

CANADA
RESPONSE TO THE QUESTIONNAIRE
MESICIC – FOURTH ROUND OF REVIEW
JUNE 2013

SECTION I

**QUESTIONS ON IMPLEMENTATION OF THE CONVENTION PROVISION
SELECTED FOR REVIEW IN THE FOURTH ROUND**

**OVERSIGHT BODIES, WITH A VIEW TO IMPLEMENTING MODERN
MECHANISMS FOR PREVENTING, DETECTING, PUNISHING, AND
ERADICATING CORRUPT ACTS (ARTICLE III, PARAGRAPH 9, OF THE
CONVENTION)**

- A) **Indicate the oversight bodies in your country that would be relevant for preventing, detecting, punishing, and eradicating corrupt acts, and briefly state the assigned purpose of each.**

A great number of oversight and review bodies are in place in Canada. A representative sampling is provided below.

In respect of the federal government, oversight and review bodies include the Treasury Board of Canada Secretariat, the Public Service Commission, the Public Prosecution Service of Canada, the Office of the Commissioner for Federal Judicial Affairs, the Canadian Judicial Council, the Office of the Auditor General of Canada, the Office of the Conflict of Interest and Ethics Commissioner, the Commission for Public Complaints against the Royal Canadian Mounted Police, the Royal Canadian Mounted Police External Review Committee, the Security Intelligence Review Committee, the Office of the Public Service Integrity Commissioner of Canada.

Similar oversight bodies may also be found in the provinces and the territories.

B) Then select 4 or 5 of these oversight bodies, bearing in mind their institutional importance and that the functions they are assigned should cover one or more of the objectives of preventing, detecting, punishing, and eradicating corrupt acts that trigger disciplinary; administrative; financial or civil; and criminal responsibility.

For the purposes of this questionnaire, the following oversight bodies were chosen for Canada:

- The Treasury Board of Canada Secretariat¹
- The Public Service Commission²
- The Public Prosecution Service of Canada³
- The Office of the Commissioner for Federal Judicial Affairs⁴

¹ <http://www.tbs-sct.gc.ca/tbs-sct/index-eng.asp> (English) or <http://www.tbs-sct.gc.ca/tbs-sct/index-fra.asp> (French)

² <http://www.psc-cfp.gc.ca/index-eng.htm> (English) or <http://www.psc-cfp.gc.ca/index-fra.htm> (French)

³ <http://www.ppsc.gc.ca/eng/index.html> (English) or <http://www.ppsc.gc.ca/fra/index.html> (French)

⁴ <http://www.fja.gc.ca/home-accueil/index-eng.html> (English) or <http://www.fja.gc.ca/home-accueil/index-fra.html> (French)

C) For each of the oversight bodies selected in the response to question B), to the extent that is possible, address the issues such as those indicated below, attaching copies of the norms or measures on which the answers are based or indicating links to the web pages where they may be consulted:

THE TREASURY BOARD OF CANADA SECRETARIAT

The Treasury Board is a Cabinet committee of the Queen's Privy Council of Canada, generally responsible for accountability and ethics, financial, personnel and administrative management, comptrollership, approving regulations and most Orders-in-Council.

The President is the chairman of the Treasury Board. The organization that supports the President of the Treasury Board is the Treasury Board Secretariat (TBS).

Responsibilities

Within the TBS, the Comptroller General of Canada provides government-wide leadership and oversight for financial management, internal audit and the management of acquired services and assets.

When working with federal departments, agencies and Crown corporations, TBS plays three central agency roles:

- A leadership role in driving and modelling excellence in public sector management;
- A challenge and oversight role that includes reporting on the government's management and budgetary performance and developing government-wide management policies and standards; and
- A community enabling role to help organizations improve management performance.

The TBS has a role in preventing corrupt acts. Section 4 of the *Public Servants Protection Disclosure Act* (PSDPA), states that the Minister responsible for the Treasury Board is responsible for promoting ethical practices in the public sector and a positive environment for disclosing wrongdoing. (<http://laws-lois.justice.gc.ca/eng/acts/P-31.9/page-2.html#h-4>)

Their objectives and functions; their autonomy for pursuing them; and when applicable, the exercise of their functions in conjunction or concert with other agencies or authorities; and the mechanisms for resolving any conflicts of jurisdiction that may arise.

In relation to the prevention of corrupt acts, the TBS receives its authority from the following legislation:

- The *Financial Administration Act* (FAA)⁵; and
- The PSDPA⁶.

The TBS has also developed the *Values and Ethics Code for the Public Sector*⁷ as well as the Policy on Conflict of Interest and Post-Employment⁸.

Deputy Heads of Departments and Agencies are also required to establish organizational codes of conduct that must be consistent with the *Values and Ethics Code for the Public Sector* (section 6 of the PSDPA), which ensures greater accountability within organizations and across the government. All TBS

⁵ <http://laws-lois.justice.gc.ca/eng/acts/f-11/page-8.html>

⁶ <http://laws-lois.justice.gc.ca/eng/acts/P-31.9/page-2.html#h-4> (section 4 and section 5).

⁷ <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049>

⁸ <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?section=text&id=25178>

employees are subject to the *TBS Departmental Code of Conduct*⁹, which provides guiding principles for ethical behaviour and decision making for all TBS employees.

The scope of their functions, indicating whether any exceptions to it exist.

The TBS supports the Treasury Board as a committee of ministers and fulfills the statutory responsibilities of a central government agency. Its responsibilities for the general management of the government affect initiatives, issues, and activities that cut across all policy sectors managed by federal departments and organizational entities. Under the broad authority of sections 5 to 13 of the FAA, the Secretariat supports the Treasury Board in its role as the general manager and employer of the public service.

In addition, section 4 of the PSDPA states that the Minister responsible for the TBS is also responsible for promoting ethical practices in the public sector and a positive environment for disclosing wrongdoing.

The manner in which they adopt their decisions, indicating whether there are various agencies with jurisdiction to do so and whether they are collegiate or single-person agencies; review remedies that can be brought against the decisions adopted, both internally and with other external agencies or authorities; and the actions needed to implement or enforce those decisions.

The TBS does not adopt decisions related to individual cases.

With regard to wrongdoings, the PSDPA offers federal public sector employees and other persons a secure and confidential process for the disclosure of serious wrongdoing in the workplace, as well as protection against reprisal.

Each chief executive must establish internal procedures to manage disclosures made under this Act by public servants employed in the portion of the public sector for which the chief executive is responsible.

The PSDPA defines wrongdoing as follows:

- a contravention of any Act of Parliament or of the legislature of a province, or of any regulations made under any such Act;
- a misuse of public funds or a public asset;
- a gross mismanagement;
- a serious breach of a code of conduct;
- an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment;
- knowingly directing or counselling a person to commit a wrongdoing.

Under paragraph 11(1)(c) of the PSDPA, chief executives shall promptly provide public access to information on founded wrongdoing.

The PSDPA states that no reprisal shall be taken against a federal public servant who discloses a wrongdoing. In the case where a federal public servant has reasonable grounds to believe that a reprisal has been taken against him or her, the PSDPA provides for the various procedures and appeal mechanisms for complaints relating to those reprisals (sections 19 to 38.1). These mechanisms include

⁹<http://www.tbs-sct.gc.ca/reports-rapports/code/dcc-ccm-eng.asp>.

enabling the Public Sector Integrity Commissioner (PSIC)¹⁰ to investigate complaints of reprisal and the Public Servants Disclosure Protection Tribunal¹¹, a quasi-judicial body composed of Federal court judges, who can grant remedies in favour of complainants and order disciplinary action against persons who take reprisals.

The manner in which their senior officers are selected, indicating whether they serve fixed terms or are freely appointed and removable, and the agencies authorized to hold them responsible for their actions and deciding on their continued tenure in those positions.

The TBS is headed by a Secretary who reports to the President of the Treasury Board. Section 6(2) of the FAA provides that the Governor in Council may appoint the Secretary of the Treasury Board. It further states that he or she holds office during pleasure, and that the Secretary has the rank and powers of a deputy head of a department. The President of the Treasury Board is responsible and accountable for the coordination of the activities of the Secretary of the Treasury Board (section 6 (4.2) of the FAA).

Most senior officers of the TBS are appointed by the Clerk of the Privy Council, who is the Head of the Public Service and authorized to hold them accountable for their actions and deciding on their continued tenure.

The manner in which the human resources needed for their operations are identified and how their personnel are selected, indicating whether they are freely appointed and removable or whether they are selected by means of merit-based competition; if certain requirements have to be met to hold such positions; and whether their personnel are subject to a regime of disqualifications and incompatibilities and of responsibility for their actions.

The general human resources needed for the TBS are selected by means of merit-based competition as defined by the *Public Service Employment Act* (PSEA, at section 30), which also states that appointments to or from within the public service must be free from political influence. Objective requirements must also be met, and personnel are responsible for their actions.

Part V of the PSEA details the procedure for the investigation and complaints relating to appointments to the Public Service.

The existence of manuals or other documents that describe the functions of their personnel, and also indicating whether regular training is given in connection with those functions.

There are written job descriptions for positions within TBS and employees receive the training required to fulfill their functions.

The existence of documented procedures for performing their tasks, or of manuals or guides dealing with those duties; institutional strengthening or quality improvement actions implemented; and the implementation of systems or modern technologies to facilitate their work.

¹⁰ http://www.psic-ispc.gc.ca/reprisals_représailles/menu-eng.aspx

¹¹ <http://www.psdpt-tpfd.gc.ca/Tribunal/Mandate-eng.html>

There are regular internal audits by the TBS Internal Audit and Evaluation¹² and audits by the Auditor General of Canada¹³. The reports are published on the Internet and are available to the public.

Moreover, all TBS employees are subject to the *TBS Departmental Code of Conduct*. The TBS *Departmental Code of Conduct* is an important component of the values and ethics culture at the TBS, and it complements the broader *Values and Ethics Code for the Public Sector*. All employees are required to adhere to the *Values and Ethics Code for the Public Sector* as well as the TBS *Departmental Code of Conduct* as a term and condition of employment, and the guidance contained in the Departmental Code will help TBS employees to do this. In addition to the two codes mentioned above, all TBS employees are also subject to the Policy on Conflict of Interest and Post-Employment.

The manner in which the general public is provided with information about their objectives and functions, is informed of the procedures established for the performance of their functions, and is given guidance about how to carry out proceedings before them.

There is general information on the TBS at the following website address: <http://www.tbs-sct.gc.ca/>.

Information on how to contact the TBS can be found at <http://www.tbs-sct.gc.ca/contact/contact-eng.aspx>. Alternatively, the public can make general inquiries to the TBS at:

Telephone: (613) 957-2400
Toll free: 1-877-636-0656
Teletype writer (TTY): (613) 957-9090
Facsimile: 613-941-4000

Address:

Treasury Board of Canada Secretariat, Strategic Communications and Ministerial Affairs
L'Esplanade Laurier, 9th Floor, East Tower
140 O'Connor Street
Ottawa, Canada
K1A 0R5

There are no public proceedings before the TBS.

The mechanisms for internal control and for dealing with claims, complaints, or allegations related to the pursuit of their objectives and to the performance of their personnel.

See response above under “The manner in which they adopt their decisions, etc.”.

The manner in which the budgetary resources needed for their operations are ensured.

Financial Administration Act (FAA): <http://laws-lois.justice.gc.ca/eng/acts/f-11/page-11.html#h-10>

¹² <http://www.tbs-sct.gc.ca/search-recherche/query-recherche-eng.aspx?p=1&a=s&sa=&who=&t=b&q=internal+audit+and+evaluation+bureau+eng>

¹³ http://www.oag-bvg.gc.ca/internet/English/parl_lpf_e_1172.html

As appropriate, the coordination mechanisms for harmonizing their functions with those of other oversight agencies or public authorities and for securing the support of other authorities and the public for full compliance with their duties.

The TBS coordinates networks of officials responsible for values and ethics in other government departments and agencies. Specific to values and ethics and anti-corruption, the formal networks include senior officers responsible for disclosure of wrongdoing, senior officials for values and ethics, and officers responsible for conflict of interest and post-employment measures.¹⁴ Meetings are held with the network members to convey information and new developments, and to permit exchange of best practices. The most recent meeting with the senior officers for disclosure of wrongdoing was Feb. 13, 2013, and the most recent meeting with senior officials for values and ethics was held May 16, 2013. Treasury Board Secretariat also hosts informal networks such as the Internal Disclosure Working Group and the Interdepartmental Network of Values and Ethics Advisors.

Senior officials from the Treasury Board Secretariat regularly meet with colleagues from other departments to coordinate roles and responsibilities (e.g. Public Service Commission, Privy Council Office, Department of Justice, Department of Foreign Affairs and International Trade).

Accountability mechanisms applicable to the performance of their duties; the way in which the information needed for that is gathered and processed; and the information issued for that purpose, and the way in which it is made public and how members of the public may access it.

The TBS reports annually to Parliament on the results achieved by the department¹⁵. These Performance Reports, which cover the most recently completed fiscal year, are tabled in Parliament in the fall by the President of the Treasury Board.

¹⁴ <http://www.tbs-sct.gc.ca/ve/snrs-eng.asp>

¹⁵ All annual reports can be found at <http://www.tbs-sct.gc.ca/dpr-rmr/index-eng.asp>.

THE PUBLIC SERVICE COMMISSION

The Public Service Commission of Canada (PSC)¹⁶ is responsible for promoting and safeguarding merit-based appointments that are free from political influence and, in collaboration with other stakeholders, for protecting the non-partisan nature of the public service. It reports independently on its mandate to Parliament. It also administers programs on behalf of departments and agencies that recruit qualified Canadians from across the country.

Under the delegated, values-based staffing system envisioned in the *Public Service Employment Act* (PSEA)¹⁷, the PSC fulfills its responsibilities by providing clear policy direction, conducting effective oversight, delivering innovative staffing and assessment programs and services, and reporting to Parliament on the performance of the staffing system and non-partisanship in the public service.

The PSC is mandated to:

- Appoint, or provide for the appointment of, persons to and from within the public service, based on merit and free from political influence. The PSEA allows the PSC to delegate to deputy heads its authority for making appointments, subject to certain terms and conditions. This authority is currently delegated to 82 deputy heads subject to the PSEA, across the federal government;
- Administer the provisions of the PSEA that are related to the political activities of employees and deputy heads. Part 7 of the PSEA recognizes the right of employees to engage in a political activity, while maintaining the principle of political impartiality in the public service. It also sets out specific roles and responsibilities for employees and the PSC related to political activities and the administration of the related political activities regime; and
- Oversee the integrity of the staffing system and ensure non-partisanship. This oversight role includes: the ongoing monitoring of the staffing performance of delegated organizations; the conduct of audits that provide an independent assessment of the performance and management of staffing activities; and, the conduct of investigations of staffing processes and improper political activities by public servants and deputy heads.

Sections 66 to 69 of the PSEA permit the Commission to revoke appointments or take other corrective actions considered appropriate when an allegation is determined to be founded.

Sections 118 of the PSEA permits the Commission to take corrective action it considers appropriate when an allegation of improper political activity by an employee is determined to be founded.

Section 119 of the PSEA permits the Commission to report its conclusion to the Governor in Council and the Governor in Council may dismiss a deputy head if the allegation, made to it by a person who is or has been a candidate in an election, finds that a deputy head has contravened section 117 of the PSEA (i.e. conducted a political activity other than voting in an election) is founded.

¹⁶ <http://www.psc-cfp.gc.ca/index-eng.htm>

¹⁷ <http://laws-lois.justice.gc.ca/eng/acts/P-33.01/index.html>

Their objectives and functions; their autonomy for pursuing them; and when applicable, the exercise of their functions in conjunction or concert with other agencies or authorities; and the mechanisms for resolving any conflicts of jurisdiction that may arise.

