FOLLOW-UP MECHANISM FOR THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
Thirty-Seventh Meeting of the Committee of Experts
March 14 to 17, 2022
Washington, D.C.

REPUBLIC OF HONDURAS

FINAL REPORT
(Adopted at the March 17, 2022 Plenary Session)
SUMMARY

This report contains a comprehensive review of the implementation of the provisions of the Inter-American Convention against Corruption selected by the MESICIC Committee of Experts for the Third Round, as well as for the Sixth Round.

This report contains the comprehensive review of the implementation in the Republic of Honduras of Article XVI of the Inter-American Convention against Corruption, corresponding to bank secrecy, which was selected by the MESICIC Committee of Experts for the Sixth Round; and the comprehensive review of the implementation of the provisions of the Inter-American Convention against Corruption selected by the MESICIC Committee of Experts for the Third Round, which correspond to the following topics: denial or prevention of tax benefits for payments made in violation of anticorruption legislation (Article III, paragraph 7 of the Convention); prevention of bribery of domestic and foreign public officials (Article III, paragraph 10 of the Convention); transnational bribery (Article VIII of the Convention); illicit enrichment (Article IX of the Convention); notification of the criminalization of transnational bribery and illicit enrichment (Article X of the Convention); and extradition (Article XIII of the Convention).

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 SIX 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 analyses were based on the Response to the Questionnaire from the Republic of Honduras, the information gathered by the Technical Secretariat; and with an important source of information, such as the information gathered during the on-site visit to that State from September 27 to 30, 2021 by representatives of Chile and Nicaragua, as member countries of the analysis subgroup of the Republic of Honduras in which, with the support of the Technical Secretariat of the MESICIC, it was possible to clarify, clarify and complement the information provided by the Republic of Honduras, in addition to hearing the opinions of civil society organizations on the topics under analysis, which contributed to the Committee having objective and complete information on those topics.

With regard to the implementation in the Republic of Honduras of the provisions of the Inter-American Convention against Corruption that were selected by the Committee of Experts of the Follow-up Mechanism for the Third Round of Review, based on the methodology for the Sixth Round and bearing in mind the information provided in the Response to the Questionnaire and during the on-site visit, the Committee formulated recommendations that address purposes such as those highlighted below:

With respect to the **denial or prevention of tax benefits for payments made in violation of anti-corruption legislation**, it was recommended that the Republic of Honduras, inter alia: adopt provisions that expressly prohibit obtaining tax benefits for payments made by any natural or legal person in violation of its anti-corruption legislation; adopt provisions that expressly eliminate tax benefits to any natural or legal person that makes assignments in violation of its anti-corruption legislation; prepare guides, manuals or guidelines that expressly provide guidance on how to review applications for the application of tax benefits, including how to ensure that they meet the established requirements and verify the veracity of the information provided therein, so that the origin of the expenditure or payment on which they are based can be verified, in order to avoid the undue use of tax benefits; adopt additional measures to facilitate access by the competent authorities to the sources of information necessary to carry out the verification of the
information provided in the applications for the application of benefits and the verification of the origin of the expense or payment on which they are based, including the request of information to financial entities, in order to avoid the undue use of tax benefits; develop computer programs that facilitate the consultation of data or the cross-checking of information; develop technological programs aimed at automating and facilitating the identification of the conduct of taxpayers who seek to obtain tax benefits for payments in violation of anti-corruption legislation, as well as to create alerts, provide follow-up and ensure that an inspection order is generated against individuals or legal entities linked to the acts of corruption provided for in the Convention; adopt measures to move from physical documentation to digital format; expand and strengthen inter-institutional coordination mechanisms; develop training, education and refresher programs specifically designed to alert public officials, who are responsible for processing applications for the application of tax benefits in the tax authorities, including collaborators working in this area, on the modalities used to disguise payments for corruption and instruct them on how to detect such payments in the same; promote among public officials in the tax authorities and collaborators working in this area the benefits of participating in training, education and updating programs; strengthen communication channels; and adopt provisions and measures that would allow the Tax Administration to carry out administrative tax investigations within the scope of its competencies, as well as the corresponding administrative proceedings in this regard, independently from those carried out in the criminal area, this in order to avoid delays and that the term or statute of limitations period stops running.

Regarding the prevention of bribery of national and foreign public officials, the following recommendations, among others, were made: adopt rules or measures to ensure that "professional secrecy" is not an obstacle for professionals whose activities are regulated by the Organic Law of the Honduran Association of University Professionals in Public Accounting, Decree No. 19-93 of March 16, 1993, and by the Code of Ethics of the Honduran Association of Commercial Experts and Public Accountants, approved at the Extraordinary General Assembly held on January 16, 2005. 19-93 of March 16, 1993 and by the Code of Ethics of the Honduran Association of Business Experts and Public Accountants, approved at the Extraordinary General Assembly held on January 28, 2005, may bring to the attention of the competent authorities any anomaly, irregularity or indication of an act of corruption that they detect in the course of their work, particularly bribery of national and foreign officials, in the event that these constitute a crime, also ensuring that the obligation to denounce is expressly established; adopt a Code of Ethics that establishes the principles that the members of the Honduran Association of University Professionals in Public Accounting must rigorously observe in the performance of their duties, in order to guarantee integrity in the exercise of the profession; adopt rules and measures aimed at making external auditing mandatory for commercial companies of any type, whether they are issuers or not, as well as associations, providing for this, among others, aspects such as: the frequency of audit examinations, the indicators to be examined during the same and the obligation to conform to the International Standards on Auditing (ISA), as provided for in the Law on Accounting and Auditing Standards, Decree No. 129-2004, and the obligation to comply with the International Standards on Auditing, as provided for in the Law on Accounting and Auditing Standards, Decree No. 129-2004, of December 31, 2004; strengthen the rules related to the application of International Financial Reporting Standards (IFRS), adopted by the Technical Board of Accounting and Auditing Standards, to ensure that commercial companies are obliged to apply them; adopt measures to implement an accounting system based on International Financial Reporting Standards (IFRS), applicable for commercial companies of any type, whether issuers or non-issuers, as well as for partnerships; adopt relevant standards and measures to strengthen review methods, such as accounting inspections and analysis of periodically requested information, to detect anomalies in accounting records that could indicate the payment of sums for corruption; expand investigation tactics, such as follow-up of payments, cross-checking of information, cross-referencing of accounts and requests for information to financial entities, in order to establish the occurrence of such payments; develop manuals, guides, or guidelines to orient those who must review accounting records on how to do so in order to detect sums paid for corruption; implement
computer programs that allow easy access to the information needed to verify the veracity of accounting records and the supporting documents; establish institutional coordination mechanisms to allow the authorities to obtain the collaboration they need; and develop training programs for officials of the bodies or agencies responsible for preventing and/or investigating violations of measures designed to ensure the accuracy of accounting records, specifically designed to alert them to the methods used to disguise payments for corruption through such records, and to instruct them on how to detect them.

With regard to transnational bribery, it was recommended, inter alia: adopt provisions that criminalize transnational bribery, ensuring that the criminal offense includes the elements of the conduct described in Article VIII of the Convention, which refers, more precisely, to the act of offering or granting to a public official of another State, directly or indirectly, by its nationals, persons having their habitual residence in its territory and companies domiciled therein, any object of pecuniary value or other benefits, such as gifts, benefits in kind or in kind, persons having their habitual residence in its territory and enterprises domiciled therein, anything of pecuniary value or other benefits, such as gifts, favors, promises or advantages, in exchange for the performance or omission by such official of any act, in the exercise of his or her public functions, in connection with a transaction of an economic or commercial nature; adopt provisions that provide penalties specifically for foreign public officials or employees and officials of international public bodies who engage in the conduct of transnational bribery, as described in Article VIII of the Convention, in order to contribute to greater clarity; Adopt provisions and measures to prohibit and sanction companies domiciled in its territory that engage in the conduct described in Article VIII of the Convention, regardless of the sanctions applicable to persons related thereto who are involved in the commission of acts constituting such conduct; and adopt such provisions and measures as it deems appropriate, including the possibility of adopting an international cooperation law, for the purpose of complying with the third paragraph of Article VIII of the Convention, which provides that a State Party that has not criminalized transnational bribery shall, to the extent permitted by its laws, provide the assistance and cooperation provided for in the Convention in relation to this offense.

Regarding illicit enrichment, it was recommended, among other aspects: to adopt the pertinent norms and measures oriented to contemplate in the criminal type of the offense of illicit enrichment, patrimonial increases of less than HNL 500 000 of a public official or employee above their legitimate income and that cannot be reasonably justifiable; to adapt, subject to its Constitution and the fundamental principles of its legal system, Article 484 of the Penal Code, Decree No. 130-2017 of January 31, 2019, which relates to the conduct of illicit enrichment described in Article IX of the Convention in such a way that the element “up to 2 years after having ceased them” provided for in said article is eliminated therein, so that its application is considered whenever there is an increase in the assets of a public official or employee with excess respect to his legitimate income during the exercise of his functions and that cannot be reasonably justified by him; conduct awareness and integrity promotion campaigns aimed at public officials or employees regarding the importance of submitting sworn declarations with true and accurate information on their income, assets and income; provide a definition of conflict of interest in its regulations that is broad enough to include affiliations, personal associations and family interests of the public official or employee, as well as private and legitimate activities related thereto, that could reasonably be expected to unduly influence the performance of his or her functions, so as to open the possibility of their inclusion in the declarations of income, assets and income of public officials and employees; adopt relevant standards and measures to ensure that, within the public officials and employees covered by the criminal offense of illicit enrichment, high-ranking officials are included, including those who hold a high-level position or a position of trust as a result of an appointment, so as to ensure that, in the exercise of their functions, they serve with objectivity and integrity the interests of the public. the States Parties should adopt, to the extent permitted by their laws, appropriate measures to strengthen the procedures for providing the assistance and cooperation provided for in the Convention in relation to the conduct of illicit enrichment, as described in Article IX of the
Convention, in order to expedite the process of detecting, investigating and prosecuting this offense and to ensure that the competent authorities have direct access to the information they need to determine whether or not punishable acts have occurred.

With respect to extradition, it was recommended that the Republic of Honduras, inter alia: adopt a law regulating the procedure to be used in extradition proceedings, including the different stages of the process, providing for this, among other aspects, the criteria for authorizing or not such extradition; adopt rules and measures, as part of the law regulating the procedure for extradition proceedings, to ensure that the requesting State is informed in a timely manner of the outcome of its extradition request, including the content of the decision of the competent court granting or denying the extradition request, also providing in said law, the deadline and the means by which it must be notified; adopt pertinent rules and measures, as part of the law governing the procedure for extradition proceedings, to expressly establish the obligation of the requested State to prosecute the extraditable person who is the subject of the denied extradition request whose surrender was refused on the grounds of nationality or because the State considers itself to have jurisdiction, in accordance with the principle of aut detere aut judicare; adopt relevant standards or measures, subject to its Constitution and the fundamental principles of its legal system, to ensure that any person with Honduran nationality who engages in any of the conduct constituting acts of corruption described in Article VI of the Convention is grounds for extradition; adopt relevant standards and measures, as part of the law governing the procedure for extradition proceedings, to ensure that the requesting State whose extradition request is denied is informed in a timely manner of the final outcome of any criminal proceedings it undertakes on the grounds that it considers itself to be competent in the matter; reconsider which is the most appropriate competent authority for the purposes of the Convention in extradition matters, to designate it as the Central Authority; adopt measures to promote international legal cooperation in extradition matters and strengthen inter-institutional coordination to achieve the agility and effectiveness required in extradition proceedings; design and implement systematic and continuous training programs for administrative and judicial authorities with jurisdiction over extradition matters, on the possibilities of application of the Convention in extradition cases, in order to benefit from its greater use and promote its use, both in the formulation and consideration of extradition requests; develop and maintain updated indicators to analyze and verify the results obtained during the development of such training programs for administrative and judicial authorities with jurisdiction over extradition, such as the number of participants, the hierarchy of officials, the participating institutions, the dates on which they are held, the frequency with which they are offered, and the content, among other aspects, in order to identify challenges and adopt corrective measures, when appropriate.

For the review of the provision selected in the Sixth Round that refer to bank secrecy, some of the recommendations formulated to the Republic of Honduras for its consideration are aimed at purposes such as: adopt rules and measures to ensure that the Convention may be invoked as a basis and to ensure that it provides the information requested by another State Party when such information has been requested by another State Party for the purposes of a proceeding relating to an act of corruption and which is related to bank secrecy, without being able to invoke bank secrecy as a basis for refusing to provide such information; adopt rules and measures to ensure that assistance requested by another State Party may not be refused on the ground of bank secrecy when such assistance is requested for the purpose of a proceeding relating to an act of corruption; adopt rules and measures to ensure that the requesting State Party is obliged not to use information protected by bank secrecy received from the requested State Party for any purpose other than the proceedings for which it was requested, unless authorized by the requested State Party; adopt rules and measures to establish a procedure whereby its competent authorities may transmit requests for assistance or information received from other States Parties, when such assistance relates to bank secrecy and has been requested for the purposes of proceedings relating to an act of corruption, providing for the requirements,
time limits and, as far as possible, the use of electronic means, to ensure that the requesting States Parties receive the information they require in an expeditious, efficient and effective manner.
COMMITTEE OF EXPERTS FOR THE FOLLOW-UP MECHANISM ON IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION (MESICIC)

REPORT ON THE IMPLEMENTATION IN THE REPUBLIC OF HONDURAS OF THE PROVISIONS OF THE INTERAMERICAN CONVENTION AGAINST CORRUPTION SELECTED FOR REVIEW FOR THE THIRD AND SIXTH ROUNDS

INTRODUCTION

1. Content of the Report

This report will first refer to the implementation in the Republic of Honduras of the provisions of the Inter-American Convention against Corruption selected by the Committee of Experts (hereinafter "Committee") of the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (hereinafter "MESICIC") for the Third Round of Review. The provisions selected for the Third Round are those set forth in Article III, paragraph 7 (Denial of favorable of tax treatment for expenditures made in violation of anticorruption laws); Article III, paragraph 10 (Prevention of bribery of domestic and foreign public officials); Article VIII (Transnational bribery); Article IX (Illicit enrichment); Article X (Notification of criminalization of transnational bribery and illicit enrichment) and Article XIII (Extradition) of this Convention.

