



**Conference of the States Parties
to the United Nations
Convention against Corruption**

Distr.: General
13 February 2014
Original: English

Implementation Review Group
Fifth session
Vienna, 2-6 June 2014
Item 2 of the provisional agenda*
**Review of implementation of the United Nations
Convention against Corruption**

Executive summary

Note by the Secretariat

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* CAC/COSP/IRG/2014/1.



II. Executive summary

Canada

1. Introduction: Overview of the legal and institutional framework of Canada in the context of implementation of the United Nations Convention against Corruption

Canada signed the Convention on 21 May 2004 and ratified it on 2 October 2007. Canada deposited its instrument of ratification with the Secretary-General on 2 October 2007.

Canada is a federal state comprising 10 provinces (Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan) and three territories (Northwest Territories, Yukon and Nunavut). While the ratification of international treaties falls under federal jurisdiction, their implementation, where necessary, includes the participation of all levels of government. As a State party that follows a dualist tradition for implementing its treaty obligations, a treaty cannot as a general rule be invoked as a source of law in a Canadian court unless it has been transformed or implemented into Canadian law, usually by legislation.

Canada is a constitutional democracy. The Constitution provides for the division of powers among levels of government and guarantees the sovereignty of Parliament, subject to the limitations expressed in various constitutional instruments, including the Constitution Act 1867, the Constitution Act 1982 and any constitutional conventions that have developed over time. The Constitution also ensures an independent judiciary that can act as the final interpreter of laws.

The Canadian Charter of Rights and Freedoms guarantees enumerated rights and freedoms subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. In particular, the Charter provides that everyone has the freedom of conscience and religion; freedom of thought, belief, opinion and expression, including the freedom of the press and other media of communication; freedom of peaceful assembly; and freedom of association. It also includes democratic rights, mobility rights, legal rights and equality rights. The Constitution is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is of no force or effect.

Canada implements its obligations under the United Nations Convention against Corruption through a variety of laws, listed below.

- *Criminal Code* (R.S.C., 1985, c. C-46)
[<http://laws-lois.justice.gc.ca/eng/acts/C-46/index.html>]
- *Corruption of Foreign Public Officials Act* (S.C. 1998, c. 34) (“CFPOA”)
[<http://laws-lois.justice.gc.ca/eng/acts/C-45.2/index.html>]
- *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*
(S.C. 2000, c. 17) [<http://laws-lois.justice.gc.ca/eng/acts/P-24.501/index.html>]
- *Mutual Legal Assistance in Criminal Matters Act* (R.S.C., 1985, c. 30
(4th Supp.)) [<http://laws-lois.justice.gc.ca/eng/acts/M-13.6/index.html>]

- *Extradition Act* (S.C. 1999, c. 18)
[<http://laws-lois.justice.gc.ca/eng/acts/E-23.01/index.html>]
- *Freezing Assets of Corrupt Foreign Officials Act* (S.C. 2011, c. 10)
[<http://laws-lois.justice.gc.ca/eng/acts/F-31.6/index.html>]
- *Freezing Assets of Corrupt Foreign Officials (Tunisia and Egypt) Regulations* (SOR/2011-78) [<http://laws-lois.justice.gc.ca/eng/regulations/SOR-2011-78/index.html>]
- *The Witness Protection Program Act* (S.C. 1996, c. 15)
[<http://laws-lois.justice.gc.ca/PDF/W-11.2.pdf>]

Specialized services responsible for combating economic crimes and corruption have been established in the Royal Canadian Mounted Police (“RCMP”). In February 2005, the RCMP appointed a commissioned officer to provide functional oversight of all RCMP anti-corruption programmes. The corruption of foreign public officials is specifically referenced in the RCMP Commercial Crime Program’s mandate, which includes major fraud cases and corruption offences.

In 2008, the RCMP established the International Anti-Corruption Unit, which comprises two seven-person teams based in Ottawa and Calgary. This structure is currently undergoing a reorganization process to make available additional resources and expertise in the investigation of corruption and other complex cases in the newly established Sensitive Investigations Unit. The Unit’s mandate will include carrying out investigations of the CFPOA of Canada, related criminal offences and assisting foreign enforcement agencies or governments with requests for international assistance (asset recoveries and extraditions).

