



Note Number V-545

The Delegation of Canada to the Organization for Security and Co-operation in Europe presents its compliments to all Delegations to the OSCE and to the Conflict Prevention Centre, and in accordance with Decisions 4/03 of the Forum for Security Co-operation, has the honour to transmit herewith the reply to the Questionnaire on the Code of Conduct on Politico-Military Aspects of Security.

The Delegation of Canada to the Organization for Security and Co-operation in Europe avails itself of this opportunity to renew to all Delegations to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration.

Vienna, 15 April 2015



To: All Missions and Delegations of the OSCE
The OSCE Conflict Prevention Centre
The OSCE Secretariat

QUESTIONNAIRE ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY* - 2015

Section I: Inter-State elements

1. Account of measures to prevent and combat terrorism

1.1 To which agreements and arrangements (universal, regional, subregional, and bilateral) related to preventing and combating terrorism is your State a party?

Since 1963, the international community has elaborated 18 international legal instruments targeting terrorism and related acts, such as hostage taking, hijacking, terrorist bombings, and terrorist financing. Canada has ratified 12 of these agreements and is actively working towards the ratification of the *International Convention for the Suppression of Acts of Nuclear Terrorism* and the Amendment to the *Convention on the Physical Protection of Nuclear Materials*.

Canada was also a strong supporter of the development and adoption of the 2010 *Beijing Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* and the 2010 *Beijing Protocol to the 1971 Hague Convention on the Suppression of Unlawful Seizure of Aircraft*.

Since countering terrorism requires effective international cooperation and coordination, Canada works in a variety of international fora including the United Nations, the G8, the Global Counter-Terrorism Forum (GCTF), Asia-Pacific Economic Cooperation (APEC), the Organization of American States (OAS) and the ASEAN Regional Forum (ARF) to develop, as appropriate, legal instruments, best practices and international standards to combat terrorism.

Canada has also implemented UN Security Council Resolution (UNSCR) 1267 (1999) and its successor resolutions, in which member states are required to impose a travel ban, assets freeze, and arms embargo against Al Qaeda and the Taliban, as well as entities and individuals identified as associated with Al Qaeda and the Taliban. In 2011, UNSCRs 1988 and 1989 split the Al-Qaida and Taliban sanctions into two separate regimes in order to support reconciliation efforts in Afghanistan.

As well, UNSCR 1373 (2001) provides that member states establish domestic processes to list without delay organisations or individuals who commit terrorist acts (including financing and logistical support). Canada fulfils its international obligations under these resolutions through the UN Al-Qaida and Taliban Regulations (UNAQTR), the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism (RIUNRST), and the *Criminal Code of Canada*. These listing regimes contain provision for travel bans, freezing of assets and within the context of the Criminal Code make it an offence to participate in an activity of a terrorist group, facilitate a terrorist activity, instruct others to carry out an activity for the benefit of a terrorist group, and to harbour terrorists or members of listed entities.

In September 2014, Canada co-sponsored United Nations Security Council Resolution 2178 which aims to prevent the international flow of terrorist fighters to and from conflict zones. The Resolution condemns violent extremism and underscores the need to prevent travel and support for foreign terrorist fighters

Canada has continued to play a leadership role through the Organization of American States (OAS) as one of the largest contributors to their general fund, and the largest donor to the Organization of American States Inter-American Committee against Terrorism (CICTE). Canada chaired CICTE in 2014, focussing on the themes of links between crime and terrorism, and OAS reform. Canada supports CICTE initiatives via Canada's Counter-Terrorism Capacity Building Program (CTCBP) and its Anti-Crime Capacity Building Program (ACCBP).

In the Asia Pacific region, Canada continues to support APEC in making important progress on counter-terrorism commitments. Building on a September 2011 workshop, Canada has developed a Major Events Security Framework that provides APEC economies with common practices and standards to successfully plan, execute and close-out major event security.

1.2 What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?

Canada has developed domestic legislation to address terrorism. This legislation includes, *inter alia*:

Criminal Code: The *Criminal Code* contains a number of offences that are applicable to terrorism including hijacking, kidnapping and offences dealing with weapons and explosives. With the enactment of the *Anti-Terrorism Act (ATA)* in 2001, the *Criminal Code* now contains specific provisions dealing with terrorism, including a detailed definition of "terrorist activity". Specific terrorism offences include knowing participation, facilitation, instruction, and harbouring in relation to terrorist activity, as well as committing an indictable offence that constitutes a terrorist activity. These offences carry significant maximum penalties and reduced parole eligibility. The provisions under the ATA created the list of terrorist entities under the *Criminal Code* which carries significant consequences. The *Criminal Code* also has an offence designed to implement the *UN International Convention for the Suppression of Terrorist Bombings*, as well as **provisions to deal with the listing of terrorist entities**. There are also three offences relating to terrorist financing. These offences relate to providing or collecting property for terrorist activities (*International Convention for the Suppression of the Financing of Terrorism*); collecting, providing, or making available property or financial or other related services for terrorist purposes; and using or possessing property for terrorist purposes. Among other measures, the ATA amended the *Proceeds of Crime (Money Laundering) Act*, in the process renaming it the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (see below).

In late April 2013, Parliament passed the *Combating Terrorism Act*. The legislation creates new offences of leaving or attempting to leave Canada to commit certain terrorism offences. It also re-enacts the investigative hearings and recognizance with conditions (i.e. bail) provisions that expired in 2007. In July 2014, Mohammed Hersi was the first Canadian to be convicted under the *Act* for attempting to join a terrorist group.

United Nations Act: The purpose of this Act is to provide a means by which Canada may conform to Article 25 of the Charter of the United Nations to implement decisions of the Security Council made under Article 41 of the Charter. When the Security Council decides on a measure to be employed to give effect to any of its decisions and calls on UN member states to apply the measure, the Governor in Council may make such orders and regulations under the *United Nations Act* as appear to him/her to be necessary or expedient for enabling the measure to be effectively applied.

United Nations Al-Qaida and Taliban Regulations: The *United Nations Al-Qaida and Taliban Regulations* (previously entitled the *United Nations Afghanistan Regulations*) were made on 10 November 1999 under the *United Nations Act*, pursuant to UNSCR 1267, and have been amended pursuant to UNSCR 1267's successor resolutions. Section 4 of the UNAQTR imposes an asset freeze on the Taliban and persons associated with the Taliban, while section 4.1 freezes the assets of Usama bin Laden or his associates. While the list of names of persons associated with the Taliban or Usama bin Laden used to be maintained by one sanctions committee, in 2011, UNSCRs 1988 and 1989 split the Al-Qaida and Taliban Sanctions List into two separate lists, maintained by two separate listings committees. Once an individual or entity is added to the UN's Taliban or Al-Qaida lists, all federally regulated financial institutions are obligated to comply and have a duty to determine whether they are in possession or control of the relevant property, and to report this to their principal regulator

Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism: Canada implements UNSCR 1373, and its successor resolutions, through two listing regimes: the *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism (RIUNRST)*, enacted under the authority of the *United Nations Act*; and section 83.05 of the *Criminal Code*. The *RIUNRST* (previously entitled the *United Nations Suppression of Terrorism Regulations*) were made on 2 October 2001 under the *United Nations Act*, pursuant to UNSCR 1373. These regulations freeze the assets of individuals and entities listed in the schedule to the regulations and prohibit fund-raising on their behalf. Currently, Canada primarily fulfills its obligations related to UNSCR 1373 (and its successor resolutions) by listing entities under the *Criminal Code*. The *Criminal Code* listing mechanism was developed in 2001 as part of the omnibus *Anti-terrorism Act*. A listed entity's assets are frozen and can be subject to future seizure and restraint, and even forfeiture (as required by the *International Convention on the Suppression of Terrorist Financing*). In addition, Canadians inside or outside Canada are prohibited from dealing with property of listed entities, and reporting requirements relating to such property are imposed. Financial institutions are also subject to reporting

requirements and must not allow those entities to access the property. Penalties for offences may include fines of up to \$100,000 or up to ten years imprisonment.