Second, the report will refer to the implementation of the Convention provisions selected by the MESICIC Committee of Experts for the Sixth Round of Review. These provisions correspond to those in Article XVI of the Convention, regarding bank secrecy, which reads as follows: “1. The Requested State shall not invoke bank secrecy as a basis for refusal to provide the assistance sought by the Requesting State. The Requested State shall apply this article in accordance with its domestic law, its procedural provisions, or bilateral or multilateral agreements with the Requesting State. 2. The Requesting State shall be obligated not to use any information received that is protected by bank secrecy for any purpose other than the proceeding for which that information was requested, unless authorized by the Requested State.”

Third, it will refer to the best practices that the country under review wished voluntarily to share regarding the provisions of the Convention selected for the Third and Sixth Rounds.

2. Ratification of the Convention and adherence to the Mechanism

According to the official records of the OAS General Secretariat, the Republic of Honduras ratified the Inter-American Convention against Corruption on May 25, 1998 and deposited its instrument of ratification on June 2, 1998.

1 This Report was adopted by the Committee in accordance with the provisions of Article 3(g) and 25 of its Rules of Procedure and Other Provisions, at the plenary session held on March 17, 2022, at its Thirty-Seventh Meeting, held at OAS Headquarters, March 14-17, 2022.

2 Chapter XII of the Methodology of the Sixth Round states the following: “The Methodology adopted by the Committee for the Third of Review shall apply to States that were not party to the Mechanism when that Round was conducted, in respect of review of the provisions of the Convention selected for that round. Notwithstanding the foregoing, with respect to the provisions of the Convention selected for the Third Round, note will also be taken of any difficulties in their implementation and of the technical cooperation needs required by these States.”

3 Inter-American Convention against Corruption, Article XVI.
In addition, the Republic of Honduras signed the Declaration on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption on December 8, 2001.

I. SUMMARY OF THE INFORMATION RECEIVED

1. Response of the Republic of Honduras

The Committee wishes to acknowledge the cooperation that it received throughout the review process from the Republic of Honduras, in particular, from the Superior Court of Auditors (TSC), which was evidenced, inter alia, though its Response to the Questionnaire, the constant willingness to clarify or complete its contents, and the support received during the on-site visit, to which the following paragraph of this report refers. Together with its Response, the Republic of Honduras sent, the provisions and documents it considered pertinent.

The Committee also notes that the country under review gave its consent for the on-site visit, in accordance with provision 5 of the Methodology for Conducting On-site Visits. As a member of the preliminary review subgroup, the representatives of the Republic of Chile conducted the on-site visit from September 27 to September 30, 2021, with the support of the MESICIC Technical Secretariat. The information obtained during that visit is included in the appropriate sections of this report and its Agenda is appended thereto, in keeping with provision 34 of the Methodology for Conducting On-Site Visits.

For its review, the Committee took into account the information that was provided by the Republic of Honduras until September 30, 2021, along with the information requested by the Technical Secretariat and the members of the preliminary review subgroup to carry out their functions, in keeping with the Rules of Procedure and Other Provisions, the Methodology for Follow-Up on the Implementation of the Recommendations Reviewed in the Third Round and for Review of the Convention Provisions Selected for the Sixth Round, 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.

The Committee received, within the time limit set in the Calendar adopted by the Committee for the Sixth Round, documents from civil society organizations as provided for in Article 34(b) of the Committee’s Rules.

Information was additionally received, throughout the course of the on-site visit, from civil society and private sector organizations; professional associations; and scholars and researchers that were invited to participate in the meetings, in keeping with the provisions contained in provision 27 of the Methodology for Conducting On-site Visits. A list of those persons is included in the Agenda for that visit, which is appended

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4 The Response to the Individualized Questionnaire for the Republic of Honduras with respect to the Provisions of the Inter-American Convention against Corruption selected for the Third and Sixth Rounds (“Response to the Questionnaire of the Republic of Honduras (Sixth Round)”), as well as the documents annexed thereto, may be consulted on the OAS Anticorruption Portal of the Americas.
5 Methodology for Conducting On-site Visits, provision 5.
6 Ibid., provision 34.
8 Methodology for the Sixth Round.
9 Methodology for Conducting On-site Visits.
10 Calendar adopted by the Committee of Experts for the Sixth Round.
11 Rules of Procedure and Other Provisions, Article 34(b).
12 Ibid.
II. REVIEW, CONCLUSIONS AND RECOMMENDATIONS ON IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION PROVISIONS SELECTED FOR THE THIRD ROUND:

1. DENIAL OR PREVENTION OF FAVORABLE TAX TREATMENT FOR EXPENDITURES MADE IN VIOLATION OF ANTICORRUPTION LAWS (ARTICLE III (7) OF THE CONVENTION)

1.1 Existence of a legal framework and/or other measures

[11] The Republic of Honduras has a set of provisions related to the denial or prevention of favorable tax treatment for expenditures made in violation of the anticorruption laws, among which the following should be noted:


[13] – The Tax Code, Decree No. 170-2016 of December 28, 2016, (hereinafter “Tax Code”), Article 1, which establishes the scope of application of the provisions that form the basic principles and fundamental rules of the legal regime of the tax system, applicable to all taxation. Article 2(28) defines taxable persons.

[14] Article 8, which establishes the sources of tax law as well as the hierarchy which governs the matter: 1) the Political Constitution of the Republic; 2) international treaties or agreements on tax matters to which Honduras is a party; 3) the Tax Code; 4) general or special laws of a tax nature; 5) other general or special laws containing provisions of a tax nature; 6) the jurisprudence established by the Supreme Court of Justice on tax matters; 7) regulations authorized by the President of the Republic; and 8) the general principles of tax law.

[15] Article 11 on the principle of legality, which establishes, “through tax and custom laws, the exclusive competence of the National Congress on the matter, and which as a result, establishes the following as not be subject to any other authority’s regulatory powers [...]”:

15 Ibid., Article 2(28).
18 Ibid., Article 8.
19 Ibid., Article 11.
20 Ibid., Article 11(2).
21 Ibid., Article 11(6).
22 Ibid., Article 11(7).
Article 12 on tax regulations, which provides for the strict interpretation of tax laws, such that the when “determining meaning and scope extensive or analogical methods of interpretation are not used.” Article 12 further states that “in particular, analogies intended to extend the scope of the taxable event or the scope of exemptions and exoneration, beyond its strict meaning, should not be admissible, nor should those intended to extend the scope of tax or customs offenses.”

Article 16, which defines exemptions as “all those provisions approved by the National Congress and that are expressed in tax or customs regulations with the rank of law that create taxes, and which provide for the total or partial release from payment of the tax obligation.” In addition, the enjoyment of a benefit provided by an “exemption in a declaration or self-assessment, is not to be subject an authorizing administrative procedure.”

Article 17, which defines an exoneration as “the total or partial waiver, as approved by the National Congress, of the payment of the tax or customs obligation — the individual processing, of which, is to be carried out by the Executive Branch, through the Secretariat of State in the Office of Finance” (hereinafter “SEFIN” based on its acronym in Spanish).

Article 18, which describes the effects of an exemption and an exoneration.

Article 19, which establishes what must be indicated in laws passed after the entry into force of the Tax Code that grant exemptions and exoneration.

Article 20, which establishes the scope of exemptions and exoneration:

1) Tax or customs exemptions and exoneration are personal. They may not be assigned to persons other than the beneficiaries, unless otherwise provided by special laws;

2) The exemptions and exoneration only include such taxes expressly established in law; and,

3) The Secretariat of State in the Office of Finance (SEFIN) must ascertain and verify compliance of taxpayers that benefit from exemptions with requirements and objectives contained in the bill that has been submitted before the competent authority. Failure to comply with the said requirements shall lead to cancellation of the benefits granted, except in duly proven circumstances of an act of God or force majeure.”

Article 21, which refers to the procedure for processing of exoneration, refunds, and credit notes derived therefrom. Article 21(1), establishes the SEFIN as the responsible body for processing requests. To enjoy or benefit from a exoneration recognized by law, the “natural person or legal person that qualifies for the said exoneration must be registered in the Registry of Exonerated Persons” that is administered by the SEFIN. Persons and legal entities may register to the Registry by completing the form approved by the SEFIN,
“attaching the relevant documentation and digital supports on which the request for registration is based, after which the SEFIN shall create a single file for use in its technological systems.”

Moreover, Article 21(4) requires the SEFIN to issue to the qualifying natural or legal person a registration certificate, which certifies tax exemption, “without prejudice to the resolution certifying the said tax exemption requested by the benefitting natural or legal person [...].” It further provides that “no other supporting documents shall be required by administrative or judicial authorities.”

As per Article 21(5), the SEFIN is also responsible for updating the registry on an annual basis.

As regards to tax credits for taxes paid by an exempted taxpayer, according to Article 21(6) and 21(7), such credits may only be issued by through a resolution of the SEFIN that indicates the amounts. The Tax Administration is the competent body to apply credits in accordance with the stated amounts in the resolution.

In addition, the SEFIN must perform the verifications and checking needed to validate the entries in the Register, as well as the transactions carried out and reported through automated systems and mechanisms.

If false or inaccurate information or data are found, or transactions carried out through electronic means are found to not be in accordance with the exemptions provided in law, the SEFIN must, pursuant to Article 21(13) “issue a report and resolution, which cancels the exemption registered and suspends the electronic mechanisms that permitted to enjoy the exemption that was granted by law.” This resolution “must also contain the applicable administrative sanctions and determine whether they entail payment of any unpaid taxes; in the cases of defined criminal offense, it must also order notification to the Office of the Public Prosecutor (Ministerio Público) so that it may conduct the necessary investigations and determine the corresponding criminal penalties.”

In addition, the resolution must notify to the responsible party and may be challenged through the appeal remedies and procedures set in the Tax Code. If a taxpayer who enjoys a tax benefit fails to comply with its obligations, the appropriate corresponding penalties shall be applied, as provided in the Tax Code.

[26] Article 58, which establishes the duties and obligations of taxpayers. These include, among others, registering in the registries of the Tax Administration and SEFIN, filing returns, notifications, self-assessments, and such other documents that the Tax Administration may require to fulfill its functions; keeping accounting books and tax records required in regulations, as well as conserving them for a period of five years in case of taxpayers registered in the Registry or, for a period of seven years, in all other cases; and finally providing the SEFIN and the Tax Administration with the information and cooperation they need to carry out their functions, in accordance with the manner and deadlines set in law.

[27] Article 61 on the duty to report and bring forward matter to the SEFIN or the Tax Administration.

[28] Article 63, which establishes the formal obligations of taxpayers, particularly, in relation to their obligation to facilitate functions carried out by the SEFIN and the Tax Administration in relation to reviews,
verifications, audits, inspections, investigations, assessments and collection. Other obligations include:
keeping accounting books and records of tax-related activities and operations, as well as backing up
transactions with supporting documents, such that such records may become evidence thereof. In accordance
with Article 63(3), such “accounting books, special records, documents, background information of the
operative events, electronic files [...] and other records processed through electronic means or computers
systems [must be] maintained in an orderly manner” and kept at the fiscal domicile of the taxpayer, such that
they may be put at the immediate disposal of the SEFIN and the Tax Administration, should they be requested.
In addition, the information must also be kept for a period of five years, in the case of taxpayers registered in
the Registry, and for a period of seven years in all other cases.

[29] Article 64, in relation the obligation to keep accounting records and which sets forth the rules for
keeping accounting records in accordance with the applicable laws, regulations and international financial
reporting standards recognized in Honduras.

[30] Article 65, which refers to the obligation of taxpayers to submit tax documents in relation to the
activities they carry out.

[31] Article 67, which establishes the obligation of natural persons or legal persons, including organizations
and entities that may lack legal personality, to pay taxes and file returns within 40 calendar days of the start of
any new activity to tax authorities.

[32] Article 69 on the general duties of public officials in the SEFIN and the Tax Administration. Particularly
worth highlighting is Article 69(2), which provides that, in the event of indications of a possible
tax offense, the SEFIN or the Tax Administration, as the case may be, must inform the Office of the Public
Prosecutor “so that the latter may carry out the appropriate investigations that correspond to its sphere of legal
competence.”

[33] Article 71, which establishes the duties of collaboration of public officials outside of the SEFIN or the
Tax Administration. As such, Article 71(1) requires all public authorities of the state – regardless of their
nature – to provide the SEFIN and the Tax Administration the data and background information it requires on
tax matters, including the support and assistance they need to carry out their functions. These public
authorities are also obligated to inform the Office of the Public Prosecutor of any tax offenses they become
aware of in the performance of their duties, including, for all legal purposes, any indication of the possible
commission of a criminal offense. In accordance with Article 71(6), the Courts and Tribunals of the Republic

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50 Ibid., Article 63.
51 Ibid., Article 63(2).
52 Ibid., Article 63(3).
53 Ibid.
54 Ibid.
55 Ibid., Article 64.
56 Ibid., Article 65.
57 Ibid., Article 67.
58 Ibid., Article 69.
59 Ibid., Article 69(2).
60 Ibid., Article 71.
61 Ibid., Article 71(1).
62 Ibid., Article 71(1).
63 Ibid., Article 71(3).
64 Ibid., Article 71(4). According to Article 71(5), political parties, trade unions, civil associations, and other business associations are
bound by the same obligations.
must also provide the SEFIN or the Tax Administration – *ex officio* or upon request – any information that may have tax or customs implications or bearing on a judicial case of which they are aware.65

[34] Article 77, which imposes on the SEFIN and the Tax Administration, as the case may be, the obligation to verify, check, or audit the data and facts included in the declarations and administrative statements of taxpayers, in accordance with the established procedures.66

[35] Article 82, which requires the SEFIN and the Tax Administration to prioritize the use of electronic, information, and telematic technologies in relation to their activities. It also establishes the scope and limitations of their use.67

[36] Article 83, which establishes the functional equivalence of documents issued through electronic means and the obligation to ensure the authenticity and integrity of the said documents.68

[37] Article 120, in relation to the powers of the Tax Administration69 to verify compliance with the formal obligations of the taxpayers, which establishes the mechanisms to carry out such verifications.70 According to Article 120(2), should a case of noncompliance by a taxpayer be found, in which the taxpayer did not rectify within the required ten-day period, the Tax Administration shall impose the corresponding fine, according to the range established for formal violations, and initiate and execute the sanctioning procedure provided for in the Code, in addition to issuing the corresponding resolution.71 Additionally, if irregularities are detected in a taxpayer’s records, data, or information, “the case file may be transferred for the purposes of initiating the corresponding audit procedure,”72 in accordance with the rules and procedures set out in the Tax Code.73

[38] Article 149, which establishes the classification of infractions.74 Pursuant to Article 149(1), an infraction is defined as “any action or omission that contravenes the tax or customs legal system, provided that it is considered as such in this Tax Code or in other applicable tax or customs laws presently in effect.”75 According to Article 149(2), such an infraction must be “assessed in an objective manner and be sanctioned administratively.”76 Article 149(3) classifies failure to comply with tax regulations as either a tax-related infraction or a criminal offense.77 More specifically, tax-related infractions – whether by act or omission – are those described in and sanctioned by the Tax Code and other tax laws in force, whereas tax-related criminal offenses are those established in the Penal Code.78 In the case of the latter, application of corresponding penalties fall exclusively under the jurisdiction of the “Courts and Tribunals of Justice.”79

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65 Ibid., Article 71(6).
66 Ibid., Article 77.
67 Ibid., Article 82.
68 Ibid., Article 83.
69 Ibid., Article 120.
70 Ibid., Article 120(1).
71 Ibid., Article 120(2).
72 Ibid., Article 120(3).
73 Ibid.
74 Ibid., Article 149.
75 Ibid., Article 149(1).
76 Ibid., Article 149(2).
77 Ibid., Article 149(3).
78 Ibid., Article 149(3)(a).
79 Ibid., Article 149(3)(b).
80 Ibid.
[39] Article 150, which defines a tax infraction as the “the failure of a taxpayer to comply with its formal and material obligations.”