The RCMP also promotes its work by developing educational resources for external partners using information pamphlets and posters that describe the RCMP’s work and the negative effects of corruption for distribution and presentation to Canadian missions abroad.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Bribery of public officials is made a criminal offence in various provisions of the Criminal Code, depending on the form of the bribery transaction, and includes both active and passive bribery. This legal framework was found to be in compliance with article 15 of the Convention. The definition of official contained in section 118 is broad in scope, and includes persons who perform a “public duty”.

Bribery of foreign public officials, is addressed in the CFPOA, referenced above. The CFPOA also makes it possible to prosecute a conspiracy or attempt to commit such bribery, as well as aiding and abetting in committing bribery, an intention in common to commit bribery, and counselling others to commit bribery. Amendments to the CFPOA were adopted in 2013 that, among other things, expanded jurisdiction, increased penalties and will eliminate facilitation payments as an exception to the prohibition on bribery.

Sections 121, 122 and 123 of the Criminal Code make active and passive trading in influence a criminal offence which meets the requirements of article 18 of the Convention against Corruption.

Active and passive bribery in the private sector is made criminal under paragraph 426 of the Criminal Code, and meets the requirements of article 21 of the Convention against Corruption.

Money-laundering, concealment (arts. 23 and 24)

Section 462.31 of the Criminal Code makes it an offence to use, transfer, send, transport, transmit, alter, dispose of or otherwise deal with any property or proceeds of any property — with intent to conceal or convert that property or proceeds — knowing or believing that all or part of the property or proceeds was obtained or derived from a designated criminal offence. This also applies to acts or omissions taking place outside of Canada that, if they had occurred in Canada, would have constituted a designated predicate offence. Section 462.3 of the Criminal Code defines “designated offence” to include any potentially indictable offence. The maximum penalty for the money-laundering offence is ten years imprisonment.

Sections 354 and 355 of the Criminal Code make it an offence to possess property or proceeds derived from an indictable offence. Provisions noted below regarding aiding and abetting, attempt and conspiracy apply to money-laundering. A person can be convicted of both the offence of money-laundering and the underlying offence.

Canada officially furnished copies of its money-laundering legislation to the Secretary-General of the United Nations on 2 October 2007.

Criminal concealment is addressed in sections 354 and 462.31 of the Criminal Code, which meet the requirements of the Convention.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Embezzlement is addressed in sections 322, 334, 336 and 380 of the Criminal Code covering theft and fraud offences. These provisions address embezzlement in both the public and private sectors.

Canada reported that section 122 of the Criminal Code concerning “fraud or a breach of trust” by a public official applies to all conduct constituting abuse of functions under article 19 of the Convention against Corruption.

Canada considers the criminal offence of illicit enrichment to be contrary to the fundamental principles of its legal system, the Constitution of Canada and the Canadian Charter of Rights and Freedoms. Canada therefore made a reservation in relation to article 20 when ratifying the Convention.

Obstruction of justice (art. 25)

Canada reported that section 139 of the Criminal Code, that makes criminal the wilful attempt “in any manner ... to obstruct, pervert, or defeat the course of justice” includes any act that dissuades or attempts to dissuade a person, though threats, bribes or other means, from giving evidence. Section 423.1 prohibits any act that interferes with the administration of justice against a “justice system

participant.” This term is defined in section 2, and applies broadly, including attorneys, judges, jurors, peace officers and law enforcement, judicial administration and other public sector employees.

Section 129 of the Criminal Code makes it a crime to resist or obstruct a public officer or a peace officer in the performance of official duties. In addition, it is a crime to fail, without reasonable excuse, to assist a peace officer in making an arrest or preserving the peace.

Liability of legal persons (art. 26)

Section 22.2 of the Criminal Code extends criminal liability to legal persons, including public bodies, for offences committed on their behalf by their senior officers or representatives. These officers and representatives are further defined in section 2. Such liability does not prejudice the criminal liability of natural persons who commit the same offence.

Punishment includes fines or other monetary penalties. In addition to the imposition of a fine, a sentencing court may also make a probation order against an organization, which may include conditions (section 732.1).

