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IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
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BELIZE

FINAL REPORT

(Adopted at the September 12, 2018 Plenary Session)

SUMMARY

This Report contains a comprehensive review of the implementation of the Recommendations that were formulated to Belize in the Report of the Second Round with respect to paragraphs 5 and 8 of Article III of the Inter-American Convention against Corruption, which refer, respectively, to systems of government hiring and procurement of goods and services and for the protection of public servants and private citizens who, in good faith, Report acts of corruption. Reference is also made, when appropriate, to new developments with respect to the implementation of these provisions.

In addition, the Report includes a comprehensive review of the implementation in Belize of paragraphs 3 and 12 of Article III of the Convention, which refer, respectively, to measures intended to create, maintain and strengthen instructions to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities; and a study of further preventive measures that take into account the relationship between equitable compensation and probity in public service. These provisions were selected by the MESICIC Committee of Experts for the Fifth Round.

The review was conducted in accordance with the Convention, the Report of Buenos Aires, the Committee's Rules of Procedure, and the methodologies it has adopted for conducting on-site visits and for the Fifth Round, including the criteria set out therein for guiding the review based on equal treatment for all states parties, functional equivalence, and the common purpose of both the Convention and the MESICIC of promoting, facilitating, and strengthening cooperation among the states parties in the prevention, detection, punishment, and eradication of corruption.

The review was carried out mainly taking into account Belize's Response to the Questionnaire and information gathered during the on-site visit conducted between April 24–26, 2018, by the representative of Grenada, with the support of the Technical Secretariat. During that visit, the information furnished by Belize was clarified and supplemented with the opinions of civil society organizations.

With regard to the implementation of the recommendations formulated to Belize in the Report from the Second Round and with respect to which the Committee, in the Third Round Report, found required additional attention, based on the methodology for the Fifth Round and bearing in mind the information provided by Belize in the Response to the Questionnaire and during the on-site visit, the Committee made a determination as to which of those recommendations had been satisfactorily implemented, which required additional attention, which should be reframed, and which were no longer valid.

Noteworthy progress made with the implementation of those recommendations includes: the Job Classification and Compensation Project; the project to develop the national registry of contractors of goods, services, and works; and the drafting of bills on government procurement.

Some of the recommendations formulated in the Second Round that remain valid or have been reformulated address issues such as developing the different stages that comprise the process of selecting and appointing candidates to posts in the Public Service and workers governed by the Belize Constitution (Government Open Vote Workers) Regulations; adopting provisions and mechanisms that contain clearly defined criteria for the advertisement of hiring opportunities or vacancies in the public service; establishing a national registry of contractors of goods and services, of mandatory use by all State bodies; adopting provisions that facilitate and encourage the participation of citizen oversight mechanisms in monitoring the execution of contracts where their

nature, importance, or magnitude so warrants; and adopting comprehensive regulations to protect public servants and private citizens who in good faith report acts of corruption.

In addition, regarding the new developments in Belize with respect to the implementation of the provisions of the Convention selected for the Second Round, the Committee formulated recommendations, such as adopting the necessary measures to inform candidates applying to enter into the public service of their right to make complaints to the Office of the Ombudsman related to the process of hiring and appointing public service positions; considering amending Regulation 20 of the Public Service Regulations to prevent those engaged under temporary contracts from being appointed to permanent positions in the public service without having been selected through a merit-based system; compiling detailed annual statistics on the results of the selection processes for entry into the public service; adopting the necessary measures, within available resources, for strengthening the Procurement Unit of the Ministry of Finance and ensure that it is provided with the necessary human resources to perform its functions properly; consider abolishing verbal contracting by the State and adopting a law setting out express rules that govern the circumstances and conditions of written goods and services contracts in cases involving natural disasters and emergencies, and that clearly define those terms; adopting pertinent measures within available resources to ensure that the Government Procurement Portal is completed and implemented; adopting the necessary measures, within the available resources, for strengthening the Integrity Commission and ensure that it is provided with the necessary human, financial, and investigative resources to perform its functions properly under the Prevention of Corruption Act.

For the review of the first provisions selected for the Fifth Round that refer to instructions to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities, as set out under Article III, paragraph 3 of the Convention, in keeping with the methodology for this Round, the country under review chose the personnel of the Ministry of the Public Service.

This review was focused on determining, with respect to the selected personnel, if the country under review has adopted provisions and/or measures which ensure the proper understanding of their responsibilities and the ethical rules governing their activities; the manner or occasions in which personnel are provided instructions; the programs in place for them; the bodies responsible for them; as well as the objective results obtained on the implementation of said provisions and/ or measures, taking into account any difficulties and/or weaknesses to achieve the purpose of this provision of the Convention. At the same time, it took note of any difficulties and/or shortcomings in accomplishing the object of that provision of the Convention.

Some of the recommendations formulated to Belize, for its consideration, with respect to this topic, are noted as follows: completing the manual to standardize trainings for personnel in the departments under the purview of the Ministry of the Public Service; establishing a formal training program for personnel of the Ministry of the Public Service in order to ensure that they have a proper understanding of their responsibilities when providing training to personnel of other departments; including in the training programs offered to personnel under the purview of the Ministry of the Public Service modules on inherent corruption risks in the performance of functions; imparting the induction course to public servants of the departments under the purview of the Ministry of the Public Service during their first week of employment, in accordance with Regulation 29(1) of the Public Service Regulations.

In accordance with the aforementioned methodology, the review of the second provision selected for the Fifth Round, as set out under Article III, paragraph 12 of the Convention, sought to determine

whether Belize has studied preventive measures that take into account the relationship between equitable compensation and probity in public service and whether it has established objective and transparent guidelines for determining civil servant remunerations. On that basis, it was recommended that Belize consider, inter alia, consider establishing a legal framework with respect to remuneration policy that establishes objective and transparent criteria to determine fair compensation for public servants in all three branches of government, which could include the designation or establishment of a governing body to supervise compensation.



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

**REPORT ON FOLLOW-UP ON IMPLEMENTATION IN BELIZE OF THE
RECOMMENDATIONS FORMULATED AND PROVISIONS REVIEWED IN THE
SECOND ROUND, AND ON THE PROVISIONS OF THE CONVENTION SELECTED FOR
REVIEW IN THE FIFTH ROUND¹**

INTRODUCTION

1. Content of the Report

- [1] As agreed upon by the Committee of Experts (hereinafter “the Committee”) of the Follow-Up Mechanism for Implementation of the Inter-American Convention against Corruption (“MESICIC”) at its Twenty-Fourth Meeting,² this Report will first refer to follow up on implementation of the recommendations formulated to Belize in the Report from the Second Round,³ and which were deemed by the Committee to require additional attention in the Report from the Third Round.⁴
- [2] Second, where applicable, it will refer to new developments in Belize with regard to the provisions of the Inter-American Convention against Corruption (hereinafter “the Convention”) selected for the Second Round, and regarding such matters as the legal framework, technological developments and results, and, if applicable, appropriate observations and recommendations will be formulated.
- [3] Third, it will address implementation of the provisions of the Convention selected by the Committee for the Fifth Round. Those provisions are contained in paragraphs 3 and 12 of Article III regarding, respectively, measures to establish, maintain, and strengthen “*instructions to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities*”, and “*the study of preventive measures that take into account the relationship between equitable compensation and probity in public service.*”

¹ This draft preliminary report was prepared in accordance with Articles 23(a) and 28 of the Committee’s Rules of Procedure (SG/MESICIC/doc.9/02 rev. 5), and the [Methodology](#) for follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round and for the review of the provisions of the Convention selected for the Fifth Round (SG/MESICIC/doc.438/15 rev. 1) and the format for country reports (SG/MESICIC/doc.439/15 rev.1). These last two documents were adopted by the Committee at its Twenty-Fifth Meeting, held at OAS Headquarters in Washington D.C., United States of America, from March 16-20, 2015.

² See the Minutes of the 24th Meeting of the Committee, available at: http://www.oas.org/juridico/docs/XXIV_min.doc

³ Available at: http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

⁴ Available at: http://www.oas.org/juridico/PDFs/mesicic3_blz_en.pdf

2. Ratification of the Convention and adherence to the Mechanism

- [4] According to the official records of the OAS General Secretariat, Belize ratified the Inter-American Convention against Corruption on August 2, 2002.
- [5] In addition, Belize signed the Declaration on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption on June 9, 2003.

I. SUMMARY OF INFORMATION RECEIVED

1. Response of Belize

[6] The Committee wishes to acknowledge the cooperation that it received throughout the review process from Belize, in particular from the Attorney General's Ministry, which was evidenced, inter alia, in its Response to the Questionnaire, in the constant willingness to clarify or complete its contents, and in the support for the execution of the on-site visit referred to below. Together with its Response, Belize sent the provisions and documents it considered pertinent⁵.

[7] The Committee also notes that Belize gave its consent for the *on-site visit*, in accordance with provision 5 of the *Methodology for Conducting On-site Visits*.⁶ That visit was conducted from April 24-26, 2018 by the representative of Grenada, in his capacity as member of the review subgroup, with the support of the MESICIC Technical Secretariat. The information obtained during that visit is included in the appropriate sections of this Report, and the agenda of meetings is attached hereto, in keeping with provision 34 of the above-mentioned *Methodology*.

[8] For its review, the Committee took into account the information provided by Belize up to April 26, 2018, as well as that furnished and requested by the Technical Secretariat and the members of the review subgroup, to carry out their functions in keeping with the *Rules of Procedure and Other Provisions*;⁷ the *Methodology for follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round and for the review of the provisions of the Convention selected for the Fifth Round*;⁸ and the *Methodology for Conducting On-site visits*.

2. Documents and information received from civil society organizations and/or, inter alia, private sector organizations, professional associations, academics, and researchers

- [9] The Committee did not receive documents from civil society organizations within the time frame established in the schedule for the Fifth Round, as envisaged by Article 34(b) of the Committee's Rules of Procedure.
- [10] Nonetheless, during the course of the on-site visit conducted in the country under review from April 24-26, 2018, information was gathered from civil society and private sector organizations; professional associations; and academics invited to participate in meetings to that end, pursuant to Article 27 of the *Methodology for Conducting On-site Visits*. A list of those persons is included in the agenda for the visit, which is appended hereto. Pertinent parts of this information are reflected in the appropriate sections of this Report.

⁵ Available at: http://www.oas.org/juridico/english/mesicic5_blz.htm

⁶ Available at: http://www.oas.org/juridico/english/met_onsite.pdf

⁷ Available at: http://www.oas.org/juridico/PDFs/mesicic4_rules_en.pdf

⁸ Available at: http://www.oas.org/juridico/PDFs/mesicic5_metodologia_en.pdf

II. FOLLOW UP ON IMPLEMENTATION OF THE RECOMMENDATIONS FORMULATED IN THE SECOND ROUND AND NEW DEVELOPMENTS WITH REGARD TO THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THAT ROUND

- [11] The Committee will first refer to progress made and new information and developments in Belize with respect to the recommendations formulated and measures for their implementation suggested by the Committee in its Report from the Second Round,⁹ that were deemed to require additional attention in the Report of the Third Round,¹⁰ and it will proceed to take note of those that have been satisfactorily considered and those that require additional attention from the country under review. In addition, where appropriate, it will address the continued validity of those recommendations and measures and, as applicable, restate or reformulate them in accordance Section V of the Methodology adopted by the Committee for the Fifth Round.
- [12] In this section, the Committee will, where applicable, take note of any difficulties indicated by the country under review with implementing the recommendations and measures alluded to in the foregoing paragraph and of any technical cooperation requested by the State.
- [13] Second, where applicable, it will refer to new developments in Belize in respect of the provisions of the Convention selected for the Second Round regarding such matters as the regulatory framework, technological developments and outcomes, and will formulate any observations and recommendations that may be applicable.

1. SYSTEMS OF GOVERNMENT HIRING AND PROCUREMENT OF GOODS AND SERVICES (ARTICLE III (5) OF THE CONVENTION)

1.1. SYSTEMS FOR HIRING GOVERNMENT OFFICIALS

1.1.1. Follow up on Implementation of the Recommendations Formulated in the Second Round

Recommendation 1.1:

Consider strengthening the systems of government hiring.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Develop, through the relevant legislative and/or administrative procedures, the different stages that comprise the process of selecting and appointing candidates to posts in the Public Service, by adopting provisions and clearly defined criteria that ensure entry to the public service, always taking into account the principles of openness, equity and efficiency as provided in the Convention.

- [14] In its Response to the Questionnaire,¹¹ the country under review presented information and new developments with respect to the above measure. In that regard, the Committee notes the following as a step that contributes to progress in its implementation:

⁹ Available at: http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

¹⁰ Available at: http://www.oas.org/juridico/PDFs/mesicic3_blz_en.pdf

¹¹ See Response of Belize to the Questionnaire, pp. 10-11, available at: http://www.oas.org/juridico/english/mesicic5_blz.htm

- [15] *“The Government of Belize through the passing of subsidiary legislation in the form of the Public Service Regulation which sets out clearly defined criteria for the selection and appointment of candidates to post in the Public Service. Regulation 19 states, in the performance of its functions relating to appointment of a public officer, the Commission in making determinations for appointment shall consider –*
- (a) the public officer’s medical fitness to perform duties;*
 - (b) the public officer’s educational qualifications;*
 - (c) any special course of training undertaken;*
 - (d) any letters of commendation in respect of special work done;*
 - (e) the public officer’s capabilities with respect to the duties of the vacant post;*
 - (f) any specific recommendation of the Chief Executive Officer;*
 - (g) previous employment;*
 - (h) the police certificate of conduct or vetting report in essential services or special circumstances; and*
 - (i) any additional information which the Commission may require.*
- (2) The Chief Executive Officer shall submit to the Commission in respect of each public officer to be considered for appointment –*
- (a) the certified copies of certificate of educational qualifications;*
 - (b) police certificate of conduct or vetting report in essential services or special circumstances;*
 - (c) a certified copy of social security card issued under the Social Security Act;*
 - (d) letters of recommendation;*
 - (e) copy of medical report;*
 - (f) job description and requirements; and*
 - (g) report from the Interpol check on non-national, if applicable.”*

[16] *“Administrative personnel are recruited through the Public Services Commission on the basis of the Belize Constitution and the Belize Public Service Regulations 2014 made thereunder. Judicial and legal officers, save for the President of the Court of Appeal, Chief Justice, Justices of Appeal and the Director of Public Prosecutions are appointed by the Judicial and Legal Services Commission in accordance with the Belize Constitution, 110F. In cases of promotions/transfers of serving officers, advertisement is not usually given as to the vacancy.”*

[17] During the on-site visit, representatives of the Ministry of Public Service pointed out that, according to Section 106(1) of the Constitution, the Public Services Commission is empowered to appoint persons to hold public service positions, with the exception of positions in the Judicial and Legal Services Commission and in the Security Services Commission. They also said that the review of the provisions of the Public Service Regulations¹² had been completed in 2014 and they referred to Section 19, which includes the criteria mentioned in Belize’s Response to the Questionnaire.

[18] In that regard, the Committee notes that the constitutional provisions concerning government hiring systems were considered by the Committee in the Report on Belize in the Second Round of Review¹³. With regard to the 2014 revision of the Public Service Regulations, the Committee notes that Regulation 18 provides *“the educational or professional qualifications and other*

¹² See Public Service Regulations 2014, available at http://www.oas.org/juridico/PDFs/mesicic5_blz_resp_annex7.pdf

¹³ See Report on Belize from the Second Round, p 3., available at: http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

requirements for appointment to permanent posts in the public service shall be determined by the Chief Executive Officer of the Ministry, after consultation with the appropriate ministry”.

- [19] The Committee also notes that it did not have access to the Selection and Recruitment Manual for the Belize Public Service¹⁴ during the Second Round of Review. The aforementioned Manual was provided as an annex to the Belize’s Response to the Questionnaire and includes sections on notification of vacancies to the Ministry of the Public Service, the vacancy advertisement process, the interview process, and new staff orientation and induction. Its introduction states the following: *“this manual is designed to provide guidelines and procedures to ensure the selection and recruitment of the best available personnel to efficiently and effectively function within the Public Service and contribute to the realization of its stated purpose and goals.”*
- [20] In this context, the Committee finds that although the Selection and Recruitment Manual for the Belize Public Service established a number of stages for the selection and appointment process for candidates to positions in the public service, the Manual, which was published in July 2002, before Belize ratified the Inter-American Convention against Corruption, is out of date. Furthermore, the review of the Public Service Regulations concluded in 2014 did not incorporate the stages encompassing the selection and appointment process for candidates to positions in the public service. In view of the foregoing, the Committee takes note of the need for the country under review to continue to give attention to the implementation of measure (a) of recommendation 1.1 and believes that it would be useful to reformulate it so that it expressly mentions the Public Service Regulations. (See Recommendation 1.1.3.1 in Section 1.1.3 of Chapter II of this Report.)
- [21] In addition, the Committee observes that Regulation 16 of the Public Services Regulations 2014¹⁵ requires the Chief Executive Officer of each Ministry to submit their recommendations for filling vacancies to the Chief Executive Officer of the Ministry of Public Service in accordance with the Selection and Recruitment Manual for the Belize Public Service. In that regard, that Manual¹⁶ requires a justification of the need for filling the vacancy, but not a justification for the candidate's recommendation.
- [22] In this respect, the Committee has formulated similar observations in the Report from the Second Round¹⁷: *“In this regard, the Committee notes that while Regulation 7 of the Public Services Regulations requires the Chief Executive Officer of each respective Ministry to report his recommendation for filling vacancies in that Ministry to the Chief Executive Officer of the Ministry of the Public Service, and while Circular 7 of 2008 requires a detailed justification of the need for the vacancy, there is no requirement, in those cases where a Chief Executive Officer’s recommendation with regard to a vacancy is also accompanied by an identification of the person he recommends to fill the post, for a justification of the reason for that identification. Therefore, the Committee considers that the government hiring process may benefit from the adoption of provisions which impose such a requirement. This is notwithstanding the fact that*

¹⁴ See Introduction on p. 1 of the Selection and Recruitment Manual for the Belize Public Service, available at http://www.oas.org/juridico/PDFs/mesicic5_blz_resp_annex1.pdf

¹⁵ See Section 16 of the Public Service Regulations 2014, available at http://www.oas.org/juridico/PDFs/mesicic5_blz_resp_annex7.pdf

¹⁶ See section headed “Notification of Vacancy” on p. 2 of the Selection and Recruitment Manual for the Belize Public Service, available at http://www.oas.org/juridico/PDFs/mesicic5_blz_resp_annex1.pdf.

¹⁷ See Report on Belize from the Second Round, pp. 6-7, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

the final decision as to who is hired rests exclusively with the Public Services Commission, in accordance with the Constitution and the Public Service Regulations.”

- [23] Accordingly, in order to ensure openness, equity, and transparency in the government hiring system, the Committee believes not only that the selection process should include criteria based on the principle of merit, such as those mentioned in Regulation 19 of the Public Services Regulations 2014, but also that the law should expressly state that the selection will be made based on a system of merit, using objective methods in the personnel recruitment and selection process, such as competitive written examinations, practical examinations, and impartial criteria in interviews. Therefore, the Committee will formulate two recommendations in that regard. (See Recommendations 1.1.3.2 and 1.1.3.3 in Section 1.1.3 of Chapter II of this Report.)
- [24] It also bears noting that during the on-site visit, representatives of the Public Service Union and of the National Trade Union Congress of Belize (NTUCB) said that the recruitment process might be more transparent if the evaluation criteria were made known to candidates.

