

QUESTIONNAIRE

Country self-assessment report on implementation and enforcement of G20 commitments on foreign bribery

G20 countries are invited to complete the questionnaire, below, on the implementation and enforcement of G20 commitments on foreign bribery.

Part I questions are drafted directly from the principles outlined in the G20 Guiding Principles on Enforcement of the Foreign Bribery Offence endorsed by G20 Leaders in St. Petersburg, and its background note on Enforcement of Foreign Bribery Offences. Part II questions are drafted from the G20 Anti-Corruption Action Plan and the St. Petersburg Leaders' Declaration.

Responses to this questionnaire could be compiled into a summary on the "state of play" in G20 countries on steps taken to date to implement the aforementioned commitments, as well as plans for future actions in this area.

I. Implementation of the Guiding Principles on Enforcement of the Foreign Bribery Offence in G20 Countries

Note 1: This section of the questionnaire is drafted from the principles outlined in the G20 Guiding Principles on Enforcement of the Foreign Bribery Offence and the background note on Enforcement of Foreign Bribery Offences.

A. A robust legislative framework

In your jurisdiction:

1. Is there a clear and explicit foreign bribery offence that covers the key elements of the internationally agreed definition for foreign bribery, including offering, promising or giving of a bribe, bribery through intermediaries, and bribes paid to third party beneficiaries?

- *If your jurisdiction criminalises foreign bribery, please provide references to the relevant provisions and/or the full text, if possible.*
- *If your jurisdiction does not have a foreign bribery offence:*
 - Please note whether an offence has been "drafted", "submitted for government review", or "adopted but not yet entered into force".
 - Please provide a timeline for the entry into force of draft legislation, where applicable.

Response:

Yes.

Section 3 of the *Corruption of Foreign Public Officials Act* (CFPOA) provides:

3. (1) Every person commits an offence who, in order to obtain or retain an advantage in the course of business, directly or indirectly gives, offers or agrees to give or offer a loan, reward, advantage or benefit of any kind to a foreign public official or to any person for the benefit of a foreign public official

(a) as consideration for an act or omission by the official in connection with the performance of the official's duties or functions; or

(b) to induce the official to use his or her position to influence any acts or decisions of the foreign state or public

international organization for which the official performs duties or functions.

(2) Every person who contravenes subsection (1) is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.

(3) No person is guilty of an offence under subsection (1) if the loan, reward, advantage or benefit

(a) is permitted or required under the laws of the foreign state or public international organization for which the foreign public official performs duties or functions; or

(b) was made to pay the reasonable expenses incurred in good faith by or on behalf of the foreign public official that are directly related to

(i) the promotion, demonstration or explanation of the person's products and services, or

(ii) the execution or performance of a contract between the person and the foreign state for which the official performs duties or functions.

(4) For the purpose of subsection (1), a payment is not a loan, reward, advantage or benefit to obtain or retain an advantage in the course of business, if it is made to expedite or secure the performance by a foreign public official of any act of a routine nature that is part of the foreign public official's duties or functions, including

(a) the issuance of a permit, licence or other document to qualify a person to do business;

(b) the processing of official documents, such as visas and work permits;

(c) the provision of services normally offered to the public, such as mail pick-up and delivery, telecommunication services and power and water supply; and

(d) the provision of services normally provided as required, such as police protection, loading and unloading of cargo, the protection of perishable products or commodities from deterioration or the scheduling of inspections related to contract performance or transit of goods.

(5) For greater certainty, an "act of a routine nature" does not include a decision to award new business or to continue business with a particular party, including a decision on the terms of that business, or encouraging another person to make any such decision.

Amendments to the CFPOA were adopted in 2013, which will eliminate facilitation payments as an exception to s. 3 of the CFPOA.

Note 2: For questions 2 through 11, jurisdictions without a foreign bribery offence should include updates on plans to address the following issues in efforts to establish the criminalisation of foreign bribery and a framework for enforcing this offence.

2. What is the statute of limitations for investigating and prosecuting foreign bribery? Please indicate the criteria for suspension, interruption or extension of the statute of limitations?

Response:

In Canada, no statute of limitations applies to s. 3 of the CFPOA.