Participation and attempt (art. 27)

Sections 21 and 22 of the Criminal Code extend liability to anyone who aids, abets, counsels, solicits or incites a criminal offence. Section 463 of the Criminal Code makes criminal the attempt to commit a criminal offence. Section 465 of the Criminal Code makes criminal the conspiracy to commit a criminal offence. Preparation to commit a criminal offence is not criminalized except to the extent that it constitutes an attempt.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Under the Criminal Code, punishment is imposed in proportion with the gravity of the offence and the degree of responsibility of the offender, including ranges for both imprisonment and fines. The reviewers found that the corruption offences established in accordance with the Canadian legislation are liable to sanctions that take into account the gravity of these offences. Certain aggravating factors may apply, such as the status of the public official or the extent of the corruption activity. In some cases, mandatory minimum periods of incarceration apply.

Although functional immunities apply to certain categories of public officials, including parliamentarians, judges, prosecutors and members of some administrative bodies, these immunities are not a barrier to criminal investigation or prosecution relating to corruption. Public officials as “Crown agents” may be immune from personal liability for acts taken in furtherance of the public purposes that they are statutorily empowered to pursue, but this immunity does not extend to acts taken outside the lawful ambit of their agency.

Canadian prosecutors exercise a wide range of discretion in carrying out their duties in the public interest and are obliged to exercise independent judgement. Guidance is provided in the Public Prosecution Service of Canada Deskbook as well as in confidential practice directives.

The Criminal Code sets forth measures to be taken with regard to the detention and conditional release of persons being prosecuted, taking into account the need to ensure public safety and the accused's appearance at subsequent proceedings. The Corrections and Conditional Release Act requires the Parole Board to consider the gravity of the offence, among other things, in the decision to grant parole.

A public servant who has been accused of any criminal offence (including corruption) may be removed, suspended or reassigned by the deputy head of the organization depending on the nature and seriousness of the alleged offence and pending the outcome of the investigation into the allegation. In addition, the Criminal Code provides that natural or legal persons convicted of certain corruption-based offences may not contract with the government, or receive any benefit under a contract between the government and any other person. Such natural persons are also prohibited from holding public office. Under the Corrections and Conditional Release Act, the protection of society and the reintegration of offenders into society are main purposes of the federal correctional system and the Parole Board.

Regarding cooperation with law enforcement, measures exist to permit cooperating offenders to avoid prosecution in exchange for testimony and other assistance, including the identification of criminal proceeds. Further, plea bargains, reduced sentences, stays of proceedings and the granting of immunity from prosecution take place in cooperation with legal counsel and the courts in order to obtain cooperation. In practice, courts usually treat cooperation during the investigation or post-arrest phase as a mitigating factor in the determination of an appropriate sentence.

Protection of witnesses and reporting persons (arts. 32 and 33)

Mechanisms exist to protect witnesses, including measures that may be used in court to protect witnesses during their testimony. The Criminal Code authorizes a witness to provide evidence by means of audio or video technology, where deemed appropriate by the court. The federal Witness Protection Program of Canada is administered by the RCMP and provides assistance to persons who are providing evidence or information, or otherwise participating in an inquiry, investigation or prosecution of an offence. Protection measures may include relocation inside or outside of Canada, accommodation, change of identity, counselling and financial support to ensure the witness's security or facilitate the witness's re-establishment to become self-sufficient.

The Criminal Code requires the court to consider a victim impact statement at the time of sentencing an offender. The victim impact statement allows victims to participate in the sentencing of the offender by explaining to the court and the offender how the crime has affected them.

With regard to persons reporting corruption, section 425.1 of the Criminal Code prohibits an employer from demoting, terminating, otherwise affecting or taking disciplinary action against an employee who reports a possible offence under any federal or provincial Act or regulation, either before the report takes place or in retaliation. In addition, the Public Servants Disclosure Protection Act (PSDPA) provides a mechanism for public servants to make disclosures of wrongdoing, and established the office of the Public Sector Integrity Commissioner. The PSDPA also

provides members of the public with protection from reprisal by their employers for having provided, in good faith, information to the Public Sector Integrity Commissioner concerning alleged wrongdoing in the federal public sector. Other protections are available at the provincial level.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

The mechanisms for identification and freezing criminal assets are set forth in the Criminal Code under section 462.3 — Part XII.2 — Proceeds Of Crime. Under section 462.37 of the Criminal Code, the court may order the forfeiture of any property, including property located outside of Canada, that it finds, on a balance of probabilities, is the proceeds of crime and that the offence was committed in relation to that property. If the court does not find that the offence was committed in relation to the property concerned, but finds beyond a reasonable doubt that the property constitutes proceeds of crime, the court can still forfeit the property. In cases where the property cannot be forfeited due to being transferred to a bona fide third party, located outside of Canada or commingled with other property and therefore difficult to divide, the court may order a fine of an equivalent amount. Section 490.1 extends forfeiture to instrumentalities of the offence.

