

Copyright Board of Canada

2019-20

Departmental Plan

The Honourable Navdeep Bains, P.C., M.P.
Minister of Innovation, Science and Economic Development

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by the Minister of Industry, 2019

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Minister's message

It is my pleasure to present the 2019-20 Departmental Plan for the Copyright Board of Canada. We are working across the Innovation, Science and Economic Development Portfolio to support and develop the innovation ecosystem, strengthen science to support evidence-based decision making, champion the tourism sector, and help small businesses start up and scale up.

In 2019-20, the Copyright Board of Canada will continue rendering decisions related to tariffs of general application and issuing licences where parties cannot agree or licences where the owner of the work cannot be found, as per its mandate under the *Copyright Act*. In addition, 2019-20 will be a year of transition for the Board as it begins to implement several new measures introduced in the *Budget Implementation Act, 2018 No 2*, which seeks to address the procedural and structural challenges faced by the Board in respect to timeliness, predictability and clarity of its proceedings. The measures, reflected in legislative changes to the *Copyright Act*, come into effect on April 1st, 2019. They will contribute to making a robust creative economy in which both creators and innovative businesses can thrive to produce high-quality Canadian content. They will also help eliminate barriers for services wishing to innovate or enter the Canadian market.

Ultimately, the Portfolio's work will create the right environment to generate ideas, commercialize those ideas, and give Canadians the skills to access the jobs and opportunities presented by today's economy.

Together with Canadians of all backgrounds, regions and generations, we are building a strong culture of innovation to position Canada as a leader in the global economy.



The Honourable Navdeep Bains
Minister of Innovation, Science
and Economic Development

Plans at a glance and operating context

The Copyright Board of Canada's fundamental purpose is to establish fair and equitable tariffs and licences through timely and fair processes. This requirement is expressly stated in the *Copyright Act* (the "*Act*"): "The Board shall fix royalty and levy rates and any related terms and conditions under this Act that are fair and equitable [...]". The requirement to have timely processes is also expressly stated in the *Act*: "All matters before the Board shall be dealt with as informally and expeditiously as the circumstances and considerations of fairness permit [...]".

To deliver on its mandate, the Board is required to follow the principles of natural justice; base its work on solid legal and economic principles; and reflect a solid understanding of constantly evolving business models and technologies. As a quasi-judicial administrative court, the Board must also consider the decisions of the Federal Court of Appeal and of the Supreme Court of Canada which continuously shape the legal framework in which it operates. Finally, the Board must consider that its decisions are subject to judicial review. This means that cases from previous years can be reversed on judicial review and sent back to the Board.

The Board's mandate and responsibilities have considerably evolved since its creation in 1989 as a result of successive amendments to the *Act*, first in 1997 by Bill C-32; then in 2012 by the *Copyright Modernization Act* (Bill C-11); and then finally in 2018 via the *Budget Implementation Act, 2018 No 2*. The latest in particular introduced several measures to address the procedural and structural challenges faced by the Board with respect to timeliness, predictability and clarity of its proceedings, and added the public interest criteria to its mandate. These changes to the *Act* come into effect on April 1st, 2019.

The Board's ability to deliver on its mandate and responsibilities as modified by these changes depends in part on its agility, adaptability and resilience as an organization. Because it deals with extremely complex subject matter which continuously morphs and shape-shifts as technologies evolve, the Board must keep itself informed and well versed in a multitude of fields such as conventional broadcasting and internet streaming, in addition to domestic and international developments in copyright and administrative law. It must also provide for a stimulating working environment conducive to recruitment and retention of highly skilled employees. This is essential to ensure the Board has access to the technical expertise required to support its decision-making process and render fair and equitable decisions, as prescribed by the *Act*.

Finally, the Board needs to preserve its judicial independence while ensuring its business practices and proceedings are as transparent and predictable as necessary to maintain public trust.

To follow up on the amendments brought forward in November 2018, one of the Board's top priorities for the year 2019-20 will be to develop a set of new regulations to support a more efficient tariff setting process. These regulations will complement both the legislative amendments and the upcoming Governor-in-Council Regulations currently being developed by the Government. By maximizing the efficiency and predictability of the processes it administers, the Board seeks to minimize administrative costs to Canadians from the setting of

tariffs. To the extent that these processes lead to fair and equitable tariffs and licences, the Board will be supporting an innovation-driven Canadian copyright marketplace beneficial to both rights holders and users of creative content.

