Launch of the new Honduran model for fighting against corruption: 
*Integrated Investigation and Criminal Prosecution*

Fourth Biannual Report

April 19, 2018
Executive Summary

The fourth biannual report of the Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH-OAS) describes the Mission’s successes and challenges since work began two years ago in execution of its mandate under the Agreement between the Government of Honduras and the General Secretariat of the Organization of American States for the Establishment of the Mission. This document covers the period October 19, 2017 to April 19, 2018.

1. The Mission is continuing to strengthen interinstitutional cooperation, particularly with respect to the formation of integrated investigation teams, in a new stage marked by the consolidation of the Special Prosecution Unit to Fight Corruption-Related Impunity (UFECIC) and the national anti-corruption system, which makes it possible to focus on providing active support and technical assistance for high impact corruption cases previously selected by the Case Selection Committee.

2. On February 16, 2018, international prosecutor Ana María Calderón Boy was named interim spokesperson for the MACCIH-OAS following the February 15 resignation of Juan Jiménez Mayor. Ms. Calderón, who will lead the transition pending appointment of a new spokesperson by the OAS Secretary General, has a recognized track record in the prosecution of organized crime, including as the anti-corruption prosecutor in the Fujimori-Montesinos cases in Peru. Since joining the Mission in August 2017, she has led the Investigations Unit and coordinated cooperation with the Office of the Attorney General of Honduras (MP). This appointment shows that the Mission has come through unscathed and remains firmly committed to the fight against corruption.

3. One of the factors that affected the Mission’s work was the post-election crisis. On November 26, 2017, Honduras held general elections. However, delays in releasing official results, reports by international observers of irregularities at different stages of the election process, and the narrow electoral margin between the presidential candidates combined to produce a violent post-election crisis and political and social instability. In the following weeks, days of violence-capped protest in Tegucigalpa hindered the Mission’s ability to carry out various activities. Movement became difficult if not impossible, preventing experts from traveling to the country as previously scheduled and forcing the postponement of various activities and meetings. The Honduran post-election crisis also contributed to delays in debating and approving legislative bills proposed by the Mission in 2017.

4. The Honduran anti-corruption model made its debut with the “Lady’s Petty Cashbox” (Caso “Caja Chicha de la Dama”) case in which, after a four-month investigation by the UFECIC integrated investigation and criminal prosecution teams, former First Lady Rosa Elena Bonilla de Lobo was arrested on charges of misappropriation of public funds, money laundering, and unlawful association.

5. Another Mission milestone for this period is having brought to trial the biggest corruption case ever prosecuted in Honduras in terms of both the level of the officials involved and the scope of the criminal network. The case “Network of Congressmen” (Caso de la “Red de Diputados”) dismantled a network of current and former lawmakers of different affiliations who were embezzling public funds earmarked for social projects. However,
amendments to the Organic Budget Law, which the Mission denounced as an “impunity pact,” were used by the judge of first instance as a legal argument for dismissing the case.

6. On January 18, 2018, the National Congress approved the Organic Budget Law amendments, thereby dealing a blow to the fight against corruption in Honduras and impeding the implementation of the criminal policy developed to combat public sector corruption. These amendments give the High Court of Auditors (TSC) the power to conduct audits and special investigations into the management of public funds, as well as sole responsibility for determining civil, criminal, and administrative liability in cases of misappropriation of public funds, retroactive to 2006. They also introduce a new pretrial condition by prohibiting prosecution for corruption before the audits are complete. To make matters worse, they require the High Court of Auditors to take possession of all documents related to the management of public funds since 2006, which means that the other institutions in the national anti-corruption system do not have access to them.

The Mission has expressed its concern and has indicated that the amendments are unconstitutional, since they take powers attributed under the constitution to the Office of the Attorney General and the judiciary, and assign them to the High Court of Auditors, in addition to ignoring the obligation of prior Supreme Court approval. In particular, the Mission has pointed to the retrograde nature of these amendments, which can be seen in the judge’s decision to dismiss the proceedings against the lawmakers in the Network of Congressmen case, thereby granting them impunity and establishing a harmful precedent that could be extended retroactively to other corruption cases.

7. In view of the irregularities in the publication of the Organic Budget Law amendments and the major discrepancies between the text approved by Congress and the one published in the official journal, La Gaceta, this case has been added to the corruption cases to be investigated.

8. Another major setback for the Mission is that the debate and approval of its legislative initiatives, which are needed to make Honduran laws and institutions compatible with the policies for fighting and preventing corruption as well as inter-American standards, was delayed in 2017, sometimes by as much as a year.¹ The Mission is also concerned about other legislative changes that significantly undermine the fight against corruption. They include the reduced penalties for corruption contained in the revised Criminal Code as well as the amendments to the Law on Forfeiture of Assets of Unlawful Origin and the Law on Asset Laundering, which establish special legal regimes for officials involved in the misappropriation of public funds.

9. From the Mission’s achievements thus far, it is clear that the Attorney General’s leadership is essential to the proper functioning of his Office’s new unit for dismantling corruption networks and fighting impunity. Thus, the Mission’s results hinge on that Office’s cooperation. The current Attorney General’s term will expire in September 2018, and the MACCIH-OAS has dedicated significant efforts to raising Honduran awareness of the national importance of this appointment and the need for it to be the result of a

¹ For example, the effective collaboration bill, the bill amending the Law on Classification of Government Documents related to Security and National Defense, the bills on a new system for prosecuting senior government officials and a new system for investigating and prosecuting illicit enrichment, and the social security bill.
transparent process that ensures the independence and qualifications of the person selected.

10. With regard to preventing corruption in the public and private sectors, the Mission has several projects underway in this area as well. During the period of this report, the MACCIH-OAS worked on projects aimed at (i) promoting periodic investigation; (ii) establishing business probity mechanisms; and (iii) identifying administrative simplification mechanisms.

11. The MACCIH-OAS provided consulting, training, and support to various bodies in the Honduran justice system, including for the introduction of digital records under a cooperation and consulting agreement signed between the Honduran judiciary and the Chilean judiciary, with Mission support. It also provided support and consulting for the development and publication of manuals on civil and campesino rights.

The MACCIH-OAS provided support for the signature of an agreement between the Honduran judiciary and the Justice Studies Center of the Americas (JSCA) that provides for the sharing of statistics and the possibility of witnessing various hearings in the Honduran criminal process and interviewing various justice system actors in order to determine the state, strengths, and weaknesses of the Honduran criminal justice system and the changes needed to improve its speed and efficiency.

12. Regarding political and electoral reform, the Mission closed the related Division during this period because it had exhausted its role of providing consulting and support for the development of a political finance law and standards and mechanisms for implementing it. This occurred with the entry into force of the Law on Financing, Transparency and Oversight (also known as “Ley de Política Limpia”) and its rollout in the November 2017 elections, which produced positive results despite the difficult circumstances. The MACCIH-OAS will publish a report with an evaluation of its rollout and recommendations for strengthening effective implementation and the transparency of the electoral system.

13. The Criminal Justice System Observatory established a temporary committee supported by the MACCIH-OAS and overseen by the Office of the United Nations High Commissioner, the United States Agency for International Development (USAID) and OXFAM. Its work plan focuses on developing mechanisms to expand civil society participation in the system of decentralized observatories monitoring the Honduran justice system, with gender-differentiated approaches and the inclusion of various sectors of civil society, human rights activists, the LGBTI community, labor groups and academia.

14. In the context of developing the evaluation matrix of the criminal justice system, the Mission presented a report on the situation of access to justice for vulnerable groups. The Criminal Justice System Observatory has publicized the findings in the report.

15. Through its Division of Public Security, the MACCIH-OAS continues to provide active support for the penitentiary certification system and the police reform process, and it has submitted legislative proposals and recommendations for strengthening police institutions and protecting whistleblowers. In that regard, it also submitted recommendations and procedures for protection and early warning mechanisms developed jointly with the Office of the Attorney General.
A workshop on the MACCIH-OAS work plan for April 2018 to March 2019 was held from January 15 to 17, 2018, under the auspices of the Canadian Government. The plan establishes the following Mission priorities: support for the investigation and prosecution of high impact corruption cases; proposal of legal and institutional reforms to strengthen the fight against corruption; development of projects and activities to strengthen the efforts of Honduran institutions to combat corruption and impunity; support for implementing the Criminal Justice System Observatory; implementation of the public security recommendations in the citizen safety reports; and support for improving and implementing witness protection and protection mechanisms for members of the judiciary.
1. DIVISION FOR PREVENTING AND FIGHTING AGAINST CORRUPTION

1.1. Support for and active collaboration with the Office of the Attorney General: Consolidation of the Special Prosecution Unit to Fight against Corruption-Related Impunity (UFECIC)

Article 3.1.1 of the Agreement between the Government of the Republic of Honduras and the General Secretariat of the Organization of American States for the Establishment of the Mission to Support the Fight against Corruption and Impunity in Honduras provides for the creation of a mechanism for active collaboration with the institutions of the Honduran Republic. In the case of the Office of the Attorney General, this implies collaboration on investigating corruption.

The consolidation of UFECIC and the integrated investigation and criminal prosecution teams marks a new stage for the MACCI-OAS, which can now focus on active support for UFECIC in major cases of high-level corruption, prioritizing resources and efforts to strengthen the investigation, prosecution, and dismantling of large corruption networks, thereby maximizing its impact on the Honduran anti-corruption system. The cases in which it participates are chosen by the Case Selection Committee (made up of Division experts) from among the cases, involving systematic activities of corruption networks that could also be linked to organized crime networks.

Another example of the progress of this new system is that the judges in the recently established National Anti-Corruption Jurisdiction have ordered asset seizure and witness protection measures in cases handled by the integrated investigation and criminal prosecution teams. In this regard, the MACCI-OAS and the Office of the Attorney General have increased the number of integrated investigation teams to eight. These teams are currently working on 10 major corruption cases.