Measure b) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Examine the existing job descriptions and classifications, in order to determine whether it would be useful to have a single Job Description or Job Classification Manual containing all generic public sector posts

- [25] In its Response to the Questionnaire,¹⁸ the country under review presented information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:
- [26] *“The Job Classification Unit within Ministry of Public Service is currently undergoing the Job Classification and Compensation Project of public officers in the respective ministries, departments and offices. The deadline for completion has been extended to May, 2018”.*
- [27] During the on-site visit, representatives of the Ministry of the Public Service explained that the Job Classification and Compensation Project was in the process of data-collection and analysis of existing positions of employment in the public service. At present, questionnaires are being administered, on-site visits made, and interviews conducted with public servants with a view to evaluating job descriptions.
- [28] In that context, according to representatives of the Ministry of the Public Service, a restructuring was underway of all Ministries, and that once the restructuring was complete, the process of job classification would begin. The officials also said that the project was initially planned to last two years but that it was now in its third year and it was not possible to estimate a date for when it would conclude.
- [29] The Committee observes that, according to the Public Service Selection and Recruitment Manual, the *“Ministry of the Public Service will advise on and assist ministries with the preparation and or review of job descriptions prior to the advertisement of established*

¹⁸ See Response of Belize to the Questionnaire, p. 12, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

*positions. A current list of duties, together with the academic qualifications, specific attributes, skills, knowledge and abilities for the job is to be attached”.*¹⁹

- [30] In that regard, the Committee wishes to recall the reasons for the foregoing recommendation, as set out in the Report from the Second Round of Review:²⁰
- [31] *“In a similar sense, the Committee notes that Regulation 6 of the Public Services Commission Regulations makes Chief Executive Officer, Ministry of the Public Service responsible for determining the educational or professional qualifications and other requirements for appointment to permanent posts in the Public Service, after consultation with the appropriate Ministry and although Circular Memorandum No. 17 of 2007 contains educational and experience requirements for certain categories of posts, there are many public sector posts for which there is no readily available description of those requirements. Accordingly, the Committee considers that it might be useful for Belize to examine the existing job descriptions and classifications, with a view to determining whether having a single document containing the job specification for all generic public sector posts, such as a Job Description or Job Classification Manual, would be useful”*
- [32] In light of the foregoing, the Committee takes note of the steps taken by the country under review to advance in its implementation of measure (b) of the recommendation in Section 1.1.1 in Chapter II of this Report. However, bearing in mind that the Job Classification and Compensation Project has not yet concluded, it also takes note of the need for the country under review to continue to give attention to the measure. (See Recommendation 1.1.3.4 in Section 1.1.3 of Chapter II of this Report.)

Measure c) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt, through the appropriate legislative and/or administrative procedures, provisions and mechanisms that contain clearly defined criteria for the advertisement of hiring opportunities or vacancies in the public service, as well as the time frame in which they should be advertised, and which take into account the use of the mass media, such as newspapers with national circulation and/or websites, among others.

- [33] In its Response to the Questionnaire,²¹ the country under review presented information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:
- [34] *“The Selection and Recruitment Manual for the Belize Public Service sets out clearly defined criteria for the advertisement of hiring opportunities or vacancies in the public service as well as the time frame in which they should be advertised, and which take into account the use of the mass media, such as newspapers with national circulation and/or websites, among others. The manual outlines the advertising process (see page 2 of the attached Selection and Recruitment Manual).”*
- [35] The Committee observes that the Public Service Selection and Recruitment Manual contains the following instructions for the vacancy advertisement process:

¹⁹ See Section headed “Notification of Vacancy” on p. 2 of the Selection and Recruitment Manual for the Belize Public Service, available at http://www.oas.org/juridico/PDFs/mesicic5_blz_resp_annex1.pdf.

²⁰ See Report on Belize from the Second Round, p. 7, http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

²¹ See Response of Belize to the Questionnaire, p. 12, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

- [36] “*Advertisement Process. 1. Prior to advertising a position, the pool of short-listed applicants on record with appropriate qualifications for the position, shall be reviewed first for possible selection and recruitment. This would result in savings both in terms of time and funds where recent advertisements produced several qualified/suitable candidates for similar positions. 2. Advertisements shall be internal for positions where public service experience is required. 3. Advertisements for all other positions shall be placed in the major local newspapers, as well as the Government Gazette to ensure the widest circulation possible, in order to attract a wide enough pool of applicants from which to make a selection. 4. When vacancies are advertised the applicants should be requested to submit documentary evidence of their qualifications together with their applications. This ensures that accurate information is received on candidates to enable proper assessment of suitability and avoid wasting both the applicants’ and the panel’s time. 5. The Ministry of the Public Service shall furnish Ministries with a copy of the advertisements which is to be published and informed of the cost of such which shall be borne by them. 6. Advertisements are normally to be published for two (2) consecutive weeks and applications should be received for one (1) week following the last week of the advertisements. 7. The applications should then be reviewed by an officer competent to assess the applicants’ suitability to be invited to the interview.*”
- [37] During the on-site visit, representatives of the Ministry of the Public Service said that at present, in practice, the majority of vacancies are not advertised in the Government Gazette because it had been privatized and it had become expensive to advertise in that official newspaper, and that some vacancies were advertised in local newspapers and/or the Ministry’s Facebook page.
- [38] To begin with, the Committee observes that, though there are no provisions in the Public Service Regulations on the advertisement of vacancies, Regulation 16 provides that the process for filling vacancies should be carried out in accordance with the Ministry’s Selection and Recruitment Manual, as is mentioned in the section of this Report that addresses measure (a) of recommendation 1.1. At the same time, the Committee also notes that the wording of the Manual’s provisions allows room for discretion and does not require the Ministry of the Public Service to state clear reasons when it is decided not to advertise a vacancy to the general public.
- [39] In addition, the Committee observes that though the Ministry’s Selection and Recruitment Manual provides that vacancies should be advertised in the local press and in the Government Gazette, there are no other rules regarding the use of other communication media, such as the Internet.
- [40] In relation to the length of time for which vacancies in the public service should be advertised, the Committee notes that the language of the provision in the Manual that “*advertisements are normally to be published for two (2) consecutive weeks*” leaves room for discretion and does not require a vacancy to be advertised to the general public for a set time frame. (Emphasis added.)
- [41] In light of the foregoing and bearing in mind the information gathered during the on-site visit, the Committee finds that the current legal framework does not contain clearly defined criteria regarding the specific length of time for which Public Service hiring opportunities or vacancies must be advertised, nor does it envisage use of the Internet. Therefore, the Committee reiterates the need for the country under review to give additional attention to measure (c) of recommendation 1.1 and considers it appropriate to reformulate it by breaking it down into two separate recommendations, given that it contains independent, if related, elements. (See Recommendations 1.1.3.5 and 1.1.3.6 in Section 1.1.3 of Chapter II of this Report.)

- [42] With respect to the Judicial and Legal Services Commission, in its Response to the Questionnaire the country under review provided the following information:²²
- [43] *“Although, some positions are advertised, where not being filled by transfer or promotion, there is no established policy for the advertisement of judicial and legal posts, hence the stated need for regulations for the JLSC. Advertisement is on an ad hoc basis upon the direction of the JLSC.”*
- [44] During the on-site visit, that Commission's representative said that vacancies are simultaneously advertised in Belize as well as through the CARICOM Secretariat and the Commonwealth Secretariat. Furthermore, the representative of the Judicial and Legal Services Commission said that the way in which the Commission proceeds in that regard is guided by the procedures set out in the “Bangalore Principles of Judicial Conduct” and the “Common Law Best Practices”. He also mentioned that there is no specific regulation on hiring of personnel under the authority of the Judicial and Legal Services Commission, which is why they use the provisions of the Public Service Regulations “to the extent possible.”
- [45] In that regard, the Committee feels that it is necessary to adopt rules governing hiring of personnel under the authority of the Judicial and Legal Services Commission, including provisions that expressly stipulate that, as a rule, hiring by the public service should be based on a system of merit, using objective methods in the personnel recruitment and selection process, such as competitive written examinations, practical examinations, and impartial criteria in interviews. The Committee will formulate a recommendation. (See Recommendation 1.1.3.7 in Section 1.1.3 of Chapter II of this Report.)

Measure (d) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt, through the appropriate legislative and/or administrative procedures and in keeping with the principle of due process, provisions for the establishment of administrative challenge mechanisms to clarify, modify or revoke substantial acts that are part of the recruitment and selection procedures in the Public Service, ensuring a timely, objective, impartial, and effective procedure

- [46] In its Response to the Questionnaire,²³ the country under review presented the following information on the above measure:
- [47] *“There is no legislative or administrative procedure dealing with the establishment of administrative challenge mechanism to clarify, modify or revoke substantial acts that are part of the recruitment and selection procedures in the Public Service.”*
- [48] During the on-site visit, representatives of the Ministry of the Public Service and the Public Services Commission confirmed that there were still no administrative challenge mechanisms for hiring and selection procedures in the public service, but that the possibility exists for judicial review of decisions of the public administration.
- [49] The Committee recalls the reason for the recommendation to adopt an administrative challenge mechanism contained in the Report from the Second Round of Review²⁴: *“With respect to*

²² See Response of Belize to the Questionnaire, p. 21, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

²³ See Response of Belize to the Questionnaire, p. 14, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

²⁴ See Report on Belize from the Second Round, p. 7, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

mechanisms for challenging selection decisions, the Committee observes that despite the possibility of judicial review,¹⁶ as well as the possibility of complaints to the Office of the Ombudsman, there is no specific mechanism allowing for complaints and dispute resolution at the administrative level, with respect to selection and recruitment decisions, as well as a written procedure outlining how those challenges or complaints should be resolved.”

[50] In light of the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (d) of the recommendation in Section 1.1.3 of Chapter II of this Report. (See Recommendation 1.1.3.8 in Section 1.1.3 of Chapter II of this Report).

Measure e) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Strengthen the legal provisions regarding the Service Commissions, so that these authorities have the competence to revoke or take other corrective measures when it is found that an appointment process was, among other things, irregular, improper, or made through a fraudulent competition.

[51] In its Response to the Questionnaire,²⁵ the country under review presented information on the above measure, of which the Committee notes the following:

[52] *“The Belize Public Service Regulations and the Belize Constitution are the legal sources. Appeals are to the BAC or by way of administrative actions in the Supreme Court.”*

[53] During the on-site visit, representatives of the Public Services Commission and Ministry of the Public Service confirmed that in cases of fraud in appointment processes, the Commission is vested with the power to remove persons from office, according to Section 106(1) of the Constitution. The officials also said that the Commission has used its power of veto of candidates in cases where the educational qualifications and experience requirements for a position have not been observed or when it is determined for other reasons that the appointment process was conducted improperly.

[54] In addition, during the on-site visit, representatives of the Ministry of the Public Service clarified that Regulation 14 of the Public Service Regulations 2014 provides: *“Only suitably qualified Belizeans or CARICOM nationals shall be eligible for permanent appointment to the public service”*. According to the officials, even though the provision does not clearly reference the powers of the Public Services Commission, it provides the legal basis, in addition to the Constitution, for the Commission to revoke or adopt other corrective measures in relation to appointment processes.

[55] In that context, the Committee recalls the reasons for measure (e) of recommendation 1.1 contained in the Report from the Second Round of Review, which stated that:²⁶

[56] *“In a similar sense, the Committee also notes that there are no provisions which empower the Service Commissions, as the entities responsible for the government hiring system, to take corrective action in the event that an appointment process was, among other things, irregular, improper, or made through a fraudulent competition.*

²⁵ See Response of Belize to the Questionnaire, p. 12, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

²⁶ See Report on Belize from the Second Round, p. 7, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

[57] The Committee notes that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress with the implementation the aforementioned measure contained in the recommendation. In light of the foregoing and bearing in mind the absence of specific provisions in the 2014 revision of the Public Service Regulations relating to the powers of the Public Services Commission in that regard, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (e) of recommendation 1.1. (See Recommendation 1.1.3.9 in Section 1.1.3 of Chapter II of this Report.)

Measure f) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Develop, through the appropriate legislative and/or administrative procedures, the different stages that comprise the process of selecting and appointing workers governed by the Belize Constitution (Government Open Vote Workers) Regulations, by adopting provisions and clearly defined criteria that ensure access to this category of service, and establishing a time limit for the duration of their employment, always taking into account the principles of openness, equity and efficiency as provided in the Convention

[58] In its Response to the Questionnaire,²⁷ the country under review presented information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[59] *“The Belize Constitution (Government Open Vote Workers) Regulations is currently under being revised.”*

[60] In that respect, during the on-site visit, representatives of the Ministry of the Public Service reported that the revision of the Belize Constitution (Government Open Vote Workers) Regulations is expected to conclude by December 31, 2018.

[61] Furthermore, representatives of the Ministry of the Public Service said that though the Belize Constitution (Government Open Vote Workers) Regulations ought to govern the hiring of temporary workers, with time, workers governed by the Regulations have been hired to perform permanent functions. According to the officials, as a result, at present there are government open-vote workers who have been working in the public service for as long as 35 years.

[62] The Committee expressed its position on the hiring system governed by the Belize Constitution (Government Open Vote Workers) Regulations in the Report of the Second Round:²⁸

[63] *“Although these workers are neither a part of the public service, nor are they appointed by one of the service commissions, inasmuch as these workers are government employees and also public servants for the purposes of the Convention, the Committee notes that this category of employee includes employees who are carrying out essentially permanent functions. Similarly, the Committee observes an absence of time limits for the duration of an open vote worker’s employment. Accordingly, the Committee considers that the country under review should consider the advisability of establishing criteria which adequately develop the hiring system for*

²⁷ See Response of Belize to the Questionnaire, p. 17, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

²⁸ See Report on Belize from the Second Round, p. 8, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

this category of employee, and establish time limits for the duration of their employment, based on the principles of openness, equity and efficiency enshrined in the Convention.”

[64] Bearing in mind the foregoing and considering that the review of the Belize Constitution (Government Open Vote Workers) Regulations for incorporating the reforms recommended by the Committee in the Second Round has not yet concluded, the Committee takes note of the progress made and of the need for the country under review to continue to give attention to implementing measure (f) of recommendation 1.1. (See Recommendation 1.1.3.10 in Section 1.1.3 of Chapter II of this Report.)

[65] The Committee also considers it important for the country under review not to hire employees under the Belize Constitution (Government Open Vote Workers) Regulations for the purpose of performing permanent functions. The Committee will make a recommendation to the country under review to that effect. (See Recommendation 1.1.3.11 in Section 1.1.3 of Chapter II of this Report).

Measure g) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Develop, through the appropriate legislative and/or administrative procedures, the different stages that comprise the process of selecting and appointing National Assembly staff, by adopting provisions and clearly defined criteria that ensure access to those positions, always taking into account the principles of openness, equity and efficiency as provided in the Convention.

[66] In its Response to the Questionnaire,²⁹ the country under review presented information on the above measure, of which the Committee notes the following:

[67] *“There has been no development of different stages of selection or appointment of National Assembly Staff. However, the National Assembly Staff (Conditions of Service) Regulations 2003 (“the NASR”), makes provision for the rules of appointment and stipulates a criteria for appointment (see Regulation 3-5 of the NASR). Nevertheless, regulation 15 addresses criteria for appointment. No officer shall be appointed to a post for which he is not qualified (see Regulation 15 of the attached NASR)”*

[68] With respect to the National Assembly Staff (Conditions of Service) Regulations 2003, the Committee, in the Report of the Second Round, noted the following:³⁰

[69] *“Similar to the Public Service Hiring System, the Committee notes that the system of hiring of staff of the National Assembly does not appear to clearly identify and define the different stages of recruitment and selection in the process, which would ensure the openness, equity and efficiency of the process.[...] In addition, unlike the Public Services Regulations, the Staff (Conditions of Service) Regulations, 2003, while stipulating that no one should be appointed for a post for which he is not qualified, and while it requires that the promotion of an officer shall be based (in descending order) on Performance Track Record, Integrity and Experience, there is no similar requirement with respect to appointment of staff.”*

²⁹ See Response of Belize to the Questionnaire, p. 26, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

³⁰ See Report on Belize from the Second Round, p. 8, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

- [70] The Committee also takes note of the difficulty mentioned by the country under review in its Response to the Questionnaire³¹ in relation to the above measure: *“It is difficult to find time to plan as there is no specific schedule for House Meeting.”*
- [71] In that regard, during the on-site visit, the National Assembly representative added that Section 83 of the Constitution provides that *“there shall be a session of the National Assembly at least once in every year [...]”* and that budgetary matters are usually decided in the course of that session of the National Assembly. The aforementioned official confirmed that the fact that the National Assembly did not hold regular sessions was a difficulty that had always existed in Belize.
- [72] The Committee notes that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress with the implementation the aforementioned measure contained in the recommendation. In light of the foregoing and bearing in mind the absence of provisions in the existing law in that regard, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (g) of recommendation 1.1. (See Recommendation 1.1.3.12 in Section 1.1.3 of Chapter II of this Report.)

Measure h) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt, through the appropriate legislative and/or administrative procedures, provisions which provide that the selection and recruitment process for staff of the National Assembly is to be based on merit

- [73] In its Response to the Questionnaire,³² the country under review refers to Regulation 15 of the National Assembly Staff (Conditions of Service) Regulations.
- [74] The Committee notes the following with respect to Regulation 15 of the National Assembly Staff (Conditions of Service) Regulations 2003, as set out in the Report of the Second Round:³³
- [75] *“In addition, the National Assembly Staff (Conditions of Service) Regulations, 2003, provide at Section 3, that the National Assembly Staff Committee makes all permanent appointments in the National Assembly; Section 5 requires the Clerk of the National Assembly to publish the professional qualifications and other requirements for appointment to permanent posts in the National Assembly, after consultation with the Committee; Section 9 requires the Clerk to report vacancies that arise to the Committee, together with his recommendations for filling the post; Section 15(1) provides that no officer shall be appointed or promoted to a post for which he is not qualified an, while Section 15(2) provides that the promotion of officers to fill vacancies shall be approved by the Governor-General or the Committee, and that the decision shall be based on the following factors, in descending order or importance: (a) Performance Track Record; (b) Integrity; and (c) Experience; and Section 18 allows officers who are qualified for a post pursuant to Section 15, to be appointed to act in a vacant post for up to a year, or in a post that is not vacant for a specified period.*

³¹ See Response of Belize to the Questionnaire, p. 27, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

³² See Response of Belize to the Questionnaire, p. 27, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

³³ See Report on Belize from the Second Round, p. 6, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

[76] In this context, the Committee takes note of the difficulty mentioned by the country under review in its Response to the Questionnaire³⁴ with respect to the above measure:

[77] *“One of the difficulties identified in implementing the foregoing recommendation was due to the fact that training has to be done on the job. This is so, because most persons who apply for a post at the National Assembly do not have the requisite Parliamentary experience. The other difficulty that was highlighted was the high turnover rate.”*

[78] In light of the foregoing, the Committee reiterates the need for the country under review to give attention to implementing measure (h) of recommendation 1.1 and it believes that it would be useful to reformulate the measure in order to include the importance of using objective methods in recruitment and selection processes in order to ensure openness, equity, and transparency in the National Assembly hiring system. (See Recommendation 1.1.3.13 in Section 1.1.3 of Chapter II of this Report.)

Measure i) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt, through the appropriate legislative and/or administrative procedures, provisions which require the publication of staff vacancies that arise in the National Assembly.