The mandate of the Commission is provided for in the PSEA (section 11 and section 12). It is responsible for:

- appointing or providing for the appointment of, persons to or from within the public service in accordance with the PSEA;
- conducting investigations and audits in accordance with the PSEA;
- administering the provisions of the PSEA relating to political activities of employees and deputy heads;
- performing any functions in relation to the public service that are assigned to it by the Governor in Council.

The Public Service Staffing Tribunal (the “Tribunal”)¹⁸ is an independent, quasi-judicial body established under the PSEA to address complaints related to internal appointments and lay-offs in the federal public service.

The Tribunal conducts hearings, settlement conferences and mediation sessions in order to resolve complaints. The complainant, the deputy head (represented by Treasury Board Secretariat counsel), and the PSC (represented by PSC counsel) are entitled to be heard by the Tribunal. The Tribunal may also interpret and apply the *Canadian Human Rights Act*¹⁹.

The PSC and the TBS, each acting within the scope of its powers, duties and functions under the PSEA and the FAA respectively, are responsible for carrying out the obligations of an employer described in section 5 of the *Employment Equity Act* (EEA)²⁰. These obligations include identifying and eliminating employment barriers against persons in designated groups, and instituting positive policies and practices and making reasonable accommodations to ensure representativeness.

Both the PSEA and the EEA provide the PSC with the authority to delegate its powers and functions to deputy heads, and under section 16 of the PSEA, deputy heads are subject to any PSC policies in the exercising or performing of any such delegated powers and functions.

In carrying out its mandate under the PSEA and the EEA, the PSC respects the requirements of the *Canadian Human Rights Act*, the *Official Languages Act*²¹ and the *Privacy Act*²².

The General Counsel shall advise the Commission on whether any power, function or duty to be exercised by the Commission is within the Commission's jurisdiction (conflicts of jurisdiction).

The scope of their functions, indicating whether any exceptions to it exist.

The PSC relies on a continuum of oversight mechanisms, which includes monitoring of the staffing performance of delegated organizations; audits, which provide an independent assessment of the

¹⁸ The Public Service Staffing Tribunal: <http://psst-tdfp.gc.ca/article.asp?id=5>.

¹⁹ Canadian Human Rights Act: <http://laws-lois.justice.gc.ca/eng/acts/h-6/>.

²⁰ Employment Equity Act: <http://laws-lois.justice.gc.ca/eng/acts/E-5.401/>.

²¹ Official Languages Act: <http://laws-lois.justice.gc.ca/eng/acts/o-3.01/>.

²² Privacy Act: <http://laws-lois.justice.gc.ca/eng/acts/P-21/>.

performance and management of staffing activities; and investigations, which undertake detailed reviews of specific staffing processes and alleged improper political activities.

Part 5 of the PSEA provides the Commission with the power to conduct investigations into appointment processes. This includes:

- Section 66: Merit and possible errors, omission or improper conduct in external appointment processes;
- Subsections 67(1) and 67(2): Errors, omission or improper conduct in internal appointment processes at the request of a deputy head, or for non-delegated appointments;
- Section 68: Suspicion of political influence in any appointment process; and
- Section 69: Suspicion of fraud in any appointment

Part 7 of the PSEA provides the Commission with the power to conduct investigations of improper political activities including:

- Section 118: Improper political activities by an employee;
- Section 119: Improper political activities by a deputy head.

The investigation of an internal, delegated appointment is normally the responsibility of the deputy head of an organization²³.

In fulfilling its obligations and responsibilities under the PSEA and the EEA, the Commission shall be accountable for:

- approving and reviewing appointment policy frameworks for the federal public service covered under the PSEA;
- approving regulations and exclusion orders related to provisions of the PSEA, consistent with legislation and which are in the best interests of the public service;
- approving and reviewing staffing delegation frameworks to deputy heads, and monitoring departmental performance accountability;
- approving and reviewing oversight frameworks (e.g. staffing reviews, audits, investigations, monitoring, etc.) to protect the integrity of the appointment system;
- rendering decisions for permission and leave, if applicable, to federal public servants subject to Part 7 of the PSEA to seek nomination or be candidates in federal, provincial, territorial and municipal elections and providing advice and guidance regarding the involvement in political activities as defined in Part 7 of the PSEA; and
- reporting annually to Parliament on matters under its jurisdiction, and may, at any time, make a special report to Parliament referring to and commenting on any matter within the scope of the powers and function of the Commission where, in the opinion of the Commission, the matter is of such urgency or importance that a report on it should not be deferred until the next time provided for transmission of the next annual report of the Commission.

²³ <http://www.psc-cfp.gc.ca/centres/bylaw-reglements-eng.htm>

The manner in which they adopt their decisions, indicating whether there are various agencies with jurisdiction to do so and whether they are collegiate or single-person agencies; review remedies that can be brought against the decisions adopted, both internally and with other external agencies or authorities; and the actions needed to implement or enforce those decisions.

Decision-making procedures

- A quorum of the majority of the Commission is required for all decisions, approvals and orders of the Commission.
- All decisions of the Commission shall be made by a majority of the Commission members.
- The Commission shall work towards a consensus on all decisions.
- The Commission may authorize the President or a Commissioner to exercise, alone, certain powers, functions or duties of the Commission under the PSEA.
- Decisions of the Commission (including Investigations decisions) are subject to judicial review.

The head of the Investigations Branch is a Vice-President of the Commission. The Vice-President has been sub-delegated certain powers, functions and duties related to investigations activities. Decisions related to jurisdiction (whether to investigate), the outcome of an investigation (founded or unfounded), the decision to implement corrective actions, and the decision on whether to disclose personal information, are all subject to review by the Federal Court.

The manner in which their senior officers are selected, indicating whether they serve fixed terms or are freely appointed and removable, and the agencies authorized to hold them responsible for their actions and deciding on their continued tenure in those positions.

The Commission consists of a President and two or more other Part-time Commissioners (hereafter referred as Commissioners). The President is appointed under the Great Seal, after approval by resolution of the Senate and House of Commons, and the Commissioners are appointed by the Governor in Council. The President is the Chief Executive Officer.

The President and the Commissioners hold office during good behaviour for a maximum period of seven years, but may be removed by the Governor in Council at any time on address of the Senate and the House of Commons.

The manner in which the human resources needed for their operations are identified and how their personnel are selected, indicating whether they are freely appointed and removable or whether they are selected by means of merit-based competition; if certain requirements have to be met told hold such positions; and whether their personnel are subject to a regime of disqualifications and incompatibilities and of responsibility for their actions.

With the exception of the President and the Commissioners, who are appointed by the Governor-in-Council, all other persons within the Public Service Commission are appointed according to the *Public Service Employment Act* (PSEA), the *Public Service Employment Regulations* and related appointment policies. All such appointments are to be based on merit and free from political influence.

The existence of manuals or other documents that describe the functions of their personnel, and also indicating whether regular training is given in connection with those functions.

With regard to the PSC's internal operations, the PSC is subject to the same statutes, regulations, policies, directives and central agency imposed monitoring, reporting and risk management measures as the departments and agencies that it impacts. Salient examples include:

- the FAA;
- regularly scheduled meetings with the Internal Audit Committee;
- external and internal audits;
- use of instruments of delegation of authority;
- voluntary disclosure of travel, hospitality and contracting expenditures;
- the PSDA;
- the Values and Ethics Code for the Public Sector;
- the PSC Code of Conduct;
- the Policy on Conflict of Interest and Post-Employment;
- the *Access to Information Act* and *Privacy Act*;
- the PSEA;
- the Management Accountability Framework (MAF);
- the Departmental Staffing Accountability Report (DSAR); and
- the Departmental Performance Report (DPR).

Initial and ongoing training is provided to Investigations Branch staff particularly those in the Jurisdiction Officer and Investigator positions. Training material is provided and updated as necessary to fulfill the requirements of the positions.

The PSC's audit function is guided by its Audit Manual which outlines the policies and methodologies which auditors are expected to follow.

The existence of documented procedures for performing their tasks, or of manuals or guides dealing with those duties; institutional strengthening or quality improvement actions implemented; and the implementation of systems or modern technologies to facilitate their work.

See the response to the preceding question. In addition, one key oversight tool is the Staffing Management Accountability Framework (SMAF)²⁴, which defines the PSC's expectations for a well-managed appointment system. Organizational staffing performance is assessed based on indicators contained in the SMAF and forms part of the PSC's assessment of the overall health of the public service staffing system and the non-partisanship of the public service.

The technologies that facilitate the PSC's work include:

- The Public Service Resourcing System (PSRS)²⁵. PSRS Administrators and hiring managers can access the PSRS User Web site. This Web site contains a variety of reference documents and tools for usage of the system.

²⁴ <http://www.psc-cfp.gc.ca/arp-rpa/2012/chapter5-chapitre5-eng.htm>.

²⁵ Public Service Resourcing System User Web site: <http://www.psc-cfp.gc.ca/sas-sde/stf-dot/tk-to-eng.htm>.

- The Priority Information Management System (PIMS)²⁶ is an electronic Web-based tool of the PSC. Organizations register individuals that have a priority entitlement by entering priority person's²⁷ personal information in PIMS, in order for them to be referred to job opportunities within the government. Priority persons have access to their registration through the Priority Portal, which is a secure window into PIMS.

In addition, the Investigations Branch manages the Investigations Management Information System (IMIS) which facilitates the tracking of cases through the investigations process and generates performance data.

The manner in which the general public is provided with information about their objectives and functions, is informed of the procedures established for the performance of their functions, and is given guidance about how to carry out proceedings before them.

The reporting cycle for government expenditures establishes events leading up to the tabling of various documents and processes related to the government's Budget and expenditure plans. These documents provide parliamentarians with financial and non-financial information to review and make decisions on the use of public funds by the government.

Reports on Plans and Priorities (RPPs) are forward-looking documents that provide plans for each department and agency. They describe departmental priorities, expected results and associated resource requirements covering three fiscal years. RPPs are normally tabled by the President of the Treasury Board on behalf of the Government of Canada, on or before March 31 each year²⁸.

Departmental Performance Reports (DPRs) are individual department and agency accounts of actual accomplishments against plans, priorities and expected results set out in their respective RPPs. Through DPRs, individual departments and agencies provide information on how they are progressing toward their strategic goals—also known as strategic outcomes. DPRs cover the most recently completed fiscal year and are normally tabled in Parliament in the fall.

Further, through publication of its Annual Report tabled in Parliament, in accordance with the PSEA at section 12 and section 13), the PSC reports on hiring & staffing activity, progress regarding merit and guiding values, a non-partisan public service, and oversight results from monitoring, audits and investigations.

The mechanisms for internal control and for dealing with claims, complaints, or allegations related to the pursuit of their objectives and to the performance of their personnel.

The PSC has an established internal audit function, working within an environment governed by professional standards and TBS policies. The function also receives guidance and input from its independent Internal Audit Committee. The PSC posts all completed audits on its Web site. As well, the PSC has an established evaluation function governed by TBS evaluation standards, directives and policies. The function also receives guidance and input from its Departmental Evaluation Committee.

²⁶ Priority Information Management System: <http://www.psc-cfp.gc.ca/prad-adpr/pims-skip/prt1-eng.htm>.

²⁷ PSC Glossary definition: "A person who has an entitlement under the *Public Service Employment Act* or the *Public Service Employment Regulations*, for a limited period, to be appointed ahead of all others to vacant positions in the public service. To be appointed, the person must meet the essential qualifications of the position."

²⁸ <http://www.tbs-sct.gc.ca/rpp/index-eng.asp>

The PSC may investigate any external appointment process to ensure that the appointment or proposed appointment was made on the basis of merit, that there was no error, omission, improper conduct or any political influence affecting the selection, and may issue any corrective action that it considers appropriate, including revocation of the appointment. The PSC may also investigate an appointment process where it has reason to believe that fraud or political influence may have occurred.

The PSC may investigate any allegation that an employee has conducted an improper political activity and, if it concludes that the allegation is substantiated, may dismiss the employee or may take any corrective action that it considers appropriate.

The PSC may also investigate any allegation, made to it by a person who is or has been a candidate in an election, that a deputy head has conducted a political activity as defined by Part 7 of the PSEA, other than voting in an election and if it concludes that the allegation is substantiated, the Commission shall report its conclusion to the Governor in Council and the Governor in Council may dismiss the deputy head.

The PSC also has in place policies related to access to information by the Canadian public and in respect to privacy protection.

Independent authority outside of the PSC: the Public Service Staffing Tribunal (PSST)

The Public Service Staffing Tribunal (PSST) is an independent, quasi-judicial body established under the PSEA to address complaints related to internal appointments and lay-offs in the federal public service.

The Tribunal conducts hearings, settlement conferences and mediation sessions in order to resolve complaints. In fulfilling its mandate, the Tribunal fosters fair and transparent staffing practices, contributes to a public service that is based on merit, embodies linguistic duality and human rights, and strives for excellence.

The Legal Services Unit at the PSC deals with or provides support to litigators from the Civil Litigation Section of the Department of Justice dealing with any complaints against the PSC as an organization or challenges to its legislation, policies or practices before administrative tribunals or the courts. Lawyers from Legal Services also represent the PSC in staffing complaints before the PSST.

The manner in which the budgetary resources needed for their operations are ensured.

Expenditures made by government require the authority of Parliament. That authority is provided in two ways: annual appropriation acts that specify the amounts and broad purposes for which funds can be spent; and other specific statutes that authorize payments and set out the amounts and time periods for those payments.

The amounts approved in appropriation acts are referred to as voted amounts, and the expenditure authorities provided through other statutes are called statutory authorities. Estimates documents are prepared to support appropriation acts. As such, the Estimates provide additional information on voted amounts included in the appropriation act. Forecasts of statutory amounts are also presented to give a more complete picture of total parliamentary authorities to be used during the fiscal year.

Once an appropriation act is introduced to Parliament, approved and granted royal assent, it becomes law.

Part I of the Estimates process is the Government Expenditure Plan. It provides a summary and highlights of year-over-year changes in departmental spending and transfer payments in order to provide perspective on the major issues influencing government planned spending.

Part II is the Main Estimates, known traditionally as the “Blue Book.” It directly supports the appropriation acts for the Main Estimates²⁹. The publication provides a listing of the resources required by individual departments and agencies for the upcoming fiscal year in order to deliver the programs for which they are responsible. It identifies the spending authorities (votes) and the amounts to be included in subsequent appropriation bills that Parliament will be asked to approve to enable the government to proceed with its spending plans.

As appropriate, the coordination mechanisms for harmonizing their functions with those of other oversight agencies or public authorities and for securing the support of other authorities and the public for full compliance with their duties.

As appropriate, senior PSC officials will meet with and inform their colleagues of their work in other oversight organizations (e.g. the Treasury Board Secretariat, the Office of the Auditor General of Canada, Office of the Comptroller General of Canada, Office of the Chief Human Resources Officer, Office of the Privacy Commissioner, Office of the Information Commissioner, etc) to ensure that there is no overlap between audit work proposed by the different organizations.

The PSEA provides the Commission with the exclusive mandate to investigate certain appointment processes as well as improper political activities of public servants and deputy heads. Where necessary, senior PSC officials will meet with colleagues in other organizations to ensure that there is no overlap and that there is an understanding of respective roles and mandates.

Accountability mechanisms applicable to the performance of their duties; the way in which the information needed for that is gathered and processed; and the information issued for that purpose, and the way in which it is made public and how members of the public may access it.

The public may access the most recent PSC Annual Report on the PSC’s Internet site³⁰.

The Preamble to the PSEA emphasizes the importance of both delegation and accountability in successfully implementing a flexible staffing environment. As a result, deputy heads and the PSC are both accountable for the overall success of the staffing system and impartiality in the Public Service.

