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Deputy Minister Sous-ministre

Ottawa, Canada
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CONFIDENCE OF THE KING'S PRIVY COUNCIL

DATE: ~~FEB~~ ~~21~~ ~~2023~~

File No.: PS-038418
RDIMS No.: 4539526

MEMORANDUM FOR THE MINISTER OF PUBLIC SAFETY

**FOREIGN INFLUENCE TRANSPARENCY REGISTRY
PUBLIC AND STAKEHOLDER CONSULTATION**

(Decision sought)

ISSUE


Your approval is sought on the public consultation paper for a foreign influence transparency registry (**TAB A**), on the proposed approach to undertake the consultations (**TAB B**), as well as the web content that will support online consultations and countering Hostile Activities by State Actors (HASA) more broadly (illustrative example in **TAB C**).

BACKGROUND

Foreign governments regularly seek to influence the Government of Canada and public opinion in Canada, and often do so through established, transparent channels. However, when individuals or entities seek to exert influence on behalf of foreign governments in malign, non-transparent ways, there can be serious consequences for Canada's national sovereignty and interests. Some provisions set out in policy or law (e.g. provisions in the *Lobbying Act*, and the *Conflict of Interest Act*) may address certain aspects of malign foreign influence, such as ensuring transparency over communications with Canadian public office holders, but do not address the full spectrum of activities undertaken in Canada today.

To bolster Canada's defences to malign foreign influence, a proposal to consult the public and stakeholders on the feasibility of a foreign influence transparency registry in Canada was included in the s. 39 - Cabinet Confidence

s. 39 - Cabinet Confidence This commitment was reaffirmed on December 2, 2022, when you announced the Government of Canada's intent to consult the public on the merits of a potential foreign influence transparency registry.

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s. 39 - These legislative consultations, in concert with a foreign influence transparency registry, are intended to modernize Canada's approach to countering HASA, in keeping with the current threat environment as well as the actions of Canada's closest allies and partners. Based on guidance from the Privy Council Office, Public Safety understands that only the foreign influence transparency registry consultation proposal has been endorsed to move forward at this time. The original intent to pursue a suite of measures is outlined in **TAB D**. Other avenues may be used to advance these initiatives, including issue-specific discussions (e.g. on Ideologically-motivated violent extremism) and the expected review of measures introduced through Bill C-59, *the National Security Act, 2017*. Additionally, the Public Order Emergency Commission (POEC) report may include recommendations in areas identified in the *CSIS Act* consultation proposal, presenting another potential avenue for a future consultation process.

Whether as part of a larger package, or as a stand-alone initiative, the foreign influence transparency registry consultations are ready to proceed. The outcomes of these consultations will inform policy/legislative development, s. 39 - Cabinet

s. 39 - Cabinet Confidence

Consultations are also envisioned as a process that will bolster transparency and trust between the Canadian public and the Government of Canada in the national security space, in particular around the issue of foreign interference and malign foreign influence. A strengthened foundation of trust and transparency in this space will benefit future consultations on national security-related initiatives.

Current Status

A consultation paper for a foreign influence transparency registry has been developed by Public Safety officials, in consultation with federal departments and agencies across the security and intelligence community (**TAB A**). Treasury Board Secretariat (TBS), in particular, has been closely involved throughout the development process to ensure coherence with existing transparency legislation such as the *Lobbying Act* and the *Conflict of Interest Act*.

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s. 39 - Cabinet Confidence Public consultations will be undertaken via an online portal. It is recommended that this be hosted on the *Consulting with Canadians* web domain, as well as on a website that includes broader content on HASA. An illustrative example of the latter is included in **TAB C**. This includes the initial webpage content, and a more detailed and interactive document that would be available for download. Stakeholder consultations will be undertaken

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via roundtable and bilateral meeting formats with select stakeholders (previously consulted draft list included in the **TAB D** Deck).

Public Safety Communication (PS Comms) have also been engaged to ensure that all public facing consultation materials will meet web accessibility and publishing standards, and to develop a complimentary communications approach.

CONSIDERATIONS

The intent of public and stakeholder consultations is to ensure that any future measures are informed by feedback from Canadians, which will be considered in real-time. In recognition that policy work on a foreign influence transparency registry has already taken place, the consultation paper seeks to strike the appropriate balance between including details of what a registry might include in the Canadian context, and maintaining a "solutions agnostic" tone, leaving flexibility for any resultant proposal to accommodate feedback. The paper presents, at a high level, the malign foreign influence threat facing Canada, tools that exist to ensure transparency and address conflicts of interest, gaps in existing approaches, and overall how a foreign influence transparency registry could be designed.

There are several considerations of note related to the consultation paper:

- **Sub-national governments**: Sub-national governments are increasingly targeted by malign foreign influence campaigns undertaken by hostile state actors. A foreign influence transparency registry may be designed to cover malign influence directed towards lower levels of government. Additional legal analysis is required and will be undertaken as policy development on a potential legislative proposal for Cabinet continues. While the consultation paper does not specifically capture subnational governments, consultation with provinces/territories will be required and will need to be appropriately timed.
- **Exemptions**: Any registry may require limited exemptions to allow for certain *bona fide* activities to occur absent registration requirements. While the policy development on potential exemptions is in a relatively advanced state, the consultation paper has been written in a manner that is not prescriptive regarding exemptions that will be considered. The intent is to leave space to work with stakeholders to explore what could or should be exempt.
- **Administration of a registry**: Should a registry proposal be brought forward and ultimately become law, there would be a high level of administrative work required to oversee implementation and compliance verification. While it is anticipated that some stakeholders may inquire as to who would administer the registry and what the overall administrative body may look like, the consultation paper purposefully remains silent on these items. Additional policy development

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and interdepartmental consultations are required to fully explore options as to where administrative responsibilities and authorities may be best placed. s. 39 -

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- Charter considerations: Communications activity is included in the consultation paper as a potential registrable activity for the registry. Communications activity could be registrable if the activity is undertaken on behalf of a foreign principal, and its intent or outcome is to influence public opinion in Canada. Solicitor-Client

Solicitor-Client Privilege
- Analysis of consultation feedback: Public consultation processes require significant time to analyze responses, incorporate a GBA+ lens and considerations with respect to under-represented and marginalized communities, and ensure subsequent policy and legislative proposals consider and integrate feedback. Consultation feedback will be examined in real time to facilitate expeditious review, to the extent possible. However, the volume of feedback could delay analysis (for reference, the Bill C-59 green paper received 18,000 written submissions), as could the issues raised.
- PMO Approval: s. 39 - Cabinet Confidence

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PMO has indicated that it must approve all consultation products, including the public consultation paper. This may cause delays in launching the consultations, which will have an impact on delivery timelines.

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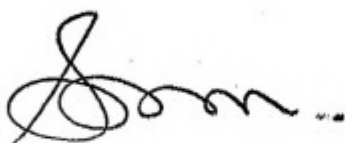
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RECOMMENDATION

It is recommended that you approve the attached consultation paper (**TAB A**), execution plan (**TAB B**) and approach to web content (**TAB C**).

Should you require any additional information, please do not hesitate to contact me, or Sebastien Aubertin-Giguere, acting Senior Assistant Deputy Minister, National and Cyber Security Branch, available at 613-614-4715.



I approve:

I do not approve:

The Honourable Marco Mendicino
Minister of Public Safety

The Honourable Marco Mendicino
Minister of Public Safety

Prepared by: NSOD