1.2. Selection of cases for investigation and criminal prosecution

In accordance with Article 3.1.1.1 of the Agreement between the Government of the Republic of Honduras and the GS/OAS for the Establishment of the MACCI-OAS; with Article 7 of the Agreement “Mecanismo Interinstitucional de Cooperación Bilateral entre el Ministerio Público de la República de Honduras y la Secretaría General de la Organización de los Estados Americanos a través de la Misión de Apoyo contra la Corrupción y la Impunidad en Honduras” [Interinstitutional Mechanism for Bilateral Cooperation between the Office of the Attorney General of the Republic of Honduras and the General Secretariat of the Organization of American States through the Mission to Support the Fight against Corruption and Impunity in Honduras]; and with [Article 12] (III) of Agreement No. FGR-001-2017, the Mission has developed a case selection protocol based on the following selection criteria:

- Cases must involve acts or facts specific to corruption under national law or related offenses.
- Cases must involve a corruption network of three or more persons working to commit crimes against the state. Said NETWORK may consist, indiscriminately, of government officials, natural persons, and even businesses or legal persons, in the capacity of instigators, collaborators, or interested parties, as applicable, thereby conforming to the concept of criminal structure under international agreements, which are understood to be
structures of several persons with permanency of activity, intent to belong thereto or support the aims thereof, and objective-driven behaviors.

- The criminal activities must be high impact, i.e., they must affect not only a protected legal right, but society as well. What is important is that the alleged criminal acts seriously harm the interests of the state or the community, whether directly or indirectly. Economic value is not a determining factor in the selection.

As additional criteria for the selection of cases for integrated investigation, the MACCIH-OAS has identified the following “corruption sensitive areas”:

a. Public health
b. Procurement
c. Extractive industries
d. Customs and migration
e. Corruption in the justice system.

The Case Selection Committee, which is made up of the Special Representative of the OAS Secretary General/Mission spokesperson, the Chief of Financial Analysis, and the international judges, evaluates a specific case and determines whether it meets the criteria described above. Its conclusions and the decision to select a case for integrated investigation and criminal prosecution are recorded in the minutes of the meeting.

In accordance with the MACCIH-OAS Agreement that established the MACCIH-OAS and the other agreements, the Special Representative of the OAS Secretary General/Mission spokesperson sends an official letter to the Attorney General instructing him to turn the case and all of the information collected thus far over to UFECIC. The Chief of UFECIC and the group of national investigators then take up the case and move to the next stage, which consists of forming the integrated team drawn from the MACCIH-OAS and the Office of the Attorney General (UFECIC). The result is a different but effective model for fighting corruption.

Note that, in view of the nature or complexity of a case or of injury to specific vulnerable communities, integrated investigation and criminal prosecution teams have also included members of other prosecutors’ offices, such as the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage.

1.3. Successes and difficulties of the integrated investigation and criminal prosecution teams

First, it should be noted that Article 5 of the Agreement “Mecanismo Interinstitucional de Cooperación Bilateral entre el Ministerio Público de la República de Honduras y la Secretaría General de la Organización de los Estados Americanos a través de la Misión de Apoyo contra la Corrupción y la Impunidad en Honduras” [Interinstitutional Mechanism for Bilateral Cooperation between the Office of the Attorney General of the Republic of Honduras and the General Secretariat of the Organization of American States through the Mission to Support the Fight against Corruption and Impunity in Honduras] provides, inter alia, for active collaboration with a group of the Attorney General’s Office prosecutors, investigators, and forensic specialists certified by the Mission—in others words, with UFECIC.
In keeping with the above, on February 10, 2017, the Office of the Attorney General issued Agreement No. FGR-001-2017. Article 12 of this Agreement provides for the UFECIC/MACCIH-OAS integrated investigation and criminal prosecution teams as a UFECIC special procedure and authorizes them to engage in any activities for which powers are granted under the Law on the Office of the Attorney General, the Honduran Code of Criminal Procedure, and the General Rules for the Organization and Functioning of the General Directorate of the Office of the Attorney General.

To date, pursuant to the commitments made in the cited Agreement on an interinstitutional mechanism for bilateral cooperation between the Office of the Attorney General and the GS/OAS through the MACCIH-OAS, 10 cases have been selected using the aforementioned criteria, and integrated investigation and criminal prosecution teams of UFECIC members and MACCIH-OAS experts have been formed to investigate them.

The integrated teams work together on each of the investigations until the requests for prosecution are submitted to the competent judges and then participate in the proceedings as observers.

To promote coordinated, effective, and efficient teamwork, on February 9, 2018, the Mission issued internal instructions entitled “Normas Generales de Organización y Funciones de la División y Combate a la Corrupción” [General Rules for the Organization and Functions of the Division and Fighting Corruption], which provide guidelines for the activities and duties of international prosecutors, international judges, the chief of the Financial Analysis Unit, and MACCIH-OAS investigators and analysts in the context of the UFECIC/MACCIH-OAS integrated investigation and criminal prosecution teams.

With respect to difficulties, the MACCIH-OAS Financial Analysis Unit is currently understaffed, which could have a negative impact on the technical support we have been providing to UFECIC. However, in February 2018, efforts got underway to select and hire new international prosecutors, analysts, and investigators for this unit, which should help to mitigate possible risks in this connection.

1.4. First Corruption Cases prosecuted by the Integrated Investigation and Criminal Prosecution Teams

Two cases have gone to trial as a result of joint UFECIC/MACCIH-OAS investigations, triggering the start-up of the new Special Prosecution Unit and the anti-corruption courts.

Note that this report only provides information about these two cases, which can be disclosed publicly, in strict compliance with the duty of confidentiality under the MACCIH-OAS Establishing Agreement and Honduran criminal procedure.

1.4.1. The “Network of Congressmen” Case

The Mission worked actively with the integrated investigation and criminal prosecution teams on dismantling a corruption network involving variously affiliated congressional representatives engaged in the embezzlement of public funds, known as the “Network of Congressmen.” The integrated UFECIC-MACCIH-OAS team discovered that the lawmakers were requesting funds from the Secretariat of Finance and the National Congress to implement social projects through the
nongovernmental organization Asociación Nacional de Productores e Industriales de Barrios y Colonias de Honduras (ANPIBCH) and that these funds were then being diverted for their personal use. A total of 8,300,000 lempiras were found to have been embezzled.

The Office of the Attorney General consequently charged Deputies Héctor Padilla, Audelia Rodríguez, Augusto Cruz, Dennys Sánchez, and Eleazar Juárez and private citizens Jeremías Castro, Geovanny Castellanos, and José Napoleón Panchamé with misappropriation of public funds to the detriment of public administration and the economy of the State of Honduras. At this point in the investigation, the network is believed to involve senior executive branch officials, 60 current and former lawmakers, and more than 30 nongovernmental organizations.

On December 11, 2017, UFECIC and the MACCI-H/OAS filed the formal accusation and requested preventive detention and suspension from office for the accused. The judge of first instance rejected the request for preventive detention, which she replaced with other measures such as prohibition to leave the country, and ruled in favor of suspension from office. The decision in the initial hearing, scheduled for January 18, 2018, was postponed to January 24, and the amendments in the General Budget Law were approved in the interim. The judge of first instance used these amendments to dismiss the case and refer it to the High Court of Auditors for administrative audit, for which it is allowed up to three years.

With the technical support of the MACCI/H, UFECIC filed a prosecution request and the corresponding appeal. The judicial decision is pending.

The Mission stresses the importance of this unprecedented case, which represents a milestone in the fight against corruption, owing to both the high profile of the officials involved and the size of the corruption network dismantled. It is also important as the first case handled by an integrated investigation team of Honduran prosecutors and investigators and MACCI-H/OAS international experts.

1.4.2. The "Lady’s Petty Cash "Case

The Mission stresses as a key achievement for this period the ruling in the so-called “Lady’s Petty Cash” case, which marked the launch of its anti-corruption model. The case was investigated by UFECIC using the integrated investigation and criminal prosecution team approach and tried by an anti-corruption court—both bodies established at the initiative and with the technical assistance of the Mission. It was selected in November 2017 by the UFECIC/MACCI-H/OAS integrated team.

On February 27, 2018, with MACCI-H/OAS technical support, UFECIC filed a prosecution request against Rosa Elena Bonilla Ávila for misappropriation of public funds, unlawful association, and asset laundering to the detriment of public administration and the economy of the State of Honduras, and against Manuel Mauricio Mora Padilla and Saúl Fernando Escobar Puerto for unlawful association and asset laundering to the detriment of the economy of the State of Honduras.

According to the accusation filed by the Office of the Attorney General, various individuals received legally unjustified checks affecting funds allocated to the former first lady’s office for social projects, which were allegedly cashed with her authorization for a total of more than 16 million lempiras illegally drawn on various bank accounts.
The Criminal Court with National Jurisdiction for Corruption ordered the arrest of the accused, together with the search and seizure of various buildings. On February 28, 2018, Rosa Elena Bonilla Ávila and Mauricio Mora Padilla were arrested, buildings were searched and seized, and other related activities occurred.

Subsequently, on March 5, 2018, the Criminal Court with National Jurisdiction for Corruption issued an order of committal for trial with preventive detention against former First Lady Rosa Elena Bonilla Ávila for nine offenses of misappropriation of public funds and one offense of asset laundering, ordering a temporary stay of proceedings for the offense of unlawful association and conspiracy to launder assets. With respect to Manuel Mauricio Mora Padilla, the special court issued an order of committal for trial and preventive detention on charges of money laundering and unlawful association to launder assets.

On March 9, 2017, Saúl Fernando Escobar Puerto was arrested, and the Criminal Court with National Jurisdiction for Corruption ordered him placed in judicial detention in view of the serious nature of the sentence, the risk of flight, and Article 184 of the Code of Criminal Procedure, which establishes the offenses for which no other measure may be substituted.

Note: This investigation is ongoing.

1.5. UFECIC forfeiture prosecutor

The MACCIH-OAS considers conducting forfeiture proceedings in parallel with criminal proceedings a useful strategy for recovering property and funds acquired through corruption.

It has therefore recommended that the Attorney General delegate power to conduct such proceedings to a UFECIC prosecutor. The Mission would provide support and consulting for these proceedings.

This strategy should optimize efforts to recover illegally obtained assets, commingled funds, assets of equivalent value, and assets held by front men, thereby improving the efficiency and effectiveness of the Office of the Attorney General.

This proposal is currently pending the approval of the Attorney General.

