

**MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION**

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QUESTIONNAIRE

**REGARDING THE PROVISIONS OF THE INTER-AMERICAN CONVENTION AGAINST
CORRUPTION SELECTED FOR REVIEW IN THE FIRST AND FOURTH ROUNDS OF RE-
VIEW FOR STATES THAT WERE NOT PARTY TO THE MESICIC IN THE FIRST ROUND**

SECTION I

**QUESTIONS ON IMPLEMENTATION OF THE CONVENTION PROVISION SELECTED FOR
REVIEW IN THE FIRST ROUND**

I. BRIEF DESCRIPTION OF THE LEGAL-INSTITUTIONAL SYSTEM

St. Christopher (Kitts) and Nevis is a sovereign democratic federal state. It attained independence from the United Kingdom on the 19th day of September 1983. The Constitution of St. Kitts and Nevis is the supreme law of the land. Chapter I, Section 2 of the Constitution provides that if any law is inconsistent with the Constitution, the Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

The governance of St. Kitts and Nevis is premised on the principles of the separation of powers as espoused in the Constitution. This type of governance is modelled on a tripartite system which divides the state into three branches: an executive, a legislature and a judiciary. Each branch is accorded separate and independent powers and responsibilities under the Constitution and the laws of St. Kitts and Nevis.

The Executive is comprised of Her Majesty the Queen of St. Kitts and Nevis as Head of State, the Governor-General, the Prime Minister and the Cabinet. Her Majesty is represented in St. Kitts and Nevis by a citizen of the state who is appointed by Her Majesty as Governor-General. The Governor-General exercises the executive authority of St. Kitts and Nevis on behalf of Her Majesty. The Prime Minister is appointed to office by the Governor-General. There is also an office of Deputy Prime Minister and other offices of Minister of the Government for which the Governor-General may appoint persons to hold such office on the advice of the Prime Minister.

The Cabinet consists of the Prime Minister, Ministers of Government and the Attorney General, who is the principal legal adviser to the Government. The Cabinet advises the Governor-General and is collectively responsible to the National Assembly for any advice given to the Governor-General by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office. These functions do not apply in relation to:

- the appointment and removal from office of Ministers and Parliamentary Secretaries, the assignment of responsibility to any Minister under section 54, or the authorisation of another Minister to perform the functions of the Prime Minister during absence or illness;
- the dissolution of Parliament;
- the matters referred to in section 66 (which relate to the prerogative of mercy); or
- in relation to the government of the island of Nevis, any matter in respect of which Parliament has no power to make laws for the island of Nevis.

As the legislative branch of the state, Parliament makes laws for the peace, order and good government of St. Kitts and Nevis. Except when it is expressly declared, the aforementioned powers of Parliament do not extend to any of the matters identified under Chapter X of the Constitution to which the Nevis Island Legislature has exclusive power to act. Parliament consists of Her Majesty and a National Assembly. The National Assembly is composed of eleven (11) representatives as corresponds with the number of constituencies, and four (4) senators. One senator is appointed by the Governor-General acting in accordance with the advice of the Leader of the Opposition and the remaining three are appointed by the Governor-General acting in accordance with the advice of the Prime Minister. The Speaker of the National Assembly and the Attorney General are also members of the National Assembly.

The Eastern Caribbean Supreme Court is responsible for the administration of justice in St. Kitts and Nevis. It is comprised of the High Court of Justice and the Court of Appeal and has unlimited jurisdiction in St. Kitts and Nevis. Less serious cases are heard in the Magistrates Court. The Magistrates Court is divided into three (3) districts. Magistrates, the Registrar of the High Court and persons holding or acting in offices in the department of the Attorney General or the Director of Public Prosecutions are appointed by the Governor-General acting in accordance with the recommendation of the Public Service Commission, the Commission having consulted with the

Judicial and Legal Services Commission in making its recommendation. Appeals from the Magistrates Court and the High Court of Justice lie before the Court of Appeal. Appeals from the Court of Appeal are heard by the Judicial Committee of the Privy Council. The Judicial Committee of the Privy Council sits in the United Kingdom and is the highest and final Court of Appeal of St. Kitts and Nevis.

II. CONTENT OF THE QUESTIONNAIRE

CHAPTER ONE

MEASURES AND MECHANISMS REGARDING STANDARDS OF CONDUCT FOR THE CORRECT, HONORABLE, AND PROPER FULFILLMENT OF PUBLIC FUNCTIONS (ARTICLE III, 1 AND 2 OF THE CONVENTION)

1. General standards of conduct and mechanisms

- a. **Are there standards of conduct in your country for the correct, honorable and adequate fulfillment of public functions? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

Generally, officers who discharge public functions are employed within the Public Service. Prior to 2014 their appointment to office in the Public Service whether by appointment to the pensionable establishment or on contract was subject to the General Orders of the Service. These General Orders came into force in 1956. The General Orders include provisions covering appointments, promotions, transfers, terminations and retirement within the Public Service as well as salaries and allowances, leave and provisions for conduct and discipline.

The standards of conduct outlined include provisions governing public officers engagement in private work and work on public boards and committees, disclosure of investments and holdings, publications by public officers, engagement in political and trade union affairs, soliciting outside influence to support claims for promotion, lending money, pecuniary embarrassment and bankruptcy, gifts and bribes.

In 2011 the Public Service Act was passed. In 2014, regulations made under that Act, that is the Public Service (Recruitment and Appointment of Officers) Code, Public Service (Conduct and Ethics of Officers) Code, the Public Service Code of Discipline and the Public Service Standing Orders came into effect. The new codes and standing orders replaced the General Orders. The

Public Service (Conduct and Ethics of Officers) Code outlines the values that public officers are expected to uphold in the public service. It defines the role of the Public Service and the manner in which public officers are expected to conduct themselves. It provides penalties for failure to comply with various aspects of the Code. It is to be used in conjunction with the Public Service Code of Discipline which outlines what matters would be considered as acts of misconduct by public officers. Matters covered in the Code include conflict of interest, use of public funds, private work by public officers, confidentiality, investment by public officers, pecuniary embarrassment, bankruptcy, acceptance of gifts and public officers engagement in political and trade union activities.

Section 4 of the Code states that the Code applies to all public officers except in cases where by virtue of the Constitution or any other law in force, specific provision is made with respect to a particular public office or category of public offices. Failure to comply with the provisions of any of the codes may constitute an act of serious misconduct.

- b. **Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

The standards of conduct expected of public officers are enforced by the Public Service Commission and the Public Service Appeal Tribunal.

PUBLIC SERVICE COMMISSION

Section 77 of the Constitution provides for the establishment of the Public Service Commission. The members of the Commission are appointed by the Governor General. Section 78 of the Constitution provides that, the power to exercise disciplinary control over persons holding office within the Public Service and the power to remove such persons from office shall vest in the Governor-General, acting in accordance with the recommendation of the Public Service Commission. By virtue of section 78(3) of the Constitution this provision applies to all public offices except persons holding the office of Attorney-General, Director of Public Prosecutions, Director of Audit, members of the Police Force, Legal officers appointed under section 83 of the Constitution and Permanent Secretaries, heads and deputy head of government departments and Chief Professional Advisers appointed under section 79 of the Constitution. The procedure for disciplinary action taken against these officers is specifically provided for by the Constitution.

The Public Service Commission discharges its functions in accordance with the provisions of the Public Service Act 2011 and the Regulations made under the Act. These Regulations which replaced the General Orders of 1956 came into effect in May 2014. They are the Public Service (Recruitment and Appointment of Officers) Code, Public Service (Code and Ethics of officers) Code, the Public Service Code of Discipline and the Public Service Standing Orders. Section 31 of the Public Service Act outlines the forms of discipline to include demotion, reduction in salary, suspension, deferment or withholding of increment and surcharge for loss to the Government by the public officer's negligence or misconduct. Section 38 of the Act outlines proceedings for dismissal of a public officer and section 39 provides for the termination of the services of a public officer on dismissal in consequence of disciplinary proceedings.

PUBLIC SERVICE BOARD OF APPEAL

The Public Service Board of Appeal is established by section 86 of the Constitution. The members of the Board are appointed by the Governor General and may only be removed from office on the grounds of inability to exercise the functions of his/her office, whether arising from infirmity of body or mind or any other cause or for misbehaviour. The Board has jurisdiction to hear appeals of any decision of the Governor-General, acting in accordance with the recommendation of the Public Service Commission or the Police Service Commission, to remove a public officer from office or to exercise disciplinary control over a public officer. The Board discharges its functions in accordance with the Public Service Board of Appeal Regulations.