The 30% increase in financial resources announced in Federal Budget 2018 as part of Canada's Intellectual Property Strategy will allow the Board to increase its internal capacity to support more efficient processes and to reduce its organizational vulnerabilities due to the very technical nature of its business and the difficulties to recruit, in particular economic analysts. It will also allow the Board to enhance the nature and quality of its outreach and communication activities with parties and the public, notably by launching a new enhanced website and by publishing a series of practice notices to guide parties during proceedings leading to tariff certification.

For more information on the Board's plans, priorities and planned results, see the "Planned results" section of this report.

Planned results: what we want to achieve this year and beyond

Core Responsibility

Core Responsibility Title: Copyright Tariffs and Licences

Description

The Copyright Board of Canada establishes the tariffs which set the royalties to be paid for the use of copyrighted works, when the copyright on such works are being administered collectively by a society. The Board also issues licences which set the royalties to be paid for the use of copyrighted works when the copyright owner cannot be located. By issuing fair and equitable tariffs and licences in a timely manner, the Board encourages the development and adoption of new technologies and stimulates innovation in the Canadian creative economy. Its work also promotes confidence in Canada's tariff and licencing processes.

Planning Highlights

Delays in issuing decisions to Canadian copyright industry stakeholders can cause uncertainty and lessen incentives for the creation and use of copyrighted works. To address this situation, a number of amendments were made to the *Act* in November 2018 aimed at modernizing the legislative framework in which the Board operates so as to: improve the timeliness, predictability, and clarity of its proceedings and overall, reduce the regulatory burden and costs for all stakeholders. In particular, the amendments codify the Board's mandate, establish decision-making criteria, set timelines for rendering decisions and formalize case management. Amendments to the *Act* come into effect on April 1st, 2019. In Addition, Budget 2018 increased the Board's financial resources by 30%, to ensure that the amendments translate into their expected goals.

Fiscal year 2019-20 will be one of transition for the Board as it reviews and modernizes its suite of internal processes to ensure that the implementation of the new legislative framework leads to more efficient processes. To that effect, one of the Board's priorities will be to develop regulations that will support a more efficient tariff setting process by establishing clear rules and expectations for all participants and by providing guidance as to how processes will be expedited.

In addition, in November 2018, the Board launched a complete assessment of its internal practices and policies based on a "lean management" approach which is expected to bring results as early as March 2019. This exercise will allow the Board to identify among its various administrative steps, the ones that are necessary for its decision-making function, and the strategies to adopt for ensuring that resources are used optimally, while preserving the integrity and fairness of its quasi-judicial procedures.

The Board will also take steps to foster a culture of efficiency not only within its organization

but also among parties interacting with the Board by publishing a number of practice notices to clarify the nature of the interactions between the parties and the Board, and help reduce delays at every step of the certification process.

To improve its communications with the public, the website of the Board will be restructured to increase transparency and access from the general public. In particular, the website will provide access to a new platform to facilitate research on Board's decisions. This new website is expected to be launched in Spring 2019. In addition, the Board will examine options intended to frame the participation of the public in its processes, pursuant to the 2018 amendments to the *Act* which introduced "the public interest" as one of the criteria it needs to consider.

Finally, in 2019-20 the Board will address pressing issues related to recruitment, training, retention and succession of its employees, in particular with respect to its economic analysis unit.

With respect to performance measurement and results monitoring, current indicators will need to be reviewed to ensure that all relevant aspects of Board's performance are adequately measured as per the new legislative framework. However, since the new framework will begin to apply only to new tariffs for the year 2021 and beyond, the Board will continue in 2019-20 to gather data based on the previous framework, namely the number of months between the date when a particular tariff file is closed, and the date of the corresponding decision.

With respect to licences that authorize the use of published works, fixed performances, published sound recordings and fixed communication signals if the copyright owner cannot be located, the Board will also continue to gather data on the number of days between the date when a particular licence file is closed, and the date of issuance of the licence. New performance indicators for both tariff and licences processes will be developed in the longer term once the new legislative framework is fully implemented and applicable.