1.6. Tools needed to improve judicial system efficacy against corruption

In 2017, the Mission proposed several bills designed to strengthen the national anti-corruption system in accordance with its duty under Article 3.1.3 of its Establishing Agreement to help to strengthen the legal and institutional framework for preventing and combating corruption. In this report, the Mission wishes to reiterate the need for progress on approving the proposed bills, with a special appeal to the new National Congress.

From October 2017 to April 2018, with the technical support of the international judges and prosecutors, the Reform Unit of the MACCIH-OAS Division for Preventing and Investigating Corruption developed or reworked various bills that, if approved, would enhance the functioning
of the specialized units recently established within the Office of the Attorney General and the judiciary, under the auspices of the MACCIH-OAS.

1.6.1. Effective collaboration bill

In order to provide the judiciary with the necessary tools for fighting organized crime and corruption, on December 27, 2016, the MACCIH-OAS sent a draft bill on effective collaboration to the executive branch. The bill is designed to strengthen the investigation and preparation of cases against corruption networks and criminal organizations by enabling individuals in this criminal milieu to provide information safely, in exchange for lighter sentences and other advantages. On April 7, 2017, the executive branch sent the bill to Congress for debate and approval.

Neither the MACCIH-OAS bill nor the bill introduced by Deputy Osman Aguilar (a member of Frente Parlamentario de Apoyo a la MACCIH-OAS [Congressional Front in Support of the MACCIH-OAS]) (FPAM) came up for debate or vote in the 10 months from when they were introduced to the close of the 2014-2018 legislative period.

Owing to a congressional rule, the bill now needs to be reintroduced by the executive branch or a lawmaker elected for the 2018-2022 period. The Mission has therefore officially requested the executive branch to reintroduce the bill in Congress, and Deputy David Reyes, a member of the recently reactivated FPAM, has reintroduced the bill introduced a year ago by Deputy Aguilar.

In order to generate debate on the importance and scope of effective collaboration, on March 15, 2018, the MACCIH-OAS held a forum on the effective collaboration bill, co-sponsored by the School of Legal and Social Sciences of the Universidad Nacional Autónoma de Honduras (UNAH) and the Konrad-Adenauer-Stiftung (KAS).

The forum featured MACCIH-OAS international judge Dr. Marco Villeda as the main speaker, as well as a panel consisting of Ms. Fátima Mena, former member of Congress, Dr. Carlos David Cálix, Advisor to the Office of the Attorney General and former Supreme Court justice, and Dr. Eleonora Chang, professor. Members of the National Congress, current and former members of the FPAM, senior government officials, and representatives of academia and various sectors of civil society were in attendance.

Possible next steps include holding technical meetings with the Office of the Attorney General, members of the National Congress, and representatives of civil society for the purpose of merging the MACCIH-OAS bill and the one introduced by the FPAM.

1.6.2. Reforming legislation on the classification of public documents related to security and national defense

On July 6, 2017, the Mission submitted its fifth report, Derecho de acceso a la información e intereses legítimos de defensa y seguridad en Honduras [Right of access to information and legitimate interests of defense and security in Honduras]. It was intended as a technical position paper on the content and effects of the Law on Classification of Public Documents related to Security and National Defense, also known as the Official Secrets Law. The report was accompanied by the full text of a proposed new law on classification of public documents related to security and national defense.
The MACCIH-OAS bill repeals the entire Law on Classification and creates a legal framework based on three key principles: (i) specification and limitation of classified materials; (ii) harmonization of the system of classification levels and time periods with the levels and time periods in the Law on Transparency and Access to Public Information; and (iii) reinstitution of the Institute for Access to Public Information (IAIP) as the decision-maker for the classification and declassification of documents.

In 2017, on the basis of these documents, the Mission began consultations with the Honduran Government on reforming the legislation in this area. Discussions with the Presidential Directorate for Transparency yielded progress in some areas, but there was no consensus in others. In the latter areas, the key issue continues to be the body responsible for the administrative decision to classify or declassify documents, which for the Honduran Government should be the National Council on Defense and Security (CNDS).

In this context, on January 20, 2018, the executive branch introduced a bill amending the Law on Classification of Public Documents related to Security and National Defense in Congress.

This legislation is important for the Mission, since financial and administrative information has been classified as secret on national security grounds. For this reason, the Mission has joined with the Office of United Nations High Commissioner for Human Rights to submit a joint offer of technical assistance to the National Congress, in order to be able to assist the respective ruling committee of Congress, appointed in April 2018 to provide an opinion on the executive branch bill.

### 1.6.3. Proposal for a new system for prosecuting senior government officials

Serving senior officials are currently tried by members of the Supreme Court in special proceedings established under Honduran procedural law. There is a special circuit of jueces de garantía [judges responsible for enforcing procedural guarantees], sentencing courts, and appeals courts in which all of the judges are Supreme Court justices. Under the Mission’s proposal, these cases would be tried in the new National Anti-Corruption Jurisdiction, whose judges and magistrates are selected through a rigorous, objective, and transparent process that ensures not only their professional expertise but also the likelihood that they will be more resistant to political pressure, in accordance with the international standards for cases of this nature.

The current system has other problems: (i) it does not require officials to have acted in their official capacities; (ii) to date at least, it does not have a random mechanism for assigning cases; (iii) not all of the judges in the different stages of the proceedings are criminal law specialists; and (iv) the special proceedings are slower than ordinary proceedings.

The proposal begins by addressing the existing procedural systems in comparative law. It then describes the special proceedings currently used for senior officials in Honduras and the problems they create in everyday practice. Next, it explains why there is a need for a new system for trying charges of corruption against these officials, and ends with detailed recommendations on the needed reforms.

The proposed system is designed to meet the following criteria, among others: (i) provide procedural economy and speed (trigger the necessary judicial behaviors, including respect for the
principle of speedy trial); (ii) guarantee an objective trial that minimizes the likelihood of influence (the courts with national jurisdiction in anti-corruption matters can ensure objectivity and impartiality because of how the judges were selected and the fact that they are career judges); and (iii) guarantee specialization in this area of law. The latter is essential, given the complexity of corruption cases, and it is in fact the reason for having created the anti-corruption jurisdiction which, paradoxically, in the absence of the proposed reform, would see its competence limited to offenses involving individuals of moderate importance, since senior officials would continue to be subject to the current special proceedings.

### 1.6.4. Proposal for a new system for investigating and prosecuting illicit enrichment

Article IX of the Inter-American Convention against Corruption defines illicit enrichment as “a significant increase in the assets of a government official that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions.”

The Honduran Constitution contains a very similar definition (Article 233), and assigns the High Court of Auditors (Article 222) with the responsibility for determining illicit enrichment. However, it also gives the Office of the Attorney General the power to initiate state criminal proceedings unofficially. Although doctrine and the most solid comparative jurisprudence have stressed that constitutions should be interpreted as coherent bodies of precepts and that their provisions are not unrelated, some sectors argue that in Honduras the Office of the Attorney General cannot proceed in such cases until the High Court of Auditors has issued its report.

In accordance with its mandate to advise Honduran institutions, the MACCIH-OAS has developed a proposal for reforming the procedure for investigating and prosecuting illicit enrichment. It is based on respect for the constitutional provision that gives the Office of the Attorney General the power to initiate state criminal proceedings and for the principle of procedural economy and speed.

The proposal for reforming the High Court of Auditors Law seeks to clarify the disputed limits of the High Court of Auditors and the Office of the Attorney General. It begins with the history of illicit enrichment in Honduras and the current legal framework in this area. It then discusses the primary challenges in investigating and prosecuting illicit enrichment, including (i) aspects related to the definition of the offense; (ii) the High Court of Auditors’ internal procedure for preparing illicit enrichment reports (which are rare and delayed); (iii) inadequate coordination between the High Court of Auditors and the Office of the Attorney General, which contributes to the late delivery of the few reports that reach the Office and to the mismatch between the reports received and the prosecution requests filed; and (iv) contradictory judicial rulings on the role of the High Court of Auditors and the Office of the Attorney General.

It should be noted that the proposal, which was submitted during the last legislative session as comments on a broader proposed reform of the High Court of Auditors Law that is now being submitted as a separate draft bill, aims to overcome these problems. It also preserves the constitutional powers of the High Court of Auditors and the Office of the Attorney General, with the understanding that their investigations are conducted from different perspectives (the administrative perspective and the criminal law perspective, respectively) and are not mutually exclusive.
1.6.5. Contributions to the debate on the social security bill

Following up on its recommendations in its sixth report, Análisis y recomendaciones al proyecto de Ley de Seguro Social: “Para que los hechos no se repitan” [Analysis and recommendations on the social security bill: “So that events are not repeated”], the Mission has submitted a proposal for revising certain articles of the bill, in order to strengthen the institution’s internal and external controls, public oversight of contracting procedures and the transparency of the procedures for selecting social security administrators, managers, and specialized directors.

Before the MACCIH-OAS can deliver its proposal to the National Congress Committee on Health, the social security bill must be reintroduced in the new Congress (2018-2022) because of the previously mentioned congressional rule. For this reason, the communication has already been sent with a view to speedy debate and approval, not only on the social security bill but also on the bills needed for the Health Sector Framework Law to enter into full force and effect.

The Mission has an interest in this area because massive social security fraud is what triggered the social mobilization that brought the Mission to Honduras.

1.7. Analysis of legislation passed by the National Congress that could imply obstacles and delays in the fight against corruption

In the first months of 2018, the National Congress passed three laws that could imply obstacles and delays in the fight against corruption

1.7.1. New Criminal Code

The first is the new Criminal Code, approved on January 18, 2018, which reduces the penalties for various offenses against public administration. It has not been published because it is in vacatio legis, but as soon as the Mission has access to the new code, it will carry out the corresponding technical analysis.

1.7.2. Decree No. 141-2017 containing the General Budget of State Revenues and Expenditures, Fiscal 2018

During the last meeting of the previous Congress, on January 18, 2018, the legislators passed Decree No. 141-2017 containing the General Budget of State Revenues and Expenditures 2018. This temporary legal text contains amendments that make it difficult for the Office of the Attorney General to continue to investigate lawmakers who embezzled funds from social projects.