The PSC’s oversight role includes the ongoing monitoring of the staffing performance of delegated organizations, the conduct of audits that provide an independent assessment of the performance and management of staffing activities and the conduct of investigations of staffing processes and alleged improper political activities.

The oversight activities conducted by the PSC provide important feedback and information about staffing processes and practices to deputy heads, to the PSC and to Parliament. Information aggregated through oversight supports the continuous improvement of the staffing system by encouraging organizations to adjust their staffing practices. The results of PSC audits are published and are readily available to the public through the internet. Corrective actions are implemented when required. Finally, oversight results

²⁹ <http://www.tbs-sct.gc.ca/ems-sgd/esp-pbc/aa-lc-eng.asp>.

³⁰ <http://www.psc-cfp.gc.ca/arp-rpa/index-eng.htm>.

also provide Parliament with information about how the system is demonstrating that merit and the guiding values of the PSEA are respected in appointments made across the federal public service and that the non-partisan nature of the public service is safeguarded.

One key oversight tool is the Staffing Management Accountability Framework (SMAF), which defines the PSC's expectations for a well-managed appointment system. Organizational staffing performance is assessed based on indicators contained in the SMAF and forms part of the PSC's assessment of the overall health of the public service staffing system and the non-partisanship of the public service.

The PSC delegates appointment and appointment-related authorities to deputy heads through the Appointment Delegation and Accountability Instrument (ADAI). Deputy heads may then sub-delegate authorities to managers within their organizations. Each ADAI requires that the deputy head report to the PSC on the accountability indicators identified in the SMAF.

Reporting on the SMAF is done via the Departmental Staffing Accountability Reports (DSAR) that organizations currently submit to the PSC towards the end of the fiscal year. In their DSARs, organizations self-report on their performance in two broad areas: Key success factors and short-term outcomes. The key success factors can be viewed as the infrastructure or building blocks of a merit-based staffing system that respects the core and guiding values of staffing in the public service. Results are tabled in Parliament via the PSC Annual Report and are available to the Public.

THE PUBLIC PROSECUTION SERVICE OF CANADA

Their objectives and functions; their autonomy for pursuing them; and when applicable, the exercise of their functions in conjunction or concert with other agencies or authorities; and the mechanisms for resolving any conflicts of jurisdiction that may arise.

The Public Prosecution Service of Canada (PPSC) is a federal government organization, created on December 12, 2006, when the *Director of Public Prosecutions Act* (DPPA)³¹ came into force.

The PPSC fulfills the responsibilities of the Attorney General of Canada in the discharge of his criminal law mandate by prosecuting criminal offences under federal jurisdiction and by contributing to strengthening the criminal justice system.

In this regard, the PPSC assumes the role played within the Department of Justice Canada by the former Federal Prosecution Service (FPS), and takes on additional responsibilities for prosecuting fraud offences under the *Financial Administration Act* (FAA) as well as offences under the *Canada Elections Act*³². Unlike the FPS, which was part of the Department of Justice, the PPSC is an independent organization, reporting to Parliament through the Attorney General of Canada.

In addition of prosecuting offences under Canada's *Corruption of Foreign Public Officials Act*³³, the PPSC is responsible for prosecuting offences under more than 50 federal statutes and for providing prosecution-related legal advice to law enforcement agencies. Cases prosecuted by the PPSC include those involving drugs, organized crime, terrorism, tax law, money laundering and proceeds of crime, crimes against humanity and war crimes, *Criminal Code*³⁴ offences in the territories, and a large number of federal regulatory offences.

In addition, the mandate includes initiating and conducting prosecutions on behalf of the Crown with respect to offences under the *Canada Elections Act*.

Mandate

The creation of the PPSC in 2006 reflects the decision to make transparent the principle of prosecutorial independence, free from any improper influence.

The mandate of the PPSC is set out in the DPPA. The Act calls on the PPSC to provide prosecutorial advice to law enforcement agencies, and to act as prosecutor in matters prosecuted by the Attorney General of Canada on behalf of the Crown.

The PPSC reports to Parliament through the Attorney General of Canada. The DPPA states that the Director of Public Prosecutions acts "under and on behalf of the Attorney General of Canada." The relationship between the Attorney General and the Director is premised on the principles of respect for the independence of the prosecution function and the need to consult on important matters of general interest.

³¹ <http://laws-lois.justice.gc.ca/PDF/D-2.5.pdf>.

³² <http://laws-lois.justice.gc.ca/eng/acts/e-2.01/>.

³³ <http://laws-lois.justice.gc.ca/eng/acts/C-45.2/index.html>

³⁴ <http://laws-lois.justice.gc.ca/eng/acts/c-46/>.

Safeguarding the Director's independence is the requirement that all instructions from the Attorney General be in writing and published in the Canada Gazette. In turn, the Director must inform the Attorney General of any prosecution or planned intervention that may raise important questions of general interest, allowing the Attorney General the opportunity to intervene in, or assume conduct of, a case. Additionally, the PPSC must provide the Attorney General with an annual report for tabling in Parliament. The most recent Annual Report can be found on the PPSC's Internet site³⁵.

Mission and Values

Mission

The mission of the PPSC is to serve the public by:

- prosecuting cases with diligence, in a manner that is fair, impartial and objective;
- seeking to protect the rights of individuals and to uphold the rule of law; and
- working within the criminal justice system to help make Canada a safe and just society.

Values

We in the PPSC are guided by our key values in carrying out our mandate:

- **Respect** forms the basis of our relationship with our fellow employees and with the public.
- **Integrity** motivates us to apply the highest ethical and professional standards.
- **Excellence** inspires us in all aspects of our work.
- **Leadership** characterizes our efforts to improve the quality of criminal justice throughout Canada.

The scope of their functions, indicating whether any exceptions to it exist.

Role of the Prosecutor

Canadian courts expect a great deal from prosecutors, who are subject to ethical, procedural, and constitutional obligations. Traditionally, their role has been regarded as that of “a representative of justice” rather than that of “a partisan advocate.” Their functions are imbued with a public trust. Prosecutors are expected to discharge their duties with fairness, objectivity, and integrity. Their role is not to win convictions at any cost but to put before the court all available, relevant, and admissible evidence necessary to enable the court to determine the guilt or innocence of the accused. As stated by the Supreme Court of Canada in *Boucher v. The Queen*, [1955] S.C.R. 16, at 23-24:

It cannot be over-emphasized that the purpose of a criminal prosecution is not to obtain a conviction, it is to lay before a jury what the Crown considers to be credible evidence relevant to what is alleged to be a crime. Counsel have a duty to see that all available legal proof of the facts is presented: it should be done firmly and pressed to its legitimate strength, but it must also be done fairly. The role of prosecutor excludes any notion of winning or losing; his function is a matter of public duty than which in civil life there can be none charged with greater personal responsibility. It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of judicial proceedings.

Powers, Duties, and Functions of the Director

The core powers, duties, and functions of the Director of Public Prosecutions are set out in subsection 3(3) of the DPPA. These responsibilities include:

³⁵ <http://www.ppsc-sppc.gc.ca/eng/pub/ar12-ra12/index.html>.

- initiating and conducting federal prosecutions;
- intervening in proceedings that raise a question of public interest that may affect the conduct of prosecutions or related investigations;
- issuing guidelines to federal prosecutors;
- advising law enforcement agencies or investigative bodies on general matters relating to prosecutions and on particular investigations that may lead to prosecution;
- communicating with the media and the public on all matters respecting the initiation and conduct of prosecutions;
- exercising the authority of the Attorney General of Canada in respect of private prosecutions; and
- exercising any other power or carrying out any other duty or function assigned by the Attorney General that is compatible with the office of the Director.

When carrying out these statutory responsibilities, the Director is the Deputy Attorney General of Canada. Unless otherwise directed in writing by the Attorney General, the Director has the power to make binding and final decisions to prosecute offences under federal statutes.

The PPSC is not an investigative agency. It prosecutes when a charge has been laid pursuant to an investigation by the Royal Canadian Mounted Police (RCMP) or some other police force or investigative agency of a violation of federal law. The PPSC provides advice and assistance to investigators at the investigative stage and works closely with them, particularly in terrorism, criminal organization, proceeds of crime, money laundering, market fraud, and mega cases.

The responsibilities of the PPSC vary somewhat by province and territory:

- In all provinces and territories, except Quebec and New Brunswick, the PPSC is responsible for prosecuting all drug offences under the *Controlled Drugs and Substances Act*³⁶, regardless of which police agency investigated the alleged offences. In Quebec and New Brunswick, the only drug offences prosecuted by the PPSC are those investigated by the RCMP.
- In all provinces and territories, the PPSC prosecutes violations of federal statutes such as the *Fisheries Act*³⁷, the *Income Tax Act*³⁸, the *Excise Act*³⁹, the *Customs Act*⁴⁰, the *Canadian Environmental Protection Act*⁴¹, and the *Canada Shipping Act*⁴², as well as conspiracies and attempts to violate these statutes. The PPSC also prosecutes terrorism and certain criminal organization offences under the *Criminal Code*, as well as money laundering and proceeds of crime charges. Under arrangements with the provinces, the PPSC may also prosecute *Criminal Code* offences related to drug charges.
- In all three territories, the PPSC is responsible for prosecuting all *Criminal Code* offences and offences under other federal statutes.

The manner in which they adopt their decisions, indicating whether there are various agencies with jurisdiction to do so and whether they are collegiate or single-person agencies; review remedies that can be brought against the decisions adopted, both internally and with other external agencies or authorities; and the actions needed to implement or enforce those decisions.

³⁶ <http://laws-lois.justice.gc.ca/eng/acts/C-38.8/>.

³⁷ <http://laws-lois.justice.gc.ca/eng/acts/F-14/>.

³⁸ <http://laws-lois.justice.gc.ca/eng/acts/I-3.3/>.

³⁹ <http://laws-lois.justice.gc.ca/eng/acts/E-14/>.

⁴⁰ <http://laws-lois.justice.gc.ca/eng/acts/C-52.6/>.

⁴¹ <http://laws-lois.justice.gc.ca/eng/acts/c-15.31/>.

⁴² <http://laws-lois.justice.gc.ca/eng/acts/s-9/>.

Independence

Prosecutorial independence is that of the DPP who is accountable to the courts and to the public for the federal prosecution function. Individual prosecutors are, in turn, accountable to their Chief Federal Prosecutor, the Deputy DPPs and the DPP. Additionally, while the DPP Act creates the Office of the DPP, the Attorney General of Canada remains the chief law officer of the Crown and is ultimately accountable to Parliament, the courts and the public for the federal prosecution function. The DPP's role is distinct from that of the Attorney General; it entails closer oversight and more frequent involvement in files.

PPSC counsel exercise independence as the representative of the DPP. As such, their "independence" is a delegated independence. This independence is institutional, rather than personal, and is aimed at safeguarding the independence of the PPSC. PPSC counsel are obliged to make decisions in accordance with the directives of the Attorney General and the guidelines of the DPP. That said, PPSC counsel also retain a degree of discretion in individual cases.

The independence principle does not mean that PPSC counsel need not consult. Responsible prosecutorial decision-making often requires consultation with colleagues, superiors or investigators. The principle of independence means that, subject to s. 10(1) of the DPP Act, the DPP does not take instructions as to how to exercise discretion in prosecution matters. Similarly, PPSC counsel do not take instructions as to how to proceed, except from those in the line of authority leading ultimately to the Attorney General, including, the Chief Federal Prosecutors, the Deputy DPPs, and the DPP who, for the purpose of performing the powers, duties and functions under s. 3(3) of the DPP Act, is the Deputy Attorney General.

Accountability

All federal prosecutors are accountable to their superiors for decisions taken. The PPSC is organized to foster principled, competent and responsible decision making. One of the goals of the DPP's guidelines is to assist counsel in making the numerous difficult decisions which arise in criminal litigation. In so doing, it sets objective standards against which prosecutorial conduct may be measured.

Individual prosecutors are also subject to a form of public accountability through their membership in provincial law societies. Another form of public accountability occurs through judicial review of a prosecutor's actions, for example through the abuse of process doctrine, or judicial control of actions which may prejudice fair trial interests, such as inflammatory jury addresses. Accountability is also enhanced because of the availability to the public of the Attorney General's Directives⁴³ and the DPP's Guidelines⁴⁴, since the public is able to assess the actions of Crown counsel against the standards set out in the directives and guidelines. Finally, recognition of the importance of public accountability imposes a duty on Crown counsel in certain circumstances to communicate the reasons for certain decisions to the public through the media.

⁴³ <http://www.ppsc-sppc.gc.ca/eng/dia-dia/index.html>

⁴⁴ <http://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg.html>

The manner in which their senior officers are selected, indicating whether they serve fixed terms or are freely appointed and removable, and the agencies authorized to hold them responsible for their actions and deciding on their continued tenure in those positions.

Appointment of the Director

In accordance with section 4 of the DPP Act, the Attorney General shall establish a selection committee to which he or she shall submit to a list of not more than 10 candidates that he or she considers suitable to be appointed as Director of Public Prosecutions. Each of these candidates must be a member of at least 10 years standing at the bar of any province. The committee shall then assess the candidates and recommend three of them to the Attorney General, who will then select the one whom he or she considers most suitable for the office of Director.

The question of the appointment of the selected candidate shall be referred for approval to a committee designated or established by Parliament for that purpose. The Attorney General shall, if the parliamentary committee gives its approval, recommend to the Governor in Council that the selected candidate be appointed as Director or, if the parliamentary committee does not give its approval, refer to the committee the appointment of another candidate recommended on the 10 candidates list.

The Director holds office, during good behaviour, for a term of seven years, but he or she is not eligible to be reappointed for a further term of office. The Act also states that the Director may be removed by the Governor in Council at any time for cause with the support of a resolution of the House of Commons to that effect. The Director is paid the remuneration and expenses that are fixed by the Governor in Council. Once fixed, the remuneration may not be reduced.

The manner in which the human resources needed for their operations are identified and how their personnel are selected, indicating whether they are freely appointed and removable or whether they are selected by means of merit-based competition; if certain requirements have to be met told hold such positions; and whether their personnel are subject to a regime of disqualifications and incompatibilities and of responsibility for their actions.

The PPSC continues to invest in a diverse workforce through recruitment and retention efforts, while trying to ensure employees feel valued and appreciated and that the organization is viewed as an employer of choice.

Appointment of Federal Prosecutors

The DPP cannot perform all of the duties or functions of his or her office alone. Therefore, the federal prosecutors that are necessary to enable him or her to perform any of those duties or functions are appointed in accordance with the *Public Service Employment Act* (PSEA), which clearly states that appointments to or from within the public service shall be made on the basis of merit and must be free from political influence. In addition, any federal prosecutor appointed must be a member of the bar of a province⁴⁵.

⁴⁵ In Canada, each province has its own Law Society and therefore, each Canadian province has an Act providing their law societies the authority to license and regulate lawyers in the public interest. These Acts regulate the administration all persons who practice law in a given province, and they ensure that they meet standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide.

The DPP may also, for the purpose of performing his or her duties or functions, retain on behalf of Her Majesty the services of barristers and, in the Province of Quebec, advocates to act as federal prosecutors and, with the approval of the Treasury Board, may fix and pay their fees, expenses and other remuneration. They must also be a member of the bar of a province.

Prosecutors must see that all cases deserving of prosecution are brought to trial and prosecuted with competence, diligence, and fairness. Prosecutors must be of integrity, above all suspicion, and must exercise the considerable discretion bestowed on them fairly, in good faith, and without any consideration of the political implications of their decisions. Their role is not to win convictions at any cost, but to put before the court all available, relevant, and admissible evidence necessary to enable the court to determine the guilt or innocence of an accused.

Appointment of other staff

Any other officers and employees that are necessary to enable the Director to perform any of the duties and functions of his or her office are appointed in accordance with the PSEA.

