

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

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Committee of Experts

**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

PRINCIPAL DEVELOPMENTS - MARCH 2013

**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 CONVENTION^{2/}**

Instructions: Please list below, in no more than one page, the principal developments that have taken place in your country, within the period referred to in this report (December 18, 2010 to March 17, 2013), with regard to the implementation of the recommendations and measures suggested by the Committee in the first three rounds of review, as well as with regard to other measures provided for in the Convention:

SECTION I. PROGRESS IN THE IMPLEMENTATION OF THE RECOMMENDATIONS

A. THIRD ROUND OF REVIEW

Instructions: Following the same structure as the country report of the Third Round,^{3/} and with respect to each one of the recommendations to which your country wishes to refer in this progress report, please supply the following information:

3. TRANSNATIONAL BRIBERY (ARTICLE VIII OF THE CONVENTION)

- I. **RECOMMENDATION:** Please transcribe the text of the recommendation made to your State by the Committee in the country report of the Third Round, and with respect to which you would like to inform on progress that has been made:

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.

3. By way of a guide, the last page of this standard format describes that structure in connection with the issues covered in the Third Round.

--Consider undertaking to periodically review its policies and approach on facilitation payments in order to effectively combat the phenomenon and continue to encourage companies to prohibit or discourage the use of facilitation payments in internal company controls, ethics and compliance programs or measures.

II. ADOPTED MEASURES: Please note the measure or measures suggested by the Committee, or the alternative measure or measures that have been adopted to implement the above recommendation; and briefly describe the concrete steps that have been taken in connection with the measures adopted. If appropriate, please indicate the Internet web site where more detailed information may be obtained with respect to the measures adopted and the steps taken to implement the foregoing recommendation, specifically identifying where the information can be obtained on that website:

On February 5, 2013, the Minister of Foreign Affairs introduced Bill S-14, the *Fighting Foreign Corruption Act*, which seeks to amend the *Corruption of Foreign Public Officials Act*.

The proposed amendments to the Act include the following:

- **Nationality jurisdiction**: This amendment would make it easier for Canada to prosecute Canadians or Canadian companies for bribery in other countries, insofar as it would allow the Government of Canada to exercise jurisdiction over persons or companies that have Canadian nationality, regardless of where the alleged bribery has taken place.
- **Eventual elimination of facilitation payments**: The Act currently states that payments made to expedite or secure the performance by a foreign public official of any act of a routine nature that is part of the foreign public official's duties or functions do not constitute bribes. This amendment would eliminate the exception for facilitation payments and would come into effect at a later date to be set by the Governor in Council.
- **Exclusive ability to lay charges**: This amendment would provide exclusive authority to the Royal Canadian Mounted Police to lay charges under the Act.
- **Clarifying the definition of "business"**: This amendment would remove the words "for profit" in the definition of business to ensure that the Act applies to all business, regardless of whether profit is made.
- **Increasing the maximum penalty**: Under the Act, the foreign bribery offence is currently punishable by a maximum of five years imprisonment. The amendment would increase the maximum penalty of imprisonment to 14 years.

- **Books and records offence:** This amendment would add a new books and records of account offence into the Act that is restricted in scope to the bribery of foreign public officials or hiding such bribery. This offence would be punishable by a maximum period of imprisonment of 14 years.

A copy of the bill is available at the following link:

<http://www.parl.gc.ca/LEGISInfo/BillDetails.aspx?Language=E&Mode=1&billId=5960855>

The *Corruption of Foreign Public Officials Act* is available at the following link:

<http://laws-lois.justice.gc.ca/eng/acts/C-45.2/index.html>

The Thirteenth Annual Report to Parliament on the enforcement of the *Corruption of Foreign Public Officials Act* is available at the following link:

<http://www.international.gc.ca/trade-agreements-accords-commerciaux/ds/index.aspx?view=d>