On January 18, 2018, the National Congress approved Legislative Decree No. 141-2017, containing the General Budget of State Revenues and Expenditures for Fiscal Year 2018, which was published in La Gaceta No. 34,546 on January 19, 2018. Article 238 of the decree amends the Organic Budget Law (Decree No. 83-2004) by appending a second paragraph to Article 16 and inserting Article 131-A.

In essence, these changes establish a new procedure for clearing and auditing public funds managed or received by members of the National Congress during the 2006-2010, 2010-2014, and 2014-2018 periods. The new law prescribes that this process must be carried out within three years from its entry into force. It also prohibits any judicial action for administrative, civil, or
criminal liability against persons found to be involved in illegal activities pending completion of these investigations.

In accordance with its mandate to work with national counterparts to advise, oversee, and evaluate whether the Honduran institutions and the relevant Honduran authorities are investigating cases of corruption and corruption networks (Article 3.1.1.4 of the MACCIH-OAS Agreement), on January 24, 2018, the Mission issued a public statement criticizing the above amendments to the Organic Budget Law, on the ground that they hinder UFECIC’s ongoing investigations in the Network of Congressmen case.

In addition, the MACCIH-OAS prepared a legal memorandum for the Office of the Attorney General as input, in support of filing an action for unconstitutionality against the aforementioned amendments. The Constitutional Committee accepted an action filed by the Special Prosecutor for Defense of the Constitution on February 20, 2018. In order to highlight a number of legal points not addressed in this action, the MACCIH-OAS is currently considering the possibility of submitting an amicus curiae brief to the aforementioned Committee.

It should be noted that the Honduran State has suspended disbursements from the Departmental Development Fund and has ordered the establishment of management and disbursement procedures for this fund, requesting the assistance of a MACCIH-OAS specialist. The Mission has therefore appointed two experts who will work jointly with the Secretariat of Finance to develop the necessary protocols or procedures.

It is important to underscore that the MACCIH-OAS alerted the public of the fact that the text published in the official newspaper La Gaceta denouncing the existence of a “Pact of Impunity” to block the efforts of the Office of the Attorney General and the MACCIH-OAS to prosecute corruption, was not the one approved by Congress on January 18, 2018. For example, critical aspects such as the extension of the terms of the officials protected by the amendments, and the ban on initiating criminal proceedings while the High Court of Auditors is conducting its audits, were neither debated nor approved by Congress but nevertheless appear in the official text. In response, on January 26, Congress approved a corrigendum validating the insertion of these provisions. In this case, the Mission reaffirms that these discrepancies are neither errata nor errors of form.

Given the gravity of these actions, which seek to impede the anti-corruption efforts of the Office of the Attorney General and the Mission, in January, the Mission announced that the manipulation of the text for publication would be the tenth case to be investigated. Pursuant to its mandate to provide assistance, oversight, and active collaboration, the Mission intends to determine who was responsible for illegally inserting the changes into the text, thereby committing forgery of official documents, abuse of authority, and subversion of the form of government. It also hopes to establish a precedent that will discourage the repetition of this practice, which undermines legislative transparency and defies the intent of Congress.

1.7.3. Amendments to the Law on Forfeiture of Assets of Unlawful Origin and the Asset Laundering Law

On March 20, 2018, Congress amended the Law on Forfeiture of Assets of Unlawful Origin and the Asset Laundering Law. In general terms, the amendments seek (i) to link proceedings for seizure and forfeiture of unlawful assets to final conviction in criminal proceedings, even though...
two separate, unrelated proceedings are involved; (ii) to establish a special system for officials accused of embezzlement by appropriation; and (iii) to apply the new rules retroactively to cases that have already gone to trial, including the UFECIC/MACCIH-OAS cases and limit the time allowed for forfeiture actions.

In this context, the MACCIH-OAS prepared a technical analysis of these amendments for consideration by the executive branch as one of the foundations for a probable presidential veto of the aforementioned reform.

The MACCIH-OAS analysis demonstrates that the amendments (i) violate the principle of dynamic burden of proof governing forfeiture proceedings; (ii) encourage the use of front men; (iii) create a privileged system for senior officials; (iv) take away investigative powers from the Office of the Attorney General; (v) allow illegal assets to be laundered by commingling them with legal assets; and (vi) prevent steps to recover assets acquired prior to forfeiture proceedings, which makes it difficult not only to trace ownership but also to identify assets of equivalent value with which to acquit liability to the state in the event that the defrauded assets cannot be found. It therefore benefits organized crime inasmuch as it impedes the forfeiture of illegally obtained assets.

It should be recalled that the Law on Forfeiture of Assets of Unlawful Origin (Decree No. 144-2014) was drafted with criminal policy objectives in mind. It is based on the premise that criminal proceedings are designed to determine individual responsibility for a crime, while forfeiture proceedings divest criminal organizations of unlawfully obtained assets. The Law on Forfeiture of Assets is by nature independent and has its own procedures, principles, and institutions.

It should also be recalled that Honduras has made important commitments by signing international instruments on preventing and combating corruption and organized crime, including the United Nations Convention against Transnational Organized Crime, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the United Nations Convention against Corruption and the Inter-American Convention against Corruption. These treaties have permanent periodic monitoring mechanisms, including the Financial Action Task Force of Latin America (GAFILAT). In particular, the most recent GAFILAT report recognizes Honduran efforts in this area, pointing in particular to the Law on Forfeiture of Assets of Unlawful Origin. A legislative act such as the law in question would be seen as a regression from the state’s commitments in the fight against corruption and organized crime.

1.8. Process of selecting and electing the Attorney General and deputy attorney general

The Office of the Attorney General [Ministerio Público] is the body responsible for managing the technical and legal aspects of criminal investigations and initiating criminal prosecution. This state entity operates under the management, guidance, administration, and supervision of the Attorney General [fiscal general de la República].

Given that the Office of the Attorney General is the Mission’s most important counterpart in the fight against corruption, preserving this institution’s constitutional and legal independence is essential. The MACCIH-OAS is aware of the importance of having an Attorney General who (i) has consistently demonstrated irreproachable ethical conduct; (ii) is an expert in criminal law; (iii) does not and has never had ties that could affect his or her independence and impartiality; (iv) has demonstrated a strong, career-long commitment to human rights, democracy and the fight
against corruption and impunity; (v) has the capacity to engage in dialogue with other system actors and users; and (vi) has critical knowledge of the primary institutional challenges facing the justice system.

In view of the above, the MACCIH-OAS has taken steps to generate discussion and debate about the selection and election of the Attorney General and the Deputy Attorney General. The goal of these activities is to make legislators aware of the importance of an independent Office and to encourage civil society and cooperation agency oversight at the national and international levels, which can help to restore public trust in this process.

One activity of note was a MACCIH-OAS forum on the process of electing the Attorney General, held on February 8, 2018 with the cosponsorship of the Friedrich-Ebert-Stiftung (FES). The forum was attended by members of the National Congress, senior officials of government institutions, academics and various sectors of civil society.

In addition, on March 1 and April 2, 2018, the Mission held meetings with international cooperation agencies to encourage their support for mechanisms to monitor the selection and election of the Attorney General and Deputy Attorney General.

Following the approval of the Rules of Procedure of the Nominating Committee for Selection and Presentation of the List of Candidates for Attorney General and Deputy Attorney General (2018-2023), on April 9, 2018 the Mission submitted an expression of interest in participating in this process as an observer. This request is currently pending Nominating Committee approval.

The MACCIH-OAS hopes that the term of the current Attorney General will be respected and that the selection and election process will be transparent, participatory, and merit-based.

1.9. Training for the anti-corruption divisions of the Office of the Attorney General and the judiciary branch

Work on investigative activities for combating corruption and impunity is the main objective of the Mission. Therefore, training is essential to consolidate the new Attorney General’s Office and judiciary branch anti-corruption divisions created under MACCIH-OAS auspices.

In this regard, the Mission has been holding daylong trainings for judges, magistrates, prosecutors and investigators in the National Anti-Corruption Jurisdiction and the Special Prosecution Unit to Fight Corruption-Related Impunity (UFECIC) since August 2017. These trainings are designed to reinforce knowledge in substantive and procedural criminal law and build skills in investigation, oral litigation and hearing management as part of the Mission’s active support for the fight against corruption.

The training plan for the second six months (February to July 2018) is currently being implemented. It consists of a series of workshops taught by high-level international experts on subjects chosen on the basis of needs expressed by the members of the judiciary themselves and their institutions. Seven sessions were held from October 2017 to April 2018 and 11 more are scheduled through July.

The training plan also calls for UFECIC prosecutor internships. These internships, which will take place in the Offices of the Anticorruption Prosecutor and Asset Laundering Prosecutor of Peru,
should enable the sharing of experiences and good practices for investigating and prosecuting corruption.

1.10. Corruption prevention initiatives

Pursuant to the Agreement that established MACCIH-OAS and, specifically, to Article 3.1.3.1.1 on preventing public and private corruption, the Mission is also engaged in various projects in this area. During the period of this report, it has been working on projects or initiatives (i) to promote periodic investigation, (ii) to establish business probity mechanisms; and (iii) to identify administrative simplification mechanisms.

1.10.1. Promotion of investigative journalism

The MACCIH-OAS is working on a training program and national award for investigative journalism with the technical and financial support of Internews. In the first part of April 2018, the Mission announced an intense week of investigative reporting workshops scheduled for the end of April. Topics to be covered include investigative reporting techniques, data analysis and protection and physical and digital security in journalism.

At the end of the workshop, the journalist will have three months to prepare a piece of investigative journalism with the support of tutors from the Central American region. International experts will evaluate the final report, and the best pieces will be entered in a competition for a national investigative journalism award. The first, second, and third places will be published in national and international media.

1.10.2. Creation of business probity mechanisms

Pursuant to the provisions of the Agreement to establish MACCIH-OAS on the promotion of business integrity systems, Honduran adhesion to the international conventions against bribery, and analysis of the legal regime governing the criminal and administrative liability of legal entities, the MACCIH-OAS has been working since September 2017 to develop a road map for implementing anti-corruption compliance initiatives in Honduras.

