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PRESIDENCIA DE LA REPÚBLICA DE HONDURAS

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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

On January 19, 2016, in the city of Washington, D.C., THE PARTIES: the Government of the Republic of Honduras (hereinafter the GOVERNMENT), represented by His Excellency Juan Orlando Hernández Alvarado, President of the Republic, and the General Secretariat of the Organization of American States (hereinafter GS/OAS), represented by its Secretary General, Luis Almagro,

CONSIDERING:

That corruption and impunity are phenomena impacting governance, confidence in institutions, and the rights of persons in many States of the region;

That in Honduras, despite efforts made by the different State oversight bodies, recent emblematic cases of corruption, such as the case of the Instituto Hondureño de Seguridad Social [Honduran Social Security Institute] have underscored the need to strengthen yet further the Honduran judicial system, a situation that has especially mobilized Honduran society, which is demanding that further actions be taken in the fight against corruption and impunity;

That, aware of the need to address this issue with determination and as a matter of urgency, the GOVERNMENT, in June 2015, proposed a "Sistema Integral Hondureño de Combate a la Impunidad y a la Corrupcion" [Honduran Integral System to Combat Impunity and Corruption] and opened up an unconditional dialogue with the different sectors of Honduran society;

That the GOVERNMENT has invited the GS/OAS and the United Nations (UN) to serve as facilitators of the national dialogue. In that context, the GS/OAS established a mission to support the national dialogue, which made two visits to the country, during which it met with authorities of the GOVERNMENT and with different social and political sectors of the country;

That as a result of these visits, the OAS facilitator proposed to the Honduran government strategic lines for the establishment of a comprehensive mechanism to combat corruption and impunity and to support and provide advice for reforms to the Honduran justice system to ensure the full independence of this branch of government, as well as its transparency and professionalism;

That that proposal resulted in a letter sent by the President of Honduras to the Secretary General of the Organization of American States (OAS) on September 14, 2015, to which the Secretary General of the OAS replied, on September 28 of that year, to the President of Honduras with a proposal for the establishment of the mission to support and strengthen the justice system and mechanisms to prevent and combat corruption and impunity in Honduras. The proposal was discussed and agreed with the GOVERNMENT on November 17, 2015. It is attached hereto as ANNEX I and forms an integral part of hereof. This redefined proposal incorporates contributions from different sectors of Honduran society;

That this mission shall be coordinated by the Secretariat for Strengthening Democracy of the GS/OAS, which shall have support from the Secretariat for Legal Affairs through the Technical Secretariat of the Mechanism for Follow-up on the Inter-American Convention against Corruption (MESICIC), the Secretariat for Multidimensional Security, and different entities of the inter-American system working in this area, in accordance with their internal regulations, including the Justice Studies Center of the Americas (CEJA);

That the GOVERNMENT has entered into international commitments in the area of the fight against corruption for the implementation of integral reforms and effective mechanisms that protect and ensure access to information and for the timely prevention, detection, investigation, and punishment of acts of corruption in accordance with the Inter-American Convention against Corruption (CICC), adopted in the framework of the OAS in 1996, and the recommendations of the MESICIC, which it joined in 2001, as well as the United Nations Convention against Corruption (UNCAC), adopted in 2003;

That in accordance with ARTICLE 4 of the Inter-American Democratic Charter, "[t]ransparency in government activities, probity, responsible public administration on the part of governments … are essential components of the exercise of democracy.";

That Honduras ratified the Inter-American Convention against Corruption on May 25, 1998, depositing its instrument of ratification on June 2 of that year, and also joined the MESICIC by signing the "Report of Buenos Aires" on December 8, 2001;

That the active collaboration of the GS/OAS with the Government in its fight against corruption and impunity will contribute to strengthening the rule of law, the institutions of the Honduran State, and confidence-building among leaders and citizens, and to maintaining dialogue as the primary tool for consolidating democracy in Honduras;

That civil society in the OAS member states will continue to play a vital part in monitoring the commitments acquired by the latter, the accountability thereof, and in building institutions that inspire confidence;

That the proposal to establish a mission represents the political intent of the GOVERNMENT in its fight against corruption and impunity in Honduras; and

That the GS/OAS is the central and permanent organ of the OAS and is authorized to establish and promote relations of cooperation in accordance with Article 112.h of the Charter of the OAS and with resolution AG/RES. 57 (I-O/71) of its General Assembly,

HEREBY AGREE AS FOLLOWS:

ARTICLE I
OBJECTIVES

1. To establish the Mission to Support the Fight against Corruption and Impunity in Honduras (hereinafter, "MACCIH"), in accordance with the provisions of Annex I hereof. The main objectives of the MACCIH are the following:

1.1. To contribute to the fulfillment by the Honduran State of the international commitments it acquired through the Inter-American Convention against Corruption and the MESICIC, the American Declaration of the Rights and Duties of Man, and the United Nations Convention against Corruption (UNCAC);

1.2. To support, strengthen, and collaborate actively with the institutions of the Honduras State charged with preventing, investigating, and punishing acts of corruption;

1.3. To help improve coordination between the different State institutions working in this area;

1.4. To propose reforms of the Honduran justice system to the Government, including legislation on strengthening the fight against corruption in and from the private sector; and

1.5. To help strengthen the accountability mechanisms with which the State's justice agencies report to Honduran society, and the mechanisms with which civil society observes and monitors the justice system.

ARTICLE II
LINES OF ACTION

2. To fulfill the above-mentioned objectives, the following areas of action, based on four components, shall be pursued:

2.1. Prevention of and combating corruption:

2.1.1. International judges and prosecutors shall oversee the work of and provide technical support to entities of the Honduran justice system.

2.1.2. Support for the preparation of the National Plan of Action for implementation of the recommendations made to Honduras by the MESICIC through its fifth round of review; and

2.1.3. Propose legal and institutional reforms to Honduras' system to combat corruption, including for the private sector.

2.2. Reform of the criminal justice system:

2.2.1. Review and analysis of work being done by the system of justice institutions and formulation of recommendations to improve the justice system in Honduras.

2.2.2. Cooperation with civil society in building the set of instruments for establishing a decentralized system of criminal justice observation and follow-up system based on the country's jurisdictional organization.

2.3. Political and electoral reform:

2.3.1. Advice for the preparation of norms on political and party funding and on the financing of the electoral justice entities.

2.4. Public security:

2.4.1. Follow up to the recommendations of the evaluation report on the National Public Security System of Honduras.

2.4.2. Support for the building of institutional capacities for the protection of human rights defenders, journalists, media personnel, and justice officials, among others.

