

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

**QUESTIONNAIRE
ON THE PROVISIONS OF THE INTER-AMERICAN CONVENTION AGAINST
CORRUPTION SELECTED IN THE SECOND ROUND AND FOR FOLLOW-UP ON
THE RECOMMENDATIONS FORMULATED IN THE FIRST ROUND**

SECTION I

**QUESTIONS ON IMPLEMENTATION OF THE CONVENTION PROVISIONS
SELECTED FOR REVIEW IN THE SECOND ROUND**

N.B. The response to the Questionnaire provides detailed information on relevant federal legislation and policies. The provincial and territorial jurisdictions generally have similar legislation and policies.

CHAPTER ONE

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

1. Government hiring systems

- a. Are there laws and/or measures in your country establishing government hiring systems? If so, briefly describe the main systems, indicating their characteristics and principles and list and attach a copy of the related provisions and documents.**

Also describe how the above systems ensure openness, equity and efficiency in your country.

In relation to the above, refer, among others, to the following aspects:

- i. Governing or administrating authorities of the systems and control mechanisms.**
- ii. Access to the public service through a merit-based system.**
- iii. Advertisement for the selection of public servants, indicating the qualifications for selection.**
- iv. Ways to challenge a decision made in the selection system.**
- v. Relevant exceptions to the above.**

Hiring in the federal public service is governed by the *Public Service Employment Act* (PSEA). The Act requires appointments to or from the public service to be made on the basis of merit and to be free of political influence. An appointment is made on the basis of merit when the person appointed meets the essential qualifications for the work to be performed, having regard to additional qualifications that constitute an asset for the work of the organisation, as well as the organization's current and future needs and operational requirements (section 30 of the PSEA). There are a few exceptions where only the

essential qualifications must be met: persons who are re-appointed after revocation of an appointment improperly made or on the order of the Public Service Staffing Tribunal, or persons who are given priority, such as public servants who were laid off or declared surplus, or persons returning from leave (section 40 and 41 of the PSEA). The Commission may choose an advertised or non-advertised appointment process (section 33 of the PSEA), but the choice may be subject to a complaint to the Public Service Staffing Tribunal (section 77).

The Public Service Commission (PSC), which is an independent agency reporting to Parliament, administers the PSEA and is thereby responsible for safeguarding the integrity of the public service staffing system and the political neutrality of the public service. The PSEA establishes a Public Service Staffing Tribunal which considers complaints related to lay-offs, the revocation of appointments and allegations of abuse of staffing authority in internal appointments.

The PSC recruits qualified Canadians from across the country and protects the core appointment values of merit and non-partisanship, as well as the guiding values of fairness, transparency, access and representativeness. The PSEA allows the PSC to delegate its authority to make appointments to departments and agencies. However, the PSC develops policies and guidance for public service managers and holds them accountable for their staffing decisions. The PSC's *Appointment Framework* guides deputy heads in developing appointment systems tailored to their own organization's needs and requires them to respect legislative requirements, the staffing values and PSC policy. The *Appointment Framework* has three components: an appointment policy, delegation and accountability.

Other oversight tools for holding deputy heads accountable for the exercise of their delegated staffing authority include monitoring, investigations, audits and studies. The PSC carries out investigations into staffing irregularities as well as other issues, such as possible problems in the application of the PSEA or violations of the PSEA, the *Public Service Employment Regulations* (PSER)¹ or PSC policies affecting a selection for appointment. The PSC may conduct investigations related to external appointment processes as part of its own mandate or at the request of a deputy head. The PSC also carries out audits, studies and statistical studies as part of its responsibility for safeguarding the integrity of staffing and the political impartiality of public servants.

The PSC supports departments and agencies by managing www.jobs.gc.ca which is an internet-based single window for advertising job opportunities in federal organizations looking to hire from outside the public service. The PSC also manages Infotel, a telephone service on job opportunities. The PSC has also developed a national on-line application and screening tool, the Public Service Resourcing System (PSRS), to assist departments and agencies with their external staffing needs.

The PSEA can be found at: http://www.psc-cfp.gc.ca/centres/legislation_e.htm

¹ <http://laws.justice.gc.ca/en/showtdm/cr/SOR-2005-334?noCookie>

b. In relation to question a), state the objective results obtained, including any available statistical data.²

With respect to objective results, the PSC conducts semi-annual surveys in support of its role in the oversight of merit-based staffing. The focus of the survey is to examine appointments made with merit, with a primary interest in indeterminate recruitment, promotions and lateral appointments. The information gathered contributes to a service-wide perspective of staffing needs and helps to identify areas where improvements can be made to the staffing system.

There was a total of 100,230 staffing actions in 2005-2006. Over three quarters of a million applications were received and 15,000 Canadians were hired into the public service.

A total of 1109 persons were placed on a priority list for appointments in 2005-2006. In the same year, 682 persons who were given priority were appointed, and the priority entitlement expired without appointment in 201 cases.

In 2005-2006, 56% of the appointments to the public service were advertised, and 44% were not advertised. In the case of promotions within the public service, 39% were advertised and 61% were not advertised.

In 2005-2006, 500 requests for investigations were received. Of this number, 232 cases were opened for investigation. In the same year, 159 investigation cases were closed: in 32 cases (20%) the complaints were founded; 66 (42%) were resolved through mediation or some other informal resolution mechanism; 37 (23%) complaints were deemed unfounded; and 24 (15%) were either withdrawn or discontinued.

In 2005-2006, the average time for concluding an investigation was 148 days, if all investigation requests are taken into account, but 267 days if we do not include requests for which an official investigation was not opened.

In 2005-2006 fiscal year, 1,098 selection processes, involving 2,217 appellants, were appealed to the Commission. In all, 1,035 appeals were dealt with during this fiscal year 126 (12%) were allowed and 331 decisions were written. Appeals were allowed for a variety of reasons, including the following:

- improper assessment of qualifications by the selection board;
- failure to assess certain qualifications; or
- the conduct of the selection board was questioned (bad faith, bias or unfair advantage).

² In accordance with the methodology adopted by the Committee, the information on results focusses on the last two years, in connection with this and the other provisions of the Convention selected for review in the framework of the second round, with the exception of information relating to the acts of corruption foreseen in Article VI (1) of the Convention, for which it focus on the last five years.

In 2005-2006, 12 appointments were revoked following an allowed appeal. The average time for concluding an appeal in 2005-2006 was 84 calendar days. These statistics relate to appeals under the former PSEA Appeal Board, which was replaced by the Public Service Staffing Tribunal in January 2006. No statistics are available as yet for the new Tribunal.

- c. **If no such laws and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen government hiring systems, in accordance with Article III (5) of the Convention.**

N.A.

2. Government systems for procurement of goods and services

- a. **Are there laws and/or measures in your country establishing government systems for procurement of goods and services? If so, briefly describe the main systems, indicating their characteristics and principles and list and attach a copy of the related provisions and documents.**

Also describe how the above systems ensure openness, equity and efficiency in your country.

In relation to the above, refer, among others, to the following aspects:

- i. Procurement systems with a public tender and without a public tender.**
- ii. Governing or administrating authorities of the systems and control mechanisms.**
- iii. Register of pre-approved contractors.**
- iv. Electronic methods and information systems for government procurement.**
- v. Public works contracts.**
- vi. Identification of the selection criteria for contractors (e.g. price, quality and expertise).**
- vii. Ways to challenge a selection.**

In Canada, there are laws and other measures which establish systems for federal government procurement of goods, services and construction. The federal government procurement of goods and services is governed by a combination of legislation, regulations, which have force of law, and policy. These laws and measures form a hierarchical procurement framework with legislation providing authority to give direction or create an obligation which is expressed in successive detail within regulations and policy. Some instruments are related exclusively to procurement whereas others are only partly or indirectly related to procurement.

A list of the main legislation, regulations and policies which **directly** form the procurement framework in day-to-day operations is set out below.

