



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)**

**CANADA'S ANNUAL PROGRESS REPORT – MARCH 2018**

**PRINCIPAL DEVELOPMENTS**

- In September 2017, Canada completed its evaluation for its implementation of Article III, Paragraph 3 of the Convention (Instructions to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities), Article III, Paragraph 12 of the Convention (The study of preventive measures that take into account the relationship between equitable compensation and probity in public service), and the follow-up on implementation of the recommendations of the Second Round of review.

Canada's Report is available at the following link:

[http://www.oas.org/juridico/english/mesicic5\\_rep.htm](http://www.oas.org/juridico/english/mesicic5_rep.htm)

- In October 2017, the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)* became law, creating an additional sanctions tool for Canada. The *Justice for Victims of Corrupt Foreign Officials Act* allows Canada to directly target foreign nationals who are responsible for, or complicit in, specific cases of gross violations of internationally-recognized human rights or acts of significant corruption committed in foreign states, without sanctioning the state itself. On November 3, 2017, the *Justice for Victims of Corrupt Foreign Officials Regulations* were made pursuant to the Act. The regulations list 52 foreign nationals from Russia, Venezuela, and South Sudan. Canadians are prohibited from dealing with the listed individuals (effectively freezing their Canadian assets). Listed individuals are also inadmissible to Canada under the *Immigration and Refugee Protection Act*. In Budget 2018, the Government of Canada proposes to provide \$22.2 million over five years, starting in 2018–19, with \$4.3 million per year thereafter, to Global Affairs Canada and the Canada Border Services Agency to strengthen Canada's sanctions system, including funds for the development of sanctions policy, coordination with international partners, and providing guidance to Canadians on sanctions obligations.

The Act is available at this link:

[http://laws-lois.justice.gc.ca/eng/AnnualStatutes/2017\\_21/FullText.html](http://laws-lois.justice.gc.ca/eng/AnnualStatutes/2017_21/FullText.html)

For more information on the Act, please consult this link:

[http://www.international.gc.ca/sanctions/countries-pays/victims\\_corrupt-victimes\\_corrompus.aspx?lang=eng](http://www.international.gc.ca/sanctions/countries-pays/victims_corrupt-victimes_corrompus.aspx?lang=eng)

## **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](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:**

As indicated in previous progress reports, the *Income Tax Act* (ITA), the *Excise Tax Act* (ETA), and the *Excise Act, 2001* were amended by Parliament in 2014 to allow the Canadian Revenue Agency (CRA) 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.

In 2015, the Serious Crimes Measures Operational Procedures (operational procedures), which described how the CRA will administer the legislative provisions, were issued. The CRA implemented a policy that precluded the sharing of information when law enforcement proactively requested information and provided details in an attempt to convince a CRA official that a listed serious offence has taken place.

As a result, these procedures precluded the CRA from initiating CRA compliance action even when presented with credible information by law enforcement that tax laws are not being respected. To date, the only sharing that could occur was if the CRA had initiated the work itself.

Discussions with law enforcement agencies identified cases in which the CRA may have an interest and believe CRA information would be relevant to their police investigation. As a result, the CRA identified an opportunity to revise the policy to allow for greater cooperation and sharing of

information with law enforcement in very specific circumstances while respecting the legislative requirements.

In 2017, the operational procedures were amended for circumstances where no CRA action has been initiated. The CRA will now entertain requests from law enforcement when they are investigating (pre-charge) financial crime such as major frauds, proceeds of crime, money laundering and corruption. The requests that CRA will entertain will be limited to instances where it would be in CRA's interests in the administration or enforcement of the ITA or ETA (i.e., CRA may undertake an audit or investigation of the targets identified by law enforcement).

The protection of taxpayer information remains a top priority for the CRA. The revised operational procedures ensure that the CRA still takes all necessary precautions to safeguard taxpayer information and that only information authorized by law will be provided to law enforcement.

### **3. TRANSNATIONAL BRIBERY (ARTICLE VIII OF THE CONVENTION)**

#### **I. RECOMMENDATION:**

**--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.**

#### **ADOPTED MEASURES:**

Canada criminalizes the bribery of a foreign public official and the maintaining or destruction of books and records to facilitate or hide the bribing of a foreign public official under the *Corruption of Foreign Public Officials Act* (CFPOA).