[40] Article 153, which establishes the sanctions for tax-related infractions. Article 153(1) provides the Tax Administration and SEFIN are responsible for carrying out the investigations and determining and sanctioning infractions that fall within their purview.

[41] Article 154, which defines an infracting subject as any natural person, legal person, or other person described in the Tax Code “that carries out an act or omission established as an infraction at law.”

[42] Article 158, which describes the types of administrative sanctions that may be applicable. Article 158(1) establishes a fine as the main sanction for noncompliance with a formal obligation that does not generate interest. Interest may be applicable in the case of noncompliance of a material obligation, such as those described in and regulated by Tax Code. Article 158(2) establishes accessory sanctions. They may include “loss of the right to enjoy tax or customs benefits, privileges, prerogatives, or incentives, for failure to comply for two consecutive or alternate years.”

[43] Article 160, in relation to the determination of the applicable sanction for a formal infraction. Such sanction must be determined and calculated in accordance with the table provided in Article 160(1).

[44] Article 198, which establishes the responsibilities of the Tax Administration as follows: comply and enforce compliance with the provisions of the Political Constitution of the Republic of Honduras; international agreements regarding tax matters; the Tax Code; other tax-related laws regulations; oversee compliance in relation to tax obligations in order to combat tax-related infractions and criminal offenses; develop administrative management plans and programs; promote tax culture through assistance, guidance, and education programs; establish and maintain relations with both, national and international institutions and organizations, including such other agencies related to the Tax Administration; manage the tax system; oversee the collection of taxes and levies; recover tax debts; request from public or private third parties the information it needs to perform its investigative, oversight, and audit functions; apply sanctions in

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81 Ibid., Article 150.
82 Ibid., Article 153.
83 Ibid., Article 153(1).
84 Ibid., Article 154.
85 Ibid., Article 158.
86 Ibid., Article 158(1).
87 Ibid.
88 Ibid., Article 158(2).
89 Ibid.
90 Ibid., Article 158(3).
91 Ibid., Article 158(4).
92 Ibid., Article 158(5).
93 Ibid., Article 198.
96 Ibid., Article 198(1).
97 Ibid., Article 198(2).
98 Ibid., Article 198(3).
99 Ibid., Article 198(4).
100 Ibid., Article 198(5).
101 Ibid., Article 198(6).
102 Ibid., Article 198(7).
103 Ibid., Article 198(8).
104 Ibid., Article 198(9).
accordance with the provisions of the Tax Code and other taxes-related laws;\textsuperscript{104} resolving proceedings that are within its sphere of competence – whether they be initiated \textit{ex officio} or at the behest of a party;\textsuperscript{105} establish and implement expeditious and simplified procedures and systems to facilitate compliance with tax obligations; and ensure expedited processing of tax operations.\textsuperscript{106}

\[45\] – The Income Tax Law, Decree Law No. 25 and its Amendments, Article 10 of which establishes what constitutes part of a taxpayer’s gross income and as what does not and is therefore not subject to taxation.\textsuperscript{107}

\[46\] Article 11, which establishes the net taxable income of a business and determines which regular and necessary expenditures paid or incurred to generate income may be deductible, if adequately substantiated.\textsuperscript{108}

\[47\] Article 12, which establishes the expenditures that may not be deducted.\textsuperscript{109}

\[48\] Article 13, which establishes recognized deductions from a natural person’s income.\textsuperscript{110}

\[49\] Executive Decree No. PCM-084-2015, Article 1 of which creates and defines the Revenue Administration Service (\textit{Servicio de Administración de Rentas}, hereinafter “SAR” based on its Spanish acronym) as follows: “[…] a decentralized entity attached to the office of the President of the Republic, with its own legal personality and functional, technical, administrative, and national security autonomy, tasked with managing tax administration and bestowed with authority and competence at the national level, domiciled in the Capital of the Republic.”\textsuperscript{111}

\[50\] Article 3, which establishes the functions of the SAR.\textsuperscript{112}

\[51\] – The Penal Code, Decree No. 130-2017 of January 31, 2019,\textsuperscript{113} (hereinafter “Penal Code”) which establishes the different types of penalties and their effect,\textsuperscript{114} including corruption-related\textsuperscript{115} criminal offenses (or offenses against public treasury)\textsuperscript{116} and tax-related criminal offenses.\textsuperscript{117}

\[52\] Article 431, in relation to offenses against the public treasury, and which establishes penalties for “whomever defrauds Public Treasury – whether by an act or omission – such as evading the payment of taxes, duties, contributions, or fees, of amounts withheld or that should have been withheld, or unlawfully obtaining refunds of amounts withheld against payment of the tax or unlawful tax benefits, in an amount equal to or greater than HNL 50 000.”\textsuperscript{118} In addition, it provides that “a taxpayer shall be exonerated from criminal liability

\textsuperscript{104}\textsuperscript{105}\textsuperscript{106}\textsuperscript{107}\textsuperscript{108}\textsuperscript{109}\textsuperscript{110}\textsuperscript{111}\textsuperscript{112}\textsuperscript{113}\textsuperscript{114}\textsuperscript{115}\textsuperscript{116}\textsuperscript{117}\textsuperscript{118}
if he or she admits liability and makes full payment of the tax debt, with surcharges and interests, before the Office of the Public Prosecutor files its motion before the competent jurisdictional body.”

[53] Article 433, which establishes an accounting-related offense, with its corresponding penalty, which is of imprisonment of six months to two years for “whomever who is required to keep commercial accounts, tax ledgers, or records by law and neglects such obligation or keeps different accounting records for the purposes of concealing the business’ true financial situation or does not record economic transactions or does so falsely or to reflect fictitious operations.”

1.2 Adequacy of the legal framework and/or other measures

[54] With respect to the legal provisions regulating the denial of tax benefits or the prevention of favorable tax treatment for expenditures made in violation of anticorruption laws, the Committee notes that, on the basis of the information was available to it and the information that was reviewed, they may be said to constitute set of measures that are pertinent for promoting the purposes of the Convention.

[55] However, the Committee considers it appropriate to make the following observations:

[56] In the Response to the Questionnaire and during the on-site visit, the country under review stated that among challenges identified regarding the implementation of this provision is the fact that it “does not have legal provisions that expressly provide for the denial of tax benefits or the prevention of favourable tax treatment for sums paid in violation of Honduran anticorruption laws.” Rectifying this would, according to the country under review, require that efforts be made “to strengthen those regulations before the National Congress and the competent authorities.” In light of the observations made the country under review and the absence of provisions it noted to that effect, the Committee will formulate a recommendation for the country under review to consider strengthening its legal framework. In this regard, the Committee will formulate two recommendations. The first recommendation will be for the country under review to consider adopting provisions that explicitly prohibit favorable tax treatment for sums paid by a natural person or a legal person in violation of its anticorruption laws. (See Recommendation 1.4.1 in Section 1.4 of Chapter II of this Report). The second recommendation will be for the country under review to consider adopting provisions that expressly eliminate any tax benefit enjoyed by a natural person or a legal person that was either obtained improperly or allocated in violation of its anticorruption laws, as provided for in the Convention. (See Recommendation 1.4.2 in Section 1.4 of Chapter II of this Report).

[57] On this particular point, it is worth noting that the Association for a More Just Society (Asociación para una Sociedad Más Justa, hereinafter “ASJ” based on its Spanish acronym), a civil society organization that submitted independent Response to the Questionnaire, was also of the view that Honduras does not have provisions that explicitly deny tax benefits obtained in violation of anti-corruption laws – and that neither does the Tax Code for that matter, nor does it provide anything else to that effect. As a result, ASJ stressed the need for Honduras to adopt regulations that would allow denying taxpayers tax benefits or prohibit to 140% of the amount defrauded, if such value exceeds HNL 250 000. These penalties are increased by one third when the perpetrator is a member of, or collaborates with, an organized criminal group.

19 Ibid.
20 Ibid., Article 433.
121 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 11.
123 Ibid.
123 Response to the Questionnaire of the Association for a More Just Society (Sixth Round), p. 2-3.
them from obtaining such tax benefits – whether obtained though compliance with the law and principles of law or not – so as enable Honduras to comply with Article III, paragraph 7 of the Convention.  

[58] Considering the foregoing, the Committee considers that the country under review could benefit from adopting certain measures to facilitate efforts made by competent authorities to the detect sums paid for corruption where such payments are made to obtain favorable tax treatment.

[59] These measures could include the use of tools to facilitate this task, like manuals, guidelines, directives, intended to provide instructions to those who are responsible for processing requests for tax benefits or detecting sums paid in violation of anti-corruption laws. However, the Committee notes that, neither in its Response to the Questionnaire, nor during the on-site visit, did the country make any mention of the use or existence of such tools. Bearing in mind that the SEFIN and the Tax Administration is required by the Tax Code to verify, in keeping with established procedures, information and facts reported by taxpayers in declarations and other administrative statements, as per Article 77, and to additionally ascertain the authenticity and integrity of electronic documents submitted therewith, in accordance with Article 83, the Committee believes that it would be beneficial for the country under review to consider explaining and describing these procedures in guides, manuals, and directives. This would provide direction to public officials who are responsible for processing requests for tax benefits on how to review these requests, including how to ensure that they meet set requirements, corroborate the information they contain, and authenticate supporting documents. It would also guide public officials who are responsible for detecting sums paid in violation of anticorruption laws, such that they can ascertain the origin of expenditures on which requests are based and prevent improper allocation of tax benefits. The Committee will formulate a recommendation to that effect.

[60] Continuing on the subject of verification, particularly as it relates accessing the sources of information needed to corroborate information contain in these requests and to authenticate supporting documents, during the on-site visit, the country under review reported that communications with other public authorities and agencies made in the context of the specific verifications carried out in response to each and every individual request form part of the sources of verification that exist in Honduras to verify background information presented. As for the for the ability of the SEFIN or the Tax Administration to requests – from public or private third parties – information it needs to carry out its investigative, oversight, control and auditing functions in accordance with the Tax Code, the Committees notes Article 198(9). In this respect, the Committee

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124 Ibid.
125 Ibid.
126 Tax Code, Decree No. 170-2016 of December 28, 2016, Article 77.
127 Ibid., Article 83.
128 During the Meeting of the Subgroup of Review that took place on March 2, 2022, in accordance with Article 24 of the Rules of Procedure and Other Provisions of the Committee of Experts, the country under review mentioned recently reformed Special Law against Money Laundering Crimes, which was modified by Decree 93-2021, after the on-site visit. It also identified some of the limitations that exist in Honduras regarding access to information from financial institutions. In this respect, it stated the following: “In relation to the powers of the tax administration “to require from public or private third parties the information needed for it to perform its investigative, oversight, and auditing functions,” the Tax Administration is limited in its ability to access to information from financial institutions by Article 72(4) of the Tax Code. In the case of individualized requests in relation to current account movements, savings and time deposits, loans and credits and other active and passive operations, conducted by banks and financial companies, savings banks, credit cooperatives and personal or legal accounts, and other entities without legal personality that carry out credit operations, such requests must be made through the main regulatory bodies. Other limitations include Article 47 of the recently reformed Special Law against Money Laundering Crimes (Decree 93-2021), which reads as follows: Banking, Professional or Tax Secrecy: Bank secrecy may be suspended only in the case of investigations into criminal offenses defined in Titles XXV and XXXII of the Penal Code (Receipt and Laundering of Assets and Terrorism), and in cases involving definitive deprivation of ownership of assets of illicit origin, by means of an order issued by the competent legal body.”
129 Tax Code, Decree No. 170-2016 of December 28, 2016, Article 198(9).
130 Ibid. See also, Executive Decree No. PCM-084-2015, Article 3(9).
observes that the legal framework in Honduras does provide means for requesting information from third parties, including financial entities, for the purposes of tax verification and audit procedures. Notwithstanding the foregoing, the Committee considers that the country under review could strengthening measures intended to facilitate the detection of sums paid for corruption, where such payments have been made to obtain favourable tax treatment. In this regard, the Committee will formulate a recommendation for the country under review to adopt additional measures to facilitate access to sources of information, including from financial institutions, needed by competent authorities to corroborate information in requests for tax benefits and authenticate supporting documents, in order to ascertain the origin of the expenditures on which such requests are based and prevent improper allocation of tax benefits. (See Recommendation 1.4.4 in Section 1.4 of Chapter II of this Report).