- c. Briefly state the results that have been obtained in implementing the above standards and mechanisms attaching the pertinent statistical information if available. NO STATISTICS ARE CURRENTLY AVAILABLE**
- d. If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct for the correct, honorable and proper fulfillment of public functions, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.**

2. Conflicts of interests

- a. Are there standards of conduct in your country regarding the prevention of conflicts of interest in the performance of public functions? If yes, briefly describe them, indicating aspects such as to whom they apply and the concept on which they are based, and list and attach a copy of the related provisions and documents.**

The Integrity in Public Life Act 2012 (this Act has not yet entered into force) which applies to public officers identified in the First schedule of the Act. The Second Schedule of the Act outlines a code of conduct which indicates that a public official shall (i) not allow his or her private interest to conflict with his/her position, (ii) have regard for his/her responsibility to avoid such conflict and (iii) fully explain such conflict where the conflict is unavoidable. Part II of the Second Schedule defines what constitutes a conflict of interest and outlines the officers' responsibility to take steps to avoid such conflicts of interest. A public officer who acts in a manner that allows or might reasonably be thought to allow a conflict of interest to arise between public and private interests commits the offence of abuse of office and is liable upon conviction to a fine of thirty thousand dollars or five years imprisonment.

Standards regarding the prevention of conflicts of interest in the performance of public functions are also outlined in the Public Service (Conducts and Ethics of Officers) Code. Section 28 (1) of the Code indicates that a public officer shall not at anytime engage in any private activity or investment which may conflict with his or her official duties or responsibilities or which places him or her or gives the appearance of placing him or her in a position to use his or her official position for his or her benefit. Further, section 28(2) of the Code provides that a public officer who is of the opinion that any private activity or investment in which he or she is engaged in or has a pecuniary interest in might result in a conflict of interest must fully declare this to the Governor General through the Chief Personnel Officer and must comply with such conditions and restrictions as the Governor General acting in accordance with the recommendation of the Public Service Commission may consider necessary.

Section 29 of the Code provides that a public officer shall not undertake any private work connected with the exercise of his or her duties as a public officer. Also sections 30 and 31 of the Code provides that a public officer shall not without the permission of the Governor General acting on the permission of the Public Service Commission engage in paid work for private boards or committees or while on leave engage in trade or accept paid employment which will not normally be withheld when a public officer is on leave prior to retirement or resignation.

These provisions are based on the role of the public service which is outlined in section 5 of the Code. The role of the Public Service as outlined includes the provision and administration of the public services for which the Government is responsible with integrity, honesty and impartiality and assisting with the formulation of government policies by the provision of objective, honest, comprehensive, accurate and timely advice. They are also in keeping with section 7 of the Code

which indicates that Public Officers shall conduct themselves with integrity, impartiality and honesty.

In addition to the foregoing, various pieces legislation requires public officers when acting in certain capacities to declare their interest.

b. Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.

Failure to comply with the provisions of the Public Service (Conduct and Ethics of Officers) Code in relation to disclosure of conflicts of interests or in regard to the matters outlined in sections 29, 30 and 31 of the Code can constitute misconduct of a serious nature as specified by section 2 of the Public Service (Conduct and Ethics of Officers) Code. Serious misconduct refers to improper or unprofessional conduct that may warrant the dismissal of the public officer who is found guilty. Serious misconduct includes failure to observe any laws, orders, rules or regulations governing the public service and failure to report or disclose information that ought reasonably to be reported or disclosed where the consequence of the non-disclosure amounts to a grave injustice, both of which capture the failure to disclose conflicts of interests and the matters outlined in sections 29, 30 and 31 of the Code. A public officer found guilty of serious misconduct may be suspended, compulsorily retired or dismissed from the service or suffer reduction in rank or suspension in increments.

Once a complaint is made or such information is brought to the attention of the public officer's Head of Department the matter may be brought to the attention of the Public Service Commission for disciplinary proceedings to be taken. It should be noted that section 55 (2) of the Public Service (Conduct and Ethics of Officers) Code provides that an officer shall report to his Head of Department or, in instances where the matter involves the Head of Department, the Head of the Public Service, instances of breach of the Code of which he or she becomes aware. If the officer having reported the matter is of the view that the response does not represent a reasonable response to the concerns raised the officer may make a written report directly to the Public Service Commission.

a. Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available. NONE AVAILABLE AS THE PROVISIONS OUTLINED ABOVE ARE RELATIVELY NEW.

- b. **If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct intended to prevent conflicts of interests, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.**

3. Conservation and proper use of resources entrusted to public officials in the performance of their functions

- a. **Are there standards of conduct in your country that govern the conservation and proper use of resources entrusted to public officials in the performance of their functions? If yes, briefly describe them, indicating aspects such as to whom they apply and whether there are exceptions, and list and attach a copy of the related provisions and documents.**

Section 9 of the Public Service (Conduct and Ethics of Officers) Code indicates that officers shall endeavour to ensure the proper, effective and efficient use of public funds, and that officers shall be accountable in this regard in accordance with the Finance Administration Act.

Section 10 of the Finance Administration Act places a general duty on all public officers to deliver into the possession of an Accounting Officer without delay any public money, stamps or securities which come into the possession or control of that officer. An officer is subject to discipline for failing to do so.

Section 25 of the Public Service (Conduct and Ethics of Officers) Code provides that public officers shall be accountable for any equipment, tool or other property of the Government which is entrusted to them or may come under their control in the course of duty, and shall report immediately report any malfunction, damage or loss of any equipment. Officers may be liable for any loss of any equipment, tool or other property. Under the Public Service Code of Discipline misappropriation of public funds and major loss of or damage to property is considered as constituting misconduct of a serious nature which may warrant dismissal in the event that the public officer is found guilty. Loss or damage of property other than that which is considered as major loss or damage is considered as misconduct of a minor nature.

- b. **Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

DIRECTOR OF AUDIT

Section 82 of the Constitution provides for the office of the Director of Audit. The functions of the Director of Audit are outlined in the Audit Act Cap 20:01. Section 76(2) of the Constitution specifically provides for the function of the auditing of public accounts and outlines that the Director in this regard shall:

- (a) satisfy himself that all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes to which they were so appropriated and that the expenditure conforms to the authority that governs it; and
- (b) at least once in every year audit and report on the public accounts of the Government, the accounts of all officers and authorities of the Government, the accounts of all courts of law in Saint Christopher and Nevis (including any accounts of the Supreme Court maintained in Saint Christopher and Nevis), the accounts of every Commission and Board established by this Constitution and the accounts of the Clerk of the National Assembly.

The Director of Audit is charged with the responsibility of submitting an annual report to the Minister of Finance for onward transmission to the National Assembly. Among the matters which the Director of Audit is charged with reporting on are:

- (i) the results of his or her examination of the annual accounts
- (ii) whether accounts and essential records have not been properly maintained or public monies have not been fully accounted for or paid, where so required by law, into the Consolidated Fund
- (iii) whether the rules and procedures applied have been insufficient to safeguard public monies or property, or to effectively check the assessment, collection and proper allocation of revenue, or to ensure that expenditure was only made as so appropriated and conforms to the governing authority
- (iv) whether money has been spent without due regard for value for money. whether resources have been acquired or utilised without sufficient regard for economy and efficiency

- (v) whether satisfactory procedures have not been established to measure and report on effectiveness of government activities.¹

For the purpose of compiling his report the Director of Audit is permitted to make such examinations and enquiries of Public Bodies as he or she considers necessary to enable him or her to report as required by the Audit Act.

FINANCE ADMINISTRATION ACT CAP 20:13

The Financial Secretary – The Financial Secretary is the Permanent Secretary within the Ministry of Finance. The Financial Secretary is responsible for the supervision of the Finance Department and for overseeing the preparation of the annual and supplementary estimates on behalf of the Minister of Finance. The Financial Secretary has a supervisory role over all Government ministries in that he or she has at all times access to all ministries, departments or places where accounting for services takes place or accounting records are kept and may require a public officer to furnish any information and provide access to any documents that he or she considers necessary.