[79] In its Response to the Questionnaire,³⁵ the country under review presented information on the above measure, of which the Committee notes the following:

[80] *“Regulation 9 of the National Assembly Staff (Conditions of Service) Regulations sets out the procedure for filling vacancies. According to the said Regulation, when a vacancy occurs in a post, the Clerk shall report it to the Committee on the form prescribed in the First Schedule to these Regulations and submit therein his recommendations for filling the post. Vacancies in the National Assembly shall be filled by the Committee, subject to section 5 of the National Assembly Staff Act (a copy of the Act is attached).”*

[81] In that context, the Committee recalls the reasons for measure (i) of recommendation 1.1 contained in the Report from the Second Round of Review, which stated that:³⁶

[82] *“Although Section 5 of the Staff (Conditions of Service) Regulations, 2003 requires publication of the qualification and other requirements for appointment to posts, there is no requirement that vacancies be publicized.”*

[83] The Committee notes that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress with the implementation the aforementioned measure contained in the recommendation. In light of the foregoing, the Committee reiterates the need for the country under review to give additional attention to measure (i) of recommendation 1.1. (See Recommendation 1.1.3.14 in Section 1.1.3 of Chapter II of this Report.)

Measure j) suggested by the Committee that requires additional attention within the Framework of the Third Round:

³⁴ See Response of Belize to the Questionnaire, p. 27, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

³⁵ See Response of Belize to the Questionnaire, p. 27, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

³⁶ See Report on Belize from the Second Round, p. 7, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

Adopt, through the appropriate legislative and/or administrative procedures and in keeping with the principle of due process, provisions for the establishment of administrative challenge mechanisms to clarify, modify or revoke substantial acts that are part of the recruitment and selection procedures for the National Assembly, ensuring a timely, objective, impartial, and effective procedure.

[84] In its Response to the Questionnaire,³⁷ the country under review presented information on the above measure, of which the Committee notes the following:

[85] *“No administrative challenge mechanisms to clarify modify or revoke substantial acts that are a part of the recruitment and selection procedures for the National Assembly has been adopted. However, due to the nature of the function of the National Assembly Staff Committee any substantive acts by the Commission may be subject to the Judicial Review process.”*

[86] In this context, the Committee takes note of the difficulty mentioned by the country under review in its Response to the Questionnaire³⁸ in relation to the above measure:

[87] *“Due to irregular schedule of the meetings of the National Assembly Staff Committee, and the lack of administrative will, the implementation of the foregoing recommendation was not adopted.”*

[88] The Committee notes that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress with the implementation the aforementioned measure contained in the recommendation. In light of the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (j) of recommendation 1.1. (See Recommendation 1.1.3.15 in Section 1.1.3 of Chapter II of this Report.)

Measure k) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Consider disaggregating the results provided by the Ombudsman on complaints received and their resolution, in order to indicate how many of those complaints were based on challenges to the government hiring and selection process.

[89] In its Response to the Questionnaire,³⁹ the country under review presented information on the above measure, of which the Committee notes the following:

[90] *“The Annual Report presented by the Ombudsman even though it makes provision for complaints of this nature does; it does not reflect any such complaints in the various categories of complaints. This is solely because no such complaints were made to the Office of the Ombudsman. [...]*

[91] During the on-site visit, representatives of the Ministry of the Attorney General and of the Ministry of the Public Service mentioned that one difficulty with implementing the measure had to do with the fact that the Office of the Ombudsman has not received any complaints specifically relating to the process of hiring and appointment for public service positions.

³⁷ See Response of Belize to the Questionnaire, p. 29, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

³⁸ See Response of Belize to the Questionnaire, p. 30, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

³⁹ See Response of Belize to the Questionnaire, p. 31, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

[92] In light of the foregoing, the Committee considers that it would be useful to reformulate measure (k) of recommendation 1.1 so that the country under review might consider adopting the necessary measures to inform candidates seeking to enter the Public Service of their right to make complaints to the Office of the Ombudsman regarding the public service hiring and appointment process. (See Recommendation 1.1.3.16 in Section 1.1.3 of Chapter II of this Report.)

[93] In that regard, it is important to mention that during the on-site visit representatives of the Public Service Union and National Trade Union Congress of Belize (NTUCB) said that, generally speaking, the public does not regard the Office of the Ombudsman as an independent entity and that they are unaware of the prerogative to lodge complaints regarding government hiring with the Ombudsman's Office.

1.1.2. **New Developments with Respect to the provisions of the Convention on Systems of Government Hiring**

1.1.2.1. **New Developments with Respect to the Legal Framework**

a) Scope

[94] - The Public Service Regulations, revised in 2014,⁴⁰ contain provisions relating to the government hiring system. Those regulations apply to the Ministry of the Public Service as well as to the entities and public servants under its jurisdiction. Regulation 2 of the Regulations expressly states: *“For the purposes of these Regulations, a reference to an office in the public service shall not be construed as including references to the offices of Prime Minister or other Minister, Minister of State, Speaker or Deputy Speaker or member of the House of Representatives, President or Vice President of the Senate or Senator, members of the Belize Advisory Council, or members of the Commission established under the Belize Constitution, or the Clerk, Deputy Clerk or staff of the National Assembly.”*

[95] In addition, Regulation 3(2) stipulates that the Public Service Regulations do not apply to: *(a) the office of a Justice of Appeal; (b) a public officer appointed under section 107 of the Belize Constitution; (c) a public officer to whom the Government (Open Vote) Workers Regulations apply; (d) the Director of Public Prosecutions; (e) the Auditor General; (f) a Justice of the Supreme Court; or (g) any other category or class of officers to the extent that another enactment provides specifically for the regulation of that category or class of public officers where special Regulations are made in respect of that category or class of officers.*

[96] With respect to the functions of the Ministry of the Public Service, Regulation 4 provides that *“(1) the general functions of the Ministry are to administer and direct the public service and to sustain the integrity of the system by which the public service is governed. (3) The Ministry, in the performance of its functions under subregulations (1) and (2) shall – (a) serve as secretariat to the Commission; [...] (c) determine eligibility criteria for appointment and promotion to posts in the horizontal and technical grades; [...] (k) promote efficient use of human resources; [...] (m) compile and disseminate human resource information and policy decisions; (n) maintain an integrated human resource management information system of personnel records to aid in planning and decision making; [...] (w) assign staff to ministries and departments on principle that immediate family members are not recruited or assigned to the same ministry or department*

⁴⁰ Available at: http://www.oas.org/juridico/PDFs/mesicic5_blz_resp_annex7.pdf

unless such a situation cannot be avoided, and the Chief Executive Officer ensures that professional conduct is maintained.”

[97] With respect to the requirements for government hiring, Regulation 18 provides that “*the educational or professional qualifications and other requirements for appointment to permanent posts in the Public Service shall be determined by the Chief Executive Officer of the Ministry of the Public Service, after consultation with the appropriate Ministry*”. In addition, Regulation 38 (1) provides that “*A public officer shall not be promoted to a post for which he is not qualified.*” Regulation 38 (2) provides that “*the Commission, in considering the promotion of a public officer to fill a vacancy, shall base its decision, in descending order of importance, on the following – (a) in relation to academic qualifications: (i) the educational qualifications and any special qualifications of that public officer; and (ii) the result of special courses of training, which he may have undergone; (b) in relation to performance and merit: (i) the grades and comments made in the performance appraisal report of that public officer; and (ii) any letters of commendation for special work done by that public officer; (c) in relation to integrity and professionalism – (i) an in-depth assessment made by the Chief Executive Officer or head of department as the case may be; and (ii) the public officer’s capability to function efficiently in the post which he is seeking to fill; (d) in relation to experience and employment history – (i) the employment history of that public officer; and (ii) the general fitness of that public officer; (e) the level of seniority of the public officer compared to other public officers in the hierarchy; and (f) any other report or information which the Commission may require.*”

[98] With respect to the temporary relieving public officers, Regulation 17 provides that “*(1) the Ministry responsible for Finance, on the recommendation of the Ministry, may approve the temporary employment of a person for a specific period of time against a permanent post to which a public officer is appointed. (2) A temporary employment under subregulation (1) shall – (a) occur during a period of absence of the public officer who holds the permanent post; and (b) be governed by the Government (Open Vote) Workers Regulations*”

[99] In that context, Regulation 20 provides: “*(1) where a person is employed on a temporary basis against a vacant post, subject to subregulation (2) he shall be appointed within six months of employment if his performance is satisfactory. (2) For the purpose of subregulation (1), the head of department shall conduct an in-depth assessment of the public officer’s performance at the end of the first three months and that assessment shall be considered in the determination of appointment to a vacant post.*”

b) Observations

[100] The Committee would like to recognize the new regulatory measures adopted by the country under review to continue to push forward with the creation, maintenance, and strengthening of its systems of government hiring as referred to in Article III (5) of the Convention.

[101] Having said that, it believes it useful to make a number of comments regarding the advisability of strengthening, developing, and/or adapting certain provisions that have to do with those new developments, complementing the observations made by the Committee on the Public Service Regulations 2014 in Section 1.1.1. above in relation to the follow-up on implementation of the recommendations made to the country under review in the Report from the Second Round.

[102] The Committee observes that, according to Regulation 20 of the Public Service Regulations 2014, a person may be appointed to fill a vacancy permanently when they have been hired on a temporary basis and after their first three months, they receive a satisfactory performance evaluation. The

Committee considers that this practice enables people to enter the public service without taking part in an external competition, which would not appear to be consistent with the principles of openness, equity and transparency as set out in the Convention. Therefore, also bearing in mind that competence should be maintained as a requirement for entry to the public service through a meritocratic system, the Committee will make a recommendation to the country under review that it consider amending Regulation 20 of the Public Service Regulations 2014. (See Recommendation 1.1.3.17 in Section 1.1.3 of Chapter II of this Report.)

1.1.2.2. **New Developments with Respect to Technology**

[103]The country under review did not provide any information on new developments with respect to technology either in its Response or during the on-site visit.

1.1.2.3. **Results**

[104]Neither in its Response to the Questionnaire, nor during the on-site visit, did the country under review provide any information about results in relation to government hiring or about challenges to decisions relating to selection processes. Bearing in mind the foregoing, the committee will make a recommendation to the country under review that it consider preparing detailed statistics compiled on an annual basis on the results of selection processes for public officials and on administrative and judicial challenge processes for clarification, modification, or revocation of substantive decisions adopted in public service recruitment and selection procedures. (See Recommendations 1.1.3.18 and 1.1.3.219 in Section 1.1.3 of Chapter II of this Report.)

1.1.3. **Recommendations**

[105]In light of the comments made in Sections 1.1.1 and 1.1.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

- 1.1.3.1. Consider including in the Public Service Regulations provisions on the different stages of the selection and appointment process for candidates to positions in the public service, always taking into account the principles of openness, equity and efficiency as provided in the Convention. (See paragraph 20 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.2. Consider adopting, through the appropriate legislative procedures, provisions that expressly stipulate that, as a rule, hiring by the public service should be based on a system of merit and ensure that those norms are enforced. (See paragraph 23 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.3. Adopt, through the appropriate legislative and/or administrative procedures, rules making it compulsory to use objective methods in public service personnel recruitment and selection processes, such as competitive written examinations, practical examinations, and impartial criteria in interviews, as well as a master score sheet, disclosed in the application documents, assigning a score range for each stage, based on the evaluation guidelines. (See paragraph 23 in Section 1.1.1 of Chapter II of this Report.)

- 1.1.3.4. Examine the existing job descriptions and classifications, in order to determine whether it would be useful to have a single Job Description or Job Classification Manual containing all generic public sector posts (See paragraph 32 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.5. Consider adopting, through the appropriate legislative procedures, provisions and mechanisms that establish the specific period of time for which hiring opportunities or vacancies in the public service should be advertised and ensure that they are made public. (See paragraph 41 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.6. Ensure that when a position opens in the public service, the Ministry of the Public Service is required to advertise the vacancy in major local newspapers and on its website, within available resources. (See paragraph 41 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.7. Consider adopting, through the appropriate legislative procedures, provisions governing hiring of personnel under the authority of the Judicial and Legal Services Commission that expressly stipulate that, as a rule, recruitment and selection shall be based on a system of merit, and ensure that those rules are enforced by adopting objective methods in personnel recruitment and selection processes, such as competitive written examinations, practical examinations, and impartial criteria in interviews. (See paragraph 45 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.8. Adopt, through the appropriate legislative or administrative procedures and in accordance with the principle of due process, provisions for establishing administrative challenge mechanisms for clarification, modification, or revocation of substantial acts adopted in public service recruitment and selection procedures, which guarantee a prompt, objective, impartial, and effective proceeding. (See paragraph 50 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.9. Strengthen the legal provisions regarding the Service Commissions, so that these authorities have the competence to revoke or take other corrective measures when it is found that an appointment process was, among other things, irregular, improper, or made through a fraudulent competition (See paragraph 57 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.10. Develop, through the appropriate legislative and/or administrative procedures, the different stages that comprise the process of selecting and appointing workers governed by the Belize Constitution (Government Open Vote Workers) Regulations, by adopting provisions and clearly defined criteria that ensure access to this category of service, and establishing a time limit for the duration of their employment, always taking into account the principles of openness, equity and efficiency as provided in the Convention (See paragraph 64 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.11. Adopt the necessary measures to ensure that employees hired under the Belize Constitution (Government Open Vote Workers) Regulations do not perform permanent functions. (See paragraph 65 in Section 1.1.1 of Chapter II of this Report.)

- 1.1.3.12. Consider including in the National Assembly Staff (Conditions of Service) Regulations provisions on the different stages of the candidate selection and appointment process, always taking into account the principles of openness, equity, and efficiency, as provided in the Convention. (See paragraph 72 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.13. Consider adopting, through the appropriate legislative procedures, provisions that expressly stipulate that, as a rule, the hiring of staff of the National Assembly shall be based on a system of merit, and ensure that those rules are enforced by adopting objective methods in personnel recruitment and selection processes, such as competitive written examinations, practical examinations, and impartial criteria in interviews. (See paragraph 78 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.14. Develop, through the appropriate legislative and/or administrative procedures, provisions requiring the advertisement of job vacancies that arise in the National Assembly. (See paragraph 83 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.15. Adopt, through the appropriate legislative and/or administrative procedures and in keeping with the principle of due process, provisions for the establishment of administrative challenge mechanisms to clarify, modify or revoke substantial acts that are part of the recruitment and selection procedures for the National Assembly, ensuring a timely, objective, impartial, and effective procedure. (See paragraph 88 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.16. Adopt the necessary measures to inform candidates applying to enter into the public service of their right to make complaints to the Office of the Ombudsman related to the process of hiring and appointing public service positions. (See paragraph 92 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.17. Consider amending Section 20 of the Public Service Regulations to prevent those engaged under temporary contracts from being appointed to permanent positions in the public service without having been selected through a merit-based system, which would not be consistent with the principles of openness and equity recognized in the Convention. (See paragraph 102 in Section 1.1.1 of Chapter II of this Report.)
- 1.1.3.18. Compile detailed annual statistics on the results of the selection processes for entry into the public service, in such a way as to show clearly the number and percentage of public servants for each of these modalities: merit-based external competitions; internal selection processes (broken down in order to indicate the number and percentage of vacancies that require prior experience in the public service); fixed-term contracts; temporary appointments; permanent appointments (broken down in order to indicate the number and percentage of appointments made under Section 20 of the Public Services Regulations 2014) and personnel governed by the Government (Open Vote) Workers Regulations, in order to identify challenges and recommend corrective measures where appropriate. (See paragraph 104 in Section 1.1.1 of Chapter II of this Report.)

- 1.1.3.19. Compile detailed annual statistics on administrative and judicial processes, in such a way as to show clearly the number and percentage of administrative and judicial complaints and appeals filed against decisions against the outcomes of selection processes, in order to identify challenges and recommend corrective measures where appropriate. (See paragraph 104 in Section 1.1.1 of Chapter II of this Report.)

1.2. GOVERNMENT SYSTEMS FOR THE PROCUREMENT OF GOODS AND SERVICES

1.2.1. Follow-Up to the Implementation of the Recommendations Formulated in the Second Round

Recommendation 1.2.1:

Consider strengthening the government systems for the procurement of goods and services.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt provisions which define the different stages that constitute the procurement process, and which include selection criteria, time frames, and which identify the entity responsible for making contract award decisions.

[106]In its Response to the Questionnaire,⁴¹ the country under review presented information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[107]“*There are no clear legislative provisions which set out the different stages of the procurement process. However, under the Finance and Audit (Reform) Act, Chapter 15 of the Substantive Laws of Belize, Re 2011 (“the Act”), Part IV addresses “Government Procurement and Sale Contracts”. Under the aforementioned Act, (see the attached copy) provisions are made for the open, selective and limited tender procedure. Each tender procedure sets out the requirements to be fulfilled by the entity responsible for making contract awards. For example, under the Open Tender Process, this includes the need to publish the conditions of participation in a timely manner and in a time frame that allows full participation by all interested parties, ensuring that the conditions of participation are not discriminatory in nature amongst others (see s. 19 of the Act). The Act also provides for a selection criteria, for example a supplier and purchaser will be ineligible in cases of bankruptcy, if convicted of a criminal offence relating to the conduct of his business or profession (see s.19(2)). Additionally, s, 19(3)(c) of the Act identifies the Government, through its respective Ministries as the entity responsible for making contract award decisions.*”

[108]During the on-site visit the representative of the Ministry of Finance mentioned that some sections of the Finance and Audit (Reform) Act of 2005 relating to government procurement of goods and services had been amended in 2011, but not specifically the provisions that outline the different stages of the procurement process. The official also said that efforts were ongoing

⁴¹ See Response of Belize to the Questionnaire, p. 32, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

with a view to adopting the CARICOM Model Public Procurement Bill,⁴² which would replace the public procurement section of the Finance and Audit (Reform) Act.

- [109] In addition to the CARICOM Model Public Procurement Bill, the representative of the Ministry of Finance also presented the “Draft Public Procurement Procedures Handbook”; the “Framework Regional Integration Policy on Public Procurement”; the “Working Document for the Forty-Fourth Meeting of the Council for Trade and Economic Development (COTED)”; and the draft “Procurement Standard Operating Procedure”, which refers to *“the establishment of procedures and requirements by procuring entities for procurement of goods, services or works of an estimated value above the relevant threshold [...], to facilitate and guide the full integration of a unified and open Caribbean Community single market”*.
- [110] According to the representative of the Ministry of Finance, in July 2018 *“the Hon. Prime Minister is expected to attend the Heads of Conference of CARICOM where the Protocol on Government Procurement is expected to be approved. By signing this protocol the GOB would be agreeing to enact the new Public Procurement Bill as well as the Standard Operating Procedures, Standard Bidding Documents, use of the CARICOM Notice Board, creation of a Register of Suppliers, and other related reforms.”*
- [111] Furthermore, the representative of the Ministry of Finance said that the Government of Belize also uses the goods and services procurement rules of international organizations, such as the World Bank and the Inter-American Development Bank, in projects financed by those institutions.
- [112] In light of the foregoing, the Committee takes note of the steps taken by the country under review to advance in its implementation of measure (a) of the recommendation in Section 1.2.1 in Chapter II of this Report. However, bearing in mind that provisions have not yet been adopted that outline the different stages of the procurement process, it also takes note of the need for the country under review to continue to give attention to the measure. (See Recommendation 1.2.3.1 in Section 1.2.3 of Chapter II of this Report.)
- [113] In this context, the Committee takes note of the difficulty mentioned by the country under review in its Response to the Questionnaire⁴³ in relation to the above measure:
- [114] *“The difficulties encountered in the implementation of the foregoing recommendation were generally capacity oriented in relation to the monitoring and implementation of the respective tendering procedure requirements”*.
- [115] During the on-site visit, the representative of the Ministry of Finance explained that five officials from that Ministry received training from the Inter-American Development Bank in matters relating to the public procurement process, such as bid evaluation. He also noted the importance that training be provided to other public servants in charge of tenders and contracts for works, goods, and services.
- [116] In that regard, the Committee will make a recommendation to the country under review to adopt the necessary measures so that, subject to the availability of resources, training, whether on-site and/or distance, is provided free of charge and on a regular basis to all public servants and officials in charge of tenders and contracts for works, goods, and services. (See Recommendation 1.2.3.2 in Section 1.2.3 of Chapter II of this Report)

⁴² See CARICOM Model Public Procurement Bill, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁴³ See Response of Belize to the Questionnaire, p. 32, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

Measure b) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt provisions which establish objective selection criteria in the evaluation of bids

[117] The country under review, with respect to the aforementioned measure, presented the following information in its Response to the Questionnaire⁴⁴ :

[118] *“No provisions have been adopted that establishes objective selection criteria in the evaluation of bids. However, the current ad hoc practice is to employ a criteria based on international standards depending on the type of contract in question.”*

[119] During the on-site visit, the representative of the Ministry of Finance mentioned that the normal selection criteria for evaluating bids is price. At the same time, he said that although there were no express provisions establishing selection factors and criteria, in practice, consideration was starting to be given to the most advantageous bid, which includes other types of criteria, such as goods and services that take into account environmental and labor aspects, and in the case of procurement for equipment, for example, if there were spare parts and/or warranties for the equipment.