Procurement Framework Legislation, Regulations and Policies

1	<i>Financial Administration Act</i> → http://laws.justice.gc.ca/en/showtdm/cs/F-11
2	<i>Government Contracts Regulations</i> → http://laws.justice.gc.ca/en/showtdm/cr/SOR-87-402/?showtoc=&instrumentnumber=SOR-87-402
3	Treasury Board Contracting Policy → http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_e.asp
4	Treasury Board Common Services Policy → http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/TB_93/csp-psc_e.asp
5	Treasury Board Project Approval Policy → http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/tbm_122/chap2-1_e.asp
6	Treasury Board Policy on Investment Planning → http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/TBM_122/ipaas-piasa_e.asp
7	Treasury Board Policy on the Management of Projects → http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/TBM_122/mp-gp_e.asp
8	<i>Federal Accountability Act</i> → http://laws.justice.gc.ca/en/showtdm/cs/F-5.5
9	<i>Department of Public Works and Government Services Act</i> → http://laws.justice.gc.ca/en/showtdm/cs/P-38 .
10	Various statutes which constitute the departments and agencies of the federal government → e.g. <i>Department of Industry Act</i> http://laws.justice.gc.ca/en/showtdm/cs/I-9.2
11	Trade agreements <i>World Trade Organization Agreement Implementation Act</i> → http://laws.justice.gc.ca/en/showtdm/cs/W-11.8 → WTO Agreement Government Procurement http://www.wto.org/english/docs_e/legal_e/gpr-94_01_e.htm <i>North American Free Trade Agreement Implementation Act</i> → http://laws.justice.gc.ca/en/showtdm/cs/N-23.8 → NAFTA Procurement Chapter http://www.international.gc.ca/nafta-alena/agree-en.asp#PartIV <i>Agreement on Internal Trade Implementation Act</i> → http://laws.justice.gc.ca/en/showtdm/cs/A-2.4 → Agreement on Internal Trade http://www.ait-aci.ca/index_en/ait.htm
12	<i>Canadian International Trade Tribunal Act</i> → http://laws.justice.gc.ca/en/showtdm/cs/C-18.3
13	<i>Canadian International Trade Tribunal Procurement Inquiry Regulations</i> → http://laws.justice.gc.ca/en/showtdm/cr/SOR-93-602/?showtoc=&instrumentnumber=SOR-93-602
14	Comprehensive Land Claim Agreements
15	<i>Competition Act</i> → http://laws.justice.gc.ca/en/showtdm/cs/C-34

The major principle underlying the federal government procurement framework is to foster a system that is open, fair and transparent for suppliers yet effective and efficient for government needs. This principle is reflected in each of the legislative, policy and operational environments related to procurement and is encapsulated in section 40.1 of the *Financial Administration Act*.

In the operational realm, openness, fairness and transparency are demonstrated by the fact that public tendering is the norm. Regulations require that bids be solicited, except in some excluded situations.³

Pursuant to section 7(1)(a) of the *Financial Administration Act* (FAA), Treasury Board has the exclusive legislative authority to set procurement policy for the Government of Canada. The Treasury Board *Contracting Policy* governs procurement for all departments and agencies of the Government of Canada. The policy conveys the principle of “open, fair and transparent”. Open-tendering is the norm under this policy.

Most of the larger departments issue supplementary contracting directives and guidelines for their staff. Usually, these are more concerned with process rather than policy. A good example of operational guidance is the Supply Manual⁴ which sets out contracting procedures used by Public Works and Government Services Canada (PWGSC), the major common services procurement organization for the Government of Canada. Line departments frequently consult the Supply Manual due to the procurement expertise it contains.

Contracting authority

Ministers acting within the scope of their legal mandate and powers enjoy a general capacity to contract in accordance with legal principles of the law without the need for any specific authority but subject to any statutory restrictions or requirements. Ministers are ultimately responsible to Parliament for all contracting activity.

Section 9 of the *Department of Public Works and Government Services Act* gives the Minister of Public Works and Government Services exclusive responsibility for the procurement of all **goods** described in the Act. Other departments may only procure goods either when their legislation specifically permits it or when an appropriate delegation of authority has been made by the Minister of Public Works and Government Services.

In addition to statutory restrictions, there are contract entry authorities in place. The Treasury Board Contracting Policy establishes dollar limits for contracts above which Treasury Board approval is required to enter into contract. There are three levels of contract entry limits permitting a Department to enter into contract under its Minister’s authority without the need to obtain Treasury Board prior approval. If the value of the

³ *Government Contracts Regulations*, <http://laws.justice.gc.ca/en/showdoc/cr/SOR-87-402///en?page=1>

⁴ <http://www.pwgsc.gc.ca/acquisitions/text/sm/sm-e.html>

contract exceeds the limits, authority must be sought from Treasury Board to enter into contract. For instance, the highest contract entry limit for service contracts (\$2 million) is provided when a procurement is both competitive and advertised electronically. The middle authority for service contracts (\$400,000) provides for “traditional competitive” procurements. This would take the form of a printed notice in a newspaper or journal or a direct solicitation to a representative number of suppliers. The lowest service contract entry limit (\$100,000) is for sole-source or directed contracts. Accordingly, higher levels of contract entry authority are used as an incentive to encourage competitive approaches. The contract entry limits are contained in the Treasury Board Contracting Policy, Appendix C.⁵

Certain goods and services must be procured through Common Services Organizations that are specifically mandated under legislation and/or Treasury Board Policy. The Mandatory Service requirements are set out in Appendix E of the Treasury Board Common Services Policy.⁶

Bidding requirement

Section 5 of the *Government Contracts Regulations* GCRs, which refers to conditions of entry, states that , “Before any contract is entered into, the contracting authority shall solicit bids ...”

The GCRs do allow for exceptions to the requirement to call for bids. There are four exceptions that may be invoked by the Minister of a department or his or her authorized officials, the Minister always remaining accountable. These four exceptions, which Ministers and officials are expected to apply judiciously, are:

- in the case of a pressing emergency in which delay would be injurious to the public interest;
- the estimated expenditure does not exceed \$25K (\$100K for architectural or engineering contracts and aid contracts of the Canadian International Development Agency);
- the nature of the work is such it would not be in the public interest to solicit bids; and
- only one person is capable of performing.

The exceptions provide the government with the flexibility to handle unexpected life-threatening emergencies⁷, to strategically manage issues of public interest through contracting and contain costs associated with low-dollar value contracts, which represent 80% of procurement contracts.

⁵ http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_c_e.asp

⁶ http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/TB_93/csp-psc02_e.asp#_Toc147652634

⁷ For example: the evacuation of Canadians during the Lebanon-Israeli conflict in the summer of 2006; the loss of Swiss Air Flight 111 off the coast of Nova Scotia in 1998; September 11, 2001; the outbreak of Severe Acute Respiratory Syndrome (SARS) in the province of Ontario; the outbreak of Bovine Spongiform encephalopathy (BSE) in the prairie provinces; and the 1998 ice storm in Ontario and Quebec.

The Treasury Board Contracting Policy provides direction on transparency requirements in Bid Solicitation documents. It requires clear outputs or performance requirements as well as inclusion of evaluation criteria and relative weights for the assessment of the proposal. The Policy also reminds procurement practitioners of the requirements for the *North American Free Trade Agreement* and the *World Trade Organization - Agreement on Government Procurement* and the *Agreement on Internal Trade* in relation to procurement.

The Contracting Policy facilitates electronic tendering in recognition of the efficiencies of e-procurement in terms of resources, turnaround times and transparency. To further ensure fairness and transparency, this sourcing method may be supplemented by the use of more traditional methods of calling for bids in newspapers or trade publications as well as source lists where, in the judgment of the contracting authority, they are necessary to ensure adequate competition.

The Purchasing Activity Reports posted on the Treasury Board Secretariat website indicate that the regulations and policy are being respected in this regard. In 2005, 81% of awarded contracts were competitive and involved 90% of the dollars spent on procurement.⁸

Bidding Process

There are two types of tendering or bid calling used in the federal system – electronic bidding and traditional competitive. Electronic bidding is the most commonly used, and notification is displayed on the Government Electronic Tendering System (GETS). Procurement notices and bid solicitation documents for competitive procurements are posted on GETS for suppliers to access. There are no user-fees.

Government Business Opportunities (GBO) advertises domestic and international procurement opportunities and is available through GETS. GETS and GBO are designated media under international trade agreements.

Traditional competitive tendering involves advertisements in the public press, particularly when it is a custom generally followed by the trade or when advertising is considered the most effective means of ensuring an adequate competitive response.

Source Lists (Register of Pre-approved Contractors)

Contracting authorities may establish source lists of competent suppliers that are representative of the suppliers of the required goods or services. Suppliers may apply to be listed at any time and all qualified suppliers are to be included on the list within a reasonably short period of time. When the source lists contains many firms, they should be pre-selected in rotation through the list, from procurement to procurement in an equitable manner.

⁸ Treasury Board Secretariat, Purchasing Activity Report 2005, Departmental Details, http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/con_data/siglist_e.asp

Selection Criteria

The selection criteria are developed by the nature of the requirement and are published in the notice of proposed procurement. Depending on the nature of the requirement, general criteria which would be common among procurements include:

- a) financial, commercial and technical capacity of a supplier
- b) price or value for money
- c) maintenance and operating costs
- d) experience

Publication of Contract Awards

A Government policy requires that each department proactively disclose contracts awarded for amounts over \$10,000 with only limited exceptions, such as national security. The information must be posted each quarter. For an illustration of this type of disclosure, visit the proactive disclosure site for the Treasury Board Secretariat at http://www.tbs-sct.gc.ca/pd-dp/dc/index_e.asp

Under the trade agreements, for any subject procurement, even if it has been awarded under the limited tendering provisions, the contracting department must place a notice in the Government Business Opportunities publication and on GETS that a contract for X number of dollars has been awarded to a named firm or individual, with a description of the expected deliverable. This must be done within 72 days of the award of the contract and if the supplier community has cause, they may complain, within 10 days, either to the contracting department or to the Canadian International Trade Tribunal.