Proceeds of Crime (Money Laundering) and Terrorist Financing Act: The Proceeds of Crime (Money Laundering) and Terrorist Financing Act requires the reporting of transactions suspected of being related to terrorist financing. The mandate of Canada's financial intelligence unit, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) includes the analysis of these reports, the disclosure of prescribed key identifying information to law enforcement and intelligence agencies, and the ability to share information related to terrorist financing with its international counterparts.

Charities Registration (Security Information) Act: This Act contains measures to prevent the use of registered charities to provide funds to support terrorist activities. Specifically, it provides a mechanism to prevent the registration of an organization as a charity and to revoke the registration of a charity if there are reasonable grounds to believe that the organization makes or will make resources available directly or indirectly to an organization engaged in terrorist activities.

Extradition Act: This Act governs the surrender by Canada to another state or entity at the request of another state or entity of a person who is accused or convicted of a crime committed within the jurisdiction of the requesting state or entity.

Mutual Legal Assistance in Criminal Matters Act: Canada views the creation of an international network of Mutual Legal Assistance Treaties (MLATs) as an important step in the fight against terrorism, and organized and trans-national crime. To date, Canada has concluded and brought into force 35 bilateral MLATs. Canada is also party to a number of multilateral instruments on criminal issues containing mutual legal assistance provisions. Canada's *Mutual Legal Assistance in Criminal Matters Act* provides the primary vehicle through which Canada receives and provides assistance in the gathering of evidence for use in criminal investigations and prosecutions, including terrorist financing offences. On 1 February 2002, the Act was amended to allow Canada to enforce foreign criminal freezing and forfeiture orders in appropriate cases, including those against terrorist financing.

Immigration and Refugee Protection Act: This Act deals with immigration and refugee matters and contains provisions for the denial of entry and removal from Canada of suspected terrorists. The *Strengthening Citizenship Act* came into force in June 2014 and included amendments to revoke or deny citizenship of those individuals who commit acts of terrorism or acts against Canadian interests. This enables the government to revoke Canadian citizenship from dual citizens for membership in an armed force or organized armed group engaged in armed conflict with Canada, and deny it to permanent residents for the same reasons. It also provides the authority to revoke Canadian citizenship from dual citizens and deny it to permanent residents who are convicted of terrorism, high treason, treason or spying offences, depending on the sentence.

The Anti-Terrorism Act (2015): On January 30, 2015, the Minister of Public Safety and Emergency Preparedness introduced Bill C-51 – the *Anti-terrorism Act, 2015*. If adopted, the Bill will help address global and national security threats by introducing a comprehensive package of measures that would:

- ensure that information relevant to national security is shared and actioned in an effective and responsible manner;
- enhance CSIS' powers to address threats to the security of Canada;
- further bolster the protection of information in immigration proceedings if its disclosure could be injurious to national security or endanger the safety of any person;
- further mitigate threats to transportation security and prevent air travel for the purpose of engaging in terrorism; and
- strengthen criminal laws to better protect Canadians from acts of terrorism.

The Bill has been approved by the Standing Committee on Public Safety and National Security and is currently undergoing a pre-study by the Standing Senate Committee on National Security and Defence.

1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?

The lead federal government agency for emergency preparedness and for coordinating all-of-government responses to an event such as a terrorist attack is Public Safety Canada. In February 2012, Canada introduced *Building Resilience Against Terrorism: Canada's Counter-Terrorism Strategy*. The Strategy outlines a principled approach that aims to counter domestic and international terrorism in order to protect Canada, Canadians, and Canadian interests. It seeks to prioritize and organize Canadian efforts to prevent, detect, deny and respond to terrorism both at home and abroad. Domestically, counter-terrorism involves many federal departments and agencies. Cooperation and seamless information sharing within and between security intelligence agencies and law enforcement is essential to effectively address the terrorist threat. To that end, a variety of departments and agencies, such as the Canadian Security Intelligence Service, the Royal Canadian Mounted Police, Public Safety Canada, Canada Border Services Agency, the Department of National Defence, and the Department of Foreign Affairs, Trade and Development, among others, all directly or indirectly help to prevent, detect, deny and respond to terrorist threats.

The Minister of Public Safety is responsible for maintaining the Strategy, in consultation with the Minister of Foreign Affairs, and will provide an annual public report on the state of the terrorist threat.

A key part of the Government's national security strategy is Canada's defence policy, the *Canada First Defence Strategy* (CFDS). The CFDS identifies terrorism as one of the principal threats to national security for which the country requires a modern, well-trained and well-equipped military.

The Canadian Armed Forces does not have a direct role in domestic security as it does not have a standing mandate to enforce Canadian laws. However, pursuant to several legal instruments and inter-departmental Memoranda of Understanding, the Canadian Armed Forces can engage in assistance to law enforcement operations which can include armed assistance. Domestically, the Canadian Armed Forces may, at the request of civilian authority, contribute to the fight against terrorism in a number of ways. These include:

- monitoring and controlling Canada's territory, airspace, and maritime areas of jurisdiction in cooperation with other departments and agencies;
- sharing intelligence with other departments and agencies;
- maintaining response plans and capabilities to respond to terrorist incidents;
- protecting critical infrastructure when requested;
- providing humanitarian and disaster relief in the event of an emergency as requested; and
- providing support to civilian authorities when requested.

Canada cooperates with the United States in the defence of North America through a number of agreements, committees and organizations, including the North American Aerospace Defence Command Agreement (NORAD), the Permanent Joint Board on Defence (PJBD), the Military Cooperation Committee (MCC), and the North American Technology and Industrial Base Organization (NATIBO).

NORAD provides warning of aerospace and maritime threats as well as surveillance and control of North American airspace. Its unique bi-national command structure provides Canada with a strong voice in decisions related to the defence of North America. NORAD's operational readiness, as well as its ability to respond to threats from outside and inside North America's airspace, reflects the new threat environment. NORAD's maritime warning function was established when the two countries renewed the Agreement in perpetuity on 12 May 2006.

In addition to its domestic and continental roles, Canada continues to work through international organizations such as the United Nations and the North Atlantic Treaty Organization (NATO) and multinational coalitions to combat terrorism abroad. The Canadian Armed Forces are equipped to provide air, sea, land, and special operations forces to multinational operations.