[61] Regarding the use of electronic means to facilitate the detection by competent authorities of sums paid in the case that they be intended to be used for the purpose of obtaining tax benefits, the Committee takes note of Article 82 of the Tax Code, which requires the SEFIN and the Tax Administration to prioritize, for the purposes of their activities, the use of electronic, information and telematic technologies. The Committee also notes that, during the on-site visit, the country under review referred to the development of a complete automated system to cross-checking information in relation to fees requested by public officials, including information on whom received the payments. It also made reference to a partially automated system that includes monthly reporting on withholding statements by companies and their employees. In this regard, the country under review reported that this cross-checking of information with third parties has enabled it to detect irregularities. In addition, the country under review indicated that verifications carried out in connection with Annual Income Tax Returns and requests for credit notes has enable the SAR to cross-check information and detect irregularities. The country under review also took the opportunity to explain, in the Explanatory Notes it provided during the on-site visit, that the SAR has a Risk Management Model (MGR-H), “a tool, which systematically cross-checks large amounts of information to identify taxpayers whose potential non-compliance may significantly impair the Honduran tax system.” However, the country under review indicated that these processes have been not automated. Considering the foregoing and that Article 82 encourages the use of electronic technologies for the activities of both, the SEFIN and the Tax Administration and that Article 82, which specifies in Article 10 what is considered generating income, such that expenditures coming from bribery and acts of corruption could not be considered as a deductible for the purposes of generating gross income.

As regards tax matters, the following systematized sworn informative reporting statements are used as a tool to cross-check information against that contained in sworn final reporting statements filed by taxpayers: Monthly Reporting on Withholdings, Monthly Reporting on Purchases and Reporting on Withholdings of Debit and Credit Card Administrators. Among other types of statements presently being systematized is the one to report Receipt of Fees. It will allow to automate the process of cross-checking information in relation to fees requested by public officials, including information on who received payments. The updated report also makes mention of a partially automated system that is presently underway and that will facilitate cross-checking information contained in the Monthly Reporting on Withholdings of companies and their employees.

Similarly, the SAR has its Risk Management Model (MGR-H), a tool that is designed to systematically and massively cross-check information in order to identify the taxpayers that may impact the Honduran tax system due to risk of non-compliance they pose. This makes it possible to identify of taxpayers to be audited and comply with the provisions of Article 77 of the Tax Code, which requires to verify and audit the report data and facts, as appropriate, and in accordance with the procedures establish in the applicable legal framework.” Also see Revenue Administration Service, MESICIC Explanatory Notes (Panels I and II) (updated version), p. 9.

131 During the Meeting of the Subgroup of Review that was held on March 2, 2022, in accordance with Article 24 of the Rules of Procedure and Other Provisions of the Committee of Experts, the Republic of Honduras provided the following information the following to reinforce the information on the tools they have: “In the updated report that Honduras submitted in October 2021, reference is made to the use of tools to assist public official responsible for verifications and for oversight processes to detect sums paid for corruption. The report makes it clear that the Income Tax Act specifies in Article 10 what is considered generating income, such that expenditures coming from bribery and acts of corruption could not be considered as a deductible for the purposes of generating gross income.

132 Ibid., Article 82.

Administration,\textsuperscript{134} the Committee considers it appropriate to formulate a recommendation for the country under review to develop computer programs that facilitate the consultation of data or the cross-checking of information when the competent authorities so require for the performance of these functions. (See Recommendation 1.4.5 in Section 1.4 of Chapter II of this Report).

[62] In addition, in its Response to the Questionnaire, the country under review reported that Honduras does not have “automatic mechanisms designed to facilitate the identification of conduct displayed by taxpayers who seek to obtain tax benefits by way of payments in violation of anti-corruption laws or to detect irregularities, create alerts, ensure follow up and order the audit of businesses connected to act of corruption.”\textsuperscript{135} The Risk Matrix of the Revenue Administration Service does not permit such actions. Given this absence of automatic mechanisms noted by the country under review and that Article 82 of the Tax Code encourages the use of electronic, information and telematic technologies,\textsuperscript{136} the Committee will formulate a recommendation to the country under review to develop, within available resources, technological programs designed to automate and facilitate the detection of sums paid by taxpayers seeking to obtain tax benefits for payments made in violation of anticorruption laws and to detect irregularities, create alerts, ensure follow up and order the audit of natural persons or legal persons connected to acts of corruption described the Convention. (See Recommendation 1.4.6 in Section 1.4 of Chapter II of this Report).

[63] Furthermore, during the on-site visit, the country under review indicated that the documentation process for investigations in relation to exonerations is still manual. The country under review did however mention, during the on-site visit, that it is seeking to digitalize its documentation process. Given the foregoing, the Committee will formulate a recommendation for the country under review to adopt the appropriate measures to move from manual to digital documentation, in order to make processes in relation to information management in this area more expeditious. (See Recommendation 1.4.7 in Section 1.4 of Chapter II of this Report).

[64] As concerns other measures intended to facilitate the detection of sums paid in violation of anticorruption laws, such as the use of coordination mechanisms between institutions to obtain the cooperation they need from other public authorities to verify information in requests for tax benefits and authenticate documents, the country under review indicated during the on-site visit and its Explanatory Notes that the Tax Administration may “request from public or private third parties the information needed for the performance of investigative, oversight, and auditing functions,” pursuant to Article 198(9) of the Tax Code.\textsuperscript{137} It provided as an example of the interinstitutional cooperation mechanisms that exist in this area, national and international agreements to which Honduras is a party.\textsuperscript{138} In this respect, the Committee also notes Article 3(E) of Executive Decree No. PCM-084-2015\textsuperscript{139} and Article 198(5) of the Tax Code,\textsuperscript{140} which both promote the establishment and maintenance of relations with institutions, national and international organizations, and cooperation agencies connected to the SEFIN and the Tax Administration.\textsuperscript{141} Nonetheless, bearing in mind the country under review could benefit from entering into agreements with other public authorities, the Committee considers that Honduras could benefit from expanding and strengthening the interinstitutional coordination mechanisms that enable competent authorities to obtain, in an easy and timely manner, the cooperation they

\textsuperscript{134} Ibid.
\textsuperscript{135} Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 11.
\textsuperscript{136} Tax Code, Decree No. 170-2016 of December 28, 2016, Article 82.
\textsuperscript{137} Ibid., Article 198(9).
\textsuperscript{138} Revenue Administration Service, MESICIC Explanatory Notes (Panels I and II) (updated version), p. 13. A complete list of these agreements and arrangements can be found both in the Explanatory Notes of the SAR and in the Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 8.
\textsuperscript{139} Executive Decree No. PCM-084-2015, Article 3(5).
\textsuperscript{140} Tax Code, Decree No. 170-2016 of December 28, 2016, Article 198(5).
\textsuperscript{141} Ibid.
need from other public authorities to verify the information provided in the requests for tax benefits and authenticate the supporting documents received with these requests. The Committee will formulate a recommendation to that effect. (See Recommendation 1.4.8 in Section 1.4 of Chapter II of this Report).

[65] In relation to other measures that could facilitate the detection of sums paid in attempt to improperly obtain tax benefits, the Committee considers beneficial to provide training, educational, and refresher programs directed to public officials who work in tax authorities. Such training, educational programs should be designed to bring to their awareness the methods used to disguise payments for corruption and to train them on how to detect such payments requests for tax benefits. In this respect, the country under review noted, in its Response to the Questionnaire, the absence of commitment from public officials to engage and participate in such through training programs specifically designed for such purposes.” The country under review did however stress, both during the on-site visit and its Explanatory Notes, the SAR’s commitment to national training programs, including international initiatives in this area. As an example of its commitment in this respect, the country under review stated informed the Committee that it is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes of the Organization for Economic Co-operation and Development (hereinafter “OECD”) (2018) and the Inclusive Framework on Base Erosion and Profit Shifting (BEPS) of the OECD (2019). It also underlined its participation in BEPS training courses, initiatives, plenaries, and meetings, prior to the evaluation its subjected itself in 2021. Furthermore, the country under review also highlighted its adhesion as of 2020 to the “Tax Inspectors Without Borders”, a joint initiative of the OECD and the United Nations Development Programme that seeks to share knowledge and relevant skill set regarding tax audits with tax administrations in developing countries. In addition, the country under review indicated that the SAR’s public officials have participated in both, in-person and virtual training sessions, as part of the SAR Program to Strengthen Training, developed in conjunction with the OECD’s Global Relations Programme in taxation. The training courses offered specifically addressed international taxation matters. The country under review also informed the Committee that this program has allowed the SAR’s Training and Education Department to access to a catalog of virtual courses that can be uploaded to the SAR Virtual Classroom. However, based on the information provided by the country under review, the Committee has not been able to determine whether these training specifically instruct public officials who are responsible for processing requests for tax benefits in the tax authorities on the methods used to disguise sums paid by corruption and how to detect such sums, for the purposes of the Convention. The Committee will formulate a recommendation to develop training, induction and continuing education programs that specifically address these matters. (See Recommendation 1.4.9 in Section 1.4 of Chapter II of this Report).

[66] Furthermore, given that the country under review identified the absence of commitment from public officials to engage and participate in trainings of the like, as a key challenge in this area, the Committee will formulate an additional recommendation for the country under review to promote to public officials in tax authorities and other public officials that work in this area, the benefits of participating in training, education and continuing education that instruct on the methods used to disguise sums paid for corruption and the manner

142 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 11.
144 Ibid., p. 10 and 13; see also Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 7.
145 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 11.
147 Ibid., p. 14; Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 8.
148 Ibid., p. 11. A summary of the activities carried out and training provided under this program can be found in the same document, p. 11-12.
149 Ibid.
150 Ibid. The summary of the e-learning modules from the OECD catalog that have been accessed in the SAR Virtual Classroom, as well as the results obtained, can be found in the same document, p. 11-12.
151 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 11.
in which such sums may be detected in request for tax benefits and adopt the measures considered necessary to motivate and facilitate their participation in such programs. (See Recommendation 1.4.10 in Section 1.4 of Chapter II of this Report).

[67] In addition to the aforementioned these measures, the Committee believes that strengthening communication channels in a way to make them more effective and enable competent authorities to be informed, in a timely manner, of any anomalies or irregularities detected that could affect a decision on whether to grant a requested tax benefit. In this regard, the country under review referred to the Explanatory Notes it provided during the on-site visit, which lists the agreements and conventions that the SAR has signed at the national level and in the context of its commitment to prevent and combat corruption.\(^{152}\) However, it is not clear to the Committee if any of these instruments enable competent authorities to be informed of any anomalies or irregularities detected that may affect the decision-making process. The country under review did not present specific information respect either in its Response to the Questionnaire or during the on-site visit. Therefore, the Committee will formulate a recommendation to the country under review to strengthen the channels of communication so as to make them more effective and enable the competent authorities responsible for deciding whether to grant requested tax benefits, to be informed, in a timely manner, of any anomalies or irregularities detected that could affect their decision, by adopting the measures needed to automate and require the use of these channels. (See Recommendation 1.4.11 in Section 1.4 of Chapter II of this Report).

[68] Furthermore, with respect to tax investigations, the Committee notes that Article 69(2) of the Tax Code requires public officials of the SEFIN or the Tax Administration, as they case may be, to communicate to the Office of the Public Prosecutor anything which may indicate the possible commission of tax-related offense, such that the it may carry out the investigation that corresponds to its competence.\(^{153}\) During the on-site visit, representatives of the SAR explained how this occurs in practice provided clarification as to its role as an institution when it detects irregularities, which is to report and document these irregularities as well as to collaborate and share information with the competent authorities. It must forward the file that contains the evidence to Office of the Public Prosecutor. Once this file has been forwarded, the SAR explained that it must suspend its activities in connection to it. In the meantime, the Office of the Public Prosecutor may decide to move forward and proceed to formalize proceedings before the competent court. Once the matter is before the court, the judge must determine whether there is a criminal offense has taken place. The SAR explained that these kinds of cases are heard generally by courts with specialized competence and national jurisdiction.

[69] Given that all tax acts are presumed to be legal, unless proven otherwise, requested benefits, from the standpoint of the Tax Administration, may only be administratively suspended, prior to being granted. Because of the principle of non-concurrence among public authorities, the SAR explained that the Tax Administration is required to wait until the Office of the Public Prosecutor denies the benefits before it can move forward. Until the process before the Office of the Public Prosecutor and the Courts of Justice comes to conclusion and there is a final judgement evidentiary to the fact that to a criminal offense has taken place, the SAR may not act or comment on the matter. As a result, any existing administrative action on the matter must be suspended. However, the country under review did mention that the Office of Public Prosecutors is obligated to inform the Tax Administration of the outcome of the case, so that it may proceed accordingly. According to representatives of the SAR, in order for it to proceed and eliminate the tax benefits, a final judgment must have been issued. If there is a judgment, but it is an acquittal, the country under review indicated it may continue the action at the administrative level to determine whether the expense falls within deductible amounts. On this point, the country under review specified that this administrative action would be carried out by the Tax Administration.

\(^{152}\) Revenue Administration Service, MESICIC Explanatory Notes (Panels I and II) (updated version), p. 13. A complete list of these agreements and conventions may be found on the same page.

\(^{153}\) Tax Code, Decree No. 170-2016 of December 28, 2016, Article 69(2).
In regard to the above, the Committee believes that the country under review risks experiencing delays in its administrative investigations and actions. To address this concern, the Committee will formulate a recommendation for the country under review adopt the appropriate rules and measures to enable the tax authorities to conduct the administrative investigations and pursue the administrative actions that fall under their competence, within established timelines, such as to avoid delays in this area. (See Recommendation 1.4.12 in Section 1.4 of Chapter II of this Report).

1.3 Results of the legal framework and/or other measures

In its Response to the Questionnaire, the country under review reported that the General Inspectorate of the SAR referred cases to the Office of the Special Prosecutor for Tax-related Crimes, the Office of the Special Prosecutor Against Corruption, and – as it relates to disciplinary matters, the National Directorate of Human Resources of the Tax Administration. The country under review provided the following tables which summarize these referrals.