ARTICLE III
FUNCTIONS OF THE MACCIH
IN THE AREA OF PREVENTING AND COMBATING CORRUPTION

3.1. Division for Preventing and Combating Corruption

This division is composed of three units: (1) Support, oversight, and active collaboration in the prosecution of cases of corruption in Honduras; (2) Follow-up to the recommendations of the

MESICIC; and (3) Reform of the legal and institutional framework for preventing and combating corruption in the public and private sectors in Honduras.

3.1.1. Unit for support, supervision, and active collaboration**:**

3.1.1.1. To select and form a group of eminent international judges, prosecutors, police officers, and professional forensics experts, as well as national professionals with recognized capacity and objectivity, who shall be tasked with assisting, advising, overseeing, and/or evaluating the competent authorities of the Honduran State in compiling information, investigating cases of corruption, and implementing a system, certified by the MACCIH, for receipt of reports (whether public, anonymous, or confidential) through the competent government authorities. The corruption cases that arise from this certification system, which the MACCIH selects and decides to actively collaborate in, will be notified to the competent Honduran authorities.

3.1.1.2. To provide technical advice, oversee, evaluate, and actively collaborate with a group of judges hearing corruption cases, prosecutors, investigators, and forensic specialists from the Attorney General's Office, by delegation of the Attorney General, selected and certified by the MACCIH to gather information and to investigate and prosecute cases of corruption and corruption networks.

3.1.1.2. To provide technical advice, oversee, evaluate, and actively collaborate with a group of judges hearing corruption cases, prosecutors, investigators, and forensic specialists from the Attorney General's Office, by delegation of the Attorney General, selected and certified by the MACCIH to gather information and to investigate and prosecute cases of corruption and corruption networks.

3.1.1.3. To provide technical advice, oversee, and/or evaluate the Attorney General's Office, the judiciary, the Judicial Council, the Police Investigation Directorate of the

Secretariat for Security, the Office of the Inspector General of the Republic, the Inspectorate of Courts, the National Banking and Insurance Commission, the High Court of Auditors, the Executive Office of Revenue, and other entities of the State of Honduras responsible for preventing and combating corruption and impunity.

3.1.1.4. To work with national counterparts to advise, oversee, and evaluate whether the Honduran institutions and competent Honduran authorities are investigating cases of corruption and corruption networks.

3.1.1.5. To provide technical advice, oversee, and/or evaluate the performance of the following institutions: the Attorney General's Office, the judiciary, the Judicial Council, the Police Investigation Directorate of the Secretariat for Security, the Office of the Inspector General of the Republic, the Inspectorate of Courts, the National Banking and Insurance Commission, the High Court of Auditors, the Executive Office of Revenue, and other entities of the State of Honduras, in pursuing public and/or administrative criminal actions, investigation, prosecution, and criminal and/or administrative punishment in cases of corruption and in recovering the proceeds of corruption cases.

3.1.1.6. To select, certify, advise, oversee, and evaluate a group of judges hearing corruption cases and prosecutors of the Attorney General's Office who, by delegation of the Attorney General, compile information and bring public criminal action against cases of corruption and corruption networks.

3.1.2. Unit to follow up on the recommendations of the MESICIC:

3.1.2.1. To support the preparation of a National Plan of Action for implementing the recommendations made to Honduras by the MESICIC through its fifth round of review, in the reports of the fourth and fifth rounds, in accordance with the terms and conditions stipulated in a memorandum of understanding to be signed between the GS/OAS and the entity designated by the GOVERNMENT, utilizing to that end the services of an international consultant and a local attorney. That memorandum of understanding shall ensure due consistency with the rules and procedures governing the MESICIC.

3.1.2.2. To hold a national workshop where the draft National Plan of Action shall be presented and debated, in which shall participate GOVERNMENT authorities and representatives of the different sectors of Honduran society.

3.1.2.3. To provide support, as part of the National Plan of Action, for the definition of a mechanism for coordinating and overseeing the implementation of the specific actions proposed in that Plan, in which shall participate GOVERNMENT authorities and civil society representatives, which shall also contain the necessary provisions for effective and efficacious compliance with the recommendations made to Honduras by the MESICIC through its fifth round of review.

3.1.3. Unit for reforms and advice to the system to combat corruption:

3.1.3.1. To form a group of eminent international jurists, judges, prosecutors and forensics experts specializing in the area of combating corruption. This Unit shall propose legal and institutional reforms to the Honduran system for combating corruption, including:

3.1.3.1.1. Combating corruption in and from the private sector to prevent and suppress wrongdoing, bribery, and misappropriation of funds or embezzlement; and

3.1.3.1.2. Strengthening the legal and institutional framework for preventing and combating public and private corruption in Honduras.

3.1.3.2. To identify problematic aspects of the criminal and administrative responsibility of companies and/or corporations, and to identify initiatives being implemented to counter corruption in the private sector.

3.1.3.3. To provide advice for the preparation of a draft anti-corruption law for the private sector and a draft law amending the legislation against public corruption in Honduras.

3.1.3.4. To promote the incorporation of international commitments by the State of Honduras, such as the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Co-operation and Development (OECD).

3.1.3.5. To provide advice for the establishment of channels for strengthening integrity in the corporate and public sectors in Honduras.

3.1.3.6. To strengthen the national institutions working to combat corruption, such as the Consejo Nacional Anticorrupción [National Council to Combat Corruption], and others.

3.1.3.7. To provide assistance for the strengthening of international judicial cooperation mechanisms.

3.1.3.8. To strengthen active and passive extradition mechanisms for important persons summoned in connection with corruption-related crimes.

3.1.3.9. To strengthen the administration of proceeds seized from corruption.

3.1.3.10. To support the establishment of prevention policies in those cases where legal lacunae and institutional problems have been identified.

ARTICLE IV
FUNCTIONS OF THE MACCIH
IN THE AREA OF CRIMINAL JUSTICE

4. Division of Criminal Justice System Reform

4.1. The Unit for Criminal Justice System Reform shall be composed of experts from the Justice Studies Center of the Americas (CEJA)

4.1.1. To review and analyze earlier studies and research, as well as those reforms of criminal justice system institutions implemented, with special emphasis on the evaluations and results of these reforms.

4.1.2. 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.

4.1.3. To prepare a set of recommendations of different depths and scopes for strengthening the quality, effectiveness, and legitimacy of the Honduran criminal justice system.

4.1.4. To analyze and evaluate the Honduran criminal justice system and to develop innovative proposals for the judicial reform process.