Accountant General – The Accountant General is charged with maintaining the central accounts of the Government. Two relevant functions of the Accountant General are maintaining a system for the examination of payments to ensure that they are made in accordance with this Act or the regulations and ensuring that a proper system of accounts is established in every ministry, department and service, and that all money received and paid by the Government is brought promptly and properly to account. Like the Financial Secretary the Accountant General has at all times access to all ministries, departments or places where accounting for services takes place or accounting records are kept and may require a public officer to furnish any information and provide access to any documents that he or she considers necessary. It should also be noted that when conducting an audit or an examination or any responsibility under the Finance Administration Act the Accountant General may by notice require a person to attend and give evidence and produce records referred to in the notice. If the person refuses to comply with the notice an application may be made to the High Court for an order directing that the person attend. If having been ordered by the Court to attend the person attends and refuses to answer the

¹Section 7 of the Audit Act

questions or to produce the documents the High Court may commit the person for contempt. (Section 7)

Accounting Officer – Accounting Officers are appointed by the National Assembly and are responsible for the control of, and accurate accounting and disbursement of, public money, other than money for public purposes, received by the ministry, department or service for which he or she is Accounting Officer. The Accounting Officer may in writing delegate some or all of his or her duties to another public officer who reports to him/her. (Sections 8 and 9)

PROCUREMENT AND CONTRACT (ADMINISTRATION) ACT 2012 – One of the aims of the Act is to maximize the purchasing value of the money of the Government. The Act outlines the procedure for procurements and the methods of procurement. It also establishes a Procurement Board which is responsible for determining the award of contracts.

- c. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available. NO STATISTICS ARE AVAILABLE AT THIS TIME**
- d. **If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct intended to ensure the proper conservation and use of resources entrusted to public officials in the performance of their functions, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.**

4. Measures and systems requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware

- a. **Are there standards of conduct in your country that establish measures and systems governing the requirement that public officials report to appropriate authorities acts of corruption in public office of which they are aware? If yes, briefly describe them, indicating aspects such as to whom they apply and if there are any exceptions, and list and attach a copy of the related provisions and documents.**

Section 55 of the Public Service (Conduct and Ethics of Officers) Code provides that a public officer is required to report when he/she believes that he/she is being required to act in any manner that is illegal, improper or unethical, in breach of an accepted convention or professional code or inconsistent with the Code, or amounts to possible maladministration. A public officer is also required to report evidence of any criminal or unlawful activity and instances of breach of the Code. The report is to be made to the Head of the officer's department. In the event that that matter involves the Head of Department the matter is to be reported to the Head of the Public

Service. If the officer having reported the matter is of the view that the response does not represent a reasonable response to the concerns raised the officer may make a written report directly to the Public Service Commission.

- b. **Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

Public Service Commission

Public Service Board of Appeal

- c. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available. NO STATISTICS ARE AVAILABLE AT THIS TIME.**

- d. **If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct that establish measures and systems governing the requirement that public officials report to appropriate authorities acts of corruption in public office of which they are aware, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.**

CHAPTER TWO

SYSTEMS FOR REGISTERING INCOME, ASSETS AND LIABILITIES (ARTICLE III, 4)

- a. **Are there regulations in your country establishing methods for registering the income, assets and liabilities of those who perform public functions in certain posts as specified by law and, where appropriate, for making such disclosures public? If yes, briefly describe them, indicating aspects like to whom they apply and when the declaration must be presented, the content of the declaration, and how the information given is verified, accessed, and used. List and attach a copy of the related provisions and documents.**

The Integrity in Public Life Act 2013 was passed in 2013. The Act is not yet in force. The Act establishes an Integrity Commission and requires public officers specified in the first schedule of the Act to submit to the Commission a declaration of his/her income, assets, liabilities, private interests and gifts in cash or kind which are received by himself/herself his or her spouse or his or her dependent children. The Act also allows a person in public life to place his or her assets or part of his or her assets in a blind trust. Where the assets are placed in a blind trust only the amount and description of the assets need be stated. Declarations filed are secret and confidential and are not to be made public. Failure to provide a declaration or particulars required to be provided in a declaration is an offence.

The Integrity Commission which is established by section 11 of the Act is responsible for receiving, examining and retaining all declarations filed pursuant to the provisions of the Act and where necessary making enquiries into the accuracy of a declaration filed. In pursuance of its duty to make enquiries where necessary into declarations, the Commission may appoint one or more of its staff to investigate the matter. The person or persons employed to investigate the matter may require the public officer or any person possessed of information to attend before the investigator and give such information and documents as may be necessary. Where an investigator has reasonable cause to believe that there has been a breach of the Act or that there is reasonable grounds to believe that a public official is in possession of property disproportionate to his or her present or past known sources of income or assets and for which there is no reasonable explanation the Commission shall report same to the Director of Public Prosecutions. If the Director of Public Prosecutions has reasonable grounds to believe that an investigation into the assets and income of the public official is necessary, he or she may apply to a Judge for the issuing of an investigation direction. The judge is empowered to issue an investigation direction where he/she is satisfied that

(i) there are reasonable grounds to believe that the public official maintains a standard of living above that which is commensurate with his or her present or past known sources of income or assets or is in the control or possession of pecuniary resources or property disproportionate to his or her present or past known sources of income or assets.

(ii) the investigation is likely to reveal information, documents or things which may afford proof that such standard of living is maintained through the commission of corrupt activities or the proceeds of unlawful activities or that such pecuniary resources or properties are instrumentalities of corrupt activities or the proceeds of unlawful activities.

The Act creates the offence of Abuse of Office, misconduct and neglect of duty amounting to abuse of the public trust and obstruction. The offence of Abuse of Office includes using public funds for private or political purposes, failure to act with impartiality, misuse of information acquired in the course of duty, seeking or accepting a benefit whether or not the benefit places the public official under an obligation to the person giving or offering the benefit and inducing or encouraging another public official to act contrary to the code of conduct. Prosecutions under the Act must be instituted within the period of five years from the time the public official ceased to be a public official.

a. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available. NOT APPLICABLE**

b. **If no such regulations exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and**

strengthen the regulations that establish methods for registering the income, assets and liabilities of those who perform public functions in certain posts as specified by law and, where appropriate, for making such disclosures public, in accordance with Article III (4) of the Convention.

CHAPTER THREE

PARTICIPATION BY CIVIL SOCIETY (ARTICLE III, NUMBER 11)

1. General questions on the mechanisms for participation

- a. **Are there in your country a legal framework and mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

There isn't a single legislation that comprehensively addresses participation by civil society and non-governmental organizations in efforts to prevent corruption. However, some legislation provide for consultation with the relevant stakeholders. Such consultation where provided for can assist in combating corruption.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**
- c. **If no such mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption, in accordance with Article III (11) of the Convention.**

2. Mechanisms for access to information

- a. **Are there mechanisms in your country that regulate and facilitate the access of civil society and non-governmental organizations to information under the control of public institutions? Is so, describe them briefly, and indicating, for example, before which entity or agency said mechanisms may be presented and under what criteria the petitions are evaluated. List and attach a copy of the related provisions and documents.**

There is no general legislation governing access to information. Information is normally made available in accordance with the specific policy of the respective government department. Where there is difficulty in accessing information the assistance of the Ombudsman can be sought to obtain same.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

3. Mechanisms for consultation

- a. **Are there mechanisms in your country for those who perform public functions to consult civil society and non-governmental organizations on matters within their sphere of competence, which can be used for the purpose of preventing, detecting, punishing, and eradicating public corruption? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

There is no general legislation governing consultation with civil society and non-governmental organisations. Specific legislation may contain provisions requiring the public authority or public official to consult.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

4. Mechanisms to encourage active participation in public administration

- a. **Are there mechanisms in your country to facilitate, promote, and obtain the active participation of civil society and non-governmental organizations in the process of public policy making and decision making, in order to meet the purposes of preventing, detecting, punishing and eradicating acts of public corruption? If so, briefly describe them and list and attach the related provisions and documents.**

There is no formal mechanism for active participation by civil society and non-governmental organizations in the process of public policy making and decision making in order to meet the purposes of preventing, detecting punishing and eradicating acts of public corruption. However, it is the policy of the government to consult stakeholders in the legislative process. Relevant civil society organizations and non- governmental organizations are given the opportunity to review and provide comments on legislation.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

5. Participation mechanisms for the follow-up of public administration

- a. **Are there mechanisms in your country to facilitate, promote, and obtain the active participation of civil society and non- governmental organizations in the follow-up of public administration, in order to meet the purposes of preventing, detecting, punishing and eradicating acts of public corruption? If so, briefly describe them, and list and attach a copy of the related provisions and documents.**

There is no formal mechanism in place.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

FOUR

ASSISTANCE AND COOPERATION (ARTICLE XIV)

1. Mutual Assistance

- a. **Briefly describe your country's legal framework, if any, that establishes mechanisms for mutual assistance in processing requests from foreign States that seek assistance in the investigation and prosecution of acts of corruption. Attach a copy of the provisions that contain such mechanisms.**

The Mutual Legal Assistance in Criminal Matters Act Cap 4:19 provide for mutual legal assistance in criminal matters between St. Kitts and Nevis and Commonwealth countries in relation to serious offences. Serious offences are defined by section 2(b) of the Act as offences for which the death penalty or a term of imprisonment for a maximum or minimum term of not less than three years, may be, or is required to be, imposed; or where the value of the property derived or obtained from the commission of the offence, in the case of St. Kitts is likely to be not less than twenty-five thousand dollars or such greater amount as may be prescribed and in the case of a Commonwealth Country the value of the property derived or obtained from the commission of the offence is certified by the central authority for the country to be, or likely to be, not less than such amount as prescribed by or under the law of the country.