Table 1. Referral of Investigative Case Files (2017-2021)

<table>
<thead>
<tr>
<th>Unit</th>
<th>Cases referred to the Office of the Prosecutor for Tax-Related Crimes</th>
<th>Cases referred to the Office of Special Prosecutor for Organized Crime</th>
<th>Cases referred to the Office of the Prosecutor for Common Crimes</th>
<th>Cases referred to Internal SAR Departments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax Investigations</td>
<td>50</td>
<td>5</td>
<td>6</td>
<td>10</td>
</tr>
</tbody>
</table>

Source: General Inspectorate of the Revenue Administration Service

Table 2. Referral of Investigative Case Files (2017 - 2021)

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154 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 9.
155 Ibid., p. 9-10.
Source: General Inspectorate of the Revenue Administration Service

Table 3. Referral of Internal Investigation Case Files (2017 - 2021)

<table>
<thead>
<tr>
<th>Unit</th>
<th>Cases referred to the Office of the Special Prosecutor against Corruption</th>
<th>Cases referred to the Judiciary</th>
<th>Cases referred to the National Directorate of Human Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal Investigations</td>
<td>13</td>
<td>2</td>
<td>25</td>
</tr>
</tbody>
</table>

Source: General Inspectorate of the Revenue Administration Service

Table 4. Referral of Internal Investigation Case Files (2017 - 2021)

Source: General Inspectorate of the Revenue Administration Service

Table 5. Referral of investigative files to the Office of the Public Prosecutor for the purposes of determining whether to prosecute (2015 - 2021)
REFERRALS TO THE OFFICE OF THE PUBLIC PROSECUTOR (2015 - 2021)

<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of cases</td>
<td>20</td>
<td>6</td>
<td>5</td>
<td>5</td>
<td>3</td>
<td>6</td>
<td>5</td>
</tr>
</tbody>
</table>

Source: Revenue Administration Service

[72] Regarding the referral of tax investigation case files for the 2017-2021 period, 50 cases were referred to the Office of the Special Prosecutor for Tax-related Crimes (70% of cases); 5 cases to the Office of the Special Prosecutor for Organized Crime (7% of cases); 6 cases to the Office of the Prosecutor for Common Crimes (9% of cases); and 10 cases to various internal departments of the SAR (14% of cases).¹⁵⁶

[73] Regarding the referral of internal investigative case files for the same period, 13 cases were referred to the Office of the Special Prosecutor against Corruption (32% of cases), 2 cases to the Judiciary (5% of cases) and 25 cases to the National Directorate of Human Resources (63%).¹⁵⁷

[74] During the on-site visit, the SAR also provided data regarding the number of case files it referred to the Office of the Public Prosecutor.¹⁵⁸ From a criminal standpoint, the SAR reported that in the process of conducting verifications, audits and investigations, the Tax Administration was able identify taxpayers seeking to obtain tax benefits by fraudulent means. In some cases, this involved the participation or collusion of public officials in committing these acts of corruption. These acts came to the attention to the Office of the Prosecutor either because they were reported or they were part of investigation file that was referred to determine whether to pursue criminal prosecution.”¹⁵⁹ Twenty cases were referred to the Office of the Public Prosecutor in 2015, 6 cases in 2016, 5 cases in 2017, 5 cases in 2018, 3 cases in 2019, 6 cases in 2020, and 5 cases in 2021.¹⁶⁰

[75] The country under review also indicated in its Response to the Questionnaire, that to date the SEFIN, the entity responsible for granting tax exemptions in Honduras, through the General Directorate for Oversight of Customs Exemptions, the section of the SEFIN that administers and oversees requests for tax benefits, have not identified any instances of criminal prosecution in connection to improper use of tax benefits or tax incentives.¹⁶¹

[76] Aside from the aforementioned information, the Committee notes that it does not have any further information, presented in a manner that would enable it to make a comprehensive assessment of the results of the application of the rules and/or other measures related to the denial of tax benefits for expenditures made in violation of anticorruption law in Honduras.

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¹⁵⁶ Ibid.
¹⁵⁷ Ibid.
¹⁵⁸ Revenue Administration Service, MESICIC Explanatory Notes (Panels I and II) (updated version), p. 24
¹⁵⁹ Ibid., p. 24.
¹⁶⁰ Ibid.
[77] For example, the Committee does not have information on the number of reviews authorities responsible for processing requests for tax benefits carried out, nor does it have any information that would enable it to know in how many instances were irregularities detected, as a result of these reviews, or tax benefited eliminated for having been found to have been granted in violation of anticorruption laws in Honduras. The Committee will therefore formulate a recommendation to the country under review to compile and disseminate, detailed statistical information, disaggregated by year, on the number of reviews carried out by authorities responsible for processing requests for tax benefits: including the number of instances where, as a result of these reviews, irregularities were detected and the number cases in which the said tax benefits were eliminated because they were found to have been granted in violation of anticorruption laws. (See Recommendation 1.4.13 in Section 1.4 of Chapter II of this Report).

[78] In addition, the Committee observes that, based on the information provided, it is unable distinguish the data relating administrative matters from data relating criminal matters. In this respect, the Committee notes that information, as presented, does not permit it to appreciate the results of the application of the application of the rules and/or other measures in each of these areas. That being the case, the Committee considers that that the country under review could benefit from compiling this information, disaggregated by matter – in this case, administrative and criminal matters. The Committee considers this to be especially important in the case of Honduras. As explained during the on-site visit and earlier in this report, the rules and procedures that regulate tax matters do not permit the Tax Administration to proceed with the investigations and actions that fall within its competence until all criminal investigations and action have come to conclusion. As a result, cases may move from one branch to another – administrative and criminal – only revert back to administrative authorities once the criminal investigations and actions have concluded. In light of the above, the Committee will formulate a recommendation for the country under review to compile data, disaggregated by area (administrative or criminal) and by type of activity (investigations, actions, infractions/offenses, and sanctions/penalties), such as to enable the country under review to better monitor its results in each of these activities. (See Recommendation 1.4.14 in Section 1.4 of Chapter II of this Report).

[79] By way of illustration, from the data provided regarding tax investigations and referrals to various Offices of Special Prosecutors and internal departments of the SAR, it is unclear to the Committee whether all of these were administrative in nature or whether some were disciplinary. Nor is it clear to the Committee whether sanctions were imposed as a result of these administrative investigations on tax matters. Furthermore, the Committee observes that the data it was provided with on investigation files that were referred is not broken down by year. As a result, the Committee believes that the country under review could benefit from compiling this data on these administrative tax investigations, in a manner that is disaggregated by year and that keeps track of the results of such investigations – that is, whether they gave rise to administrative actions or administrative sanctions. In light of the foregoing, the Committee will formulate a recommendation for the country under review to compile and disseminate detailed statistical information, as it relates to administrative matters and disaggregated by year, on measures taken to prevent, investigate, and sanction taxpayer conduct intended to obtain tax benefits by way of paid sums n violation of anticorruption laws, including such aspects as: the number of administrative actions initiated for the violation of such laws; the number of administrative actions initiated and completed; and the number of sanctions imposed as a result thereof, in order to identify challenges and adopt corrective measures, where appropriate. (See Recommendation 1.4.15 in Section 1.4 of Chapter II of this Report).

[80] Similarly, as regard criminal matters and investigation files referred to the Office of the Public Prosecutor from 2015 to 2021, the country under review clarified that none of them were related to the identification taxpayer conduct related to obtaining tax benefits for paid sums in violation of anticorruption

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162 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 9-10.
163 Revenue Administration Service, MESICIC Explanatory Notes (Panels I and II) (updated version), p. 24
laws (bribery). Based on the review of these cases, the country under review indicated that some resulted in the closure of administrative investigations as the conduct did not constitute a criminal offense, while others resulted in measures to de-judicialize the criminal process (e.g., opportunity criteria, conciliation, suspension of criminal prosecution, among others). Those that successfully managed to reach prosecution were for criminal offences committed by public officials against the Public Administration and not for tax benefits or bribery. On the other hand, the Committee does not in how many of the criminal investigations carried out resulted in a decision by the Office of the Public Prosecutor to conduct the corresponding criminal proceeding or to impose applicable criminal penalties. To take these considerations into account, the Committee will formulate a recommendation for the country under review to compile and disseminate detailed statistical information, as it relates to criminal matters and disaggregated by year, on the measures taken to prevent, investigate, and sanction taxpayer conduct intended to obtain tax benefits by way of sums paid in violation of the anticorruption laws, including such aspects as: the number of criminal investigations for violation of such laws, the number of criminal proceedings initiated and concluded; and the number of criminal sanctions imposed as a result thereof, in order to identify challenges and adopt corrective measures, where appropriate. (See Recommendation 1.4.16 in Section 1.4 of Chapter II of this Report.)

Furthermore, in the absence of information that would have enabled the Committee to assess results of the application of the regulations and/or other measures in relation to this area, the Committee will make a recommendation for the country under review to select and develop, through the tax authorities responsible for processing requests for tax benefits and other authorities or organs with competence in this area, procedures and indicators to analyze objective results obtained and follow-up on the recommendations made in this report. (See Recommendation 1.4.17 in Section 1.4 of Chapter II of this Report).

1.4 Conclusions and recommendations

On the basis of its analysis of the implementation in the Republic of Honduras of the provisions contained in Article III (7) of the Convention, the Committee offers the following conclusions and recommendations:

The Republic of Honduras has adopted certain measures regarding the denial or prevention of tax benefits for payments made in violation of the anticorruption law, as provided in Article III, paragraph 7 of the Convention, as stated in Chapter II, Section 1.1 of this Report.

In view of observations made in Sections 1.2 and 1.3, the Committee suggests that the country under review consider the following recommendations:

1.4.1 Consider adopting provisions that explicitly prohibit favorable tax treatment for sums paid by a natural person or a legal person in violation of its anticorruption laws. (See paragraph 57 in Section 1.2 of Chapter II of this Report).

1.4.2 Consider adopting provisions that expressly eliminate any tax benefit enjoyed by a natural person or a legal person that was obtained improperly or allocated in violation of its anticorruption laws, as provided for in the Convention. (See paragraph 57 in Section 1.2 of Chapter II of this Report).

1.4.3 Prepare guides, manuals or guidelines that expressly provide direction on how to review requests for tax benefits, including how to ensure that they meet set requirements, corroborate the information they contain, and authenticate documents, in order to ascertain
the origin of expenditures on which requests are based and prevent the improper allocation of tax benefits. (See paragraph 60 in Section 1.2 of Chapter II of this Report).

1.4.4 Adopt additional measures to facilitate access to sources of information, including from financial institutions, needed by competent authorities to corroborate information in requests for tax benefits and authenticate supporting documents, in order to ascertain the origin of the expenditures on which such requests are based and prevent improper allocation of tax benefits. (See paragraph 61 in Section 1.2 of Chapter II of this Report).

1.4.5 Develop computer programs that facilitate the consultation of data or the cross-checking of information when the competent authorities so require for the performance of these functions. (See paragraph 62 in Section 1.2 of Chapter II of this Report).

1.4.6 Develop, within available resources, technological programs designed to automate and facilitate the detection of sums paid by taxpayers seeking to obtain tax benefits for payments made in violation of anticorruption laws and to detect irregularities, create alerts, ensure follow up and order the audit of natural persons and legal persons in connection to the acts of corruption described the Convention. (See paragraph 63 in Section 1.2 of Chapter II of this Report).

1.4.7 Adopt the appropriate measures to move from manual to digital documentation, in order to make processes in relation to information management regarding tax matters more expeditious. (See paragraph 64 in Section 1.2 of Chapter II of this Report).

1.4.8 Expand and strengthen the interinstitutional coordination mechanisms that enable competent authorities to obtain, in an easy and timely manner, the cooperation they need from other public authorities to verify the information provided in the requests for tax benefits and authenticate supporting documents received with these requests. (See paragraph 65 in Section 1.2 of Chapter II of this Report).

1.4.9 Expand training, induction and continuing education programs designed specifically to instruct public officials responsible for processing requests for tax benefits in tax authorities, including public officials that work in this area, on the different of methods used to disguise sums paid for corruption and the manner in which such sums may be detected in requests. (See paragraph 66 in Section 1.2 of Chapter II of this Report).

1.4.10 Promote to public officials in tax authorities and other public officials that work in this area, the benefits of participating in training, education and continuing education that instruct on the methods used to disguise sums paid for corruption and the manner in which such sums may be detected in request for tax benefits and adopt the measures considered necessary to motivate and facilitate their participation in such programs. (See paragraph 66 in Section 1.2 of Chapter II of this Report).

1.4.11 Strengthen the channels of communication so as to make them more effective and enable the competent authorities responsible for deciding whether to grant requested tax benefits, to be informed, in a timely manner, of any anomalies or irregularities detected that could affect their decision, by adopting the measures needed to automate and require the use of these channels. (See paragraph 68 in Section 1.2 of Chapter II of this Report).
1.4.12 Adopt the appropriate rules and measures to enable the tax authorities to conduct the administrative investigations and pursue the administrative actions that fall under their competence, within established timelines, such as to avoid delays in this area. (See paragraph 71 in Section 1.2 of Chapter II of this Report).

1.4.13 Compile and disseminate, detailed statistical information, disaggregated annually, on the number of reviews carried out by authorities responsible for processing requests for tax benefits; including the number of instances where, as a result of these reviews, irregularities were detected and the number cases in which the said tax benefits were eliminated because they were found to have been granted in violation of anticorruption laws. (See paragraph 78 in Section 1.3 of Chapter II of this Report).

1.4.14 Compile data, disaggregated by area (administrative or criminal) and by type of activity (investigations, actions, infractions/offenses, and sanctions/penalties), in order to better monitor results in each of these activities. (See paragraph 79 in Section 1.3 of Chapter II of this Report).

1.4.15 Compile and disseminate detailed statistical information, as it relates to administrative matters and disaggregated by year, on measures taken to prevent, investigate, and sanction taxpayers engaged in conduct intended to obtain tax benefits by way of sums paid in violation of anticorruption laws, including such aspects as: the number of administrative actions initiated for the violation of such laws; the number of administrative actions initiated and completed; and the number of sanctions imposed as a result thereof, in order to identify challenges and adopt corrective measures, where appropriate. (See paragraph 80 in Section 1.3 of Chapter II of this Report).