4.1.5. To identify problems of design, implementation, and operation of the Honduran criminal justice system and to prepare recommendations on how to improve it.

4.2. Criminal Justice System Observatory

4.2.1. In accordance with the criteria established in this Agreement, to cooperate with academic and civil society organizations to develop a series of instruments with which a decentralized system of observation and follow-up shall operate, with coverage based on the organization of the country's jurisdictions and its Attorney General's Office.

4.2.2. The decentralized system of observation and follow-up shall be developed and constituted with the pluralistic participation of Honduran civil society.

4.2.3. The decentralized system of observation and follow-up shall present progress reports to the Government and in dialogue with the Mission, containing data and recommendations to help improve the Honduran criminal justice system.

4.2.4. Based on an evaluation matrix, to define the decentralized system of observation and follow-up, evaluation system and mechanisms, and periodic reports that will enable institutional officials and the general public to identify structural problems, progress, failures to make progress, setbacks, and recommendations on the improvement of the Honduran criminal justice system.

4.2.5. This observatory shall operate with functional, technical, and administrative independence and shall maintain an ongoing dialogue with the GOVERNMENT and the MACCIH for the pursuance of the objectives of this Agreement.

ARTICLE V
FUNCTIONS OF THE MACCIH
IN THE POLITICAL AND ELECTORAL AREA

5. Division of Political and Electoral Reform:

5.1. Unit to support the creation of an equitable and transparent framework on political and electoral financing

5.1.1 To provide advice for the preparation of the law on political and party financing.

5.1.2 To support the development of standards on political financing and discretion.

5.1.3 To promote mechanisms for implementing the law on political and party financing for the processing, investigation, and imposition of the sanctions established for normative infractions.

ARTICLE VI
FUNCTIONS OF THE MACCIH
IN THE AREA OF PUBLIC SECURITY

6. Division of Public Security:

6.1. Unit for Monitoring the SNSC

6.1.1. To work with national counterparts (Attorney General's Office; Secretariats of State for Security, for Human Rights, Justice, Governance, and Decentralization, and for Defense; civil society; others) to provide the support and advice needed to promote the implementation of the recommendations identified in the Evaluation Report of the Sistema Nacional de Seguridad Ciudadana [National Public Security System] (SNSC) prepared by the GS/OAS. The recommendations are organized into the following categories:

6.1.1.1. Promoting a culture of strategic planning and management.

6.1.1.2. Digitizing, incorporating, and ensuring the interoperability of information.

6.1.1.3. Supporting the ongoing reform process of the National Police of Honduras.

6.1.1.4. Strengthening the criminal justice system.

6.2. Unit for the Protection of Human Rights Defenders, Journalists, Media Personnel, and Justice Officials

6.2.1. To assist in promoting the effective application of the Law for the Protection of Human Rights Defenders, Journalists, Media Personnel, and Justice Officials (hereinafter "the Protection Law") to protect those who contribute to the criminal and administrative prosecution of cases of corruption and corruption networks and to the strengthening of the criminal justice system.

6.2.2. To contribute to promoting the human rights and fundamental freedoms recognized in the international legal instruments of those who promote and protect human rights, freedom of expression, and judicial work.

6.2.3. To facilitate meetings on best practices in the area of the Protection Law to develop a strategy geared to the needs of Honduras.

6.2.4. To develop institutional capacities in the area of the Protection Law to assess risk and improve their security.

6.2.5. To support the application of the Protection Law in Honduras.

6.2.6. To support the reaching of agreements with other States for the relocation of protected persons.

6.3. Account shall be taken of the recommendations made to Honduras by the MESICIC, where relevant, and coordinating with the preparation of the National Plan of Action.

ARTICLE VII
COMPETENCIES OF THE MACCIH

7.1. In fulfilling its functions, the MACCIH shall operate with complete independence, autonomy, objectivity, neutrality, and transparency, through active collaboration with the institutions of the State of Honduras.

7.2. To request the Government and the Attorney General's Office to take the steps necessary to ensure the security of witnesses, victims, experts, and other collaborators and justice officials, and to oversee the implementation and fulfillment of those measures.

7.3. In accordance with this Agreement and with the Honduran constitution and law, the MACCIH shall adopt the measures necessary for the execution of this Agreement.

7.4. The MACCIH shall ensure confidentiality in all its actions.

7.5. If, in the fulfillment of its functions, the Mission encounters an impediment, it shall seek to resolve it in the first instance at the level of the individual responsible for the department or unit of the respective institution; in the second, with the highest authority of the institution, and in the third, through the liaison with the GOVERNMENT. If the situation

cannot be resolved, the semi-annual report of the MACCIH to the Secretary General shall so indicate.

7.6. The MACCIH shall submit semi-annual reports to the Secretary General on the work it is carrying out, including progress made, challenges, and potential obstacles identified in the State institutions with which it is interacting, as well as recommendations. The Secretary General shall present the report to the Government of Honduras and, subsequently, to the general public.

ARTICLE VIII
OBLIGATIONS OF THE GOVERNMENT OF HONDURAS

8.1. The GOVERNMENT shall ensure the MACCIH of the existence of all agreed conditions for the satisfactory fulfillment of its functions, and shall, in particular, ensure:

8.1.1. Freedom of movement and access within the territory of the Republic of Honduras without restriction of any type.

8.1.2. The GOVERNMENT of Honduras shall ensure support for, oversight of, and active collaboration of the MACCIH with the institutions and competent authorities of the State of Honduras in the work to compile information, investigate cases of corruption, and receive reports, allowing full access to the information and documentary material thereof, as well as to any other information and documentary material related to the investigation, official files, databases, and public records, and any other similar reports, files, documents, or information in the possession of relevant persons or State entities, whether civilian or military, in accordance with the provisions the Political Constitution of the Republic of Honduras and other laws.

8.1.3. To inform the entities of the State and the authorities of the content of this Agreement with a view to their facilitation and coordination of their activities with the MACCIH.

8.2. For purposes of fulfillment of the objectives of this Agreement, in accordance with the legislation in force:

8.2.1. The Judicial Council, Attorney General's Office, and the Secretariat of State for Security shall make available the list of any judges, prosecutors, police officers, investigators, forensic scientists, and specialists necessary, who shall be selected, evaluated, supervised, and certified based on the protocol agreed by THE PARTIES; and

shall order the actions relevant to fulfillment of the objectives of criminal investigation and criminal prosecutions, especially for the following purposes:

8.2.1.1.. Full collaboration, by providing a group of judges, prosecutors, police officers, investigators, forensic scientists, and specialists of the judiciary, Attorney General's Office, and Secretariat of State for Security, from among whom the MACCIH shall select, supervise, evaluate, and certify based on the protocol adopted by THE PARTIES, as well as the procedure for the installation of the above-mentioned units to operate within each institution, in accordance with its normative framework.