The DPP may engage the services of persons having technical or specialized knowledge of any matter relating to the Director's work to advise and assist the Director in performing any of the duties and functions of his or her office. With the approval of the Treasury Board, the Director may fix and pay the remuneration and expenses of those persons.

General information in relation to human resources

Part V of the PSEA details the procedure for the investigation and complaints relating to appointments to the Public Service.

The PPSC employs approximately 900 full time employees, including 500 prosecutors, and retains more than 810 private-sector lawyers as agents across Canada.

The existence of manuals or other documents that describe the functions of their personnel, and also indicating whether regular training is given in connection with those functions.

Federal prosecutors, whether employees of the PPSC or private-sector agents, are guided by the rules and guidelines included in the *Federal Prosecution Service Deskbook (FPS Deskbook)*⁴⁶, a publication created by the former Federal Prosecution Service of the Department of Justice Canada.

On February 21, 2007 the Attorney General of Canada issued a directive under section 10(2) of the DPPA directing that all federal prosecutors and persons acting as federal prosecutors continue to be guided by the policies and guidelines set out in the *FPS Deskbook*, with any modifications that circumstances may require, subject to any guidelines issued by the Director under paragraph 3(3)(c) of the DPP Act.

Functions of personnel and training

The *FPS Deskbook* sets out the principles governing Crown counsel's conduct, as well as provides information in relation to employment issues and resources available to Crown counsel.

⁴⁶ The Deskbook can be found at: <http://www.ppsc-sppc.gc.ca/eng/fps-sfp/fpd/index.html>.

The School for Prosecutors is an in-house training program administered by the PPSC. The program was established in 1997 under the auspices of the former Federal Prosecution Service of the Department of Justice Canada with a mandate to promote practical knowledge and training for federal prosecutors. The transition, in December, 2006, of the FPS to the PPSC has not changed the mandate of the School.

The School currently offers, annually, two different intensive one-week courses, each covering a number of topics, to approximately 70 prosecutors. Private practitioners who act as agents for the PPSC as well as some provincial prosecutors and senior law enforcement investigators, are also among the students. A combination of lectures, seminars, panel discussions, and papers are used to teach the students and to enhance their understanding of the modern practice of criminal law. In addition, attention is given to operational policies and guidelines, such as those contained in the *FPS Deskbook*, that address important issues in prosecution practice. In addition to providing training, the school is also a forum for students to meet, network, share, and enhance their sense of identity as federal prosecutors.

The faculty of the School is made up of experts in criminal law. The faculty is largely drawn from the ranks of senior PPSC prosecutors from across the country. A number of guest speakers from outside the PPSC, including members of the judiciary, professors of law, senior defence counsel and experienced police investigators are also invited to offer the students a broader exposure to aspects of criminal law practice.

Finally, prosecutors must, through their respective law societies, fulfill a number of mandatory hours of continuing legal education for the respective reference periods (yearly or every two years).

The existence of documented procedures for performing their tasks, or of manuals or guides dealing with those duties; institutional strengthening or quality improvement actions implemented; and the implementation of systems or modern technologies to facilitate their work.

Federal prosecutors, whether employees of the PPSC or private-sector agents, are guided by the rules and guidelines included in the *FPS Deskbook*, a publication created by the former FPS of the Department of Justice Canada.

On February 21, 2007, the Attorney General of Canada issued a directive under section 10(2) of the DPP Act directing that all federal prosecutors and persons acting as federal prosecutors continue to be guided by the policies and guidelines set out in the *FPS Deskbook*, with any modifications that circumstances may require, subject to any guidelines issued by the Director under paragraph 3(3)(c) of the DPPA.

Employee Protection Program

Due to the nature of their work, PPSC employees face the risk of direct and indirect threats to their safety.

The PPSC continues to work on the implementation of its Employee Protection Program – a framework and resources for the prevention of, as well as the management of and response to threats or acts of intimidation targeting PPSC staff. The EPP includes a policy, guidelines and protection measures. As each stage of the Program's implementation is finalized, the PPSC will ensure its employees are informed and trained about the EPP's components and features so that they know what to do and whom to turn to when faced with an act of intimidation or threats.

The manner in which the general public is provided with information about their objectives and functions, is informed of the procedures established for the performance of their functions, and is given guidance about how to carry out proceedings before them.

All of this information, namely the manner in which the general public is provided with information about the objectives and functions of the PPSC, is informed of the procedures established for the performance of its functions, and is given guidance about how to carry out proceedings before the PPSC can easily be found on the PPSC's Internet site⁴⁷.

Alternatively, the public can reach the Public Enquiries office at the PPSC's headquarters in Ottawa, Ontario, at:

Public Prosecution Service of Canada
 284 Wellington Street – 2nd Floor
 Ottawa, Ontario K1A 0H8
 613-957-6489
 1-877-505-7772
info@ppsc.gc.ca

The mechanisms for internal control and for dealing with claims, complaints, or allegations related to the pursuit of their objectives and to the performance of their personnel.

PPSC Complaints Policy

Effective as of October 1, 2012, the PPSC has a Complaints Policy.

The PPSC seeks to ensure that complaints are dealt with in a timely and clear manner and thereby help maintain public confidence in the administration of justice.

Scope

A complaint may be made in respect of the conduct of a PPSC employee or agent, a PPSC service, procedure, practice or policy.

The following are not considered to be complaints under this policy:

- criticism of a court decision;
- unsigned documents submitted as a complaint;
- information requests;
- requests for legal advice;
- access to information and privacy requests;
- concerns expressed in respect of the justice system that do not fall under the mandate of the PPSC, including the police or other investigative agencies;
- concerns expressed over legislation;
- allegations of malicious prosecutions or demand letters addressed to the PPSC;
- internal grievances from PPSC staff, agents, or former staff members; or
- abusive or frivolous submissions.

Complaints in respect of the conduct of the police or other investigative agencies will be forwarded to them for response.

⁴⁷ <http://www.ppsc-sppc.gc.ca/eng/index.html>.

A detailed statement of PPSC's Complaints Policy can be found on the PPSC'S Internet site⁴⁸.

Procedure

Complaints must be submitted to the PPSC Chief Federal Prosecutor responsible for the region where the actions giving rise to the complaint occurred.

Complaints must be submitted in writing, in either official language, and include the following information:

- complainant's name;
- complainant's contact information;
- details of the complaint, including all relevant information concerning the complaint or allegations to facilitate the assessment of the complaint.

Complaints should be made within six months of the events giving rise to the complaint. The Chief Federal Prosecutor will send a letter of acknowledgement to a complainant within five (5) working days of receipt of the complaint. Where possible, the PPSC will provide complainants with a written response within forty (40) working days of receiving the complaint.

PPSC employees or agents who are the subject of complaints will receive a copy of the complaint letter and the written reply. The complaint review will include contacting the employee or agent.

If the nature of the complaint is such that it cannot or should not be addressed by the Chief Federal Prosecutor, the PPSC will ensure the complaint is forwarded to the relevant Deputy Director of Public Prosecutions for response.

Complainants dissatisfied with the response of the Chief Federal Prosecutor may request that the complaint be reviewed by a Deputy Director of Public Prosecutions. Such requests must be made within one month of the date of the response of the Chief Federal Prosecutor.

Privacy

The PPSC will protect the privacy of all complainants and employees named in a complaint in accordance with the *Privacy Act*, which governs the collection, use, disclosure and retention of personal information, and Treasury Board Secretariat Policy of Privacy Protection.

The manner in which the budgetary resources needed for their operations are ensured.

The PPSC's entire budget is dedicated to operations. The organization has neither capital funds nor grants and contributions funds.

In 2011-2012, the PPSC's budget was \$186.6 million⁴⁹.

⁴⁸ <http://www.ppsc-sppc.gc.ca/eng/bas/cmp-pln.html>.

⁴⁹ <http://www.ppsc-sppc.gc.ca/eng/pub/ar12-ra12/07.html>

As appropriate, the coordination mechanisms for harmonizing their functions with those of other oversight agencies or public authorities and for securing the support of other authorities and the public for full compliance with their duties.

See response under “The manner in which they adopt their decisions, etc.”

Accountability mechanisms applicable to the performance of their duties; the way in which the information needed for that is gathered and processed; and the information issued for that purpose, and the way in which it is made public and how members of the public may access it.

As a federal government organization, the PPSC is accountable for reporting on its performance. The availability of reliable performance information is central to the PPSC’s ability to effectively describe its activities and results, as well as to support planning, decision-making and funding strategies.

In 2011-2012, the PPSC finalized standards for services provided to police and federal investigative agencies. In addition to the PPSC policy manual, the service standards establish what investigative agencies may expect from PPSC legal staff regarding matters such as the PPSC’s normal business hours, response time for a request for a legal opinion, and when an agency can expect to be consulted by the PPSC.

In addition, the PPSC simplified and restructured various data sets in its case management system, in order to improve data quality. For example, the PPSC counts up the number of files it works on. In 2011-2012, the PPSC worked on 78,698 files. This figure includes 48,140 files opened during the year, as well as 30,558 carried over from previous years. A file typically consists of an information or an indictment and may include more than one charge, involve more than one accused, and include charges under multiple acts. These numbers include all files worked on by PPSC prosecutors and paralegals as well as legal agents.

As provided for in the DPPA, the DPP shall, not later than June 30 of each year, report to the Attorney General in respect of the activities of the office of the Director — except in relation to matters respecting offences under the Canada Elections Act, as well as any appeal or other proceeding related to such a prosecution — in the immediately preceding fiscal year.

Then, the Attorney General shall cause a copy of the Director’s report to be laid before each House of Parliament on any of the first 15 days on which that House is sitting after he or she receives the report.

THE OFFICE OF THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS

The Office of the Commissioner for Federal Judicial Affairs Canada (OCFJA)⁵⁰ was created in 1978 under the *Judges Act* to safeguard the independence of the judiciary and put federally appointed judges at arm's length from the Department of Justice (DOJ). Its mandate extends to promoting better administration of justice and providing support for the federal judiciary.

The OCFJA contributes to the **prevention of corruption** by ensuring the independence of the appointments process of judges from the executive branch.

The OCFJA must strive to meet three priorities: (1) protect the independence of the judiciary; (2) achieve greater administrative efficiency in the judiciary using up-to-date technology; and (3) support the judiciary and provide central administrative services to judges.

Their objectives and functions; their autonomy for pursuing them; and when applicable, the exercise of their functions in conjunction or concert with other agencies or authorities; and the mechanisms for resolving any conflicts of jurisdiction that may arise.

The OCFJA's mission statement is “[t]o promote the independence of the federal judiciary in order to maintain the confidence of Canadians in our judicial system.”⁵¹

The *Judges Act* provides for the designation of an officer called the Commissioner for Federal Judicial Affairs Canada. One of the roles and responsibilities of the Commissioner is to act on behalf of the Minister of Justice in matters related to the administration of Part I of the *Judges Act*, which deals with the terms of appointment, age limit and salaries applicable to federally appointed judges.

The OCFJA has an appointments secretariat which administers 17 advisory committees responsible for evaluating candidates for federal judicial appointments.

The OCFJA publishes Federal Court of Appeal and Federal Court decisions in both official languages. The OCFJA provides judges with a secure, restricted-access conversation system and a virtual library (JUDICOM). The OCFJA also provides language training in English and French for judges who wish to take the program. Finally, it coordinates initiatives related to the Canadian judiciary's role in international cooperation.

The *Judges Act*, s. 74(2), explicitly separates the authority of the Department of Justice and the OCFJA. The provisions provides as follows: “It is hereby declared for greater certainty that such of the duties and functions of the Minister as are, by paragraphs 1(a) to (d) [see question ii below], subject to be performed by the Commissioner do not form part of the duties and functions assigned to the Minister [of Justice] by the *Department of Justice Act*.”

⁵⁰ <http://www.fja.gc.ca/home-accueil/index-eng.html>.

⁵¹ <http://www.fja.gc.ca/fja-cmf/role-eng.html>.

The scope of their functions, indicating whether any exceptions to it exist.

The OCFJA has four functions, as found in s. 74(1) of the *Judges Act*:

- 74.(1) It shall be the duty and function of the Commissioner, under the Minister [of Justice], to
- (a) act as the deputy of the Minister in performing all such duties and functions in relation to the administration of Part I [of the *Judges Act*, which relates to eligibility for judicial appointment, judicial salaries and periodic adjustments, travel and other allowances, benefits, annuities, survivor benefits, and leaves of absence] as fall, by law, within the responsibility of the Minister;
 - (b) prepare budgetary submissions for the requirements of the [Canadian Judicial] Council;
 - (c) be responsible for any other administrative arrangements that are necessary to ensure that all reasonable requirements, including those for premises, equipment and other supplies and services and for officers, clerks and employees of the [Canadian Judicial] Council for the carrying out of its operations, are provided for in accordance with law; and
 - (d) do such other things as the Minister may require in connection with any matter or matters falling, by law, within the Minister's responsibilities for the proper functioning of the judicial system in Canada.

Under paragraphs (a) and (d), the OCFJA has overall responsibility for the administration of the appointments process on behalf of the Minister of Justice⁵². The Commissioner is expected to carry out his responsibilities in such a way as to ensure that the system treats all candidates for judicial office fairly and equitably.

Under paragraph (d), the OCFJA is responsible for the *Federal Courts Reports*, which publishes selected decisions of the Federal Court of Appeal and Federal Court that are, in the opinion of the editor, of sufficient significance or importance to warrant publication (s. 58 of the *Federal Courts Act*). The editor may rely on an advisory committee, created under the authority of s. 58 and comprised of prominent practitioners in the areas of federal jurisdiction, to assist in selecting appropriate cases for publication. All materials in the *Federal Courts Reports* are subjected to rigorous editorial processes and are published in both official languages. Decisions not selected for inclusion in the *Federal Courts Reports* continue to be available through the websites of the respective courts. For further information on this collection, see <http://reports.fja-cmf.gc.ca/eng/collection/information.html>.

Furthermore, the OCFJA has developed and administers a language training program tailored to the needs of judges, in furtherance of Canada's goals under the *Official Languages Act* and in keeping with the language rights of defendants under the *Criminal Code* and the *Charter of Rights and Freedoms*.

The OCFJA administers a judicial intranet called JUDICOM, which provides judges with email, a secure and restricted communication system, and a virtual library.

The Minister has also given to the OCFJA the mandate to administer the Supreme Court of Canada Appointments Selection Panel process, established to evaluate candidates for appointment to the Supreme

⁵² <http://www.fja.gc.ca/appointments-nominations/process-regime-eng.html>.

Court of Canada. The Minister has also delegated to the OCFJA the responsibility of providing administrative services to the Judicial Compensation and Benefits Commission (provided for under s. 26 of the *Judges Act*).

The manner in which they adopt their decisions, indicating whether there are various agencies with jurisdiction to do so and whether they are collegiate or single-person agencies; review remedies that can be brought against the decisions adopted, both internally and with other external agencies or authorities; and the actions needed to implement or enforce those decisions.

The OCFJA administers seventeen judicial advisory committees across Canada – three for Ontario, two for Quebec, one for each other province or territory, and one unique committee for the Tax Court of Canada. These committees have the responsibility of assessing the qualifications for appointment of the lawyers who apply. Professional competence and overall merit are the primary qualifications.

Committees are encouraged to respect diversity and to give due consideration to all legal experience, including that outside a mainstream legal practice. Broad consultations by the committees are essential elements of the process. Committee decisions are normally arrived at through a consensus of the committee members present, without recourse to a recorded vote. Where consensus is not possible the chair must request that a decision be made by majority vote of the members present. The committees ultimately submit their comments and recommendations to the Minister of Justice.

The comments and recommendations are kept confidential and solely for the Minister of Justice's use. On those occasions when a committee's advice may be contrary to the information received from other sources by the Minister of Justice, the Minister may ask the committee for a reassessment of the candidate.