[120] In this context, the Committee notes that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide new information illustrating progress with the adoption of provisions that establish selection factors and criteria for the evaluation of bids. Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure b) of the recommendation 1.2.1 (See Recommendation 1.2.3.3 in Section 1.2.3 of Chapter II of this Report)

Measure c) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Review Section 20 of the Finance and Audit (Reform) Act of 2005, in order to ensure that in those instances where limited tendering is used, that the government sees to it that there are an adequate number of potential suppliers to ensure competition, as required by Section 20(1) thereof.

[121] With respect to the aforementioned measure, in its Response to the Questionnaire,⁴⁵ the country under review presented the following information:

[122] *“No specific action has been taken to implement the above recommendation. The limited tender procedure, under s.21 of the Act does not require Government to ensure that there is enough suppliers and purchaser to ensure competition as provided for in s. 20 (1) of the Act”*

[123] The Committee wishes to recall the reasons for measure (c) of the foregoing recommendation as set out in the Report from the Second Round of Review.⁴⁶

[124] *“With respect to Section 20 of the Act, which inter-alia, provides guidelines for an instance of selective tendering, the Committee observes, that Section 20(3) allows the Government, in the event that a permanent list of qualified suppliers is maintained, to select the supplier from that*

⁴⁴ See Response of Belize to the Questionnaire, p. 33, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁴⁵ See Response of Belize to the Questionnaire, p. 35, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁴⁶ See Report on Belize from the Second Round, p. 13, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

list and award the contract accordingly. The Committee is concerned that this provision would appear to allow for the direct award of a contract to a particular supplier without competition, and would seem to contradict with Section 20(1), which requires the Government to ensure that the number of applicable suppliers is sufficient to ensure competition. The Committee will formulate a recommendation in this regard. (See Recommendation 1.2(c) in Section III of this report)”

[125] The Committee notes that, according to section 38 of the draft Procurement Standard Operating Procedure, “38.2 *Procuring entities may limit the number of suppliers that they will invite to tender, by applying selection criteria, provided the minimum number of qualified candidates is available (short – listing)* 38.3 *The contracting authorities shall indicate, in the procurement notice or in the tender documents the objective and non-discriminatory criteria or rules they intend to apply for short - listing, the minimum number of suppliers they intend to invite and, where appropriate, the maximum number.* 38.4 *The minimum number of suppliers to be invited shall be five. In any event the number of suppliers invited shall be sufficient to ensure genuine competition.*”

[126] In that regard, the Committee observes that Sections 20(1) and 20(3) of the Finance and Audit Act were not modified during that Act’s reform in 2011 and that the Procurement Standard Operating Procedure has yet to come into force.

[127] Taking into account that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress in the review of Section 20 of the Finance and Audit (Reform) Act, the Committee reiterates the need for the country under review to give additional attention to measure (c) of Recommendation 1.2.1. (See Recommendation 1.2.3.4 in Section 1.2.3 of Chapter II of this Report)

Measure d) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Examine the need to adopt provisions which either: require a justification of the decision to resort to limited tendering based on extreme urgency or public interest, as provided for by Sections 21(1)(d) of the Finance and Audit (Reform) Act of 2005, or national emergency, as provided for by Section (21)(1)(h)(i) of the same law; or which define those terms.

[128] In its Response to the Questionnaire,⁴⁷ the country under review presented the following information with respect to the aforementioned measure:

[129] “*There have been no specific actions to implement the above recommendation. There is no provision requiring a justification for resorting to the limited tendering process. Additionally, the interpretation section does not provide a definition for the terms “extreme urgency or public interest” or “national emergency”.*”

[130] In that regard, the Committee observes that, although the Finance and Audit (Reform) Act was reformed in 2011, no changes were made to Sections 21(1)(d) or (21)(1)(h)(i) of the Act. Therefore, measure (d), as formulated in the Second Round of Review, remains valid.

[131] Given the foregoing, the Committee notes that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes

⁴⁷ See Response of Belize to the Questionnaire, p. 35, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

progress with the implementation of measure (d) of Recommendation 1.2.1. In light of the foregoing, the Committee reiterates the need for the country under review to give additional attention to that recommendation. (See Recommendation 1.2.3.5 in Section 1.2.3 of Chapter II of this Report)

Measure e) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt provisions which provide clear selection procedures where the limited tendering procedure is used, and which also require a written justification for the use of this procurement method.

[132]In its Response to the Questionnaire,⁴⁸ the country under review presented the following information:

[133]“No provisions have been adopted that provide for a clear selection procedure after the decision has been made to use the limited tendering procedure. Additionally, there is no provision which requires a justification for using the limited tendering procedure, provisions is made for the circumstances in which Government may use the limited tendering procedure (see s.21 of the Act).”

[134]During the on-site visit, the representative of the Ministry of Finance reported that, depending on the type of goods or services procurement, there were very few suppliers in Belize. According to him, with the approval of the CARICOM Model Public Procurement Bill, it was hoped to see increased transparency, accountability, and competition in public procurement processes, given that are put of a certain value, all tenders will be open to participation for other CARICOM member countries.

[135]In light of the foregoing, the Committee finds that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress in the implementation of measure (e) of Recommendation 1.2.1 and it reiterates the need for the country under review to give additional attention to that recommendation. (See Recommendation 1.2.3.6 in Section 1.2.3 of Chapter II of this Report)

Measure f) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt provisions which clarify what is meant by day-to-day operations of government, as used in Section 21(1)(h)(ii) of the Finance and Audit (Reform) Act of 2005, in order to ensure that goods and services related to recurring expenses are procured competitively, where appropriate.

[136]With respect to the aforementioned measure, in its Response to the Questionnaire,⁴⁹ the country under review presented the following information:

[137]“No provisions have been adopted that clarify what is meant by day to day operations of government. However, through established best practices recurring expenses are procured competitively whenever appropriate.”

⁴⁸ See Response of Belize to the Questionnaire, p. 35, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁴⁹ See Response of Belize to the Questionnaire, p. 35, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

[138]Regarding the expression “day-to-day operations of government,” the Committee wishes to recall the reasons for measure (f) of the foregoing recommendation as set out in the Report from the Second Round of Review:⁵⁰

[139]“Similarly, with respect to Section 21(1)(h), the Committee notes that at subparagraph 21(1)(h)(ii), it provides for goods or services used for day-to-day government operations to be acquired through limited tendering. In this regard, the Committee is concerned that the absence of a definition of what constitutes day-to-day government operations, may allow for too much discretion as to when this type of procurement procedure is used for this purpose. In addition, while certain small purchases may need to be acquired by the government as a need arises, it might be preferable for other recurring expenses, such as the case of office supplies, to be acquired through competitive means.”

[140]In that regard, the Committee observes that, although the Finance and Audit Act was reformed in 2011, no changes were made to Sections 21(1)(h) or (21)(1)(h)(ii) of the Act.

[141]Bearing in mind that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress in the implementation of measure (f) of Recommendation 1.2.1, the Committee reiterates the need for the country under review to give additional attention to that recommendation. (See Recommendation 1.2.3.7 in Section 1.2.3 of Chapter II of this Report)

Measure g) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt provisions which require publication of tender opportunities, including the conditions for participation therein, and the time, method and place for the submission of bids.

[142]In its Response to the Questionnaire,⁵¹ the country under review reported: “Each tender procedure sets out the requirements to be fulfilled by the entity responsible for making contract awards. For example, under the Open Tender Process, this includes the need to publish the conditions of participation in a timely manner and in a time frame that allows full participation by all interested parties, ensuring that the conditions of participation are not discriminatory in nature amongst others (see s. 19 of the Act).”

[143]In that regard, the Committee notes that the provisions contained in Section 19(1) of the Finance and Audit (Reform) Act relating to open tender procedures were considered by the Committee in the Report on Belize in the Second Round of Review and that they were not modified in the reform to that Act in 2011:

[144]“With respect to this form of procurement, Section 19 establishes various requirements that must be met by the Government, such as, inter-alia, ensuring that all conditions for participation in the tendering procedure as well as the qualification procedures are published adequately in advance so as to allow interested suppliers to participate and complete the qualification procedure (Section 19(1)(a)); ensuring that the conditions for participation in the tendering process are limited to those necessary to ensure the supplier’s capacity to perform the contract (Section 19(1)(b)); ensuring that the conditions for participation do not

⁵⁰ See Report on Belize from the Second Round, p. 14, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

⁵¹ See Response of Belize to the Questionnaire, p. 35, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

discriminate against applicable suppliers (Section 19(1)(c)); ensuring that qualified suppliers be included in any permanent list of qualified suppliers maintained by the Government, within a reasonable time (Section 19(1)(h)); and ensuring that any supplier included in any such list be notified as soon as possible if the list ceases to be used or if his name is removed therefrom (Section 19(1)(j). [...]The Committee also observes an absence of provisions which require publication of tender opportunities in the appropriate media, the conditions for participation therein, and the time, method and place for the submission of bids.”⁵²

[145]During the on-site visit, the representative of the Ministry of Finance said that open tender opportunities are advertised weekly in newspapers and that the Government Procurement Portal is currently being developed on the Ministry's website for the online publication of such tender opportunities.

[146]Taking into account that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress in the adoption of provisions that require publication of tender opportunities, the Committee reiterates the need for the country under review to give additional attention to measure (g) of Recommendation 1.2.1. (See Recommendation 1.1.3.8 in Section 1.2.3 of Chapter II of this Report.)

Measure h) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Examine the possibility of publishing, when appropriate, pre-bidding terms and conditions so that interested parties can find out about them and submit comments thereon.

[147]In its Response to the Questionnaire,⁵³ the country under review reported that “*no specific actions have been carried out to implement the above recommendation.*”

[148]The Committee wishes to recall that the reason for measure (h) in the foregoing recommendation as set out in the Report from the Second Round of Review was to enhance transparency in the procurement process.⁵⁴

[149]Bearing in mind that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress in the implementation of measure (h) of Recommendation 1.2.1, the Committee reiterates the need for the country under review to give additional attention to that recommendation. (See Recommendation 1.1.3.9 in Section 1.2.3 of Chapter II of this Report.)

Measure i) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Consider the introduction of electronic procurement systems, on an incremental basis, so that goods and services may be acquired through those means.

⁵² See Report on Belize from the Second Round, p. 14, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

⁵³ See Response of Belize to the Questionnaire, p. 40.

⁵⁴ See Report on Belize from the Second Round, p. 13, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

[150]In its Response to the Questionnaire,⁵⁵ the country under review reported that “*no specific actions have been carried out to implement the above recommendation*”.

[151]During the on-site visit, the representative of the Ministry of Finance said that the CARICOM Secretariat was working with the European Union to develop an electronic procurement system for member countries, but that Belize had not been included in the first phase the project. In that regard, the official said that there was no estimated timeframe for the project's implementation in Belize, as that depended on the available financial resources.

[152]In this context, the Committee wishes to recall the reasons for measures (i) and (j) of the foregoing recommendation as set out in the Report from the Second Round:⁵⁶

[153]“[...] *the Committee is of the view that the use of electronic methods and information systems for government procurement assists in adequately informing the public and ensuring openness, and therefore considers that Belize could consider the use of electronic means to provide information regarding procurement, including the status of bids and awards and the progress of major projects. Additionally, the Committee considers that use of an electronic procurement system in order to carry out the contracting needs of the State might be advantageous.*”

[154]In light of the foregoing, the Committee finds that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress in the implementation of measure (i) of Recommendation 1.2.1 and, therefore, it reiterates the need for the country under review to give additional attention to that recommendation. (See Recommendation 1.1.3.10 in Section 1.2.3 of Chapter II of this Report.)

Measure j) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Strengthen and increase the scope of use of electronic forms of communication, such as the Internet, for publicizing the tender and consulting opportunities, status of bids and awards and the progress in the execution of major projects.

[155]In its Response to the Questionnaire,⁵⁷ the country under review reported that “*no specific actions have been carried out to implement the above recommendation*”.

[156]As mentioned above, during the on-site visit, the representative of the Ministry of Finance stated that the Government Procurement Portal is currently being developed on the Ministry's website for the online publication of such tender opportunities, as well as for publishing the list of contract awardees.

[157]Bearing in mind that the project for strengthening and increasing the scope of use of electronic forms of communication has yet to be implemented, the Committee takes note of the need for the country under review to give additional attention to measure (j) of recommendation 1.2.1. (See Recommendation 1.2.3.11 in Section 1.2.3 of Chapter II of this Report.)

⁵⁵ See Response of Belize to the Questionnaire, p. 41.

⁵⁶ See Report on Belize from the Second Round, p. 14, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

⁵⁷ See Response of Belize to the Questionnaire, p. 43, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

Measure k) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Establish a national registry of contractors of goods and services, of mandatory use by all State bodies, which contemplates the possibility of ensuring that the registry also include a list of sanctioned contractors, in order to foster the principles of openness, equity and efficiency provided for in the Convention.

[158] In its Response to the Questionnaire,⁵⁸ the country under review reported that “no specific actions have been carried out to implement the above recommendation”.

[159] During the on-site visit, the representative of the Ministry of Finance explained that a national registry of contractors of goods, services, and works was under development and that the project was in the process of gathering information on the country's suppliers by region. According to the official, with the adoption of the CARICOM Model Public Procurement Bill, implementation of the national registry of suppliers will become mandatory for all government bodies and entities in Belize.

[160] In addition, the Committee takes note of the difficulty mentioned by the country under review in its Response to the Questionnaire in relation to the above measure:⁵⁹

[161] *“The difficulty encountered in the implementation of the foregoing recommendation is due to the fact that due consideration is being given to adopt the CARICOM Model Law on Public Procurement, which has an entire section on Suppliers Register”.*

[162] In this context, the Committee wishes to recall the reasons for measures (k) of the foregoing recommendation as set out in the Report from the Second Round:⁶⁰

[163] *“[...] with respect to the use of a registry of contractors, the Committee believes that the country under review should consider the advisability of creating a centralized registry of contractors of works, goods and services. This registry should be compulsory for all State bodies and dependencies, its purpose being to foster the principles of openness, equity and efficiency provided for in the Convention. The Committee also suggests that the country under review consider granting to a public body the authority to exclude and/or sanction any contractor, for a certain period of time, from the proposed registry, as circumstances may warrant. There could, for example, be provisions outlining the reasons for an intended exclusion or sanction. This body should also maintain a list of sanctioned contractors.”*

[164] In light of the foregoing, the Committee takes note of the steps taken by the country under review to advance in its implementation of measure (k) of the recommendation in Section 1.2.1 in Chapter II of this Report. However, bearing in mind that the national registry of contractors of works, goods and services has yet to be implemented, it also takes note of the need for the country under review to continue to give attention to the measure. (See Recommendation 1.2.3.12 in Section 1.2.3 of Chapter II of this Report.)

⁵⁸ See Response of Belize to the Questionnaire, p. 44, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁵⁹ See Response of Belize to the Questionnaire, p. 45, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁶⁰ See Report on Belize from the Second Round, pp. 14-15, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

Measure l) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Implement provisions that require prior planning sufficiently in advance of the launch of largescale or specialized procurement process, such as the preparation of studies, designs and technical evaluations.

[165]In its Response to the Questionnaire,⁶¹ the country under review reported that “*no specific actions have been carried out to implement the above recommendation*”.

[166]During the on-site visit, the representative of the Ministry of Finance said that the Ministry of Economic Development is responsible for planning large-scale projects, coordinating the Public Sector Investment Program (PSAP), and carrying out feasibility studies for such projects.

[167]In this context, the Committee wishes to recall the reasons for measures (l) of the foregoing recommendation as set out in the Report from the Second Round:⁶²

[168] “*The Committee also observes that there are no provisions in place which require prior planning sufficiently in advance of the launch of large-scale or specialized procurement processes, such as the preparation of studies, designs and technical evaluations. The Committee considers that the adoption of provisions that require prior planning would help to ensure the openness, equity and efficiency of the procurement system.*”

[169]In light of the foregoing, the Committee finds that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress in the adoption of provisions that require prior planning sufficiently in advance of the launch of large-scale or specialized procurement processes and, therefore, it reiterates the need for the country under review to give additional attention to measure (l) of recommendation 1.2.1. (See Recommendation 1.1.3.13 in Section 1.2.3 of Chapter II of this Report.)

Measure m) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt provisions that facilitate and encourage the participation of citizen oversight mechanisms in monitoring the execution of contracts where their nature, importance, or magnitude so warrants

[170]In its Response to the Questionnaire,⁶³ the country under review reported that “*no provisions have been adopted that provides for any citizen oversight mechanisms in monitoring the execution of contracts.*”

[171]During the on-site visit, the representative of the Ministry of Finance mentioned that strengthening the Office of the Contractor General, the entity responsible for the monitoring and implementation of government contracts, is essential for oversight of the execution of large-scale contracts. In that regard, the official reiterated the need to increase the staff of the Office of the Contractor General, including engineers and architects responsible for supervision of public works.

⁶¹ See Response of Belize to the Questionnaire, p. 44, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁶² See Report on Belize from the Second Round, p. 15, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

⁶³ See Response of Belize to the Questionnaire, p. 44, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

[172]Regarding the need to provide the Office of the Contractor General with human and financial resources, the Committee refers to this matter in Section 1.2.3 on New Developments, in Chapter II of this Report.

[173] In light of the foregoing, the Committee finds that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress in the adoption of provisions that facilitate the participation of citizen oversight mechanisms in monitoring the execution of contracts and, therefore, it reiterates the need for the country under review to give additional attention to measure (m) of recommendation 1.2.1. (See Recommendation 1.1.3.14 in Section 1.2.3 of Chapter II of this Report.)

Measure n) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt provisions which regulate, in keeping with the principle of due process, administrative challenge mechanisms relating to the substantive acts of the tendering process, such as the basis for the tender or bid, the rejection of bidders, and the designation of the winner, which are designed to clarify, modify, or revoke such acts.

[174]In its Response to the Questionnaire,⁶⁴ the country under review reported that “*no provisions have been adopted that provides for an administrative challenge mechanism to the substantive acts of the tendering process.*”

[175]During the on-site visit, the representative of the Ministry of Finance mentioned that any queries or complaints relating to the tender process should be directed to the Office of the Contractor General, since one of its functions is to monitor the award and the implementation of public contracts. In addition, the representative of the Attorney General's Chambers said that, under the Freedom of Information Act, depending on the case, the bidder may request information and/or documents from the Ministry responsible for the tender.