8.2.1.2. To coordinate with the MACCIH the steps necessary and provide advice for the formulation of the charging document for the implementation of the mandate described herein.

8.2.2. Work plans, protocols, guidelines, and report formats for coordination and cooperation and for the fulfillment of the objectives of this Agreement shall be developed by the following: the Judicial Council; the Attorney General's Office; the Secretariats for Security, for Human Rights, Justice, Governance, and Decentralization, and for Defense; the Office of the Inspector General of the Republic; the National Banking and Insurance Commission; the High Court of Auditors; the Executive Office of Revenue; the Inspectorate of Courts; and other State institutions whose efforts are needed for the MACCIH to implement this Agreement.

8.3. The executive branch shall submit to the Congress of the Republic of Honduras and shall promote a set of legislative reforms necessary to ensure the proper operation of the Honduran judicial system. These proposed legal reforms shall be prepared by the Government of Honduras with support from the MACCIH with the aim of strengthening the Honduran justice system for combating corruption and impunity.

ARTICLE IX
REPRESENTATIONS AND NOTIFICATIONS

9.1. The area of the GS/OAS with responsibility in accordance with this Agreement is the Secretariat for Strengthening Democracy, represented by its Secretary. Notifications and communications shall be addressed to that Secretary, at the following address, telephone number, and email address:

General Secretariat of the OAS (GS/OAS)
Mr. Francisco Guerrero
Secretary for Strengthening Democracy
1889 F Street N.W.
Washington, D.C. 20006
Telephone: (202) 370-9962
Email address: FGuerrero@oas.org

9.2. The agency within the GOVERNMENT with responsibility for the coordination of activities under this Agreement is Secretariat for Foreign Affairs and International Cooperation (SRECI). That Secretariat may appoint a representative or liaison for its dealings with the MACCIH, and all notifications and communications shall be sent to the Secretariat at the following address, telephone number, and e-mail addresses:

Secretariat for Foreign Affairs and International Cooperation
Centro Cívico Gubernamental
Tegucigalpa, MDC, Honduras
Telephone: (504) 2236-0200 / 2236-0300
E-mail: despachocanciller@sre.gob.hn

9.3. All general communications and notifications arising from this Agreement shall be valid only when copies thereof are also sent by mail or fax addressed to the representatives at the address of their respective offices. When copies of general communications and notifications are sent by email, they shall be valid only if sent directly to from the electronic address of the representative of the GS/OAS or the electronic address of the representatives of the GOVERNMENT.

9.4. Either of the Parties may change its designated representative, address, telephone numbers, or email address upon prior written notification to the other Party.

ARTICLE X
MEMBERS OF THE MISSION

10.1. The members of the MACCIH shall be all those international and national staff of the GS/OAS and independent contractors contracted locally or internationally pursuant to the rules and procedures of the GS/OAS. The members of the MACCIH shall perform functions in fulfillment of the mandate of the MACCIH.

10.2. Support personnel of Honduran nationality contracted by the MACCIH shall enjoy immunity from criminal, civil, and administrative process solely and exclusively in respect of

their official functions within the MACCIH and of their actions in pursuit of the Mission's mandate, even when the individual in question is no longer employed by the MACCIH. They shall enjoy no fiscal privilege or other privileges, except for the assurance of their right of free movement and transit at all times.

10.3. The MACCIH shall operate with a Spokesperson and the Division Coordinators for this implementation of this Agreement, as well as with specialized personnel, in accordance with the following guidelines:

10.3.1. The Spokesperson designated by the Secretary General shall have general responsibility for the activities of the MACCIH, representing it with the GOVERNMENT, and with other States and local and international organizations. He or she shall be an attorney with broad experience of combating corruption and impunity, and with a high level of professional competence in areas directly related to the work of the MACCIH, such as human rights, criminal law, and international law.

10.3.2. The other Members of the MACCIH shall be professionals and specialized technical personnel with experience of combating corruption and/or of criminal law, human rights, and electoral systems, international law, among other disciplines.

10.4. The Spokesperson of the MACCIH shall have the prior approval of the GOVERNMENT and shall be duly accredited by the Secretary General to the authorities of the GOVERNMENT.

10.5. The GS/OAS shall provide each member of the MACCIH with an identification card, which shall show his or her full name, date of birth, position or rank, and photograph. The Members of the Mission shall not be obliged to surrender that card but rather to present it when requested by officials of the GOVERNMENT.

ARTICLE XI
EXPENSES OF THE MACCIH

11.1. The costs of the MACCIH shall be defrayed with voluntary contributions from the international community.

11.2. Without prejudice to the possibility of the MACCIH acquiring or leasing its own premises, the GOVERNMENT shall provide the MACCIH with premises for its offices and other facilities it may require for appropriate fulfillment of its functions.

ARTICLE XII
SECURITY AND PROTECTION OF MACCIH PERSONNEL

12.1. The GOVERNMENT shall take all effective and appropriate steps to ensure the security, defense, and protection of the members of the MACCIH and of those to which reference is made herein.

12.2. The GOVERNMENT shall also guarantee the security of victims, witnesses, and any other person collaborating with the MACCIH for the duration of its mandate and following the conclusion of its work in Honduras.

12.3. The GOVERNMENT shall provide the MACCIH and its members, throughout Honduras, with the security required for the effective implementation of its activities.

12.4. Without prejudice to the primary responsibility of the GOVERNMENT to ensure the integrity and security of the MISSION and of the members of the MACCIH, the MISSION shall have a concurrent authority to facilitate its own internal security and the security measures required to supplement those provided by the GOVERNMENT. The parameters for cooperation in the area of integrity and security between the MISSION and the GOVERNMENT shall be defined in a separate memorandum of understanding between the GS/OAS and the GOVERNMENT on the security measures of the MACCIH.

ARTICLE XIII
PRIVILEGES AND IMMUNITIES

13.1. The MACCIH, its international members, its property and assets, its premises, and its records shall enjoy the same privileges and immunities granted to the Organization of American States (OAS), the organs of the OAS, and the staff members, and property and assets, premises, and records thereof, in accordance with the OAS Charter, the Agreement on Privileges and Immunities of the Organization of American States, with regard to which the GOVERNMENT deposited its instrument of ratification on August 25, 1964, the "Agreement between the Government of Honduras and the General Secretariat of the Organization of American States on the Functioning of the Office of the Pan American Union in Honduras," signed on August 15, 1968, and all other agreements and laws in this area insofar as they are most beneficial to the MACCIH and its members.