In order to create this roadmap, and following up on the analysis of business probity, which came out of the October workshops, the MACCIH-OAS held various meetings in Tegucigalpa and San Pedro Sula with the leaders of the primary Honduran business associations. During these meetings, MACCIH-OAS staff and international expert Alma Balcázar presented the results of the above analysis and explained the international standards in this area, the institutions or organizations that issue anti-corruption compliance certificates, and what needed to be done to establish regulation, self-regulation and compliance certification in Honduras.

The business groups with which meetings were held expressed interest in the business probity program, and the possibility was discussed of establishing a public or private technical secretariat which would be responsible for managing and regulating the registration of companies in accordance with international standards.

On February 7, 2017, the MACCIH-OAS presented the compliance project to the President of Honduras, who expressed interest in continuing to work in this area. Beginning in April, the next steps will be to draft sectoral transparency and anti-corruption agreements in three pilot business
sectors; to create institutional capacity for compliance in the business associations in the pilot business sectors; to establish the registry of anti-corruption-compliant companies in Honduras, and to create legal incentives and operating and penalty mechanisms. All of this will be done in coordination with the presidential designate (vice president) for administrative simplification, with whom the Mission has already held a first meeting, on March 19, 2017.

The Mission considers its work on this program critical because it complements its efforts since the beginning, to prevent and fight against corruption in the public sector, resulting in a comprehensive approach to the phenomenon that it is mandated to address.

1.10.3. The Most Useless (Bureaucratic) Procedure Contest: Identifying administrative simplification strategies

The MACCIH-OAS has determined that inefficient, opaque administrative procedures are a potential factor in the development of corrupt practices. It has therefore proposed a public contest to identify the most useless (bureaucratic) procedures, which it has been promoting to the business community, civil society and the government as a means of establishing a complaint/reform mechanism between citizens and the state. The goal is to identify administrative problems and deficiencies with a view to developing simple, viable, and innovative solutions that can prevent new opportunities for corruption. As a result, the state will have a database of procedures for possible reengineering.

On February 7, 2018, the MACCIH-OAS formally presented its proposal for a national contest to the president of Honduras, and the president gave his approval for the project.

On March 19, 2018, the MACCIH-OAS held a first working meeting on the subject with Presidential Designate María Antonia Rivera, who is charged by the President with administrative simplification and business relations.

To get the project started, the Mission’s next step will be to coordinate a closer relationship among Foro Social de la Deuda Externa y Desarrollo de Honduras (FOSDEH, a nongovernmental organization working on the project), Consejo Hondureño de la Empresa Privada (COHEP), the Office of the Presidential Designate, and the Presidential Directorate for Transparency, Modernization, and State Reform (DPTMRE) of the General Government Coordination Secretariat (SCGG).

1.11. Collaboration with the Honduran judiciary

Pursuant to Article 3.1.1.3 of the Agreement between the Government of Honduras and the GS/OAS for the Establishment of the MACCIH-OAS, the Mission has been conducting various advisory, training and support activities for various bodies in the Honduran justice system, as described below

1.11.1. Introduction of digital records

Among these activities, in January 2018, the Honduran and Chilean judiciaries signed a cooperation and consulting agreement. To this end, the Mission accompanied the President of
the Honduran judiciary, Dr. Rolando Argueta, to Santiago, Chile, where he and his Chilean counterpart, Dr. Haroldo Brito, signed the agreement.

The purpose of the agreement is to implement digital records in Honduran courts with a view to speedier, more transparent processing of court cases, made possible by user-friendly modern technologies that give the public access to information about the stage of proceedings in the various cases being processed. According to current plans, the digital record technology will be implemented in the anti-corruption courts first, as a pilot project, and then expanded to other courts, until it has been implemented uniformly throughout the Honduran judicial system.

In this regard, in March 2018, the MACCIH-OAS accompanied a group of Honduran judicial administrators to Santiago, Chile, for training in the use and implementation of digital records. The administrators also received training in other administrative areas of the Chilean judicial system, including budget planning, use of the Chilean judiciary branch website, human resources administration, personnel selection, and management of the press from the judicial system perspective, with a view to concurrently modernizing the administration of the Honduran judicial system.

In addition, there are plans for Chilean judiciary employees to visit Honduras to provide the on-site consulting needed to implement digital records and follow up on implementation. Special mention should be made of USAID, which provided funding for the training and technology component of the project and developed the project through Unidos por la Justicia.

There are plans to organize internships with the judges of the anti-corruption circuit in Honduras, so that they can carry out an exchange of experiences with their peers from the courts of extended jurisdiction in Guatemala, which deal with cases of high-level corruption and can attend public and oral hearing in high-impact cases. In addition, they will be able to familiarize themselves with the activities carried out by members of the Guatemalan judiciary branch in areas such as digital records management, media relations, hearing management and forfeiture of illegally acquired assets.

The MACCIH-OAS also participated as an observer in the selection of 200 judges for the Honduran justice-of-the-peace, first instance, and sentencing courts as well as the Court of Appeals, monitoring the process and making the observations needed to increase transparency.

1.11.2. Development and publication of manuals

The Mission has provided support and consulting for the development and publication of civil rights and campesino rights manuals, to be used by Honduran judges as guides and references for decision writing. We received valuable support for the development of these manuals from the Konrad-Adenauer-Stiftung, which funded their development and its dissemination. Development of the manuals was contracted to international specialists. There is now an updated version of the Manual de Derechos Civiles y Políticos [Manual of Civil and Political Rights], originally realized by Salvadoran expert Dr. Florentín Meléndez and revised by MACCIH-OAS staff. On April 12, 2018, this manual will be delivered to the Supreme Court (CSJ), which has agreed to issue a ruling making it a training tool for members of the judiciary.
The Manual de Derechos Económicos, Sociales y Culturales [Manual of Economic, Social, and Cultural Rights] is currently being revised and updated by Mexican expert Dr. Ulises Ruiz Lopart and should be finished by June of this year.

1.11.3. Strengthening the interinstitutional cooperation capacity of the Honduran judiciary

The Mission provided support for an agreement between the Honduran judicial system and the Justice Studies Center of the Americas (JSCA), that provides for the sharing of statistics, the possibility of witnessing various hearings in the Honduran criminal process and interviewing various justice system actors in order to determine the state, strengths, and weaknesses of the Honduran criminal justice system and the changes needed to improve its speed and efficiency. It also provided support for a similar agreement between the Office of the Attorney General and the JSCA.

Currently, the Mission is coordinating with the JSCA on the implementation of trainings for judicial personnel on topics in criminal litigation, as well as a degree program in criminal litigation in the accusatory system. In this regard, the degree program headquarters has been moved from Guatemala City to Tegucigalpa.

This Mission has kept constant tabs on the legislative proposals it has spearheaded and supported, which are currently awaiting the opinion of the Honduran Supreme Court for debate in Congress, since according to the legislative process established in the Honduran Constitution, they cannot be debated in Congress without this Supreme Court opinion. Legislative proposals pending a Supreme Court opinion include the judiciary branch organic bill, the judicial career bill, and the bill amending the Prosecution of Senior Officials Law.

In addition, the MACCIH-OAS is working on a bill to regulate, more efficiently and in keeping with the accusatory system, the wiretapping of persons under investigation in cases of organized crime and corruption, and in keeping with the accusatory system. The bill seeks to improve wiretapping procedures, make the approach more judicial and enhance the use of wiretapping evidence in judicial proceedings.

2. DIVISION OF CRIMINAL JUSTICE SYSTEM REFORM

2.1. Drafting of Reforms to the Criminal Justice System, with the support of the Justice Studies Center of the Americas (JSCA)

Under the provisions of Article 4 of the Agreement signed between the GS/OAS and the Government of Honduras, one of JSCA’s functions is: “to prepare a diagnostic assessment of the situation of the Honduran criminal justice system and to analyze the performance and results thereof, as well as specific aspects of each of the system’s institutions, such as: governance systems, institutional hierarchical positioning, levels of autonomy, capacity to fulfill institutional mission, internal work processes, and internal organizational models.”

The goal of JSCA’s assessment is to identify macro design problems in the criminal justice system and make suggestions for addressing them. The analysis is national in scope, (based on the selected sample in the cities of Tegucigalpa, San Pedro Sula, La Ceiba and Santa Rosa de Copán).
The purpose is proactive- in an effort to enhance the quality, effectiveness and legitimacy of the criminal justice system as a whole.

Between September and December 2017, after a number of visits to Tegucigalpa, the JSCA began the phase related to the design of the investigation process, in which it consulted and analyzed specialized publications, statistical and administrative data, current and historical legislative analysis and any other information relevant to the assessment of the criminal justice system in Honduras. On that basis, the JSCA developed a theoretical framework, the general and specific objectives and the most appropriate methodology for achieving them.

Thus, the JSCA has proposed to the MACCIH-OAS that cooperative agreements be signed with the Judiciary, the Secretariat for Security and the Office of the Attorney General; and in the framework of those agreements, has requested statistical information and identification of the profiles of people to be interviewed for the work. As of this date, signature of the agreement with the Secretariat for Security is still pending. The MACCIH-OAS has supported this work, as noted in Section 1.10.3 of this report, *Strengthening interinstitutional collaboration with the Honduran justice system*.

In November 2017, the second stage began with the development of a variety of methodological instruments for gathering the information needed for the assessment. There have been significant delays because of the political context and the instability in Honduras at the end of 2017 and the beginning of 2018.

An initial field visit was conducted to Tegucigalpa and La Ceiba during the last week of February 2018, during which it was possible to interview professional staff of the Judiciary and the Police, academics and civil society organizations. Hearings in magistrates’ courts and sentencing courts were observed in both cities, with special emphasis on corruption.

A second field visit was conducted on April 2-4, 2018 to the cities of Santa Rosa de Copán and San Pedro Sula.

The MACCIH-OAS has been working with the JSCA on substantive issues such as review of and suggestions for the JSCA proposal, information gathering and facilitating liaison with government agencies, as well as with logistical and operational support.

### 2.2. Criminal Justice System Observatory

#### 2.2.1. Structure of the Honduran Observatory

Pursuant to the provisions of Article 4.2 of the Agreement between the Government of Honduras and the GS/OAS, the MACCIH-OAS launched the Honduran Criminal Justice System Observatory on three occasions between August and September 2017, in Tegucigalpa, San Pedro Sula, and La Ceiba. Starting in October 2017, the work then focused on organizing a general assembly of civil society organizations and academia to move forward with developing the Observatory’s organizational structure.