The Seized Property Management Act governs the administration of property frozen, seized or confiscated by the State. It authorizes the Minister of Public Works and Government Services to manage, administer and dispose of property that has been frozen, seized or confiscated.

Bank secrecy does not prevent the prosecutor, upon a court order, to request and obtain financial records relating to the proceeds of crime.

Statute of limitations; criminal record (arts. 29 and 41)

In Canada, there is no statute of limitations for indictable offences, including corruption offences.

Generally, evidence of prior convictions of an accused presented during trial is not permitted. However, where an accused has put his or her character in issue, such convictions may be introduced whether or not the accused testifies. In either case, it is expected that this would include foreign convictions. In addition, evidence of a previous conviction in a foreign state could be introduced in the course of a sentencing hearing.

Jurisdiction (art. 42)

Canada has jurisdiction over the offences established in accordance with the Convention 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.

Canada primarily enforces its law through the exercise of territorial jurisdiction. As a matter of common law, however, Canada may exercise jurisdiction over acts that occur outside of territory when there is a real and substantial link between the offence and Canada. In addition, amendments to the CFPOA authorize jurisdiction over the offence of foreign bribery, deeming the act or omission to have been committed in Canada if the person committing the act is a Canadian citizen, or a

permanent resident and who is present in Canada after the commission of the act or omission, or a public body, corporation, society, company, firm or partnership that is incorporated, formed or otherwise organized under the laws of Canada or a province. These amendments also extended nationality jurisdiction to the new offence (section 4) of establishing off-the-books accounts.

Subsection 7(4) of the Criminal Code extends jurisdiction to an act or omission by public service employees within the meaning of the Public Service Employment Act committed outside Canada that is an offence in that place and that, if committed in Canada, would be an indictable offence.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

Canada has taken several measures to make acts of corruption relevant in legal proceedings. Where a person exercising statutory authority acts for an improper purpose or in bad faith, including acts of corruption, his or her decisions or actions can be challenged in court by way of an application for judicial review. At the federal level, the legal framework governing government contracts includes a number of federal statutes and regulations, international and domestic agreements as well as policies, directives and guidelines, to address corruption, including ineligibility of corrupt individuals, business entities and organizations for further contracts. In addition, a court may order restitution to a victim in a criminal proceeding.

In Canada, measures exist in the civil law to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings claiming compensation from those responsible for the damage. Except in the province of Quebec where the rules of civil liability are set out in the Civil Code of Quebec, the relevant legal rules are provided by the common law.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

As detailed above, Canada has established specialized services at the RCMP in the area of anti-corruption and law enforcement.

Canada has adopted mandatory and voluntary reporting obligations, financial monitoring and outreach activities that raise awareness about corruption matters with the private sector and civil society. Although there is no single text that governs how Canada implements such measures, they are developed and adopted as necessary to encourage cooperation between the private sector and law enforcement. For example, section 40-41 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act established the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), which collects, analyses, assesses and discloses information in order to assist in the detection, prevention and deterrence of money-laundering and of the financing of terrorist activities. In addition, the RCMP has taken strong measures to encourage persons to report offences by preparing and distributing posters and pamphlets as well as developing a website that provides phone numbers to report a crime.

2.2. Successes and good practices

Overall, the following successes and good practices in implementing chapter III of the Convention are highlighted:

- Recent amendments to the CFPOA to expand jurisdiction, increase penalties and eliminate facilitation payments.
- The recent strategic restructuring of the RCMP to increase the efficiency and effectiveness of corruption investigations, public awareness campaigns of the RCMP to facilitate reporting of corruption, and well-established cooperation and sharing of expertise between the RCMP and the Public Prosecution Service of Canada.
- Scope and breadth of provisions of the Criminal Code addressing conspiracy, aiding and abetting, and other participation in the offence.
- Measures for confiscation of assets in cases where they cannot be tied to a particular criminal offence, but are found by the court beyond a reasonable doubt to constitute proceeds of crime.
- The absence of a statute of limitations for indictable offences, including corruption offences.
- Imposition of an equivalent fine in cases where criminal assets cannot be forfeited, with graduated imprisonment penalties upon default.
- Scope and protections provided by the Public Servants Disclosure Protection Act.