The type of assistance which can be provided under the Act includes assistance in obtaining evidence, identifying and locating witnesses, serving documents, transfer of prisoners and assistance in relation to restraint, forfeiture and confiscation orders.

Requests for assistance are made to the Central Authority, the Attorney General. The second schedule to the Act makes provision as to what such requests should contain.

Part IV of the Mutual Legal Assistance in Criminal Matters Act Cap 4:19 make provision for the Act to extend to countries other than commonwealth countries. Sections 28 and 29 of the Act provides as follows:

29. Definition for purposes of Part IV.

In this Part,

“country” means a country other than one included in the definition of “Commonwealth country” in section 2(1);

“Treaty” includes a convention, protocol, agreement or arrangement.

30. Implementation of treaty.

(1) The regulations may make provision to give effect to a treaty, set out in the regulations, for bilateral mutual assistance in criminal matters between Saint Christopher and Nevis and a country specified in the regulations.

(2) For that purpose, the regulations may, in particular,

(a) direct that this Act shall apply in relation to the country so specified as if it were a Commonwealth country, subject to such limitations, conditions, exceptions or qualifications (if any) as may be prescribed; or

(b) extend, as provided in section 35(2), the application of any other Act, in relation to the country so specified;

and this Act or, as the case may be, the other Act shall apply accordingly.

Where the issue of money laundering is raised in relation to corruption section 59 of the Proceeds of Crime Act Cap 4:28 provides that that the Financial Intelligence Unit and the Director of Public Prosecutions shall within the limits of that State’s legal system, cooperate with the competent authority of another State in matters relating to money laundering offences. Such cooperation includes obtaining testimony, service of documents, executing searches and seizure and providing information and evidentiary items.

- b. **Has your government presented or received requests for mutual assistance under the Convention? If so, indicate the number of requests that it has presented, explaining how many of them have not been answered and how many have been denied and for what reason; indicate the number of requests that it has received, explaining how many of them have not been answered and how many have been denied and for what reason; mention the average time it has taken your country to answer said requests and the average time in which other countries have responded, and indicate whether you consider these intervals reasonable.**

There are no statistics available at this time. The information available has to be collated. However, one request was received under the Convention in August of 2013. This matter is still ongoing and is being processed in accordance with the provisions of the Mutual Assistance in Criminal Matters Act.

2. Mutual technical cooperation

- a. **Does your country have mechanisms to permit the widest measure of mutual technical cooperation with other States Parties regarding the most effective ways and means of**

preventing, detecting, investigating, and punishing acts of public corruption, including the exchange of experiences by way of agreements and meetings between competent bodies and institutions, and the sharing of knowledge on methods and procedures for citizen participation in the fight against corruption? If so, describe them briefly.

The Federation normally enters into arrangements for technical cooperation on a bilateral basis. The Federation intends to pursue mutual technical cooperation by this means in the fight against corruption.

- b. Has your government made requests to other States Parties or received requests from them for mutual technical cooperation under the Convention? If so, briefly describe the results. NO**
- c. If no such mechanisms exist, briefly indicate how your State has implemented the obligation, in accordance with Article XIV (2) of the Convention.**

Through bilateral agreements.

- d. Has your country developed technical cooperation programs or projects on aspects that are referred to in the Convention, in conjunction with international agencies or organizations? If so, briefly describe, including, for example, the subject matter of the program or project and the results obtained. NO**

CHAPTER FIVE

CENTRAL AUTHORITIES (ARTICLE XVIII)

1. Designation of Central Authorities

- a. Has your country designated a central authority for the purposes of channeling requests for mutual assistance as provided under the Convention?**

St. Kitts and Nevis has not designated a Central Authority specifically for the purposes of channelling requests for mutual assistance as provided under the Convention. However, St. Kitts and Nevis is able to process requests for mutual legal assistance by virtue of the Mutual Assistance in Criminal Matters Act through the Attorney General who is the Competent Authority under the Act.

- b. Has your country designated a central authority for the purposes of channeling requests for mutual technical cooperation as provided under the Convention?**

There is no specific legislation designating a Central Authority for the purposes of channelling requests for mutual technical cooperation as provided under the Convention. Requests can be channelled through the Ministry of Foreign Affairs.

- c. **If your country has designated a central authority or central authorities please provide the necessary contact data, including the name of the agency(ies) and the responsible official(s), the position that he or she occupies, telephone and fax numbers, and e-mail address(es).**
- d. **If no central authority or authorities have been designated, briefly indicate how your State will implement the obligation, in accordance with Article XIV (2) of the Convention.**

2. Operation of Central Authorities

- a. **Does the central authority have the necessary human, financial and technical resources to enable it to properly make and receive requests for assistance and cooperation under the Convention? If yes, please describe them briefly.**

The Central Authority under the Mutual Legal Assistance Act is the Attorney General. The Attorney General's office is staffed by the Attorney General, Solicitor General and seven Attorneys-at-Law. The budget of the department is determined by the Head of Department in consultation with the Ministry of Finance and is sufficient to meet the usual costs of processing of requests for mutual legal assistance.

- b. **Has the central authority, since its designation, made or received requests for assistance and cooperation under the Convention? If so, indicate the results obtained, whether there were obstacles or difficulties in handling the requests, and how this problem could be solved.**

SECTION II

QUESTIONS ON IMPLEMENTATION OF THE CONVENTION PROVISION SELECTED FOR REVIEW IN THE FOURTH ROUND

OVERSIGHT BODIES, WITH A VIEW TO IMPLEMENTING MODERN

MECHANISMS FOR PREVENTING, DETECTING, PUNISHING, AND ERADICATING

CORRUPT ACTS (ARTICLE III, PARAGRAPH 9, OF THE CONVENTION)

- A) **Indicate the oversight bodies in your country that would be relevant for preventing, detecting, punishing, and eradicating corrupt acts, and briefly state the assigned purpose of each.**

Royal St. Christopher and Nevis Police Force

Attorney General's Chambers
Director of Public Prosecutions
Director of Audit
Magistrate's Department
The Ombudsman
The Accountant General
Ministry of Finance

- B) Then select 4 or 5 of these oversight bodies, bearing in mind their institutional importance and the functions they are assigned should cover one or more of the objectives of preventing, detecting, punishing, and eradicating corrupt acts that trigger disciplinary; administrative; financial or civil; and criminal responsibility.**

Director of Public Prosecutions
Magistrate's Department
The Ombudsman
Royal St. Christopher and Nevis Police Force

- C) For each of the oversight bodies selected in the response to question B), to the extent that is possible, address the issues such as those indicated below, attaching copies of the norms or measures on which the answers are based or indicating links to the web pages where they may be consulted:**

Director of Public Prosecutions (DPP)

- i. Their objectives and functions; their autonomy for pursuing them; and when applicable, the exercise of their functions in conjunction or concert with other agencies or authorities; and the mechanisms for resolving any conflicts of jurisdiction that may arise.**

The Objectives of the DPP:

- To present criminal cases before the courts in a timely manner;
- To provide the citizens with a professional prosecutorial service that is fair and just to both victims and the accused persons; and

- To collaborate with law enforcement officers in facilitating the efficient collection, processing and presentation of evidence for the courts.

ii. The scope of their functions, indicating whether any exceptions to it exist

Functions of the Director of Public Prosecutions (DPP).

- a. The power to institute and undertake criminal proceedings;
- b. The power to take over criminal proceedings instituted by others; and
- c. The power to discontinue criminal proceedings.

These functions may be exercised by the DPP acting in person or through other persons acting under and in accordance with his general or special instructions. The powers vested in the DPP are exercised to the exclusion of any other person or authority. (Section 65 of the Constitution). It should also be noted that the DPP is the head of the National Prosecution Service which includes the Police Prosecutors and the members of the DPP's office.

iii. The manner in which they adopt their decisions, indicating whether there are various agencies with jurisdiction to do so and whether they are collegiate or single-person agencies; review remedies that can be brought against the decisions adopted, both internally and with other external agencies or authorities; and the actions needed to implement or enforce those decisions.