For contracts outside of the trade agreements, there is no obligation to publish any award notice. However, when any procurement request is advertised on GETS, the resulting contract award is also published in the interests of transparency. At present and in practice, those procurements which are solicited and awarded by the Department of Public Works and Government Services account for approximately 90% of the contract award notices.

Review Mechanisms

- i) Purchasing Department

The Contracting Policy encourages purchasing departments to attempt to resolve disputes as they arise, first by negotiating with the contractor.⁹ This can be through discussion between the contractor and the contracting authority or by a more formal review established by the department. The Policy further suggests that Contracting Authorities develop systems that ensure: prompt attention is given to disputes; unresolved disputes are brought forward quickly to a senior level for decision; and the decision is quickly communicated to the contractor so that the contractor may take further action if so

⁹ Section 12.8.3 of the Contracting Policy.

desired. Mediation and arbitration are also suggested should the informal route prove unfruitful.

ii) Canadian International Trade Tribunal (CITT)

The CITT is an administrative tribunal that is an independent, quasi-judicial body which reports annually to Parliament through the Minister of Finance. One of its responsibilities, pursuant to section 30.11 of the *CITT Act* and its regulations¹⁰, is to review bid challenges brought forward under the *North American Free Trade Agreement* (NAFTA), the *Agreement on Internal Trade* (AIT) and the *World Trade Organization – Agreement on Government Procurement* (WTO-AGP).

Potential suppliers who believe that they have been unfairly treated during the solicitation or evaluation of bids or in the awarding of contracts may lodge a formal complaint with the Tribunal. Such suppliers are encouraged to attempt to resolve the issue first with the government institution responsible for the procurement. If this process is not successful, the supplier may file a complaint with the Tribunal.

When the Tribunal receives a complaint, it reviews the submissions against certain criteria. If the Tribunal decides to conduct an inquiry, the government institution is sent a formal notification and a copy of the complaint itself. An official notice of the complaint is also published in MERX, which is the Government Electronic Tendering Service, and in the *Canada Gazette*. If the contract has not been awarded, the Tribunal may order the award postponed pending the disposition of the complaints.

The government institution responsible for the procurement files a response to the complaint. The complainant and any intervenor are sent a copy of the response and then have the opportunity to submit comments. Any comments are forwarded to the government institution and other parties to the inquiry. Once this phase of the inquiry is completed, the Tribunal reviews the information on the record and decides whether a public hearing is necessary or whether the case can be decided on the basis of the record. Public hearings are seldom held.

The Tribunal then determines whether the complaint is valid. If valid, the Tribunal may make recommendations to the government institution, such as re-tender, re-evaluate or to provide compensation. By statute, the recommendations must be implemented to the greatest extent possible.

iii) Procurement Ombudsman

The *Federal Accountability Act* provides for the appointment of a Procurement Ombudsman to review the procurement practices of federal departments and agencies on an ongoing basis, to verify their fairness and transparency, to recommend improvements

¹⁰ http://laws.justice.gc.ca/en/showdoc/cs/C-18.3/20071015/en?command=home&caller=SI&search_type=all&shorttitle=Canadian%20International%20Trade%20Tribunal&day=15&month=10&year=2007&search_domain=cs&showall=L&statuteyear=all&lengthannual=50&length=50

and to review complaints from suppliers for transactions that fall outside the jurisdiction of the trade agreements.

The Act also provides for the establishment of regulations to prescribe the duties and functions of the Ombudsman. The regulations need to be in place before sections 306 and 307 of the Act are brought into force to formally establish the Office of the Procurement Ombudsman.

Once regulations have been made and the relevant provisions of the *Federal Accountability Act* are in force, the Office of the Procurement Ombudsman will be in operation. The Ombudsman was designated in September 2007 and the Office is being organized.

Sanctions

The combined effect of penalties contained in various statutes provides a range of consequences for failures to comply with contracting rules and regulations. For example, the *Criminal Code*¹¹ and Part IX of the *Financial Administration Act*¹² contain offences with criminal sanctions for wilful intent to defraud the government.

While sanctions are designed to be deterrents, the expectation for ethical conduct is much higher. The *Conflict of Interest Act*¹³ provides the ethical requirements for public office holders while the *Values and Ethics Code for the Public Service*¹⁴, as well as the *Code of Conduct for Procurement*, clearly articulate the exemplary standards expected of procurement officials.

Execution of contracts

Once any contract is issued domestically by the Government of Canada, basic Canadian contract law generally applies during the performance of the contract. The parties are bound to perform the contract in accordance with the terms and conditions and choice of jurisdictional law set out therein. In the event of a breach or dispute between the parties, the parties may elect to pursue/enforce their legal rights in a court of law. When the contract is completed, a certification that the goods or services have been supplied is necessary before the payment process begins and it must be completed within 30 days.

Other contracting requirements

i) Trade Agreement Obligations

The Trade Agreements constitute treaties and must be implemented through legislation. They are, therefore, legal obligations which Canada must respect when undertaking any procurement covered by a trade agreement. The trade agreements to which Canada is currently a signatory are:

¹¹ <http://laws.justice.gc.ca/en/showtdm/cs/C-46?noCookie>

¹² <http://laws.justice.gc.ca/en/showtdm/cs/F-11?noCookie>

¹³ <http://laws.justice.gc.ca/en/showtdm/cs/C-36.65?noCookie>

¹⁴ http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_851/vec-cve_e.asp

The *World Trade Organization - Agreement on Government Procurement* (WTO-AGP) implemented through the *World Trade Organization Agreement Implementation Act*. The WTO-AGP is a plurilateral agreement among a limited number of WTO members.

The *North American Free Trade Agreement* (NAFTA) implemented through the *North American Free Trade Agreement Implementation Act*. NAFTA is an agreement among Canada, the United States and Mexico.

Agreement on Internal Trade (AIT) implemented through the *Agreement on Internal Trade Implementation Act*. AIT is a domestic trade agreement among the federal government, the provinces and territories.

As a party to NAFTA and the WTO-AGP, Canada has agreed to provide suppliers from other jurisdictions with an equal opportunity to compete with Canadian suppliers for covered goods, service and construction services bought by specified government departments, agencies and crown corporations. Notable exceptions to coverage are: communication services, transportation and relocation services, shipbuilding and repair, and goods and services related to military operations. The agreements also allow exemptions for reasons of national security and for small and minority businesses.

With respect to AIT, the federal government has agreed to provide all Canadian suppliers with equal access to procurement for most goods, services and construction services in the departments, agencies and Crown Corporations listed in the Annexes. Notable exceptions to coverage are advertising and public relations services, health services and social services as well as exemptions for national security, for measures with respect to aboriginal peoples and for regional economic development.

Suppliers may challenge federal government procurement decisions that they believe have not been made in accordance with NAFTA, AIT and the WTO-AGP.

ii) Comprehensive Land Claims Agreements

The Government is bound by the provisions of several Comprehensive Land Claims Agreements, covering almost all of the North, which have varying procurement requirements relating to the participation of the Aboriginal community in government procurement, all of which have the force of law.

b. In relation to question a), state the objective results obtained, including any available statistical data (e.g. percentage of contracts awarded through public tender; sanctions imposed on contractors).

Each year the Government publishes, on the Internet, statistics on purchases and contracts conducted in departments and agencies. The annual Purchasing Activity Report is used to provide statistical analysis of the processes and tools through which government

contracting is conducted. The following tables are produced with information from this source. The data dates back annually to 1995 and is available at http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/con_data/siglist_e.asp.

The following summary tables provide a breakdown of the number and value of contracts over \$25,000 (the category that should be awarded by open bidding, with exceptions) by competitive and non-competitive awards, and a breakdown of total contracts between those over \$25,000 and those up to this amount.