[176]In this context, the Committee wishes to recall the reasons for measures (n) of the foregoing recommendation as set out in the Report from the Second Round:⁶⁵

[177]“*With respect to mechanisms allowing for challenges to be made with regard to procurement decisions, the response of Belize notes that “...there are no specified or legislated ways to challenge a selection other than the usual recourse to the courts for judicial review, complaints to the Ombudsman regarding allegations of abuse of power. In practice, contractors have made recourse to the Contractor General with respect not only to the selection criteria, but also with regard to interpretation to provisions of the contract itself; while others have seen it fit to take their complaints to government Ministers, area representatives, and the media.” In this regard, the Committee considers that Belize would benefit from implementing provisions which allow for administrative challenge mechanisms.*

[178]In light of the foregoing, the Committee finds that, neither in its Response to the Questionnaire, nor during the on-site visit did the country under review provide any new information that denotes progress in the adoption of provisions that regulate administrative challenge

⁶⁴ See Response of Belize to the Questionnaire, p. 48, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁶⁵ See Report on Belize from the Second Round, p. 15, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

mechanisms relating to the substantive acts of the tendering process and, therefore, it reiterates the need for the country under review to give additional attention to measure (n) of recommendation 1.2.1. (See Recommendation 1.1.3.15 in Section 1.2.3 of Chapter II of this Report.)

1.2.2. New Developments with Respect to the provisions of the Convention on Government Systems for the Procurement of Goods and Services

1.2.2.1. New Developments with Respect to the Legal Framework

a) Scope

[179]In its Response to the Questionnaire, the country under review notes that “*in 2010, there was an amendment to the Financial and Audit Reform Act, Chapter 15, Revised Edition 2011.*”

[180]With respect to the 2011 reform of the Finance and Audit Act, the Committee notes that the provisions (Sections 17, 19, 20, and 21) relating to systems for the procurement of goods and services were considered by the Committee in the Report on Belize in the Second Round of Review and that they have not been modified.⁶⁶

[181]It is worth noting that the Contractor-General Act was also revised in 2011. In that regard, the Committee observes that the provisions (Sections 4, 14, and 15) relating to systems for the procurement of goods and services were considered by the Committee in the Report on Belize in the Second Round of Review and that no material changes were made to those provisions.

[182]Finally, during the on-site visit, the country under review reported that the Procurement Unit of the Ministry of Finance was created in August 2017 to follow up on procurement processes.

[183]In that context, after the on-site visit, the country under review provided the Statutory Instrument N°. 16 of 2018, cited as the Financial Orders (Amendment) Regulations 2018⁶⁷, which states the following:

[184]701. *An Accounting Officer may make verbal contracts for works and services under ten thousand dollars. An Accounting Officer may make written contracts to a limit of fifty thousand dollars with the approval of that Accounting Officer’s Minister. Tenders shall normally be invited for contracts over twenty thousand dollars. Tenders shall be invited for contracts over fifty thousand dollars.*”

[185]According to the aforementioned Regulations, the amendment came into force on April 1, 2018.

[186]In that regard, the country under review also provided a memorandum from the Ministry of Finance dated April 16, 2018 (Circular No. 2 of 2018), which states the following:

[187]“*a) While verbal contracts are permitted the Ministry of Finances requests that these be made only in exceptional circumstances, for example, in case of natural disasters (hurricane, floods, etc.) or emergencies (fire, road accidents, rescue, etc.) b) Each purchase to be made (except for those permitted under (a) above) must have the written approval of all the following officers,*

⁶⁶ See Report on Belize from the Second Round, pp. 10-11, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

⁶⁷ See the Statutory Instrument N°. 16 of 2018, cited as the Financial Orders (Amendment) Regulations 2018, available at: http://www.oas.org/juridico/english/mesicic5_blz.htm

irrespective of single item or single order: i) Accounting Officer ii) Finance Officer iii) Head of Department or Senior Technical Officer [...].”

[188]In addition, after the on-site visit, the country under review also provided the Statutory Instrument N°. 17 of 2018, cited as the Store Orders (Amendment) Regulations, 2018⁶⁸, which states the following:

[189]“*Where possible, stores shall be purchased from the cheapest source whether local or foreign, however the Accounting Officer [or other responsible officer] shall ensure, prior to purchase, that the quality of items is suitable and satisfactory. An Accounting Officer shall obtain the prior written approval of the Financial Secretary where the cost of individual items of stores to be purchased locally exceeds ten thousand dollars, or the total cost of items to be purchased locally in any single order exceeds twenty thousand dollars. Accounting Officers and other responsible officers shall use the Tender procedure outlined in Chapter 10 of the Financial Orders.*”

[190]“*Where an Accounting Officer desires to obtain from abroad, stores whose cost exceeds the sum of fifty thousand dollars, he shall first obtain the written approval of the Financial Secretary.*”

b) Observations

[191]The Committee would like to recognize the creation of the Procurement Unit in the Ministry of Finance as a measure adopted by Belize to continue to move forward with the creation, maintenance, and strengthening of its systems of procurement of goods and services as referred to in Article III (5) of the Convention.

[192]Nevertheless, the Committee deems it pertinent to make a number of comments regarding the advisability of the country under review to consider strengthening, developing, and/or adapting certain provisions that have to do with those new developments, notwithstanding the observations made by the Committee in Section 1.2.1. above in connection with the follow-up on implementation of the recommendations made to the country under review in the Report of the Second Round.

[193] To begin with, the Committee notes that, according to information gathered during the on-site visit in the form of statements from officials at the Ministry of Finance and the Attorney General's Chambers, there was a clear need for personnel expansion and training at the Office of the Contractor General.

[194]In that regard, the Committee will make a recommendation that the country under review consider adopting pertinent measures to ensure that the Office of the Contractor General is provided with the necessary human resources to perform its functions properly in accordance with the Contractor-General Act, within available resources. (See Recommendation 1.2.3.16 in Section 1.2.3 of Chapter II of this Report.)

[195]In addition, the Committee reiterates recommendation 1.2.3.2 of this Report, that the country under review consider adopting the necessary measures so that, subject to the availability of resources, training, whether on-site and/or distance, is provided free of charge and on a regular

⁶⁸ See the Statutory Instrument N°. 17 of 2018, cited as the Store Orders (Amendment) Regulations, 2018, available at: http://www.oas.org/juridico/english/mesicic5_blz.htm

basis to all public servants and officials in charge of tenders and contracts for works, goods, and services, including those in the Office of the Contractor General. (See Recommendation 1.2.3.2 in Section 1.2.3 of Chapter II of this Report.)

[196]It is worth mentioning in connection with the above that representatives of the Chamber of Commerce and Industry of Belize stated during the on-site visit that the Office of the Contractor General is severely understaffed and that, at present, the position of Contractor General is vacant because the National Assembly has not appointed anyone to fill that position. Regarding this matter, Belize reported in its written observations dated August 13, 2018 that *“the Prime Minister of Belize has been on record noting the saliency of the post and the need to have someone fill the post as soon as possible. Additionally, the post was advertised consecutively in the week of May 13th, 20th, and 27th. The closing date for applications was June 15, 2018. As a result, four (4) applications were received for consideration.”*⁶⁹

[197]With respect to the creation of the Procurement Unit of the Ministry of Finance, the Committee observes that, according to information gathered during the on-site visit, at present the Unit has only one person assigned to it and that it needs to be strengthened, for instance, by hiring officials to work on tasks related to the development of the Government Procurement Portal, including online publication of tender opportunities and the list of contract awardees.

[198]Therefore, the Committee will formulate a recommendation that the country under review consider strengthening the Procurement Unit of the Ministry of Finance by adopting pertinent measures to ensure that it is provided with the necessary human resources to perform its functions properly, within available resources. (See Recommendation 1.2.3.17 in Section 1.2.3 of Chapter II of this Report.)

[199]In addition, the Committee reiterates recommendation 1.2.3.2 of this Report that the country under review consider adopting the necessary measures so that, subject to the availability of resources, training, whether on-site and/or distance, is provided free of charge and on a regular basis to all public servants and officials in charge of tenders and contracts for works, goods, and services, including those in the Procurement Unit of the Ministry of Finance. (See Recommendation 1.2.3.2 in Section 1.2.3 of Chapter II of this Report.)

[200]With respect to the verbal contracts allowed by Statutory Instrument No. 16 of 2018, cited as the Financial Orders (Amendment) Regulations, 2018, the Committee considers it important that the responsibilities and obligations of each of the parties be clearly established in writing, otherwise it would be complicated to prove the existence of the contract and its stipulations.

[201]In light of the foregoing, the Committee finds that, in such cases, it would appear that there would be no written document detailing the terms and conditions agreed upon by the principal and the contractor. That would make it difficult to control spending of public resources and fail to ensure openness, equity, and transparency in such contracting by the country under review. Therefore, the Committee will formulate a recommendation that the country under review consider abolishing verbal contracting by the State and adopting a law setting out express rules that govern the circumstances and conditions of written goods and services contracts in cases involving natural disasters and emergencies, and that clearly define those terms. (See Recommendation 1.2.3.18 in Section 1.2.3 of Chapter II of this report.)

⁶⁹ During the Plenary Meeting of the Committee of Experts on September 11, 2018, Belize reported that four applications had been received and that the recruitment process was now at the stage in which one of the candidates would be selected to fill the vacancy.

[202]The Committee also notes that the Statutory Instrument No. 16 of 2018, cited as the Financial Orders (Amendment) Regulations 2018, states that “tenders shall normally be invited for contracts over twenty thousand dollars” and that “tenders shall be invited for contracts over fifty thousand dollars.” The Committee notes that the word “normally” in the provision would allow the possibility of not inviting a plurality of bidders to participate in tenders for contracts between US\$20,000 and US\$50,000, which would not be consistent with the principles of equity, openness, and transparency recognized in the Convention. Therefore, the Committee believes it important for the country under review to consider amending that norm to clarify that bidders will necessarily be invited to participate in such tenders. The Committee will make a recommendation to that effect. (See Recommendation 1.2.3.19 in Section 1.2.3 of Chapter II of this report.)

1.2.2.2. New Developments with Respect to Technology

[203]As mentioned in Section 1.2.1 above, during the on-site visit, the representative of the Ministry of Finance said that the Government Procurement Portal is currently being developed on the Ministry's website for the online publication of such tender opportunities, as well as for publishing the list of contract awardees.

[204]In that regard, the Committee will make a recommendation that the country under review consider adopting pertinent measures, within available resources, to ensure that the Government Procurement Portal is completed and implemented within a timeframe scheduled for that purpose. (See Recommendation 1.2.3.20 in Section 1.2.3 of Chapter II of this Report.)

[205] In this context, the Committee takes note of the difficulty mentioned by the country under review in its Response to the Questionnaire regarding the increased use of electronic forms of communication in connection with public procurement processes:⁷⁰

[206]“[...]the lack of personnel armed with the expertise and qualifications in Information Technology at the Office of the Contractor General, lack of human resource to manage and operate the electronic system, and lack of technological equipments such as computers, laptops etc.”

[207] In that regard, the Committee reiterates recommendation 1.2.3.15 that the country under review consider adopting pertinent measures within available resources to ensure that the Office of the Contractor General is provided with the necessary technology resources to perform its functions properly in accordance with the Contractor-General Act. (See Recommendation 1.2.3.16 in Section 1.2.3 of Chapter II of this Report.)

1.2.2.3. Results

[208]The country under review did not provide, either in its Response to the Questionnaire, or during the on-site visit, any information about results in relation to government systems for the procurement of goods and services.

[209]Bearing in mind the foregoing, the Committee, believes that it would be useful for the country under review to consider preparing detailed statistics compiled on an annual basis on the results of those systems, including aspects such as percentage of contracts awarded via the three contracting methods (the limited tendering procedure, the open tendering procedure, and the

⁷⁰ See Response of Belize to the Questionnaire, p. 42, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

selective tendering procedure); the number and value of contracts awarded via competitive and noncompetitive methods; and the total number of contracts awarded. The Committee will make a recommendation to the country under review in that regard. (See Recommendation 1.2.3.21 in Section 1.2.3 of Chapter II of this Report.)

[210]In addition, the Committee, believes that it would be useful for the country under review to consider preparing detailed, disaggregated statistics compiled on an annual basis on sanctions or suspensions imposed on contractors for infringing contracting rules, specifying the reason for the sanction, the identity of the contractor, and a list of contractors removed from the Register, in order to increase transparency in the government system for procurement of goods and services as well as to identify obstacles and recommend corrective measures, as necessary. The Committee will make a recommendation to the country under review in that regard. (See Recommendation 1.2.3.22 in Section 1.2.3 of Chapter II of this Report.)

1.2.3. Recommendations

[211]In light of the observations formulated in sections 1.2.1 and 1.2.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

- 1.2.3.1. Adopt provisions which define the different stages that constitute the procurement process and which include selection criteria, time frames, and which identify the entity responsible for making contract award decisions. (See paragraph 112 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.2. Adopt the necessary measures so that, subject to the availability of resources, training, whether on-site and/or distance, is provided free of charge and on a regular basis to public servants and officials in charge of tenders and contracts for works, goods, and services, including officials at the Procurement Unit of the Ministry of Finance and that the Office of the Contractor General. (See paragraph 116 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.3. Adopt provisions which establish objective selection criteria in the evaluation of bids. (See paragraph 120 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.4. Review Section 20 of the Finance and Audit (Reform) Act of 2005, in order to ensure that in those instances where limited tendering is used, that the government sees to it that there are an adequate number of potential suppliers to ensure competition, as required by Section 20(1) thereof. (See paragraph 127 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.5. Examine the need to adopt provisions which either: require a justification of the decision to resort to limited tendering based on extreme urgency or public interest, as provided for by Sections 21(1)(d) of the Finance and Audit (Reform) Act of 2005, or national emergency, as provided for by Section (21)(1)(h)(i) of the same law; or which define those terms. (See paragraph 131 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.6. Adopt provisions which provide clear selection procedures where the limited tendering procedure is used, and which also require a written justification for the use of this procurement method. (See paragraph 135 of Section 1.2.1 of Chapter III of this Report)

- 1.2.3.7. Adopt provisions which clarify what is meant by day-to-day operations of government, as used in Section 21(1)(h)(ii) of the Finance and Audit (Reform) Act of 2005, in order to ensure that goods and services related to recurring expenses are procured competitively, where appropriate. (See paragraph 141 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.8. Adopt provisions which require publication of tender opportunities, including the conditions for participation therein, and the time, method and place for the submission of bids. (See paragraph 146 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.9. Examine the possibility of publishing, when appropriate, pre-bidding terms and conditions so that interested parties can find out about them and submit comments thereon. (See paragraph 149 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.10. Consider the introduction of electronic procurement systems, on an incremental basis, so that goods and services may be acquired through those means. (See paragraph 154 of Section 1.2.21 of Chapter III of this Report)
- 1.2.3.11. Strengthen and increase the scope of use of electronic forms of communication, such as the Internet, for publicizing the tender and consulting opportunities, status of bids and awards and the progress in the execution of major projects. (See paragraph 157 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.12. Establish a national registry of contractors of goods and services, of mandatory use by all State bodies, which contemplates the possibility of ensuring that the registry also include a list of sanctioned contractors, in order to foster the principles of openness, equity and efficiency provided for in the Convention. (See paragraph 164 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.13. Implement provisions that require prior planning sufficiently in advance of the launch of largescale or specialized procurement process, such as the preparation of studies, designs and technical evaluations. (See paragraph 169 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.14. Adopt provisions that facilitate and encourage the participation of citizen oversight mechanisms in monitoring the execution of contracts where their nature, importance, or magnitude so warrants. (See paragraph 173 of Section 1.2.1 of Chapter III of this Report)
- 1.2.3.15. Adopt provisions which regulate, in keeping with the principle of due process, administrative challenge mechanisms relating to the substantive acts of the tendering process, such as the basis for the tender or bid, the rejection of bidders, and the designation of the winner, which are designed to clarify, modify, or revoke such acts. (See paragraph 178 of Section 1.2.2 of Chapter III of this Report)
- 1.2.3.16. Adopt the necessary measures, within the available resources, for strengthening the Office of the Contractor General as the entity responsible for monitoring the systems for procurement of goods and services by the State of

Belize and ensure that it is provided with the necessary human and technology resources to perform its functions properly, in accordance with the Contractor-General Act. (See paragraph 194 of Section 1.2.2 of Chapter III of this Report)

- 1.2.3.17. Adopt the necessary measures, within available resources, for strengthening the Procurement Unit of the Ministry of Finance and ensure that it is provided with the necessary human resources to perform its functions properly. (See paragraph 198 of Section 1.2.2 of Chapter III of this Report)
- 1.2.3.18. Consider abolishing verbal contracting by the State and adopting a law setting out express rules that govern the circumstances and conditions of written goods and services contracts in cases involving natural disasters and emergencies, and that clearly define those terms. (See paragraph 201 in Section 1.2.1 of Chapter II of this report.)
- 1.2.3.19. Consider amending Statutory Instrument No. 16 of 2018, cited as the Financial Orders (Amendment) Regulations 2018, which states that “tenders shall normally be invited for contracts over twenty thousand dollars,” in order to clarify its wording in the sense that bidders will necessarily be invited to participate in such tenders. (See paragraph 202 in Section 1.2.1 of Chapter II of this report.)
- 1.2.3.20. Adopt pertinent measures within available resources to ensure that the Government Procurement Portal is completed and implemented within a timeframe scheduled for that purpose. (See paragraph 204 of Section 1.2.2 of Chapter III of this Report)
- 1.2.3.21. Prepare detailed statistics compiled on an annual basis on the results of government contracting systems, including aspects such as percentage of contracts awarded via the three contracting methods (the limited tendering procedure, the open tendering procedure, and the selective tendering procedure); the number and value of contracts awarded via competitive and noncompetitive methods; and the total number of contracts awarded, in order to identify obstacles and recommend corrective measures, as necessary. (See paragraph 209 of Section 1.2.2 of Chapter III of this Report)
- 1.2.3.22. Prepare detailed, disaggregated statistics compiled on an annual basis on sanctions or suspensions imposed on contractors for infringing contracting rules, specifying the reason for the sanction and the identity of the contractor, and keep a list of contractors removed from the Register, in order to identify obstacles and recommend corrective measures, as necessary. (See paragraph 210 of Section 1.2.2 of Chapter III of this Report)

2. SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO, IN GOOD FAITH, REPORT ACTS OF CORRUPTION (ARTICLE III (8) OF THE CONVENTION)

2.1 Follow-Up to the Implementation of the Recommendations Formulated in the Second Round

Recommendation 2.1

Adopt a comprehensive legal and regulatory framework that provides protection for public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with its Constitution and the basic principles of its domestic legal system

Measure a) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Protection for persons who report acts of corruption subject to investigation in administrative or judicial proceedings

[212] With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review,⁷¹ presented the following information:

[213] *“No specific actions have been taken to implement the above recommendations. However, Belize is in the process of drafting a whistleblower legislation. Notably, MESICIC’s Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witness and the Regional Justice Protection Programme for CARICOM Member States (Established by the CARICOM Agreement) are being used as guides.”*

[214] During the on-site visit, the representative of the Ministry of the Attorney General reported that the process had begun of drafting a proposed whistleblower protection law, as had discussions regarding the possibility of Belize joining the *Regional Justice Protection Programme*.