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2. Such as, *inter alia*, magazine articles, monographs, internal agency manuals, electronic publications, and institutional reports.
The Observatory's technical team held planning meetings with an organizing committee made up of several civil society organizations, to begin the process of structuring the Honduran Observatory and ensure that all sectors of civil society, social movements and academia were represented, and to discuss the Statutes and internal regulations for approval, in order to begin the work of monitoring the Honduran criminal justice system.

The date for the general assembly was set for November 16, 2017, and civil society organizations, social movements and academia were invited to attend.

The convocation was first circulated by the organizations via phone calls and e-mails from the technical staff of the Honduran Observatory. A notice was also published in one of the largest national newspapers, and was posted to the Observatory’s web page. The organizing committee was asked to send out the invitations using different social media outlets.

However, one segment of these organizations asked to put the holding of the General Assembly to a vote. A large majority voted in favor of postponing the Assembly, because they felt that the organizations present were not sufficiently representative of all sectors of Honduran civil society to ensure a minimum level of legitimacy. Instead, discussions were held with those civil society organizations and academia that were in attendance. They organized themselves by representative sectors, and within each sector, chose a principal and an alternate to form a Provisional Committee. The Committee has three specific objectives, which are:

1. To determine and carry out strategies for sharing information about the Observatory, particularly in areas in the interior of the country to ensure that the work of the Honduran Observatory is fully representative and legitimized.
2. To develop draft statutes and regulations of the Honduran Observatory, which would be submitted to the General Assembly for approval.
3. To convene the General Assembly in order to submit the statutes and regulations for approval, once the two previous steps have been completed.

A number of meetings were then held to follow up on the three objectives that had been assigned to the Provisional Committee. This process was interrupted during the post-election period due to security issues and the fact that most of the organizations’ top priority was the political and electoral issue.

The Provisional Committee resumed the process on Wednesday, January 10, 2018. One of the most important agreements of that meeting was that a workshop would be held on February 8 and 9, 2018 to work on the proposed statutes and regulations, and on developing strategies for sharing information about the General Assembly of the Honduran Observatory, as well as formulating a plan of action for meeting the objectives assigned to it.

Following the resignation of the Coordinator of the Observatory Division of the MACCIH-OAS in March 2018, the Secretary General took the necessary steps and appointed the acting Spokesperson to take over the Division’s activities.

Three meetings were held with the Provisional Committee on March 2, 15, and April 6, with the goal of enhancing the work of the Observatory. The Provisional Committee of the Honduran Observatory also met to draft statements about specific issues related to the MACCIH-OAS.
On March 21, 2018, at an event entitled Prospects and Challenges in the Fight against Corruption in Honduras [Perspectivas y Desafíos de la lucha contra la corrupción en Honduras] organized by the group Citizens against Corruption [Ciudadanía contra la Corrupción], the Provisional Committee made a public statement rejecting the constitutional challenge to the agreement establishing the Mission to support the Fight against Corruption and Impunity in Honduras signed by the General Secretariat of the Organization of American States (OAS) and the Government of Honduras.

It should be noted that in his Letter No. OSG/131-2018, the Secretary General invited civil society to participate in the selection of the new coordinator of the Criminal Justice System Observatory.

2.2.2. Dialogue with Civil Society

On February 6, 2018, the MACCIH-OAS’s Criminal Justice System Observatory conducted a workshop called Pact against Impunity, at which civil society organizations and academics were invited to a discussion with the Spokesperson of the Mission to support the Fight against Corruption and Impunity in Honduras (MACCIH-OAS). The purpose of the workshop was to share information on the Pact of Impunity, its implications and the constraints it imposes on the fight against corruption being waged by the MACCIH-OAS in Honduras.

2.2.3. Gathering of quantitative data provided by the Inter-agency Technical Group on the Statistics and Indicators of the Criminal Justice System

Based on the evaluation matrix of the Criminal Justice System, the Criminal Justice System Observatory has begun to collect 2017 data on the more than 170 indicators that had been proposed, discussed and validated by civil society and academia. To this end, notes were sent to various State institutions, such as the Supreme Court of Justice (CSJ), the Office of the Attorney General (MP), the National Police (PN), the National Penitentiary Institute (INP), the Secretariat for Human Rights, the Seized Assets Administration Office (OABI), the Office of the Prosecutor General of the Republic (PGR), the Secretariat for Finance (SEFIN), the Central Bank of Honduras (BCH), the Bar Association of Honduras (CAH) and other State institutions such as the Institute for Access to Public Information (IAIP) and the Special Commission for the Purging and Transformation of the National Police, in order to gather the broadest possible information on categories of access to justice.

The MACCIH-OAS has received the first responses to the notes sent to the government agencies, and is processing this information in order to identify structural problems, progress, failures to make progress, setbacks and recommendations to the criminal justice system. Once all the indicators have been collected, they will be shared with and validated by the Government, civil society and academia, and will be published to the general public on the Observatory’s web page.

2.2.4. On-line surveys and in situ observations to gauge users’ and staff perceptions of the Honduran criminal justice system

In March 2018, on-line surveys were conducted on the perceptions that users and staff have of the criminal justice system in the cities of Tegucigalpa and San Pedro Sula, in order to monitor and follow up on whether there had been any change in their perceptions since the results of the surveys conducted in 2017.
Surveys continued to be administered from April 11 to 14, by means of *in situ* observations in the cities of Siguatepeque, Comayagua, San Pedro Sula and Tegucigalpa.

### 2.2.5. Specialized reports on access by vulnerable populations to the Criminal Justice System in Honduras

Between November 2017 and February 2018, the MACCIH-OAS Criminal Justice System Observatory prepared five reports on access to justice by vulnerable populations in Honduras, including in particular, children and adolescents, women, LGBTI, *campesinos*, indigenous peoples, Afro-Hondurans, persons with disabilities, social communicators, justice workers, human rights defenders, inmates and older adults.

The methodology used consisted of interviews with a number of leaders of civil society organizations and personnel of the criminal justice system involved in the topic of vulnerable groups, as well as analysis of indicators in the “access to justice” category of the matrix for assessment of the criminal justice system, to reflect the progress made and the setbacks suffered by the justice system, and in turn, offer conclusions and recommendations about the current functioning of the criminal justice system:

- **First report**: Provides an analysis of the information and indicators collected by the MACCIH-OAS Observatory on the criteria for access to the criminal justice system by vulnerable populations. It has four specific objectives:
  
  i. Describe the ways in which the criminal justice system in Honduras offers access to respond to the needs of vulnerable groups.
  
  ii. Describe the capacity of the Honduran criminal justice system to resolve the conflicts with the law of vulnerable groups.
  
  iii. Explore the social perceptions of justice workers with respect to vulnerable groups’ access to the criminal justice system.
  
  iv. Explore the social perceptions of civil society organizations with respect to vulnerable groups’ access to the criminal justice system.

- **Second report**: Provides an assessment of and recommendations for improving the conditions under which vulnerable populations have access to the criminal justice system.

- **Third report**: Measures the structural conditions under which vulnerable populations have access to the criminal justice system, based on gender and rural/urban criteria. Two matrices were developed in response to objectives three and four of the first report. The response to objective three was to explore the social perceptions of justice workers regarding access to the criminal justice system by vulnerable groups, and specific objective four was to explore the social perceptions of civil society organizations regarding vulnerable groups’ access to the criminal justice system.

- **Fourth report**: Creates training tools for civil society and academia on access to criminal justice by vulnerable population groups. It sets out the methodology for information sharing and describes the audience and objectives established for that purpose.

- **Fifth report**: Final report with the main findings on the question of access to the criminal justice system by vulnerable populations. The main problems include: a) Context of violence, b) State institutions with structural weaknesses, and c) Inequality, social exclusion, and discrimination.
3. **DIVISION OF POLITICAL AND ELECTORAL REFORM**

3.1. **Training for the Elections Oversight Body**

The Office of the Attorney General organizes the Elections Oversight Body for each election in Honduras. It is set up on an ad hoc basis with oversight officers who work for a few months. Budgetary, infrastructure, and subject matter constraints limit how well the work can be performed.

In an effort to strengthen the capacities of the Elections Oversight Officers assigned to the elections, in October 2017, the MACCIH-OAS organized a training workshop to learn about experiences in other countries and exchange experiences with the Honduran elections officers. Fifteen Honduran elections officers participated in the workshop, along with Caleb Guadarrama, Principal Executive Officer of the Specialized Oversight Office on Electoral Crimes of Mexico (FEPADE), which is the only permanent body within an Attorney General’s Office to be responsible for monitoring elections issues in Latin America; Ian Bayless, of the Office of the Elections Oversight Body of the Electoral Court of Panama, which also operates on a permanent basis, and technical MACCIH-OAS staff. The workshop enabled discussion regarding some of the positions of the Honduran Elections Oversight Body before the November 2017 elections.

3.2. **Dialogue with parties, candidates, and civil society on political financing**

The approval of the Clean Politics Law and the installation of the Commissioners of the Financing Unit opened up a new era in politics and election campaigns in Honduras. The MACCIH-OAS set up a process of ongoing dialogue with parties, candidates and civil society, to learn about the main opinions, assessments, concerns, and suggestions regarding application of the law.

This work was normally carried out in Tegucigalpa, but on November 6-9, 2017, was expanded to include field visits to interview key actors in the process. Visits were paid to the Departments of Francisco Morazán, Comayagua, Cortés and Atlántida, meetings were held with candidates for representatives, deputy mayor and mayor of the main and emerging parties, as well as independent candidates, local authorities and groups representing civil society.

It was found that while the law was viewed positively, the candidates’ practices for receiving campaign funds and accounting for income and expenditures during the campaign varied significantly.

3.3. **Selection and training of auditors of the Financing, Transparency and Oversight Unit**

When the Financing Unit Commissioners took up their posts, the Unit had no staff assigned to it. As such, one of the first tasks was to choose the staffing team. The Commissioners appointed the trust personnel and senior staff during the initial months.