Contracts over \$25,000 by Solicitation Procedure for 2005

Contract type	Solicitation Procedure	Number	% of Total Number	Value in \$ Million	% of Total Value
Goods over \$25,000	Competitive Awards	4933	73.7%	3,391	77.3%
	Non-Competitive Awards	1,762	26.3%	994	22.7%
	Total-Goods	6,695	100%	4,385	100%
Services over \$25,000	Competitive Awards	11,424	82.7%	9,044	94.6%
	Non-Competitive Awards	2,385	17.3%	519	5.4%
	Total-Service	13,809	100%	9,563	100%
Construction over \$25,000	Competitive Awards	1,800	91%	816	98.2%
	Non-Competitive Awards	179	9%	15	1.8%
	Total-Const.	1,979	100%	831	100%
All Contracts over \$25,000	Competitive Awards	18,157	80.8%	13,251	89.7%
	Non-Competitive Awards	4,326	19.2%	1,529	10.3%
	Total-All	22,483	100%	14,781	100%

Contracts by value, 2005

Contract type	Category of Contract	Number	% of Number	Value \$ Million	% of value
Goods	Below \$25,000	220,570	97.1%	430	8.9%
	\$25,000 & +	6,695	2.9%	4,386	91.1%
	Total-Goods	227,265	100%	4,816	100%
Services	Below \$25,000	147,913	91.5%	653	6.4%
	\$25,000 & +	13,809	8.5%	9,564	93.6%
	Total-Services	161,722	100%	10,217	100%
Construction	Below \$25,000	19,582	90.8%	80	8.8%
	\$25,000 & +	1,979	9.2%	831	91.2%
	Total-Constr.	21,561	100%	911	100%

All contracts	Below \$25,000	388,065	94.5%	1,163	7.3%
	\$25,000 & +	22,483	5.5%	14,781	92.7%
	Total-All	410,548	100%	15,944	100%

- c. If no such laws and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen government systems for procurement of goods and services, in accordance with Article III (5) of the Convention.

N.A.

CHAPTER TWO

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

- a. Are there laws and/or measures in your country establishing systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities? If so, briefly describe them and list and attach a copy of the related provisions and documents.

In relation to the above, refer, among others, to the following aspects:

- i. Mechanisms for reporting (e.g. anonymous reporting, protection of identity reporting)
- ii. Mechanisms for reporting threats or reprisals
- iii. Witness protection mechanisms.

Section 425.1 of the *Criminal Code* makes it an offence for an employer or supervisor to take any disciplinary measure against an employee in order to compel the employee to abstain from disclosing or providing information respecting the commission of an offence to a law enforcement officer, or as retaliation against the disclosure of such information by the employee.

Additional measures apply to public servants. The *Public Servants Disclosure Protection Act* (PSDPA), as amended by the *Federal Accountability Act*, came into force on April 15, 2007. The Canada Public Service Agency is responsible for leadership and support to organizations in the implementation of the PSDPA.

The purpose of the PSDPA is to encourage employees in the public sector to come forward if they have reason to believe that serious wrongdoing has taken place, and to prohibit reprisals against them if they do so. It also provides a fair and objective process for those against whom allegations are made. A key role in the regime established by the PSDPA is held by chief executives of public sector organizations, who must establish internal procedures for managing disclosures of possible

wrongdoing from employees, and who take corrective action and report publicly if wrongdoing is found.

The PSDPA also establishes the Public Sector Integrity Commissioner (PSIC) as an agent of Parliament. The PSIC conducts independent reviews of disclosures of wrongdoing made directly to her, issues reports of findings to enable organizations to take appropriate remedial action, and submits annual and special reports to Parliament. The PSIC also reviews complaints of reprisal from federal public sector employees, which may be referred to a new, independent Public Servants Disclosure Protection Tribunal. The Tribunal will adjudicate such complaints, and it may order appropriate remedies if it finds that a reprisal took place, as well as order discipline for any public sector employee found to have committed a reprisal.

Public servants with information about possible wrongdoing in the federal public sector may make disclosures within their organization or to the Commissioner. Any member of the public may provide information concerning wrongdoing in the federal public sector to the Commissioner. Reprisal is prohibited for all employees (not just public servants) who provide information concerning a possible wrongdoing, as well as for public servants who cooperate in an investigation into a disclosure.

The PSDPA requires that information collected in relation to disclosures be kept confidential, including that such information is exempt from release under the *Access to Information Act*¹⁵ and *Privacy Act*¹⁶. Further, identities of persons involved in the disclosure process (including the discloser, witnesses in any investigation, and any person alleged to have committed a wrongdoing) must be protected to the extent possible. If wrongdoing is found, the person or persons who committed the wrongdoing may be identified publicly only if information that may identify the person is necessary to adequately describe the wrongdoing.

A copy of the PSDPA is available on the web site of Justice Canada, at <http://laws.justice.gc.ca/en/P-31.9/>.

In terms of witness protection generally, certain *Criminal Code* offences are applicable, including the offences of intimidation of a justice system participant (section 423.1) and obstructing justice (subsections 139(1) and (2)). Section 2 of the *Criminal Code* defines a “justice system participant”. Such participants include informants, prospective witnesses and witnesses, as well as prosecutors, lawyers, judges, police officers, court administrative staff and jurors.

b. In relation to question a), state the objective results obtained, including any available statistical data.

Since the PSDPA has been in force only since April 15, 2007, initial results and assessments are pending.

¹⁵ <http://laws.justice.gc.ca/en/showtdm/cs/A-1?noCookie>

¹⁶ <http://laws.justice.gc.ca/en/showtdm/cs/P-21?noCookie>

- c. **If no such laws and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen systems for protecting public servants and private citizens who, in good faith, report acts of corruption, in accordance with Article III (8) of the Convention.**

N.A.

Chapter III

1. Criminalisation of acts of corruption provided for in Article VI (1) of the Convention

- (a) Does your country criminalize the acts of corruption provided for in Article VI (1) of the Convention transcribed in this chapter of the questionnaire? If so, describe briefly the laws and/or measures regarding them, indicating to which of the particular aforesaid acts of corruption they refer, including sanctions, and attach a copy of them.**

Canada criminalizes the acts of corruption provided for in Article VI (1). These offences are found in the *Criminal Code*, and have been in the Code, with minor amendments, for a long time. (Annex 1)

- Acts of corruption provided for in Article VI (1) of the Convention:

- i. The solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions.**

The direct or indirect solicitation or acceptance, by a public official, of a benefit for himself or another person, in exchange for an act or omission in the performance of his public function is criminalized in Canada by different *Criminal Code* offences.

There is a general offence in section 121(1)(a) that provides that: *“Every one commits an offence who, directly or indirectly, ... being an official, demands, accepts, or offers or agrees to accept from any person for himself or another person, a loan, reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with the transaction of business with or any matter of business relating to the government, or a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled to bestow, whether or not, in fact, the official is able to cooperate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;”*

Section 118 of the *Criminal Code* defines an “official” as “a person who holds an office, or is appointed or elected to discharge a public duty” (in French: “pour remplir une fonction publique”). Section 118 states that an “office” *includes* “an office or appointment under the government, a civil or military commission, and a position or an employment in a public department”. The definition of official therefore includes every public servant and member of the armed forces, and a person who performs a public function. This definition applies to all bribery offences.

The solicitation or acceptance constitutes an offence when it is made either by the public official, or through intermediaries. As well, the offence is committed when a benefit is solicited or accepted for the official himself or for any other person.

For the purpose of this offence, any benefit that an official would obtain from carrying out official duties would result in the commission of the offence, whether the benefit was solicited or unsolicited.

This benefit can be provided in different forms. Section 121 speaks of a loan, reward, advantage or benefit of any kind, the latter being very broad and would include a benefit provided in money or in kind, or in any form of service.

In addition to the offence of section 121, specific offences apply to some categories of public officials, and are tailored to their specific responsibility. These offences include those applying to judges and Members of the federal Parliament or of a provincial legislature (section 119(1)(a)); to police, court officers and anyone involved in the administration of criminal law (section 120(a)); and to municipal officials (section 123(1)). The acts prohibited in the offences under 119 and 120 are, for these officials: directly or indirectly, corruptly accepting or obtaining, agreeing to accept, and attempting to accept, any money, valuable consideration, office, place or employment, for themselves or for another person. The acts prohibited in the offence under section 123 are, for municipal officials: directly or indirectly demanding, accepting, and offering or agreeing to accept a loan, reward, advantage or benefit of any kind, for themselves or another person. A “municipal official” is defined in section 123(3) as “a member of a municipal council or a person who holds an office under a municipal government”.

The offences under sections 119 and 120 carry a maximum penalty of 14 years of imprisonment. The offences under sections 121 and 123 carry a maximum penalty of 5 years imprisonment.

In addition, the *Criminal Code* includes a secret commission offence, which applies to the public and private sectors. Section 426 prohibits an agent from demanding, offering, or agreeing to accept from any person, directly or indirectly, for the agent or another person, a benefit of any kind for doing or abstaining to do any act relating to the affairs of the agent’s principal.