The manner in which the DPP adopts his/her decision:

The decision to prosecute or not to prosecute a criminal matter is a power exercised by the Director of Public Prosecutions. The Director makes decisions independently of all other bodies and institutions, and decisions are taken free from political or any other influence. The Police is expected to conduct investigations pertaining to the criminal matter. Once this investigation is complete, a file is sent to the DPP. The office of the DPP would read the file carefully and decide whether there is enough evidence to commence criminal proceedings before the court. Decisions of the Director of Public Prosecutions are subject to appeal and to Judicial Review by the Courts.

- iv. **The manner in which their senior officers are selected, indicating whether they serve fixed terms or are freely appointed and removable, and the agencies authorized to hold them responsible for their actions and deciding on their continued tenure in those positions.**

Appointment of the Director of Public Prosecutions.

Section 81 of the Constitution of St. Christopher and Nevis outlines the appointment of the Director of Public Prosecutions. The Director of Public Prosecutions is appointed by the Governor-General, acting in accordance with the recommendation of the Judicial and Legal Services Commission. If the office of Director of Public Prosecutions is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the recommendation of the Judicial and Legal Services Commission, may appoint a person to act as Director. A person holding the office of Director of Public Prosecutions may be removed from office only for inability to exercise the function of his office whether arising from infirmity of body or mind or any other cause or for misbehavior. The Director of Public Prosecutions can only be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehavior. The Constitution provides for the appointment of the tribunal. Section 65(6) provides that in the exercise of his duties the DPP shall not be subject to the direction or control of anyone.

The Director of Public Prosecutions shall vacate his office when he attains the prescribed age. The prescribed age is 55 years which may be extended to 60 by the Governor General.

The position of DPP is awarded based on merit. It is a competitive post. The position when vacant is advertised and applications are welcomed. There is a recruitment interview. The process is open and transparent and the best candidate is given the position.

- v. **The manner in which the human resources needed for their operations are identified and how their personnel are selected, indicating whether they are freely appointed and removable or whether they are selected by means of merit-based competition; if certain requirements have to be met to hold such positions; and whether their personnel are subject to a regime of disqualifications and incompatibilities and of responsibility for their actions.^{2/}**

^{2/} If relevant and applicable information was reported in the response to the First or Second Round questionnaires, reference may be made to that information.

By virtue of section 83 of the Constitution, Crown Counsel (Legal Officers) within the office of the Director of Public Prosecutions are appointed by the Governor General acting upon the recommendation of the Public Service Commission after consultation with the Judicial and Legal Service Commission. These legal officers are appointed to the Public Service and deployed to serve in the DPP's office. Disciplinary control over these officers including the power to remove these officers from office is exercised by the Governor General acting on the recommendation of the Judicial and Legal Services Commission after consultation with the Public Service Commission. The appointment of these officers is subject to the rules and regulations of the Public service.

To be appointed as a Crown Counsel an individual must be an attorney-at-law qualified to practice within the jurisdiction.

Other staff within the DPP's office such as the Clerks and other clerical staff are appointed by the Governor General acting on the recommendation of the Public Service Commission. Hiring of such personnel is normally carried out by the Human Resource Department based on the needs identified by the specific department.

vi. The existence of manuals or other documents that describe the functions of their personnel, and also indicating whether regular training is given in connection with those functions.

Various sources of legislation govern how the functions of the DPP are to be carried out. The Criminal Procedure Act Sections 12-18 outlines the powers of the DPP from the Preliminary Inquiry stage to trial. Section 42 of the Eastern Caribbean Supreme Court gives the DPP the right to appeal and explains how this is to be done. There is also a Prosecutors Code of Conduct Manual that governs how prosecutors are conduct themselves.

Training is carried out on a regular basis by the Director of Public Prosecutions. The Director of Public Prosecutions in conjunction with the Anti Crime Unit within the office of the Prime Minister has launched a training programme for prosecutors and law enforcement officials entitled 'Practical Prosecuting and Proactive Law Enforcement Training Programme.

vii. The existence of documented procedures for performing their tasks, or of manuals or guides dealing with those duties; institutional strengthening or quality improvement actions implemented; and the implementation of systems or modern technologies to facilitate their work.

(The answer at vi above is applicable) The Office of the DPP uses computers, laptops and equipment of the like to carry out its function.

- viii. **The manner in which the general public is provided with information about their objectives and functions, is informed of the procedures established for the performance of their functions, and is given guidance about how to carry out proceedings before them.**

Most of the information about the DPP's office comes from the media. Many times media persons attend court and report to the general public what has taken place by publishing the contents of the trial on their respective websites which are accessible to the general public. The media may also attend special functions and report what has transpired to the general public for example the opening of the Law Term or Training Sessions within the Office.

- ix. **The mechanisms for internal control and for dealing with claims, complaints, or allegations related to the pursuit of their objectives and to the performance of their personnel.**

Complaints, claims or allegations against members of the DPP's office can be made to the DPP, the Attorney General or the Public Service Commission. Once it is a matter that is of a disciplinary nature it must be brought to the attention of the Public Service Commission or the Judicial and Legal Services Commission in the case of the DPP and other legal officers within the DPP's office.

- x. **The manner in which the budgetary resources needed for their operations are ensured.**

Budget consultations take place in September. The Budget Planning Committee would allow the DPP every year to give an estimate of the total funds that would be needed by his office. This information is then included into the budget of the Ministry of Justice and Legal Affairs. The Budget is then approved by Cabinet and debated in the House of Assembly.

- xi. **As appropriate, the coordination mechanisms for harmonizing their functions with those of other oversight agencies or public authorities and for securing the support of other authorities and the public for full compliance with their duties.**

The Office of the Director of Public Prosecution is supported by various agencies in order to ensure that the functions of the DPP are effectively carried out. Two important agencies are the Ministry of Justice and Legal Affairs and the Police Force. The Ministry of Justice and Legal Affairs assists the Office of the Director of Public Prosecution in an administrative capacity. For example, the Ministry of Justice and Legal Affairs would ensure that the Office of the Director of Public Prosecutions has sufficient staff members, particularly Crown Counsel, and sufficient funds to ensure that operations run smoothly.

The Police Force also assists the Office of the DPP in ensuring that crimes are properly investigated before criminal proceedings are commenced. The Office of the DPP also deals with social groups, the Defence Force, Customs, Financial Agencies such as the Eastern Caribbean Central Bank and Ministry of Finance in exercising its functions. The relationship with these groups is characterised by consultation on matters of common interest.

- xii. **Accountability mechanisms applicable to the performance of their duties; the way in the information needed for that is gathered and processed; and the information issued for that purpose,¹ and the way in which it is made public and how members of the public may access it.**

The Director of Public Prosecutions is only accountable to the Permanent as it relates to administrative matters like the running of the office and the allocation of staff members. Accountability is ensured by the system of appeals, judicial review and the disciplinary procedure outlined in the constitution.

*NOTE: It is apparent that the issues concerning accountability of the Chambers of the Director of Public Prosecutions (CDPP) are of key interest. In considering such issues, it may be worth noting that the provisions in relation to how the DPP is run must also be informed by developing understandings of the common law. Decisions from the Judicial Committee of the Privy Council: including the case of the **Police Commissioner of Antigua and Barbuda v Steadroy Benjamin**: speak to the way in which the office of the DPP is to interface with agencies such as the Police Force. This is helpful in informing how the DPP engages with various stakeholders in carrying out its mandate.*

Magistrates Department

- i. **Their objectives and functions; their autonomy for pursuing them; and when applicable, the exercise of their functions in conjunction or concert with other agencies or authorities; and the mechanisms for resolving any conflicts of jurisdiction that may arise.**

Objectives

The objective of the Magistrates Court is to administer justice fairly and in a timely manner in accordance with the laws of St. Christopher and Nevis.

Functions

S. 9 of the Magistrate Code of Procedure Act indicates that the District Magistrate shall have and possess all the powers and jurisdiction and shall perform all the duties which are now vested in or imposed upon District Magistrates or Justices of the Peace either at common law or by virtue of

any enactment now in force, or which may hereafter be vested in or imposed upon such District Magistrates by virtue of any such enactment.

Such functions include Magistrates hearing less serious criminal cases, such as minor theft, criminal damage, public disorder and motoring offences. They conduct preliminary inquiries and commit persons charged with serious cases such as rape and murder to the High Courts, consider bail applications and grant search warrants. Magistrates also have jurisdiction in civil matters and family matters.

Autonomy

Magistrates are creatures of statutes. They are governed by the laws of the Federation of St. Christopher and Nevis, primarily by the Magistrates Code of Procedure Act. They are independent in the exercise of their functions. Their decisions are subject to appeal to the Court of Appeal and to review by the High Court.

ii. Scope of their functions, indicating whether any exceptions to it exist.

