



MECHANISM FOR FOLLOW-UP ON
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION

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**STANDARD FORMAT
FOR THE PREPARATION OF THE PROGRESS REPORTS (ARTICLES 31 AND 32 OF
THE RULES OF PROCEDURE AND OTHER PROVISIONS OF THE COMMITTEE)¹**

CANADA’S ANNUAL PROGRESS REPORT – MARCH 2016

**INTRODUCTORY SECTION: PRINCIPAL DEVELOPMENTS RELATED TO THE
IMPLEMENTATION OF THE RECOMMENDATIONS AND MEASURES SUGGESTED BY
THE COMMITTEE IN THE FIRST THREE ROUNDS AND REGARDING OTHER
MEASURES PROVIDED IN THE CONVENTION²**

- On November 27, 2015, the Government of Canada published the “*Open and Accountable Government*” guide which sets out core principles regarding the roles and responsibilities of Ministers in Canada’s system of responsible parliamentary government. This includes the central tenet of ministerial responsibility, both individual and collective, as well as Ministers’ relations with the Prime Minister and Cabinet, their portfolios and Parliament. It outlines standards of conduct expected of Ministers as well as addressing a range of administrative, procedural and institutional matters. It also provides guidance to ministerial exempt staff and useful information for public servants and Canadians on Canada’s system of government. Finally, on the critical issue of ethical conduct, Ministers are expected to be thoroughly familiar with the *Conflict of Interest Act*. See more at: <http://pm.gc.ca/eng/news/2015/11/27/open-and-accountable-government#sthash.SRIQaWJv.dpuf>
- On July 3, 2015, Public Services and Procurement Canada (formerly Public Works and Government Services Canada) announced the implementation of the new government-wide Integrity Regime for procurement and real property transactions to help foster ethical business practices, ensure due process and uphold the public trust. It is transparent, rigorous and consistent with best practices in Canada and abroad, while supporting transparent competition and an ethical Canadian marketplace. The new regime was developed through consultation with industry associations and independent procurement ethics experts. See more at: <http://www.tpsgc-pwgsc.gc.ca/ci-if/synopsis-background-eng.html>
- In November 2014, Canada announced its enhanced Corporate Social Responsibility (CSR) Strategy for the Canadian extractive sector abroad, *Doing Business the Canadian Way*. It

1. This format was adopted by the Committee at the Plenary Session held on June 29, 2007, within the framework of its Eleventh Meeting, and has been updated in order to include the information corresponding to the Third Round of Review.

2. This section is included pursuant to what was agreed to by the Committee at its Seventeenth Meeting, held from September 13 to 16, 2010.

includes Canada's contributions to the global fight against corruption, such as support to the Extractive Industries Transparency Initiative (EITI), and adoption in December 2014 of new legislation, the *Extractive Sector Transparency Measures Act* (ESTMA), which relates to transparent reporting. As of June 1, 2015, all extractive companies subject to the ESTMA are required to report payments including taxes, royalties, fees, and production entitlements of \$100,000 or more to all levels of government in Canada and abroad. See more at: <http://www.nrcan.gc.ca/acts-regulations/17727>

- In January 2015, the Criminal Investigations Directorate of the Canada Revenue Agency (CRA) launched a new training product entitled: "Raising Corruption Awareness" with the purpose of ensuring that all auditors and investigators are aware of their roles in the fight against bribery and money laundering as they relate to tax non-compliance as well as the underlying legislation administered by the CRA that supports this fight.

SECTION I. PROGRESS IN THE IMPLEMENTATION OF THE RECOMMENDATIONS

A. THIRD ROUND OF REVIEW

CANADA'S REPORT FROM THE THIRD ROUND CAN BE FOUND AT:
http://www.oas.org/juridico/english/mesicic3_can_rep.pdf

1. DENIAL OR PREVENTION OF FAVORABLE TAX TREATMENT FOR EXPENDITURES MADE IN VIOLATION OF THE ANTICORRUPTION LAWS (ARTICLE III (7) OF THE CONVENTION)

RECOMMENDATION:

1.4 (b). Consider adopting the measures deemed appropriate to make it easier for the appropriate authorities to detect sums paid for acts of corruption in the event that they are being used as grounds for obtaining such treatment, such as the following: (see Section 1.2 of this Report)

ii. Institutional coordination mechanisms that will provide the timely collaboration needed from other authorities, and such aspects as certifying the authenticity of the documents submitted with the applications.

iii. Channels of communication so that they may promptly report to those who must decide on favorable treatment and warn them of the anomalies detected or of any irregularity that could affect the decision.