- ii. **The offering or granting, directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions.**

The offering or granting, directly or indirectly, to a public official, of any benefit, for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions is criminalized by different *Criminal Code* offences. There is a general offence in section 121(1)(a) that provides that: *“Every one commits an offence who, directly or indirectly, gives, offers or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official, ...a loan, reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with the transaction of business with or any matter of business relating to the government, or a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled to bestow, whether or not, in fact, the official is able to cooperate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;”*

Anyone other than the employer who offers a benefit to an official for any action or abstention in relation to the official’s employment would commit the offence under section 121(1)(a). The offering or giving constitutes an offence when it is made directly by the person who requires an official act or abstention, or indirectly through intermediaries. As well, the offence is committed when a benefit is offered or given to the official or anyone for the benefit of the official. This applies whenever there be a nexus between the benefit conferred on anyone and a benefit to the accused. The definition of “official” as well as the benefit is the same as described under i.

As outlined under i, in addition to the offence under section 121, there are specific offences that are tailored to apply to specific responsibilities of certain categories of public officials. These offences include those applying to judges and Members of the federal Parliament or of a provincial legislature (section 119(1)(b)); to judges, police, court officers and anyone involved in the administration of criminal law (section 120(b)); and to municipal officials (section 123(1)). The acts prohibited in the offences under 119 and 120 are, for every one, directly or indirectly, corruptly giving or offering any money, valuable consideration, office, place or employment, to the officials to whom sections 119 and 120 apply, or to anyone for their benefit. The acts prohibited in the offence under section 123 are, for every one, directly or indirectly, giving, offering, or agreeing to give or offer, to municipal officials or to anyone for their benefit, a loan, reward, advantage or benefit of any kind, for themselves or for another person.

The offences under sections 119 and 120 carry a maximum penalty of 14 years of imprisonment. The offences under sections 121 and 123 carry a maximum penalty of 5 years.

In addition, the *Criminal Code* includes a secret commission offence, which can apply to the public and private sectors. Section 426 prohibits every one to give, offer, or agree to give or offer, directly or indirectly, to an agent or to another person for the benefit of the agent, a benefit of any kind for doing or abstaining to do any act relating to the affairs of the agent's principal.

iii. Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party.

Section 122 of the *Criminal Code* provides for an offence of breach of trust by public officers. The Supreme Court of Canada has held that the offence is committed when an official, acting in connection with the duties of his or her office, breaches the standard of responsibility and conduct demanded by the nature of the office, in a manner that constitutes a serious and marked departure of the standards expected from a person in his or her position, and acted with the intention of using the office for a purpose other than the public good. (*R. v. Boulanger*, [2006] 2 S.C.R. 49)

<http://scc.lexum.umontreal.ca/en/2006/2006scc32/2006scc32.html>

This definition includes the case where an official discharges his or her duties in a manner intended to obtain a benefit illicitly, or accepts a benefit in order to act or refrain to act in relation to official duties.

As well, this offence would be covered by the offence of “attempting to obtain” under sections 119 for members of the judiciary or a legislature, and 120 for police, court officers and anyone involved in the administration of criminal law.

Section 122 carries a maximum penalty of 5 years of imprisonment. The offences of attempting to obtain under sections 119 and 120 carry a maximum penalty of 14 years imprisonment.

In some cases, these acts or omissions could constitute a fraud, in which case they could also be prosecuted under section 380 of the *Criminal Code*.

iv. The fraudulent use or concealment of property derived from any of the acts referred to in this article.

The *Criminal Code* includes a whole regime that applies to proceeds from the commission of any indictable offence, including all Convention offences under Article VI(1). Section 462.31 of the *Criminal Code* makes it an offence to use, transfer the possession of, send or deliver to any person or place, transport, transmit, dispose of, or otherwise deal with, in any manner and by any means, proceeds of crime knowing that they were proceeds of crime.

The offence applies to the laundering of any property or any proceeds of any property, obtained or derived directly or indirectly as a result of the commission of a designated offence. A designated offence is defined in section 462.3 as an offence prosecutable by

indictment – which includes all Article VI offences – or a conspiracy or attempt to commit, or being an accessory after the fact or any counselling in relation to, such an offence.

The concealment of proceeds is covered in “dealing in any manner” in the definition of the offence of laundering under section 462.31. In addition, section 354 of the *Criminal Code* makes it an offence for a person to possess property or proceeds that the person knows to have been obtained by the commission of an indictable offence. Since concealing is likely to require possession, prohibiting possession would satisfy the requirement of the Convention.

The *Criminal Code* provisions on proceeds of crime are attached as Annex 2.

v. Participation as a principal, co-principal, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this article.

Section 21(1) of the *Criminal Code* defines as parties to an offence everyone who actually commits an offence; everyone who aids any person to commit an offence; and every one who abets any person in committing an offence.

Section 22 provides that a person who counsels the participation in the commission of an offence that is committed is a party to this offence. Section 22(3) defines “counsel” as including “procure, solicit or incite”. Section 464 makes it an offence to counsel another person to commit an offence that is not committed.

Section 21(2) provides that two or more persons who form a common intention to commit an offence and to assist each other in committing it are parties to the offence.

Section 23 defines an accessory after the fact as a person who, knowing that another person has been a party to an offence, receives, comforts, or assists this person in order to enable this person to escape. Section 463 provides that it is an offence to be an accessory after the fact.

Section 24 defines an attempt to commit an offence as doing, or omitting to do, anything for the purpose of carrying out an intention to commit an offence. Section 463 makes it an offence to attempt to commit an offence.

Section 465 provides that conspiring to commit an offence is an offence.

The relevant *Criminal Code* provisions are attached as Annex 3.

(b) Briefly state the objective results that have been obtained in enforcing the above provisions, and provide the pertinent information available in your country on which those results are based, such as judicial proceedings undertaken and their outcome, referring, as far as possible, to the last five years.

Statistics from the *Adult Criminal Court Survey* show the number of convictions for the main corruption offences and resulting sentences from 1999-00 to 2003-04, the latest year for which they are available. These statistics represent approximately 90 percent of national provincial criminal court coverage, as one province (Manitoba) and two territories (Northwest Territories and Nunavut) are not included in the survey.

CONVICTIONS									
Section 119 - Charges									
Year	Total	Conviction		Acquitted		Stay / Withdrawn		Other Decision	
		Rate	Guilty						
		%	#	%	#	%	#	%	#
1999/00	0	...	0	...	0	...	0	...	0
2000/01	1	100%	1	0%	0	0%	0	0%	0
2001/02	2	0%	0	0%	0	100%	2	0%	0
2002/03	2	0%	0	0%	0	50%	1	50%	1
2003/04	0	...	0	...	0	...	0	...	0

SENTENCES													
Section 119 - Charges													
Year	Total Convicted	Custody		Conditional Sentence		Probation		Fine		Other Sentence		Unknown	
		%	#	%	#	%	#	%	#	%	#	%	#
1999/00	0	...	0	...	0	...	0	...	0	...	0	...	0
2000/01	1	0%	0	0%	0	100%	1	0%	0	0%	0	0%	0
2001/02	0	...	0	...	0	...	0	...	0	...	0	...	0
2002/03	0	...	0	...	0	...	0	...	0	...	0	...	0
2003/04	0	...	0	...	0	...	0	...	0	...	0	...	0

CONVICTIONS									
Section 120 - Charges									
Year	Total	Conviction		Acquitted		Stay / Withdrawn		Other Decision	
		Rate	Guilty						
		%	#	%	#	%	#	%	#
1999/00	60	8%	5	0%	0	63%	38	28%	17
2000/01	33	27%	9	3%	1	36%	12	33%	11
2001/02	23	35%	8	0%	0	57%	13	9%	2
2002/03	31	19%	6	6%	2	68%	21	6%	2

2003/04	15	27%	4	7%	1	60%	9	7%	1
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SENTENCES													
Section 120 - Charges													
Year	Total Convicted	Custody		Conditional Sentence		Probation		Fine		Other Sentence		Unknown	
		%	#	%	#	%	#	%	#	%	#	%	#
1999/00	5	20%	1	0%	0	0%	0	40%	2	40%	2	0%	0
2000/01	9	33%	3	0%	0	44%	4	22%	2	0%	0	0%	0
2001/02	8	63%	5	0%	0	25%	2	13%	1	0%	0	0%	0
2002/03	6	33%	2	0%	0	33%	2	33%	2	0%	0	0%	0
2003/04	4	75%	3	0%	0	25%	1	0%	0	0%	0	0%	0

CONVICTIONS									
Section 121- Charges									
Year	Total	Conviction		Acquitted		Stay / Withdrawn		Other Decision	
		Rate	Guilty	%	#	%	#	%	#
		%	#	%	#	%	#	%	#
1999/00	34	21%	7	18%	6	62%	21	0%	0
2000/01	17	29%	5	0%	0	71%	12	0%	0
2001/02	36	53%	19	0%	0	36%	13	11%	4
2002/03	21	57%	12	14%	3	19%	4	10%	2
2003/04	29	17%	5	0%	0	66%	19	17%	5