13.2. In particular, the international members of the MACCIH shall enjoy immunity from personal arrest or detention and seizure of their personal baggage; and immunity from every form of judicial, legislative, and administrative process in respect of words spoken or written

and all acts performed by them in implementation of the mandate of the MACCIH, even following their separation from service with the MACCIH.

13.3. The international members of the MACCIH and their families shall also enjoy the privileges and immunities granted to diplomatic agents under the Vienna Convention on Diplomatic Relations, of April 18, 1961.

13.4. The GOVERNMENT recognizes the "official travel document" issued by the GS/OAS as a valid and sufficient document for purposes of travel by the international members of the MACCIH. The GOVERNMENT shall issue the courtesy visa through the relevant authorities to enable the members of the MACCIH and their families to enter and remain in the country until the conclusion of the Mission.

13.5. The GOVERNMENT shall permit and protect free communications within the MACCIH for all official purposes. The MACCIH may utilize any means of analog or digital communications it deems appropriate and may set up and operate within the territory of the Republic of Honduras an autonomous communications system for the purpose of providing a permanent connection between its members and the vehicles used by the MACCIH and the regional offices and headquarters; between the latter and the central headquarters of the MACCIH; and between the latter and the headquarters of the GS/OAS in Washington, D.C.. To that end, the GOVERNMENT shall provide all technical and administrative collaboration deemed necessary.

13.6. No provision of this Agreement shall constitute an express or implicit waiver of the privileges and immunities enjoyed by the OAS, the GS/OAS, the organs of the OAS, its staff, or its assets.

ARTICLE XIV
WITHDRAWAL OF THE MACCIH

14.1. GS/OAS reserves the right to recall the MACCIH from the country for the following reasons, among others:

14.1.1 If the State ceases to cooperate for the full exercise of the functions and authorities granted to the MACCIH hereunder, and

14.1.2 In the event of lack of financial resources from the international community.

ARTICLE XV
DISPUTE RESOLUTION

15.1. All disputes among the parties regarding the interpretation or application of this Agreement shall be resolved through direct negotiation between THE PARTIES or by any other mutually agreed resolution mechanism.

ARTICLE XVI
GENERAL PROVISIONS

16.1. This Agreement may be modified only by the mutual consent of the PARTIES indicated in writing by the duly authorized Representatives of THE PARTIES. The instruments containing the modifications shall be included as annexes to this Agreement and shall form parts hereof.

16.2. This Agreement shall remain in force for four (4) years following its signature, and it shall be conveyed by the GOVERNMENT to the National Congress of Honduras for the relevant purposes. The Agreement shall be renewable by an exchange of notes between THE PARTIES.

16.3. This Agreement may be terminated by mutual consent or may be deemed terminated by either of THE PARTES upon written notification to the other Party at least sixty (60) days prior to the date the denunciation is requested.

16.4. For the purposes of this Agreement, "ANNEX II: Definitions" shall be considered an integral part of it.

IN WITNESS WHEREOF, the representatives of THE PARTIES, duly authorized for that purpose, sign this Agreement in two equally valid originals, at the place and on the date indicated below:

PRESIDENCIA DE LA REPÚBLICA
DE HONDURAS

Organization of American States | More rights for more people

FOR THE GOVERNMENT OF
THE REPUBLIC OF HONDURAS:

_____

Juan Orlando Hernández
President
Republic of Honduras

Place:
Date:

FOR THE GENERAL SECRETARIAT
OF THE ORGANIZATION OF
AMERICAN STATES:

_____

Luis Almagro
Secretary General
Organization of American States

Place:
Date:

Annex I: Work proposal for the Mission to Support the Fight against Corruption and Impunity in Honduras
Annex II: Definitions

SA00183E

PRESIDENCIA DE LA REPÚBLICA DE HONDURAS

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ANNEX I

Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH)

Proposal

BACKGROUND

Corruption and impunity are phenomena impacting governance, confidence in institutions, and the rights of persons in many States of the region. According to the Corruption Perceptions Index of 2014 by Transparency International, corruption remains stagnant in Latin America showing no notable progress or setbacks. [1]

Despite efforts made by the different State oversight bodies, recent emblematic cases of corruption, such as the case of the Instituto Hondureño de Seguridad Social [Honduran Social Security Institute] have underscored the need to strengthen yet further the Honduran judicial system, a situation that has especially mobilized Honduran society, which is demanding that further actions be taken in the fight against corruption and impunity.

Being aware of the need to address this issue with determination and as a matter of urgency, the government, in June 2015, proposed a "Sistema Integral Hondureño de Combate a la Impunidad y a la Corrupción" [Honduran Integral System to Combat Impunity and Corruption] and opened up a dialogue with the different sectors of Honduran society;

The Government of Honduras invited the OAS and the UN to serve as facilitators of the national dialogue. In that context, the OAS established a mission to support the national dialogue, which made two visits to the country, during which it met with authorities of the government and with different social and political sectors of the country. As a result of these visits, the OAS facilitator proposed to the Honduran government strategic lines for the establishment of a comprehensive mechanism to combat corruption and impunity and to support and provide advice for reforms to the Honduran justice system to ensure the full independence of this branch of government, as well as its transparency and professionalism. This request was expressed in a letter sent by the President of Honduras to the Secretary General of the OAS on September 14, 2015.

In response to this request, the Secretary General proposed establishing a Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH) in order to support and strengthen the justice system and mechanisms to prevent and combat corruption and impunity in Honduras.

[1] http://www.elheraldo.hn/pais/773430-364/honduras-entre-los-pa%C3%ADses-m%C3%A1s-corruptos-de-al.

This mission, will be coordinated under the Secretariat for Strengthening Democracy (SSD) of the OAS and will provide a broad, effective and flexible support from the different entities of the Inter-American System that are related to the fight against corruption, including the Secretariat for Legal Affairs (through the MESICIC), the Secretariat for Multidimensional Security and the Justice Studies Center of the Americas (CEJA-JSCA).