ADOPTED MEASURES:

There are occasions when Canada Revenue Agency (CRA) officials, in the course of their ordinary duties, have become aware of information that could be evidence of a serious crime including bribery – domestic and foreign.

The *Income Tax Act, the Excise Tax Act, and the Excise Act, 2001* were amended by Parliament in 2014 to allow the CRA – Criminal Investigations Program (CIP) to share relevant taxpayer information with law enforcement when there are reasonable grounds to believe the information affords evidence of a listed serious criminal offence. The amendments include a list of the serious criminal offences that could trigger disclosure to law enforcement, and are consistent with recommendations from the Organisation for Economic Co-operation and Development (OECD) Committee on Fiscal Affairs.

The protection of taxpayer information is a top priority for the CRA. The new procedures ensure that the CRA-CIP takes all necessary precautions to safeguard taxpayer information and that only information authorized by law will be provided to law enforcement. Such shared information would have been identified by the CRA during its normal business activities.

2. PREVENTION OF BRIBERY OF DOMESTIC AND FOREIGN GOVERNMENT OFFICIALS (ARTICLE III, PARAGRAPH 10 OF THE CONVENTION)

RECOMMENDATION:

2.4 b) Consider the adoption of the instruments necessary to facilitate the detection, by the organs and entities responsible for preventing and/or investigating violations of measures designed to safeguard the accuracy of accounting records and protect their contents, of sums paid for corruption that are concealed in those records, such as the following...

ADOPTED MEASURES:

In its *Economic Action Plan 2013* and *G8 Action Plan on the Transparency of Corporations and Trusts*, Canada committed to improve corporate transparency. In addition, Canada further committed in its *Economic Action Plan 2014* to consider options to further strengthen corporate transparency in Canada, including an explicit ban on bearer instruments. Public consultations on the *Canada Business Corporations Act* (CBCA) concluded on May 15, 2014. Stakeholders' submissions are posted on https://www.ic.gc.ca/eic/site/cilp-pdci.nsf/eng/h_c100867.html. The consultations were undertaken to ensure that the governance framework for CBCA corporations remains effective, supports investment, and instills investor and business confidence. Information received from the consultation relating to corporate transparency and anti-bribery was shared within government.

Officials will continue to review other issues of corporate transparency consulted on, such as the adequacy of corporate governance legislation in preventing bribery and corruption and the ability of authorities to access information on corporate beneficial ownership.

B. FOURTH ROUND OF REVIEW

CANADA'S REPORT FROM THE FOURTH ROUND CAN BE FOUND AT:
http://www.oas.org/juridico/PDFs/mesicic4_can_en.pdf

2. THE PUBLIC PROSECUTION SERVICE OF CANADA

RECOMMENDATION:

2.4.2 Update the guides and manuals of the Public Prosecution Service of Canada, in particular the Federal Prosecution Service Deskbook and the Proposed Best Practices for Prosecuting Fraud against Governments. (See section 2.2 of Chapter II of this Report)

ADOPTED MEASURES:

On September 2, 2014, the Public Prosecution Service of Canada (PPSC) published the PPSC Deskbook which replaced the Federal Prosecution Service Deskbook. The press release can be found at the following address: http://www.ppsc-sppc.gc.ca/eng/nws-nvs/2014/02_09_14.html

A copy of the new Deskbook can be found at this address:
<http://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/index.html>

The Proposed Best Practices for Prosecuting Fraud against Governments were updated in January 2015. A copy can be found at this link:
<http://www.ppsc-sppc.gc.ca/eng/pub/pbp-mep/20150129.html>

The country under review considers that this recommendation has been satisfactorily considered.

RECOMMENDATION:

2.4.3 Update the chapter on the Corruption of Foreign Public Officials Act in the Federal Prosecution Service Deskbook so that it provides an overview on practices and policies relevant to prosecution of the offenses set out in the Act. (See section 2.2 of Chapter II of this Report)

ADOPTED MEASURES:

The chapter on the Corruption of Foreign Public Officials Act (CFPOA) was updated on March 1, 2014. A copy of the chapter can be found at this link:
<http://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p5/ch08.html>

The country under review considers that this recommendation has been satisfactorily considered.