Federal judicial appointments are made by the Governor General acting on the advice of the federal Cabinet. A recommendation for appointment is made to Cabinet by the Minister of Justice with respect to the appointment of *puisne* judges, and by the Prime Minister with respect to the appointment of Chief Justices and Associate Chief Justices. The recommendation to Cabinet is made from amongst the names which have been previously reported by the committees to the Minister.

The manner in which their senior officers are selected, indicating whether they serve fixed terms or are freely appointed and removable, and the agencies authorized to hold them responsible for their actions and deciding on their continued tenure in those positions.

The Commissioner is appointed by the Governor General in Council, on the recommendation of the Minister of Justice, as required by s. 73 of the *Judges Act*. The Commissioner holds the rank and status of a deputy head of a department, and holds for a fixed term during pleasure. Remuneration is set based on a schedule of ranges set by the Privy Council Office based on the level of responsibility attributable to the position based on a scale for which no performance pay is payable since this would be inappropriate for this type of position.

The Commissioner's responsibility for judicial appointments is exercised directly or by his or her delegate, which would normally be the Executive Director of Judicial Appointments. The Executive Director, in turn, is a member of the public service and is hired through the processes outlined in the *Public Service Employment Act* (PSEA). Positions are filled based on merit and an interview/testing process where applicable.

The manner in which the human resources needed for their operations are identified and how their personnel are selected, indicating whether they are freely appointed and removable or whether they are selected by means of merit-based competition; if certain requirements have to be met to hold such positions; and whether their personnel are subject to a regime of disqualifications and incompatibilities and of responsibility for their actions.

OCFJA Staff

OCFJA Staff are members of the federal public service and are thus subject to all the accountability requirements and entitled to all the protections contained in the PSEA, as well as the protections enshrined in the *Canadian Charter of Rights and Freedoms*.

Throughout the federal public service, new or newly vacant positions, whether permanent or for a specified term, are typically advertised based on essential and asset qualifications, through a Statement of Merit Criteria and Conditions of Employment. Specific processes vary by position, but candidates are typically interviewed and assessed based on objective criteria relevant to the position requirements.

Judicial Appointments Committees

Members of the Judicial Appointments Committees are not staff of the OCFJA. Rather, they are volunteers who are appointed by the Minister of Justice to the Committees to review applications for judicial appointment and provide recommendations to the Minister of Justice. Members of the Judicial Advisory Committees are thus not part of the administrative mechanism that comprises the OCFJA staff.

Each judicial advisory committee consists of eight members representing the bench, the bar, law enforcement associations and the general public:

- a nominee of the provincial or territorial law society;
- a nominee of the provincial or territorial branch of the Canadian Bar Association;
- a judge nominated by the Chief Justice of the province or by the senior judge of the territory;
- a nominee of the provincial Attorney General or territorial Minister of Justice;
- a nominee of the law enforcement community; and
- 3 nominees of the federal Minister of Justice representing the general public.

Each nominator is asked by the federal Minister of Justice to submit a list of names from whom an appointment to the relevant committee can be made. Committee members are appointed by the Minister of Justice to serve a three-year term, with the possibility of a single renewal.

The existence of manuals or other documents that describe the functions of their personnel, and also indicating whether regular training is given in connection with those functions.

Judicial advisory committees conduct their affairs in accordance with the *Guidelines for Advisory Committee Members*⁵³. The guidelines and related notes are for the use of the members of the Advisory Committees established under the judicial appointments process, and provide individual Committee members with information and guidance on selected subjects related to the work of the Committees. The Guidelines were prepared on the basis of the ongoing committee experience, and are subject to updating

⁵³ <http://www.fja.gc.ca/appointments-nominations/committees-comites/guidelines-lignes-eng.html>.

and expansion as appropriate based on the continuing experience. Committee members are invited to consult with the Executive Director, Judicial Appointments from the OCFJA if they have questions or require clarification of any of their roles or responsibilities.

The existence of documented procedures for performing their tasks, or of manuals or guides dealing with those duties; institutional strengthening or quality improvement actions implemented; and the implementation of systems or modern technologies to facilitate their work.

The Commissioner for Federal Judicial Affairs is appointed by the Governor in Council. As such, the Commissioner is subject to the Terms and Conditions of Employment for Full-Time Governor in Council Appointees. Governor in Council appointees are required to perform their duties in the public interest: their personal and professional conduct must be beyond reproach. Consequently, the government has established clear conflict of interest and post-employment rules for public office holders, in the *Conflict of Interest Act*, which explain the steps to be taken to avoid real or apparent conflicts between their private interests and public responsibilities.

The Act sets standards to maintain and enhance public confidence in the integrity of public office holders. It contains measures for compliance while in office and afterward. Specific requirements include the types of assets that public office holders may have and the outside activities in which they may engage. The Conflict of Interest and Ethics Commissioner is responsible for ensuring compliance with this Act. Appointees may discuss their circumstances in confidence with officials in the Office of the Conflict of Interest and Ethics Commissioner.

The complete text of the Terms and Conditions of Employment for Full-Time Governor in Council Appointees can be found on the Privy Council Office Internet site⁵⁴.

OCFJA Staff

Staff of the OCFJA are expected to adhere to the same standards applicable to all federal public sector employees. The Treasury Board of Canada Secretariat has developed the *Values and Ethics for the Public Sector*, which outlines roles, provides objectives and statement of values, and outlines expected behaviour. The complete text is available at <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049>. In addition, public sector employees are expected to adhere to the Policy on Conflict of Interest and Post-Employment (available at <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25178>) to ensure that decisions are made in a manner that upholds the public interest, facilitate ethical decision-making to resolve conflicts between private and public interest, and establish measures to ensure that post-employment activities respect the integrity of the public service.

Judicial Appointments Committees

<http://www.fja.gc.ca/appointments-nominations/committees-comites/ethics-ethiques-eng.html>

As explained above, a Guidelines document exists for members of Judicial Appointments Committees. In addition, members of Judicial Appointments Committees must adhere to the Code of Ethics:

1. A member of the Committee shall not discuss with a candidate, formally or otherwise, by whatever means, that person's candidacy, other than in the context of

⁵⁴ <http://www.pco-bep.gc.ca/index.asp?lang=eng&Page=information&Sub=publications&Doc=terms-conditions/2009-eng.htm>.

an interview arranged at the request of the Committee. All communications with candidates must be directed through the Executive Director, Judicial Appointments.

2. Members of the Committee shall not participate in the appointment process other than in the context of the Committee's work.
3. A member of the Committee must show discretion and neutrality in all aspects of Committee work. Questions must be directed only to the candidate's fitness for the bench. No questions concerning a candidate's political views or political affiliation are to be raised. If a candidate has mentioned active participation in a political party as part of his or her social involvement, no inference, favourable or unfavourable, is to be drawn other than the indication of the candidate's capacity for social involvement.
4. A member shall not state his or her opinion of a candidate's suitability, nor participate in the Committee's deliberations or discussions concerning a candidate, if the member is in a position of conflict of interest, real or apparent, so as to raise an apprehension of bias either for or against the candidate. The foregoing includes, but is not limited to, situations where the member has agreed to act as a referee for the candidate, is or has had a close business or personal relationship with the candidate, such as an associate, law partner or business partner of the candidate within the last ten years, is a spouse, ex-spouse or a relative of the candidate, or is a close friend of the candidate.
5. All Committee discussions and proceedings shall be treated as strictly confidential and must not be disclosed outside the Committee, except to the Minister of Justice, except that a Committee Chair may inform the Chief Justice of the names of the candidates who have been recommended by the committee. A member shall not communicate to a candidate or to any other person, during his or her term or thereafter, the substance or details of any interviews held, of discussions within the Committee nor of recommendations made.
6. A member of the Committee shall not receive an advantage, a reward or a gift in connection with his or her participation in the Committee's work, except for reimbursement of expenses incurred (travel, long distance charges, etc.) and meals in the context of Committee meetings.
7. A member of the Committee shall not be a candidate for a position within the federal judiciary until the expiry of a period of one year following the end of his or her term of office as a Committee member.
8. A member of the Committee who learns that a candidate has serious health concerns, has committed a criminal or other offence, a breach of professional conduct, has been involved in questionable financial dealings, has failed to meet family support obligations, or has committed some other act likely to constitute a possible impediment to the appointment or likely to cast an unfavourable light on the exercise of the judicial function, must inform the Committee and, in an emergency, the Chair of the Committee and the Executive Director, Judicial Appointments. This applies whether the information relates to a candidate who is to be evaluated or one who has already been evaluated.

The OCFJA publishes a report of activity every year giving a statistical summary of applications for judicial appointment. For the most recent report, see: <http://www.fja.gc.ca/appointments-nominations/committees-comites/reports-rapports/report-rapport-2012-eng.html>.

The manner in which the general public is provided with information about their objectives and functions, is informed of the procedures established for the performance of their functions, and is given guidance about how to carry out proceedings before them.

The OCFJA publishes annual Department Performance Reports which publicizes the responsibilities, program activity architecture, organizational priorities, risk analysis, summary of performance, expenditure profile, and estimates by vote (part of the budgetary process). The Report also analyzes each program activity by strategic outcome, and provides supplementary financial information, including a link to complete financial statements. The most recent Department Performance Report (for the year ending March 31, 2012) can be found at: <http://www.fja-cmf.gc.ca/fja-cmf/publications/dpr-rmr/2011-2012/fjatb-eng.html>.

The OCFJA is in the unique position that, while it operates in many ways a department of the Government of Canada, it exists entirely as a unique service provider to the Canadian judiciary. As such, there are no direct services to the public; however, the mission statement of the OCFJA encapsulates the overall benefits to the Canadian public since the OCFJA exists to “promote the independence of the federal judiciary in order to maintain the confidence of Canadians in our judicial system.”

The mechanisms for internal control and for dealing with claims, complaints, or allegations related to the pursuit of their objectives and to the performance of their personnel.

Please see the response under the heading OCFJA Staff under the question re “The manner in which the human resources needed for their operations etc.”

The manner in which the budgetary resources needed for their operations are ensured.

The OCFJA is a government department that receives its resources through the annual estimates process and is accountable for the use of operational resources. Budgetary documents are prepared by the OCFJA for review and approval by the Minister of Justice, who tables them in the House of Commons. The Commissioner appears before the relevant estimates committee to answer questions regarding resources and requests. As part of the statutory mandate, the Commissioner also prepares budgetary submissions on behalf of the Canadian Judicial Council⁵⁵.

Additional resource requirements necessary for operations at the OCFJA and the Canadian Judicial Council must be secured through requests to Cabinet, the responsible committee being Treasury Board. The OCFJA prepares Treasury Board submissions, which are reviewed and approved by the Minister of Justice before requests are formally made.

⁵⁵ <http://www.cjc-ccm.gc.ca/>

As appropriate, the coordination mechanisms for harmonizing their functions with those of other oversight agencies or public authorities and for securing the support of other authorities and the public for full compliance with their duties.

The OCFJA fulfills a unique mandate, and its functions are defined in statute. Coordination of functions is thus partially governed legislatively, and partially through cooperation among officials through coordination of functions and information sharing. For example, the OCFJA provides monthly reports to the Department of Justice on the number of federal superior court judges and the number of vacancies. This information then assists the Minister of Justice to ensure that judicial vacancies are filled in a timely fashion.

In addition, in 1996, the Chief Justice of Canada and the Minister of Justice mandated the OCFJA to coordinate the involvement of the Canadian judiciary in international technical cooperation initiatives. Since then, FJA implemented several judicial and court reform projects in Ukraine, Russia, Ethiopia and China, all funded by the Canadian International Development Agency. International cooperation initiatives are supported by Canada's judicial community as well as the Courts Administration Service. It is currently involved in several international cooperation initiatives, the details of which can be found here: <http://www.fja-cmf.gc.ca/cooperation/index-eng.html>.

OCFJA also responds on a continuing basis to requests from national governments and intergovernmental organizations for shorter and one-time initiatives as well as the information related to the Canadian judicial system and its fundamental principles and constituent elements. To this end, OCFJA organized numerous programs for visiting delegations from other foreign countries such as Argentina, Jamaica, and the Eastern Caribbean States as well as from India, Pakistan, Chad, Nigeria, Philippines, Rwanda, Japan, Singapore, Korea, Malaysia, the Francophonie and others. In addition, FJA continues to cooperate with Foreign Affairs and International Trade Canada and other Government agencies in shaping the Canadian government policies toward aid and technical assistance in the field of judicial reform abroad.

Accountability mechanisms applicable to the performance of their duties; the way in which the information needed for that is gathered and processed; and the information issued for that purpose, and the way in which it is made public and how members of the public may access it.

The OCFJA is required to make Quarterly Financial Reports (*Financial Administration Act*, s. 65.1).

See <http://www.fja-cmf.gc.ca/fja-cmf/publications/qfr-rft/index-eng.html>.

The OCFJA also issues annual Departmental Performance Reports.

See <http://www.fja-cmf.gc.ca/fja-cmf/publications/dpr-rmr/index-eng.html>.

The OCFJA also publishes annual Reports on Plans and Priorities.

See <http://www.fja-cmf.gc.ca/fja-cmf/publications/rpp/index-eng.html>.

The OCFJA also conducted general Client Satisfaction Surveys in 2008 and 2011. In 2011, the OCFJA conducted a Client Satisfaction Survey on their publication of the *Federal Court Reports*.

See <http://www.fja.gc.ca/fja-cmf/publications/index-eng.html>.

See http://epe.lac-bac.gc.ca/003/008/099/003008-disclaimer.html?orig=/100/200/301/pwgsc-psgc/por-of/office_commissioner_federal_judicial_affairs/2011/075-10-e/report.ppt.

- D) For each of the oversight bodies selected in the response to question B), summarize the results obtained in the performance of their duties, providing the relevant information available to your country and making reference, to the extent that is possible, to issues such as the following:

THE TREASURY BOARD OF CANADA SECRETARIAT

If the oversight body in question is tasked with the prevention of corrupt acts, list the actions taken in the past five years to prevent those acts, such as: campaigns to publicize their consequences; probity programs or awareness-raising on the duty of respecting and protecting public property and general interests; production of manuals or guides to orient public servants and private citizens regarding ethical behavior in their dealings with the State; alerts about corruption risks in specific areas of the State's operations and proposals for preventing them; attention to inquiries, issuing of opinions, or advisory actions or preventive auditing related to the State's actions; attention paid to corruption prevention studies in the areas of their jurisdiction and to related suggestions made by civil society.

The TBS has produced manuals and guides to orient public servants regarding ethical behavior around Conflict of Interest, the Values and Ethics Code for the Public Sector and the *Public Servants Disclosure Protection Act*.