3. Please describe the form of jurisdiction available over the foreign bribery offence (i.e. territorial or nationality jurisdiction).

Response:

The CFPOA provides for nationality jurisdiction with regard to the foreign bribery offence. It allows Canada to prosecute foreign bribery by Canadians or Canadian companies regardless of where the bribery takes place. This amendment received Royal Assent on 19 June 2013.

Territorial Jurisdiction

Canada's territorial jurisdiction applies when the offence is committed in whole or in part in its territory. To be subject to the jurisdiction of Canadian courts, a significant portion of the activities constituting the offence must take place in Canada. There is a sufficient basis for jurisdiction where there is a real and substantial link between the offence and Canada. In making this assessment, the court must consider all relevant facts that happened in Canada that may legitimately give Canada an interest in prosecuting the offence. Subsequently, the court must then determine whether there is anything in those facts that offends international comity. (See *R. v. Libman* (1985), 21 C.C.C. (3d) 206 (S.C.C.))

Nationality Jurisdiction

Pursuant to s.5 of the CFPOA, Canada has jurisdiction over the s. 3 CFPOA offence when it is committed outside Canada by a Canadian citizen, or by a permanent resident as defined in Canada's *Immigration and Refugee Protection Act* and who is present in Canada after the commission of the act or omission, or by a public body, corporation, society, company, firm or partnership that is incorporated, formed or otherwise organized under the laws of Canada or a province.

4. Please indicate whether your jurisdiction has a corporate liability regime for the offence of foreign bribery.

If your jurisdiction does not have a corporate liability regime for the offence of foreign bribery, please provide a timeline for implementation of corporate liability.

Response:

Yes.

5(a) Please describe the sanctions and confiscation measures available for natural and legal persons for the crime of foreign bribery.

5(b) Please provide the number of criminal, administrative, and civil cases of foreign bribery that have resulted in a final disposition, and indicate (i) how many of these cases have resulted in a criminal conviction or acquittal, or similar findings under an administrative or civil procedure, and (ii) the number of natural and legal persons who have been convicted or otherwise sanctioned.

- *Where possible, please provide references to the relevant provisions and/or the full text, if possible.*

Response:

(a) A s. 3 CFPOA offence is an indictable offence with a maximum term of imprisonment of 14 years (natural persons) and unlimited fines (both natural and legal persons). A fine in respect of a conviction for a s. 3 CFPOA offence can be in whatever amount the sentencing court considers appropriate as a fit sentence. Other sanctions could include probation orders. The courts can also order the confiscation of any proceeds of crime derived from the commission of the CFPOA offence where the accused has been convicted of that offence.

(b) Four criminal convictions pursuant to the CFPOA as follows:

Total legal persons: 3

Total natural person: 1 (Duration: 3 years' imprisonment)

Total fines: Slightly less than \$20 million

B. Effective detection and domestic coordination

In your jurisdiction:

6. What steps have been taken to engage with relevant agencies, such as overseas missions, broader tax administrations, trade promotion, public procurement and export credit agencies, as well as with the private sector, on issues related to implementation and enforcement of the foreign bribery offence? Where possible, please cite specific examples.

Response:

A number of federal departments, agencies and Crown corporations play key roles in Canada's fight against foreign bribery. In order to ensure a whole-of-government approach to meeting Canada's international anti-corruption obligations, these organizations work in close cooperation in Canada's two-pronged strategy to combat foreign bribery: enforcement and prevention.

Canada's Royal Canadian Mounted Police (RCMP) has investigatorial discretion and exclusive jurisdiction to investigate cases of foreign bribery involving Canadians and Canadian companies. The RCMP has the capability to track all CFPOA cases being handled nationally and expects that credible allegations reported to other law enforcement agencies or other Canadian officials, including those in foreign missions, will continue to be reported to the RCMP as the law enforcement body with exclusive authority to lay charges under the CFPOA.

