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**Portugal
and
United States of America**

Agreement between the Portuguese Republic and the United States of America for the exchange of terrorism screening information. Washington, 24 July 2012

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**Portugal
et
États-Unis d'Amérique**

Accord entre la République portugaise et les États-Unis d'Amérique pour l'échange d'informations de dépistage relatives au terrorisme. Washington, 24 juillet 2012

Entrée en vigueur : 7 juin 2013, conformément à l'article 20

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN THE PORTUGUESE REPUBLIC AND THE UNITED STATES
OF AMERICA FOR THE EXCHANGE OF TERRORISM SCREENING INFORMATION**

Preamble

The Portuguese Republic and the United States of America,

hereinafter referred to as "the Parties",

Having determined that their joint efforts to prevent and address international terrorism should include cooperation in the timely identification of individuals known or suspected to be, or to have been, involved in activities constituting, in preparation for, in aid of, or related to terrorism and terrorist activities, including the sharing of screening information concerning known or suspected terrorists;

Desiring to establish appropriate procedures for access to, and exchange of, terrorism screening information in order to strengthen the ability of the Parties to protect against acts of terrorism;

Have reached the following agreement:

CHAPTER I

General Provisions

Article I

Object and Purpose

1. The present Agreement establishes the cooperation between the Parties in the sharing and use of terrorism screening information derived from intelligence and law enforcement information, for the sole purposes of preventing and combating terrorism and terrorism-related offences as defined in the Parties' domestic laws and the international law applicable to both Parties.

2. This cooperation shall be implemented in accordance with the Parties' domestic laws and applicable international law, including international humanitarian and human rights law.

Article II

Definitions

For purposes of this Agreement, the following definitions shall apply:

- a) "Classified information" means:
- i. For the Portuguese Republic (Portugal), information, regardless of its form, nature, and means of transmission, determined, in accordance with the respective Law in force, to require protection against unauthorised disclosure and which has been marked with the appropriate security classification level;
 - ii. For the United States of America (the United States), classified national security information determined pursuant to Executive Order 13526, as amended, or any predecessor or successor order to require protection against unauthorized disclosure and marked to indicate its classified status when in documentary form.
- b) "Correcting information" means any information that is intended to correct a misidentification of a person's terrorism screening information or any other error in data provided under this Agreement;
- c) "Need to know" means that an authorized holder of information within a relevant Authority has concluded that a prospective recipient requires access to specific information in order to perform or assist in a lawful and authorized governmental function related to the purposes of this Agreement;
- d) "Providing Party" means, with regard to information provided under this Agreement, Portugal or the United States, as the case may be;
- e) "Receiving Party" means, with regard to information received under this Agreement, Portugal or the United States , as the case may be;
- f) "Relevant Authority" means any intelligence, law enforcement, immigration and public security authorities of the respective Parties including, for the United States, any Federal, State, local, territorial or tribal governmental authority, that may have officials who have access to information provided under this Agreement or that may be asked, in the event of an encounter as described in Article VIII, to provide additional information or take other actions to assist in accomplishing the stated purposes of this Agreement;
- g) "Known terrorist"
- (i) for the United States: An individual who:
 1. has been convicted of a crime of terrorism in a U.S. or foreign court of competent jurisdiction; or
 2. has been charged with or indicted for a crime of terrorism in a U.S. or foreign court of competent jurisdiction.
 - (ii) for Portugal: An individual who has been convicted of a crime of terrorism in a Portuguese court.
- h) "Suspected terrorist"

- (i) for the United States: An individual who is reasonably suspected to be or to have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism and terrorist activities based on an articulable and reasonable suspicion.
 - (ii) for Portugal: An individual who has been charged with a crime of terrorism in a Portuguese court.
- i) "Terrorism Screening Information" means unclassified identifying information about known or suspected terrorists in accordance with the above definitions for each Party.

CHAPTER II

Information Exchange

Article III

Exchange of Terrorism Screening Information

Each Party shall, in accordance with its laws and regulations and for the purposes of this Agreement, provide to the other Party access to terrorism screening information relating to:

- a) known terrorists as defined in Article II (g) for the Providing Party, or
- b) suspected terrorists, as defined in Article II (h) for the Providing Party.

Article IV

Principles Applicable for the Information Exchange

The information exchange within the framework of this Agreement shall be:

- a) Obtained for the purposes specified in this Agreement and shall not be further processed for other purposes;
- b) Adequate, necessary, relevant and not excessive in relation to the purposes for which they are collected, transferred and then processed;
- c) Accurate and, where necessary, kept up to date in accordance with each Party's domestic law;
- d) Kept in a form that permits identification of the data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.

Article V

Information Retention Period

1. Each Providing Party shall inform the Receiving Party of the data retention time limits under its respective domestic laws for information exchanged pursuant to this Agreement. Upon the expiration of such time limits, the Providing Party shall request the Receiving Party to erase or block the data or to review whether or not they are still needed. This obligation shall not apply if, at the time of the expiration of these time limits, the data are required for ongoing investigative, prosecutorial, or a law enforcement purpose which may be subject to judicial review.
2. Where the Providing Party has not indicated a specific time limit for the retention of information in accordance with paragraph 1, the time limits for the retention of information exchanged pursuant to this Agreement provided for under the domestic law of the Receiving Party shall apply.

Article VI

Scope of Information Exchange

1. The Parties agree to provide each other access to terrorism screening information in accordance with the purposes and provisions of this Agreement.
2. The information shall be provided except to the extent the Providing Party determines that provision of such information would be contrary to its national interest, and subject to each Party's domestic laws and international obligations.
3. Terrorism screening information provided under this Agreement shall include the individual's full name, and date of birth. Passport or other identity document number(s) and current and former nationality/citizenship also should be provided, if known.
4. Additional unclassified information about known or suspected terrorists, beyond the information covered in paragraph 3 of this Article, including fingerprints and photographs, may be provided as permitted by law and at the discretion of the Providing Party.
5. No classified information shall be required to be exchanged under this Agreement, although the Parties may, through their Relevant Authority, exchange such information pursuant to a security agreement between the Parties about mutual protection of classified information.
6. Nothing in this Agreement is intended to restrict either Party or its Relevant Authorities from requesting or exchanging information or data through existing instruments.

Article VII

Information Exchange Procedures

1. For purposes of implementing this Agreement each Party shall designate one or more points of contact. Within 30 days following the date the Agreement enters into force, the points of contact shall confer regarding steps to take to provide access to its terrorism