SENTENCES													
Section 121- Charges													
Year	Total Convicted	Custody		Conditional Sentence		Probation		Fine		Other Sentence		Unknown	
		%	#	%	#	%	#	%	#	%	#	%	#
1999/00	7	43%	3	0%	0	29%	2	29%	2	0%	0	0%	0
2000/01	5	20%	1	20%	1	40%	2	0%	0	20%	1	0%	0
2001/02	19	16%	3	16%	3	32%	6	16%	3	11%	2	11%	2
2002/03	12	8%	1	17%	2	75%	9	0%	0	0%	0	0%	0
2003/04	5	20%	1	20%	1	40%	2	0%	0	20%	1	0%	0

CONVICTIONS									
Section 122 - Charges									
Year	Total	Conviction		Acquitted		Stay / Withdrawn		Other Decision	
		Rate	Guilty	%	#	%	#	%	#
		%	#	%	#	%	#	%	#

1999/00	127	36%	46	31%	40	24%	31	8%	10
2000/01	146	8%	12	1%	2	69%	101	21%	31
2001/02	189	18%	34	2%	4	66%	124	14%	27
2002/03	63	21%	13	6%	4	54%	34	19%	12
2003/04	174	8%	14	1%	2	87%	152	3%	6

SENTENCES

Section 122 - Charges

Year	Total Convicted	Custody		Conditional Sentence		Probation		Fine		Other Sentence		Unknown	
		%	#	%	#	%	#	%	#	%	#	%	#
1999/00	46	52%	24	13%	6	20%	9	11%	5	4%	2	0%	0
2000/01	12	42%	5	25%	3	25%	3	0%	0	8%	1	0%	0
2001/02	34	74%	25	6%	2	15%	5	0%	0	6%	2	0%	0
2002/03	13	15%	2	38%	5	31%	4	15%	2	0%	0	0%	0
2003/04	14	14%	2	43%	6	29%	4	0%	0	14%	2	0%	0

CONVICTIONS

Section 123 - Charges

Year	Total	Conviction		Acquitted		Stay / Withdrawn		Other Decision	
		Rate	Guilty	%	#	%	#	%	#
		%	#	%	#	%	#	%	#
1999/00	0	...	0	...	0	...	0	...	0
2000/01	2	50%	1	0%	0	0%	0	50%	1
2001/02	0	...	0	...	0	...	0	...	0
2002/03	5	0%	0	0%	0	40%	2	60%	3
2003/04	2	100%	2	0%	0	0%	0	0%	0

SENTENCES

Section 123 - Charges

Year	Total Convicted	Custody		Conditional Sentence		Probation		Fine		Other Sentence		Unknown	
		%	#	%	#	%	#	%	#	%	#	%	#
1999/00	0	...	0	...	0	...	0	...	0	...	0	...	0
2000/01	1	0%	0	0%	0	0%	0	100%	1	0%	0	0%	0
2001/02	0	...	0	...	0	...	0	...	0	...	0	...	0
2002/03	0	...	0	...	0	...	0	...	0	...	0	...	0
2003/04	2	0%	0	0%	0	100%	2	0%	0	0%	0	0%	0

CONVICTIONS

Section 426 - Charges									
Year	Total	Conviction		Acquitted		Stay / Withdrawn		Other Decision	
		Rate	Guilty						
		%	#	%	#	%	#	%	#
1999/00	43	16%	7	0%	0	74%	32	9%	4
2000/01	44	23%	10	0%	0	61%	27	16%	7
2001/02	30	33%	10	7%	2	53%	16	7%	2
2002/03	35	20%	7	0%	0	66%	23	14%	5
2003/04	28	4%	1	4%	1	54%	15	39%	11

SENTENCES													
Section 426 - Charges													
Year	Total Convicted	Custody		Conditional Sentence		Probation		Fine		Other Sentence		Unknown	
		%	#	%	#	%	#	%	#	%	#	%	#
1999/00	7	14%	1	57%	4	29%	2	0%	0	0%	0	0%	0
2000/01	10	100%	10	0%	0	0%	0	0%	0	0%	0	0%	0
2001/02	10	10%	1	20%	2	10%	1	20%	2	40%	4	0%	0
2002/03	7	43%	3	14%	1	14%	1	14%	1	14%	1	0%	0
2003/04	1	0%	0	0%	0	0%	0	0%	0	100%	1	0%	0

(c) If the aforementioned acts of corruption are not criminalized, what steps is your country taking to criminalize these acts.

N.A.

2. Application of the Convention to acts of corruption not described therein, in accordance with Article VI (2)

(a) Has your State entered into any agreements with other States Parties to apply the Convention to any act of corruption not described therein, in accordance with Article VI (2)? If so, briefly describe the respective agreements or conventions and attach a copy of the related documents.

No.

(b) If the above answer was in the affirmative, briefly state the objective results that have been obtained in the application of the respective agreements or conventions, and provide the pertinent information available in your country on which those results are based, such as judicial proceedings undertaken and their outcome, referring, as far as possible, to the last five years.

N.A.

SECTION II

FOLLOW-UP ON THE RECOMMENDATIONS FORMULATED IN THE NATIONAL REPORT IN THE FIRST REVIEW ROUND

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

In accordance with what is provided at Section A of Chapter II of this report, the Committee recommends that Canada continue promoting the purposes of the Convention in the different levels of government and continue providing information on the progress thereof. In addition, the Committee recommends Canada encourage the strengthening of the mechanisms for consultation with civil society and nongovernmental organizations at the provincial and territorial levels with regards to the drafting of public policy and in the development of draft laws or regulations. Further, the Committee recommends that Canada continue strengthening cooperation and coordination between the Federal Government and the provinces and territories for that purpose.

Federal, provincial and territorial governments are engaged in an ongoing dialogue and exchange of information. Various federal-provincial-territorial forums exist at different levels within which to exchange information and share experiences, such as the Coordinating Committee of Senior Officials (Criminal Justice), the Federal-Provincial Heads of Prosecution, as well as meetings of federal-provincial-territorial conflict of interest commissioners. The provinces and territories, and provincial and territorial conflict of interest commissioners, were consulted on the preparation of the responses by Canada to the questionnaires for the first and second round of reviews. In addition, the country report on Canada, adopted by the Committee of Experts in the first round of review, was shared with the provinces and territories and with the provincial and territorial conflict of interest commissioners.

While it would not be appropriate for the federal government to interfere in provincial and territorial consultation processes for drafting public policy and legislation, it is our understanding that the provinces and territories have a broad range of mechanisms for consultations with civil society. The Federal Government will continue to keep the provinces and territories informed of the work of the Committee of Experts.

B. CONCLUSIONS AND RECOMMENDATIONS AT THE FEDERAL LEVEL

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

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

Canada considered and adopted measures to establish, maintain, and strengthen standards of conduct aimed at preventing conflicts of interest and mechanisms to enforce them, as noted in Chapter II, Part B, section 1.1 of this report.

In light of the comments made in that section, the Committee suggests that Canada consider the following recommendation:

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

To carry out this recommendation, Canada could consider the following measures:

a. Strongly encourage those public service institutions, as well as Parliament, whose officers and employees are not covered by a code of conduct outlined in Chapter II, Part B section 1.1.1 of the Report to adopt codes of conduct for those officers and employees (see Chapter II, Part B section 1.1.2 of this Report).

The *Public Servants Disclosure Protection Act* (PSDPA), which came into force on April 15, 2007, requires that a new Code of Conduct be developed for the whole public sector, including the core public administration, parent Crown corporations and separate agencies. This Code of Conduct is currently being developed, and is expected to come into force in 2008. Each individual public sector organization is also required to develop a code of conduct that is consistent with the Federal Public Sector Code of Conduct.

The employees of Parliament, who are not part of the public sector, are covered by their own codes of conduct. The 2006 *Policy on Conflicts of Interest* applies to the employees of the House of Commons, and the 2007 *Statement of Values and Ethics* applies to the employees of the Senate.

b. Adopt measures to ensure that the post-employment restrictions for public servants can be enforced (see Chapter II, Part B, section 1.1.2 of this Report).