Planned results

Departmental Results	Departmental Result Indicators	Target	Date to achieve target	2015-16 Actual results	2016-17 Actual results	2017-18 Actual results
Timely tariff decisions	Percentage of tariff decisions published within 12 months	70%	March 31, 2020	78%	50%	93%
Timely issuance of licences	Percentage of licences issued within 45 days	70%	March 31, 2020	86%	100%	0%

Note: The actual results of both indicators can vary substantially because of the low number of decisions and licences that the Board issues every year. For instance, in 2016-17, the Board issued two tariff decisions with one after the twelve-month deadline. This implied a result indicator of 50%. Because of this high variability of the results, the targets have to remain at their current level of 70%, even though for some years, the Board is able to achieve a better result. It is only after having consistently achieved a result higher than the target, and over a number of years, that this target can be revised.

As indicated in the table, for the year 2017-18, none of the licences were issued within 45 days. The average number of days within which the licences were issued during that period is 56, 11 days above the target of 45 days. This low performance reflects a year where the Board was very active on other fronts and could not allocate the necessary resources to meet this performance objective. The modernization of its operations along with the additional budget will allow the Board allocate the necessary resources to this part of its operation such that the performance of the Board in that respect is brought back to its normal, historical level.

Budgetary financial resources (dollars)

2019-20 Main Estimates	2019-20 Planned spending	2020-21 Planned spending	2021-22 Planned spending
3,384,021	3,384,021	3,384,021	3,384,021

Human resources (full-time equivalents)

2019-20 Planned full-time equivalents	2020-21 Planned full-time equivalents	2021-22 Planned full-time equivalents
23	23	23

Financial, human resources and performance information for the Copyright Board's Program Inventory is available in the [GC InfoBase](#).ⁱ

Internal Services

Description

Internal Services are those groups of related activities and resources that the federal government considers to be services in support of programs and/or required to meet corporate obligations of an organization. Internal Services refer to the activities and resources of the 10 distinct service categories that support Program delivery in the organization, regardless of the Internal Services delivery model in a department. The 10 service categories are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Materiel Services; and Acquisition Services.

Budgetary financial resources (dollars)

2019-20 Main Estimates	2019-20 Planned spending	2020-21 Planned spending	2021-22 Planned spending
793,783	793,783	793,783	793,783

Human resources (full-time equivalents)

2019-20 Planned full-time equivalents	2020-21 Planned full-time equivalents	2021-22 Planned full-time equivalents
3	3	3

Planning highlights

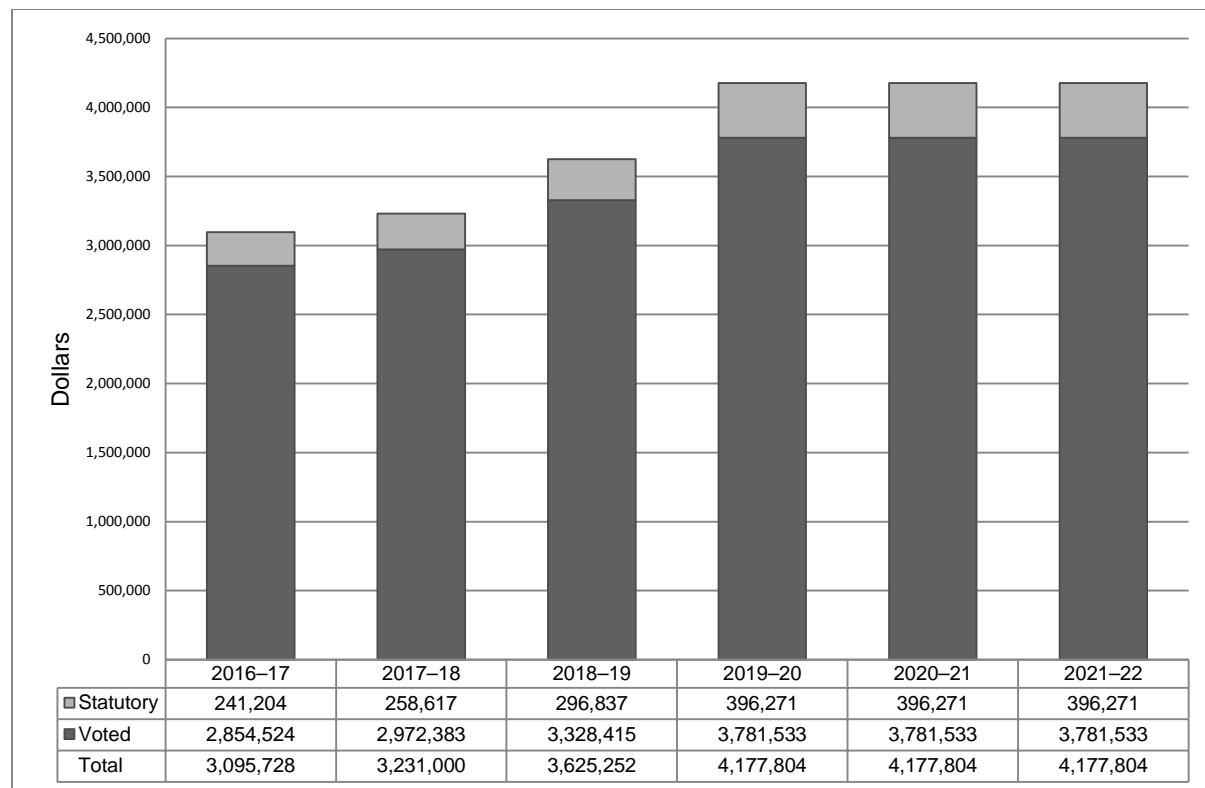
The Board receives timely support from internal services, namely: finance; human resources; communications; information management and information technology. This activity contributes to the creation of an environment that will allow the Board to fulfill its mandate and realize its objective.