The scope of the Magistrates' function is determined by statute. The Magistrate only has jurisdiction where specific legislation gives him/her jurisdiction in the subject matter.

iii. The manner in which they adopt their decisions, indicating whether there are various agencies with jurisdiction to do so and whether they are collegiate or single-person agencies; review remedies that can be brought against the decisions adopted, both internally and with other external agencies or authorities; and the actions needed to implement or enforce those decisions.

Each Magistrate makes his/her decisions in his/her own deliberate judgment by applying the law to the facts before them. In making a decision the Magistrate is guided by legislation and judgments given by superior courts of record having binding or persuasive authority. The Magistrate's Code of Procedure provides for a Claimant who is aggrieved by a decision of a Magistrate in a civil matter to, within one month of the decision being made, apply to the Magistrate to have the matter reviewed.

The remedies that can be brought against the decisions of a Magistrate adopted can be via an external Appeal to the Court of Appeal, an Appeal to the Privy Council and by judicial reviews.

- iv. **The manner in which their senior officers are selected, indicating whether they serve fixed terms or are freely appointed and removable, and the agencies authorized to hold them responsible for their actions and deciding on their continued tenure in those positions.**

Both the Magistrate Code of Procedure Act and the Constitution of St. Christopher and Nevis states that Magistrates are appointed in accordance with s. 83 of the Constitution of St. Christopher and Nevis. They are appointed by the Governor General acting on the advice of the Public Service Commission. Usually Magistrate's are appointed on a two (2) year contract where the (Attorney General) via the Government of St. Christopher and Nevis determines whether or not their contract will be renewed for an additional two (2) years.

Magistrate's can only be removed by the Governor General upon the recommendation of the Judicial and Legal Services Commission.

- v. **The manner in which the human resources needed for their operations are identified and how their personnel are selected, indicating whether they are freely appointed and removable or whether they are selected by means of merit-based competition; if certain requirements have to be met told hold such positions; and whether their personnel are subject to a regime of disqualifications and incompatibilities and of responsibility for their actions.**

The Ministry of Justice and Legal Affairs determines the human resource needs for the Magistrates Court. The Magistrates are selected based on the human resource needs of the Magistrates Court. Vacancies are placed in the local newspaper and selection is based on merit. A Magistrate must be a practicing attorney-at-law lawyer with five (5) years experience eligible to practice at the Bar in St. Christopher and Nevis.

- vi. **The existence of manuals or other documents that describe the functions of their personnel, and also indicating whether regular training is given in connection with those functions.**

Regular training sessions are provided for the Magistrates by the Eastern Caribbean Supreme Court and the Government of St. Christopher and Nevis. These training sessions are held every year. In addition Magistrate's are exposed to training offered by

international agencies. In house training is also conducted from time to time with the support staff of the Magistrate's Department. However, no manual or other documents that describe the functions of the Magistrates exist with the exception to the Magistrates contracts of employment and the Magistrates Code of Procedure Act.

- vii. **The existence of documented procedures for performing their tasks, or of manuals or guides dealing with those duties; institutional strengthening or quality improvement actions implemented; and the implementation of systems or modern technologies to facilitate their work.**

The Magistrate Code of Procedure Act provides guidelines for the performance of the Magistrates duties. The Eastern Caribbean Supreme Court has recently trained the Magistrates in St. Christopher and Nevis in the use of the data base software called Judicial Enforcement Management System (JEMS). This programme allows Magistrates to electronically create their own court schedules, make notes during court proceedings and enter judgments. This programme reduces issues such as documents being misplaced or destroyed and assists with the efficient scheduling of matters.

- viii. **The manner in which the general public is provided with information about their objectives and functions, is informed of the procedures established for the performance of their functions, and is given guidance about how to carry out proceedings before them.**

The laws of St. Christopher and Nevis are readily available to all citizens of the federation. Copies of the laws can be obtained by contacting the office of St. Kitts and Nevis Information Services. In addition, legal information and other information regarding the Magistrates Court can be obtained from the Legal Aid office. Members of the general public can also visit the Magistrates Court Office and obtain information about the Magistrates Courts objective and functions from the staff at the said office.

- ix. **The mechanisms for internal control and for dealing with claims, complaints, or allegations related to the pursuit of their objectives and to the performance of their personnel.**

Claims, complaints or allegation against members of the administrative staff are brought to the attention of the Senior Magistrate who will bring same to the attention of the Permanent Secretary for attention by the Public Service Commission. Where the matter is of the nature that it ought to be brought to the attention of law enforcement officials, the Police is usually notified.

Claims, complaints or allegations may be made to the Chief Justice or to the Ministry of Justice and Legal Affairs. Disciplinary proceedings against a Magistrate can only be taken on a decision made by the Judicial and Legal Services Commission.

x. **The manner in which the budgetary resources needed for their operations are ensured.**

The budgetary needs of the Magistrate Court are forecasted by Assistant Secretary attached to the Magistrates Court's on an annual basis and transmitted to the Permanent Secretary who then transmits same to the Ministry of Finance for approval based on the annual budget allotted to each Government Department. As such the budgetary needs of the Magistrate Court are dependent upon the Government of St. Christopher. There is no independent budget for the Magistrates Court outside of that which is provided by the Government of St. Christopher.

xi. **As appropriate, the coordination mechanisms for harmonizing their functions with those of other oversight agencies or public authorities and for securing the support of other authorities and the public for full compliance with their duties.**

The Magistrate's Department has working relationships with the Ministry of Justice and Legal Affairs, the Probation Department, The Royal St. Christopher and Nevis Police Force, Director of Public Prosecutions, Environment Department, Social Security Board and the members of the Bar who appear before the Court. There are no formal coordination mechanisms. The conduct of the relationship depends on the issue involved.

xii. **Accountability mechanisms applicable to the performance of their duties; the way in which the information needed for that is gathered and processed; and the information issued for that purpose,^{3/} and the way in which it is made public and how members of the public may access it.**

Accountability mechanisms applicable to the performance of their duties as Magistrates are inclusive of the option of a party to a court proceeding appealing the decision of the Magistrate via the Court of Appeal, where the Court of Appeal can either affirm or

overturn the judgment of the Magistrate. The information needed for filing of an appeal is gathered from obtaining a copy of the Court transcript from the Magistrates Court and the aggrieved litigant whether personally or via his Attorney can prepare and file his appeal at the Magistrates Court. Members of the public may access this information by visiting the Eastern Caribbean Supreme Court website. In addition the Attorney General has the authority to ensure that the Magistrate functions in accordance with his/her contract and the Magistrate Code of Procedure Act.

Ombudsman

- i. **Their objectives and functions; their autonomy for pursuing them; and when applicable, the exercise of their functions in conjunction or concert with other agencies or authorities; and the mechanisms for resolving any conflicts of jurisdiction that may arise.**

Objectives

To contribute towards the development of a public service culture characterized by fairness, dedication, commitment, openness, accountability and the promotion of the right to good public administration. The office of the Ombudsman is established for the purpose of protecting and enforcing the rights of citizens of St. Christopher and Nevis.

Function

Part 2, s.9 of the Ombudsman Act states that the functions of the office of the Ombudsman is to give assistance to persons who believe that they have suffered injustices by Public Officials as a result of maladministration. The functions of the Ombudsman also include the investigation of any administrative action of an authority for the purpose of deciding whether there is evidence of maladministration on the part of the authority. In addition, to make recommendations pursuant to an investigation, to the authority concerning any administrative action that formed the subject of the investigation and generally about ways of improving the administrative practices and procedures and to perform other such functions as may be conferred upon him under the Act.

Autonomy

The mechanism in place in which is in accordance with the Ombudsman Act for the resolution of any conflict of jurisdiction regarding the ombudsman that may arise in his investigation of a case is that the Ombudsman or complainant may apply to the Court for an order declaratory of the Ombudsman's jurisdiction.

i. **The scope of their functions, indicating whether any exceptions to it exist.**

By virtue of Part III section 9 of the Ombudsman Act the role of the Ombudsman is largely limited to investigating complaints made against local authorities and making the necessary recommendations to ameliorate the problem complained of. However Part III section 15 indicates that the Ombudsman may be resort to mediation if he believes the circumstances warrants mediation.

ii. **The manner in which they adopt their decisions, indicating whether there are various agencies with jurisdiction to do so and whether they are collegiate or single-person agencies; review remedies that can be brought against the decisions adopted, both internally and with other external agencies or authorities; and the actions needed to implement or enforce those decisions..**

The Ombudsman at all times acts independently and impartially and takes no side in the process of investigating a complaint.