[215] In this regard, the Committee notes that the objectives of said *Programme* are *“to promote and ensure the proper administration of justice by providing participants with such protection, assistance and security as would enable them to perform their functions with efficiency and confidence when there is a threat to their lives, safety, or property arising from, or directly or indirectly related to the performance of their duties or obligations in the administration of justice.”*⁷²

[216] In addition, the Committee takes note of the difficulty mentioned by the country under review in its Response to the Questionnaire in relation to the above measure:⁷³

⁷¹ See Response of Belize to the Questionnaire, p. 49, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁷² More information about the Agreement Establishing the Regional Justice Protection Programme is available at: <https://caricom.org/about-caricom/who-we-are/our-governance/about-the-secretariat/offices/office-of-the-general-council/treaties-and-agreements/agreement-establishing-the-regional-justice-protection-programme>

⁷³ See Response of Belize to the Questionnaire, p. 50, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

[217] “*Lack of human resources (staff) at the drafting Section at the Attorney General’s Ministry to assist in the drafting of whistleblower legislation.*”

[218] In that regard, the Committee notes that though Belize is considering the possibility of drafting a proposed law, a comprehensive legal and regulatory framework has not yet been adopted that provides protection for people who, in good faith, report acts of corruption, including, *inter alia*, protection for those who report acts of corruption subject to investigation in administrative or judicial proceedings, as measure (a) of the recommendation envisions.

[219] Therefore, the Committee reiterates the need for the country under review to give additional attention to recommendation 2.1, including measure (a). The Committee also considers it appropriate to reformulate the recommendation to reflect the fact that Belize takes into account the criteria outlined in the *Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses* available at the Anticorruption Portal of the Americas.⁷⁴ (See Recommendation 2.3.1 in Chapter II, Section 2.3 of this Report.)

[220] In that regard, it is also worth noting that during the on-site visit, the representative of the Bar Association of Belize said that that entity was not aware that the process of drafting a proposed whistleblower protection law had begun.

Measure b) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Protection of whistleblowers and their families, not only in relation to their physical integrity but also as it concerns the workplace, especially when the person is a public official and the acts of corruption involve superiors or co-workers

[221] With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review reiterated the information provided for measure (a) of the recommendation.⁷⁵

[222] During the on-site visit, the representative of the Ministry of the Attorney General said that the Public Service Regulations require that a public official report an act of corruption to his supervisor and that supervisor shall notify the Chief Executive Officer or head of department. The representative also said that it was a challenge when superiors were involved in acts of corruption, since there were no provisions governing such matters.

[223] In that regard, the Committee observes that at present the Public Service Regulations contain no provisions regarding protection of public servants who report acts of corruption, in terms of their physical integrity or in relation to the workplace.

[224] Based on the foregoing, the Committee finds that the country under review did not provide, either in its Response to the Questionnaire, or during the on-site visit, any new information that denotes progress with additional protection measures, especially in the case of public officials who report acts of corruption that might involve superiors or co-workers. Therefore, the Committee reiterates the need for the country under review to give additional attention to the

⁷⁴ Available at http://www.oas.org/juridico/PDFs/model_law_reporting.pdf

⁷⁵ See Response of Belize to the Questionnaire, p. 50, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

implementation of measure (b) of the above recommendation. (See recommendation 2.3.2 in Section 2.3 of Chapter II of this Report.)

Measure c) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Expand the existing mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who, in good faith, report acts of corruption.

[225]With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review reiterated the information provided for measure (a) of the recommendation.⁷⁶

[226]During the on-site visit, the representative of the Ministry of the Attorney General said that there were informal police mechanisms that allowed anonymous reporting and he provided examples of specific recent cases.

[227]The Committee considers that while in practice there may be informal police mechanisms that allow anonymous reporting, there has not yet been a formal expansion of existing reporting mechanisms to guarantee the personal security and identity confidentiality of public officials and private citizens who, in good faith, report acts of corruption. Therefore, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (c) of the above recommendation. (See recommendation 2.3.3 in Section 2.3 of Chapter II of this Report.)

[228]In that regard, it is worth noting, that during the on-site visit the representative of the Bar Association of Belize said that there were no provisions in the current regulatory framework on the confidentiality of reporting or on protection of the identity of those who report acts of corruption. The representative also said that, as Belize had a very small population and the majority of people knew one another, it was extremely important to implement mechanisms that allowed anonymous reporting and the identity of whistleblowers to be protected.

Measure d) suggested by the Committee that requires additional attention within the Framework of the Third Round:

The creation of mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it

[229]With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review reiterated the information provided for measure (a) of the recommendation.⁷⁷

[230]The Committee finds that the country under review has not provided, either in its Response to the Questionnaire, or during the on-site visit, any new information showing progress in establishing mechanisms for reporting the threats or reprisals that whistleblowers may face, indicating the authorities responsible for processing protection requests and the bodies responsible for providing such protection. Therefore, the Committee reiterates the need for the

⁷⁶ See Response of Belize to the Questionnaire, p. 51, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁷⁷ See Response of Belize to the Questionnaire, p. 52, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

country under review to give additional attention to the implementation of measure (d) of the above recommendation. (See recommendation 2.3.4 in Section 2.3 of Chapter II of this Report.)

[231] It is worth noting that during the on-site visit the representative of the Bar Association of Belize mentioned that members of the public are not aware of the reporting mechanisms in place and, furthermore, do not trust the bodies responsible to provide them with the necessary protection in the event that they decided to file a report. According to the representative, therefore, there is no incentive for a citizen or public official to report acts of corruption and Belize and the authorities have been unable to offer adequate protection to whistleblowers.

Measure e) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Witness protection mechanisms that offer witnesses the same guarantees as public servants and private citizens

[232] In its Response to the Questionnaire,⁷⁸ the State referred to Section 119:02 of the Justice Protection Act (as revised in 2011) and said that the Act was not yet in force.

[233] During the on-site visit, the representative of the Ministry of the Attorney General explained that the Justice Protection Act was revised in 2011 but that the Act had not been in force since 2006.

[234] In that regard, the Committee notes that Belize mentioned the Justice Protection Act in its Response to the Questionnaire in the Second Round and that it was not in force.

[235] In light of the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (e) of the above recommendation, bearing in mind that witness protection mechanisms that offer witnesses the same guarantees as public servants and private citizens have not yet been established. (See recommendation 2.3.5 in Section 2.3 of Chapter II of this Report)

[236] In addition, the Committee takes note of the difficulty mentioned by the country under review in its Response to the Questionnaire in relation to the above measure:⁷⁹

[237] *“Financially constrained to support the legislative framework. For example, the Act addresses providing protection to witnesses, their families or any person by virtue of their association with the witnesses through an Administrative Agency. According to section 5(5) of the Act, Action which may be taken by the Administrative Centre to facilitate the safety and security of participants may include the following, (a) providing any documents necessary, (i) to establish a new identity for the participant; and (ii) to protect the participant; (b) permitting a participant to use an assumed name in carrying out his duties in relation to the Programme and to carry documentation supporting the assumed name; (c) providing payments to or for the participant for the purpose of, (i) meeting his reasonable living expenses including, where appropriate, living expenses of his family; and (ii) providing, whether directly or indirectly, other reasonable financial assistance; (d) providing payments to the participant for the purpose*

⁷⁸ See Response of Belize to the Questionnaire, p. 54, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁷⁹ See Response of Belize to the Questionnaire, p. 54.

of meeting costs associated with relocation; (e) providing assistance to the participant in obtaining employment, access to education and health care; (f) providing other assistance to the participant with a view to ensuring that the participant becomes self-sustaining.”

Measure f) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Mechanisms to facilitate international cooperation on the foregoing matters, when appropriate, including the technical assistance and cooperation provided for by the Convention, as well as the exchanges of experiences, training, and mutual assistance.

[238] With respect to the aforementioned measure, in its Response to the Questionnaire,⁸⁰ the country under review presented the following information:

[239] *“There is no such mechanism to provide for international cooperation in the protection of whistleblowers. However, Belize is in the process of drafting a whistleblower legislation. Notably, MESICIC’s Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witness and the Regional Justice Protection Programme for CARICOM Member States (Established by the CARICOM Agreement) are being used as guides”*

[240] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (f). (See Recommendation 2.3.6 in Section 2.3 of Chapter II of this report)

Measure g) suggested by the Committee that requires additional attention within the Framework of the Third Round:

A simple whistleblower protection application process

[241] In its Response to the Questionnaire,⁸¹ the country under review did not refer specifically to measure (g) and reiterated the information provided in previous measures.

[242] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (g) in Section 2.1 of Chapter II of this Report and considers it appropriate to reformulate the recommendation for the sake of greater clarity. Therefore, Belize could rely on the *Model law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses*, available at the Anticorruption Portal of the Americas,⁸² as a guide. (See Recommendation 2.3.7 in Section 2.3 of Chapter II of this Report.)

[243] In relation to this measure, the Committee notes that Article 23 of the *Model law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses*, defines an application for protective measures by a whistleblower and/or a witness as follows:

⁸⁰ See Response of Belize to the Questionnaire, p. 55, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁸¹ See Response of Belize to the Questionnaire, p. 54, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁸² See Model law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses, available at: http://www.oas.org/juridico/PDFs/model_law_reporting.pdf

[244] *“An application for additional protective measures is an action whereby a whistleblower and/or witness of acts of corruption requests the granting of such measures, because he or she deems the physical and/or psychological integrity of his/her person, or that of his or her family group, or the safety of his or her property to be actually or potentially threatened, and/or where there is an undue alteration in his/her working conditions that suggest an intent to retaliate against and harm the whistleblower and/or witness.”*

[245] In addition, Article 10 of the Model Law contains a series of administrative measures to facilitate the reporting of acts of corruption:

[246] *“In order to ensure timely and confidential attention to reports of acts of corruption, the competent authority responsible for receiving them shall implement at least the following organizational and operational changes: 1. Appointment of specialized officers for receiving and dealing with the reports. 2. Document processing and secure storage procedures different from standard procedures. 3. Provision of a request form in accordance with the model attached to this law. 4. Assignment of a specific secure telephone hotline for receiving the reports. 5. Creation of a specific secure e-mail account for dealing with the reports. 6. Arrangements for reports through intermediaries, without revealing the whistleblower’s identity.”*

[247] In that regard, the Model Law includes a “Form for Reporting Acts of Corruption and Requesting Protective Measures for Whistleblowers and Witnesses of Acts of Corruption.”⁸³

Measure h) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Provisions which provide for administrative and criminal sanctions for the failure to observe the rules and/or duties relating to protection.

[248] In its Response to the Questionnaire,⁸⁴ the country under review did not refer specifically to measure (h) and reiterated the information provided in previous measures.

[249] In view of the foregoing, the Committee reiterates the need for the country under review to give additional attention to implementing measure (h) of the recommendation in Section 2.1 of Chapter II of this Report. (See Recommendation 2.3.8 in Section 2.3 of Chapter II of this Report.)

Measure i) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Provisions that clearly delineate the respective competence of judicial and administrative authorities with respect to this area.

[250] In its Response to the Questionnaire,⁸⁵ the country under review did not refer specifically to measure (i) and reiterated the information provided in previous measures.

⁸³ See *Model law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses, Annex, p. 21.*

⁸⁴ See Response of Belize to the Questionnaire, p. 58, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

[251] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (i) in section 2.1 of chapter II of this Report. (See Recommendation 2.3.9 in Section 2.3 of Chapter II of this Report.)

2.2 New Developments with Respect to the Provision of the Convention on Systems for Protecting Public Servants and Private Citizens Who, in Good Faith, Report Acts of Corruption

2.2.1 New Developments with respect to the Legal Framework

[252] In its Response to the Questionnaire,⁸⁶ the country under review referred to the Draft Witness Protection Bill.

[253] In that regard, during the on-site visit, the representative of the Ministry of the Attorney General reported that the bill included provisions on identity protection for witnesses and that it had recently been approved by the National Assembly, thus becoming law. In the wake of the on-site visit, the country under review clarified on May 28, 2018, that the language of the Witness Protection Bill was still being finalized and that, therefore, it had not yet become law.

2.2.2 New Developments with Respect to Technology

[254] The country under review did not report any new developments with respect to technology, either in its Response to the Questionnaire,⁸⁷ or during the on-site visit.

2.2.3 Results

[255] The Committee notes that the country under review did not provide, either in its Response to the Questionnaire, or during the on-site visit, any information about objective results in relation to systems for protecting public servants and private citizens who in good faith report acts of corruption because it has no such systems.

2.3 Recommendations

[256] Bearing in mind the observations made in sections 2.1 and 2.2 of Chapter II of this Report, the Committee suggests that the country under review consider enacting, through the appropriate authority and taking into account the criteria outlined in the Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses, a legal and regulatory framework on protection of public servants and private citizens who in good faith report acts of corruption, in accordance with the Constitution and the fundamental principles of its domestic system of laws, to include, *inter alia*, the following:

2.3.1 Adopt protection measures for persons who report acts of corruption subject to investigation in administrative or judicial proceedings. (See paragraph 219 of Section 2.1 of Chapter II of this Report)

⁸⁵ See Response of Belize to the Questionnaire, p. 59, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁸⁶ See Response of Belize to the Questionnaire, p. 69, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁸⁷ See Response of Belize to the Questionnaire, p. 69, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

- 2.3.2 Introduce additional protection measures for whistleblowers and their families, not only in relation to their physical integrity, but also as regards the workplace, especially when the person is a public official and the acts of corruption involve superiors or co-workers. (See paragraph 224 of Section 2.1 of Chapter II of this Report)
- 2.3.3 Expand the existing mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who, in good faith, report acts of corruption. (See paragraph 227 of Section 2.1 of Chapter II of this Report)
- 2.3.4 Establish mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it (See paragraph 230 of Section 2.1 of Chapter II of this Report)
- 2.3.5 Establish witness protection mechanisms that offer witnesses the same guarantees as public servants and private citizens (See paragraph 235 of Section 2.1 of Chapter II of this Report)
- 2.3.6 Establish mechanisms to facilitate international cooperation on the foregoing matters, when appropriate, including the technical assistance and cooperation provided for by the Convention, as well as the exchanges of experiences, training, and mutual assistance. (See paragraph 240 of Section 2.1 of Chapter II of this Report)
- 2.3.7 Establish a simplified and readily accessible application process for protection measures for whistleblowers and witnesses of acts of corruption. (See paragraph 242 of Section 2.1 of Chapter II of this Report)
- 2.3.8 Adopt provisions which provide for administrative and criminal sanctions for the failure to observe the rules and/or duties relating to protection. (See paragraph 249 of Section 2.1 of Chapter II of this Report)
- 2.3.9 Adopt provisions that clearly delineate the respective competence of judicial and administrative authorities with respect to this area. (See paragraph 251 of Section 2.1 of Chapter II of this Report)

3. ACTS OF CORRUPTION (ARTICLE VI(1) OF THE CONVENTION)

3.1. Follow-up on implementation of the recommendations made at the Second Round

Recommendation 3.1 suggested by the Committee that requires additional attention within the Framework of the Third Round:

Review Section 26(b) and 27(b) of the Prevention of Corruption Act, 2007, so as to make it more fully consistent with Article VI(1)(a) of the Convention, by incorporating therein, the words “directly or indirectly”.

[257]In its Response to the Questionnaire,⁸⁸ the country under review reported that “*no specific actions have been carried out to implement the above recommendation. However, Cabinet has it under due consideration*”.

[258]In that regard, the Committee would like to point out that Article VI(1)(a) of the Convention provides:

[259]“*1. This Convention is applicable to the following acts of corruption: a. The solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions*” (emphasis added).

[260]The Committee also recalls that in the Report of the Second Round, the Committee made the following observation on which the above recommendation 3.1 was based:⁸⁹

[261]“*The Committee observes that while Section 3(1) of the Prevention of Corruption Act, Chapter 105 of the Substantive Laws of Belize, RE 2003, which criminalizes bribery, does not contain the words ‘directly or indirectly’ as used by the Convention, it nonetheless includes that element, in that it makes reference to a person who solicits or receives a bribe ‘by himself or by or in conjunction with any other person’. Unlike the provisions of the 2003 POCA, the Committee considers that Sections 26(b) and 27(b) of the 2007 POCA, which also criminalize bribery committed by members of the National Assembly and members of public bodies, respectively, do not contemplate the element of ‘directly or indirectly,’ as used by the Convention.*”

[262]The Committee observes that the country under review did not provide, either in its Response to the Questionnaire, or during the on-site visit, any new information showing progress with the revision of Sections 26(b) and 27(b) of the 2007 Prevention of Corruption Act, so as to make them more fully consistent with Article VI(1)(a) of the Convention. Therefore, it reiterates the need for the country under review to give additional attention to the implementation of recommendation 3.1. (See Recommendation 3.3.1 in Section 3.3 of Chapter III of this Report.)

⁸⁸ See Response of Belize to the Questionnaire, p. 60, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁸⁹ See Report on Belize from the Second Round, p. 22, available at http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf

Recommendation 3.2 suggested by the Committee that requires additional attention within the Framework of the Third Round:

Review Section 26(a) and 27(a) of the Prevention of Corruption Act, 2007, so as to make it more fully consistent with Article VI(1)(b) of the Convention, by incorporating therein, the words “directly or indirectly”.

[263]In its Response to the Questionnaire,⁹⁰ the country under review reported that “no specific actions have been carried out to implement the above recommendation. However, Cabinet has it under due consideration”.

[264]In that regard, the Committee notes that Article VI(1)(b) of the Convention provides:

[265]“1. This Convention is applicable to the following acts of corruption: [...] b. The offering or granting, directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions” (emphasis added).

[266]Likewise, the Committee also recalls that in the Report of the Second Round, the Committee made the following observation which formed the basis for recommendation 3.2:⁹¹

[267]“The Committee observes that while Section 3(2) of the Prevention of Corruption Act, Chapter 105 of the Substantive Laws of Belize, RE 2003, which criminalizes bribery, does not contain the words ‘directly or indirectly’ as used by the Convention, it nonetheless includes that element, in that it makes reference to a person who solicits or receives a bribe ‘by himself or by or in conjunction with any other person’. Unlike the provisions of the 2003 POCA, the Committee considers that Sections 26(a) and 27(a) of the 2007 POCA, which also criminalize bribery committed in respect of members of the National Assembly and members of public bodies, respectively, do not contemplate the element of “directly or indirectly”, as used by the Convention. The Committee will formulate a recommendation in this regard.”

[268]The Committee observes that the country under review did not provide, either in its Response to the Questionnaire, or during the on-site visit, any new information showing progress with the revision of Sections 26(b) and 27(b) of the 2007 Prevention of Corruption Act so as to make them more fully consistent with Article VI(1)(b) of the Convention. Therefore, it reiterates the need for the country under review to give additional attention to the implementation of recommendation 3.2 (See Recommendation 3.3.2 in Section 3.3 of Chapter III of this Report.)

Recommendation 3.3 suggested by the Committee that requires additional attention within the Framework of the Third Round:

Review the definition of “public servant” contained in the Prevention of Corruption Act, 2007, by covering “a person who performs public functions”.

⁹⁰ See Response of Belize to the Questionnaire, p. 61, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁹¹ See Report on Belize from the Second Round, p. 22, available at http://www.oas.org/juridico/spanish/mesicic_II_inf_blz_sp.pdf

[269]In its Response to the Questionnaire, the country under review reported that “*no specific actions have been carried out to implement the above recommendation. However, Cabinet has it under due consideration*”

[270]During the on-site visit, the representative of the Ministry of the Attorney General explained that implementing this recommendation required the approval of a constitutional amendment, since the definition of "public officer" was contained in the text of the Constitution. The representative also mentioned that Belize's jurisprudence, specifically the case of *Melissa Belzair Tucker v. Attorney-General of Belize*, defined public officer as someone who was included in the budgetary allocation.

[271]In that regard, the Committee notes that Section 131 of the Constitution contains the following definition of public officer: “‘public officer’ means a person holding or acting in any public office; ‘public office’ means any office of emolument in the public service.”

[272]In this context, the Committee notes that a public servant/officer is anyone who holds a public post or who acts in any public office and receives a salary paid from public funds. Accordingly, by definition, anyone who performs public functions and is paid an honorarium and not, therefore, an emolument, is not considered a public servant. That would be the case of anyone who performs public functions or manages public funds on an honorarium basis or in any other capacity or manner that does not entail an emolument.