1.4.16 Compile and disseminates detailed statistical information, as it relates to criminal matters and disaggregated by year, on measures taken to prevent, investigate, and sanction taxpayers engaged in conduct intended to obtain tax benefits by way of sums paid in violation of the anticorruption laws, including such aspects as: the number of criminal investigations for violation of such laws, the number of criminal proceedings initiated and concluded; and the number of criminal sanctions imposed as a result thereof, in order to identify challenges and adopt corrective measures, where appropriate (See paragraph 81 in Section 1.3 of Chapter II of this Report).

1.4.17 Select and develop, through the tax authorities responsible for processing requests for tax benefits and other authorities or organs with competence in this area, procedures and indicators to analyze objective results obtained and follow-up on the recommendations made in this report. (See paragraph 82 in Section 1.3 of Chapter II of this Report).

2. PREVENTION OF BRIBERY OF DOMESTIC AND FOREIGN GOVERNMENT OFFICIALS (ARTICLE III (10) OF THE CONVENTION)

2.1 Existence of a legal framework and/or other measures

[85] The Republic of Honduras has a set of provisions related to prevention of bribery of domestic and foreign government officials, among which the following should be noted:
The Commercial Code, Rule No. 73-50, (hereinafter “Commercial Code”) which governs merchants, commercial transactions, and commercial activities.\textsuperscript{164}

Article 2, which defines merchants.\textsuperscript{165}

Article 13, which defines companies of limited liability.\textsuperscript{166}

Article 16 regarding companies that have an unlawful purpose or habitually perform unlawful acts and which provides for their liquidation and dissolution, even if they are registered.\textsuperscript{167} Article 16 also provides that the Office of the Public Prosecutor or any interested party may file a suit that “will result in the liquidation and dissolution of the company, without prejudice to any criminal liability that may arise”.\textsuperscript{168}

Article 37, which establishes the obligation of companies of limited liability to submit to the Ministry of Finance, in January of each year, a report containing: “(a) the annual financial statement of the company and (b) the list of the representatives and directors of the company, including managers, agents, and employees with powers of representation.” It also establishes a fine of HNL 10 to 100 per day for each day of delay in complying with this obligation, based on the size of the company’s capital, as assessed by the Ministry of Finance.\textsuperscript{170}

Article 52 regarding the obligation of directors to report to shareholders “at least annually, the financial position of the company, including the corresponding financial statements and the results of its operations.”\textsuperscript{171}

Article 168, which establishes the obligation to hold, at least once a year, a regular Meeting of the Shareholders to address various matters, such as: “(i) to discuss, approve or modify the balance sheet, after hearing the report of the auditor of the company (comisarios) and take the measures deemed appropriate; (ii) if need be, to appoint and remove the directors and auditors of the company; and (iii) to determine the remuneration of the directors and auditors of the company, when they have not been established in the by-laws.”\textsuperscript{172}

Article 185 on the number of representatives required to be in attendance a given regular Meeting of Shareholders for it to be considered legally convened\textsuperscript{173}

Article 231 regarding oversight of publicly held companies. It assigns this responsibility to “one or more auditors of the companies, temporary and removable, who may be partners or persons outside the company.”\textsuperscript{174} Unless otherwise provided and in accordance with this same Article, the term of office shall be three years.\textsuperscript{175}

\textsuperscript{164}Commercial Code, Rule No. 73-50, Article 1.
\textsuperscript{165}Ibid., Article 2.
\textsuperscript{166}Ibid., Article 13.
\textsuperscript{167}Ibid., Article 16.
\textsuperscript{168}Ibid.
\textsuperscript{169}Ibid., Article 37.
\textsuperscript{170}Ibid.
\textsuperscript{171}Ibid., Article 52.
\textsuperscript{172}Ibid., Article 168.
\textsuperscript{173}Ibid., Article 185.
\textsuperscript{174}Ibid., Article 231.
\textsuperscript{175}Ibid.
Article 232, which lists the persons disqualified from holding the office of auditor of the company.176

Article 233 regarding the powers and obligations of the auditor of the company, among which the following are noted: “(i) to ascertain the articles of incorporation and the certificate of incorporation – and if needed, take the necessary corrective measures to correct any irregularity detected in that respect; ii) to require directors to report monthly financial statements that confirm the financial position of the company; iii) to inspect, at least once a month, the books and corporate records; iv) to verify annual financial statements submitted and the corresponding report as required by law; [...] ix) in general, to oversee the operations of the company, without any restrictions and at any given time.”177

Article 234, which provides that “any shareholder may report in writing to the auditor of the company, any facts that he or she considers irregular in the company’s affairs.”178 Furthermore, Article 234 requires that the auditor of the company include, in its report for the General Meeting of Shareholders, irregularities that have been reported and other considerations and observations he or she considers pertinent.179

Article 430, which establishes the obligation of the merchant to keep records of its operations, including information on the purpose of such operation, and to maintain adequate accounting records, in accordance to the double-entry accounting system.180 To that end, the merchant is required to keep a book of inventories, financial statements, as well as a book of operations in relation to the daily and general ledger, and other such books as may be required by law.181

Article 432, which requires merchants to keep such books themselves or by persons they appoint.182 Merchants whose working capital exceeds HNL 15 000 must have their accounts kept by business experts (peritos mercantiles) or qualified Honduran bookkeepers.183

Article 433 regarding the manner mandatory books must be maintained and authorized.184

Article 434, which specifies the way books should be maintained, that is “in chronological order, with no blank spaces, between-line or scratched-out entries, or amendments, as well as with no signs of alternation either by replacement or removal of pages, or otherwise.”185 If errors or omissions are detected, they must be rectified with a clear explanation of what these errors or omission and include a “a correct version of how the entry should have been written.”186

Article 435, which applies the requirements established in Articles 433 and 434 to all books to be kept by merchants, even if they are not accounting books.187

Article 436, which details what the inventory and balance sheet books must contain.188

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176 Ibid., Article 232.
177 Ibid., Article 233.
178 Ibid., Article 234.
179 Ibid.
180 Ibid., Article 430.
181 Ibid.
182 Ibid., Article 432.
183 Ibid.
184 Ibid., Article 433.
185 Ibid., Article 434.
186 Ibid.
187 Ibid., Article 435.
188 Ibid., Article 436.
[104] Article 437, which requires financial statements to truthfully and accurately express financial position of the company, meaning in line items forming open bases, (y los renglones que forman como bases abiertas), in accordance with the valuation criteria specified in the following fiscal year\(^\text{189}\) and the financial statements which must be included.\(^\text{190}\)

[105] Article 440, which requires that, in the case of publicly held companies, that directors make available financial statements, within three months of the end of the fiscal year, so that they may assess the information presented to them and the report made to General Meetings of the Shareholders.\(^\text{191}\) Article 440 also establishes the obligation to make available, prior to this meeting, financial to shareholder, prior to this meeting, the statement of profit and loss to shareholders, as well as report of the auditor of the company.\(^\text{192}\) Article 440 specifies the deadlines and formalities for submission.

[106] Article 441, which provides that the Ministry of Finance may, in certain cases and where the special nature of the line of business so requires, other ways of keeping accounts.\(^\text{193}\)

[107] Article 442, which obligates, as it relates to revenue, directors to oversee the books by means of inspections and to ensure that merchants maintain them in accordance with the Commercial Code and the formalities established therein. If it is found that the books are not in accordance with the law, Article 442 provides for a fine of HNL 50 to 5 000, depending on the amount of the companies’ capital and the gravity of the infraction.\(^\text{194}\) Finally, the refusal to present corporate books constitutes the crime of resisting authorities.\(^\text{195}\)

[108] Article 445, which requires that books in general be kept for the duration of the company and up to five years after the liquidation of all corporate and business units or, in the case of certain acts or refusals, until prescription of the actions deriving therefrom has expired.\(^\text{196}\)

[109] Article 446, which obliges merchants to a keep a book, in which they record the purchases and sales they make.\(^\text{197}\) It also provides that merchants, in this same book, prepare financial statements at the end of each of all the company’s operations, which specifies all values of their assets and liabilities.”\(^\text{198}\)

[110] – The Tax Code, Decree No. 170-2016 of December 28, 2016 (hereinafter “Tax Code”), Article 63 of which lists the formal obligations of taxpayers, which includes “facilitating the review, verification, oversight, audit, investigation, determination and collection tasks performed by the Secretariat of State in the Office of Finance” (hereinafter “SEFIN”)\(^\text{199}\) and the Tax Administration in the performance of their duties.\(^\text{200}\)

[111] Article 63(1) on the obligation to “keep and support all transactions of sale, transfer and rendering of goods and services through legally issued vouchers,”\(^\text{201}\)

\(^{189}\) Ibid., Article 437.  
\(^{190}\) Ibid.  
\(^{191}\) Ibid., Article 440.  
\(^{192}\) Ibid.  
\(^{193}\) Ibid., Article 441.  
\(^{194}\) Ibid., Article 442.  
\(^{195}\) Ibid.  
\(^{196}\) Ibid., Article 445.  
\(^{197}\) Ibid., Article 446.  
\(^{198}\) Ibid.  
\(^{199}\) Tax Code, Decree No. 170-2016 of December 28, 2016, Article 63.  
\(^{200}\) Ibid.  
\(^{201}\) Ibid., Article 63(1).
Article 63(2) on the obligation to keep accounting books and records of activities related to taxation as provided by Article 64, the SEFIN, and the Tax Administration, as well as the requirement to include the vouchers of the transactions carried out for “evidentiary value of records purposes.”

Article 63(3), which requires that accounting books and special records, documents, and background information on events giving rise to transactions be kept and maintained at a company’s tax domicile so that they may be immediately available to the SEFIN, the Tax Administration, or duly accredited public officials, when requested for tax information purposes. It also establishes the period of time for which such information must be kept.

Article 63(4), which provides for the immediate availability of accounting records and requires that they be exhibited at the time of the application, such as to show that taxpayers are keeping correct records.

Article 64 on the obligation to keep accounting records.

Article 64(1) requires “keeping and maintaining accounting records as determined by the laws, the respective regulations, and the International Financial Reporting Standards generally accepted in Honduras.”

Article 64(2), which determines the manner in which accounting entries must be made, as well as the period within which they must be made.

Article 120 on the verification of compliance with formal obligations and which establishes the grounds and procedure involved. Pursuant to Article 120(1), the Tax Administration may exercise its powers of verification through face-to-face inspections and the examination of data contained in computer systems.

Article 120(2) on the obligation to urge taxpayers to rectify, within ten working days, any non-compliance detected, after which a fine must be imposed, according to the range determined for formal infractions and the sanctioning procedure described in the Tax Code initiated and executed. In all cases, the corresponding resolution must be issued, “which may be appealed using the remedies prescribed in [the] Code.”

Article 120(3) referring to the detection of irregularities in a taxpayer’s records, data, or information, and which provides for the possibility of “transferring the case file for the initiation of the corresponding audit procedure, in accordance with the rules and procedures contained in [the] Code.”

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202 Ibid., Article 63(2).
203 Ibid., Article 63(3).
204 Ibid.
205 Ibid., Article 63(4).
206 Ibid., Article 64.
207 Ibid., Article 64(1).
208 Ibid., Article 64(2).
209 Ibid., Article 120.
210 Ibid., Article 120(1)(a).
211 Ibid., Article 120(1)(b).
212 Ibid., Article 120(2).
213 Ibid.
214 Ibid., Article 120(3).
Article 125 concerning the audit procedure, in particular, Article 125(4), which establishes what must be documented in acts: “a) [t]he facts and omissions ascertained by the auditors; b) [t]he “points of convergence” of the audited taxpayer during the audit process; c) [t]he complete chronology and findings of the process; d) [t]he objections or rejections expressed by the taxpayer; and, e) [t]he investigations or other facts related to the other actions and diligences carried out in an audit process.”

Article 125(5), which clarifies how to proceed in cases in which, during the course of the audit, the public officials involved find assets that are not recorded in the accounts.

Article 125(6), which establishes the deadline for concluding the audit proceedings and issuing the corresponding resolution.

Article 125(15) which requires that the public officials involved issue, within 10 working days after the conclusion of the field work of the audit process, “a provisional proposal for regularization and liquidation containing the adjustments or the modifications to the liquidation or declaration of the audited taxpayer or the determination that they consider appropriate in the event that there was no declaration, as well as the material and formal tax breaches, indicating the facts, evidence and legal grounds.” It grants a period of 15 working days for the audited taxpayer to “express its total or partial agreement or to make any arguments it deems appropriate.”

Article 125(18), which provides that the proceedings referred to in Article 125 must be concluded “with notification of the corresponding resolution, which may be appealed using the procedures and remedies prescribed in [the] Code.”

The Financial System Law, Decree No. 129-2004 of September 22, 2004, which establishes the objective of “regulating the organization, authorization, incorporation, operation, function, conversion, modification, liquidation, and supervision of financial system institutions and financial groups.”

Article 3, which refers to the institutions of the financial system with the authority to perform financial intermediation and determines which institutions are considered part of the financial system for the purposes of the law.

Article 4, which establishes the legal regime and the special laws that regulate the various financial system institutions.

Article 74, which requires financial system institutions to have an internal audit function independent of management, designed to provide reasonable assurance regarding the effectiveness and efficiency of operations, the reliability of accounting, the processing of information and transactions, and compliance with the rules governing their operations.

Ibid., Article 125(4).
Ibid., Article 125(5).
Ibid., Article 125(6).
Ibid., Article 125(15).
Ibid.
Ibid., Article 125(18).
Ibid., Article 3.
Ibid., Article 4.
Ibid., Article 74.
Ibid.
Article 75, which deals with the duties of firms that provide with external audit services to the institutions of the financial systems. In addition to complying with the minimum requirements set by the National Banking and Insurance Commission (hereinafter “Commission”), any auditing firm that detects, during its audit of financial statements, “a fact or condition that constitutes a serious risk to the financial stability of the audited institution” or “that determines the existence of illegal operations,” must immediately inform the audited institution and notify the Commission directly within 24 hours. Pursuant to Article 75, said firm shall make the supporting documentation available to the Commission upon request, so that the opinion issued and the scope of the audit can be verified.