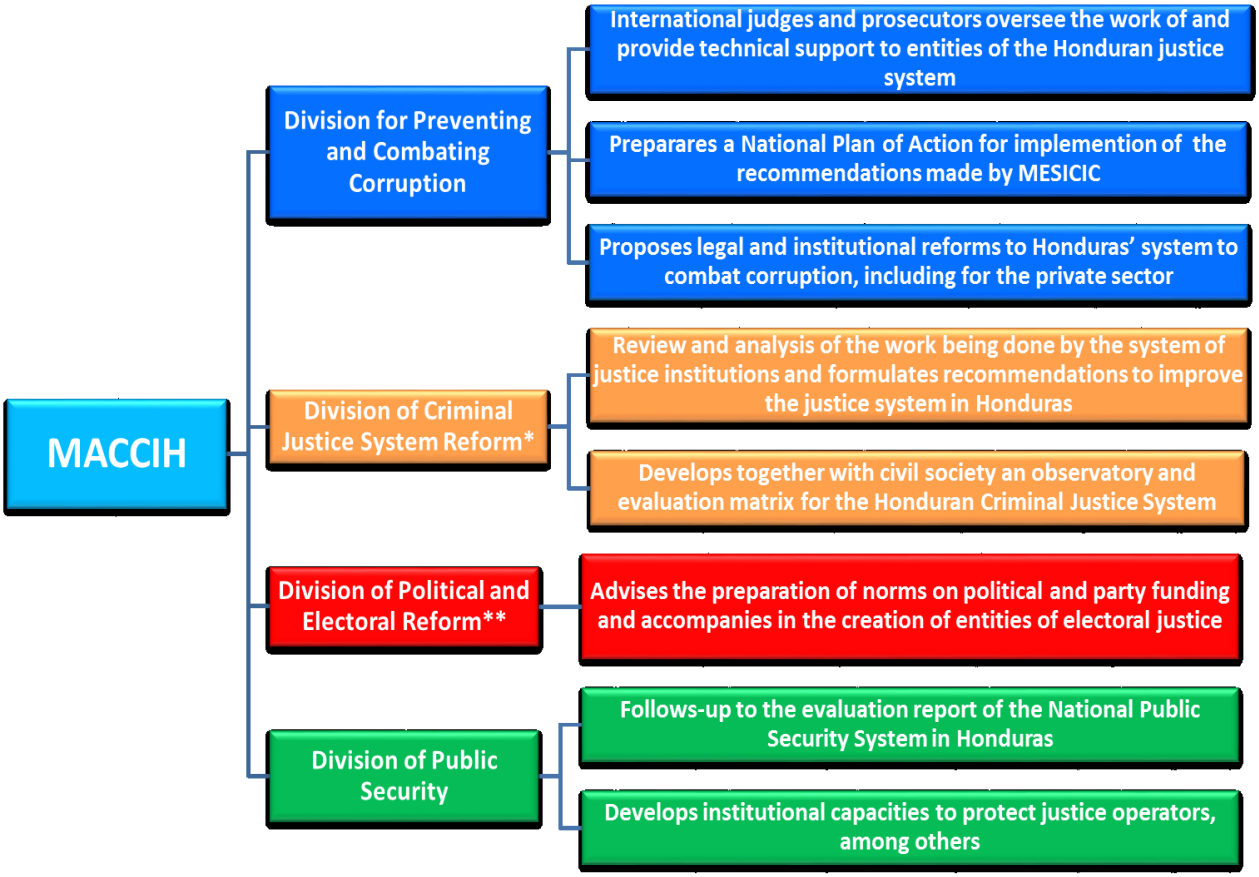
OBJECTIVES

The main objectives of the MACCIH include:

1. To contribute to the fulfillment by the Honduran State of the international commitments it acquired through the Inter-American Convention against Corruption and the MESICIC, the American Declaration of the Rights and Duties of Man, and the United Nations Convention against Corruption (UNCAC).
2. To support, strengthen, and collaborate actively with the institutions of the Honduras State charged with preventing, investigating, and punishing acts of corruption.
3. To improve coordination between the different State institutions working in this area.
4. To propose reforms of the Honduran justice system, including legislation on strengthening the fight against corruption in and from the private sector.
5. To help strengthen the accountability mechanisms from the civil society.

LINES OF ACTION

To achieve the above-mentioned objectives, the following lines of action based on four components will be pursued:



*The chief of this section will also act as the spokesperson of the Mission

**This division will also be responsible for the operational coordination of the Mission

1. **DIVISION FOR PREVENTING AND COMBATING CORRUPTION**

This division is composed of three units: (1) Support and oversight in the prosecution of cases of corruption in Honduras; (2) Follow-up to the recommendations made by the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC) to Honduras; and (3) Reform of the legal and institutional framework for preventing and combating corruption in the public and private sectors in Honduras.

a. ***Unit for support, supervision, and active collaboration:***

It shall be composed of international judges, prosecutors, police officers, and professional forensics experts, as well as national professionals, who shall be tasked with advising, overseeing, and/or evaluating the competent authorities of the Honduran State in compiling information, investigating cases of corruption and implementing a system for receipt of reports (whether public, anonymous, or confidential) through the competent government authorities. In addition, this unit will also be

responsible of providing technical advice, overseeing, evaluating, and actively collaborating with a group of prosecutors, investigators, and forensic specialists from the Attorney General's Office, by delegation of the Attorney General, selected and certified by the MACCIH to gather information and to investigate and prosecute cases of corruption and corruption networks. The unit will also provide technical advice, oversee, and/or evaluate the Attorney General's Office, the judiciary, the Judicial Council, the Office of the Inspector General of the Republic, the Inspectorate of Courts, the National Banking and Insurance Commission, the High Court of Auditors, the Executive Office of Revenue, and other entities of the State of Honduras responsible for preventing and combating corruption and impunity.

Mode	• Work with the national counterparts to assess, oversee, and evaluate that the corresponding Honduran institutions and authorities investigate corruption cases. • Provide technical advice, oversee, and/or evaluate the Attorney General's Office, the judiciary, the Judicial Council, the Office of the Inspector General of the Republic, the Inspectorate of Courts, the National Banking and Insurance Commission, the High Court of Auditors, the Executive Office of Revenue, and other Honduran state institutions in the promotion of public and/or administrative criminal prosecution, investigation and criminal and/or administrative punishment of corruption cases and in recovering the proceeds seized from corruption cases. • Select, certify, assess, oversee, and evaluate a group of prosecutors from the Attorney General's Office tasked with compiling information and carrying-out public criminal prosecution actions against corruption cases involving corruption networks.
Result	• Criminal and administrative prosecution of corruption cases will be improved in terms of quantity and quality. • Corruption networks will be dismantled

b. ***Unit to follow up on the MESICIC:***

Honduras ratified the Inter-American Convention against Corruption in 1998 and signed the Declaration of the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC) in 2001. The MESICIC has conducted four rounds of evaluations and Honduras has participated in three of those rounds (did not participate in the 3rd round, because during the period of this assessment Honduras was suspended from the OAS). Each round assesses the compliance with the recommendations made in previous rounds, as well as those provisions of the Convention preselected by the Committee of Experts. The MESICIC is currently in the process of conducting assessments for its 5th round of evaluation. In some cases, the MESICIC drafted a Plan of Action for implementation of the recommendations of previous rounds. However, this resource failed to reach all countries. Based on the importance of compliance with international agreements in the

fight against corruption and impunity, the implementation of a Plan of Action by Honduras becomes an important component of this proposal.