The additional funding provided to the Board will allow for the hiring of a significant number of additional staff among various occupational groups. In view of this, the Board will need to finalize the restructuring of its offices to accommodate the new employees. This will be done with the objective of fostering both collaborative work and innovative thinking.

Spending and human resources

Planned spending

Departmental spending trend graph



Overall (voted and statutory), the Board's total authorities for 2019-20 have a net increase of almost 1 million from 2017-18 and about \$500,000 from 2018-19. These are reflections of the additional financial resources provided in Budget 2018.

Budgetary planning summary for Core Responsibilities and Internal Services (dollars)

Core Responsibilities and Internal Services	2016-17 Expenditures	2017-18 Expenditures	2018-19 Forecast spending	2019-20 Main Estimates	2019-20 Planned spending	2020-21 Planned spending	2021-22 Planned spending
Copyright Tariff Setting and Issuance of Licences	2,507,540	2,617,110	2,936,454	3,384,021	3,384,021	3,384,021	3,384,021
Subtotal	2,507,540	2,617,110	2,936,454	3,384,021	3,384,021	3,384,021	3,384,021
Internal Services	588,188	613,890	688,798	793,783	793,783	793,783	793,783
Total	3,095,728	3,231,000	3,625,252	4,177,804	4,177,804	4,177,804	4,177,804

2019–20 Budgetary planned gross spending summary (dollars)

Core Responsibilities and Internal Services	2019–20 Planned gross spending	2019–20 Planned gross spending for specified purpose accounts	2019–20 Planned revenues netted against expenditures	2019–20 Planned net spending
Copyright Tariff Setting and Issuance of Licences	3,384,021	3,384,021	3,800,483	3,800,483
Subtotal	3,384,021	3,384,021	3,800,483	3,800,483
Internal Services	793,783	793,783	891,471	891,471
Total	4,177,804	4,177,804	4,591,954	4,591,954

Planned human resources

Human resources planning summary for Core Responsibilities and Internal Services (full-time equivalents)

Core Responsibilities and Internal Services	2016–17 Actual full-time equivalents	2017–18 Actual full-time equivalents	2018–19 Forecast full-time equivalents	2019–20 Planned full-time equivalents	2020–21 Planned full-time equivalents	2021–22 Planned full-time equivalents
Copyright Tariff Setting and Issuance of Licences	16	15	15	23	23	23
Subtotal	16	15	15	23	23	23
Internal Services	2	3	3	3	3	3
Total	18	18	18	26	26	26

Estimates by vote

For information on the Copyright Board's organizational appropriations, consult the [2019-20 Main Estimates](#).ⁱⁱ

Future-Oriented Condensed Statement of Operations

The Future-Oriented Condensed Statement of Operations provides a general overview of the Copyright Board's operations. The forecast of financial information on expenses and revenues is prepared on an accrual accounting basis to strengthen accountability and to improve transparency and financial management.

Because the Future-Oriented Condensed Statement of Operations is prepared on an accrual accounting basis, and the forecast and planned spending amounts presented in other sections of the Departmental Plan are prepared on an expenditure basis, amounts may differ.