At sea, the Canadian Armed Forces have participated regularly in multi-national counter-terrorism efforts. To help deter, defend, disrupt and protect against terrorist activity in the Mediterranean Sea, Canada is participating in NATO's Operation Active Endeavour. By conducting these maritime operations against terrorist activity, NATO's presence in these waters has benefited all shipping travelling through the Mediterranean Sea by improving perceptions of security. Canada is participating in Combined Task Force 150 (CTF 150), a multinational coalition formed to conduct maritime security and counterterrorism operations in and around the northern Arabian Sea. As part of the US-led maritime security operations conducted by CTF 150, Canadian ships are involved in the

monitoring of shipping in order to help detect, deter and protect against terrorist activity. Canadian deployments with CTF 150 are under Operation ARTEMIS. The purpose of these maritime operations is to help set the conditions for security and stability at sea, while complementing the counter-terrorism and security efforts of regional nations.

Through the Military Training and Cooperation Program (MTCP), the Department of National Defence and the Canadian Armed Forces provide a broad range of capacity building and training opportunities to partner countries. The program aims to improve interoperability and the ability of recipient nations to undertake operations in a multilateral context, including potentially counter-terrorism missions.

The Canadian Special Operation Forces Command (CANSOFCOM) is composed of the Joint Task Force 2 (JTF 2), the Canadian Special Operations Regiment (CSOR), 427 Special Operations Aviation Squadron (427 SOAS), the Canadian Joint Incident Response Unit – Chemical, Biological, Radiological and Nuclear (CJIRU – CBRN), and the Canadian Special Operations Training Centre (CSOTC). One of CANSOFCOM's core tasks relates to Counter-Terrorism Operations to prevent, deter, pre-empt and respond to terrorism.

JTF 2 was created in 1993, when the Canadian Armed Forces assumed responsibility for federal domestic counter-terrorism operations from the RCMP. Since its inception, the unit has continuously evolved to meet modern-day threats.

The CJIRU provides timely Chemical, Biological, Radiological, and Nuclear (CBRN) support to the federal government in order to prevent, control, and mitigate CBRN threats to Canada. Effective responses to CBRN terrorism depend on cooperation and coordination among all levels of government, response organizations and international partners. Accordingly, Canada works closely with the United States to ensure a coordinated response should a CBRN attack have a cross-border impact.

1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining *inter alia* to:

- **Financing of terrorism;**
- **Border controls;**
- **Travel document security;**
- **Container and supply chain security;**
- **Security of radioactive sources;**
- **Use of the Internet and other information networks for terrorist purposes;**
- **Legal co-operation including extradition;**
- **Safe havens and shelter to terrorists and terrorist organizations.**

Established as Canada's contribution to the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, Canada's Global Partnership Program (GPP) works with partner countries and international organizations to reduce the threat to international security posed by nuclear, radiological, biological, or chemical proliferation and terrorism, thereby providing a tangible positive impact on Canadian and global

security. This is achieved by implementing concrete projects to prevent the proliferation of weapons of mass destruction (WMD) and related materials and knowledge to non-state actors and states of proliferation concern. Since 2003 the GPP has spent approximately \$940 million. Canada's GPP was renewed in March 2012 for an additional five years (2013-2018) at a funding level of \$73.4 million per year. The GPP currently pursues WMD threat-reduction activities across four thematic areas: nuclear and radiological security, biological security, supporting the implementation of United Nations Security Council Resolution 1540, and countering WMD-related knowledge proliferation.

Canada is an active participant in the 102-country Proliferation Security Initiative (PSI). Within the context of the PSI, Canada works closely with partners through information sharing, capacity-building, and concrete exercises to increase global capabilities and cooperation related to the interdiction of illicit WMD transits and transshipments by non-state actors of proliferation concern.

In October 2014, the National Security Joint Operations Centre (NS-JOC) was established to facilitate information sharing and collaboration on national security cases between federal departments and agencies. Members—which include Citizen and Immigration Canada (CIC)'s Passport Program, the Canada Border Services Agency (CBSA), as well as law enforcement and intelligence partners—share information on high risk individuals who may pose a threat to national security in order to develop a coordinated Government of Canada response.

Among the options available to deter high risk travellers, passport refusal and revocation, as specified in the *Canadian Passport Order* (the *Order*), have always been important tools. Collaborative work is done with law enforcement and intelligence partners to share information in order to refuse and revoke the passports of high-risk travellers when necessary. Under the *Order*, a passport may be refused or revoked on a number of grounds, including if a person has been charged with or convicted of a criminal offence, or if the Minister is of the opinion that it is necessary for the national security of Canada or another country.

In order to mitigate the risk that a passport will be used for travel during the course of an administrative passport investigation, a passport can also be invalidated (similar to suspension provisions recently enacted in Australia and New Zealand). Information on invalidated and revoked travel documents is shared with law enforcement and border control partners daily via lost, stolen, fraudulent document databases. To date, CIC has invalidated 90 passports issued to individuals identified as high risk.

2. Stationing of armed forces on foreign territory

2.1 Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.

Canadian Armed Forces members who are currently stationed in OSCE member countries are there in accordance with negotiated agreements or arrangements. Some are deployed under the auspices of the United Nations or NATO. Canadian Armed Forces personnel also serve in various other capacities in the OSCE region, as part of NATO's staff and as participants in military exchanges.

Canada currently has bilateral agreements/arrangements with over 40 OSCE member countries, including Belgium, Cyprus, France, Germany, the Netherlands, the United Kingdom, and the United States, to name a few, that provide for the Canadian Armed Forces to operate on their territory in training, support, and liaison roles. These agreements/arrangements set out in general terms what activities the Canadian Armed Forces are permitted to engage in, where they can operate, what support they may receive and any other relevant points related to the role in which they are operating in the OSCE member country. In addition, Canada is party to the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951.

3. Implementation of other international commitments related to the Code of Conduct

3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security are implemented in good faith.

Canada demonstrates commitment to arms control, disarmament, and confidence and security-building through our active engagement in multilateral organizations that work on global security such as the UN, NATO, the Conference on Disarmament and the OSCE. Canada is engaged through open and transparent participation in confidence-building measures including the Treaty on Conventional Forces in Europe, the Open Skies Treaty, the Vienna Document 2011, and military exchanges.

Canada is a State Party to all international treaties and conventions that relate to the non-proliferation and disarmament of WMD. Where necessary, Canada's ratification of these instruments is accompanied by the enactment of the legislation and regulations to ensure their implementation, including the 1995 Chemical Weapons Convention (CWC) Implementation Act, the 1998 Comprehensive Test Ban Treaty (CTBT) Implementation Act and the 2009 Human Pathogens and Toxins Act, the 1991 Health of Animals Act, and the 1990 Plant Protection Act. Canada produces regular reports on its implementation of many international agreements on non-proliferation, arms control and disarmament, including the NPT and UNSCR 1540. Canada is also an active participant in the Proliferation Security Initiative (PSI) and is engaged in ongoing efforts to counter the proliferation of WMD, as well as some conventional weapons, including through participation in the four export control regimes. Canada will be assuming the 2015-2016 Chairmanship for the Hague Code of Conduct Against Ballistic Missile Proliferation, with the objective of further promoting the Code, enhancing its implementation and expanding its membership.