Mode	• Prepare and present a National Plan of Action for implementation of the recommendations made by MESICIC to Honduras, relying on the support of an international consultant: – To prepare and share a draft National Plan of Action. – To hold a national workshop where the draft National Plan of Action shall be presented and debated, in which shall participate representatives of the different sectors of Honduran society – To support the adoption of the National Plan of Action. • Create a mechanism for coordinating and overseeing the implementation of the specific actions proposed in that Plan.
Result	• Recommendations formulated by the MESICIC implemented by the Honduran State.

c. ***Unit for reforms and advice to the system to combat corruption***:

It will consist of eminent international jurists and forensics experts specializing in the area of combating corruption. This Unit shall propose legal and institutional reforms to the Honduran system for combating corruption, including:

- To combat corruption in the private sector to prevent and suppress wrongdoing, bribery, and misappropriation of funds or embezzlement;
- To reform the legal and institutional framework for preventing and combating public corruption in Honduras.

For the previous purpose, the legal, regulatory and organizational weaknesses that facilitate corruption in the private sector will be defined and the elements to repress and prevent it will be developed. Moreover, problematic aspects of the criminal and administrative responsibility of companies and/or corporations will be identified together with initiatives being implemented to counter corruption in the private sector. In addition, the weaknesses of the Honduran legal and institutional framework for the prevention and fight against public corruption will be identified.

Mode	• Advise the preparation of a draft anti-corruption law for the private sector and a draft law amending the legislation against public corruption in Honduras. • Promote the incorporation of international commitments by the State of Honduras, such as the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Co-operation and Development (OECD) • Advise the establishment of channels for strengthening integrity in the corporate and public sectors in Honduras. • Strengthen the national institutions involved in the fight against corruption, including the National Anti-Corruption Council.

	• Assist in strengthening of international judicial cooperation mechanisms. • Strengthen active and passive extradition mechanisms for important persons summoned in connection with corruption-related crimes. • Strengthen the management of seizure of assets derived from corruption. • Support the establishment of prevention policies in those cases where legal lacunae and institutional problems have been identified.
Result	• Legislation to combat corruption in the private and public sectors developed, approved and implemented in Honduras. • Model for a National Anticorruption Subspecialty developed, approved and implemented. • Mechanisms of international judicial cooperation to combat corruption improved. • Administration of proceeds seized from corruption improved.

2. DIVISION OF CRIMINAL JUSTICE SYSTEM REFORM:

a .***Unit for Criminal Justice System Reform:***

It shall be composed of experts from the Justice Studies Center of the Americas (CEJA-JSCA). This division will prepare a diagnostic assessment of the situation of the Honduran criminal justice system. Previously, it would have reviewed and then analyzed studies and research, as well as those reforms of criminal justice system institutions implemented, with special emphasis on the evaluations and results of these reforms. The diagnostic assessment will comprehensively analyze the performance and results of the criminal justice system, 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. Finally, a set of recommendations of different depths and scopes will be developed for strengthening the quality, effectiveness, and legitimacy of the Honduran criminal justice system. The work of this section will support all the other components of this proposal.

Mode	• To analyze and evaluate the Honduran criminal justice system and to develop innovative proposals for the judicial reform process. • To identify problems of design, implementation, and operation of the Honduran criminal justice system and to prepare recommendations on how to improve it.
Result	• Diagnostic assessment of the Honduran justice system carried out, including recommendations to implement in the short, medium and long terms.

b .***Unit of the Criminal Justice System Observatory:***

The observatory shall be integrated by academic and civil society organizations that will be guided by a permanent evaluation matrix of the justice system. The objective of the observatory is to supervise and promote the adequate implementation of the reforms to the criminal justice system. Based on the evaluation matrix, the observatory will perform the functions of monitoring, research, analysis, in situ observations, quantitative and qualitative evaluations and produce periodic reports which will

allow the institutional operators and the general public to identify structural problems, setbacks, progress, and recommendations on said implementation.

Mode	• To establish together with academic and civil society organizations an evaluation matrix for the Honduran criminal justice system. • To select the Honduran entity that will be in charge of the observatory and its online presence. • To present follow-up reports, data and recommendations that contribute to the improvement of the Honduran criminal justice system.
Result	• Monitoring and evaluating of the Honduran criminal justice system progress made by the Honduran civil society

3. DIVISION OF POLITICAL-ELECTORAL REFORM:

Financing of politics is needed in order to maintain strong political parties, to organize an open political competition and to communicate with citizens. In addition, systems for political financing contribute with norms and directives to regulate the use of economic resources by political parties. Since 2012, the Electoral Observation Missions (EOM) of the OAS have established a methodology of political-electoral financing that permit a quantitative and qualitative observation of electoral processes in the region. During the EOM / OAS of the year 2014 in Honduras, a series of recommendations aimed at reforms to the legal framework for political-electoral financing were made in order to establish rules for the participation of political parties. In this context, the objective is to support the implementation of these recommendations by creating an equitable and transparent regulatory framework.

Mode	• Provide advice for the preparation of the law on political and party financing. • Support the development of standards on political financing and discretion. • Promote mechanisms for implementing the law on political and party financing for the processing, investigation, and imposition of the sanctions established for normative infractions.
Result	• Legislation on political and party financing developed, approved and implemented.

4. DIVISION OF PUBLIC SECURITY: This division will work in two areas

a. ***Unit for monitoring the SNSC***:

The Department of Public Security of the Secretariat for Multidimensional Security of the OAS has been working on a regular basis with the Government of the Republic of Honduras since the first evaluation of the National Public Security System (SNSC) in 2012. To follow-up with said exercise, a second evaluation of the SNSC was carried out and the results were presented to the Honduran Government in July 2014. Under this proposal, support shall be provided for implementation of the recommendations from that evaluation.