2.3. Challenges in implementation

The following steps could further strengthen existing anti-corruption measures:

- In accordance with the recent amendments to the CFPOA, continue efforts to eliminate the exemption for facilitation payments.
- Continue to engage with and involve civil society organizations in public awareness, detection and reporting of corruption cases.
- Continue to consider, in close cooperation with provincial authorities, measures to provide protection against unjustified treatment for any person in the private sector who reports in good faith and on reasonable grounds instances of corruption.
- Continue to consider measures to encourage cooperation between national authorities and entities of the private sector, including the proactive reporting of instances of corruption discovered by the private sector during compliance reviews or other processes.

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition; transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45 and 47)

In Canada, extradition is provided for under bilateral and multilateral agreements to which Canada is party and, in limited circumstances, through a specific agreement under the Extradition Act. Canada has signed 51 bilateral extradition conventions and is also a party to 4 multilateral treaties. Canada also accepts the Convention against Corruption as the legal basis for extradition where it does not have an existing agreement in place with a requesting State party and has informed the Secretary-General of the United Nations accordingly. The Convention has been used as the legal basis for extradition on a number of occasions.

Dual criminality is a prerequisite to grant extradition but a flexible, conduct-based test is applied to this requirement under section 3 of the Extradition Act. In addition, the offence in relation to which extradition is sought must be subject to a punishment of no less than two years, meaning that all acts covered by the Convention against Corruption (with the exception of illicit enrichment, in relation to which Canada made a reservation upon ratification of the Convention) are extraditable offences. Canada permits the extradition of its nationals.

In accordance with article 44, paragraph 4 of the Convention, none of the offences established in accordance with the Convention against Corruption are considered political offences. Canada also meets the requirements of article 44, paragraph 16 of the Convention by not denying extradition requests for the sole reason that they are based on fiscal matters.

Canada has taken effective steps to simplify the evidentiary requirements and procedures in relation to extradition proceedings which has resulted in a more efficient processing of extradition cases. Under the Extradition Act, Canada is able to provisionally arrest an individual in anticipation of a request for extradition.

Under the Canadian Constitution, the Canadian Charter of Rights and Freedoms and the Extradition Act, those subject to an extradition request benefit from due process and fair treatment throughout relevant proceedings. Furthermore, under both existing international agreements and the domestic provisions of the Extradition Act, Canada is required to refuse an extradition request when it is based on motives of a discriminatory nature, such as the race, sex, language, religion or the nationality of the person.

While the transfer of criminal proceedings is not specifically addressed in the domestic legislation of Canada, it was indicated that the discretion available to Canadian prosecution services is exercised so as to facilitate the processing of cases in the most appropriate jurisdiction. Regarding the transfer of sentenced persons, Canada has entered into a wide range of bilateral and multilateral agreements and has demonstrated the effective use of such agreements in practice.

Mutual legal assistance (art. 46)

The Mutual Legal Assistance in Criminal Matters Act is the legislative authority for the provision of mutual legal assistance in Canada, serving to implement bilateral

and multilateral mutual legal assistance (MLA) treaties to which Canada is a party and setting forth the procedure for the execution of foreign requests made to Canada. Canada is presently party to 35 bilateral and 4 multilateral treaties aimed at facilitating mutual legal assistance. Canada also recognizes the Convention against Corruption as a legal basis for mutual legal assistance.

The central authority for mutual legal assistance in Canada is the Department of Justice, International Assistance Group (IAG) and the Secretary-General of the United Nations has been informed of this in accordance with article 46, paragraph 13 of the Convention. The IAG has also established a primary point of contact within its section to ensure that priority is given to requests for assistance in corruption cases for the Convention against Corruption. Canada accepts requests for assistance in both English and French.