A *Code of Conduct for Procurement* – which applies to contracts for services – came into force September 19, 2007 as part of the implementation of the *Federal Accountability Act*. The *Code of Conduct for Procurement* applies to both public servants and suppliers and therefore provides all those involved in the procurement process – public servants and vendors alike – with a clear statement of mutual expectations to ensure a common basic understanding among all participants in procurement. It consolidates the federal government's measures on conflict of interest and anti-corruption as well as other legislative and policy requirements relating specifically to procurement, including the post-employment restrictions applying to public servants. As a result, a public servant who accepts employment in conflict with the post-retirement rules and the vendor who employs this public servant are both in breach of the *Code*. More information is available on Public Works and Government Services Canada website:

<http://www.tpsgc-wgsc.gc.ca/acquisitions/text/cndt-cndct/tcm-toc-e.html>

c. Canada should continue to improve evaluation mechanisms to analyze the results of enforcement of conflict of interest provisions (see Chapter II, Part B, section 1.1.2 of this Report).

The Office of Public Service Values and Ethics (OPSVE) has undertaken a governance model study for values and ethics in the public service. The OPSVE is assessing a sample of departments on their structure, processes and practices in managing values and ethics in the federal public service on an annual basis. The study is intended to guide departments in their implementation of values and ethics principles. It is available at http://www.psagency-agencefp.gc.ca/veo-bve/publications/rgs-rsg_e.asp.

d. Canada should continue to promote the importance of the Values and Ethics Code for the Public Service in decision-making in the management of human and financial resources (see Chapter II, Part B, section 1.1.3 of this Report).

The Public Service of Canada is working with its main training institution, the Canada School of Public Service, to make values and ethics a core element woven into required training programs for human and financial management. The required training programs are for supervisors, managers and executives as well as functional specialists.

The Office of Public Service Values and Ethics has developed a training course for the conflict of interest practitioners in the public service. The OPSVE is still working with the Canada School of Public Service to incorporate conflict of interest in training programs for human resources professionals.

The OPSVE is developing e-learning training in values and ethics for employees, managers and executives. These courses will be offered by the Canada School of Public Service through its on-line course catalogue.

Recommendation 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

Canada has considered and adopted measures intended to establish, maintain, and strengthen standards of conduct to ensure the conservation and proper use of resources entrusted to public officials in the performance of their functions, as indicated in Chapter II, Part B, section 1.2 of this report.

In light of the comments made in that section, the Committee suggests that Canada consider the following 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.

To carry out this recommendation, Canada could consider the following measure:

- Establish a mechanism to assess the effectiveness of the Policy on Losses of Money and Offences and Other Illegal Acts against the Crown (see Chapter II, Part B, section 1.2.3 of this Report).

The policy assessment process is an on-going process. Canada is of the view that there are currently sufficient mechanisms to assess the effectiveness of the Policy on Losses of

Money and Offences and Other Illegal Acts against the Crown¹⁷. There is a major assessment exercise underway, known as the Policy Suite Renew. Through this exercise, the effectiveness of this policy will be considered as part of this renewal process. In addition, there are other continuous processes and reviews undertaken by the Treasury Board Secretariat (TBS) to make policy assessments that lead to ideas for improving Government-wide management. Among Canada's mechanisms to assess the effectiveness of the Policy on Losses of Money and Offences and Other Illegal Acts against the Crown is the government's Management Accountability Framework (MAF) initiative. Through this process, the effectiveness of policies, including the Policy on Losses of Money and Offences and Other Illegal Acts against the Crown, may be called into review if it is determined that their application is inappropriate or problematic. The Office of the Comptroller General's input to this MAF process is derived, in part, from reviewing both external and internal audit reports.

In addition, the *Federal Accountability Act* has recently added to the offence of fraud, an offence of fraud against public money committed by public servants responsible for the management of public money. This offence is subject to a maximum penalty of 14 years of imprisonment for a fraud of more than \$5,000, and to a maximum penalty of 5 years imprisonment in other cases.

Recommendation 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

Canada has considered and adopted measures to establish, maintain, and strengthen standards of conduct and mechanisms concerning measures and systems requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware, as noted in Chapter II, Part B, section 1.3 of this report.

In light of the comments made in that section, the Committee suggests that Canada consider the following 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.

To carry out this recommendation, Canada could consider the following measures:

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 disclosures (see Chapter II, Part B, section 1.3.2 of this Report).

The *Public Servants Disclosure Protection Act* (PSDPA), as amended by the *Federal Accountability Act*, came into force on April 15, 2007. The purpose of the PSDPA is to encourage (but not oblige) employees in the public sector to come forward if they have reason to believe that serious wrongdoing has taken place, and to prohibit reprisals

¹⁷ http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/TBM_142/4-7_e.asp

against them if they do so. Public servants with information about possible wrongdoing in the federal public sector may make disclosures within their organization or to the Public Sector Integrity Commissioner, who is an agent of Parliament. It also provides a fair and objective process for those against whom allegations are made. It requires chief executives of public sector organizations to take the corrective action and report publicly if wrongdoing is found. The Commissioner conducts independent reviews of disclosures of wrongdoing made directly to her, issues reports of findings to enable organizations to take appropriate remedial action, and submits annual and special reports to Parliament. A new, independent Tribunal will adjudicate complaints of reprisal from public sector employees, and may order appropriate remedies if it finds that reprisal took place.

b. Strengthen the training and awareness building programs to ensure that individuals working in the federal public sector are aware of their duties, responsibilities, and protections for reporting acts of corruption and wrong-doing in the workplace (see Chapter II, Part B, section 1.3.2 of this Report).

The OPSVE also contributes to training for public servants (offered by the Canada School for Public Service), to ensure a broad awareness of anti-corruption measures. Awareness promotion is also built into basic orientation for new employees. Existing courses are being reviewed to ensure that they include up-to-date information about the PSDPA. New e-learning courses on values and ethics for public servants are currently being developed, each of which will include content on the PSDPA, and which are expected to be available before April 1st, 2008.

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

Canada has considered and adopted measures intended to establish, maintain, and strengthen systems for registration of income, assets, and liabilities of persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public, as noted in Chapter II, Part B, section 2 of this report.

In light of the comments made in that section, the Committee suggests that Canada consider the following recommendation:

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

To carry out this recommendation, Canada could consider the following measures:

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 (see Chapter II, Part B, section 2.2 of this Report).

The question of reporting the income, assets and liabilities of family members pertains to Codes of Conduct. The *Public Service Disclosure Protection Act* requires the establishment of a Code of Conduct for the public sector, including the core public administration, parent Crown corporations and separate agencies. This Code is currently under development. Initial consultations have been held on the Code of Conduct and

drafting is in process. Further consultations with departments and bargaining agents on specific measures are being held in 2007-2008. The Code is expected to be issued in 2008. It will replace codes of conduct currently in force. Each individual public sector organization is also required to develop its own code of conduct that is consistent with the Federal Public Sector Code of Conduct.

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 (see Chapter II, Part B, section 2.2 of this Report).

The Code of Conduct that is being developed for the broader public sector requires that chapter II (conflict of interest) and III (Post-employment) of the existing Values and Ethics Code, which applies to the core public administration, be reviewed. This issue will be considered in the context of this review.

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 (see Chapter II, Part B, section 2.2 of this Report).

Development of the Code of Conduct for the public sector, as required by the PSDPA, is still in progress. The importance of timeliness in addressing conflicts of interests that have been disclosed via confidential reports will be considered in this context.

Confidential Reports made to the Department of National Defence and the Canadian Forces pursuant to Administrative Orders and Directives, 7021-1¹⁸ are usually reviewed and decisions are communicated within two business days. In cases where conflicts of interest may represent breaches of financial rules or legislation, the Directorate Special Enquiries and Investigations (DSEI) investigates and makes recommendations for corrective measures.

The Department of National Defence will ensure that its internal policies and regulations are in line with the new Code of Conduct for the public sector, and will adjust them if necessary.

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

Canada has considered and adopted measures to establish, maintain, and strengthen oversight bodies for effective compliance with the provisions selected for analysis in the first round, as noted in Chapter II, Part B, section 3 of this report.

In view of the comments made in that section, the Committee suggests that Canada consider the following recommendations:

¹⁸ http://www.admfincs.forces.gc.ca/admfincs/subjects/daod/7021/1_e.asp

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).

To carry out this recommendation, Canada could consider the following measures:

- a. Adopt the relevant measures to ensure that there are oversight bodies for effective administration of new systems developed as a result of Recommendations in Part B (1) and (2).**

The response to the recommendations made in Part B (1) and (2) do not require the creation of new oversight bodies. However, a new Policy on Internal Audit¹⁹ in force since April 2006 strengthens and professionalizes the internal audit function across government in a number of substantial ways. It increases the independence of the internal audit function by creating a new position of Chief Audit Executive separate from other departmental operations, and by including in the audit committees a number of professionals drawn from outside the public service. The Policy also enhances the oversight, monitoring and reporting role of the internal audit function by requiring the Chief Audit Executive to provide annual opinions on the adequacy of controls and the Comptroller General to report annually to Treasury Board on the overall state of controls across the federal government.