Further, internally, the RCMP includes the issue of foreign bribery and the CFPOA in its training of all RCMP liaison officers prior to departure for overseas assignments. Having a specific session about the corruption of foreign public officials is designed to raise awareness of the RCMP's responsibility among liaison officers. To this end, the RCMP has participated in numerous international anti-corruption awareness programs and training. In addition, orientation manuals have been developed covering the CFPOA and the various contacts and their roles. The establishment in 2010 of a logic model and measurements for officers involved complements these training efforts and promotes teamwork. Focal points of contact have been established between the RCMP and the Department of Justice's International Assistance Group in order to ensure that priority is given to requests for mutual legal assistance in foreign bribery matters. The establishment of procedures and mechanisms for information sharing about suspected cases of bribery have been prioritized.

Due to the specialized nature of its work, the RCMP complements its international anti-corruption training by developing educational resources for external partners, including but not limited to Canadian missions abroad. The RCMP has a robust outreach and education program to educate both the general public, as well as the private sector on issues related to implementation and enforcement of the foreign bribery offences. The RCMP teams that are responsible for these investigations collaborate with local universities to provide lectures to MBA students on offences under the *Criminal Code* and CFPOA. This has since been advanced to include projects at certain universities directly related to the perils of foreign bribery.

Foreign bribery-related information is also included on the RCMP's internal and external websites. To further promote awareness of RCMP activities to prevent and combat corruption, the RCMP also reaches out to the media to discuss its work.

Other recent examples include a presentation to the Canadian Shanghai Chamber of Commerce in conjunction with Canadian trade mission in Shanghai China on the recent amendments to the CFPOA and the RCMP's authority to investigate extra-territorially. Presentations to the Association of Certified Anti-Money Laundering Specialists, the Canadian Institute, as well as officials from other governments are part of the RCMP's ongoing awareness raising activities.

Canada's financial intelligence unit, FINTRAC, is legally obligated to refer reasonable suspicions (i.e. where there are "reasonable grounds to suspect") of violations of a money laundering offence or a terrorist activity financing offence to the RCMP, pursuant to subsection 55(3) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. Suspected domestic and foreign bribery offences are referred to the RCMP.

Canada's Public Prosecution Service of Canada (PPSC) has prosecutorial discretion and is an independent federal government organization that fulfills the responsibilities of the Attorney General of Canada in the discharge of a criminal law mandate to prosecute criminal offences under federal jurisdiction

(found in more than 50 federal statutes) such as the bribery of foreign public officials and money laundering and proceeds of crime, and for providing prosecution-related legal advice to law enforcement agencies. To ensure a standard approach to the prosecution of offences under the CFPOA, the PPSC has established a subject-matter expert position located in Ottawa for international corruption cases. The subject-matter expert has developed linkages with the RCMP and with other key government interlocutors involved with the enforcement and development of the CFPOA. The PPSC and RCMP have also made presentations and actively participated on panels to raise awareness on Canada's anti-bribery activities.

Further, in March 2010, Canada's DFATD adopted the *Policy and Procedure for Reporting Allegations of Bribery abroad by Canadians or Canadian Companies*, which instructs Canadian missions on the steps that must be taken where allegations arise that a Canadian company or individual has bribed a foreign public official or other bribery-related offences. The Policy brings together earlier policies and practices in the area which had formed the basis of training on the subject for all trade commissioners since 2004. Under this Policy, information in the possession of DFATD officials, including those in foreign representations and overseas trade commissions, any information received regarding suspected bribery of foreign public officials is forwarded to law enforcement officials in accordance with established procedures.

Internally, DFATD continues to provide information and training to its Heads of Mission, Trade Commissioners, and Political Officers on the CFPOA and Canada's international obligations to prevent and combat corruption. In addition, DFATD's personnel at Canadian missions work closely with Canadian companies doing business abroad through the provision of a range of services and support. In this respect, DFATD play a key role in the prevention of foreign bribery through making Canadian clients aware of their obligations under the CFPOA, and through the active promotion of Corporate Social Responsibility (CSR). DFATD also plays a lead role in representing Canada in outreach efforts with emerging economies regarding corruption and at international anti-corruption forums and in coordinating Canada's whole-of-government approach to meeting its international anti-corruption obligations.

The *International Assistance Protocol for Dealing with Allegations of Corruption* associated with funding by DFATD includes specific internal procedures for a thorough assessment of the allegations so that senior management can ascertain whether corrupt practices have occurred and decide on corrective measures, including referral to the RCMP and legal termination of a contract or an agreement due to default. To this end, Canada's international development assistance has principles and guidelines, approved in December 2009, for the conduct of investigations of fraud, corruption and wrongdoing, including disclosures of wrongdoing made by public servants.