The process of selecting the technical staff (auditors) began late, in August, almost simultaneously with the start of the election campaign, although in the end, the selection process was merit-based. A joint committee was formed comprised of the Unit, the MACCIH-OAS and a technical
secretariat run by the Asociación para una Sociedad más Justa (ASJ), one of the civil society organizations with the greatest experience with monitoring personnel selection processes.

Forty-two candidates applied for the posts that had been authorized. The candidates took a number of tests to assess their background and knowledge on the one hand, including a written test and an interview, and details about their socioeconomic status and assets on the other.

Ten staff members were selected on the eve of Election Day and together with the Unit’s trust personnel, received training at an activity sponsored by the MACCIH-OAS and the Konrad Adenauer Foundation (KAS) on November 20 and 21, 2017. The training was given in two modules: an open seminar followed by a closed forum exclusively for the Unit. Both components were attended by international elections experts (Luis Adolfo Montiel from the Mexican National Elections Institute; Héctor Díaz of the Supreme Elections Court of Costa Rica), and transparency associations (Elisabeth Ungar, former director of Transparencia Colombia), and were also attended by local public institutions involved with the Unit by virtue of the Clean Politics Law (Institute for Access to Public Information; Electoral Oversight Body) and staff of the MACCIH-OAS.

However, the Unit’s budgetary uncertainty delayed the appointment and formal hiring of the body of auditors. The shortage of staff reduced the possibility of conducting audits and special in situ investigations to a minimum, particularly investigations of indications of the presence of illicit or criminal funds circulating outside official campaign accounts, especially in areas regarded as “sensitive”. The Unit tried to offset those limitations by concluding an agreement with the Pastoral Social Caritas for supervision of campaign spending outside Tegucigalpa and with visits by the Commissioners to a number of departments in the country.

3.4. Support for the launch of the Unit’s technology platform

Effective oversight of party and candidate financing and accountability requires a specialized technology platform to process operations that is adapted to the requirements of the legislation. Clearly, no such system existed when the Unit was created, and the lack of a system hampered the monitoring of the campaign.

The Unit expected to receive a technology transfer from the Mexican National Elections Institute (INE), whose system is the most advanced and complete in Latin America. With the support of the MACCIH-OAS, contacts were made though bilateral cooperation between the TSE and the INE. In September 2017, the Commissioners had an information and training session in Mexico City, while senior Mexican personnel visited the TSE facilities in Honduras to gather a more precise view of the needs and opportunities.

Despite the goodwill of the parties, it became clear that this technology transfer would not be feasible in time for the 2017 process. Consequently, in the months that followed, a local solution was sought with the support of the MACCIH-OAS and of the Netherlands Institute for Multiparty Democracy (NIMD), but progress was minimal.

3.5. Presence of the international community in the area of the elections

The MACCIH-OAS played an active role in the interagency group created by the international community to monitor the most significant issues in Honduras, including the elections. In 2017,
the United Nations Development Program (UNDP) coordinated the G-16 Elections Group, and the MACCIH-OAS was present on an ongoing basis, focusing in particular on monitoring political financing and seeking external cooperation opportunities for strengthening the Clean Politics Unit [Unidad de Política Limpia].

3.6. Implementation of the Law on Financing, Transparency, and Oversight of Political Parties and Candidates

Despite the difficulties encountered by the Financing, Transparency and Oversight Unit at its inception, overall, the implementation of the Clean Politics Law during the general elections of November 2017 had positive results: the Unit announced that it received more than 1,600 financial reports on campaign financing from parties and candidates, a compliance rate of around 87 per cent. One 100 per cent of the candidates for President and 95 per cent of the candidates for deputy also provided such information. The lowest rate of compliance was among candidates for mayor; this meant that there was greater compliance by candidates with higher public exposure and greater fundraising possibilities.

In spite of the uncertain conditions, the fact that the Clean Politics Law was well received by political figures, the international community and the public at large had a dissuasive and preventative effect, which reduced electoral campaign spending significantly while reinforcing the legitimacy of the Unit. The MACCIH-OAS welcomes this important step forward in the consolidation of a transparent and fair system of election financing, particularly in a delicate political and electoral environment that requires confidence building among institutions and citizens to ensure sustainable results.

The post-election phase has run into limitations because of the lack of an appropriated budget, which is essential to the work of auditing accounts and contracting related services such as technology services, among others. The Unit had to extend the deadline for candidates to present their accounts (for which they had had 15 days after the election) to February 19, 2018.

Once the Unit has completed its post-election audit, the Mission will present a final report on the implementation of the Clean Politics Law and the Unit’s performance, and make recommendations on how best to capture the spirit of this innovative law, enhance the electoral scenario in a context of transparency and bolster the Unit’s efficacy and institutional strength. It will also present recommendations on enhancing the regulations of the Clean Politics Law and on implementing good practices.

As this actions will comply with the objectives established in Article 5 of the Agreement on the establishment of the MACCIH-OAS, therefore the Division on Electoral Reform will be closed.

4. DIVISION OF PUBLIC SECURITY

4.1. Compliance with the recommendations made by the National Citizen Security System (SNSC)

As provided in Article 6.1 of the Agreement that establish the MACCIH-OAS, the Mission has continued its work concerning compliance with the recommendations made by the OAS Secretary General to the National Citizen Security System (SNSC) in 2012 and 2014. The Mission is cooperating on an ongoing basis with the various institutions responsible for citizen security and
human rights, and with civil society organizations. It also continues to support development of the concept of community policing, understood as an effective means of linking the police to the public and building a climate of trust and cooperation in a context of respect for human rights and raising awareness of the need to include more women in the police, at all levels. This is closely linked to the Mission’s recommendations concerning use of different gender and age approaches that, amongst others, cut across all of the Divisions.

The Mission is thus working on developing proposals for the process of the certification of prisons. The proposals are designed to develop mechanisms for the classification and rehabilitation of the prison population, as well as prison reform policies to ensure respect for human rights and inclusion of vulnerable populations, particularly women and the LGBTI community. The recommendations of the MACCIH-OAS will also address improvements to the Honduran National Police’s investigation of gender and family violence crimes.

With regards to strengthening the criminal justice system, MACCIH-OAS has worked with four sub-systems of the Honduran criminal justice system related to its mandate, namely: the Honduran National Police, the Office of the Attorney General, the Judiciary, and the penitentiary system.

4.2. Implementation of the Law to Protect Justice Officials

Pursuant to Article 6.2 of the Agreement between the Government of Honduras and the GS/OAS on establishment of the MACCIH-OAS, the Mission has work on the developing mechanisms for implementation of the Law to Protect Human Rights Defenders, Journalists, Social Communicators and Justice Officials. In particular, during the period covered by this report, the MACCIH-OAS drafted and submitted a risk assessment and a set of strategic and operational recommendations to strengthen the institutional capacities of the authorities responsible for implementing the Protection Law. These theoretical drafts of prevention and early warning mechanisms include the processes, procedures and forms for the Unit for Receipt of Cases, Quick Response and Preventive Risk Management and the Unit for Risk Analysis and Implementation of Measures by the Judiciary, as well as the criteria and variables for risk prevention. In addition, in an effort to strengthen the mechanisms established in the Protection Law, the MACCIH-OAS presented proposed regulations to set up a special system for the protection of justice workers.

Another important advance during this period was the enhancement of the Agreement on the Mechanism for the Protection of Public Officials and Employees of the Office of the Attorney General of Honduras. This had initially been developed by the MACCIH-OAS on October 10, 2017 to create a regulatory framework for the implementation of this mechanism and prevent or reduce the risk factors for these justice officials. Joint work by the Mission and the Attorney General’s Office improved this instrument and brought it into line with the requirements and realities of this institution. A final agreement was reached, and it will be signed shortly thereafter by the Attorney General.

The Mission also contributed to the development of a Protocol to ensure that justice workers in the Office of the Attorney General and the Judiciary can avail themselves of the protection measures ordered by the inter-American human rights system, and can be covered by the Protection Mechanisms created by the Judiciary and the Attorney General. This came about as the result of joint work by the MACCIH-OAS, the Attorney General and the Judiciary, and their
cooperation on observations and recommendations to bring the Protocol more into line with the legal and institutional framework in Honduras.

The MACCIH-OAS wishes to underscore the agencies’ determination to prioritize the implementation of the protection mechanisms recommended by the Mission and which are essential to achieving sustainable outcomes in the area of the protection of human rights. It is also important to proceed with an implementation of the constitution of work teams and budget allocation; training and socialization; and permanent evaluation to measure indicators. MACCIH-OAS will thus continue to support the Honduran justice system in consolidating the protection mechanisms at different stages.

Finally, it should be noted that in an effort to strengthen the witness protection program, the MACCIH-OAS is working on an inter-agency agreement, among the witness protection agencies of Guatemala, El Salvador, and Honduras. These agreement would foster the cooperation between these agencies on the witness exchange program, enabling witnesses whose lives are in danger in the country where they make their statement, to be transferred from one country to another. The main objective of this initiative is to reduce the risks to their personal safety.

4.3. Regulation of the National Police Law and the Judicial Career Law

The Mission has been supporting the process of restructuring and purging the National Police, and played an active role in the process of promulgating the Law on the Secretariat of State for Security (approved May 30, 2017) and of the National Police and the Police Career Act (approved August 17, 2017).

These laws took up a number of the recommendations made by the MACCIH-OAS, which were focused on including respect for human rights as a cross-cutting theme of citizen security, the concept of community policing, the implementation of a system of societal oversight of the police function and giving dignity to the work of the police. They were finally published in the official newspaper La Gaceta on October 10, 2017, to enter into force on January 21, 2018.

During this period, the MACCIH-OAS has been focusing its plan of action on promoting the regulation of these laws to modernize their organizational and police structure, and on creating the regulatory and institutional tools to improve the uncertain conditions in which the police operate and offer them a vision of the future and wellbeing—factors that are essential to enhancing the police system and consequently, citizen security. To this end, the Mission is working with the OAS Secretariat for Multidimensional Security.