[273]In light of the above, the Committee reiterates the need for the country under review to give additional attention to the implementation of recommendation 3.3 in Section 3.1 of this report and considers that it needs to be reformulated so as to include mention of the Belize Constitution. (See recommendation 3.3.3 in Section 3.3 of Chapter III of this Report.)

Recommendation 3.4 suggested by the Committee that requires additional attention within the Framework of the Third Round:

Consider the convenience of harmonizing the provisions of the Prevention of Corruption Act, Chapter 105 of the Substantive Laws of Belize, Re 2003, with those of the Prevention of Corruption Act, 2007

[274][In its Response to the Questionnaire, the country under review presented information and new developments with respect to the above recommendation. In this regard, the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered:

[275] “*The provisions of the Prevention of Corruption Act, Chapter 105 of the Substantive Laws of Belize, Re 2003, with those of the Prevention of Corruption Act, 2007 have been harmonized. The harmonization was implemented on December 31, 2011 (see the attached copy of Prevention of Corruption Act, Chapter 105 of the Substantive Laws of Belize, Re 2011).*”

[276]During the on-site visit, the representative of the Ministry of the Attorney General explained that the Prevention of Corruption Act was revised in 2011, when all the amendments and changes made up to 2011 were consolidated.

[277] Bearing in mind that Belize carried out a revision of the Prevention of Corruption Act in 2011,⁹² in which it included the compilation of provisions in the Prevention of Corruption Act of 2003 as well as those contained in the Prevention of Corruption Act of 2007, the Committee takes note of the satisfactory consideration by the country under review of recommendation 3.4 in Section 3.1 of Chapter III of this Report.

3.2. New developments in respect of the Convention provision on acts of corruption

3.2.1. New developments in the legal framework

a) Scope

[278] In its Response to the Questionnaire,⁹³ the country under review referred to the reactivation of the Integrity Commission on January 13, 2017. In that regard, during the on-site visit, the representative of the Ministry of the Attorney General noted that the Integrity Commission was located in an office in the same building as the National Assembly, did not have its own secretary, and lacked the appropriate human resources to carry out its mandates including, for example, investigators to look into acts of corruption. The official also said that the budget of the Integrity Commission was allocated by the National Assembly.

[279] In addition, during the on-site visit, the representative of the Ministry of the Attorney General explained that the Chair of the Integrity Commission had been appointed to serve as a judge on the Supreme Court and that, as a result, there was no one chairing the Commission. Subsequently, in its written observations dated August 13, 2018, Belize reported that a Chair of the Integrity Commission has been appointed on July 5, 2018, as published in the Gazette on July 7, 2018.

[280] With respect to the Prevention of Corruption Act, which underwent a review in 2011, as mentioned in Section 3.1 of this chapter concerning recommendation 3.4, the Committee observes that it was considered in the review carried out in the Second Round and that there have not been any material changes in the provisions contained in Part II relating to the “Integrity Commission” or to those contained in Part IV relating to “acts of corruption.”

b) Observations

[281] The Committee wishes to acknowledge the reactivation of the Integrity Commission in 2017, whose functions have to do with detecting the acts of corruption referred to in Article VI(1) of the Convention. Having said that, it considers it useful to make a number of comments regarding the advisability of adjusting certain aspects connected with that Commission's reactivation.

[282] First, taking into account available resources, the Committee notes the country under review should consider providing the Integrity Commission with the necessary human, financial, and investigative resources to ensure that it can carry out its work in the most efficient, timely, and independent manner possible, thereby strengthening the mechanisms to combat corruption in Belize, in accordance with the provisions contained in Section 7(1) (f) of the Prevention of

⁹² See Response of Belize to the Questionnaire, p. 70, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁹³ See Prevention of Corruption Act 2011, available at http://www.oas.org/juridico/PDFs/mesicic5_blz_resp_annex6.pdf

Corruption Act. The Committee will make a recommendation in that regard. (See Recommendation 3.3.4 in Section 3.3 of Chapter III of this Report.)

[283]In that regard, representatives of the Chamber of Commerce and Industry said that, while the Integrity Commission had been reactivated, it did not yet have the necessary human resources to function properly and that it was necessary, therefore, to establish a Technical Secretariat for the Commission. They also mentioned that the budget of the Integrity Commission had to be sufficient to cover all its costs and allow its mandates to be carried out.

[284]Furthermore, and bearing in mind that, during the on-site visit, no one was chairing the Integrity Commission, the Committee notes the need to ensure that said Committee functions even in the absence of its Chair. The Committee will formulate a recommendation in that regard. (See Recommendation 3.3.5 in Section 3.3 of Chapter III of this Report.)

3.2.2. New developments with respect to technology

[285]The country under review made no mention of new developments with respect to technology in this area.

3.2.3. Results

[286]The Committee notes that the country under review did not provide, either in its Response to the Questionnaire, or during the on-site visit, any information about results in relation to acts of corruption recognized at Article VI(1) of the Convention. Accordingly, it will make recommendations to the country under review in that regard. (See Recommendations 3.3.6 and 3.3.7 in Section 3.3 of Chapter III of this Report.)

3.3. Recommendations

[287]In light of the comments made in Sections 3.1 and 3.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

- 3.3.1. Review Section 26(b) and 27(b) of the Prevention of Corruption Act, 2007, so as to make it more fully consistent with Article VI(1)(a) of the Convention, by incorporating therein, the words “directly or indirectly”. (See paragraph 262 in Section 3.1 of Chapter II of this Report)
- 3.3.2. Review Section 26(a) and 27(a) of the Prevention of Corruption Act, 2007, so as to make it more fully consistent with Article VI(1)(b) of the Convention, by incorporating therein, the words “directly or indirectly”. (See paragraph 268 in Section 3.1 of Chapter II of this Report)
- 3.3.3. Consider, subject to the Constitution of Belize, reviewing the definition of “public servant” contained in the Prevention of Corruption Act, 2007, by covering “a person who performs public functions”. (See paragraph 273 in Section 3.1 of Chapter II of this Report)
- 3.3.4. Adopt the necessary measures, within the available resources, for strengthening the Integrity Commission and ensure that it is provided

with the necessary human, financial, and investigative resources to perform its functions properly under the Prevention of Corruption Act. (See paragraph 282 in Section 3.1 of Chapter II of this Report)

- 3.3.5. Ensure that the Integrity Commission functions even in the absence of its Chair. (See paragraph 284 in Section 3.1 of Chapter II of this Report)
- 3.3.6. Compile annual statistics on investigations conducted by the Integrity Commission, so as to determine how many have been suspended, how many have prescribed, how many have been archived, how many are ongoing, and how many have been referred to the competent authority for a decision, in order to identify challenges and recommend corrective measures. (See paragraph 286 in Section 3.1 of Chapter II of this Report)
- 3.3.7. Compile annual statistics on Court matters in respect to acts of corruption, so as to determine how many cases are ongoing, suspended, prescribed, archived without a decision adopted, ready for a decision, or have had a decision adopted on merits, and whether the decision was to acquit or convict, in order to identify challenges and recommend corrective measures. (See paragraph 286 in Section 3.1 of Chapter II of this Report)

III. REVIEW, CONCLUSIONS AND RECOMMENDATIONS ON IMPLEMENTATION BY BELIZE OF THE CONVENTION PROVISIONS SELECTED FOR THE FIFTH ROUND

1. INSTRUCTIONS TO GOVERNMENT PERSONNEL TO ENSURE PROPER UNDERSTANDING OF THEIR RESPONSIBILITIES AND THE ETHICAL RULES GOVERNING THEIR ACTIVITIES (ARTICLE III, PARAGRAPH 3 OF THE CONVENTION)

[288] In accordance with the Methodology adopted by the Committee for the Fifth Round regarding the implementation of Article III, paragraph 3 of the Convention, which refer to measures that are intended to establish, maintain and strengthen “*instruction[s] to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities,*” the country under review selected the Ministry of the Public Service, the Security Commission, and the Judicial and Legal Services Commission.

[289] In that regard, during the on-site visit, the country under review clarified that the Security Commission and the Judicial and Legal Services Commission have no competencies as regards instruction in relation to the Convention provision cited in the preceding paragraph. Therefore, bearing mind that the methodology adopted by the Committee for the Fifth Round of Review allows the selection of a single group of personnel for review, the Committee selected for that purpose the personnel under the purview of the Ministry of the Public Service, the entity responsible for providing instruction to the human resources of the various government institutions and commissions.

1.1. Existence of a legal framework and/or other measures

[290] Regarding provisions and/or measures for providing instructions which ensure proper understanding of the personnel of the Ministry of Public Service of their responsibilities, Belize notes the Public Service Regulations, among which the following provisions are noted:

[291] Regulation 29 stipulates that a Chief Executive Officer or head of department, as the case may be, shall conduct orientation for new public officers during the public officers' first week of employment. According to subregulation (1), an orientation includes:

[292] *“(a) an overview of the public service; (b) an overview of the Ministry, its departments, its structure, values, strategic direction, goals and objectives; (c) an introduction to staff and management team; (d) a description of benefits and services available to public officers; (e) a detailed job description, performance agreement and how the job description and performance agreement fit into the overall plan for the ministry; (f) an introduction to procedural and operational desk manuals; (g) a general statement of expectations; (h) information on logistical issues; (i) a set of regulations and codes applicable to the post; (j) information on any recognised representative body; (k) an overview of the disaster preparedness and management plan; (l) an overview of election management duties; and (m) an opportunity for questions.”*

[293] Regulation 75(g)(iv) requires a Chief Executive Officers and heads of department to ensure that all supervisory staff understand their responsibilities and have the necessary qualities and training.

[294] Regulation 180 stipulates that *“Every Chief Executive Officer shall enable public officers to be provided equal opportunity and support to be trained and developed to enable them to perform efficiently and contribute to the achievement of the mission and goals of the Public Service.”*

[295] Regulation 181 stipulates that *“Where a Ministry or department receives an offer of training award from international organizations, that Ministry or department shall transmit that offer of training award to the Ministry for circulation within the public service.”*

[296] Regulation 182(1) specifies that a Chief Executive Officer is responsible to determine the training needs of the Ministry and departments for which supervision was placed in accordance with Section 48 of the Belize Constitution and provides for the management and fulfillment of such training needs; (b) to encourage and support training and developing goals of public officers; (c) to facilitate the personal growth and career development of public officers; and (d) to communicate the training needs determined under paragraph (a) to the Ministry and departments which he supervises.

[297] Regarding provisions and/or measures for providing instructions which ensure proper understanding of the personnel under the purview of the Ministry of the Public Service of the ethical rules governing their activities, the country under review notes that Section 106(3)(b) of the Belize Constitution, Chapter 4, Revised Edition 2011 empowers the Minister of Public Service to make regulations for the determination of a code of conduct for public officers:

[298] *“(3) Subject to the provisions of this Constitution, the Governor- General, acting in accordance with the advice of the Minister or Ministers responsible for the public service given after consultation with the recognized representatives of the employees or other persons or groups*

within the public service as may be considered appropriate, may make regulations on any matter relating to: (b) the determination of a code of conduct for public officers;”

- [299] Additionally, Public Service Regulations has a section that governs the Code of Conduct of public officers. Part 7 of the Regulation addresses ethical rules such as conflict of interest (Regulation 41) and bribery (Regulation 42): *“A public officer who is offered a bribe for the performance or neglect of his duties shall immediately inform his supervisor, in writing, and that supervisor shall notify the Chief Executive Officer or head of department.”*
- [300] As to the manner in which personnel are informed of their responsibilities and functions, indicating whether this is done verbally or in writing and whether records are kept of those instructions, in its Response to the Questionnaire, the country under review notes that civil servants are informed verbally at orientation and at various training programs as well as in writing by virtue of a job description which contains personnel duties and responsibilities.
- [301] During the on-site visit representatives of the Ministry of the Public service mentioned that new civil servants receive a formal letter of employment, indicating their starting date, the duration and conditions of their employment, and a copy of the Public Service Regulations.
- [302] As regards the occasion(s) when personnel are informed of their responsibilities or functions, indicating whether this is when they begin performing them or at some later point; when said functions change; or when functions change due to a change of duties, the country under review notes that civil servants are informed of their responsibilities when they begin their job and that in the event of any change of job/post, this is done accordingly.
- [303] As to the existence of induction, training, or instruction programs and courses for personnel on the proper performance of their responsibilities and functions, and, in particular, to make them aware of the inherent corruption risks in their performance, the country under review notes that there are induction trainings in place to inform the personnel of safety rules, honesty, accountability, transparency, bribery and conflict of interest. In addition, according to the country under review’s Response to the Questionnaire, the respective Ministries, Departments and Offices during their orientation process, inform the personnel of the vision, mission, role of the office, conditions of service, laws and regulations pertinent to the office.
- [304] During the on-site visit, representatives of the Ministry of the Public Service added that there are two levels of compulsory training: introductory orientation and training related to promotion.
- [305] As to the use of modern communication technologies to apprise personnel of their responsibilities or functions and to provide guidance on how to perform them properly, the country under review, in its Response to the Questionnaire, indicated that the Ministry of Public Service has a website (belize.gov.bz) and that circulars and information bulletins are issued via an internal intranet system and by the Central Information Technology Office (CITO).
- [306] As to the existence of bodies to which personnel can resort to obtain information or resolve doubts about how to perform their responsibilities and functions properly, the country under review indicated, in its Response to the Questionnaire, that civil servants can resort to the Administrative Officers at each ministry, departments and offices, according to the Public Service Regulation 69 (f), as well as to the Ministry of the Public Service.

[307]In terms of the existence of a governing organ, authority or body responsible for defining, steering, advising, or supporting the manner in which personnel are to be informed of their responsibilities and functions, the country under review, in its Response to the Questionnaire, noted the following:

[308]*“The governing authority responsible for defining, steering, advising, or supporting the manner in which personnel are informed of their responsibilities and functions is the Ministry responsible for public service (“the Ministry”). The Ministry employs the “Performance Management System” (the PMS) to assist in achieving strategic goals and objectives through greater efficiency, professionalism and integrity (see Regulation 63). The Ministry is also responsible for monitoring the overall operation of the PMS. However, Chief Executive Officers and the heads of departments are responsible for implementation (see Regulation 64(2). The PMS consist of an appraisal of public officers so as to assess the performance of the officer in relation to their responsibilities and functions, to reward outstanding service on a meritorious basis or to take corrective measures (see Regulation 65). As previously mentioned, the Administrative Officer in the respective Ministry is tasked with advising public officers in the exercise of their responsibilities, receives complaints and provides guidance and counseling amongst others responsibilities in their capacity as human resource manager (see Rule 69). Under the PMS, a Performance Appraisal Report is produced for each public officer and this report is done by two reporting officers, which includes the immediate supervising officer and the Chief Executive Officer (see Regulation 66 & 67). In event that internal corrective measures such as training, counseling or guidance proves ineffective and the public officer continues to perform below the expected norm in force then disciplinary measure may be taken for failure to perform their responsibilities and functions (see Regulation 81 and Part 10 generally).”*

[309]As to the manner in which personnel are informed of the ethical rules governing their activities, indicating whether this is done verbally or in writing and whether records are kept of those instructions, the country under review, in its Response to the Questionnaire, notes that civil servants are informed verbally in the induction and orientation trainings, when specific reference is made to conflict of interest and other prohibited conduct, and in writing by way of the ethical rules specified in Part 7 of the Regulations that addresses the code of conduct.

[310] Regarding the occasion(s) when personnel are informed of ethical rules governing their activities, indicating whether this is done when they begin performing them or at some later point; when a change in their functions entails a different set of applicable ethical rules; or when changes are made to those rules, the country under review, in its Response to the Questionnaire, notes that civil servants are informed continuously of the ethical rules governing their activities, at the induction and orientation trainings; when there is a transfer to a new post; or when changes are made to their job functions.

[311]As regards the existence of introductory, training or instructional programs and courses for personnel on the ethical rules governing their activities, the country under review, in its Response to the Questionnaire, indicated that there is an ethical component in most of the training courses offered by the Ministry of Public Service.

[312]As to the use of modern communication technologies to apprise personnel of the ethical rules governing their activities, the country under review, in its Response to the Questionnaire, notes that this is done, electronically, by way of circulars and information bulletins issued via an intranet system and by the Central Information Technology Office (CITO).

[313]As to the existence of bodies to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities, the country under review, in its Response to the Questionnaire, notes that personnel could obtain information from the Public Service Commission. However, during the on-site visit, the representatives of the Public Service Commission stated that the body to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities is the Ministry of Public Service.

[314] In terms of the existence of a governing organ, authority or body responsible for defining, steering, giving guidance on, or supporting the manner in which personnel are to be informed of the ethical rules governing their activities, the country under review, in its Response to the Questionnaire, notes that there is a supervisory mechanism in the respective ministries, departments and offices and the supervisor is responsible for defining, steering, giving guidance on, or supporting the manner in which personnel are to be informed of the ethical rules governing their activities. In addition, the country under review noted that disciplinary measures are instituted where necessary.

1.2. Adequacy of the legal framework and/or other measures

[315] With respect to the statutory and other legal provisions reviewed by the Committee on the measures intended to provide instructions to government personnel under the purview of the Ministry of the Public Service that ensure proper understanding of their responsibilities and the ethical rules governing their activities, the Committee notes that they are relevant for promoting the purposes of the Convention.

[316] Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures:

[317] During the on-site visit, representatives of the Ministry of the Public Service stated that the Ministry is currently developing a manual to formalize and standardize trainings in all the departments under its purview. In that regard, the Committee will formulate a recommendation that the country under review consider completing the manual within a time frame set in a schedule adopted for that purpose, establishing a formal training program to be adopted by all departments under that ministry's purview, in order to ensure proper understanding by public servants of their responsibilities. (See Recommendation 1.4.1 in Section 1.4 of Chapter III of this Report)

[318]It is also unclear if there are established training programs for personnel of the Ministry of the Public Service to ensure that they are appropriately aware of their responsibilities when providing training to personnel of other departments. The Committee will formulate a recommendation in that regard. (See Recommendation 1.4.2 in Section 1.4 of Chapter III of this Report)

[319]In that context, the country under review should establishing a formal training program that provides instruction both for personnel under the purview of the Ministry of the Public Service and for the Ministry's own staff, regarding the ethical rules governing their activities. The fact that a public servant is given a copy of the Code of Conduct does not necessarily guarantee an adequate understanding of the ethical rules governing their activities. Therefore, the Committee believes that it would be useful to establish processes to require personnel to be informed of those ethical rules when they begin performing their duties, when a change of duties calls for a

different set of ethical rules, or when the aforesaid rules change. The Committee will formulate a recommendation in that regard. (See Recommendations 1.4.3 and 1.4.4 in Section 1.4 of Chapter III of this Report)

[320] Bearing in mind that there are different organs that deal with matters relating to personnel and ethical rules, such as, for example, the Public Services Commission, the Integrity Commission, and the Ministry of the Public Service, doubts may arise with respect to the entity to which personnel should turn for information or to resolve doubts about the scope or interpretation of the ethical rules governing their activities. In that regard, the Committee notes that the country under review should consider including a provision in the Code of Conduct expressly mentioning that personnel can obtain that information from the Ministry of the Public Service. The Committee will formulate a recommendation in that regard. (See Recommendation 1.4.5 in Section 1.4 of Chapter III of this Report)

[321] During the on-site visit, representatives of the Ministry of the Public Service mentioned that trainings do not include modules on inherent corruption risks in the performance of functions or on the potential consequences and penalties for involvement in acts of corruption. The Committee will formulate a recommendation in this regard. (See Recommendation 1.4.6 in Section 1.4 of Chapter III of this Report)

[322] In addition, during the on-site visit, representatives of the Ministry of the Public Service mentioned that the induction course is never held as soon as a public servant begins performing their functions because the practice is to wait until a group of new public servants has formed before the course is organized. As a result, the course may be imparted several weeks or months after a public servant begins performing their functions. In that regard, the Committee will formulate a recommendation that the country under review should consider making it obligatory to offer the induction course to public servants under the purview of the Ministry of the Public Service during the public officers' first week of employment, in accordance with Regulation 29(1) of the Public Service Regulations. (See Recommendation 1.4.7 in Section 1.4 of Chapter III of this Report)

1.3. Results

[323] The country under review did not provide, either in its Response to the Questionnaire, or during the on-site visit, any information about results of instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities over the past five years. In light of the foregoing, the Committee will make a recommendation to the country under review in that regard. (See Recommendation 1.4.8 in Section 1.4 of Chapter III of this Report)

1.4. Conclusions and recommendations

[324] Based on the review conducted regarding the implementation in Belize of Article III, paragraph 3 of the Convention, the Committee suggests that the country under review consider the following recommendations:

- 1.4.1. Complete the manual to standardize trainings for personnel in the departments under the purview of the Ministry of the Public Service within a time frame set in a schedule adopted for that purpose, subject to the availability of resources, and establish a formal training program to be implemented by all departments under that ministry's purview, in

order to ensure proper understanding by public servants of their responsibilities. (See paragraph 317 in Section 1.2 of Chapter III of this Report).