RECOMMENDATION:

2.4.4 Report whether or not founded wrongdoings have occurred in the Proactive Disclosure section of the website of the Public Prosecution Service of Canada. (See section 2.2 of Chapter II of this Report)

ADOPTED MEASURES:

The PPSC, like all federal departments, is required to report this information publicly. The results can be found at this address: <http://www.ppsc-sppc.gc.ca/eng/tra/index.html>

The country under review considers that this recommendation has been satisfactorily considered.

RECOMMENDATION:

2.4.5 Make publicly available its statistical information with respect to relevant criminal code provisions on offences related to acts of corruption, in a manner that is more readily available to the general public. (See section 2.3 of Chapter II of this Report)

ADOPTED MEASURES:

Statistical information on prosecutions conducted by the PPSC can be found in the annual reports to Parliament of the PPSC, and information on prosecutions under the CFPOA can be found in the Annual Report to Parliament on the CFPOA.

The PPSC Annual Report to Parliament (2014-2015):

http://www.ppsc-sppc.gc.ca/eng/nws-nvs/2015/23_07_15.html

The CFPOA Annual Report to Parliament:

<http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/corruption.aspx?lang=eng>

3. THE PUBLIC SERVICE COMMISSION OF CANADA

RECOMMENDATION:

3.4.1 Review the control measures in place to ensure that the Public Service Commission is effectively monitoring the delegated appointment process within the Public Service Commission. (See section 3.2. of Chapter II of this Report)

ADOPTED MEASURES:

The Public Service Commission of Canada (PSC) has implemented a number of measures to ensure that delegated authorities are being tracked and used appropriately within the organization. Monthly reports are generated to monitor the arrival and departures of those holding sub-delegated authority, and an alert system is in place to signal the activation or deactivation of signing authorities. Staffing file checklists have been updated to trigger mandatory training for sub-delegated managers and to verify that the appropriate level of sub-delegation is in place. A series of validation exercises also occurs to ensure accuracy of the aforementioned activities.

In June 2015, an external third party confirmed in a report presented to the PSC's Internal Audit Committee that effective controls are in place to ensure that the managers satisfy sub-delegation conditions and that information is properly recorded.

The country under review believes that this recommendation has been satisfactorily considered.

RECOMMENDATION:

3.4.2 Review the appointment process carried out by Public Service Commission to ensure that hiring is based on merit. (See section 3.2 of Chapter II of this Report)

ADOPTED MEASURES:

In June 2015, an external third party confirmed in a report presented to the PSC's Internal Audit Committee that assessment tools have been improved. A learning activity was held for sub-delegated managers.

The revised monitoring program has been implemented, and senior management is presented with monitoring results on a semi-annual basis. The PSC's monitoring program is currently under review in light of the implementation of a new appointment policy framework that comes into effect on April 1, 2016.

Progress on the PSC's response to audit results was presented to the Internal Audit Committee on a quarterly basis up until June 2015. At that time, an external third party prepared and presented a report to the Committee that found that the organization had adequately addressed the three audit recommendations made by the PSC (as a central agency) in its 2013 Audit Report.

The country under review believes that this recommendation has been satisfactorily considered.

RECOMMENDATION:

3.4.3 Update the guides and manuals of the Public Service Commission, in particular the Audit Manual and those relating to investigations. (See section 3.2 of Chapter II of this Report)

ADOPTED MEASURES:

Audit Manual: The PSC has updated its Audit Manual as part of an ongoing effort to ensure that the manual remains effective and up-to-date. Specific changes included updating references to the Values and Ethics Code for the Public Sector as well as the Policy on Conflict of Interest and Post-Employment.

Investigations: The PSC continues to modernize its investigations function by taking steps to improve the efficiency and effectiveness of its investigations processes and communication tools. For example, a review of the correspondence templates in use was completed and this led to less formal language being used and a change in the overall tone in correspondence. New investigations techniques such as group interviews are being piloted, and these are aimed at reducing the time it takes to complete an investigation. Revisions have been made to business processes to ensure respect for the privacy rights of individuals, while adhering to procedural fairness. Finally, significant progress has been made in the development of the Investigations Branch website, which will offer more comprehensive information on the Investigations function. As consultations come to a close, a more user-focused format, with interactive tools such as flowcharts, graphs, a video, and brochures will be published and will be made available in the coming months.

