SEPT. 16 SEPT. 2024
SESSIONAL PAPER
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HOUSE OF COMMONS
CHAMBRE DES COMMUNES

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CANADA

OFFICE OF THE LAW CLERK
AND PARLIAMENTARY COUNSEL
BUREAU DU LÉGISTE ET
CONSEILLER PARLEMENTAIRE

**BY EMAIL**

September 16, 2024

The Honorable Greg Fergus, P.C., M.P.
Speaker of the House of Commons
House of Commons
Ottawa, ON K1A 0A6
Speaker.President@parl.gc.ca

**Subject:** Notice pursuant to the House of Commons' Order of June 10, 2024

Dear Mr. Speaker:

I am writing further to my letters of July 17 and August 21, 2024, and pursuant to the Order of the House of Commons of June 10, 2024 (the "Order") requesting the production of documents from the government, Sustainable Development Technology Canada (SDTC) and the Auditor General of Canada. The Order states, in part, that:

> (h) the Law Clerk and Parliamentary Counsel shall promptly thereafter notify the Speaker whether each entity produced documents as ordered, and the Speaker, in turn, shall forthwith inform the House of the notice of the Law Clerk and Parliamentary Counsel but, if the House stands adjourned, the Speaker shall lay the notice upon the table pursuant to Standing Order 32(1); and
>
> (i) the Law Clerk and Parliamentary Counsel shall provide forthwith any documents received by him, pursuant to this order, to the Royal Canadian Mounted Police [RCMP].

**Government Institutions**

On August 29, 2024, Innovation, Science and Economic Development (ISED) provided me with documents and indicated that these were the second of four tranches of documents to be submitted in response to the Order.

On August 30, 2024, Justice Canada provided me with additional documents with redactions and indicated that the remaining documents were currently completely withheld.

On September 12, 2024, Environment and Climate Change Canada provided me with additional documents in response to the Order.

The letters I received from the different government institutions are reproduced at Annex A.

**SDTC**

On August 29, 2024, SDTC provided me with documents responsive to paragraph (f) of the Order. SDTC indicated that they had partially redacted some records and withheld others on the grounds of legal privilege. The letter from SDTC is reproduced at Annex B.

**Auditor General**

On September 13, 2024, the Auditor General provided me with documents with the mention that other documents could be provided later. The letter from the Auditor General is reproduced at Annex C.

In accordance with the Order, I will continue to notify you of the receipt of other documents.

As stated above, paragraph (h) of the Order provides that, as Speaker, you must forthwith inform the House of this notice.

Yours sincerely,

Michel Bédard
Law Clerk and Parliamentary Counsel

Encl.

House of Commons, Room 7-02, 131 Queen St., Ottawa, Ontario K1A 0A6
Tel: 613-996-6063 Fax: 613-992-4317 Email: lc-bl@parl.gc.ca

# ANNEX A

Innovation, Science and Economic Development Canada
Deputy Minister
Ottawa, Canada
K1A 0H5

Innovation, Sciences et Développement économique Canada
Sous-ministre

Michel Bédard
Law Clerk and Parliamentary Counsel
House of Commons
Ottawa, Ontario  K1A 0A6

michel.bedard@parl.gc.ca

Dear Michel Bédard:

Please find attached Innovation, Science, and Economic Development Canada's (ISED) second tranche of documents in response to the House of Commons motion requesting documents pertaining to Sustainable Development Technology Canada from January 1, 2017, to June 10, 2024.

As mentioned in my July 10 letter to you, the Department will have two more tranches to submit related to this motion:

- Tranche 3, which will include documents from other current and former ISED officials; and
- Tranche 4, which will be comprised of all outstanding documents that were not processed in time for Tranche 3.

Allow me to once again emphasize that ISED is committed to meeting its obligation to comply with the House of Commons motion. This motion is a priority, and the Department is preparing the documents as quickly as possible. I trust that this second tranche of documents will demonstrate the Department's good faith in moving quickly to reply to the motion and that submitting all other relevant information to you according to the proposed schedule will be satisfactory.

Please accept my best wishes.