The decision to investigate complaint is taken in accordance with Part III section 2 of the Ombudsman Act which states that subject to the Act, the Ombudsman may investigate any administrative action taken by or on behalf of an authority where a complaint is made to him or her by a person who claims to have been treated unjustly as a result of maladministration, or on his/her own motion where he or she is satisfied that there are reasonable grounds to carry out an investigation in the public interest.

iii. **The manner in which their senior officers are selected, indicating whether they serve fixed terms or are freely appointed and removable, and the agencies authorized to hold them responsible for their actions and deciding on their continued tenure in those positions.**

Part 2 s. 2 of the Ombudsman Act states that the Ombudsman is appointed by the Governor-General after consultation with the Prime Minister and the Leader of the Opposition. The Ombudsman may hold office until he attains the age of seventy years. Members of the National Assembly, persons referred to as undischarged bankrupts and persons who have been convicted of any offence involving dishonesty or moral turpitude are disqualified from serving as Ombudsman. Part 2 s.6 of the Ombudsman Act speaks to the removal of the Ombudsman. The Act states that the Ombudsman may be removed from his or her office only for inability to discharge the functions of his or her office,

whether arising from infirmity of body or mind or any other cause, or for misconduct and shall not be removed except in accordance with the Ombudsman Act. If the National Assembly, by resolution, decides that on removing the Ombudsman from office the Governor-General, after consultation with the Prime Minister and Leader of the Opposition, shall appoint a tribunal which shall consist of a chairperson and not less than two other members, from among persons who hold or have held office as a judge; and that tribunal shall enquire into the matter and report on the facts to the Governor-General and advise the Governor-General whether the Ombudsman ought to be removed from office for inability to function or for misconduct. The tribunal advises the Governor-General that the Ombudsman ought to be removed from office, the Governor-General shall, by instrument under his or her Seal, remove the Ombudsman from office.

- iv. **The manner in which the human resources needed for their operations are identified and how their personnel are selected, indicating whether they are freely appointed and removable or whether they are selected by means of merit-based competition; if certain requirements have to be met told hold such positions; and whether their personnel are subject to a regime of disqualifications and incompatibilities and of responsibility for their actions.**

The Ombudsman determines the human resource needs of the office of the Ombudsman. However, as the office is a new office, it is only the Ombudsman who is employed within his office to date. Presently, the Ombudsman shares a Secretary with the Legal Aid Office. The future plan is to employ the necessary human resources to ensure that the office functions as independently as possible to ensure that the public to has confidence in the office. Once the specific human resource needs are identified the Human Resource Department of St. Christopher and Nevis is responsible for employing such persons. Part six section 24 of the Ombudsman Act indicates that the based on the human resource needs of the office of the ombudsman the appointment of such number of public officers as may be required to assist the Ombudsman in the discharge of his or her functions is acceptable. The Ombudsman Act also indicates that the Ombudsman may, in addition, engage from time to time such technical or professional advisers as are necessary to assist in the discharge of his or her functions. Every person appointed under this section is subject to the Ombudsman's direction and control in the performance of functions.

- v. **The existence of manuals or other documents that describe the functions of their personnel, and also indicating whether regular training is given in connection with those functions.**

The Ombudsman Act of St. Christopher and Nevis outlines and describes the functions of the Ombudsman. The Ombudsman has received a number of training opportunities. The Ombudsman Department is also a member of the Caribbean Ombudsman Association (CAROA).

- vi. **The existence of documented procedures for performing their tasks, or of manuals or guides dealing with those duties; institutional strengthening or quality improvement actions implemented; and the implementation of systems or modern technologies to facilitate their work.**

The Ombudsman Act No 18 of 2006 provides guidelines for the performance of the ombudsman duties.

As the office of the Ombudsman is a newly introduced office there are plans in place to offer institutional strengthening and quality improvement actions. However, to date these remain work in progress that the Ombudsman himself is trying to bring into fruition.

- vii. **The manner in which the general public is provided with information about their objectives and functions, is informed of the procedures established for the performance of their functions, and is given guidance about how to carry out proceedings before them.**

Members of the public have in the past been invited to town hall meetings hosted by the Ombudsman in an attempt to sensitize the public on the existence of the office and its functions and services offered to the public. Members of the public are free to visit the office of the Ombudsman to obtain information about the objectives of the office. At the office detailed brochures outlining pertinent information about the Ombudsman office and functions are readily available for distribution to the general public. In addition, the general public has access to the Ombudsman Act of St. Christopher and Nevis by contacting the office of St. Kitts and Nevis Information Services.

- viii. **The mechanisms for internal control and for dealing with claims, complaints, or allegations related to the pursuit of their objectives and to the performance of their personnel.**

The Ombudsman Act does not specifically outline any procedure for the making of complaints, claims or allegations against the Ombudsman or his staff. In light of this the standard procedure for making complaints against persons employed by the Government of St. Christopher and Nevis is to express such complaints to the Ministry under which the person is employed. In this case all such complaints would be made to the Ministry of Justice and Legal Affairs. However as it relates to the removal of the Ombudsman Part II section 4 states that the Ombudsman may be removed from his or her office only for inability to discharge the functions of his or her office, whether arising from infirmity of body or mind or any other cause, or for misconduct and shall not be removed except in accordance with the provisions of this section.

ix. **The manner in which the budgetary resources needed for their operations are ensured.**

The budgetary needs of the office of the Ombudsman are met by the Government of St. Christopher and Nevis. The needs of the said office are relayed to the Permanent Secretary who then in turn supplies the office of the Ombudsman with such requirements. There is no independent budget for the office of the Ombudsman outside of that which is provided by the Government of St. Christopher.

x. **As appropriate, the coordination mechanisms for harmonizing their functions with those of other oversight agencies or public authorities and for securing the support of other authorities and the public for full compliance with their duties.**

There are no formal coordination mechanisms between the office of the Ombudsman and the Departments it interacts with.

xi. **Accountability mechanisms applicable to the performance of their duties; the way in which the information needed for that is gathered and processed; and the information issued for that purpose, and the way in which it is made public and how members of the public may access it.**

The Ombudsman Act makes no specific mention regarding who the Ombudsman is accountable to in the performance of his duties. However as Part II section (4) (2) states that the Ombudsman shall be appointed by the Governor-General after consultation with the Prime Minister and the Leader of the Opposition and Part II section 5 states that where the National Assembly, by resolution, decides that the question of removing the Ombudsman from office ought to be investigated then the Governor-General, after consultation with the Prime Minister and Leader of the Opposition, shall appoint a tribunal

for this purpose it can be inferred that the Ombudsman is accountable to the very bodies that appointed him and have the power to remove him from his post.

Royal St. Christopher and Nevis Police Force

- i. Their objectives and functions; their autonomy for pursuing them; and when applicable, the exercise of their functions in conjunction or concert with other agencies or authorities; and the mechanisms for resolving any conflicts of jurisdiction that may arise.**

The objective and functions of the Police Force can be found in Section 5 (1) of the Police Act of St. Christopher and Nevis. The object and function of the Police Force is to prevent and detect of crime, and maintain of law and order. Subsection 2 gives a detailed outline as to how these objectives and functions are to be carried out.

- ii. Scope of their functions, indicating whether any exceptions to it exist**

In accordance to Section 5 (2) of the Police Act, the police may apprehend or arrest persons found committing an offence; seize the goods of persons to assist in the detection of an offence under the law; stop, search and detain any vessel or person where they reasonable believe that anything stolen, or unlawfully obtained may be found; summon any person accused of an offence to appear before the court and prosecute found committing an offence or is reasonably believed to have committed an offence. The police is also responsible for repressing internal disturbances, defending St. Kitts and Nevis from external forces and keeping order in the vicinity of the court and the community at large. Section 6 (1) of the Police Act of St. Christopher and Nevis outlines and provides instances where a police may exercise his/her power of arrest with or without a warrant.

- iii. The manner in which they adopt their decisions, indicating whether there are various agencies with jurisdiction to do so and whether they are collegiate or single-person agencies; review remedies that can be brought against the decisions adopted, both internally and with other external agencies or authorities; and the actions needed to implement or enforce those decisions.**

The police in making decisions to charges and carrying out investigations do so in consultation with the DPP. In addition, the DPP has the power to stop a prosecution commenced by a police prosecutor and take it over at anytime.

Decisions in relation to internal matters of the Police Force are made by the High Command which comprises the Commissioner of Police, Deputy Commissioner of Police and the Assistant Commissioner of Police.