Policy on Conflict of Interest and Post-Employment (Policy on Conflict of Interest and Post-Employment (<http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?section=text&id=25178>)

Application Guide for Post-Employment under the “*Policy on Conflict of Interest and Post-Employment*” (<http://www.tbs-sct.gc.ca/gui/agcipe-gaciam-eng.asp>)

The Values and Ethics Code for the Public Sector (<http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049>)

Resources on the *Public Servants Disclosure Protection Act* (<http://www.tbs-sct.gc.ca/ve/pda-eng.asp>)

The TBS is working with the Canada School of Public Service (CSPS) to develop and provide training to public servant employees and managers on values and ethics. The following table provided by the CSPS highlights attendance and enrollment statistics for currently available classroom and online courses related to values and ethics:

Number of Participants for Values and Ethics-related courses offered at CSPS, 2011 to 2013**

Classroom Course	Course Code	Number of Participants		
		2010-11	2011-12	2012-13
Courage to Lead in the Public Service	L109	66	51	79
Financial Knowledge in a Government Environment - Crown Corporations	Z116	16	12	1
Financial Management Control Frameworks	F111**	1,538	1,159	770
Information Management: Environment and Vision in the Government of Canada	I110	417	296	304
Information Management: Legal and Policy Framework	I120	364	253	226
Internal Audit Orientation Workshop	A705	108	110	150
Internal Policy Development	T724	242	210	368
Leadership Through Values and Ethics	D102	91	38	95

Leadership: Reflection and Action	G305	238	210	218
Leading for Results: Exploring Servant Leadership	G306	152	115	125
Managing Public Funds	G243	111	73	54
Orientation to Contracting and Acquisition for the Non-Specialist	M712	155	122	252
Orientation to the Public Service	E131	6,467	4,576	3285
Staffing for Staffing Specialists - Part I	P801	222	193	206
Staffing for Staffing Specialists - Part II	P802	219	162	112
Social Media in the Government of Canada	B334	81
Annual Total		10,406	7,580	6,326
Online Course	Course Code	2010-11	2011-12	2012-13
Information Management - Personal Awareness and Capacity Test	I004	...	187	1627
Paving the Way: Values and Ethics Foundations for New Employees	C255-2**	1791
Paving the Way: Values and Ethics Foundations for Employees	C-255*	1640	393	...
Orientation to the Public Service Program: Paving the Way: Values and Ethics Foundations for Employees	C-255 V2	7789	7126	4047
Active Leadership in Values and Ethics	C100	32	681	41
Modern Comptrollership: Values and Ethics	C328	5	12	
Values and Ethics Foundations for Managers	C355	20
Annual Total		9,466	8,399	7,526

Source:

Classroom Course data for 2010-11 and 2011-12: IT Extract as of October 11, 2012

Classroom Course data for 2012-13 and online courses data for the three fiscal years: ILMS data as of April 2013

****Data information:**

This information is preliminary and therefore subject to revision.

Online course I004 was first available in 2011-12, whereas courses C255-2 and C355 became available in 2012-13.

*F111: Financial management officers with less than five years of experience are required to complete this course as of April 1, 2010, within 3 years. The decrease reflected in the number of participants in 2012-13 might be a result of a decrease in the number of officers having to take this course.

** C255-2 is a revision of a previous version of this course (C255). This course was updated to reflect the requirements of the new *Values and Ethics Code for the Public Sector* and the Treasury Board *Policy on Conflict of Interest and Post-Employment*, both April 2, 2012.

*C255 no longer offered: replaced by C255-2.

Query methodology info:

Main assumptions for the Number of Participants are based on:

- A delivered or open offering status (we assume that open-normal offerings have been delivered as the extract contains historical information). In the case of open offerings, only classroom instructor-led courses and events are considered
- Registrants with a confirmed status
- Corrections are included in the count of participants

THE PUBLIC SERVICE COMMISSION

If the oversight body in question is tasked with the prevention of corrupt acts, list the actions taken in the past five years to prevent those acts, such as: campaigns to publicize their consequences; probity programs or awareness-raising on the duty of respecting and protecting public property and general interests; production of manuals or guides to orient public servants and private citizens regarding ethical behavior in their dealings with the State; alerts about corruption risks in specific areas of the State's operations and proposals for preventing them; attention to inquiries, issuing of opinions, or advisory actions or preventive auditing related to the State's actions; attention paid to corruption prevention studies in the areas of their jurisdiction and to related suggestions made by civil society.

Source: PSC 2011-2012 Annual Report, Chapter 4 and updated statistics.

Awareness and Outreach to support a Non-partisan public service

The Preamble to the *Public Service Employment Act* (PSEA) recognizes that “Canada will continue to benefit from a public service that is based on merit and non-partisanship and in which these values are independently safeguarded.”

Part 7 of the Act recognizes the right of employees to engage in a political activity, while maintaining the principle of political impartiality in the public service. It also sets out specific roles and responsibilities for employees and the Public Service Commission (PSC) related to political activities. In its 2010-2011 Annual Report, the PSC committed to address the need for employees to better understand their role in safeguarding a non-partisan public service and to enhance their awareness of the individual responsibilities that contribute to the protection of this core value.

Level of awareness – The PSC’s Survey of Staffing collected data on questions related to political activities, including employee participation in a political activity, their degree of awareness of their legal rights and responsibilities with regard to political activities and the extent to which their organization keeps them informed of these legal rights and responsibilities.

Over the years, employee awareness has progressively increased. In 2011, 69% of respondents indicated being aware of their legal rights and responsibilities to a moderate or great extent, up from 57% and 63% in the 2009 and 2010 surveys, respectively. The survey results also indicated that 84% of organizations surveyed showed an increase in employee level of awareness.

Outreach activities – In its 2010-2011 Annual Report, the PSC underscored the need to continue working with organizations to improve the effectiveness of communication and outreach activities to increase the awareness of federal public service employees’ legal rights and responsibilities related to political activities. Communicating the necessary information to employees continues to be a top priority for the PSC, especially helping organizations with a large regional presence and remote locations.

To assist employees in understanding their legal rights and responsibilities with respect to engaging in political activities, the PSC revised its *Political Activities and You* brochure. The brochure is available on-line and on average the PSC distributes 2 000 paper copies annually to organizations subject to Part 7

of the PSEA. In November 2012, the PSC posted an on-line Political Activities Quiz to test general knowledge, which was shared with all organizations. Over 3 800 users have completed the quiz to date.

The PSC also has an on-line Political Activities Self-Assessment Tool to help federal public service employees subject to Part 7 of the PSEA to assess whether their participation in a non-candidacy political activity could impair, or be perceived as impairing, their ability to perform their duties in a politically impartial manner. The tool examines each non-candidacy political activity in light of the interplay of the following factors: the nature of the non-candidacy political activity, the nature of the employee's current public service duties, the level and visibility of their position and their personal visibility. On average, the tool is completed over 80 times a month.

The PSC continued to provide deputy heads with information communiqués for distribution to employees regarding political activities, including those for upcoming elections. The PSC also liaised with provincial and municipal associations to provide information about employees' legal rights and responsibilities related to political activities, for use in their publications and on their Web sites. The PSC also established a Web 2.0 presence to help organizations keep their employees informed about political activities.

The PSC worked with the Office of the Chief Human Resources Officer to partner with the Canada School of Public Service (CSPS) to enhance the political activities content in training modules for new employees. Two mandatory CSPS courses, *Paving the Way* and *Orientation to the Public Service*, now have more comprehensive content related to political activities. These partnerships continued in 2012-2013 by looking at leadership courses offered in the CSPS curriculum where political activities-related information could be added or enhanced.

Although the above-mentioned survey findings demonstrate an increase in the level of awareness related to political activities, the PSC will continue to enhance communication and outreach initiatives throughout 2013-2014 and will strive to look for new and innovative ways to continue this positive progression.

Investigations are conducted where appropriate and where the allegations of wrongdoing fall under the mandate of the Commission. The audit function, for example, refers cases for investigation where the audit function has detected indicators of an error, omission or improper conduct. These investigations are not made public due to privacy considerations. The Commission does publish summaries of selected investigations in order to educate employees, organizations and the public about issues affecting the staffing system or to promote political impartiality within the federal public service.

If the oversight body in question is tasked with detecting corrupt acts that trigger disciplinary; administrative; financial or civil; or criminal responsibility for persons involved therein, indicate, as appropriate, the total number of investigations begun in each of the past five years and indicate how many remain ongoing; how many have been suspended for whatever reason; how many have been shelved due to statute of limitations; how many have been shelved without a decision being reached on the merits in the case under investigation; how many are at a stage that allows a decision to be reached on the merits of the case under investigation; and how many have been referred to the competent body in order for such a decision to be taken.

All of the data relating to volumes of investigations is published in the Commission's Annual Report which is publicly available on the PSC website: <http://www.psc-cfp.gc.ca/arp-rpa/index-eng.htm>

The number of investigations completed (founded + unfounded) in each of the last 5 years related to appointment processes were as follows:

2007-2008: 89
 2008-2009: 98
 2009-2010: 80
 2010-2011: 96
 2011-2012: 181

The number of investigations completed (founded + unfounded) in each of the last 5 years related to improper political activities were as follows:

2007-2008: 21
 2008-2009: 17
 2009-2010: 6
 2010-2011: 3
 2011-2012: 3

If the oversight body in question is tasked with punishing corrupt acts that trigger disciplinary; administrative, financial or civil; or criminal responsibility for persons involved therein, indicate the total number of cases investigated that were ready for a decision to be adopted in each of the past five years; the number of decisions adopted in connection with them; the number of those decisions in which responsibilities were established or penalties were imposed; the number of those decisions in which no responsibilities were found or acquittals were given; and the number of those decisions involving the extinction of the punishment or responsibility because of the triggering of the statute of limitations.

In cases where an investigation determines that allegations are founded, the Commission has the authority under the PSEA to order corrective actions. In rare cases, a founded investigation may result in no corrective actions, subject to certain criteria (such as the individual no longer occupies a position within the public service).

For the past five years, the number of founded cases resulting from investigations into appointment processes and therefore eligible for the ordering of corrective action, were as follows:

2007-2008: 25
 2008-2009: 39
 2009-2010: 32
 2010-2011: 61
 2011-2012: 100

For the past five years, the number of founded cases resulting from investigations into improper political activities and therefore eligible for the ordering of corrective action, were as follows:

2007-2008: 19
 2008-2009: 16
 2009-2010: 5
 2010-2011: 1
 2011-2012: 3

If the oversight body in question is tasked with punishing corrupt acts that trigger civil or financial responsibility for persons involved therein, indicate the monetary sanctions imposed, or of the amounts ordered paid to the State, that have entered the public treasury in each of the past five years.

Corrective actions following a PSC investigation do not trigger civil or financial responsibility for persons involved.

THE PUBLIC PROSECUTION SERVICE OF CANADA

If the oversight body in question is tasked with punishing corrupt acts that trigger disciplinary; administrative, financial or civil; or criminal responsibility for persons involved therein, indicate the total number of cases investigated that were ready for a decision to be adopted in each of the past five years; the number of decisions adopted in connection with them; the number of those decisions in which responsibilities were established or penalties were imposed; the number of those decisions in which no responsibilities were found or acquittals were given; and the number of those decisions involving the extinction of the punishment or responsibility because of the triggering of the statute of limitations.

In Fiscal Year 2011-2012, approximately 89% of all litigation files were within the drug, *Criminal Code* and terrorism offences prosecution program (which includes organized crime offences), whereas close to 11% involved the prosecution of federal regulatory offences and economic crime.

The PPSC is not an investigative body and therefore has no role in the prevention or detection of corruption. As described earlier in the response to Part C, the PPSC is responsible for prosecuting offences under Canada's *Corruption of Foreign Public Officials Act* (CFPOA).

In 2009, PPSC appointed a prosecutor in its Headquarters branch to act as a National Coordinator for all pre-charge advice and prosecutions under the CFPOA.

PROSECUTIONS UNDER THE CFPOA

Mr. Nazir Karigar

On May 28, 2010, the Royal Canadian Mounted Police laid charges against Mr. Nazir Karigar under paragraph 3(1)(b) of the CFPOA for allegedly making a payment to an Indian government official to facilitate the execution of a multi-million dollar contract for the supply of a security system by Cryptometrics, a Canadian high-tech firm. PPSC prosecutors in Ottawa have conducted this first prosecution of an individual under the CFPOA. The trial commenced in the fall of 2012 with the court hearing evidence for a total of three weeks. Closing arguments were heard on March 27, 2013 with a verdict expected in June of 2013.

Griffiths Energy International Inc.

On January 14, 2013, Calgary-based Griffiths Energy International Inc. pled guilty (based on an agreed statement) in the Court of Queen's Bench in Calgary for one count of bribery under paragraph 3(1)(b) of the CFPOA for having paid a \$2 million bribe to Chadian ambassador's wife to secure exclusive rights to explore and develop oil and gas reserves in Chad. The company was fined \$10.35 million (\$9 million plus a \$1.35 million victim fine surcharge). Notably, the company self-declared (this was the first prosecution under the CFPOA resulting from a voluntary disclosure) after a new management team was appointed at Griffiths in the summer of 2011, along with replacements for most of the Board of Governors. In the fall of 2011, while undertaking due diligence for a pending Initial Public Offering (IPO)

bid, the company found internal irregularities in its contracts with Chad between August 20, 2009 and February 9, 2011. A \$2 million consulting contract with a company controlled by the Chadian ambassador's wife was found in Griffiths' internal documents, as well as an offer to her and several members of the country's staff to purchase 4 million shares of the company.

PADMA multipurpose Bridge in Bangladesh

In relation to the awarding of a contract for the supervision and consultancy services for the construction of the PADMA multipurpose Bridge in Bangladesh, on February 29, 2012, the RCMP's "A" Division International Anti-corruption Unit arrested two former SNC Lavalin employees, Ramesh Shah of Oakville, Ontario, and Mohammad Ismail of Mississauga, Ontario. Both were later released on the condition that they remain in Canada and promise to appear in court. On April 11, 2012, the RCMP laid charges at the Downtown Toronto Courthouse (Ontario) against these former employees, who have been charged jointly with one count under paragraph 3 (1) b) of the CFPOA.

Preliminary inquiries were conducted in April 2013.

THE OFFICE OF THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS

If the oversight body in question is tasked with the prevention of corrupt acts, list the actions taken in the past five years to prevent those acts, such as: campaigns to publicize their consequences; probity programs or awareness-raising on the duty of respecting and protecting public property and general interests; production of manuals or guides to orient public servants and private citizens regarding ethical behavior in their dealings with the State; alerts about corruption risks in specific areas of the State's operations and proposals for preventing them; attention to inquiries, issuing of opinions, or advisory actions or preventive auditing related to the State's actions; attention paid to corruption prevention studies in the areas of their jurisdiction and to related suggestions made by civil society.

The OCFJA website has been developed as a results-oriented tool for a variety of users⁵⁶. For example, members of the Judicial Advisory Committees can use the website to locate necessary manuals and guides to assist them in their work. Specifically, the website houses Code of Ethics for Advisory Committee Members (<http://www.fja-cmf.gc.ca/appointments-nominations/committees-comites/ethics-ethiques-eng.html>) and Guidelines for Advisory Committee Members (<http://www.fja-cmf.gc.ca/appointments-nominations/committees-comites/guidelines-lignes-eng.html>). Both documents ensure accountability in the functioning of the Advisory Committees, and publicize the expected conduct of Committee members. The Guidelines specifically sets out, for example, the composition of Committees (ensuring that various stakeholder groups are represented), governs communication with candidates, emphasizes the need for confidentiality, and sets out precise guidelines dealing with conflicts of interest and abstentions.

Judicial Advisory Committees also produce statistical reports every year, the national results of which are posted on the website beginning in 2004-2005 (<http://www.fja-cmf.gc.ca/appointments-nominations/committees-comites/reports-rapports/index-eng.html>). These Reports provide the following information: applications outstanding at the beginning of the year; applications received; applications assessed by Committees as “*Highly Recommended*”; applications assessed by Committees as “*Recommended*”; applications assessed by Committees as “*Unable to Recommend*”; Applications from Provincial or Territorial Judges; applicants who withdrew; applicants appointed as superior court judges; applications outstanding at the end of the year; and number of Advisory Committee meetings held across Canada.

The OCFJA also provides important information for applicants for judicial appointment. One important way in which they prevent corruption is by gathering information through the Personal History Forms that applicants must complete and submitted to the Executive Director, Judicial Appointments at the OCFJA. The form is available online (<http://www.fja-cmf.gc.ca/appointments-nominations/forms-formulaires/phfc/index-eng.html>) and, in addition to information such as qualifications and accomplishments, candidates must seriously consider and answer nine yes/no questions in a “Personal & Other Matters” section that could alert Committee members to potential areas of vulnerability. For every question for which the applicant answers “yes”, he or she must provide a detailed explanation. The nine questions are as follows:

⁵⁶ Between May 30, 2012-May 30, 2013, there was a total of 146 567 visits to the website.