- 1.4.2. Establish a formal training program for personnel of the Ministry of the Public Service in order to ensure that they have a proper understanding of their responsibilities when providing training to personnel of other departments. (See paragraph 318 in Section 1.2 of Chapter III of this Report.)
- 1.4.3. Establish a formal training program to provide instruction to personnel of the Ministry of the Public Service and of the departments under its purview on the ethical rules governing their activities. (See paragraph 319 in Section 1.2 of Chapter III of this Report).
- 1.4.4. Adopt the necessary measures to ensure that personnel of the Ministry of the Public Service and of the departments under its purview are informed of the ethical rules governing their activities when they begin performing their functions, when there is a change in their functions, when a different set of ethical rules is applied, or when changes are made to those rules. (See paragraph 319 in Section 1.2 of Chapter III of this Report.)
- 1.4.5. Consider including a provision in the Code of Conduct that expressly mentions that the Ministry of the Public Service is the body responsible for defining, steering, advising, and supporting personnel with respect to the ethical rules governing their activities. (See paragraph 320 in Section 1.2 of Chapter III of this Report).
- 1.4.6. Include in the training programs offered to personnel under the purview of the Ministry of the Public Service modules on inherent corruption risks in the performance of functions or on the potential consequences and penalties for involvement in acts of corruption. (See paragraph 321 in Section 1.2 of Chapter III of this Report).
- 1.4.7. Impart the induction course to public servants of the departments under the purview of the Ministry of the Public Service during their first week of employment, in accordance with Regulation 29(1) of the Public Service Regulations. (See paragraph 322 in Section 1.2 of Chapter III of this Report).
- 1.4.8. Compile detailed statistics on the results of instruction imparted to personnel of the Ministry of the Public Service to ensure proper understanding of their responsibilities and the ethical rules governing their activities, covering such aspects as: number of induction, training, or instruction programs and courses for that purpose; periodicity or frequency with which they are imparted and the number of civil servants taking part; number of handbooks for civil servants on the proper performance of their functions and on their ethical rules, and to alert them to the risks of corruption inherent in the performance of the functions; number of inquiries by civil servants on the proper

performance of their duties and on the ethical rules governing their activities answered, and use of modern communication technologies for that purpose; number of activities undertaken to ascertain if the objective of ensuring that those ethical rules are understood has been achieved; and number of measures or adopted by the authorities or bodies responsible for seeing that instruction is provided fully and for ensuring compliance with provisions and/or measures adopted in that regard. The purpose of the foregoing is to identify obstacles and recommend corrective measures, as necessary. (See paragraph 323 in Section 1.2 of Chapter III of this Report).

2. THE STUDY OF PREVENTIVE MEASURES THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN EQUITABLE COMPENSATION AND PROBITY IN PUBLIC SERVICE (ARTICLE III, PARAGRAPH 12 OF THE CONVENTION)

2.1 STUDY OF PREVENTIVE MEASURES THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN EQUITABLE COMPENSATION AND PROBITY IN PUBLIC SERVICE

[325]The country under review, in its Response to the Questionnaire,⁹⁴ notes that it has not carried out studies of prevention measures that take into account the relationship between equitable compensation and probity in public service.

2.2 ESTABLISHMENT OF OBJECTIVE AND TRANSPARENT CRITERIA FOR DETERMINING THE COMPENSATION OF PUBLIC SERVANTS

2.1.1. Existence of a legal framework and/or other measures

[326]In its Response to the Questionnaire, the country under review presented the following information:⁹⁵ *“There has been no established objective and transparent criteria for determining the compensation of public servants. At present, the salaries, wages, gratuities and bonuses are determined by mapping the roles and job description with existing positions of comparative status as a benchmark and by assessing the responsibilities, expertise, complexity and market availability to list a few crucial factors.”*

[327]In addition, after the on-site visit, the country under review provided Ministry of Finance Circular No. 2 of 2017,⁹⁶ containing the salary scales for *Permanent Public Officers, Teachers, Open Vote Workers, the Belize Police Department, the Belize National Coast Guard Service as well as new daily rates for the Belize Defence Force. According to the circular, the increase also extends to Pensioners.*

[328]In addition, after the on-site visit, the country under review provided a copy of the “Sixth Monthly Progress Report – Fourth Period” on the project for the development of a “Job Classification and Compensation System.”⁹⁷ According to that report, the purpose of the project

⁹⁴ See Response of Belize to the Questionnaire in the Fifth Round, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁹⁵ See Response of Belize to the Questionnaire in the Fifth Round, p. 9, available at http://www.oas.org/juridico/english/mesicic5_blz.htm

⁹⁶ See Ministry of Finance Circular No. 2 of 2017, available at: http://www.oas.org/juridico/english/mesicic5_blz.htm

⁹⁷ See Sixth Monthly Progress Report – Fourth Period, p. 3, available at: http://www.oas.org/juridico/english/mesicic5_blz.htm

is “to implement a new Classification and Compensation System for the Belize Public Service and in the process strengthen the institutional and human capacities of the Job Classification and Compensation Unit within the Ministry of the Public Service, to do the following: Conduct proper Job Analysis; Conduct Organization Analysis and develop Organization Charts; Develop Job Descriptions; Establish internal equity throughout the Governmental structure through the application of Job; Evaluation methodology; Develop a proper Job Classification Structure through Job Evaluation methodology; Develop a Compensation Structure linked to the Job Classification Structure; Establish external competitiveness through a Compensation Survey; Link Compensation to Performance Measurement”.

[329] During the on-site visit, as mentioned in Section 1.1 of Chapter II of this Report, representatives of the Ministry of the Public Service noted that the project was initially planned to be completed in two years but was by then in its third year, and that it was not possible to estimate when the project would conclude.

[330] The representative of the Ministry of Finance also reported during the on-site visit that salary scales are currently negotiated with civil servants' representatives.

[331] Finally, during the on-site visit, the representative of the Ministry of Finance mentioned the existence of a Budget Book, which contains a list of all civil service posts and their salaries. According to that official, the Budget Book is published on the Ministry of Finance website.

2.1.2. Adequacy of the legal framework and/or other measures

[332] With respect to provisions that refer to the establishment of objective and transparent criteria for determining the compensation of public servants, the Committee notes the project for the development of a Job Classification and Compensation System, which is currently in progress.

[333] In that regard, in spite of the fact that the country under review mentioned the existence of the Budget Book and the salary scales of public servants, it did not provide any laws in force in Belize in that regard; indeed, it expressly stated in its Response to the Questionnaire that objective and transparent criteria for determining the compensation of public servants have not been established.

[334] In light of the foregoing, the Committee believes that the country under review should consider establishing a legal framework with respect to remuneration policy that establishes objective and transparent criteria to determine fair compensation for public servants in all three branches of government. Such a legal framework could include the designation or establishment of a governing body to supervise compensation. The Committee will make a recommendation on this point. (See Recommendation 2.1.3.1. in Chapter III of this Report.)

[335] The Committee also notes that the country under review did not have access to a copy of the Budget Book or to its link on the Ministry of Finance website. The Committee will formulate a recommendation that the country under review consider taking the necessary steps to publish the Budget Book online, including the salary scales of all public-sector positions in all three branches of government, so that those documents are readily accessible to the public. (See Recommendation 2.1.3.2 in Chapter III of this Report.)

[336] In relation to the project for the development of the aforementioned Job Classification and Compensation System⁹⁸, the Committee notes the following:

[337] *“1) Commencing the process of building and strengthening the capacity within the Belize Public Service (residing in the Job Classification and Compensation Unit within the Ministry of the Public Service) to establish and maintain a new and objective Job Classification System and an associated Compensation System. This is a work-in-progress as the capacity of the Unit continues to be strengthened in practical ways with each passing week of project implementation. 2) Conducting an analysis of the existing main Public Service salary scale and sensitizing Executive Management to the serious structural defects that have crept in over the years - such as scale compression, unacceptably deep adjacent grade overlap (double and triple), small and uneven mid-point differences, uneven range spreads - as well as the implications for the overall wage-bill when these defects are inevitably corrected after the new classification is done. As a corollary, Executive management is now more sensitized to the salary administration challenges presented by such a defective salary structure and to how employee morale is adversely affected when salary differentiation becomes so blurred. [...] Naturally, this process has unintentionally led to fears and apprehension in some quarters but it is a necessary precondition for achieving organizational efficiency and effectiveness.”* (Emphasis added)

[338] In view of the above, the Committee also believes it important for the country under review to consider taking the necessary steps to resolve the “salary administration challenges” and “the serious structural defects that have crept in over the years,” as noted on page 3 of the “Sixth Monthly Progress Report – Fourth Period” on the project for the development of the Job Classification and Compensation System. The Committee will make a recommendation in that regard. (See Recommendation 2.1.3.3. in Chapter III of this Report.)

2.1.3. Conclusions and Recommendations

[339] Based on the review conducted in the above sections regarding the implementation by Belize of Article III, paragraph 12 of the Convention, the Committee offers the following conclusion:

- 2.1.3.1. Consider establishing a legal framework with respect to remuneration policy that establishes objective and transparent criteria to determine fair compensation for public servants in all three branches of government, which could include the designation or establishment of a governing body to supervise compensation. (See paragraph 334 in Section 2.2 of Chapter III of this Report.)
- 2.1.3.2. Take the necessary steps to publish the Budget Book online (on the websites of the Ministry of Finance and the Ministry of the Public Service), including the salary scales of all public-sector positions in all three branches of government, so that those documents are readily accessible to the public. (See paragraph 335 in Section 2.2 of Chapter III of this Report.)
- 2.1.3.3. Consider taking the necessary steps to resolve the “salary administration challenges” and “the serious structural defects that have crept in over the years,” as noted in the “Sixth Monthly Progress Report – Fourth Period” on

⁹⁸ See Sixth Monthly Progress Report – Fourth Period, p. 3, available at: http://www.oas.org/juridico/english/mesicic5_blz.htm

the project for the development of the Job Classification and Compensation System. (See paragraph 338 in Section 2.2 of Chapter III of this Report.)

IV. BEST PRACTICES

[340]The country under review did not present any best practices in relation to the Convention provisions selected for the Second and Fifth Rounds of Review.

ANNEX

AGENDA OF THE ON-SITE VISIT TO
BELIZE

<u>Monday April 23, 2018</u>	
15:30 hrs. – 16:00 hrs. <i>Ramada Belize City Princess Hotel</i>	Coordination meeting between the representatives of the member states of the subgroup and the Technical Secretariat
16:00 hrs. – 16:30 hrs. <i>Ramada Belize City Princess Hotel</i>	Coordination meeting between the representatives of the country under review, the member states of the subgroup and the Technical Secretariat
<u>Tuesday April 24, 2018</u>	
9:00 hrs. – 12:30 hrs. <i>Ramada Belize City Princess Hotel</i>	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional organizations, academics or researchers
9:30 hrs. – 10:45 hrs	<u>Session 1</u> Follow-Up of the Recommendations of the Second Round: ⁹⁹ <ul style="list-style-type: none">• Systems of government hiring <u>Participants:</u> Mrs. Dareth Cayetano Obermayer, President, <i>Public Service Union</i> Mr. Herman Pastor Jr., First Vice President, <i>Public Service Union</i> Mr. Hubert Enriquez, Treasurer, <i>National Trade Union Congress of Belize (NTUCB)</i> Mr. Edmund Zúñiga, Internal Auditor, <i>National Trade Union Congress of Belize (NTUCB)</i>

99. Annex I of the Response and Supplemental Response of Belize to the Questionnaire on follow-up on implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round is available at: <http://www.oas.org/juridico/english/blz.htm>

10:45 hrs. – 12:00 hrs.	<p><u>Session 2</u></p> <p>Follow-Up of the Recommendations of the Second Round:</p> <ul style="list-style-type: none"> • Systems of government procurement of goods and services <p><u>Participants:</u></p> <p>Ms. Marissa Longworth-Vice President of Services, <i>Chamber of Commerce and Industry</i></p> <p>Mr. Gaicomo Sanchez- Treasurer, <i>Chamber of Commerce and Industry</i></p>
12:00 hrs. – 14:00 hrs.	<p>Lunch</p>
14:00 hrs. – 15:00 hrs.	<p><u>Session 3</u></p> <p>Follow-Up of the Recommendations of the Second Round:</p> <ul style="list-style-type: none"> • Protection for whistleblowers of acts of corruption • Acts of Corruption <p><u>Participant:</u></p> <p>Ms. Leslie Mendez-Member, <i>Bar Association of Belize</i></p>
15:00 hrs. – 16:00 hrs. <i>Attorney General's Ministry, Belize City</i>	<p>Panel 1: Acts of Corruption</p>
	<ul style="list-style-type: none"> • Prevention of Corruption Act, 2007 • Prevention of Corruption Act, Chapter 105 of the Substantive Laws of Belize, Re 2011. • Reactivation of the Integrity Commission • Resources • Results

	<p><u>Participants:</u> Mr. Nigel Hawke-Solicitor General, <i>The Attorney General's Ministry</i> Stacy Martinez, Crown Counsel, <i>The Attorney General's Ministry</i></p>
16:00 hrs. – 17:00 hrs. <i>Attorney General's Ministry, Belize City</i>	Panel 2: Systems for Protecting Public Servants and Private Citizens who in Good Faith Report Acts of Corruption
	<ul style="list-style-type: none"> • The Justice Protection Act • Protection of Physical Integrity; Workplace • Reporting Acts of Corruption • Authorities to Process Protection Requests • Protection Measures for Private Citizens • Resources; Results
	<p><u>Participants:</u> Mr. Nigel Hawke-Solicitor General, <i>The Attorney General's Ministry</i> Stacy Martinez, Crown Counsel, <i>The Attorney General's Ministry</i></p>
16:30 hrs. – 17:00 hrs. <i>Ramada Belize City Princess Hotel</i>	Informal meeting between the representatives of the member states of the subgroup and the Technical Secretariat.
<u>Wednesday, April 25, 2018</u>	
9:00 hrs. – 10:30 hrs	Travel to Belmopan
10:30 hrs. – 12:30 hrs. <i>Attorney General's Ministry, Belmopan</i>	Panel 3: Systems of Government Hiring

	<ul style="list-style-type: none"> • Merit in the Recruitment Process • Job Descriptions and Classification <ul style="list-style-type: none"> - Job Classification and Compensation Project • Mechanisms for Advertisement of Hiring Opportunities <ul style="list-style-type: none"> - The Selection and Recruitment Manual for Belize Public Service • Belize Constitution (Government Open Vote Workers) Regulations • National Assembly Staff (Conditions of Service) Regulations 2003 • Results <p><u>Participants:</u> Mr. Marcelino Choco-Director of Human Resource Management, <i>Ministry of Public Service</i> Mrs. Dona Mas Bethran-Administrative Officer, <i>Ministry of Public Service</i> Mr. Paul Jones-Past Chair, <i>Belize Advisory Council</i> Mr. Eddie Webster, Clerk, National Assembly Mr. Charles Gibson, President, <i>Public Service Commission</i> Mr. Teodoro Vargas, <i>Public Service Commission</i> Mr. Nigel Hawke-Member, <i>Judicial and Legal Services Commission</i></p>
12:30 hrs. – 14:00 hrs.	Lunch
14:00 hrs. – 16:00 hrs <i>Attorney General's Ministry, Belmopan</i>	Panel 4: The Ministry of the Public Service
	<ul style="list-style-type: none"> • Instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities <ul style="list-style-type: none"> - Legal framework, programs, competent agencies, and use of technology - Results - Difficulties encountered and technical cooperation needs

	<p><u>Participants:</u></p> <p>Mr. Marcelino Choco-Director of Human Resource Management, <i>Ministry of Public Service</i></p> <p>Mrs. Dona Mas Bethran-Administrative Officer, <i>Ministry of Public Service</i></p>
16:00 hrs. – 17:00 hrs. <i>Attorney General's Ministry, Belmopan</i>	Panel 5: Equitable Compensation and Probity in the Public Service
	<ul style="list-style-type: none"> • Study of Preventive Measures that take into Account the Relationship between Equitable Compensation and Probity in the Public Service <ul style="list-style-type: none"> - Criteria currently used to determine pay for the personnel under the purview of the Public Service Commission - Objective and transparent criteria for setting public servants' salary levels - Difficulties encountered and technical cooperation needs - Results
	<p><u>Participants:</u></p> <p>Mr. Marcelino Choco, Director of Human Resource Management, <i>Ministry of Public Service</i></p> <p>Mrs. Dona Mas Bethran, Administrative Officer, <i>Ministry of Public Service</i></p> <p>Artemio Osorio, Director, Procurement Unit, <i>Ministry of Finance</i></p>
17:00 hrs. – 17:30 hrs. <i>Hotel in Belmopan</i>	Informal meeting between the representatives of the member states of the subgroup and the Technical Secretariat.
<u>Thursday April 26, 2018</u>	
09:00 hrs. – 13:00 hrs. <i>Attorney General's Ministry, Belmopan</i>	Panel 6: Systems of Procurement of Goods and Services

	<ul style="list-style-type: none"> • Finance and Audit (Reform) Act of 2005 • Evaluation of Bids • Publication of Tender Opportunities and Pre-Bidding Terms and Conditions • Electronic Procurement and Communication Systems • National Registry of Contractors • Procurement Planning • Citizen Oversight Mechanism <p>Results</p>
	<p><u>Participant:</u> Artemio Osorio, Director, Procurement Unit, <i>Ministry of Finance</i></p>
13:00 hrs. – 14:30 hrs.	Lunch
14:30 hrs. – 15:00 hrs.	Informal meeting between the representatives of the member states of the subgroup and the Technical Secretariat.
<u>15:30 hrs. – 16:00 hrs.</u>	Final meeting between the representatives of the country under review, the member states of the subgroup and the Technical Secretariat.
16:00 hrs. – 17:30 hrs.	Travel to Belize City

**CONTACT AUTHORITY FROM THE COUNTRY UNDER REVIEW FOR
COORDINATION OF THE ON-SITE VISIT, AND REPRESENTATIVES OF THE
MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP AND THE
TECHNICAL SECRETARIAT OF THE MESICIC**

COUNTRY UNDER REVIEW

BELIZE

Stacy Martinez

Alternate Expert, Committee of Experts of the MESICIC
Crown Counsel, International Legal Affairs
Attorney General's Ministry

MEMBER STATES OF THE REVIEW SUBGROUP:

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