5. PLANNING AND MANAGEMENT OF THE MACCIH-OAS

5.1. Strategic planning

The MACCIH-OAS held a second workshop on January 15, 16 and 17 to develop its 2018 Results-based Management Plan, thanks to the support of the Government of Canada. The workshop evaluated the outcomes, indicators, and activities planned for this year to carry out the Mission’s mandate. The workshop was led by Canadian facilitators who engaged the principal Division heads of the MACCIH-OAS in a participatory workshop format.
In November 2017, with the cooperation of USAID, a workshop on gender issues was held for MACCIH-OAS staff, aimed at strengthening the Mission’s capacity to address the gender perspective and include it throughout all its Divisions.

5.2. Resignation of the former spokesperson of the MACCIH-OAS

On February 15, the former spokesperson of the MACCIH-OAS, Mr. Juan Jiménez Mayor, presented his resignation from the Mission via Twitter. His resignation came after the Secretary General’s tweet to the President of Honduras on February 14 regarding the need to strengthen the Mission. This produced a series of exchanges on social media reporting a number of acts allegedly committed by former staff of the Mission.

In his Letter No. OSG/094/18 of February 16, 2018, the Secretary General of the OAS accepted the resignation of Mr. Juan Jiménez Mayor, and appointed Ana María Calderón Boy, MACCIH--OAS’s International Prosecutor, to lead the transition until a new Spokesperson is named.

The resignation of the former spokesperson resulted in the resignation of a number of staff close to him, as well as other staff members, which meant a significant reduction in staff. Despite the challenges of this difficult period, the commitment and dedication of the current members of the MACCIH staff has enable the Mission to continue with its work.

5.3. Political and financial support from the international community

In view of recent events, the MACCIH-OAS extends its gratitude to the donor countries and international community in Honduras for their political support. Their demonstrations of support have been fundamental to continue with work of the Mission. Monthly meetings were arranged during this period in Honduras and Washington with donors to the Mission.

The MACCIH-OAS also thanks Canada, Chile, the European Union, Germany, Italy, Spain, Sweden, Switzerland and the United States for their public statements in support of the Mission’s mandate, and reiterates its firm commitment to the Honduran people to continue the fight against corruption and impunity in Honduras.

It should also be noted that during this period, the Mission received additional financial contributions from the European Union and Italy.

6. OTHER ISSUES AND INCIDENTS THAT OCCURRED DURING THE TRANSITION PERIOD

6.1. Visit by OAS staff to the MACCIH-OAS in Honduras, and the official visit of the Acting Spokesperson to headquarters in Washington

Shortly after the resignation of former spokesperson had been accepted, an OAS delegation from headquarters travelled to Tegucigalpa to support in the transition process undertaken by the Acting Spokesperson, and to arrange official meetings with donors, officials from the Honduran government and to ensure that the transition proceeded smoothly.

The Acting Spokesperson, Ana María Calderon, paid an official visit to OAS headquarters in Washington DC on March 11-14, 2018. She held several working meetings, including a meeting
with Secretary General Luis Almagro. During this encounter she briefed him on the status of the Mission as well as on the situation of the investigations conducted in active collaboration with UFECIC.

She also met with OAS staff of the Implementation Committee and staff of the Secretariat for Multidimensional Security, the Department of Press, and the Department of Legal Affairs, among others. She held interviews with representatives of civil society, the Embassy of Canada and with representatives of the U.S. Department of State.

6.2. Coordination meetings with national officials and foreign diplomats

Acting Spokesperson Calderon Boy met with a number of Honduran officials, including the President of Honduras, the Attorney General, the President of the Supreme Court, officers of the liaison office of the government of Honduras to the MACCIH-OAS, the President of the National Commission on Banks and Insurance, the Secretary of Finance and the Designada Presidencial, among others.

She also held meetings with a number of foreign officials, including the United States Ambassador to the UN, Nikky Haley; Marisa Matias, Chief of the European Union’s Electoral Observation Mission; David Holiday of Open Society; Annika Ben David of the Swedish Embassy; representatives of the International Monetary Fund (IMF), the Ambassador of Italy and the Ambassador of the United States, among others.

6.3. Participation by the MACCIH-OAS in the VIII Summit of the Americas

As indicated by the OAS Secretary General, the MACCIH-OAS was accredited as part of the OAS delegation to the VIII Summit of the Americas, which was held in Lima, Peru on April 13-14, 2018. Acting Spokesperson Ana Calderón Boy held working meetings during the Summit with Representatives Norma Torres, Paul Cook, Gregory Meeks and Adriano Espaillat, members of the U.S. House of Representatives Subcommittee on Hemispheric Affairs.

The work of the MACCIH-OAS was included in the 2016-April 2017 follow-up report “Prosperity with Equity: The challenge of cooperation In the Americas: Mandates for action”, VII Summit of the Americas held in Panama 2015, which reported on the initiatives and programs implemented by the institutions of the Joint Summit Working Group (JSWG), in compliance with the mandates and initiatives from the VII Summit.

6.4. Selection of International Oversight Officers, an International Judge and experts for the Analysis Unit

As part of the Plan to increase the staff of the Division of Prevention and Fight against Corruption and to strengthen the investigative work of the integrated UFECIC/MACCIH-OAS investigation and criminal prosecution teams, a process to select nine international experts for the Analysis Unit of the Mission was initiated. In addition, two call for resumes were announced to contract two positions for International Prosecutors officers, and one International Judge. Selection for these positions is still in process.

6.5. Intimidation of UFECIC prosecutors and judges of the anti-corruption circuit
Following the arrest warrant issued by the anti-corruption Judge and the opening of the prosecution case of a former senior public official in the case of “La Caja Chica de la Dama” (The Lady’s Petty Cash Case), the defense, using various media, began a campaign to discredit and intimidate the judge hearing the case, as well as against the Chief of UFECIC.

The Mission remains vigilant as to ensure that these actions do not harm the personal safety of these justice officials or impact on their autonomy and independence. It is also coordinating with national and international institutions to guarantee the protection of justice officials and their decisions.

6.6. Filing of a Constitutional Challenge to the MACCIH-OAS

On March 6, 2018, Juan Sánchez Cantilano, attorney for those accused in the “Red de Diputados” case, on behalf of the accused, Geovanny Castellano, Jeremías Castro, and Napoleón Panchamé, filed a constitutional challenge against the Agreement establishing the MACCIH-OAS.

The Mission recently learned of this filing via the media, when on March 20, 2018 the spokesman for the Judicial System said in a press conference that on that same day, the Constitutional Bench of the Supreme Court of Justice (CSJ) admitted a constitutional challenge filed against the Agreement establishing the MACCIH-OAS. The spokesman said that the challenge had been entered as Case No. 189-2018, and referred to Legislative Decree 23-2016, issued on April 7, 2016, which ratified the Agreement between the Government of Honduras and the Organization of American States to establish the MACCIH-OAS.

Given that the MACCIH-OAS is not a party to this constitutional challenge, it has not had access to the text of the challenge nor to how it is being handled, and has followed the matter only by means of the press, which has reported that the Supreme Court has requested the National Congress to provide the history of the approval of the Agreement.

The press later reported that the National Congress forwarded the requested materials on April 13, 2018.

On April 13, 2018, the spokesman of the Supreme Court said that the report from the National Congress had been forwarded to the Office of the Attorney General for its opinion, which was due to be issued within six days’ time.

It should be noted that national and international institutions and civil society, including members of congress of the Parliamentary Front to Support the MACCIH-OAS, have spoken out publicly to reject this constitutional challenge.

6.7. Provision of a house for the National Police Personnel who provide security for the MACCIH-OAS staff

On April 5, 2018, the Honduran National Police accepted the provision of a house where members of the National Police who are providing security and protection for the Mission premises and staff can rest.

This house, which is adjacent to the headquarters building of MACCIH-OAS, became necessary so that the police would have a proper place to eat and rest during their rest periods. The building
contains a space for the police who are on night duty, an office for the police coordinator and officials, a kitchen, cafeteria and a rest area. It was not possible to provide these spaces all of within the MACCIH-OAS facilities, which had no capacity to house a police contingent totaling almost one hundred officers.

It is hoped that this initiative will reaffirm our commitment to work in coordination with, and to support the institutions of the Honduran State, and will also provide us with significant support in the fights against corruption and impunity in the country.

6.8. Issuance of a license to operate to the MACCIH-OAS

On April 13, 2018 MACCIH-OAS staff attended the first module of the Survival and First Aid Course, which was given by instructors from the Honduran Fire Brigade. This course was an essential requirement for receiving a certificate of operations for the MACCIH-OAS, certifying that our organization has the appropriate infrastructure and personnel trained to deal with any emergency that might arise on our premises.

The remaining modules will continue to be delivered over the next two months, until all of the prerequisites have been met. Once they have been completed, the MACCIH-OAS should receive a license to operate, which will ensure the security of its facilities and timely response by the fire brigade.

7. RECOMMENDATIONS

In its Third Semi-Annual Report, the MACCIH-OAS made various recommendations, which still stand and which it repeats. Its additional recommendations are as follows:

FIRST: The MACCIH-OAS recommends strengthening the Special Prosecution Unit to Fight Corruption-Related Impunity (UFECIC) and the courts with national jurisdiction in anti-corruption matters by ensuring their independence and autonomy and the safety of justice workers, so that they can operate in an environment that protects their activities.

SECOND: The Office of the Attorney General is the Mission’s most important counterpart in the fight against corruption and impunity, which makes maintaining this institution’s constitutionally guaranteed independence imperative.

The MACCIH-OAS is conscious of the importance of having a committed Attorney General whose ethical conduct is above reproach; who is an expert in criminal law; who has no ties that affect his or her independence and impartiality and who has the capacity to engage in dialogue with other system actors and users. In this context, the Mission will continue to closely monitor the selection and election of the Honduran Attorney General, and with great interest. We have asked for the Mission to be allowed to participate in this process as an observer, collaborating actively in a selection and election process that is transparent, participatory, and merit-based.

THIRD: The Palermo Convention, to which Honduras is a party, commits states to adopting measures to fight organized crime. To this end, we recommend strengthening the legal tools that can be used to improve investigations and undercover corruption networks linking senior officials to individuals in the private sector, including:
FOURTH: Implementing a witness protection protocol that effectively protects witnesses and ensures their appearance before the competent judges is imperative for high profile investigations involving individuals identified as having real political and/or economic power to go forward with some guarantee of success.