the Committee found that departments have grappled with ambiguities around defining Canada's national security interests for individual incidents ***.

244. It appears to the Committee that the most significant of these challenges is systemic. A theme that has been consistently raised in lessons learned exercises, and one that appears frequently in working level documents, is that successive governments have failed to establish a general policy framework to guide departmental activities and to provide specific direction at the start of each case. While GAC and its partner departments should improve their approach to these critical incidents by developing formal policies and procedures and a clear model of centralized leadership, those efforts will reach a point of diminishing returns absent accompanying systemic reforms driven from the political level. Critical incidents occur infrequently, but when they do, they have a dramatic effect on the organizations responsible for responding and the victims and their families.

Support to intelligence partners

245. The Committee was interested to learn about the Department's *** support to its domestic *** partners for sensitive intelligence collection activities. Since at least the 1980s, GAC has played a central role in facilitating the collection of foreign intelligence within Canada ***. More recently, the Department has gained an important role in requesting or consenting to cyber activities conducted under CSE's newest authorities. The activities themselves carry significant risks to Canada's foreign relations and its international reputation ***. The Committee was encouraged to see the evolution and strengthening of interdepartmental governance mechanisms since 2019 for many of these highly sensitive activities, including the collection of foreign intelligence within Canada under the *Canadian Security Intelligence Service Act* and the conduct of cyber operations under the *Communication Security Establishment Act*.

246. Given the long-standing nature of this support and the existence of robust external governance of the various activities, the Committee was struck by the near total absence of internal governance with regards to GAC's role. GAC's Intelligence Bureau, the unit responsible for the Department's contributions to these activities, has developed few policies, procedures or internal committee structures to govern and oversee GAC's role in these sensitive intelligence activities (an internal planning committee on cyber operations is the exception). Despite the Department's critical role, it does not possess formal documentation explaining how it fulfills it,

which internal stakeholders are consulted when preparing a section 16 rationale *** or how risk is assessed and mitigated. GAC also has no reporting requirements in place to keep the Minister of Foreign Affairs apprised on an ongoing basis of the Department's support to other government departments ***. This absence of governance is most striking when considering the potential risks posed by these activities to Canada's foreign relations and international reputation. While the Committee recognizes that GAC is not itself collecting the intelligence, the potential impact of the exposure or discovery of the activity falls squarely on the shoulders of the Minister of Foreign Affairs to address. The absence of internal governance, most especially reporting requirements, raises concerns around the Minister's ongoing awareness of and accountability for the Department's participation in sensitive intelligence collection activities.

Managing foreign policy risk

247. Throughout this review, GAC officials repeatedly emphasized that the Minister of Foreign Affairs "owns" the government's foreign policy risk. One of GAC's principal roles in the security and intelligence community is therefore to ensure foreign policy coherence. This consists of two inter-related responsibilities: maintaining awareness of the activities of the Department's security and intelligence partners, and ensuring the broad range of Canada's interests are considered when planning these activities or determining how to respond to a given threat. The government's recognition of the importance of this role has grown since 2016 with the promulgation of ministerial direction, changes to statutes and the issuance of ministerial mandate letters, further cementing foreign policy coherence as one of GAC's principal roles in the security and intelligence community.

External governance

248. Formalized external governance mechanisms are an essential tool through which GAC seeks to ensure foreign policy coherence. This starts at embassies and missions abroad. Departmental views on the responsibilities of their staff to heads of mission abroad were relatively consistent, with one exception: the RCMP, which stated that its deployed personnel had no reporting relationship, contrary to the DFATD Act, which notes that the head of mission is responsible for the supervision of the official activities of the various organizations working at the mission. *** An incident *** further illustrated challenges in ensuring heads of missions' awareness of activities in their areas of accreditation. Departments should recognize their responsibilities under the Act.

249. More broadly, GAC builds foreign policy coherence through interdepartmental engagement. The Committee was encouraged to learn of the consultation mechanisms in place between GAC, CSIS and CSE governing the broad range of their collaboration and opportunities for further cooperation. In particular, GAC's formalized contribution of foreign policy risk assessments for CSIS activities with a foreign policy nexus, and for CSE's active and defensive cyber operations, represent a recognition of GAC's equities and shared responsibilities in security and intelligence activities with a foreign nexus. This formalization

allows for clear lines of communication, transparency in the process, comprehensive risk mitigation, and channels for dispute resolution and deconfliction.