- Ever disciplined by a Law Society or other professional association or regulatory body? Are there currently any disciplinary actions or investigative measures being taken against you?
- Ever found guilty of a criminal or other offence by a court or tribunal? Are you currently defending a charge for such an offence?
- Are you involved in litigation in your own name, as plaintiff or defendant, at this time? If not, do you foresee commencing or defending any such litigation?
- Are you insolvent, in financial difficulties or subject to potential financial claims against you, your partners or any business you may have?
- Have you ever declared bankruptcy (if so, provide, all relevant information including the amounts involved, the list of creditors and the certificate of release)?
- Are you in arrears with taxes owed to a federal, provincial, territorial or municipal government?
- Are you in default of a family support obligation? Have you had any debilitating physical or mental health problems, including alcohol or drug problems, in the last 10 years?
- Is there anything in your past or present which could reflect negatively on yourself or the judiciary, and which should be disclosed?

Candidates can also consult information contained on the OCFJA website under the heading “Considerations Which Apply to an Application for Appointment” (<http://www.fja-cmf.gc.ca/appointments-nominations/considerations-eng.html>), which explains elements of Tenure, Remuneration, Allowances and Benefits, and Professional Development, and also includes a detailed section on Ethical, Change of Lifestyle and Other Considerations (<http://www.fja-cmf.gc.ca/appointments-nominations/considerations-eng.html#ETHICAL>). In addition, the OCFJA provides a non-exhaustive list of assessment criteria (<http://www.fja-cmf.gc.ca/appointments-nominations/assessment-evaluation-eng.html>) candidates are encouraged to consult. These factors also include a section on “Potential Impediments to Appointment”:

- Any debilitating physical or mental medical condition, including drug or alcohol dependency, that would be likely to impair the candidate’s ability to perform the duties of a judge
- Any past or current disciplinary actions or matters against the candidate
- Any current or past civil or criminal actions involving the candidate
- Financial difficulties including bankruptcy, tax arrears or arrears of child support payments

Once appointed, judges must conduct themselves in accordance with the highest ethical standards. To that end, the Canadian Judicial Council (for which the OCFJA administers the budget), has published the *Ethical Principles for Judges* (http://www.cjc-ccm.gc.ca/cmslib/general/news_pub_judicialconduct_Principles_en.pdf) which is intended as an ethical frame of reference by which judges should be guided in their personal and professional lives. The Canadian Judicial Council administers the complaints and discipline process for federally-appointed judges in Canada, and publishes Annual Reports⁵⁷ that include reports on activities of the Council, as well as statistical reporting of complaints received and dealt with, and descriptions of sample complaints and how they have been addressed. The OCFJA supports this important work in the prevention of corruption by the Canadian Judicial Council by ensuring the Council has the necessary budget to perform its role, as provided for in paragraphs 74 (1)(b) and (c) of the *Judges Act*.

⁵⁷ http://www.cjc-ccm.gc.ca/english/news_en.asp?selMenu=news_pub_annualreports_en.asp

- E) For each of the oversight bodies selected in the response to question B), briefly report on difficulties encountered in preventing, detecting, and punishing corrupt acts of relevance in consideration of their functions and, if applicable, identify specific technical cooperation needs.

THE TREASURY BOARD OF CANADA SECRETARIAT

There are no requirements for technical cooperation.

THE PUBLIC SERVICE COMMISSION

The PSC is not tasked per se with the prevention of corrupt acts. The PSC is mandated to oversee the integrity of the staffing system and ensure non-partisanship. This oversight role includes conducting investigations that can lead to corrective action in the case of errors or problems. The PSC can investigate problems encountered in an appointment process as well as allegations of political influence and fraud as well as alleged improper political activities.

- F) If so desired, report on no more than one best practice developed in connection with the duties of each of the oversight bodies selected in the response to question B) that you wish to share with the other MESICIC member countries, using, to the extent deemed appropriate, the suggested standard form offered as a guideline for presenting that information and attached to this questionnaire (Annex II).

THE OFFICE OF THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS

The OCFJA has developed its website to serve as broad a population as possible. The website provides information for individuals interested in judicial appointments by outlining the process for appointment, as well as all necessary forms and requirements for submission. Members of Judicial Appointments Committees can also access information relevant to their mandate, and members of the public can find useful information as well, such as access to the *Federal Courts Reports* and the reporting documents produced by all government departments.

<http://www.fja.gc.ca/home-accueil/index-eng.html>
<http://www.fja.gc.ca/home-accueil/index-fra.html>

THE TREASURY BOARD OF CANADA SECRETARIAT

In collaboration with the Canada School of Public Service (CSPS), the TBS has developed on-line courses specifically on the topic of values and ethics for public servants. The first is entitled *Paving the Way: Values and Ethics Foundations for New Employees*. Information on this course can be found at:

<http://cspsefpc.gc.ca/forlearners/coursesandprograms/CourseDetail-eng.aspx?courseno=C255-2>

It has been available since 2008 and was recently updated to reflect the new *Values and Ethics Code for the Public Sector*. Because it is free and self-paced, learners can incorporate the course easily into their learning plans. Since 2010, in its various forms, more than 22,783 employees have registered for this course, either as a stand-alone or as part of their orientation to the public service. Please see the table under Section D) of this questionnaire response for more information on registration.

As a result of the success of *Paving the Way*, the TBS and the CSPS developed another on-line course, *Values and Ethics Foundations for Managers*, intended for middle manager and supervisory levels. It has been available since April 2013. It is also free and self-paced. More information can be found at:

<http://www.cspsefpc.gc.ca/forlearners/coursesandprograms/CourseDetail-eng.aspx?courseno=C355>

SECTION II

FOLLOW-UP OF PROGRESS AND NEW INFORMATION AND DEVELOPMENTS RELATED TO THE IMPLEMENTATION OF THE RECOMMENDATIONS FORMULATED IN THE COUNTRY REPORT FOR THE FIRST ROUND OF REVIEW

A. IMPLEMENTATION OF THE CONVENTION AT THE PROVINCIAL AND TERRITORIAL LEVEL

The Committee took note of the satisfactory consideration of the sole recommendation formulated to the country under review in this section and therefore it is not required to provide information.

B. CONCLUSIONS AND RECOMMENDATIONS AT THE FEDERAL LEVEL

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

1.1. Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms

RECOMMENDATION:

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

Measure a):

The Committee took note of the satisfactory consideration of this measure and therefore the country under review is not required to provide information.

Measure b):

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

With respect to the foregoing measure, provide the following information:

- A) Please briefly describe the specific actions that have been carried out to implement the above recommendation, or the above measure suggested by the Committee for implementation, or the alternative measure(s) adopted by the country to that end. If deemed appropriate, please indicate the web page on which more detailed information on those actions can be obtained, clearly indicating the information of the web site in question:

Canada has issued a revised Treasury Board *Policy on Conflict of Interest and Post-Employment* effective April 2, 2012. The policy can be found at <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?section=text&id=25178>

To accompany this, Canada has also issued an *Application Guide for Post-Employment under the “Policy on Conflict of Interest and Post-Employment”* (<http://www.tbs-sct.gc.ca/gui/agcipe-gaciam-eng.asp>) where methods for enforcing the post-employment restrictions are discussed.

- B) If applicable, indicate the new information and developments related to the subject matter of the above recommendation or corresponding measure suggested by the Committee, briefly describing the new provisions and/or measures adopted in connection with the subject, or the provisions and/or measures unknown to or not taken into consideration by the Committee when that recommendation or measure was formulated, indicating whether they are deemed to have an impact on the validity of that recommendation or measure or whether they could lead to its restatement or reformulation:

The revised policy clarifies the responsibility of the deputy head of each organization to designate positions which are subject to post-employment restrictions and determine the appropriate measures to be taken in relation to each particular case.

- C) Please briefly indicate the possible difficulties seen in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee. If deemed appropriate, please indicate the web page on which more detailed information on them can be obtained, clearly indicating the information of the web site in question:

N/A

- D) If deemed appropriate, please indicate which internal agencies or other organizations have participated in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee, and identify specific technical cooperation needs related to its implementation. In addition, if deemed relevant, please also indicate the web page dealing in greater detail with these issues, clearly indicating the information of the web site in question:

The *Policy on Conflict of Interest and Post-Employment* applies to all organizations in the core public administration, for which Treasury Board is the employer, as defined in section 11(1) of the *Financial Administration Act*, unless excluded through specific acts, regulations or Orders in Council. As a result, these organizations have all participated in the implementation of this Policy.

There are no technical cooperation needs related to the implementation of this policy.

Therefore, Canada believes that the recommendation relating to measure b) be considered as satisfactorily considered.

Measure c):

Canada should continue to improve evaluation mechanisms to analyze the results of enforcement of conflict of interest provisions.

With respect to the foregoing measure, provide the following information:

- A) Please briefly describe the specific actions that have been carried out to implement the above recommendation, or the above measure suggested by the Committee for implementation, or the alternative measure(s) adopted by the country to that end. If deemed appropriate, please indicate

the web page on which more detailed information on those actions can be obtained, clearly indicating the information of the web site in question:

In its Report of March 2011, in the third round of review, Canada provided the following information:

"Through the 2010-2011 Values and Ethics Management Accountability Framework process, the TBS will assess the implementation of conflict of interest management practices in departments and agencies. Specifically, TBS will be assessing whether departments have processes in place to help public servants raise, discuss and resolve issues related to conflict of interest and have implemented some activities to communicate with employees on their responsibilities for avoiding conflicts of interest. The information for the assessment will be taken from organizations' values and ethics plans, codes of conduct or other documentation".

At footnote 90 of page 31 of said report, Canada provided that the Management Accountability Framework process has been completed and the question of conflict of interest was included. The report provided that this information will be taken into account in the follow-up to this measure in future rounds of review.

Additional updates are below.

- B) If applicable, indicate the new information and developments related to the subject matter of the above recommendation or corresponding measure suggested by the Committee, briefly describing the new provisions and/or measures adopted in connection with the subject, or the provisions and/or measures unknown to or not taken into consideration by the Committee when that recommendation or measure was formulated, indicating whether they are deemed to have an impact on the validity of that recommendation or measure or whether they could lead to its restatement or reformulation:

Regular internal audits and audits by the Auditor General are used to analyse the results of enforcement of conflict of interest provisions. The most recent was by the Office of the Auditor General in 2010. The scope of the audit included Treasury Board Secretariat in its role as the central agency responsible for conflict of interest policies in the federal public service, as well as five departments (Public Works and Government Services Canada, Agriculture and Agri-Food Canada, Human Resources and Skills Development Canada, Natural Resources Canada and Department of Canadian Heritage). The Office of the Auditor General requests annual updates on progress made in implementing its recommendations.

http://www.oag-bvg.gc.ca/internet/english/parl_oag_201010_04_e_34287.html

Through the Management Accountability Framework process, TBS has assessed the implementation of conflict of interest management practices in departments and agencies, specifically whether departments have processes in place to help public servants raise, discuss and resolve issues related to conflict of interest and have implemented activities to raise awareness of employees on their responsibilities for avoiding or managing conflicts of interest.

- C) Please briefly indicate the possible difficulties seen in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee. If deemed appropriate, please indicate the web page on which more detailed information on them can be obtained, clearly indicating the information of the web site in question:

N/A

- D) If deemed appropriate, please indicate which internal agencies or other organizations have participated in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee, and identify specific technical cooperation needs related to its implementation. In addition, if deemed relevant, please also indicate the web page dealing in greater detail with these issues, clearly indicating the information of the web site in question:

All of the departments in the core public administration and four separate agencies participated in Round VIII of the MAF for 2010-11, providing information on how conflict of interest risks have been identified and what activities have been implemented to raise employee awareness of conflict of interest responsibilities. Information on the participating organizations and on the results is available on the TBS website at this link: <http://www.tbs-sct.gc.ca/maf-crg/assessments-evaluations/2010/results-results-eng.asp>

Therefore, Canada believes that the recommendation relating to measure c) be considered as satisfactorily considered.

Measure d):

The Committee took note of the satisfactory consideration of this measure and therefore the country under review is not required to provide information.

- 1.2. Standards of conduct to ensure the proper conservation and use of resources entrusted to government officials in the performance of their functions and enforcement mechanisms**

RECOMMENDATION:

Continue strengthening the implementation of the standards of conduct that ensure the conservation and proper use of resources entrusted to public officials in the performance of their functions.

Measure:

The Committee took note of the satisfactory consideration of this measure and therefore the country under review is not required to provide information.

- 1.3. Standards of conduct and mechanisms concerning measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware**

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.

Measure a):

Adopt provisions to establish the obligation to disclose wrongdoings, including presumed acts of corruption, as well as provide reprisal protection mechanisms to those individuals working in the federal public sector who are not currently required to disclose, or who are not afforded protection for such disclosure.

With respect to the foregoing measure, provide the following information:

- A) Please briefly describe the specific actions that have been carried out to implement the above recommendation, or the above measure suggested by the Committee for implementation, or the alternative measure(s) adopted by the country to that end. If deemed appropriate, please indicate the web page on which more detailed information on those actions can be obtained, clearly indicating the information of the web site in question:

The Canadian Security Intelligence Service (CSIS) established internal procedures for the disclosure of wrongdoing, including the protection of persons who disclose the wrongdoings, in satisfaction of the requirement in section 52 of the *Public Servants Disclosure Protection Act* (PSDPA) in 2009. The Service's policy entitled "Internal Disclosure of Wrongdoing and Reprisal Protection" came into force on June 1, 2010.

The Department of National Defence (DND) and the Canadian Forces, as well as the Communications Security Establishment (CSE), have also established internal procedures for the disclosure of wrongdoing, including the protection of persons who disclose the wrongdoings, in satisfaction of the requirement in section 52 of the PSDPA, CSE in 2011 and the Canadian Forces in 2012. The Queen's Regulations and Orders for the Canadian Forces have been amended to include internal disclosure and reprisal protection procedures for members of the Forces. The CSE has outlined the mechanism and process in the Values and Ethics Code for CSE employees to disclose wrongdoing without risk of reprisal. DND has established the DND Internal Disclosure Office (<http://www.ido-bdi.forces.gc.ca/whistleblowing-eng.html>) that is mandated to ensure that the department's obligations as described in the PSDPA are fully met. This office conducts awareness and educational sessions on the Act and its implementation within DND, provides advice and guidance to management and employees considering making a disclosure, and initiates formal investigations by the Directorate of Special Examinations and Inquiries or passes the disclosure to another authority.

- B) If applicable, indicate the new information and developments related to the subject matter of the above recommendation or corresponding measure suggested by the Committee, briefly describing the new provisions and/or measures adopted in connection with the subject, or the provisions and/or measures unknown to or not taken into consideration by the Committee when that recommendation or measure was formulated, indicating whether they are deemed to have an impact on the validity of that recommendation or measure or whether they could lead to its restatement or reformulation:

Please see response to section A.

- C) Please briefly indicate the possible difficulties seen in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee. If deemed appropriate, please indicate the web page on which more detailed information on them can be obtained, clearly indicating the information of the web site in question:

There are no anticipated difficulties with implementation.

- D) If deemed appropriate, please indicate which internal agencies or other organizations have participated in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee, and identify specific technical cooperation needs related to its implementation. In addition, if deemed relevant, please also indicate the web page dealing in greater detail with these issues, clearly indicating the information of the web site in question:

The Canadian Security Intelligence Service, the Communications Security Establishment and the Canadian Forces participated in the implementation of the measures, as noted above.

Measure b):

The Committee took note of the satisfactory consideration of this measure and therefore the country under review is not required to provide information.

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.