Additionally, Canada is a State Party to the Convention on Certain Conventional Weapons and the Ottawa Convention banning anti-personnel mines. Canada ratified the Convention on Cluster Munitions on March 16, 2015 and will become a State Party to it on September 1, 2015. The Canadian Armed Forces conducts rigorous reviews to ensure its weapons acquisition programmes are in compliance with these treaties and other international law. In the case of the Convention on Cluster Munitions and the Ottawa Convention, implementation legislation has been enacted to ensure compliance.

3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.

Canada promotes the universalization and strengthening of existing non-proliferation, arms control and disarmament instruments and the negotiation of new agreements with a view to enhancing global security and stability. Such efforts are undertaken through a number of outreach activities including, but not limited to, bilateral and multilateral diplomatic exchanges between senior officials, the provision of capacity-building funding and the participation of Canadian experts in workshops and seminars.

Canada actively participates in OSCE dialogue on arms control, disarmament, and confidence and security building measures at the Forum for Security and Cooperation, the Open Skies Consultative Commission (OSCC), the Joint Consultative Group and at the OSCE Permanent and Ministerial Councils. Canada supports other States in areas such as arms control, disarmament, and confidence building, and democratically managing their militaries, through bilateral and multilateral activities, including the Military Cooperation and Training and Cooperation Program, as well as country-specific disarmament projects.

Section II: Intra-State elements

1. National planning and decision-making process

1.1 What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?

The responsibility for determining Canadian military posture rests with the federal Cabinet. Parliament also takes part in this process through its responsibility for the approval of defence budgets and through the activities of Standing (i.e. permanent) and Special (i.e. ad-hoc) Committees, composed of elected Members of Parliament or Senators, which examine various defence issues.

While Parliament does have some part in determining military posture by approving defence spending and often engaging in debate on defence issues, decisions are taken by the Executive. Cabinet plays a large role in this process through regular Cabinet discussions, reports of Special Cabinet Committees and Cabinet meetings held during times of crisis.

The Minister of National Defence is responsible for the development and articulation of Canada's defence policy, which must be approved by the Government. This policy, in turn, determines the country's military posture. The last formal defence policy document was presented in May 2008. The *Canada First* Defence Strategy includes guidance on the roles and missions of the Canadian Armed Forces and a long-term investment plan and a detailed road map for the modernization of the Canadian Armed Forces over a 20 year period. Within National Defence, several governance committees, such as the Defence Management Committee, meet regularly and contribute to the development of military posture.

Defence expenditures are determined and expended on a yearly basis in the following way:

- (a) the announcement of a Federal Budget, usually in late winter/early spring, which may contain specific initiatives for the Department of National Defence;
- (b) at the beginning of the yearly financial cycle in April, the Main Estimates are approved by Parliament, which may or may not contain specific initiatives announced in the Federal Budget;
- (c) the Main Estimates provide the Minister of National Defence with the Defence budget for the upcoming year, and a more detailed explanation including information on expected outcomes, is provided through the Report on Plans and Priorities (RPP);
- (d) as per the submitted plan, the approved Defence Appropriations are expended by the Department of National Defence;
- (e) additional in-year funding items, such as deployed operations, or additional funding announced in the Federal Budget but not included in the Main Estimates, are requested through Supplementary Estimates;
- (f) the Department of National Defence accounts for the annual expenditures through the Public Accounts of Canada and provides a more detailed explanation of its performance (financial and non-financial) to Parliament through the Departmental Performance Report (DPR); and,
- (g) defence expenditures may be reviewed for efficiency by both executive agencies (Auditor General) and Parliamentary committees (National Defence, Public Accounts).

More information regarding the Estimates process is available in English at: <http://www.tbs-sct.gc.ca/est-pre/estimE.asp> and in French at: <http://www.tbs-sct.gc.ca/est-pre/estimF.asp>

1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?

Canada demonstrates transparency and openness with regard to our military capacities with other States. Canada participates in an open manner to several confidence building measures in the OSCE region including: the Treaty on Conventional Forces in Europe, the Vienna Document 2011, the Global Exchange of Military Information, the Open

Skies Treaties, as well as military exchanges. We contribute to international peace and security through our peace-keeping operations, including ten Canadian Armed Forces personnel stationed in the OSCE region on peace-keeping missions. The Canadian Armed Forces members who are currently stationed in OSCE member countries do so in accordance with negotiated agreements or arrangements.

2. Existing structures and processes

2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?

Effective democratic control is ensured via the civilian oversight of the Canadian Armed Forces by democratically-elected authorities, in line with domestic legislation in the form of the *National Defence Act*. The *National Defence Act* provides the legal basis for civil control of the armed forces and for command authority in the Canadian Armed Forces, and grants the Minister of National Defence management and direction of the Canadian Armed Forces as well as the task of presiding over the Department of National Defence. This is accomplished through an integrated civilian-military team, including the Deputy Minister of National Defence, the senior-most public servant responsible for defence policy and resource management, and the Chief of the Defence Staff, charged with command, control and administration of the Canadian Armed Forces. The Governor General of Canada acts as the Queen's representative in Canada and has the title of Commander-in-Chief of the Canadian Armed Forces.

The full text of the *National Defence Act* can be obtained in English at: <http://lois-laws.justice.gc.ca/eng/acts/N-5/index.html> and in French at: <http://lois-laws.justice.gc.ca/fra/lois/N-5/index.html>

Canada's main intelligence organization, the Canadian Security Intelligence Service (CSIS), is responsible for investigating threats to the security of Canada domestically and abroad. *The Canadian Security Intelligence Service Act (CSIS Act)* (available in English at: <http://laws-lois.justice.gc.ca/eng/acts/C-23> and in French at: <http://laws-lois.justice.gc.ca/fra/lois/C-23/>) provides the legislative foundation for CSIS' mandate, outlines its roles and responsibilities, confers specific powers and imposes constraints, and sets the framework for democratic control and accountability for Canada's security intelligence service. For example:

- The *CSIS Act* defines the type of activity that may be investigated, the ways that information can be collected, and who may view the information. Under Section 12 of the *CSIS Act*, information may be gathered, “to the extent that it is strictly necessary”, related to activities that may, on reasonable grounds, be suspected of constituting threats to the security of Canada, as defined by the *CSIS Act* (i.e. espionage, sabotage, serious politically motivated violence, clandestine or deceptive foreign influence activities, and covert unlawful acts undermining or

- leading to the violent overthrow of the established system of government in Canada).
- The *CSIS Act* prohibits CSIS from investigating acts of lawful advocacy, protest, or dissent. CSIS may only investigate these types of acts if they are carried out in conjunction with activities that are threats to the security of Canada.
 - Section 13 of the *CSIS Act* authorizes CSIS to provide security assessments to departments of the Government of Canada, on individuals applying for security clearances when required by the federal public service as a condition of employment, as well as to Provincial governments and departments and provincial police forces where formal arrangements are in place; Section 14 of the *CSIS Act* authorizes CSIS to provide advice and information to any minister of Crown relevant to the exercise of any power or the performance of any duty by that Minister under the *Citizenship Act* or the *Immigration and Refugee Protection Act*.
 - Section 15 authorizes CSIS to conduct investigations in support of sections 13 and 14 security assessments and advice.
 - Section 16 authorizes CSIS to collect only within Canada intelligence in relation to the defence of Canada or the conduct of the international affairs.
 - Section 21 authorizes the Federal Court, on reasonable grounds, to issue warrants for CSIS to collect intelligence through intrusive measures, including the interception of private communications; CSIS warrant applications must contain detailed information to demonstrate the necessity of intrusive investigative measures. In addition, the Federal Court, at its discretion, can order additional measures to ensure the public interest is protected.