250. The formal nature of consultation among GAC, CSIS and CSE contrasts starkly with the mechanisms in place between GAC and DND/CAF. In the past three years, the two organizations have received direction from the Prime Minister and their respective ministers to strengthen and formalize consultation to ensure the foreign policy coherence of CAF deployments abroad, active cyber operations, and activities in the South China Sea. The Committee has also identified the need for enhanced consultation between DND/CAF and GAC to ensure foreign policy coherence of the CAF's defence intelligence activities. While the Committee commends ongoing efforts to develop consultation mechanisms in response to ministerial direction, it notes that they remain in nascent stages of development over three years after the Prime Minister's direction. Officials from both organizations emphasized the frequent communication at all levels of their organizations on the broad range of their activities, but the Committee continues to believe that formal and properly documented consultation mechanisms would help to ensure the necessary degree of transparency, risk mitigation and deconfliction for DND/CAF's activities abroad.

Internal governance

251. Robust internal governance is equally important. However, similar to the Department's activities in support of its intelligence partners, the Committee identified significant weaknesses in the Department's internal mechanisms to govern its foreign policy coherence role. Aside from approvals templates drafted in 2021, the Department has not developed internal formalized policies, procedures or committees to guide, implement and oversee GAC's provision of foreign policy risk assessments to other departments. The importance of documentation also provides a valuable basis to understand the process by which the organizations arrived at their assessment, effectively ensuring both transparency and accountability in decision-making. While GAC officials explained their internal risk assessment process to the Committee and highlighted their internal consultations, the absence of formal documentation leaves the Committee unsure about the rigour and consistency over time of the Department's risk assessment process. To reiterate what the Committee noted earlier, these processes should support the accountability of the Minister: accountability is attenuated when they are weak or absent. Moreover, the absence of formalized processes and documentation has broader implications for partner organizations. CSIS's and CSE's overall risk assessments involve a rigorous methodology and strict documentation requirements, but rely in part on GAC's assessment of risk. GAC's ad hoc process may introduce weaknesses into the government's broader assessment of risk, thereby undermining the viability of operations and activities.

Internal and external comparators

252. Weaknesses in governance are most striking when compared with GAC's intelligence partners. The Department collaborates with CSIS and CSE on a range of sensitive intelligence activities, from the collection of foreign intelligence within Canada under the CSIS Act *** and active and defensive cyber operations under the CSE Act. For all of these programs, CSIS and CSE have developed clear policies, detailed procedures and oversight committee structures to govern their contributions to the activities they conduct in partnership with GAC. Similarly, their internal risk assessment processes include rigorous methodology and documentation requirements for internal consultations. Finally, both organizations are required to report regularly to their respective ministers on the range of their activities. The Committee recognizes that, unlike GAC, CSIS and CSE have authorities that are grounded in statute and their activities have been subject to review for decades. Their respective statutes impose a number of governance and reporting requirements, and decades of dedicated review has encouraged them to develop and refine their governance practices over time. Notwithstanding their different mandates and authorities, the Department should look to these organizations for guidance in building its own internal governance mechanisms.

253. The Department should also look within. The Committee views GAC's international security programming divisions as a model of governance across the Department's national security and intelligence activities. These divisions have developed terms and conditions for each of their programming areas that outline eligibility criteria for individual projects, and processes for project proposal, review and approval. They are overseen by a tiered committee structure that provides input from broad strategic direction to direct project oversight. The programs undergo annual priority reviews and regular internal audit and evaluation. Unlike GAC's Intelligence Bureau, GAC's international security programs are subject to the program evaluation requirements under the *Financial Administration Act* and the Treasury Board Policy on Results. Similar to CSIS and CSE, these statutory requirements and regular evaluations have allowed these programs to refine and improve their governance practices over time. The Committee recognizes that the nature of the international security programs differs from that of the Intelligence Bureau, but believes that the governance mechanisms themselves can serve as a valuable internal example of the value of clear and transparent processes.

Consistency, institutional memory and accountability

254. In all of its previous reviews, the Committee has placed considerable emphasis on the importance of governance. Governance is the Committee's most significant concern here. The reason is simple: governance serves accountability. Governance mechanisms create a clear link between a minister's authorities and the activities conducted under those authorities, and they provide the necessary documentation and transparency to account for decisions. In turn, strong governance mechanisms – ministerial direction, formalized policies and procedures, oversight committees and regular reporting requirements – ensure consistency and institutional memory inside an organization. The development and documentation of processes and procedures ensure that proper processes and practices are built into a system, without relying

on the good judgment of any individual official. The Department falls short in both areas. The Committee addresses each in turn.