- b. Continue to consider improvements to the performance reports of departments and agencies with oversight responsibilities for paragraphs 1, 2, 4 and 11 of Article III of the Convention (see Chapter II, Part B, section 3.3 of this Report).**

The Government of Canada recognizes the importance of effective public reporting for accountability and transparency and works continually to improve reporting to Parliament.

The departmental performance reports (DPRs) are a specific type of report to Parliament. DPRs are one component of the Estimates – a set of detailed documentation that outlines expenditure plans, identifies spending authorities ("votes") and the amounts to be included in the appropriation acts (once passed). The DPRs, together with reports on plans and priorities (RPPs) form what is known as Part III of the Estimates. After the end of each fiscal year, departments report back to Parliament through their DPRs on their performance in delivering on plans, addressing priorities, and achieving expected results that were outlined in their RPPs for that fiscal year. DPRs provide parliamentarians with an account of the accomplishments and shortcomings of the reporting period and of how public resources were used to achieve value for money. In order to set performance in context, the DPRs discuss the context, risks and challenges, and operating environment in which departments achieved results. The structure and content of RPPs and DPRs is prescribed by guidelines issued by the Treasury Board Secretariat, which are based on the Government of Canada reporting principles and centre on the Management, Resources, and Results Structure Policy.

¹⁹ http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/ia-vi/siglist_e.asp

Informed by parliamentarians' needs, as well as by the views of the Auditor General, a number of initiatives are underway to improve performance reporting. Recent efforts include reviews by the Treasury Board Secretariat (TBS) of RPPs and DPRs against the Government of Canada reporting principles. These reviews are part of the annual Management Accountability Framework (MAF) assessment process. TBS provides feedback to departments based on these assessments as well as uses their results to inform enhancements to annual guidance on departmental planning and performance reports.

In addition, in order to provide practical tools to departments as they prepare their DPRs, TBS has published a document entitled "Performance Reporting: Good Practices Handbook". The Handbook illustrates with concrete examples what it means to put into practice the Government of Canada reporting principles.

The development of the Canada's Performance report -- a chapeau piece for the DPRs -- and the RPP Overview for Parliamentarians website have been integral to presenting a whole-of-government lens through which parliamentarians are able to view the spending, plans and performance of individual departments.

Systematic changes to the infrastructure supporting reports to Parliament will also benefit the quality of RPPs and DPRs. First, the new Management, Resources, and Results Structure Policy will provide a consistent structure across departments for managing programs and reporting on results. Second, TBS is working to ensure that departments and agencies have the capacity and tools to improve the coverage and quality of program evaluations. More and better evaluations will mean that the reports would be backed with credible information to support their performance claims.

It should be noted however that not all organizations within the Government of Canada produce DPRs. The *Financial Administration Act* ascribes legal and financial status to organizations within the Government of Canada and this in turn dictates their roles and responsibilities with respect to reporting through the Estimates. Other mechanisms for reporting to Parliament on an organization's plans, resources, and results include corporate plans and annual reports that are required by legislation particular to an organization (e.g. operations of the organization, application of legislation). TBS also works with organizations to improve the quality of such statutory reports. A number of the initiatives directed towards improving RPPs and DPRs, such as the Government of Canada reporting principles and the Performance Reporting: Good Practices Handbook, have a broader use and relevance towards improving the full range of reports to Parliament.

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

Canada has considered and adopted measures intended to establish, maintain and strengthen mechanisms to encourage the participation of civil society and nongovernmental organizations in efforts aimed at preventing corruption, as discussed in Chapter II, section 4 of this report.

In view of the comments made in that section, the Committee suggests that Canada consider the following recommendations:

4.2. Mechanisms for access to information

Continue strengthening the mechanisms for access to information.

To carry out this recommendation, Canada could consider the following measure:

- Continue to assess the reasons for the delays referred to in the Information Commissioner's Annual Report and the concerns of the Information Commissioner on the availability of limited resources, and take the measures deemed relevant on these matters (see Chapter II, Part B, section 4.2.3 of this Report).

On average, the Government of Canada responds to some 25,600 requests annually under the *Access to Information Act*. The number of complaints investigated by the Information Commissioner's office is relatively low compared to this number - fewer than 5% of requests result in complaints. This indicates that the vast majority of requesters are satisfied with the responses they receive.

To aid the Information Commissioner in the performance of his important role, the Government agreed to increase the budget of his office by \$2.8 million for fiscal year 2006-07, \$2.26 million for 2007-08, \$2.26 million for 2008-09, and \$1.5 million for 2009-10 and future years. The Budget for the fiscal year 2006-07 is \$8.3 million.

The Office of the Information Commissioner has indicated that the additional financial resources will help to clear the backlog.

The mechanisms for access were further strengthened by the *Federal Accountability Act* (FedAA) that received Royal Assent on December 12th, 2006. The Act brings forward significant reforms to the *Access to Information Act*. It extends the Act's coverage to a number of Officers and Agents of Parliament, parent Crown corporations and their wholly-owned subsidiaries, among other entities, and adds related exemption/exclusions for these entities, where necessary. Further, the FedAA brings forward some administrative reforms, such as a new duty to assist requesters without regard to their identities.

4.3. Mechanisms for consultation

Continue strengthening the mechanisms for consultation.

To carry out this recommendation, Canada could consider the following measure:

- Encourage federal government departments and agencies to continue to make full use of the Consulting with Canadians website (see Chapter II, Part B, section 4.3.2 of this Report).

Pursuant to the Government of Canada Communications Policy, institutions are required to post their public consultation activities on the Canada Site "Consulting with Canadians" web site (also known as the "Consultation Portal"). Federal public servants

are widely advised, via the government's Publiservice website,²⁰ of this requirement. Moreover, twice annually, Canada's Privy Council Office (PCO) communicates directly and in writing with the Communications and Consultations sections of federal departments and agencies to remind them to ensure that current public consultation information is posted on the Consultation Portal.

The Privy Council Office, along with the Communications sections of federal departments and agencies, works to ensure adherence to the Government of Canada Communications Policy. PCO also works in collaboration with the Treasury Board of Canada Secretariat (the division responsible for the communications policy) to help ensure that appropriate importance is given to the consultation function, as part of the overall communications function within government departments and agencies.

7. GENERAL RECOMMENDATIONS

Based on the review and the contributions made throughout this report, the Committee suggests that Canada consider the following recommendations:

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 Canada School of the Public Service helps ensure that all public service employees have the knowledge and skills they need to deliver results for Canadians. To ensure that the necessary financial management knowledge elements are integrated in required training courses, programs and knowledge assessment instruments, the Office of the Comptroller General works in close collaboration with the School. These knowledge elements are updated yearly or as significant financial policy changes occur.

As a specific example, the Authority Delegation Training ensures that managers at all levels understand their roles, responsibilities and their basic delegated authorities in finance, human resources, information management and contracting, that they understand corporate policies and priorities, and that they acquire the fundamental knowledge and skills needed to meet legal requirements and exercise delegated authority competently. Furthermore, managers and executives must demonstrate that they have the necessary knowledge to effectively exercise the authorities delegated to them at least every five years by successfully completing an online knowledge assessment instrument.

The Office of Public Service Values and Ethics (OPSVE) has developed a training course for the conflict of interest practitioners in the public service. The OPSVE is still working with the Canada School of Public Service to incorporate conflict of interest in training programs for human resources professionals.

²⁰ <http://publiservice.pco-bcp.gc.ca/comcon/default.asp?Language=E&Page=cons>

The OPSVE is developing e-learning courses in values and ethics for employees, managers, and executives. These courses will be offered by the Canada School of Public Service through its on-line course catalogue.

The OPSVE has also developed materials and run workshops for those tasked with implementing the PSDPA in their organizations. It will provide ongoing support to those appointed as Senior Officers for disclosure under the PSDPA.

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.

As can be seen from the information contained in the response to the questionnaire on the provisions selected for review in the framework of the first round, and in respect of provisions under review in the second round, Canada already has in place indicators, which make it possible to identify objective results. All departments and agencies of the federal government, as well as agents of Parliament, must report annually on their activities. Reports of particular relevance to the follow-up of the Recommendations of the first round of review would include the reports of the Treasury Board, the Public Service Commission, the Public Sector Integrity Commissioner of Canada, the Office of Public Service Values and Ethics, the report of the Senate Ethics Commissioner made to the Senate and the Report of the Conflict of Interest and Ethics Commissioner to the House of Commons.

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.

There are procedures in place to analyse the performance of the various mechanisms mentioned in the country report for Canada from the first round of review. Federal departments, agencies, tribunals, review boards and agents of Parliament must produce report annually on their activities. These reports include information that allows for the analysis of these mechanisms.

SECTION III

INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

(a) State Party: CANADA

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

() Mr.: Doug Breithaupt

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