Charges and Investigation: Usually in relation to High Court matters the Chief of Police and Assistant Chief of Police would give their opinions to the DPP on whether the charge should be instituted. In magisterial matters constables investigating the matter along with the Inspector of Police give their opinions to the DPP in relation to whether an offence should be prosecuted. In special circumstances, where the matter is of a sexual nature the Chief of Police and his/her Assistant may be involved.

- iv. **The manner in which their senior officers are selected, indicating whether they serve fixed terms or are freely appointed and removable, and the agencies authorized to hold them responsible for their actions and deciding on their continued tenure in those positions.**

Section 11-13 of the Police Act speaks to the appointment of members of the Police Force specifically the Chief of Police, Deputy Chief of Police, Superintendents, and Subordinate officers. In accordance to Section 10 of the Police Act the Chief of Police, Deputy Chief of Police and Assistant Commissioner of Police shall be appointed by the Governor-General according in accordance with the Commission after consultation has been made with the Prime Minister. Any appointment to the Police Force of a person to the rank of Superintendent, Assistant Superintendent, Inspector, sergeant, corporal, constable or special constable shall be made by the Governor-General, acting in accordance with the recommendation of the Commission.

- v. **The manner in which the human resources needed for their operations are identified and how their personnel are selected, indicating whether they are freely appointed and removable or whether they are selected by means of merit-based competition; if certain requirements have to be met to hold such positions; and whether their personnel are subject to a regime of disqualifications and incompatibilities and of responsibility for their actions.**

Applications to join the police force as a constable can be obtained at the Human Resource Management Office at Police Headquarters. Current website as at 27.06.14 <http://sknpolice.com/jobs.html>. Once applications for employment have been submitted the individual is then contacted by the Sergeant within their district, the person is then expected to take an exam and is subject to a background check. Once an applicant has

passed the exam and the background check he/she has to undergo a medical examination and once accepted a six month period of training.

- vi. The existence of manuals or other documents that describe the functions of their personnel, and also indicating whether regular training is given in connection with those functions.**

The Constitution, The Police Act and The Police Statutory Rules and Orders are documents that describe the functions of the police.

The Police receive regular training internally and externally. Internal training is carried out by senior police officers, the DPP and other personnel brought it by the Police Force. Members of the Police Force also attend courses sponsored by international agencies.

- vii. The existence of documented procedures for performing their tasks, or of manuals or guides dealing with those duties; institutional strengthening or quality improvement actions implemented; and the implementation of systems or modern technologies to facilitate their work.**

The Constitution, The Police Act and The Police Statutory Rules and Orders are documents that describe the functions of the police. The police have also employed the use of laptops, computers, tracker dogs, forensics, handwriting analysis, DNA, Fingerprinting, Radio Ads and Visual Aids.

- viii. The manner in which the general public is provided with information about their objectives and functions, is informed of the procedures established for the performance of their functions, and is given guidance about how to carry out proceedings before them.**

The general public is made aware of the objectives and functions of the police through the police website, www.sknpolice.com and the Public Relation Officer of the Police Force. The police also take part in career fairs at High Schools and Colleges.

- ix. The mechanisms for internal control and for dealing with claims, complaints, or allegations related to the pursuit of their objectives and to the performance of their personnel.**

Within the Police Force there is a Director of Internal Affairs at the Police to deal with claims, complaints or allegations related to the pursuit of the objectives and perform of the police.

There is also a disciplinary code that is found in the Statutory Rules and Orders that outline the process. Sections 79-85 of the Police Statutory Rules and Regulations create two types of offences that may be committed by Police officers. Also there are offences created by the Police Act pursuant to sections 68 and 69. These offences relate to mutinous or seditious conduct by a police officer or causing disaffection in the Police Force. The second type of offences are disciplinary offences created by the Regulations set out in the Police Service Commission Regulations, 1974 (No. 46 of 1974).

Disciplinary complaints are heard and determined in accordance with section 64 of the Act. Section 64 which states that when complaints are made against a subordinate police officer, constable and special constables for breach of disciplinary regulations, the Police Service Commission can recommend to the Governor – General for the matter to be heard and the charge determined. Complaints made Sergeants can be determined by the Chief on the instructions of the Governor General acting in accordance with recommendation of the Commission. If complaints are made against the Commissioner of Police or Deputy Chief of Police, the Commission shall not make any recommendation to the Governor General before it has consulted the Prime Minister.

Police officers may be placed on open or closed arrest and be suspended from duty pending trial. Section 64 outlines that officers found guilty after hearing and determination of a matter may be cautioned or reprimanded, suspended, fined suffer a reduction in rank, forfeit good conduct pay or badges, be dismissed or confined to barrack (Special Constables) for a period not exceeding 28 days and shall involve the performance of ordinary duty and parades as well as fatigue duties.

x. The manner in which the budgetary resources needed for their operations are ensured.

There is a Finance Officer at Police Headquarter that deals with the budgetary resources. Estimates are compiled of the funds needed after consultation with the High Command and Permanent Secretary of the Office of the Prime Minister. These estimates form part of the budget for the Office of the Prime Minister under the Anti-Crime Unit. The budgetary needs of the Police Force are provided by the Government of St. Kitts and Nevis through Office of the Prime Minister under the Anti -Crime Unit.

- xi. **As appropriate, the coordination mechanisms for harmonizing their functions with those of other oversight agencies or public authorities and for securing the support of other authorities and the public for full compliance with their duties.**

The police work with many agencies in carrying out their duties- Customs, Fire Department, the Army, the Eastern Caribbean Supreme Court, the Magistrate's Department, the DPP's office and the Anti Crime Unit within the office of the Prime Minister. There are no formal coordination mechanisms. The Police role in relation to each department is either circumscribed by law or as in the case of the Army collaborative efforts undertaken jointly or collectively with other agencies.

- xii. **Accountability mechanisms applicable to the performance of their duties; the way in which the information needed for that is gathered and processed; and the information issued for that purpose, and the way in which it is made public and how members of the public may access it.**

The Statutory Rules and Orders of the Police Force make provision whereby police officers may be disciplined for not performing their duties. Additionally, the office of the Director of Internal Affairs ensures that these officers are accountable. Information about this is accessible to the general public at the Police Headquarters.

- C) **For each of the oversight bodies selected in the response to question B), summarize the results obtained in the performance of their duties, providing the relevant information available to your country^{4/} and making reference, to the extent that is possible, ...:**

Statistics kept are not specific to corruption. Production of such statistics will require an analysis of past and present case files. St. Kitts and Nevis undertakes to provide this information at the time of the on site visit.

- D) **For each of the oversight bodies selected in the response to question B), briefly report on difficulties encountered in preventing, detecting, and punishing corrupt acts of relevance in consideration of their functions and, if applicable, identify specific technical cooperation needs.**

St. Kitts and Nevis undertakes to provide this information at the time of the on site visit.

- E) **If so desired, report on no more than one best practice developed in connection with the duties of each of the oversight bodies selected in the response to question B) that you wish to share with the other MESICIC member countries, using, to the extent deemed appropriate, the suggested standard form offered as a guideline for presenting that information and attached to this questionnaire (Annex II).**

St. Kitts and Nevis undertakes to provide this information at the time of the on site visit.

SECTION III

INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

(a) State Party: St. Kitts and Nevis

(b) The official to be consulted regarding the responses to the questionnaire is:

Mrs. Simone Bullen Thompson

Solicitor General

Attorney General's Chambers

NOTE: Statistics compiled are not specific to corruption. An analysis of the records of the various departments will have to be carried out in order to provide same. This information will be provided at the onsite visit once it is available.

ATTACHMENTS

1. The Constitution of the Federation Saint Christopher and Nevis
2. Public Service Act No. 19 of 2011
3. Public Service Regulations- (Recruitment and Appointment of Officers) Code No. 8 of 2014, (Conduct and Ethics of Officers) Codes No. 9 Of 2014, Public Service Standing Orders No. 11 Of 2014
4. Integrity in Public Life, 2013
5. Saint Christopher and Nevis Finance Administration Act, Chapter 20.13
6. Saint Christopher and Nevis Ombudsman Act, Chapter 3.22
7. Saint Christopher and Nevis Audit Act, Chapter 20.01
8. Procurement and Contract (Administration) Act 2012
9. Saint Christopher and Nevis Magistrate's Code of Procedure Act, Chapter 3.17

10. Saint Christopher and Nevis Director of Public Prosecution (Prescribed Age) Act, Chapter 22.03
11. Saint Christopher and Nevis Criminal Procedure Act, Chapter 4.06
12. Code for Prosecutors, Federation of Saint Christopher and Nevis
13. Brochure from the Ombudsman Office