In addition, the Government of Canada has in place a policy that requires entities wishing to enter into a contract or contribution agreement with DFATD to declare previous corruption-related convictions and sanctions and to confirm that, in the three years prior to signing a contract or contribution agreement, they have not been convicted of, and are not under sanction for, any corruption-related offence. If an entity has been convicted or is under sanction, it will not be eligible to bid or receive project funding until their eligibility status changes.

Canada also participates actively in the OECD Development Assistance Committee (DAC) Task Force on Procurement, supporting procurement-related commitments of the Paris Declaration and the Accra Agenda for Action. The Task Force on Procurement is continuing the work related to the Methodology for Assessment of Procurement Systems (MAPS), a common tool being used to establish reliable baseline data on the quality of country procurement systems, including specific anti-corruption measures.

Further, Canada's Public Works and Government Service Canada (PWGSC) is committed to protecting taxpayers from fraudulent companies who seek to do business with the Government of Canada. In accordance with the Government's commitment to strengthening accountability in procurement and real property transactions, PWGSC has implemented measures that restrict suppliers convicted of bribing a foreign public official from being awarded a contract. Effective 11 July, 2012, the list of offences that render companies and individuals ineligible to bid on contracts includes *inter alia* money laundering, participation in activities of criminal organizations, income and excise tax evasion, bribing a foreign public official. These measures, including restrictions related to bribery of a foreign public official, apply to all PWGSC solicitations and real property transactions, and will also allow PWGSC to terminate future contracts and leases with companies or individuals that are convicted before the end of their contract or lease.

Moreover, Canada amended its *Government Contracts Regulations* in September 2011 to improve the fairness, openness and transparency of government contracting by deeming certain integrity clauses in all federal government bid solicitation documents and procurement contracts. The deemed terms include a declaration that the bidder has not been convicted under section 121, 124 or 418 of the *Criminal Code*, and a requirement that a contractor return any advance payments and provision of the contractor's consent that the Government may cancel the contract in the event of non-compliance with a deemed term.

With respect to export credits, Export Development Canada's (EDC) policy statement with respect to bribery is set out in its *Code of Business Ethics*. The Code was strengthened in 2012 to place emphasis on EDC's obligation to undertake anti-corruption due diligence on transactions involving parties convicted of corruption. EDC also has in place *Anti-Corruption Policy Guidelines*, which outline measures that EDC will apply to combat corruption, such as possible notification to law enforcement authorities, and refusal to provide support where, in EDC's opinion, there is credible evidence that bribery was involved in a transaction. Exporters are also required to sign anti-corruption declarations.

EDC has devoted an entire page on its website to corruption and bribery, including links to the CFPOA, the Convention, and the *OECD Recommendation on Bribery and Officially Supported Export Credits*. EDC also has an anti-corruption brochure that is systematically distributed to all new customers with a cover letter from its President and CEO. EDC continues to seek opportunities to educate customers about corruption through various means.

Canada's Fourteenth Annual Report to Parliament on its fight against foreign bribery can be found at: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/corr-14.aspx?lang=eng>

7(a) Are appropriate reporting channels available for whistleblowers in both the private and public sectors?

7(b) Are appropriate protections available for whistleblowers in both the private and public sectors?

*Where possible, specific reference should be made to implementation of the G20 Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation.*¹

Response:

(a) The *Public Servants Disclosure Protection Act* (PSDPA), which came into force in 2007, gives federal public sector employees a secure and confidential process for disclosing allegations of serious wrongdoing in the workplace, as well as protection from acts of reprisal. The PSDPA also commits the government to promote ethical practices in the public sector. The PSDPA provides legislated processes for reporting wrongdoing and strong legislated reprisal protections for employees who make disclosures. Employees can choose to make a disclosure to their supervisor, their Senior Officer for Disclosure within their own organization, or directly to the Public Sector Integrity Commissioner. The Public Sector Integrity Commissioner is a neutral third party, reporting directly to Parliament. The PSDPA covers all employees in federal departments and agencies, most Crown corporations and the RCMP. The PSDPA also provides protection for people outside the public sector (such as external contractors) when they provide information about wrongdoing in, or related to, the federal public sector.