255. Ministerial accountability is weakened by the absence of formalized and regular reporting requirements. The Department has few reporting requirements in place for the Minister of Foreign Affairs for its national security and intelligence activities, including those under section 16 of the CSIS Act, *** the foreign policy risk assessment process, and foreign arrangements under the CSIS Act and the CSE Act. Instead, the Minister of Foreign Affairs provides their approval for a foreign intelligence target *** or a foreign arrangement, but no formal mechanism exists to *keep* the Minister apprised of those activities and their associated risks. The absence of reporting mechanisms may limit the Minister's understanding of the full scope of the Department's national security and intelligence activities, how they have changed, and the evolving risks associated with them, effectively undermining their ability to account for the activities over time (as a recent example, GAC did not notify the Minister ***). While the Department noted that the Minister is briefed regularly on the Department's sensitive activities, it acknowledged that the gap in formal reporting requirements would be addressed through forthcoming ministerial direction.[518] The Committee commends GAC's recognition of this gap, but emphasizes that ministerial direction is only one part of a broader suite of policies, procedures and oversight structures that form a mature governance framework.

256. Furthermore, the informal and ad hoc consultation within the Department weakens consistency and institutional memory of its contributions to the security and intelligence community. The issue of consistency applies most clearly to GAC's role in ensuring foreign policy coherence. Notwithstanding GAC's assurances that the Department consults all relevant internal stakeholders during its internal risk assessment process, including geographic desks and heads of mission, the absence of any policies or documentation of consultation makes it difficult to determine whether these practices are applied consistently over time and across cases. The same is true for the Department's contributions to national security reviews under the *Investment Canada Act*, where internal consultation process are ad hoc and relevant stakeholders are determined on a case-by-case basis. The challenges of consistency and institutional memory are exacerbated by the Department's human resources systems. Staffing within the Department is partly rotational, which means that a portion of its employees changes roles every two to three years. In the context of frequent staff rotation, documented policies and procedures are even more critical to ensuring that officials are aware of past practice and able to ensure the quality and rigour of processes on an ongoing basis.

[518] GAC, NSICOP appearance, June 11, 2021.

Conclusion

257. This review marks the Committee's third examination of a core member of the security and intelligence community. When the Committee started these activity reviews in 2018, its intention was twofold: to shed light on the lesser-known activities of organizations that had never been reviewed before, and to build its own understanding of how the security and intelligence community operates as a whole. The review of the Department of National Defence and the Canadian Armed Forces served as an introduction to the Crown prerogative and the broad range of defence intelligence activities. The Canada Border Services Agency review revealed a niche and concentrated scope of activities conducted in support of border security. Both showed how these organizations exercised their relatively discrete and distinct roles within the broader security and intelligence community.

258. Global Affairs Canada's national security and intelligence activities are more diffuse. Its national security activities operate along a broad spectrum, from diplomatic efforts to promote international peace and security, to funding counter-terrorism projects in fragile states, to coordinating efforts for the safe return of Canadians taken hostage by terrorists abroad. The Department's intelligence activities range from overt diplomatic reporting to supporting its partners' intelligence collection activities within Canada. It plays an overarching role by ensuring the alignment of the activities of the security and intelligence community with the government's broader foreign policy interests. Cumulatively, these responsibilities put the Department at the centre of managing the government's foreign policy risks for all of Canada's security and intelligence activities with a foreign nexus.

259. Global Affairs Canada's governance and accountability structures are not commensurate with the significance of its responsibilities. The Department lacks the policy, oversight and accountability mechanisms that are the hallmarks of a mature security and intelligence organization. It has few frameworks or procedures to guide the conduct of its most sensitive intelligence activities and, most concerning, it has not instituted regular formalized reporting to the Minister of Foreign Affairs to keep her or him apprised of the broad range of national security and intelligence activities and their associated risks. This disparity undermines policy and operational consistency, institutional memory and ministerial accountability within the Department and, where it supports other security and intelligence programs, potentially for other government ministers. Weak governance is also a challenge in the area of foreign policy coherence, particularly between Global Affairs Canada and the Department of National Defence and the Canadian Armed Forces, where engagement remains irregular and ad hoc. The Committee believes that the Department must do better if it is going to fulfill its proper role within Canada's security and intelligence community. It expects that its findings and recommendations will assist the Department in doing so.

Findings

260. The Committee makes the following findings:

F1. Global Affairs Canada (or the Department) is an integral part of the security and intelligence community. The Department advances Canada's national security interests abroad, provides critical support to its intelligence partners in the collection of foreign intelligence within Canada, and has an overarching role in ensuring the activities of its security and intelligence partners are coherent with the government's foreign policy interests and objectives. (Paragraphs 53, 37 and 19)

F2. Global Affairs Canada ensures the foreign policy coherence of the security and intelligence community through a number of formal consultation mechanisms. The Department has established effective consultation mechanisms with the Canadian Security Intelligence Service (CSIS) and the Communications Security Establishment (CSE) to ensure the foreign policy coherence of their activities. Consultation between GAC and the Department of National Defence and the Canadian Armed Forces remains largely informal and ad hoc, and both organizations have been slow to respond to ministerial direction in this area. (Paragraphs 48-57, 59-64 and 66-8)