A more detailed Future-Oriented Statement of Operations and associated notes, including a reconciliation of the net cost of operations to the requested authorities, are available on the [Copyright Board of Canada's website](#).

Future-Oriented Condensed Statement of Operations for the year ended March 31, 2020 (dollars)

Financial information	2018-19 Forecast results	2019-20 Planned results	Difference (2019-20 Planned results minus 2018-19 Forecast results)
Total expenses	4,084,883	4,691,954	607,071
Total revenues	-	-	-
Net cost of operations before government funding and transfers	4,084,883	4,691,954	607,071

The planned results for 2019-20 shows an increase compared to the forecast results for 2018-19. This increase is the result of additional funding allocated to the Board as part of Budget 2018.

Additional information

Corporate information

Organizational profile

Appropriate minister: The Honourable Navdeep Bains, P.C., M.P.
Minister of Innovation, Science and Economic Development

Institutional head: Nathalie Théberge, Vice-Chairperson and CEO

Ministerial portfolio: Innovation, Science and Economic Development

Enabling instrument: *Copyright Act*ⁱⁱⁱ

Year of incorporation / commencement: 1989

Raison d'être, mandate and role: who we are and what we do

“Raison d'être, mandate and role: who we are and what we do” is available on the [Copyright Board of Canada's website](#).

Reporting framework

The Copyright Board of Canada's Departmental Results Framework and Program Inventory of record for 2019-20 are shown below:

Departmental Results Framework	Core Responsibility: Copyright Tariffs and Licences		Internal Services
	Department Result 1: Timely Tariff Decisions	Indicator: Percentage of tariff decisions published within 12 months	
	Department Result 2: Timely Issuance of Licences	Indicator: Percentage of licences issued within 45 days	
Program Inventory	Program: Copyright Tariff Setting and Issuance of Licences		

Supporting information on the Program Inventory

Supporting information on planned expenditures, human resources, and results related to the Copyright Board's Program Inventory is available in the [GC InfoBase](#).^{iv}

Federal tax expenditures

The tax system can be used to achieve public policy objectives through the application of special measures such as low tax rates, exemptions, deductions, deferrals and credits. The Department of Finance Canada publishes cost estimates and projections for these measures each year in the [Report on Federal Tax Expenditures](#).^v This report also provides detailed background information on tax expenditures, including descriptions, objectives, historical information and references to related federal spending programs. The tax measures presented in this report are the responsibility of the Minister of Finance.

Organizational contact information

Copyright Board of Canada
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E-mail: secretariat@cb-cda.gc.ca

Appendix: definitions

appropriation (crédit)

Any authority of Parliament to pay money out of the Consolidated Revenue Fund.

budgetary expenditures (dépenses budgétaires)

Operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and payments to Crown corporations.

Core Responsibility (responsabilité essentielle)

An enduring function or role performed by a department. The intentions of the department with respect to a Core Responsibility are reflected in one or more related Departmental Results that the department seeks to contribute to or influence.

Departmental Plan (plan ministériel)

A report on the plans and expected performance of an appropriated department over a three-year period. Departmental Plans are tabled in Parliament each spring.

Departmental Result (résultat ministériel)

Any change that the department seeks to influence. A Departmental Result is often outside departments' immediate control, but it should be influenced by Program-level outcomes.

Departmental Result Indicator (indicateur de résultat ministériel)

A factor or variable that provides a valid and reliable means to measure or describe progress on a Departmental Result.

Departmental Results Framework (cadre ministériel des résultats)

The department's Core Responsibilities, Departmental Results and Departmental Result Indicators.

Departmental Results Report (rapport sur les résultats ministériels)

A report on the actual accomplishments against the plans, priorities and expected results set out in the corresponding Departmental Plan.

evaluation (évaluation)

In the Government of Canada, the systematic and neutral collection and analysis of evidence to judge merit, worth or value. Evaluation informs decision making, improvements, innovation and accountability. Evaluations typically focus on programs, policies and priorities and examine questions related to relevance, effectiveness and efficiency. Depending on user needs, however, evaluations can also examine other units, themes and issues, including alternatives to existing interventions. Evaluations generally employ social science research methods.

experimentation (expérimentation)

Activities that seek to explore, test and compare the effects and impacts of policies, interventions and approaches, to inform evidence-based decision-making, by learning what works and what does not.