The Law on Accounting and Auditing Standards, Decree No. 189-2004 of December 31, 2004, Article 1 of which defines its purpose as follows: “[t]he purpose of this law is to establish the necessary regulatory framework for the adoption and implementation of International Financial Reporting Standards (IFRS) and International Standards on Auditing (ISA) in order to achieve proper preparation, presentation, review, and certification of accounting and financial information, ensuring its transparency and comparability, thereby generating the confidence required at both the national and international level.”

Article 2, which establishes the scope of its application: it applies to “the private sector and, were appropriate, to the Public Administration, regardless of the level of autonomy or administrative deconcentration.”

Article 3, which creates the Technical Board of Accounting and Auditing Standards (hereinafter “Technical Board”) as the governing body in charge of ensuring effective compliance with this law, supported by the SEFIN.

Article 5, which details the powers and authority of the Technical Board and designates it as the highest authority on accounting and auditing standards. The same article states that the Technical Board has the “exclusive power to adopt International Financial Reporting Standards (IFRS) and International Standards on Auditing (ISA),” as well as to make the changes it deems appropriate. In this regard, it is empowered “to agree on the implementation and application of such standards in the preparation and presentation of financial statements.”

Article 9, on book-keeping methods and thoroughness. It provides that “every merchant and other legal entities are obliged to keep and maintain thorough accounting records,” in such a way that “they clearly, fairly, and accurately reflect the results for the financial year or part thereof.” It also instructs them to prepare the financial statements under the responsibility of their respective managers in accordance with the

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226 Ibid., Article 75.
227 Ibid.
228 Ibid.
229 Ibid.
230 Ibid.
232 Ibid., Article 2.
233 Ibid., Article 3.
234 Ibid., Article 5.
235 Ibid.
236 Ibid.
237 Ibid.
238 Ibid., Article 9.
239 Ibid.
International Financial Reporting Standards (IFRS) adopted by the Technical Board. It also stipulates the hierarchy of the applicable standards, the deadline to complete the financial statements, as well as the components to be included. Pursuant to Article 9, any errors or omissions found in the approved financial statements must be corrected or incorporated, accompanied by the corresponding explanation.

Pursuant to Article 9, any errors or omissions found in the approved financial statements must be corrected or incorporated, accompanied by the corresponding explanation.

Article 10, on the obligation to maintain accounting and internal control systems to ensure the proper and timely accounting of activities, transactions, and other commercial operations carried out in order to exercise effective oversight of assets, rights, and obligations and to produce the relevant financial information, in accordance with International Financial Reporting Standards (IFRS).

Article 11, which regulates the accounting books: the inventory and balance sheet ledger as well as the daily and general ledger.

Article 14, which refers to the obligation to present merchants’ books and documents, at the request or prior order of a party or ex officio, to the judge or the competent court, when a third party “has an interest or responsibility in the matter that requires presentation, or when there is a need for the investigation of a matter of public interest.”

Article 16, regarding the obligation to keep the accounting books and other related documents, including electronic documents, for a period of five years.

-- The Penal Code, Decree No. 130-2017 of December 31, 2019, Article 433 (hereinafter “Penal Code”) of which defines the accounting criminal offenses and establishes the corresponding penalty. According to this Article, any person who is required “by the tax laws to keep commercial accounts, tax books, or records, neglects such obligation, keeps different accounting records that conceal the true situation of the company” or who “omits to record economic transactions or does so falsely or reports fictitious operations,” shall be punished with six months to two years imprisonment, particularly if such actions facilitate the commission of a crime of tax fraud or subsidy fraud or other crime against Social Security and Pension System programs.

Article 492, which defines bribery (cohecho propio) and describes the criminal conduct as follows: “Any public official or employee who, for his own benefit or that of a third party, receives, requests, or accepts, for himself or on behalf of another person or entity, a gift, favor, promise, or remuneration of any kind in return for performing, in the exercise of his office, an act contrary to the duties inherent thereto, or for unjustifiably omitting or delaying an act that he should perform.” It also establishes the corresponding penalties. Such penalties include “a prison sentence of five to seven years, [a] fine in an amount of up to three times the value of the gift or remuneration, and disqualification for twice the term of the prison sentence.” In addition, if the conduct constitutes a criminal offense, the penalties to be imposed must be increased by one third.

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240 Ibid.
241 Ibid.
242 Ibid.
243 Ibid., Article 10.
244 Ibid., Article 11.
245 Ibid., Article 14.
246 Ibid., Article 16.
248 Ibid.
249 Ibid.
250 Ibid. Pursuant to Article 433, such offenses include crimes in relation to Social Security or the Pension System.
251 Ibid., Article 492.
252 Ibid.
253 Ibid., Article 493.
[142] Article 493, which establishes bribery as a criminal offense (cohecho improprio) and provides the corresponding penalties. In particular, it establishes that any public official or employee who “for his own benefit or that of a third party, receives, requests, or accepts, for himself or on behalf of a third party, a gift, favor, promise, or remuneration of any kind in return for performing an act required by his position,” must be punished with “a prison sentence of 3 to 6 years, [a] fine for an amount of up to three times the value of the gift or remuneration, and disqualification for twice the duration of the prison sentence.”254

[143] The Code of Criminal Procedure, Decree No. 09-99-E of December 30, 1999 (hereinafter “Code of Criminal Procedure”) in particular, Article 267 referring to the report of a criminal act to the “National Police or the Office of the Public Prosecutor, or with information that has been received regarding it.”255

[144] Article 268, which obligates any person who witnesses or has direct knowledge of the commission of a crime or failure to perform a public duty (falta de acción pública), to report such act to the police or any competent authority.256

[145] Article 269 with respect to the obligation to report crimes involving failures to perform a public duty, including “public officials or employees who have knowledge thereof in the course of their duties,” as well as the “representatives of individuals, managers, administrators, or legal representatives of legal persons and, in general, those who are responsible for taking care of other people’s property, who have knowledge of crimes committed to the detriment of such interests.”257

[146] Article 270 regarding the form and content of complaints.258

[147] – The Organic Law of the Honduran Association of University Professionals in Public Accounting, Decree No. 19-93 of March 16, 1993, Article 3 of which highlights the attributions of the association.259 These powers include regulating the practice of university professionals in Public Accounting in Honduras,260 to monitoring and sanctioning the conduct of its members in the practice of the profession;261 participating in the study and resolution of national problems;262 and promoting relations between members and homologous organizations to promote the exchange of knowledge on an ongoing basis.263

[148] Article 9, which details the positions that members of the association, acting as officers or employees of public or private sector entities, may hold in the exercise of their professional practice.264 These activities include, among others, holding positions such as general accountant,265 internal auditor266 and comptroller general.267 Likewise, it also establishes the activities with regard to which, acting independently, they may issue

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254 Ibid.
256 Ibid., Article 268.
257 Ibid., Article 269.
258 Ibid., Article 270.
260 Ibid., Article 3(a).
261 Ibid., Article 3(c).
262 Ibid., Article 3(f).
263 Ibid., Article 3(h).
264 Ibid., Article 9(a). A complete list of these charges can be found in Article 9(a).
265 Ibid., Article 9(a)(1).
266 Ibid., Article 9(a)(2)
267 Ibid., Article 9(a)(3).
reports or opinions. They include audits of financial statements, as well as audits, reviews, and special investigations of accounting books and records, the preparation of special reports and papers on accounting and financial transactions, and the "execution of audits, reviews, and special tasks of both centralized and decentralized State institutions, banks, insurance companies, stock exchanges, and financial institutions regulated by the State."  

[149] Article 16, concerning the obligation to maintain professional secrecy, unless authorized by the interested party or "required to do so by a competent authority."  

[150] The Code of Ethics of the Association of Business Experts and Public Accountants of Honduras, approved in a Special General Assembly held on January 28, 2005, which also establishes in Article 5.5 the obligation to maintain professional secrecy, unless authorized by the interested party or parties, or required to do so by court order.  

[151] The Code of Ethical Conduct of Public Officials, Decree No. 36-2007 of May 31, 2007, Article 24 of which prohibits public officials, whether directly or indirectly, for themselves or for third parties, from requesting, accepting, or allowing money, gifts, benefits, presents, objects of value, favors, trips, travel expenses, promises or other material or immaterial advantages or values from persons or entities in the following situations: "(1) [t]o do or failing to do, unduly expediting or delaying tasks related to their functions, or obviating requirements established by law, regulations, manuals, and instructions. 2) [t]o assert his/her influence over another public servant, so that he/she does or fails to do, unduly accelerates or delays, tasks related to his or her functions or requirements provided by law, regulations, manuals or instructions."  

[152] Article 27, which provides that non-compliance with the Code and violation of the rules contained therein “constitute disciplinary offenses, which shall be subject to a penalty proportional to their seriousness in accordance with the regulations [of the] Code, after carrying out the respective disciplinary procedure."  

[153] The Organic Law of the Superior Court of Accounts, Decree No. 10-2002-E of December 19, 2002, which Article 100 of which establishes the fines that the Court may impose on public officials and private individuals, “according to the seriousness of the offense, and that they may also be reprimanded, suspended, or dismissed from their positions by the appointing authority at the request of the Court."  

2.2 Adequacy of the legal framework and/or other measures  

[154] With respect to the legal provisions regulating the prevention of bribery of domestic and foreign government officials, the Committee notes that, on the basis of the information was available to it and that was  

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268 Ibid., Article 9(b). A complete list of these activities can be found in Article 9(b).  
269 Ibid., Article 9(b)(1).  
270 Ibid., Article 9(b)(2).  
271 Ibid., Article 9(b)(3).  
272 Ibid., Article 9(b)(4).  
273 Ibid., Article 9(b)(5).  
274 Ibid., Article 16.  
275 Code of Ethics of the Association of Business Experts and Public Accountants of Honduras, approved in a Special General Assembly held on January 28, 2005, Article 5.5.  
277 Ibid.  
278 Ibid., Article 27. Likewise, the fines contemplated in Article 100 of the Organic Law of the Superior Court of Accounts, Decree No. 10-2002-E of December 19, 2002 may be imposed.  
reviewed, they may be said to constitute set of measures that are pertinent for promoting the purposes of the Convention.

[155] However, the Committee considers it appropriate to make the following observations:

[156] The Committee notes that Article 16 of the Organic Law of the Honduran Association of University Professionals in Public Accounting, Decree No. 19-93 of March 16, 1993, establishes the obligation of the members\(^{280}\) of the association to maintain professional secrecy. This obligation covers the facts, data, and circumstances that come to their knowledge in the exercise of their profession\(^{281}\). The Committee notes that it further provides that “for no reason” may these be disclosed.\(^{282}\) That is, unless disclosure is authorized either by the interested party itself or is required by a competent authority.\(^{283}\) Although Article 16 makes it clear who may lift this obligation, it should be noted that it does not specify the circumstances that could give rise to such lifting, nor the conditions that must be satisfied. In this regard, the Committee considers that the law does not clearly define the limits of the obligation to maintain professional secrecy. It only stipulates that a member must discharge his or her responsibility (salvaguardar su responsabilidad) in a manner that “leaves no room for doubt.” Taking into account the existence of reasonable grounds that could justify the lifting of professional secrecy, such as the detection of indications of acts of corruption and that professional secrecy could constitute an obstacle to reporting, and bringing to the attention of the competent authorities, the existence of circumstantial evidence of the possible commission of an act of corruption, the Committee will formulate a recommendation for the country under review to adopt appropriate rules or measures so that “professional secrecy” is not an obstacle preventing professionals whose activities are regulated by the Organic Law of the Honduran Association of University Professionals in Public Accounting, Decree No. 19-93 of March 16, 1993, from bringing to the attention of the competent authorities any anomaly, irregularity or indication of an act of corruption that they detect in the course of their work, in particular bribery of national and foreign officials, in the event that these constitute a crime; and to ensure that the obligation to report is expressly established. (See Recommendation 2.4.1 in Section 2.4 of Chapter II this Report).

[157] In addition, bearing in mind that the professional body does not have a Code of Ethics regulates the conduct of its members, the Committee will take this opportunity to formulate a recommendation to the country under review to consider adopting a Code of Ethics that establishes the principles that members of the Honduran Association of University Professionals in Public Accounting must strictly observe in the performance of their duties, the idea being to guarantee integrity in the exercise of the profession. (See Recommendation 2.4.2 in Section 2.4 of Chapter II of this Report.) In addition, the Committee will formulate a recommendation regarding pertinent norms to ensure that “professional secrecy” is not an obstacle to members reporting to the competent authorities any anomaly, irregularity, or indication of an act of corruption that they detect in the course of their work, in particular the bribery of national and foreign officials, in the event that these constitute a crime, and to ensure that the obligation to denounce is expressly established in the Code of Ethics. (See Recommendation 2.4.3 of Section 2.4 of Chapter II of this Report).

[158] Similarly, the Committee notes that Article 5.5 of the Code of Ethics of the Association of Business Experts and Public Accountants of Honduras, approved at the Special General Assembly held on January 28, 2005, establishes the obligation to maintain professional secrecy, “unless authorized by the interested party or

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\(^{280}\) See Articles 4 and 5 of the Organic Law of the Honduran Association of University Professionals in Public Accounting, Decree No. 19-93 of March 16, 1993, which defines the members, as well as the requirements to become a member.

\(^{281}\) Ibid., Article 16.

\(^{282}\) Ibid.

\(^{283}\) Ibid.
Regarding the requirement to perform external audits, the Committee notes that only the Financial System Law, Decree No. 129-2004 of September 22, 2004, provides for the obligation to perform external audits to ensure compliance with the rules. In other words, according to Article 75, only institutions that are part of the financial system are required to submit to external audits by an independent auditing firm, in addition to complying with the requirements set by the National Banking and Insurance Commission, the supervisory body responsible for monitoring the financial system. However, during the on-site visit, the country under review indicated that there is no enforceable rule that makes the external audit process mandatory for other entities such as companies. These standards only exist, the country under review explained, in connection with internal audits. Nevertheless, the country under review noted that it could benefit from having a standard that requires all companies to be subject to accounting controls that allow for the verification of accounting books and records, such as external auditing. Taking into account the considerations expressed by the country under review during the on-site visit regarding the relevance of subjecting companies to external audits, the Committee will formulate a recommendation that it adopt rules and measures to make external audits mandatory for all types of companies, not just financial institutions, including, among others, aspects such as: the frequency of audits, the indicators to be examined during audits, and the obligation to conform to the International Standards on Auditing (ISA) as provided for in the Law on Accounting and Auditing Standards, Decree No. 129-2004 of December 31, 2004. (See Recommendation 2.4.5 in Section 2.4 of Chapter II of this Report).