On October 31, 2017, Canada removed the facilitation payments exception from the CFPOA, which applied to the offence of bribing a foreign public official. Facilitation payments were formerly described in the CFPOA as 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, such as issuing permits or licenses. The facilitation payments exception was repealed by Bill S-14, *An Act to amend the Corruption of Foreign Public Officials Act*.

Canada takes significant investigation and enforcement actions to deter Canadian companies and persons from paying bribes to foreign public officials in the course of business. As part of these efforts, the Government of Canada has been conducting outreach to enhance awareness and to encourage companies to adopt measures that can effectively implement their legal obligations with a zero-tolerance approach to the bribery of foreign public officials. Canada reports annually to Parliament on its Implementation of the *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* and the Enforcement of the *Corruption of Foreign Public Officials Act*.

Canada's 18<sup>th</sup> annual report to Parliament was tabled in September of 2017, as is available online at: [http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/corr-18.aspx?lang=eng&\\_ga=2.116454150.187395434.1517325668-468429841.1504895971](http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/corr-18.aspx?lang=eng&_ga=2.116454150.187395434.1517325668-468429841.1504895971)

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

## **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](http://www.oas.org/juridico/PDFs/mesicic4_can_en.pdf)

### **3. THE PUBLIC SERVICE COMMISSION OF CANADA**

#### **I. 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:**

Following the recommendation from the Fourth Round of Review, the Public Service Commission updated its Audit Manual to address the concerns raised at that time. Furthermore, the Audit Manual has been updated to align with the changes to the 2016 revision of the appointment framework and will be published this year.

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

##### **Investigations:**

As indicated in the previous Annual Progress Report of March 2017, the Public Service Commission addressed this recommendation related to investigations.

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

## **C. FIFTH ROUND OF REVIEW**

CANADA'S REPORT FROM THE FIFTH ROUND CAN BE FOUND AT:

[http://www.oas.org/juridico/PDFs/mesicic5\\_canada\\_inf\\_ingles.pdf](http://www.oas.org/juridico/PDFs/mesicic5_canada_inf_ingles.pdf)

### **1. SYSTEMS OF GOVERNMENT HIRING AND PROCUREMENT OF GOODS AND SERVICES (ARTICLE III (5) OF THE CONVENTION)**

#### **1.1. SYSTEMS OF GOVERNMENT HIRING**

**RECOMMENDATION:**

**1.1.3.6 Make the recruitment policies and other relevant documents of the House of Commons Administration, public and easily accessible (See paragraph 85 of Section 1.1.2 of Chapter II of this Report).**

**ADOPTED MEASURES:**

The relevant sections of the Recruitment and Selection policy and related procedure are available to the public on the House of Commons website at this link:

<https://www.ourcommons.ca/About/Employment/Eligibility-e.html>.

Members of the public may readily access information about the phases of the recruitment and selection process, as well as the eligibility and selection process, and a series of frequently-asked questions, to further their understanding of the process.

**RECOMMENDATION:**

**1.1.3.7 Publicize the steps it has taken to address the recommendations of the 2012 Report of the Auditor General to the Administration of the House of Commons regarding the development of a policy to govern the hiring and use of term employees (See paragraph 85 of Section 1.1.2 of Chapter II of this Report).**

**ADOPTED MEASURES:**

In response to the 2012 Report of the Auditor General, the House Administration included an explicit mention of employment with determinate status in its recruitment and selection policy. The policy contains a description of term appointments at the House of Commons.