Sincerely,

Kennedy, Simon

Digitally signed by Kennedy, Simon
Date: 2024.08.22 08:51:46 -04'00'

Simon Kennedy
Deputy Minister of Innovation, Science
and Economic Development

Attachments

Canada

Department of Justice
Canada

Deputy Minister of Justice and
Deputy Attorney General of Canada

Ottawa, Canada
K1A 0H8

Ministère de la Justice
Canada

Sous-ministre de la Justice et
sous-procureure générale du Canada

August 30, 2024

Mr. Michel Bédard
Law Clerk and Parliamentary Counsel
House of Commons

Dear Mr. Bédard:

In response to the House of Commons' motion of June 10, 2024, requesting documents pertaining to Sustainable Development Technologies Canada, I wish to advise you that the Department of Justice Canada has now concluded its gathering and review of the requested records.

Justice Canada reviewed the gathered documents with the goal of providing as much information as possible, while also balancing the exercise of the privileges of the House of Commons with the interests and information that are protected by law and by the Constitution. Achieving this balance was further challenged by the overall volume and the limited time for review.

As a result, attached are 16 pages being released in full at this time. The remaining documents are currently being completely withheld to protect personal information, confidential business information, solicitor-client privilege, as well as Cabinet Confidences. Please note that Justice Canada will continue to thoroughly review the currently withheld documents to determine if additional information can be provided. Any additional documents identified will be provided to you as soon as possible.

Sincerely,

Shalene Curtis-Micallef (she/her)

Enclosure

Environnement et Changement climatique Canada
Sous-ministre

Environment and Climate Change Canada
Deputy Minister

Mr. Michel Bédard
Law Clerk and Parliamentary Counsel
of the House of Commons
Office of the Law Clerk and Parliamentary Counsel
House of Commons
131 Queen Street
Ottawa ON K1A 0A6

Dear Mr. Bédard:

On July 8, 2024, Environment and Climate Change Canada submitted files, documents, briefing notes, memoranda, emails and any other correspondence regarding Sustainable Development Technology Canada, created or dated since January 1, 2017, as required by the motion adopted by the House of Commons on June 10.

Subsequent to Environment and Climate Change Canada's submission, departmental officials came across additional documents. I regret this omission.

These additional documents are enclosed hoping that they will be helpful to the Royal Canadian Mounted Police.

Please accept my best regards.

Sincerely,

Jean-François Tremblay

Encl.

# ANNEX B

Docusign Envelope ID: 0A9CF485-F404-461C-AB01-943BE9601407

SUSTAINABLE DEVELOPMENT TECHNOLOGY CANADA
TECHNOLOGIES DU DEVELOPPEMENT DURABLE CANADA

August 29, 2024

Michel Bédard
Law Clerk and Parliamentary Counsel
House of Commons
131 Queen Street
Ottawa, ON K1A 0A6

Dear Mr. Bédard:

**House of Commons Order dated June 10, 2024 (the "Order")**

We write further to our counsel's letter of July 10, 2024, that provided Sustainable Development Technology Canada's responsive documents to paragraphs (b), (c), (d) and (e) of the Order.

As discussed in our July 10 letter, SDTC has now completed our review of the documents responsive to subparagraph (f) of the Order. Attached is a password-encrypted USB drive containing those records. The password will follow in a separate email. Please be advised that SDTC has partially redacted 94 records, and 292 records have been withheld, on the grounds of legal privilege. No other redactions have been made and 10,074 records are being produced.

As with our last production, many of the documents contain confidential commercial and personal information of third parties. Accordingly, SDTC is providing the attached documents with the expectation that they will be held in strict confidence by the Office of the Clerk, except for their disclosure to the RCMP as contemplated by the Order.

Please confirm receipt at your earliest convenience.

Yours truly,

DocuSigned by:
Sheryl Urie
9A1B61B88D8B495...

Sheryl Urie, Vice President, Finance
On behalf of Ziyad Rahme
Chief Operating Officer

# ANNEX C

Office of the Auditor General of Canada
Bureau du vérificateur général du Canada

13 September 2024

Mr. Michel Bédard
Law Clerk and Parliamentary Counsel
Office of the Law Clerk and Parliamentary Counsel
131 Queen Street
Floor 7, Room 73
Ottawa, Ontario K1A 0A6

RE: House of Commons Order to Produce Documents

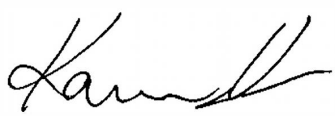
Dear Mr. Bédard:

I am writing further to the letter from the Clerk of the House of Commons, dated 11 June 2024, and my letter, dated 10 July 2024, which is attached for reference. Please find enclosed documents belonging to Sustainable Development Technology Canada (SDTC) that I am able to provide at this time. I will contact your office when there is further documentation that I can provide to respond to the House's Order.