The national and largest police force in Canada is the Royal Canadian Mounted Police (RCMP). The RCMP provides policing services (under contract) to all provinces and territories (except Ontario and Quebec) and to approximately 200 municipalities and communities. In addition to preventing and investigating crime, maintaining order and contributing to national security, the RCMP also provides federal policing services across Canada; undertakes international police operations on behalf of Canada; provides personnel for UN peacekeeping operations; and ensures the safety of state officials, visiting dignitaries and foreign missions. The RCMP's operations are conducted in accordance with the *Royal Canadian Mounted Police Act*, originally passed by Parliament in 1873. To reflect changing times, the Act has been amended at various times, as in 1988 when additional parts to the Act were passed by Parliament to improve procedures for grievances, dispute resolution and establish a system to address complaints against the RCMP. These changes created two oversight bodies; the Commission for Public Complaints Against the RCMP (CPC) and the RCMP External Review Committee (ERC), which are explained below.

Full text of the *Royal Canadian Mounted Police Act* can be found in English at: <http://laws-lois.justice.gc.ca/eng/acts/R-10/> and in French at: <http://laws-lois.justice.gc.ca/fra/lois/R-10/>.

Canada has no paramilitary forces and no internal security forces.

2.2 How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?

The Minister of National Defence is an elected official and is charged with the management and direction of all matters relating to national defence. The Minister reports to the Prime Minister and Cabinet, of which the Minister is a member, on issues of defence and is accountable to the Prime Minister and Parliament. The Chief of the Defence Staff normally reports to the Minister of National Defence, but can advise the Prime Minister and Cabinet directly. In accordance with the *National Defence Act*, unless the Governor in Council otherwise directs, all orders and instructions to the Canadian Armed Forces that are required to give effect to the decisions and to carry out the directions of the Government of Canada or the Minister shall be issued by or through the Chief of the Defence Staff.

The *National Defence Act* provides for the call out of the Canadian Armed Forces for service in aid of the civil power (Part VI of the *National Defence Act*). In these situations, the Chief of the Defence Staff shall, upon written requisition from the Attorney General of a province and subject to directions from the Minister, deploy the Canadian Armed Forces as he or she considers necessary for the purpose of suppressing or preventing any riot or disturbance that is occurring or is considered likely to occur. Furthermore, the Governor in Council, or the Minister of National Defence on the request of the Minister of Public Safety or any other Minister, may issue directions authorizing the Canadian Armed Forces to provide assistance in respect of any law enforcement matter if the Governor in Council or the Minister considers that the assistance is in the national interest and the matter cannot be effectively dealt with except with the assistance of the Canadian Armed Forces. Finally, Parliament must approve the Federal Budget, which contains proposed defence expenditures.

CSIS is one of the most reviewed and accountable security agencies in the world. This is achieved through a system of control and review mechanisms and processes, prescribed by the *CSIS Act*, that include the following:

- Minister of Public Safety: The Minister is responsible to Parliament for CSIS as a whole and for its general direction. The Minister may issue written directions to the Director of CSIS with respect to the Service.
- Deputy Minister of Public Safety: The Deputy Minister provides advice to the Minister in accordance with the relevant provisions of the *CSIS Act*
- Director of CSIS: The Director of CSIS is accountable to the Minister for the management and control of CSIS. The Director submits annual reports on CSIS activities to the Minister.
- Security Intelligence Review Committee (SIRC): SIRC is an independent review agency and is responsible for reviewing how CSIS performs its functions, and investigates complaints against CSIS. The Committee also investigates complaints filed by individuals who were denied security clearances, and reviews reports concerning immigration applications and citizenship applications that were rejected based on security or criminal grounds. To enable it to fulfill its

- responsibilities, the Committee has access to all information under CSIS' control (except Cabinet confidences). SIRC informs the Minister of Public Safety of its investigation findings on an ongoing basis, and produces an annual report that is tabled by the Minister in Parliament. In addition, SIRC issues a certificate to the Minister stating the extent to which it is satisfied with the Service's annual report to the Minister and whether the Service was compliant with Canadian law, Ministerial direction, and internal policy, thereby providing additional scrutiny of the Service and its operations.
- Federal Court: Under the *CSIS Act*, CSIS must apply to the Federal Court to obtain warrants to undertake certain intrusive activities. This application is reviewed by a senior CSIS committee chaired by the Director and comprised of representatives from the Department of Justice, and Public Safety Canada. If the committee endorses the application for use of intrusive techniques, it is then submitted to the Minister of Public Safety for approval. If the Minister gives approval, the application is then submitted to the Federal Court, which must issue a warrant before CSIS can proceed with the intrusive investigative technique.
 - Public Reporting: CSIS provides information to Parliament and the public through the CSIS Public Report, which is aimed at increasing awareness of CSIS' functions and the processes it employs, and dispelling some of the myths surrounding security intelligence work.
 - Parliamentary appearances: CSIS regularly appears at Parliamentary committees, in both the House of Commons and Senate, to provide information and answer questions related to both its activities and administration, including financial accountability through the Estimates process.
 - Other external review: CSIS is subject to review by both the Auditor General and Privacy Commissioner of Canada.
 - Internal evaluation and audit: In addition to external controls and review measures, CSIS maintains a rigorous internal evaluation and audit function aimed at constant improvement of its operations and policies.

The authority and accountability for executing the requirements of the *RCMP Act* rest with the Commissioner of the RCMP who, under the direction of the Minister of Public Safety, has the control and management of the Force and all matters related to its operations. The Minister of Public Safety is answerable to Parliament for the activities of the RCMP and presents Parliament with an annual performance report tabled by the President of the Treasury Board, along with other regular reports concerning various issues relating to the operations of the RCMP.

Commission for Public Complaints Against the RCMP (CPC): The Commission for Public Complaints against the RCMP (CPC) is an independent agency created in 1988 by Parliament under Part VI of the *RCMP Act* and has the vital role of providing independent civilian oversight of RCMP members' conduct in performing their duties. It investigates complaints regarding RCMP members' conduct and makes findings and recommendations to the RCMP Commissioner and the Minister of Public Safety that are aimed at correcting policing problems and preventing their reoccurrence. In order to

maintain public accountability, an annual report relating to investigations is tabled in Parliament by the Minister of Public Safety

Royal Canadian Mounted Police External Review Committee (ERC): The RCMP External Review Committee (ERC) is an independent and impartial federal tribunal that helps to ensure fair and equitable labour relations within the RCMP by providing findings and recommendations to the Commissioner of the RCMP. The ERC's jurisdiction is restricted to labour matters that relate to regular members and civilian members of the RCMP, who are non-unionized. The ERC has two program activities: to conduct independent, timely, fair, and impartial case reviews of disciplinary appeals, discharge and demotion appeals, and certain categories of grievances; and to provide outreach and information to support accountability and transparency. The RCMP has made changes in a variety of areas based on recommendations made by the ERC; these include policy changes with regard to medical discharge, suspension without pay, and harassment. The ERC produces an annual report that is tabled in Parliament by the Minister of Public Safety.