**RECOMMENDATION:**

**1.1.3.10 Maintain statistics, with respect to the Administration of the House of Commons, regarding, inter alia, the number of employment opportunities publicized, and the number and percentage of persons employed via meritocratic selection processes; as well as make available to the public information on the number of competitions carried out in a year, how many were completed, how many were abandoned, how many persons applied to a position, as well as the number of persons entering into the Administration of the House of Commons, in order to identify challenges and recommend corrective measures where appropriate (See paragraph 101 of Section 1.1.2 of Chapter II of this Report).**

**ADOPTED MEASURES:**

The House of Commons reports on progress against its established strategic objectives and includes a report on spending in its Annual Report to Canadians. For a copy of the latest report, please consult:

<http://www.ourcommons.ca/About/ReportToCanadians/2017/rctc2017-e.pdf>

**RECOMMENDATION:**

**1.1.3.8 Make the recruitment policies and other relevant documents of the Senate Administration, public and easily accessible (See paragraph 88 of Section 1.1.2 of Chapter II of this Report).**

**ADOPTED MEASURES:**

The *Senate Administrative Rules* and other relevant documents are now publicly available on the Senate website under the heading “transparency and accountability”. Please consult this address at: <https://sencanada.ca/en/about/transparency-accountability> .

**1.2. GOVERNMENT SYSTEMS FOR THE PROCUREMENT OF GOODS AND SERVICES**

**RECOMMENDATION:**

**1.2.1 Continue strengthening systems for the procurement of goods and services by the government.**

**ADOPTED MEASURES:**

The following new measures demonstrate progress towards continuing to strengthen systems for the procurement of goods and services:

***Introduction of the Federal Contracting Fraud Tip Line***

In April 2017, Canada launched the Federal Contracting Fraud Tip Line, a dedicated telephone line and online form, to accept anonymous tips from Canadians who suspect fraud, collusion or corruption in federal government contracts and real property agreements. The Tip Line is a joint initiative of the Competition Bureau, Public Services and Procurement Canada (PSPC), and the Royal Canadian Mounted Police, and complements measures already in place to ensure that federal contracts are lawful, ethical and fair.

The information received may be used to conduct investigations, gather intelligence and introduce due diligence measures where warranted to protect the integrity of federal government contracts and real property agreements.

Information on the Federal Contracting Fraud Tip Line is available online at: <http://www.ic.gc.ca/eic/site/094.nsf/frm-eng/MBED-AJL22H>

***Government of Canada Consultations on expanding Canada’s toolkit to address corporate wrongdoing***

Canada continues to ensure it has the necessary tools in place to combat corporate wrongdoing and to meet increasing public expectations of ethical corporate behaviour and fair business practices. To this end, the Government of Canada launched a public consultation on expanding Canada’s toolkit to address corporate wrongdoing. More information on the consultation is available online at: <http://www.tpsgc-pwgsc.gc.ca/ci-if/ar-cw/index-eng.html>

As part of the consultation, stakeholder views were sought on potential enhancements to the Integrity Regime and a possible Canadian deferred prosecution agreement regime.

A report summarizing what was heard during the consultation period was published on February 22, 2018, and is available at this link:

<http://www.tpsgc-pwgsc.gc.ca/ci-if/ar-cw/rapport-report-eng.html>

*Expanding and Revising the Code of Conduct for Procurement*

Following consultations with Government of Canada departments and agencies, PSPC has identified a number of new enhancements to the Code of Conduct that will serve to prevent human and labour rights abuses from occurring in federal procurement supply chains. In addition, the Code enhancements will serve to further clarify what is expected of suppliers in their interactions with public servants.

**RECOMMENDATION:**

**1.2.3.1 Revise the Code of Conduct for Procurement to make it clearer regarding the obligations and rights of both suppliers and public servants (See paragraph 112 of Section 1.2.1 of Chapter II of this Report).**

**ADOPTED MEASURES:**

PSPC has developed a draft Code that incorporates labour standards as stated in International Labour Organization Conventions ratified by Canada. In addition to these labour standards, clauses on other elements such as civility, harassment, and environmental protection standards have also been added to the draft.

PSPC is currently in the process of consulting Government of Canada departments and agencies on these proposed changes.

Prior to finalizing the Code, PSPC will engage with suppliers and industry associations on the planned changes in order to gather their feedback and input which will be used to inform and guide the refinement of the draft Code. PSPC will work to promote the final revised Code for use by all Government of Canada departments and agencies.