(b) The *Criminal Code* was amended in 2005 to introduce a new offence of retaliation against employees for reporting a workplace offence. Canada has enacted a *Criminal Code* (such as subsection 425.1(1)) offence of threatening or retaliation against employees (in both the public and private sectors) for reporting a workplace offence. Canada has also made important progress encouraging the reporting of CFPOA violations. Agencies in the public administration have adopted guidelines on reporting CFPOA violations to law enforcement authorities.

¹ Available online here: <http://www.oecd.org/corruption/48972967.pdf>

C. Effective investigation and prosecution

In your jurisdiction:

8(a) Please describe the investigative powers granted to law enforcement authorities to proactively and effectively investigate and prosecute foreign bribery.

8(b) Please describe the specialized training on detecting, investigating and prosecuting foreign bribery provided and/or planned to be provided to law enforcement authorities.

Response:

8(a) The Royal Canadian Mounted Police (RMCP) has investigatorial discretion and exclusive jurisdiction to investigate cases of foreign bribery involving Canadians and Canadian companies.

8(b) As part of its specialized training, the RCMP provides various practical courses to assist in developing effective teams to investigate all types of white collar crime, such as the bribery of foreign public officials. These courses include, but are not limited to, the management of major cases, investigative techniques, and interviewing.

The Public Prosecution Service of Canada (PPSC) has prosecutorial discretion and is an independent federal government organization that fulfills the responsibilities of the Attorney General of Canada in the discharge of his criminal law mandate by prosecuting criminal offences under federal jurisdiction—found in more than 50 federal statutes—such as the bribery of foreign public officials and money laundering and proceeds of crime, and for providing prosecution-related legal advice to law enforcement agencies. The PPSC reports directly to Parliament through the Attorney General of Canada.

Established in 1997, the School for Prosecutors is an in-house legal training program for federal prosecutors administered by the PPSC. A number of courses are offered annually in which a combination of lectures, seminars, panel discussions, and small group and workshop sessions (supported with written training materials) are used to enhance course participants’ understanding of the practice of criminal law. In addition to providing formal legal training, the School is also a forum for participants to meet, network, develop mentoring relationships, and enhance their sense of identity as federal prosecutors. The core faculty of the School is made up of experts in criminal law, and is mostly 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, university professors, senior defence counsel, and experienced police investigators, also regularly instruct at the School. The School also provides quarterly meetings of and training presentations to all Chief Federal Prosecutors.

In addition, specialized training in relation to the CFPOA has also been provided internally to designated contacts in each of the PPSC’s regional offices. These contacts, who are generally senior prosecutors, act as local points of contact and coordinators in relation to CFPOA matters as they arise for prosecution. Presentations have also been made to its Regional Directors in order to increase awareness of the Convention, the CFPOA, and the current activities of the RCMP and the PPSC in this area. The PPSC has also made presentations and actively participated on panels to raise awareness on Canada’s anti-bribery activities.

9(a) Please describe the procedures in place for ensuring prompt and effective handling of outgoing and incoming mutual legal assistance requests in relation to foreign bribery cases.

9(b) Please describe how informal assistance is encouraged, in conformity with your jurisdiction’s legal system.

Where possible, specific reference should be made to implementation of the G20 High-Level Principles on Mutual Legal Assistance.²

Response:

² Available online here: <http://www.oecd.org/g20/topics/anti-corruption/High-Level-Principles-on-Mutual-Legal-Assistance.pdf>

(a) Canada continues to take appropriate measures to provide MLA in corruption-related matters. The International Assistance Group within Canada’s Department of Justice is Canada’s central authority for extradition and mutual legal assistance in criminal matters. To ensure the management and development of best practices, it continues to maintain a single point of contact for all corruption-related mutual legal assistance requests. The contact point also works closely with the PPSC and the RCMP to process incoming and outgoing mutual legal assistance requests relating to corruption. In addition, Canada has prepared a guide on MLA in criminal matters. Where an MLA request is deficient, Canada will, as a matter of practice, respond to the requesting country to clarify what information is required and provide a description of Canada’s MLA requirements.