2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?

Canada's Constitution states that all matters relating to the military are within the purview of the federal Government. This allows the Parliament of Canada to pass laws related to the military, and is therefore a constitutionally imposed effective measure of control over defence. The Government of Canada has given the Canadian Armed Forces, through the *Canada First* Defence Strategy, clear direction concerning their three roles: defending Canada, defending North America and contributing to international peace and security – as well as the types and numbers of missions in which it expects Canadian Armed Forces members to participate. This level of ambition will see the Canadian Armed Forces deliver excellence at home, be a strong and reliable partner in the defence of North America, and project leadership abroad by contributing to international operations in support of Canadian interests and values.

There are various control measures to ensure that the armed forces act solely within the framework of the Constitution. The *National Defence Act* provides the legal basis for civil control of the armed forces and for command authority in the Canadian Armed Forces. The Canadian Armed Forces are required to operate according to the *National Defence Act*, as well as in accordance with supplemental regulations known as *Queen's Regulations and Orders* which are issued under the authority of the Governor in Council, the Minister of National Defence, the Treasury Board or the Chief of Defence Staff. As mentioned above, the *National Defence Act* is available in English at: <http://lois-laws.justice.gc.ca/eng/acts/N-5/index.html> and in French at: <http://lois-laws.justice.gc.ca/fra/lois/N-5/index.html>. The *Queen's Regulations and Orders* are also available in English at: <http://www.forces.gc.ca/en/about-policies-standards-queens-regulations-orders/index.page> and in French at: <http://www.forces.gc.ca/fr/a-propos-politiques-normes-directives-ordonnances-reglements-royaux/index.page>. The Canadian

Armed Forces are also impacted by Parliamentary decisions in that defence budgets must be approved by Parliament. The Minister of National Defence presents regular reports, as required, to Parliament concerning various aspects of the operation of the Department of National Defence and the Canadian Armed Forces.

Canada has no paramilitary forces and no internal security forces.

3. Procedures related to different forces personnel

3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary, and internal security forces does your State have?

The Canadian Armed Forces are comprised of three components: the Regular Force; the Reserve Force; and the Special Force. The Reserve Force is further comprised of four sub-components, which are the Primary Reserve, the Cadet Organizations Administration and Training Service (COATS), the Canadian Rangers, and the Supplementary Reserve. Entry and service in the Regular and Reserve Forces are on a voluntary basis.

In Canada, the minimum age for enrolment varies. The written consent of a custodial parent or legal guardian is required on application to join and again on enrolment for every applicant who is under 18 years of age. To be eligible for enrolment in the Regular Force, a candidate must be at least 16 years old if selected for education and training at a Royal Military College (RMC) or at a civilian university or at a college; age 17 in any other case. As provided by law in section 34 of Canada's *National Defence Act*, the Canadian Armed Forces do not under any circumstances deploy persons under the age of 18 into areas where hostilities are taking place. Members who agree to serve in the Regular Force (i.e. full-time service) enrol on a variable initial engagement (VIE) of three or more years, excluding subsidized training. The length of the VIE varies among military occupations.

For enrolment in the Reserve Force, an applicant is required to have reached age 18 if the applicant enrolls in the Cadet Organizations Administration and Training Service (COATS) or the Canadian Rangers; age 16 if selected for education and training at a RMC or otherwise maintains full-time student status until age 17; or age 17 in any other case. Members of the Primary Reserve enrol on an indefinite period of service. Members of the Regular Force and Primary Reserve can voluntarily transfer between their respective components. Regular Officer Training Plan (ROTP) and Reserve Entry Training Plan (RETP) candidates may withdraw from their programs and secure their release from the Canadian Armed Forces prior to the start of their second year of academic sponsorship without financial obligations to the CF. However, individuals seeking voluntary release after the start of their second year of sponsorship may be released with a financial obligation to the Canadian Armed Forces.

These members can also transfer to the Supplementary Reserve. The role of the Supplementary Reserve is to augment the Regular Force and other sub-components of the Reserve Force with individual Supplementary Reserve members as required during

normal peacetime situations, with their consent, and during an emergency or mobilization if placed on active service, without their consent. To ensure that their skills and knowledge remain current, members in the Supplementary Reserve normally serve no longer than 10 years or until reaching the compulsory retirement age.

Canada has no paramilitary forces and no internal security forces.

3.2 What kind of exemptions or alternatives to military service does your State have?

Canada does not have compulsory military service and, therefore, does not have any legislation regarding exemptions or alternatives to this type of service.

3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?

The rights of all Canadian citizens, including members of the Canadian Armed Forces, are constitutionally protected by the *Canadian Charter of Rights and Freedoms*. Further protection is provided by statutes such as the *Canadian Human Rights Act* and the *Canadian Bill of Rights, 1960*. These legal instruments protect the legal and democratic rights of the individual and proscribe discrimination. They enshrine in law such principles as the right of an individual to legal counsel upon arrest or detention, and the right to vote, and protect the fundamental freedoms of the individual, including freedom of thought, belief, opinion, and expression.

Canadian Armed Forces members are also governed by the *National Defence Act* (NDA) and the *Queen's Regulations and Orders* (QR&O). These legal instruments contain specific provisions that ensure fair treatment of Canadian Armed Forces personnel according to law. They protect the Canadian Armed Forces member's right to impartial process or trial and to advice and/or legal representation when a Canadian Armed Forces member is charged with a service offence under the Code of Service Discipline. (Part III of the NDA). The proceedings of service tribunals are subject to the constitutional provisions of the *Canadian Charter of Rights and Freedoms*, and are fully compliant with international legal standards regarding judicial guarantees and fair trials, such as those set out in Article 14 of the *International Covenant on Civil and Political Rights*. Every person subject to the Code of Service Discipline has the right to appeal a court martial decision to the Court Martial Appeal Court of Canada. The Court Martial Appeal Court of Canada is a superior court of record, identical in function and status to the Provincial and Federal Appeal Courts which have final appellate jurisdiction in criminal matters. Matters decided by the Court Martial Appeal Court of Canada can be appealed to the Supreme Court of Canada. Judges of the Court Martial Appeal Court are selected from the Federal Court of Canada and other civilian courts of criminal jurisdiction throughout the country.

The *National Defence Act* and QR&O also set out the rights of the Canadian Armed Forces member to seek redress by grieving a decision, act or omission in the

administration of the affairs of the Canadian Armed Forces, unless such remedy is specifically precluded in the *National Defence Act* or QR&O. The Canadian Armed Forces Grievance Manual was developed to guide Canadian Armed Forces members through the administrative procedure of preparing and submitting grievances.

Canadian Armed Forces members are also governed by administrative orders and directives. The Canadian Armed Forces maintains collections of these administrative orders and directives in the *Defence Administrative Orders and Directives* (DAODs) and *Canadian Armed Forces Administrative Orders* (CFAOs). These collections establish administrative requirements on subjects such as leave, promotion, training and professional development, harassment prevention, safety, and restrictions on duty.