Canada does not ordinarily require dual criminality in order to provide mutual legal assistance, including where coercive measures are required. While certain exceptions to this general rule exist in some bilateral treaties, a flexible conduct-based test is applied in such cases. Canada recognized that, due to the constitutional framework in which the MLA process operates, a significant amount of factual information is required from States parties in order to give effect to some types of requests for assistance that require the issuing of a court order, such as the production of bank records or the freezing of assets. It was noted that this had been raised as a concern by some requesting States. Significant steps had been taken by the Canadian authorities, through the production of guidance and other awareness-raising activities, to assist States in meeting these evidentiary requirements.

The grounds on which a mutual legal assistance request may be refused are in accordance with the requirements of the Convention and include where Canada has reasonable grounds to believe that the request has been made for the purpose of punishing a person by reason of their race, sex, sexual orientation, religion, nationality, ethnic origin, language, colour, age, mental or physical disability or political opinion. A request cannot be denied on the basis of bank secrecy or because an offence involves fiscal matters.

The mutual legal assistance that can be provided by Canada under relevant international agreements and domestic legislation cover all forms of assistance referred to in article 46 of the Convention. Such assistance includes the taking of testimonies or statements, providing evidentiary items, tracing and identifying persons, transferring detained persons as witnesses, the execution of freezing or seizure orders, the freezing, seizure and confiscation and the disposal of the proceeds of crime and the recovery of assets.

As a matter of practice, consultations will take place with foreign authorities with a view to completing a request or determining whether and how the request may be executed subject to certain conditions before a decision is taken to refuse a request. Reasons are provided to the requesting State party where Canada does take a decision to refuse a request for mutual legal assistance.

Canada is also able to spontaneously transmit information to other States without a prior request. This can be done on a police-to-police basis, or under international agreements regarding the transmission of information agreed with other State parties. To assist other States in making a request for assistance, Canada has

developed a template request form which can be used when making such a request to Canada.

Under the Mutual Legal Assistance in Criminal Matters Act, evidence in criminal proceedings in another State may be provided by video link or other means of technology that will allow for evidence to be given virtually without the witness being physically present at the hearing.

The costs of the execution of legal assistance are generally borne by Canada when they are giving effect to a request. Costs can however be shared between the requested and requesting State where execution will entail the use of significant resources.

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

FINTRAC has a mandate to exchange financial intelligence with other States parties in relation to money-laundering and terrorist financing. Information received by FINTRAC is shared as appropriate with Canadian police and other designated agencies. Such information can also relate to corruption offences; from 1 April 2010 to 31 March 2011, 34 money-laundering cases, suspected to be related to corruption according to the voluntary information received from law enforcement, were disclosed by FINTRAC to relevant authorities.

To further enhance cooperation in law enforcement, the RCMP has 37 liaison officers deployed worldwide, with this number soon to be expanded. Combined with the establishment of the International Anti-Corruption Team at the RCMP this provides a strong institutional framework for international cooperation in investigations. Furthermore, the RCMP has recently concluded a memorandum of understanding with Australia, the United Kingdom of Great Britain and Northern Ireland and the United States of America on the establishment of an International Foreign Bribery Task Force which will strengthen existing cooperative networks between the participants and outline the conditions under which relevant information can be shared.

The Canadian Criminal Code permits the use of special investigative techniques, including all those specifically referred to in the Convention. The potential for joint investigations is evaluated on a case-by-case basis. They are most often conducted on the basis of a memorandum of understanding or exchange of letters between the RCMP and a foreign agency partner. Such joint investigations can however also be conducted without a formal agreement.

3.2. Successes and good practices

Overall, the following points are regarded as successes and good practices in the framework of implementing chapter IV of the Convention against Corruption:

- Canada adopts a flexible approach to the application of the requirement of dual criminality, applying a conduct-based test under the Extradition Act and making no such requirement in relation to mutual legal assistance.
- Canada accepts a wide variety of legal bases for the extradition of individuals in relation to corruption offences including bilateral and multilateral treaties, the domestic Extradition Act and the Convention against Corruption itself.

- Canada has introduced simplified evidentiary requirements and processes through the use of “records of the case” in extradition proceedings thereby reducing the burden on extradition authorities and judicial bodies in the processing of such cases.
 - Canada has recently adopted a multilateral memorandum of understanding that allows it to more effectively exchange information and provide mutual legal assistance to participating States.
 - Canada adopts a flexible approach to the establishment of joint investigations with law enforcement bodies from other States parties and has conducted such joint investigations in practice.
-