full-time equivalent (équivalent temps plein)

A measure of the extent to which an employee represents a full person-year charge against a departmental budget. Full-time equivalents are calculated as a ratio of assigned hours of work to scheduled hours of work. Scheduled hours of work are set out in collective agreements.

gender-based analysis plus (GBA+) (analyse comparative entre les sexes plus [ACS+])

An analytical process used to help identify the potential impacts of policies, Programs and services on diverse groups of women, men and gender-diverse people. The “plus” acknowledges that GBA goes beyond sex and gender differences. We all have multiple identity factors that intersect to make us who we are; GBA+ considers many other identity factors, such as race, ethnicity, religion, age, and mental or physical disability.

government-wide priorities (priorités pangouvernementales)

For the purpose of the 2019–20 Departmental Plan, government-wide priorities refers to those high-level themes outlining the government’s agenda in the 2015 Speech from the Throne, namely: Growth for the Middle Class; Open and Transparent Government; A Clean Environment and a Strong Economy; Diversity is Canada's Strength; and Security and Opportunity.

horizontal initiative (initiative horizontale)

An initiative where two or more departments are given funding to pursue a shared outcome, often linked to a government priority.

non-budgetary expenditures (dépenses non budgétaires)

Net outlays and receipts related to loans, investments and advances, which change the composition of the financial assets of the Government of Canada.

performance (rendement)

What an organization did with its resources to achieve its results, how well those results compare to what the organization intended to achieve, and how well lessons learned have been identified.

performance indicator (indicateur de rendement)

A qualitative or quantitative means of measuring an output or outcome, with the intention of gauging the performance of an organization, Program, policy or initiative respecting expected results.

Performance Information Profile (profil de l'information sur le rendement)

The document that identifies the performance information for each Program from the Program Inventory.

performance reporting (production de rapports sur le rendement)

The process of communicating evidence-based performance information. Performance reporting supports decision making, accountability and transparency.

plan (plan)

The articulation of strategic choices, which provides information on how an organization intends to achieve its priorities and associated results. Generally a plan will explain the logic behind the strategies chosen and tend to focus on actions that lead up to the expected result.

planned spending (dépenses prévues)

For Departmental Plans and Departmental Results Reports, planned spending refers to those amounts presented in the Main Estimates.

A department is expected to be aware of the authorities that it has sought and received. The determination of planned spending is a departmental responsibility, and departments must be able to defend the expenditure and accrual numbers presented in their Departmental Plans and Departmental Results Reports.

priority (priorité)

A plan or project that an organization has chosen to focus and report on during the planning period. Priorities represent the things that are most important or what must be done first to support the achievement of the desired Departmental Results.

Program (programme)

Individual or groups of services, activities or combinations thereof that are managed together within the department and focus on a specific set of outputs, outcomes or service levels.

Program Inventory (répertoire des programmes)

Identifies all of the department's programs and describes how resources are organized to contribute to the department's Core Responsibilities and Results.

result (résultat)

An external consequence attributed, in part, to an organization, policy, Program or initiative. Results are not within the control of a single organization, policy, Program or initiative; instead they are within the area of the organization's influence.

statutory expenditures (dépenses législatives)

Expenditures that Parliament has approved through legislation other than appropriation acts. The legislation sets out the purpose of the expenditures and the terms and conditions under which they may be made.

sunset program (programme temporisé)

A time-limited program that does not have an ongoing funding and policy authority. When the program is set to expire, a decision must be made whether to continue the program. In the case of a renewal, the decision specifies the scope, funding level and duration.

target (cible)

A measurable performance or success level that an organization, Program or initiative plans to achieve within a specified time period. Targets can be either quantitative or qualitative.

voted expenditures (dépenses votées)

Expenditures that Parliament approves annually through an Appropriation Act. The Vote wording becomes the governing conditions under which these expenditures may be made.

Endnotes

- i GC InfoBase, <https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#start>
- ii 2019-20 Main Estimates, <https://www.canada.ca/en/treasury-board-secretariat/services/planned-government-spending/government-expenditure-plan-main-estimates.html>
- iii *Copyright Act*: <http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html>
- iv GC InfoBase, <https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#start>
- v Report on Federal Tax Expenditures, <http://www.fin.gc.ca/purl/taxexp-eng.asp>