4. THE OFFICE OF THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS

RECOMMENDATION:

4.4.1 Take steps to report whether or not founded wrongdoings have occurred, as set out in the *Public Servants Disclosure Protection Act*, in the Proactive Disclosure section of the website of the Office of the Commissioner for Federal Judicial Affairs.

ADOPTED MEASURES:

The Office of the Commissioner for Federal Judicial Affairs (FJA) is complying with this recommendation, as shown on its website: <http://www.fja.gc.ca/pd-dp/protection/index-eng.html>

The country under review believes that this recommendation has been satisfactorily considered.

RECOMMENDATION:

4.4.2 Conclude with the implementation of the action plan that was developed to address the findings of the Public Service Commission Audit.

ADOPTED MEASURES:

FJA reported on its progress on the action plan – approved by both the Commissioner and the PSC - to the PSC in its annual Departmental Staffing Accountability Report (DSAR).

The FJA reports that, on August 15, 2015, the PSC wrote to the Commissioner of the FJA to confirm that the PSC was satisfied with the FJA's implementation of the action plan and that no further reporting was required.

The country under review believes that this recommendation has been satisfactorily considered.

RECOMMENDATION:

4.4.3 Ensure that completed internal audit reports of which the Office of the Commissioner for Federal Judicial Affairs is subject, including its management action plans, are made accessible to the public on its website, in a timely manner.

ADOPTED MEASURES:

The Horizontal Audit of Electronic Record Keeping in Small Departments and Agencies (<http://www.tbs-sct.gc.ca/report/orp/2011/iad-vidtb-eng.asp>) and the Horizontal Audit of Information technology Asset Management in Small Department and Agencies (<http://www.tbs-sct.gc.ca/report/orp/2010/it-ti-eng.asp>) are posted on Treasury Board's website. Internal audits are published on FJA's website whereas horizontal audits are published on Treasury Board's website.

FJA Audits, Departmental Financial Statements and other documents are available at this link: <http://www.fja-cmf.gc.ca/publications/index-eng.html>

The country under review believes that this recommendation has been satisfactorily considered.

FOLLOW-UP ON PROGRESS AND NEW AND RELEVANT INFORMATION AND DEVELOPMENTS WITH REGARD TO THE IMPLEMENTATION OF RECOMMENDATIONS SUGGESTED IN THE COUNTRY REPORT IN THE FIRST ROUND OF REVIEW

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE COMPLIANCE (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)

1.1 Conflicts of interest

RECOMMENDATION:

Continue strengthening the provisions and measures on conflicts of interest and mechanisms to enforce compliance.

SUGGESTED MEASURE:

- Adopt measures to ensure that the post-employment restrictions for public servants can be enforced.

ADOPTED MEASURES:

Issues and options touching on the MESICIC recommendation will be explored in the elaboration of proposals to respond to the recommendations of the statutory review of the *Conflict of Interest Act*.

The report of the parliamentary committee can be found at:

<http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&DocId=6365946>

The government's response can be found at:

<http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&DocId=6651155&File=0>

1.2 Standards of conduct and mechanisms to ensure the proper conservation and use of resources entrusted to government officials

RECOMMENDATION:

Continue strengthening the norms and mechanisms with respect to the existing systems and measures requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

SUGGESTED MEASURE:

- Adopt provisions to establish the obligation on public servants to report to appropriate authorities those acts of corruption set out in the Inter-American Convention against Corruption, which they come across in the performance of public functions.

ADOPTED MEASURES:

This issue will be considered in the independent, statutory review of the *Public Servants Disclosure Protection Act* to be caused by the President of the Treasury Board, and to be undertaken by an independent review body.

2. SYSTEMS FOR REGISTERING INCOME, ASSETS AND LIABILITIES (ARTICLE III, PARAGRAPH 4, OF THE CONVENTION)

RECOMMENDATION:

Continue strengthening the systems for registration of income, assets, and liabilities.

SUGGESTED MEASURE:

- a) Adopt provisions on the systems for registering, where appropriate, sources of income, assets and liabilities that potentially could conflict with the official duties of those employees in the federal public sector who currently are not required to meet such registration procedures, in order to contribute to the promotion of the purposes of the Convention.

ADOPTED MEASURES:

Issues and options touching on the MESICIC recommendation will be explored in the elaboration of proposals to respond to the recommendations of the statutory review of the *Conflict of Interest Act*.

The report of the parliamentary committee can be found at:

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