Pursuant to the *Mutual Legal Assistance in Criminal Matters Act*, R.S.C. 1985, c. 30 (4th Supp.) Canada can effectively respond to requests for mutual legal assistance made under a bilateral treaty or a multilateral convention. Similarly, pursuant to bilateral treaties or multilateral conventions, Canada may make requests, on behalf of Canadian competent authorities, to foreign states for mutual legal assistance.

(b) The RCMP and the Department of Justice’s International Assistance Group collaborate regularly to ensure that priority is given to requests for mutual legal assistance in foreign bribery matters. The establishment of procedures and mechanisms for information sharing about suspected cases of bribery have been prioritized. Where possible, and in accordance with the legal systems of Canada and other states, police-to-police information sharing is encouraged.

In addition, the Department of Justice updated a paper entitled “Canadian Public Integrity and Anti-Corruption Measures”, now available in English, French, Spanish and Portuguese, which highlights innovative Canadian approaches that may be of particular interest to other countries. Department of Justice officials continue to give presentations on the CFPOA, as well as on anti-corruption activities.

Further, Canada has also helped to raise awareness globally by supporting audit, transparency and anti-corruption work in partner countries and regions. In its international assistance, Canada supports awareness-raising work of international bodies such as the OECD DAC GOVNET and the Ulstein Group, as well as international organization such as Transparency International and its country chapters, and the Global Organization of Parliamentarians Against Corruption (GOPAC).

II. Implementation of Foreign Bribery Provisions in the 2012-2013 G20 Anti-Corruption Action and the St Petersburg Declaration

Note 3: This section of the questionnaire is drafted from the 2012-2013 G20 Anti-Corruption Action Plan and the St. Petersburg Leaders’ Declaration. It also seeks updates from G20 countries on next steps for fighting foreign bribery.

10. Please specify next steps for continuing “efforts to adopt and enforce laws and other measures against foreign bribery”.³

Response:

Significant amendments to the CFPOA by way of Bill S-14, entitled the *Fighting Foreign Corruption Act*, were tabled in Parliament in February 2013 and received Royal Assent on 19 June 2013. In sum, it did the following:

- increased the maximum for prison sentences for offences under the CFPOA from five to 14 years;
- created a new books and records keeping offence (It is an offence to maintain or destroy books and records to facilitate or hide the bribing of a foreign public official. Laundering property and proceeds of such bribery, as well as possession of property and proceeds, are already offences under Canada’s *Criminal Code*. The penalties for the new offence mirror those for the foreign bribery offence (i.e., a maximum of 14 years imprisonment and unlimited fines).

³ G20 Anti-Corruption Action Plan 2013 – 2014, Point 2.

- introduced nationality jurisdiction to allow the Government of Canada to exercise jurisdiction over Canadian citizens, permanent residents, and Canadian companies who commit offences under the CFPOA on the basis of nationality or residency, regardless of where the offences have taken place;
- gave the Royal Canadian Mounted Police (RCMP) the exclusive authority to lay charges under the CFPOA;
- on a day to be fixed by order of the Governor in Council, provided for the removal of the facilitation payment exception that exempts payments made to officials to secure the performance of acts of a routine nature, and
- clarified that the offence of bribing a foreign public official applies to business transactions regardless of profit.

As part of Canada's efforts to encourage responsible business conduct, our amendments received overwhelming support within both Houses of Parliament by making it clear that Canadian companies operating overseas are expected to abide by the laws of those countries, as well as to act in accordance with applicable Canadian laws and ethical standards and practices.

Canada continues to take significant steps to strengthen the CFPOA to further deter Canadian companies and persons from paying bribes to foreign public officials in the course of business. As part of these changes, the Government of Canada has been conducting outreach to enhance awareness and to encourage companies to adopt measures that can effectively implement their legal obligations with a zero-tolerance approach to the bribery of foreign public officials. Following such outreach, measures will be taken to give effect to the elimination of facilitation payments as provided for in the Bill, which received Royal Assent in June 2013. The conduct of our outreach is ongoing. This time will allow organizations time to undertake a review of their anti-corruption and accounting policies, practices, and procedures to ensure compliance with the amendments to the CFPOA.