The legislation, regulations and administrative orders are readily available to all Canadian Armed Forces members, whether in Canada or deployed abroad, through the internal Defence Intranet Network or on the Internet. Online manuals of procedures, such as information concerning the Canadian Armed Forces Grievance Process, are accessible in English at: <http://mgerc-ceegm.gc.ca/index-eng.html> and in French at: <http://mgerc-ceegm.gc.ca/index-fra.html>

Canadian Armed Forces members can use toll free access numbers for support or information, such as 1-866-GRIEVOR (474-3867) for grievance issues. As well, the Department of National Defence employs a full-time Ombudsman. The Ombudsman investigates complaints and serves as a neutral third party on matters related to the Department of National Defence and the Canadian Armed Forces. Acting independently of the chain of command and managers, the Ombudsman reports directly to the Minister of National Defence. The Office of the Ombudsman is a direct source of information, referral and education for the men and women of DND and the Canadian Armed Forces. Its role is to help individuals access existing channels of assistance or redress when they have a complaint or concern. In addition, the Ombudsman may investigate and report publicly on matters affecting the welfare of members and employees of the Department of National Defence and the Canadian Armed Forces and others falling within his/her jurisdiction. The ultimate goal is to contribute to substantial and long-lasting improvements to the Defence community. Canadian Armed Forces members can contact the Ombudsman directly for information, referral or direction at: <http://www.ombudsman.forces.gc.ca/>.

4. Implementation of other political norms, principles, decisions and international humanitarian law

4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through military training programmes and regulations?

By virtue of the *Geneva Conventions Act, 1995 R.S.C. 1985 c. G-3*, the provisions of the Geneva Conventions of 1949 and the Additional Protocols of 1977 are implemented into Canadian law. All personnel in the Canadian Armed Forces are given mandatory

instruction on International Humanitarian Law, which is also known as the Law of Armed Conflict. During basic training, Canadian Armed Forces personnel are instructed on the contents of the 1949 Geneva Conventions and the 1977 Additional Protocols. During basic training and annual refresher training, personnel are also instructed on the Canadian Armed Forces Code of Conduct, which sets out, *inter alia*, the manner in which Canadian Armed Forces personnel must treat prisoners of war, wounded soldiers and civilians during operations. In addition, personnel deploying on United Nations and NATO international operations receive refresher training on International Humanitarian Law prior to deployment.

Commissioned officers are given a more extensive training on International Humanitarian Law. Through the Canadian Armed Forces Junior Officer Development Programme, officers are required to follow independent study courses and pass examinations on various military topics. This programme exposes Junior Officers to a general and standardized body of foundational knowledge and includes an extensive section on the Law of Armed Conflict beginning with the 1899 Hague Conference, and including the 1949 Geneva Conventions and the 1977 Additional Protocols, as well as Regulations regarding the conduct of Canadian Armed Forces personnel while on operation and specific issues relating to war crimes.

The Office of the Judge Advocate General, in cooperation with the Canadian Armed Forces Military Law Centre, offers several courses on International Humanitarian Law, available to officers and senior Non-Commissioned Members, at various times throughout the year and in a variety of locations across Canada.

The “*DND and CAF Code of Values and Ethics*” is available on-line in English at: <http://www.forces.gc.ca/en/about/code-of-values-and-ethics.page> and in French at: <http://www.forces.gc.ca/fr/a-propos/code-valeurs-ethique.page>

Currently, all personnel of the Department of National Defence and the Canadian Armed Forces deployed on missions abroad receive specific pre-deployment training that is tailored to cultural sensitivities for the country in which they are being deployed. Pre-deployment training also includes topics related to codes of conduct, human rights, international humanitarian law, human trafficking, and the protection of civilians, women and children in armed conflict. The curriculum for this training is regularly updated, based upon consultations with international centres of excellence and on the experiences of our previously deployed personnel – from the Department of National Defence and other government departments – as well as non-governmental organizations in the field.

4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?

As elaborated in the previous section, in addition to the extensive training at the unit level of each member of the Canadian Armed Forces who deploys overseas regarding the Laws of Armed Conflict, the Canadian Armed Forces Military Law Centre, a component of the Canadian Defence Academy, provides extensive legal training to Regular and Reserve

Force members of the Canadian Armed Forces. This training is aimed at enhancing discipline across the forces and ensuring that the Canadian Armed Forces carries out its missions in accordance with all applicable domestic and international laws.

The Law of Armed Conflict course is intended to familiarize Canadian Armed Forces members with international law and treaties such as The Hague Conventions and Geneva Conventions, dealing with such issues as the lawful conduct of hostilities and the proper treatment of the sick and wounded, civilians, detainees, and prisoners of war.

In addition, as previously stated, Canadian Armed Forces members are required to operate according to the *National Defence Act* and in accordance with the *Queen's Regulations and Orders*. In particular, the *Queen's Regulations and Orders* set out the general duties and responsibilities of officers (QR&O 4.02) and Non-Commissioned Members (QR&O 5.01). Officers and Non-Commissioned members remain subject to the civil law, except as prescribed in the *National Defence Act* (QR&O 19.51). These examples are not exhaustive. For the full set of regulations, applicable to Canadian Armed Forces members, see online in English at:

<http://www.forces.gc.ca/en/about-policies-standards-queens-regulations-orders/index.page> or in French at:

<http://www.forces.gc.ca/fr/a-propos-politiques-normes-directives-ordonnances-reglements-royaux/index.page>.

Canadian Armed Forces members are subject to the Code of Service Discipline (Part III of the *National Defence Act*) as mentioned in Question 3.3, and are liable to be charged, tried and punished under military law for committing “service offences”. Service offences are defined in the *National Defence Act* as an offence under the *National Defence Act*, the *Criminal Code*, or any other act of Parliament committed by a person while subject to the Code of Service Discipline. Canada's international law obligations have been incorporated into Canadian law by statutes such as the *Geneva Conventions Act*, and by virtue of section 130 of the *National Defence Act*, into Canadian military law. When Canadian Armed Forces members deploy overseas, they are liable for the full range of service offences. Any offences committed by Canadian Armed Forces personnel while on overseas missions would be triable in the military justice system. All actions that would be considered crimes in International Humanitarian Law are also crimes punishable under Canadian military law.

Serious offences are dealt with at court martial, while less serious offences are usually dealt with at summary trial. For the majority of offences in the military justice system, the accused has the choice of proceeding by way of summary trial or court martial.

All Canadian Armed Forces personnel receive training in military justice during their basic training and are made aware of the Code of Service Discipline. More detailed training in military justice is provided to officers who will be conducting summary trials. No Presiding Officer is permitted to conduct a summary trial until he or she has successfully completed the Presiding Officer Certification Training, offered by the Canadian Armed Forces Military Law Centre. This training includes such topics as

powers of punishment, the rights of the accused, basic principles of military law, the procedure applicable at summary trials, and the procedure for dealing with offences that will be tried by court martial. Presiding Officers must pass re-certification training every four years.

All Canadian Armed Forces members are taught that they are individually responsible for their actions under the Code of Service Discipline. In addition, the Law of Armed Conflict training given to all Canadian Armed Forces members, from privates to senior Officers, teaches that service personnel are individually responsible for their actions during operations and may be dealt with under Canadian law.

4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?