It is my understanding that you have now received some documents from the government and SDTC, and that documents are being provided in tranches. As noted in my letter of 10 July 2024, the Auditor General Act requires me to comply with the security requirements that the government applies to its records. My office is communicating with the government to determine whether confidentiality and security requirements have been applied to specific documents that have been provided to you.

My expectation, as confirmed with your office, is that the information we are providing to you is for the sole purpose of transmission to the RCMP as contemplated by the House of Commons order and will otherwise be held in strict confidence.

Yours sincerely,



Karen Hogan, FCPA
Auditor General of Canada
240 Sparks Street
Ottawa, Ontario K1A 0G6

Enclosures

c.c.: Mr. Eric Janse, Clerk of the House of Commons

Office of the
Auditor General
of Canada

Bureau du
vérificateur général
du Canada

10 July 2024

Mr. Eric Janse
Clerk of the House of Commons
House of Commons
Ottawa, Ontario K1A 0A4

Dear Mr. Janse:

I am writing further to your letter, dated 11 June 2024, which informed me that the House of Commons adopted an order to deposit certain documents with Michel Bédard, Law Clerk and Parliamentary Counsel. This order includes the production of documents which I relied on in preparing Report 6—Sustainable Development Technology Canada (SDTC), in addition to any specific documents listed in the order that were obtained by my Office from the government or SDTC.

The objective of the order appears to be about ensuring that the Royal Canadian Mounted Police (RCMP) has access to the government's information, and the information in our audit file. I share the view that Commissioner Duheme expressed to House of Commons Standing Committee on Public Accounts (PACP) on June 18, 2024—the OAG has a strong working relationship with the RCMP that is grounded in a well-established process to access information in our audit files. This is important because of the rights established in the Canadian Charter of Rights and Freedoms that apply to criminal proceedings, and because the courts play an important role in ensuring that information obtained by law enforcement respects those rights. In the past the RCMP has obtained production orders to ensure that information from the OAG has been obtained legally and can be used when a criminal prosecution is launched.

Where the OAG is of the view that activities may be of a criminal nature, we promptly inform the RCMP. As we did not reach this conclusion in our audit of SDTC, we did not engage with the RCMP about our audit findings before my report was presented to Parliament. Based on recent communications with the RCMP about this order, we confirmed that the RCMP would seek a production order before requesting any documents should they deem them necessary to any investigation. This would be consistent with well-established past practice.

.../2

In any event, I am not able to respond to the order at this time. Fundamentally, the records covered by the order belong to the government and SDTC. Any documents that the OAG created during the audit, and upon which I relied in preparing my audit report, derived from those records. Subsection 13(3) of the *Auditor General Act* requires me to comply with the security requirements that the government applies to records. It is my understanding that the government is currently in the process of considering what can be provided in response to the order. As a result, I must wait for the government to make that determination before responding to ensure that I am complying with government security requirements.

It is also important to note that I informed PACP on 10 June 2024 that the requirement to produce my audit file to Mr. Bédard compromises my independence, and is also likely to discourage departments, agencies, and Crown corporations from providing me free and timely access to the information required for my audits going forward. Since that time, Mr. Bédard has informed my Office that he will retain copies of any documents provided after sending them to the RCMP for as long as necessary to ensure the integrity of the process contemplated by the order. This increases my concerns, as I will have no ability to influence how those documents may be used in the future.

My commitment to Parliamentarians is always to provide relevant and impactful audits to assist them in their work. To maintain my independence and ability to do so, I have been guided in my response by the upmost respect for Parliament and the spirit of the House of Commons order to ensure the RCMP has access to the information it needs to enforce the laws of Canada.

Yours sincerely,

Karen Hogan, FCPA
Auditor General of Canada
240 Sparks Street
Ottawa, Ontario K1A 0G6

c.c.: Michel Bédard, Law Clerk and Parliamentary Counsel
John Williamson, Chair, Standing Committee on Public Accounts
Jean Yip, Vice-Chair, Standing Committee on Public Accounts
Nathalie Sinclair-Desgagné, Vice-Chair, Standing Committee on Public Accounts