Economic Action Plan 2014 Act, No. 1 (Bill C-31), which was tabled in the House of Commons on 28 March 2014 and received Royal Assent on 19 June 2014, contains an amendment to section 241 of the *Income Tax Act*, section 211 of the *Excise Act, 2001* and section 295 of the *Excise Tax Act* to permit the disclosure by a government official of taxpayer information to a law enforcement officer of an appropriate police force (domestic or foreign) where there are reasonable grounds to believe that the information will afford evidence of a listed offence.

It is Canada's income tax treaty policy to seek the inclusion of the last sentence of paragraph 2 of Article 26 of the *OECD Model Tax Convention* in the course of negotiating new income tax conventions and renegotiating existing income tax conventions.

In 2004, Canada signed the *Convention on Mutual Administrative Assistance in Tax Matters* (CMAATM), which contains language similar to that found in paragraph 2 of Article 26 of the *OECD Model Tax Convention*. In November 2011, Canada signed the *Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters*. Canada needed to implement certain legislative amendments to its tax laws before being able to give full effect to the CMAATM and its Protocol. These legislative amendments received Royal Assent on 26 June 2013. The CMAATM was ratified by Canada on 21 November 2013, and is in effect, in respect of Canada, as of 1 March 2014.

Under the CMAATM, Canada will exchange tax information pursuant to the OECD standard with other Parties to the CMAATM. Pursuant to reservations, Canada will not under the CMAATM be obligated to collect taxes on behalf of another country, nor provide assistance in the service of related documents. Canada will instead continue to negotiate a provision on assistance in the collection of taxes on a bilateral basis, and has agreed to include such a provision in certain of its bilateral tax treaties.

The Government of Canada and all provinces deny the tax deductibility of outlays made or expenses incurred in the bribery of foreign public officials. Canada's tax collection authority has been developing specific training for its tax auditors and has been working with the OECD's Task Force on Tax Crimes and Other Crimes on the revisions to the *Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors*. The revised Handbook has been released and was made available on the OECD website on 7 November 2013. Work is currently under way to finalize the incorporation of related information into training manuals and training programs specific to tax auditors. Additional awareness raising activities

have been planned, and hyperlinks to the OECD website have been added to the internal website.

In 2013, Canada committed to consult on the issue of corporate transparency and in Canada's G8 Action Plan on the Transparency of Corporations and Trusts. In early 2014, a public consultation was launched with respect to the *Canada Business Corporations Act* (CBCA) to help identify ways in which the CBCA can better promote important policy objectives, such as assessing the adequacy of corporate governance legislation in preventing bribery and corruption, increasing diversity on corporate boards, and enhancing the ability of authorities to access information on corporate beneficial ownership (i.e., increasing transparency of the ownership of corporations to help ensure that they are not used for tax evasion, money laundering or terrorist financing). This consultation was also undertaken to ensure that the governance framework for CBCA corporations remains effective, fosters competitiveness, supports investment and entrepreneurial activity, and instills investor and business confidence. Public consultations concluded on 15 May 2014, and input received will be considered and shared within government as part of this ongoing initiative.

11. Please specify next steps for engagement with the OECD Working Group on Bribery with a view to explore possible adherence to the OECD Anti-bribery Convention as appropriate.

Specifically and where applicable, please indicate any plans to:

- Attend meetings of the WGB in 2014;
- Co-organize or attend meetings on foreign bribery; and/or
- Engage in technical assistance activities on the issue of implementation and enforcement of the foreign bribery offence;
- Open discussion for Membership in the WGB, with a view to acceding to the OECD Anti-Bribery Convention.

Response:

Canada is one of the 19 founding members of the OECD, and on 17 December 1997, Canada signed the *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* of the Organisation for Economic Co-operation and Development (OECD Anti-Bribery Convention). Parliament passed the *Corruption of Foreign Public Officials Act* (CFPOA) to implement Canada's obligations under the OECD Convention into Canadian law. With the adoption of the CFPOA, which received Royal Assent on 10 December 1998, the Government of Canada deposited its instrument of ratification with the OECD on 17 December 1998, thereby becoming a party to the Convention. The CFPOA came into effect on 14 February 1999. The OECD Convention came into force on 15 February 1999, following Canada's ratification.