Measure a):

Adopt provisions where they do not currently exist on the systems for registering sources of income, assets and liabilities of family members of appropriate individuals in the federal public sector that potentially could conflict with the official duties of the individual.

With respect to the foregoing measure, provide the following information:

- A) Please briefly describe the specific actions that have been carried out to implement the above recommendation, or the above measure suggested by the Committee for implementation, or the alternative measure(s) adopted by the country to that end. If deemed appropriate, please indicate the web page on which more detailed information on those actions can be obtained, clearly indicating the information of the web site in question:

The Treasury Board Policy on Conflict of Interest and Post-Employment came into force on April 2, 2012. Paragraph 6.1.2.(b) of the Policy requires deputy heads to ensure that procedures are in place in

their organization for public servants to file a report of all situations, assets or interests that might give rise to a real, apparent or potential conflict of interest with respect to their official duties.

Where their deputy head determines that any of these assets results in a real, apparent or potential conflict of interest in relation to their official duties, public servants may be required to divest those assets, or to take other measures to resolve the conflict. Public servants may not sell or transfer assets to family members or anyone else for the purpose of circumventing the compliance requirements.

Under the *Policy on Conflict of Interest and Post-Employment*, public servants are responsible for reporting situations in which they are in a conflict of interest, including situations which may result from sources of income, assets and liabilities of their family members. Family members are not required to report their sources of income, assets or liabilities; the onus for reporting is on the public servant when such assets or liabilities put them in a conflict of interest.

Other mechanisms are in place that require the reporting of sources of income, assets and liabilities of family members of individuals in the federal public sector for which such reporting is appropriate (such as the *Conflict of Interest Act* for reporting public office holders and the Conflict of Interest Code for Members of the House of Commons). As indicated by Canada in its Report in the third round of review, sections 22, 23 and 25 of the *Conflict of Interest Act* require public office holders to declare certain assets belonging to family members.

- B) If applicable, indicate the new information and developments related to the subject matter of the above recommendation or corresponding measure suggested by the Committee, briefly describing the new provisions and/or measures adopted in connection with the subject, or the provisions and/or measures unknown to or not taken into consideration by the Committee when that recommendation or measure was formulated, indicating whether they are deemed to have an impact on the validity of that recommendation or measure or whether they could lead to its restatement or reformulation:

- C) Please briefly indicate the possible difficulties seen in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee. If deemed appropriate, please indicate the web page on which more detailed information on them can be obtained, clearly indicating the information of the web site in question:

A difficulty in the implementation of the foregoing recommendation suggested by the Committee would be the challenge within our system of laws associated with enforcing the collection of third party information from individuals who are not employees.

- D) If deemed appropriate, please indicate which internal agencies or other organizations have participated in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee, and identify specific technical cooperation needs related to its implementation. In addition, if deemed relevant, please also indicate the web page dealing in greater detail with these issues, clearly indicating the information of the web site in question:

N/A

Therefore, Canada believes that the recommendation relating to measure a) be considered as satisfactorily considered, and adopted where appropriate.

Measure b):

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.

With respect to the foregoing measure, provide the following information:

- A) Please briefly describe the specific actions that have been carried out to implement the above recommendation, or the above measure suggested by the Committee for implementation, or the alternative measure(s) adopted by the country to that end. If deemed appropriate, please indicate the web page on which more detailed information on those actions can be obtained, clearly indicating the information of the web site in question:

In the initial letter of offer of employment, public servants must acknowledge that they are required to observe the Values and Ethics Code for the Public Sector and that the Code is part of their conditions of employment. In the same letter of offer, employees are advised that they must report any real, perceived or potential conflict of interest and must, if necessary, complete a Confidential Report within 60 days of the effective date of appointment. In addition, section 22 of the *Conflict of Interest Act* requires public office holders to provide a confidential report within 60 days of appointment. Section 25 of this same Act also requires public office holders to publicly declare certain assets, liabilities and outside activities.

In October 2010, the Office of the Auditor General released a report on an audit of conflict of interest in the core public administration and found that the departments audited have set up organizational units to deal with values and ethics, designated senior officials to help public servants resolve issues related to the application of the Code, and provided guidance and training on conflict of interest. This report is available at www.oagbvg.gc.ca/internet/English/parl_oag_201010_04_e_34287.html. The 2010-2011 round of Management Accountability Framework evaluated departments on whether key risks of ethical breaches, including conflict of interest, have been identified and addressed through mitigation strategies and whether lessons learned from ethical breaches are communicated throughout the organization.

A Directive on Reporting and Managing Financial Conflicts of Interest is in development to accompany the Treasury Board Policy on *Conflict of Interest and Post-Employment*, (which became effective April 2, 2012).

- B) If applicable, indicate the new information and developments related to the subject matter of the above recommendation or corresponding measure suggested by the Committee, briefly describing the new provisions and/or measures adopted in connection with the subject, or the provisions and/or measures unknown to or not taken into consideration by the Committee when that recommendation or measure was formulated, indicating whether they are deemed to have an impact on the validity of that recommendation or measure or whether they could lead to its restatement or reformulation:

N/A

- C) Please briefly indicate the possible difficulties seen in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee. If deemed appropriate, please indicate the web page on which more detailed information on them can be obtained, clearly indicating the information of the web site in question:

N/A

- D) If deemed appropriate, please indicate which internal agencies or other organizations have participated in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee, and identify specific technical cooperation needs related to its implementation. In addition, if deemed relevant, please also indicate the web page dealing in greater detail with these issues, clearly indicating the information of the web site in question:

N/A

Therefore, Canada believes that the recommendation relating to measure b) be considered as satisfactorily considered.

Measure c):

Adopt measures so that the Confidential Reports submitted in accordance with the Values and Ethics Code of the Public Service and of Defence and Administrative Orders and Directives, 7021-1, are reviewed on a timely basis and appropriate steps taken to address conflicts of interest and other possible violations of law and to consider publication of such reports, where appropriate.

With respect to the foregoing measure, provide the following information:

- A) Please briefly describe the specific actions that have been carried out to implement the above recommendation, or the above measure suggested by the Committee for implementation, or the alternative measure(s) adopted by the country to that end. If deemed appropriate, please indicate the web page on which more detailed information on those actions can be obtained, clearly indicating the information of the web site in question:

(Please note that the reporting requirements that were previously contained in the *Values and Ethics Code for the Public Service* are now contained in the *Policy on Conflict of Interest and Post-Employment*.)

Section 6 of the *Policy on Conflict of Interest and Post-Employment* sets out the mandatory requirements for deputy heads with respect to their departments' and agencies' conflict of interest and post-employment programs in the areas of education, oversight, management of the function, monitoring and reporting, including the systems for reporting conflicts of interest and dealing with these reports. Treasury Board Secretariat will assess departmental performance in this area through a variety of methods, including the Management Accountability Framework. For further information, please see section 6 of the *Policy on Conflict of Interest and Post Employment*, <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25178§ion=text#sec6.1>

In our system, the practice of publication of the details of conflict of interest declarations requires a balance of the desire for transparency with the rights of individuals to security and privacy. It is

considered appropriate that the reports of possible conflicts of interest of public office holders, who are appointed by the Governor in Council, and who are subject to the *Conflict of Interest Act* are made public and as such, it is required by law. Public office holders include ministers of the crown and senior officials such as deputy ministers. They are accountable to Parliament (in the case of ministers) and before Parliament (in the case of deputy ministers) and the exercise of their powers is subject to public scrutiny. However, it is considered inappropriate to publish the reports of possible conflicts of interest submitted by most public servants at lower levels as within our system of government they are not public figures, and they are accountable to their deputy heads, not directly to Parliament.

- B) If applicable, indicate the new information and developments related to the subject matter of the above recommendation or corresponding measure suggested by the Committee, briefly describing the new provisions and/or measures adopted in connection with the subject, or the provisions and/or measures unknown to or not taken into consideration by the Committee when that recommendation or measure was formulated, indicating whether they are deemed to have an impact on the validity of that recommendation or measure or whether they could lead to its restatement or reformulation:

See response to part A.

- C) Please briefly indicate the possible difficulties seen in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee. If deemed appropriate, please indicate the web page on which more detailed information on them can be obtained, clearly indicating the information of the web site in question:

N/A

- D) If deemed appropriate, please indicate which internal agencies or other organizations have participated in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee, and identify specific technical cooperation needs related to its implementation. In addition, if deemed relevant, please also indicate the web page dealing in greater detail with these issues, clearly indicating the information of the web site in question:

The Treasury Board Secretariat (TBS) is responsible for the *Values and Ethics Code for the Public Sector* and the *Conflict of Interest and Post-Employment Policy*. The TBS is also the policy centre for the *Privacy Act*. The Office of the Conflict of Interest and Ethics Commissioner is responsible for the administration and enforcement of the *Conflict of Interest Act* for public office holders.

Therefore, Canada believes that the recommendation relating to measure c) be considered as satisfactorily considered.

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4 AND 11, OF THE CONVENTION)

RECOMMENDATION:

Continue strengthening the oversight bodies for effective compliance with the provisions selected for analysis in the first round (Article III, paragraphs 1, 2, 4 and 11).

Measure a):

The Committee took note of the satisfactory consideration of this measure and therefore the country under review is not required to provide information.

Measure b):

The Committee took note of the satisfactory consideration of this measure and therefore the country under review is not required to provide information.

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11 OF THE CONVENTION)

4.1. General participation mechanisms

The Committee did not formulate a recommendation in this section.

4.2. Mechanisms for access to information

RECOMMENDATION:

Continue strengthening the mechanisms for access to information.

Measure:

The Committee took note of the satisfactory consideration of this measure and therefore the country under review is not required to provide information.

4.3. Mechanisms for consultation

RECOMMENDATION:

Continue strengthening the mechanisms for consultation.

Measure:

The Committee took note of the satisfactory consideration of this measure and therefore the country under review is not required to provide information.

4.4. Mechanisms to encourage participation in public administration

No specific recommendations were formulated by the Committee in this section.

4.5. Mechanisms for participation in the follow up of public administration

No specific recommendations were formulated by the Committee in this section.

5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)

No specific recommendations were formulated by the Committee in this section.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

No specific recommendations were formulated by the Committee in this section.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1:

Design and implement, when appropriate, programs to train public officials responsible for implementing the systems, standards, measures and mechanisms considered in this report, for the purpose of guaranteeing that they are adequately understood, managed and implemented.

The Committee took note of the satisfactory consideration of this recommendation and therefore the country under review is not required to provide information.

Recommendation 7.2:

Select and develop procedures and indicators, when appropriate, that make it possible to verify the follow-up to the recommendations contained in this report, and report back to the Committee through the Technical Secretariat in this regard. For the purposes indicated, Canada could consider taking into account the list of the most widely used indicators, applicable in the Inter-American system that were available for the selection indicated by the country under analysis, which has been published on the OAS website by the Technical Secretariat of the Committee, as well as information derived from the analysis of the mechanisms developed in accordance with recommendation 7.3, which follows.

With respect to the foregoing recommendation, provide the following information:

- A) Please briefly describe the specific actions that have been carried out to implement the above recommendation, or the above measure suggested by the Committee for implementation, or the alternative measure(s) adopted by the country to that end. If deemed appropriate, please indicate the web page on which more detailed information on those actions can be obtained, clearly indicating the information of the web site in question:

The Treasury Board Secretariat carries out assessments of the management performance of organizations in the public service annually. Organizations are assessed against Areas of Management that measure each of the 10 elements of the Management Accountability Framework (MAF), including the area of Values and Ethics, and are given a rating based on an assessment scale. (<http://www.tbs-sct.gc.ca/maf-crg/methodology-methodologie-eng.asp>).

The methodology used to assess the Values and Ethics area of management is reviewed regularly and is subject to constant refinement as a result of lessons learned and new priorities. The indicators suggested by the Technical Secretariat of the Committee of Experts in the first round continue to be under consideration for adaptation and inclusion in the methodology, subject to considerations such as jurisdictional issues, legal constraints and Canada's structure of government and governing principles.

- B) If applicable, indicate the new information and developments related to the subject matter of the above recommendation or corresponding measure suggested by the Committee, briefly describing the new provisions and/or measures adopted in connection with the subject, or the provisions and/or measures unknown to or not taken into consideration by the Committee when that recommendation or measure was formulated, indicating whether they are deemed to have an impact on the validity of that recommendation or measure or whether they could lead to its restatement or reformulation:

N/A

- C) Please briefly indicate the possible difficulties seen in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee. If deemed appropriate, please indicate the web page on which more detailed information on them can be obtained, clearly indicating the information of the web site in question:

N/A

- D) If deemed appropriate, please indicate which internal agencies or other organizations have participated in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee, and identify specific technical cooperation needs related to its implementation. In addition, if deemed relevant, please also indicate the web page dealing in greater detail with these issues, clearly indicating the information of the web site in question:

N/A

Recommendation 7.3:

Develop, when appropriate and where they do not yet exist, procedures designed to analyze the mechanisms mentioned in this report, and the recommendations contained therein.

With respect to the foregoing recommendation, provide the following information:

- A) Please briefly describe the specific actions that have been carried out to implement the above recommendation, or the above measure suggested by the Committee for implementation, or the alternative measure(s) adopted by the country to that end. If deemed appropriate, please indicate the web page on which more detailed information on those actions can be obtained, clearly indicating the information of the web site in question:

The Treasury Board Secretariat carries out assessments of the management performance of organizations in the public service annually. Organizations are assessed against Areas of Management that measure each of the 10 elements of the Management Accountability Framework (MAF), including the area of Values and Ethics, and are given a rating based on an assessment scale. (<http://www.tbs-sct.gc.ca/maf-crg/methodology-methodologie-eng.asp>)

Canada has developed several procedures to analyze the mechanisms mentioned in this report and the recommendations contained therein, namely:

-The Interdepartmental Working Group on Corruption: The Working Group meets to examine Canada's implementation of the provisions of the *Inter-American Convention Against Corruption*, the Organisation for Economic Co-operation and Development's *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* and the *United Nations Convention Against Corruption*. Updates are also provided in relation to the work undertaken by the G20 Anti-Corruption Working Group. This interdepartmental Working Group includes experts from the Department of Justice, the Department of Foreign Affairs and International Trade, the Royal Canadian Mounted Police, the Public Prosecution Service of Canada, Public Works and Government Services Canada, and the Treasury Board of Canada Secretariat.

-The Coordinating Committee of Senior Officials (Criminal Justice): Provincial and territorial governments have been informed of the preparation of the response by Canada in its fourth round of review and updates are provided on Canada's international anti-corruption activities.

- B) If applicable, indicate the new information and developments related to the subject matter of the above recommendation or corresponding measure suggested by the Committee, briefly describing the new provisions and/or measures adopted in connection with the subject, or the provisions and/or measures unknown to or not taken into consideration by the Committee when that recommendation or measure was formulated, indicating whether they are deemed to have an impact on the validity of that recommendation or measure or whether they could lead to its restatement or reformulation:

N/A

- C) Please briefly indicate the possible difficulties seen in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee. If deemed appropriate, please indicate the web page on which more detailed information on them can be obtained, clearly indicating the information of the web site in question:

N/A

- D) If deemed appropriate, please indicate which internal agencies or other organizations have participated in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee, and identify specific technical cooperation needs related to its implementation. In addition, if deemed relevant, please also indicate the web page dealing in greater detail with these issues, clearly indicating the information of the web site in question:

The Department of Justice, the Department of Foreign Affairs and International Trade, the Royal Canadian Mounted Police, the Public Prosecution Service of Canada, the Canadian International Development Agency, Public Works and Government Services Canada, and the Treasury Board of Canada Secretariat.

SECTION III

INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

Please provide the following information:

(a) State Party: **CANADA**

(b) The official to be consulted regarding the responses to the questionnaire is:

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