Mode	• To work with the national counterparts (The Attorney General's Office, the Secretariat for Justice, The Secretariat for Defense, civil society, among others) to promote the implementation of the recommendations identified in the Evaluation Report of National Public Security System (SNSC). The recommendations are organized into the following categories: – Promoting a culture of strategic planning and management. – Digitizing, incorporating, and ensuring the interoperability of information. – Supporting the ongoing reform process of the National Police of Honduras. – Strengthening the criminal justice system.
Result	Recommendations made in the Evaluation Report of the National Public Security System (SNSC) Implemented by the Honduran State.

b. ***Unit for the Protection of Human Rights Defenders, Journalists, Media Personnel, and Justice Officials*:**

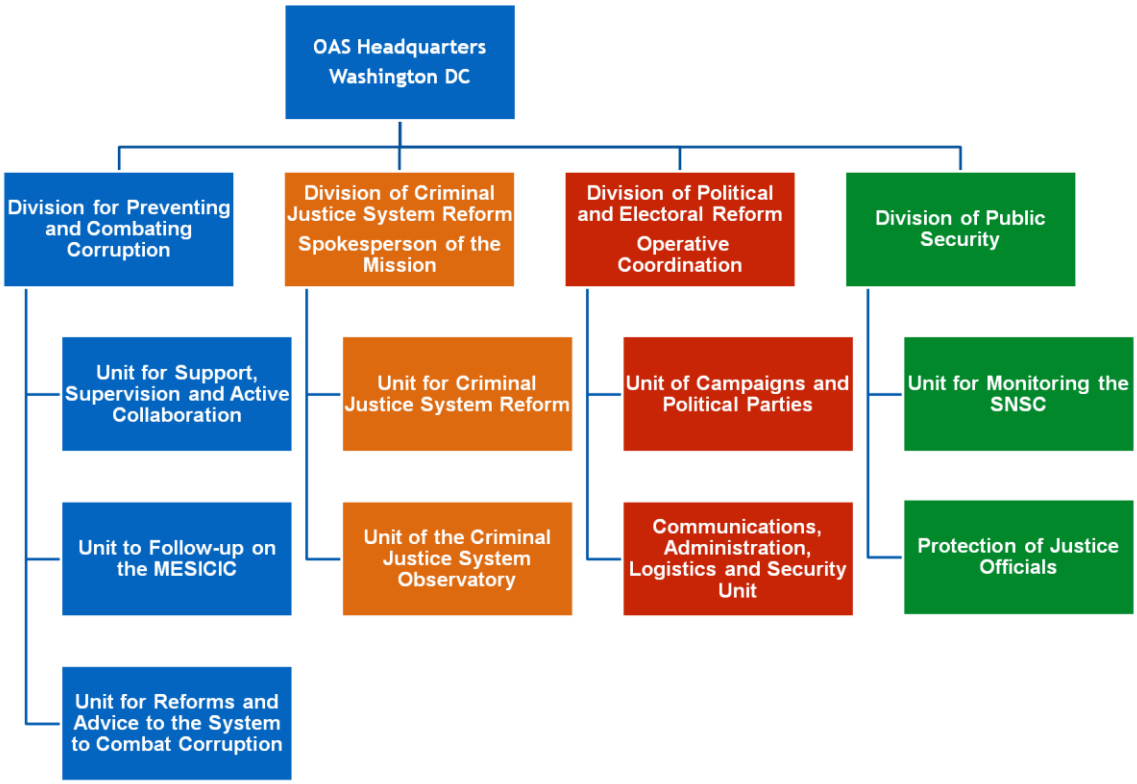
In May 2015, Honduras adopted the Law for the Protection of Human Rights Defenders, Journalists, Media Personnel, and Justice Officials (hereinafter: the Protection Law). The Mission will assist in the implementation and application of this legislation to protect those who contribute to the criminal and administrative prosecution of cases of corruption and corruption networks and to the strengthening of the criminal justice system. In addition, it will contribute to promoting the human rights and fundamental freedoms recognized in the international legal instruments of those who promote and protect human rights, freedom of expression, and judicial work.

Mode	• Facilitate meetings on best practices in the area of the Protection Law to develop a strategy geared to the needs of Honduras. • Develop institutional capacities in the area of the Protection Law to assess risk and improve their security. • Support for the application of the Protection Law in Honduras. • Support for the reaching of agreements with other States for the relocation of protected persons.
Result	• Protection system for Human Rights Defenders, Journalists, Social Communicators and Justice Officials implemented and strengthened.

STRUCTURE

The MACCIH will operate under the guiding principles of independence, autonomy, neutrality and transparency. In order for the Mission to pursue its objectives and the established lines of action it is imperative to subscribe an agreement with the Honduran government, which shall determine the mandate of the mission, including: its objectives and scope, a definition of the specific functions of each of the components of the mission, the establishment of the obligations that correspond to each party, as well as the privileges and immunities of the mission's staff and the state entity working as the link. Initially, this agreement shall remain in force for four (4) years, and can be renewed based on the signs

of its progress. In addition, the costs of the MACCIH shall be defrayed with contributions from the international community.



The selection of the mission's personnel, both local and international, will be carried out with absolute independence through an objective and transparent process that will abide by the OAS norms.

The Spokesperson of the Mission shall submit semi-annual reports to the Secretary General on the work of the Mission, highlighting progress made, challenges, and potential obstacles identified in the State institutions with which it is interacting, as well as recommendations. The Secretary General shall then present the report to the Government of Honduras and to the general public. If, in the fulfillment of its functions, the Mission encounters an impediment, it shall seek to resolve it in the first instance through the liaison entity of the government. If the situation cannot be resolved, the semi-annual report to the Secretary General shall so indicate.

Given the level of sensitivity and the importance of the Mission retaining its transparency at all times, it should establish a clear communication strategy for the Honduran authorities, the public opinion and for the SG/OAS internal matters. It is essential to keep all Hondurans informed of the work being carried out by the Mission, without this interfering with its work.

ANNEX II
DEFINITIONS

1. **Certification:** An act or oral or written statement whereby the agencies of the MACCIH attest that the procedures, actions, and/or resolutions or decisions of the Honduran authorities have been taken in strict compliance with law.
2. **Evaluation:** An action, procedure, or protocol applied by the agencies of the MACCIH in which they assess the actions of the Honduran authorities and offer comments or recommendations with the purpose of bringing about improvements in the institutions' fight against corruption and impunity.
3. **Oversight:** An action and/or procedure whereby the MACCIH supports the Honduran authorities in their daily actions in order to verify the correct enforcement of national law and the implementation or observance of the recommendations made in a formal and timely fashion by the MACCIH.