**RECOMMENDATION:**

**1.2.3.2 Undertake communication activities by the PSPC to make all government departments and agencies aware of the Code of Conduct for Procurement and the existing legal, regulatory and policy requirements (See paragraph 122 of Section 1.2.1 of Chapter II of this Report).**

**ADOPTED MEASURES:**

Government of Canada departments and agencies have been engaged on the new developments to the Code of Conduct and support the progress on this initiative. PSPC is taking steps to ensure that the new Code is written in a manner so that all Government of Canada departments and agencies will be able to incorporate the Code into their existing procurement processes.

PSPC has received support from the central agency responsible for federal procurement policy to encourage departments and agencies to adopt the new Code into their own procurement practices. Following the completion of the Code, PSPC will undertake extensive engagement activities to promote the use of the Code within government.

**RECOMMENDATION:**

**1.2.3.6 Maintain and publish statistics on the contracts awarded, broken down by number, value and procurement process, carried out by the House of Commons Administration, in order to identify challenges and recommend corrective measures where appropriate (See paragraph 166 of Section 1.2.2 of Chapter II of this Report).**

**ADOPTED MEASURES:**

Bill C-58, *An Act to amend the Access to Information Act and the Privacy Act*, was tabled in the House of Commons on June 19, 2017 and, if it receives Royal Assent, will be relevant to this recommendation. The Bill is presently at the Senate, having passed Second Reading on February 6, 2018. Please consult: <https://www.parl.ca/LegisInfo/BillDetails.aspx?billId=9057528&Language=E>

Please note that recent changes to the *Parliament of Canada Act*, amended on October 6, 2017, have resulted in the meetings of the Board of Internal Economy now being public by default. The Act can be found at this link: <http://laws-lois.justice.gc.ca/eng/acts/p-1/index.html>

**SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO, IN GOOD FAITH, REPORT ACTS OF CORRUPTION (ARTICLE III (8) OF THE CONVENTION)**

**RECOMMENDATION:**

**2.3.2 Consider implementing the recommendations stemming from the Report by the Standing Committee on Government Operations and Estimates of the House of Commons, entitled “Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act”, and publish information on the actions the country plans to take (See paragraphs 177, 182, 185, 190 and 198, of Section 2.2 of Chapter II of this Report).**

**ADOPTED MEASURES:**

The Standing Committee on Government Operations and Estimates began the study of the *Public Servants Disclosure Protection Act* in February 2017. The Committee heard from a variety of stakeholders, including public interest groups, academics, individuals, public sector organizations, and the Public Sector Integrity Commissioner, whose testimony informed their recommendations.

On June 16, 2017, the committee tabled the report entitled “[Strengthening the Protection of the Public Interest within the \*Public Servants Disclosure Protection Act\*”.](#)

On October 16, 2017, the “[Government Response](#)” to the Committee’s report was tabled in Parliament. The Government has committed to implement continuous improvements to the administration and operation of the internal disclosure process and the protection from acts of reprisal against public servants. This will include greater guidance for the internal disclosure process, increased awareness activities and training for public servants, supervisors and managers, and enhanced reporting related to the internal disclosure process and acts of founded wrongdoing. Given the complexity of the Act and the recommendations made by the Committee, the government will be consulting with key stakeholders who may be impacted by any legislative amendments, as well as engaging the senior officers for the disclosure of wrongdoing in government departments and the Office of the Public Sector Integrity Commissioner in a discussion to gather information to identify best practices in the internal disclosure process, training and awareness activities, and reporting.

In December 2017, a study on federal public sector training and awareness material was initiated to identify best practices, and areas where additional guidance, awareness activities and training are required. In February 2018, consultations will begin with federal public sector institutions to identify new reporting elements related to internal disclosure activities. Currently, within the Open Government Portal, we are implementing a central website where Canadians will be able to access information on founded wrongdoing. <http://open.canada.ca/en/search/wrongdoing>

For a link to the Report, please consult:

<http://www.ourcommons.ca/DocumentViewer/en/42-1/OGGO/report-9/>

For a link to the Government Response, please consult:

<http://www.ourcommons.ca/DocumentViewer/en/42-1/OGGO/report-9/response-8512-421-253>