Canadian Armed Forces operations are conducted at the direction of the Government of Canada which is, in turn, responsible to the elected Parliament and through the Parliament, the people of Canada. The Canadian Armed Forces conduct their operations in Canada in accord with relevant domestic laws, including the *Canadian Charter of Rights and Freedoms*, which recognizes human rights, including those found in international instruments to which Canada is a party. In addition, the Canadian Armed Forces is subject to oversight by civilian authorities.

The Canadian Armed Forces conducts its operations abroad in accordance with all of its applicable international legal obligations.

On the issue of identity, the Canadian Armed Forces, as well as the Department of National Defence, strive to reflect Canada's cultural, ethnic, gender, and bilingual makeup, as well as its regional diversity. Membership in the Canadian Armed Forces is open to all interested and qualified Canadian citizens regardless of gender, race, culture, or religion. All Canadian Armed Forces members are eligible to serve in all military occupations subject to suitability and requirements; there are no restrictions on the employment of women and Canada accommodates religious and cultural practices of individuals joining the Canadian Armed Forces (e.g., Sikh turbans, aboriginal braids) pursuant to relevant human rights legislation.

Under Canada's Action Plan for the Implementation of United Nations Security Council Resolutions on Women, Peace, and Security, relevant Government of Canada departments and agencies encourage the active and meaningful participation of women in decision making and in deployments for peace operations, including by identifying and addressing barriers to their full participation. The Canadian Armed Forces has gone beyond merely developing and implementing policies of equal opportunity by instituting special measures to attract greater numbers of qualified women from the Canadian workforce; identifying potential barriers to the full and meaningful participation of military and civilian members of Canada's Defence Team; continuing its education and

training activities to raise awareness about women's vulnerability in conflict situations; promoting the role of women in international peace and security within international organizations such as NATO; and, implementing new gender neutral fitness standards. With diversity in the workplace becoming an increasingly important objective, gender issues are receiving heightened visibility. Initiatives are underway that will encourage attraction and retention for women in the Canadian Armed Forces by eliminating discriminatory practices and attitudes, rather than granting special privileges and status.

In accordance with the Action Plan, Canada is committed to identifying Canadian specialists and trainers with expertise in women, peace, and security issues, and assist where practicable their professional development, placement on international deployment rosters or nomination for relevant multilateral assignments. Canada also encourages troop- and police-contributing countries to foster the participation of women in peace operations and in training relevant to peace operations.

4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?

Canadian Armed Forces members benefit from the rights afforded to them under the *Canadian Charter of Rights and Freedoms*, as elaborated above.

In addition, during federal elections and referendums, Canadian Forces electors can vote, by mail or at polling stations set up in their units, using a special ballot. This method of voting is governed by the Special Voting Rules, Part 11 of the *Canada Elections Act*. More information on the national Special Voting Rules is available online in English at: <http://www.elections.ca/content.aspx?section=vot&dir=bkg&document=ec90550&lang=e> or in French at: <http://www.elections.ca/content.aspx?section=vot&dir=bkg&document=ec90550&lang=f>

Limits on political activities and candidature for office of Canadian Armed Forces members are set out in QR&O 19.44. Canadian Armed Forces members cannot engage in activities that may affect the actual or perceived political neutrality of the Canadian Armed Forces.

4.5 How does your State ensure that its defence policy and doctrine are consistent with international law?

The Government of Canada has dedicated legal services that provide advice in the field of international law and policy, both within the Department of National Defence, the Canadian Armed Forces, the Department of Justice, and the Department of Foreign Affairs and International Trade. Lawyers from these legal services are involved in developing defence policy and doctrine and providing legal advice to ensure compliance with Canada's international legal obligations.

The Office of the Judge Advocate General (JAG) delivers independent, operationally focused, solution oriented legal advice and services across the full spectrum of military law, and superintends the administration of military justice. Specifically, the JAG is the legal adviser to the Governor General, the Minister of National Defence, the Department of National Defence and the Canadian Armed Forces in matters relating to military law. The JAG is statutorily responsible for the superintendence of the administration of the military justice system in the Canadian Armed Forces.

Section III: Public access and contact information

1. Public access

1.1 How is the public informed about the provisions of the Code of Conduct?

Canada agrees on the need for the public to be informed about the provisions of the Code of Conduct. Much of the information submitted in this questionnaire is publicly available on the websites of Government of Canada Departments, including the website of the Department of National Defence.

1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?

The Canadian public has the right to access government-held information through the *Access to Information Act* and the *Privacy Act*. While not directly linked to the replies of the OSCE Code of Conduct questionnaire, Canadian legislation such as the *National Defence Act* is publicly available on the Internet. Extensive information on Canada's armed forces, international agreements and conventions, commitments in the field of arms control and disarmament, institutions responsible for the democratic control of security forces and many other related topics are widely available on the Internet.

Canada's laws and regulations regarding the public's right of access to information held by the Department of National Defence is set out in the *Privacy Act* and the *Access to Information Act*. The *Privacy Act* gives Canadian citizens, permanent residents and persons present in Canada the right to access federal government-held information about themselves. The *Access to Information Act* gives Canadian citizens, permanent residents, persons and corporations present in Canada the right to access information contained in government records. Under the Canadian access legislation the right of access to information is balanced against the legitimate need to protect sensitive information and to permit the effective functioning of government while promoting transparency and accountability in government institutions. Individuals can access the Departmental Access to Information and Privacy Directorate's website, where they can download the prescribed application forms to formalize their requests for access.

Full text of the *Privacy Act* can be found in English at: <http://laws-lois.justice.gc.ca/eng/acts/P-21/index.html> in French at: <http://laws-lois.justice.gc.ca/fra/lois/P-21/index.html>

Full text of the *Access to Information Act* can be found in English at: <http://laws-lois.justice.gc.ca/eng/acts/A-1/> and in French at: <http://laws-lois.justice.gc.ca/fra/lois/A-1/>

The *Privacy Act* and the *Access to Information Act* are intended to complement other informal procedures that allow public access to government information, and are not intended to limit in any way the type of government information that is normally available to the general public. The Department of National Defence maintains an extensive website, where citizens can access a wealth of information on the armed forces at: www.forces.gc.ca. This includes, *inter alia*, information on the organization of the Department of National Defence and the Canadian Armed Forces, operations, equipment procurement, and points of contact. As part of a government-wide movement towards greater transparency, the Department of National Defence website has a *Proactive Disclosure* link in English at: <http://www.admfincs.forces.gc.ca/pd-dp/index-eng.asp> and in French at: <http://www.admfincs-smafinsm.forces.gc.ca/pd-dp/index-fra.asp>.

This link provides access to information in the following categories:

- disclosure of Travel and Hospitality Expenses;
- disclosure of contracts over \$10,000;
- disclosure of Position Reclassifications; and
- disclosure of Grant and Contribution Awards over \$25,000.

Additionally, the Department of National Defence makes information on Canada's Armed Forces widely available through its website (www.forces.gc.ca) and through publications on various aspects of the activities of the Department of National Defence. Additionally, the public can access information through Ministerial Correspondence and Parliamentary questions to Members of Parliament.

2. Contact information

2.1 Provide information on the national point of contact for the implementation of the Code of Conduct

**Defence and Security Relations Division
Foreign Affairs and International Trade Canada
125 Sussex drive
Ottawa, ON
Canada
K1A0G2**

Tel: 1-613-996-1251

Email: idr@international.gc.ca