F3. The internal governance of the Department's national security and intelligence activities is inconsistent, and in some areas completely absent. For its international security programs, the Department has strong governance mechanisms, including detailed policies, procedures and oversight committee structures. For its most sensitive intelligence activities, the opposite is true: the Department lacks policies, procedures or guidance documents, including for its role in requesting the collection of foreign intelligence within Canada *** or providing foreign policy risk assessments for CSIS and CSE activities. (Paragraphs 142-4, 149-50, 156-8, 94, 101-3 and 117)

F4. The absence of governance for the Department's most sensitive intelligence activities creates an important gap in ministerial accountability. The Department has no requirements to report regularly to the Minister of Foreign Affairs on the full spectrum of its national security and intelligence activities. This gap raises concerns about the Minister's awareness of the risk associated with the Department's most sensitive activities on an ongoing basis, and undermines the Minister's accountability for those activities. (Paragraphs 94, 101, 112, 121 and 128)

F5. The Department's role in responding to terrorist hostage-takings abroad is neither leadership nor coordination, but facilitation and information sharing. At best, GAC convenes implicated departments with much greater operational roles and specific accountabilities, and works to build a coherent approach without authority to direct a whole-of-government response. Part of the challenge is one of the Department's own making: over the past 10 years, it has not developed the necessary policy, operational and training mechanisms for implicated government organizations to respond to such events coherently. Notwithstanding these gaps, the most significant problem is

political: successive governments have failed to provide direction for a framework to address such critical incidents or provide specific direction on individual cases. Together, these challenges undermine the ability of the Department and its security and intelligence partners to respond effectively to terrorist hostage-takings. (Paragraphs 169-198)

Recommendations

261. The Committee makes the following recommendations:

R1. The Minister of Foreign Affairs work with the Minister of National Defence to put in place proactive, regular and comprehensive consultation mechanisms to ensure that Canada's defence policies and military operations are aligned with its foreign policy objectives.

R2. The Minister of Foreign Affairs provide written direction to the Department on its national security and intelligence activities. That direction should include clear accountability expectations and regular reporting requirements.

R3. The Minister of Foreign Affairs put in place comprehensive governance mechanisms for the Department's security and intelligence activities and for those that it supports or contributes to at partner organizations. Those mechanisms should better document processes and decision points to strengthen accountability and institutional memory.

R4. The Government of Canada establish a clear framework to respond to terrorist hostage takings, including to establish principles to guide the Government's response, identify triggers for Ministerial direction and engagement, establish leadership for whole of government responses to specific incidents, and provide sufficient resources to support operational requirements during critical incidents.

Appendix A: List of Witnesses

Canadian Security Intelligence Service

- Deputy Director, Operations
- Director General, Human Sources and Operations Support
- Deputy Director General, International Region

Communications Security Establishment

- Deputy Chief, Signals Intelligence
- Acting Deputy Chief, Policy and Communications

Global Affairs Canada

- Deputy Minister, Foreign Affairs
- Assistant Deputy Minister, International Security and Political Affairs
- Director General, Intelligence Bureau
- Director General, International Security Policy
- Head, International Critical Incidents Task Force

Appendix B: Abbreviations

ACCBP	Anti-Crime Capacity Building Program
ADM	assistant deputy minister
CAF	Canadian Armed Forces
CBSA	Canada Border Services Agency
CSE	Communications Security Establishment
CSIS	Canadian Security Intelligence Service
CTCBP	Counter-Terrorism Capacity Building Program
DDO	Deputy Director of Operations
DFATD	Department of Foreign Affairs, Trade and Development (legal name for GAC)
DMOC	Deputy Minister Operations Committee
DND	Department of National Defence
FCID	GAC Task Force on International Critical Incidents (which serves as the secretariat to support the Interdepartmental Task Force)
FPRA	foreign policy risk assessment
G7	Group of Seven, consisting of Canada, Germany, Italy, Japan, the United Kingdom, the United States and the European Union
G8	Group of Eight, consisting of the G7 plus Russia
GAC	Global Affairs Canada (applied name for DFATD)
IFM	International Security and Political Affairs Branch (of GAC)
***	*** Committee
JCM	Joint Consultative Mechanism
NATO	North Atlantic Treaty Organization
NSICOP	National Security and Intelligence Committee of Parliamentarians
NSIRA	National Security and Intelligence Review Agency
OPCW	Organization for the Prohibition of Chemical Weapons
PCO	Privy Council Office
RCMP	Royal Canadian Mounted Police

RFI	request for information (GAC document tracking system)
S&I	Security and Intelligence
SIGINT	signals intelligence
***	***
Task Force	Interdepartmental Task Force
UN	United Nations
USS	Deputy Minister of Foreign Affairs
WTRP	Weapons Threat Reduction Program