Similarly, bearing in mind that the Committee considers that it would be advisable to subject to this same obligation associations of any kind that, in the pursuit of their corporate purpose, enter into contracts with the country under review or other partly State-owned domestic or foreign entities. The Committee will formulate a recommendation for the country under review to also adopt pertinent norms and measures aimed at making external auditing mandatory for these associations and entities, covering, inter alia, such aspects as: the frequency of audits, the indicators to be examined during audits, and the obligation to comply with the International Standards on Auditing (ISA), as provided for in the Law on Accounting and Auditing Standards, Decree No. 129-2004 of December 31, 2004. (See Recommendation 2.4.6 in Section 2.4 of Chapter II of this Report).

Regarding applicable accounting standards, the country under review indicated during the on-site visit, that Honduras has a Law on Accounting and Auditing Standards, Decree No. 189-2004 of December 31, 2004. However, despite the fact that Articles 9 and 10 instruct traders and other legal entities subject to the law to be guided by International Financial Reporting Standards (IFRS) on how to keep and maintain accounting records, prepare financial statements, and keep their accounting systems, the country under review explained that, from its perspective, the law only establishes certain guidelines. Given that there is no public institution in Honduras to which companies must submit their accounting process throughout their life

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284 Code of Ethics of the College of Business Experts and Public Accountants of Honduras, approved at the Extraordinary General Assembly held on January 28, 2005, Article 5.5.
286 Article 4 of the Financial System Law, Decree No. 129-2004 of September 22, 2004 establishes the institutions of the financial system for the purposes of the law.
287 Ibid., Article 75.
289 Ibid.
290 Ibid.
291 Ibid.
cycle, from their first day of operation to their dissolution, the country under review explained that there is no standard for the quality of accounting records. On the other hand, the country under review pointed out that a company that does not want to comply with the rules will modify its accounting regulations and processes in order to avoid detection if it engages in illicit conduct, which makes it even more difficult to detect evidence of amounts paid for corruption in the accounting records. The only binding rule in Honduras, according to the country under review, is the Penal Code, Article 433 of which defines an accounting crime.\textsuperscript{292} Based on these observations, the Committee will formulate a recommendation to the country under review to strengthen the regulations related to the International Financial Reporting Standards (IFRS), adopted by the Technical Board on Accounting and Auditing Standards, in order to ensure that companies are required to apply them and improve, through such international accounting standards, financial performance, consistency in the application of accounting policies and processes, and increased comparability of financial statements. (See Recommendation 2.4.7 in Section 2.4 of Chapter II of this Report.)

\textsuperscript{[162]} In addition, the Committee believes that it would be beneficial for the country under review to have a uniform set of principles, processes, standards, procedures, techniques, and instruments for keeping and evaluation accounting records. The Committee will formulate a recommendation for the country under review to adopt the pertinent measures to implement an accounting system based on the International Financial Reporting Standards (IFRS), applicable to publicly-held companies of any kind – and not just financial institutions, as well as to associations of any kind that, in pursuit of their corporate purpose, enter into contracts with the State, with other States, or with national or foreign entities that are partly State-owned. (See Recommendation 2.4.8 in Section 2.4 of Chapter II, Section 2.4 of this Report).

\textsuperscript{[163]} In addition, the Committee considers that it would be beneficial for the country under review to consider adopting measures to make it easier for the organs or agencies responsible for prevention and/or investigation of violations of rules designed to safeguard the accuracy of accounting records to detect sums paid for corruption concealed through said records.

\textsuperscript{[164]} For example, with respect to review methods, such as accounting inspections and analysis of periodically requested information, the Committee notes that Article 442 of the Commercial Code puts the Revenue Administrators or their delegates in charge of monitoring “whether the merchants keep their books in accordance with the provisions of the Code, as far as formalities are concerned.”\textsuperscript{293} This was corroborated by the country under review in its Response to the Questionnaire.\textsuperscript{294} In this regard, the country under review indicated that periodic verifications are carried out through the SAR) and the other regulatory entities, of the accounting records of public and private institutions, which make it possible to corroborate the data and determine whether the data being used are correct.\textsuperscript{295} These verifications, according to the country under review, make it possible to establish whether operations are being carried out without accounting records or “whether false or unjustified data are being recorded, or their purpose misstated,”\textsuperscript{296} bearing in mind that accounting norms and standards do not permit the falsification of accounting records, the use of false supporting documents, or the premature destruction of accounting documents.\textsuperscript{297} If, as a result of an inspection, it is ascertained that the books are not being kept in accordance with the law, a fine may be imposed on the offending merchant in accordance with Article 442.\textsuperscript{298}

\textsuperscript{292} Penal Code, Decree No. 130-2017 of January 31, 2019, Article 433.
\textsuperscript{293} Commercial Code, Rule No. 73-50, Article 442.
\textsuperscript{294} Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 16.
\textsuperscript{295} Ibid., p. 17.
\textsuperscript{296} Ibid.
\textsuperscript{297} Ibid. Also see Code of Commerce, Rule No. 73-50, Articles 430, 433 and 434, as well as the Law on Accounting and Auditing Standards, Decree No. 189-2004 of December 31, 2004, Article 16.
\textsuperscript{298} Commercial Code, Rule No. 73-50, Article 442.
[165] During the on-site visit, inquiries were made regarding the review methods that exist in Honduras and the manner in which statutory audits and accounting inspections are carried out. In this regard, the SAR referred the Committee to the presentation it prepared for the visit, which highlighted Articles 118, 119, and 125 of the Tax Code which deal, respectively, with administrative liquidation, the verification procedure governing it, as well as the audit process. It added that the SAR has the Honduras Risk Management Model (MGR-H) as a tool for handling risks. It determines the frequency of verifications based on its risk criteria.

[166] The Committee also pointed to the importance of Article 120 of the Tax Code in relation to the mechanisms for verification of compliance with taxpayers’ formal obligations. However, the Committee considers that, despite the fact that periodic verifications are carried out in accordance with Article 442 of the Commercial Code, the country under review did not clearly explain what the review methods consist of, nor how they can detect anomalies in the accounting records, in particular, those that could indicate the payment of sums for corruption. Similarly, the Committee considers that Articles 118, 119, and 125 of the Tax Code, Decree No. 170-2016 of December 28, 2016, highlighted by the country under review in its presentation during the on-site visit, as well as Article 120 thereof, do not enable it through accounting inspections and analysis of the information it requests to detect anomalies that could constitute circumstantial evidence of sums paid for corruption concealed through these records. In addition, bearing in mind that the application of the Tax Code is limited to tax matters and that the detection of sums paid for corruption in accounting records requires accounting inspections that go beyond the tax sphere, the Committee believes that it would be beneficial for the country under review to have review methods that make it possible to detect all types of anomalies that could reveal the existence of payments for corruption in accounting records. For these reasons, the Committee will formulate a recommendation for the country under review to consider adopting the appropriate standards or measures to strengthen review methods, such as accounting inspections and analysis of periodically requested information, to detect anomalies in accounting records that could indicate the payment of sums for corruption. (See Recommendation 2.4.9 in Section 2.4 of Chapter II of this Report).

[167] Regarding measures designed to safeguard the accuracy of accounting record and to facilitate the detection of sums paid for corruption in records, representatives of the Office of the Public Prosecutor indicated during the on-site visit that among investigative tactics it relies on, are follow-up on expenditures, cross-checking of information and accounts, and requests for access to information from financial entities. They also pointed out, over the course of this same visit, that prosecutors from the Office of the Public Prosecutor have been trained to know how to cross-check information for investigations, as well as other inputs from the SAR. However, given that the country under review did not provide additional documentation that would substantiate the foregoing and enable the Committee to assess the effective of the aforementioned measures, the Committee will formulate a recommendation for the country under review to broaden investigation tactics, such as follow-up on expenditures, cross-checking of information and accounts, and requests for information from financial entities in order to determine if such payments occurred. (See Recommendation 2.4.10 in Section 2.4 of Chapter II of this Report).

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299 Presentation of the Revenue Administration Service (SAR) of September 28, 2021 in the framework of the on-site visit (updated version).
300 Tax Code, Decree No. 170-2016 of December 28, 2016, Articles 118, 119 and 125.
301 Ibid.
302 Presentation of the Revenue Administration Service (SAR) of September 28, 2021 in the framework of the on-site visit.
303 Ibid.
304 Tax Code, Decree No. 170-2016 of December 28, 2016, Article 120.
305 Commercial Code, Rule No. 73-50 Article 442.
307 Presentation of the Revenue Administration Service (SAR) of September 28, 2021 in the framework of the on-site visit.
308 Tax Code, Decree No. 170-2016 of December 28, 2016, Article 120.
309 Presentation of the Office of the Public Prosecutor of September 28, 2021 in the framework of the on-site visit, p. 7.
[168] As regard, other measures designed to safeguard the accuracy of accounting records and to facilitate the detection of payments for corruption, the Committee notes that the country under review did not make any reference in its Response to the Questionnaire to the existence of any manuals, guides or guidelines that specifically explain to public officials how to review accounting records and detect sums paid for corruption that may possibly be concealed in such accounting records. However, the SAR indicated, both during the on-site visit and the Explanatory Notes over the course of this visit, that some manuals and other technical guides do exist but that these are limited to the review accounting records as they relate to fiscal matters, and not accounting records more broadly. In light of the foregoing, the Committee will formulate a recommendation develop manuals, guides, or directives intended to instruct those who are responsible for reviewing accounting records on how to do so in order to detect amounts paid for corruption (that may be concealed. (See Recommendation 2.4.11 in Section 2.4 of Chapter II of this Report).

[169] As for measures intended to facilitate access for public officials to the information that they need to verify the veracity of accounting records and their accompanying supporting documents, the Committee considers that the country under review could benefit from the implementation of computer programs designed to that effect. It is worth noting, however, that the country under review did indicate, in the Explanatory Notes, that SAR does have a program to validate fiscal documents. Given the limited nature of the program, and that it does not provide, more broadly speaking, access to information that would allow to confirm the veracity of accounting records and the supporting documentation on which they are based, the Committee will formulate a recommendation in this regard. (See Recommendation 2.4.12 in Section 2.4 of Chapter II of this Report).

[170] In relation institutional coordination mechanism designed to obtain from other public institutions and authorities the collaboration that public officials need to carry out verifications or to establish the authenticity of supporting documents, the country under review did not refer to the existence of any such mechanisms in its response to the Questionnaire. During the on-site visit, the country under review indicated that the Financial Intelligence Unit (Unidad de Inteligencia Financiera), the Property Institute (Instituto de la Propiedad), the Commercial Registry (Registro Mercantil), Administrative Directorate of Customs Revenue (Dirección Administradora de Rentas Aduaneras), the Tax Controls within the Municipalities, the Superior Court of Accounts (Tribunal Superior de Cuentas) collaborate together. However, considering that the Committee believes that the country under review could benefit from establishing interinstitutional coordination mechanisms, the Committee will formulate a recommendation in this regard so that public officials obtain the collaboration they need, in an easily and timely manner. (See Recommendation 2.4.13 in Section 2.4 of Chapter II of this Report).

[171] Regarding training programs for public officials on this topic, representatives of the SAR provided information in its Explanatory Notes regarding the training programs that it gave in relation to accounting. In addition to this, representatives of the Financial Intelligence Unit specified that given that the Honduran system is particularly vulnerable to criminal offences linked to acts of corruption, following a risk analysis, trainings on corruption matters were provided on a mandatory basis to financial institutions. Before the pandemic, these trainings would take place one a month. They would also be provided to other non-financial institutions when they request it. However, the Committee did not have the opportunity to corroborate this information as it did not have additional documentation such as the training material used in these programs, that would have enabled it to review and assess the content of such training programs. As a result, the

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311 Ibid., p. 38.
312 Ibid., p. 39.
313 Ibid., p. 39-40.
Committee was unable to effectively assess the scope of those training programs and determine whether they specifically instruct public officials on the methods used to disguise payments for corruption in accounting records and how to detect such paid sums in those records. The Committee will therefore formulate a recommendation for the country under review develop such trainings. (See Recommendation 2.4.14 in Section 2.4 of Chapter II of this Report). In addition to developing these training programs, the Committee will also formulate a recommendation for the country under to train public officials in the bodies or agencies responsible for preventing and investigating instances non-compliance with measures intended to safeguard the accuracy of accounting records and ensure the detection of sums paid for corruption concealed through such records, through those training programs, taking into account the particular role and functions they perform in the matter. (See Recommendation 2.4.15 in Section 2.4 of Chapter II of this Report).

2.3 Results of the legal framework and/or other measure

[172] In its Response to the Questionnaire, the country under review did not present data on the results of the implementation of rules and/or other measures to prevent bribery of domestic and foreign government officials. However, during the on-site visit, the SAR referred to several illustrative cases related to criminal offenses in relation to bribery to the detriment of the Public Administration. The SAR also provided information about these cases in the Explanatory Notes he submitted during the visit.314

[173] Notwithstanding the foregoing, the Committee, in view of the fact that it does not have statistical information, processed in a manner that would have enabled it to assess and evaluate the results in this area, will formulate a recommendation for the country under review to prepare and disseminate detailed statistical information, compiled annually, on the actions it has taken to prevent, investigate, and punish noncompliance, such as the number of inspections or periodic or sample reviews of the accounting records of companies, the number of criminal and/or administrative investigations for violation of such standards and/or other measures initiated and concluded; and number of sanctions imposed as a result thereof, in order to identify challenges and adopt corrective measures, where appropriate. (See Recommendation 2.4.16 in Section 2.4 of Chapter II of this Report).

2.4 Conclusions and recommendations

[174] On the basis of its analysis of the implementation in the Republic of Honduras of the provisions contained in Article III (10) of the Convention, the Committee offers the following conclusions and recommendations:

[175] The Republic of Honduras has adopted measures on to prevention of domestic and foreign government officials, provided in Article III of the Convention, as described in Chapter II, Section 2.1 of this Report.

[176] In view of observations made in Sections 2.2 and 2.3, the Committee suggests that the country under review consider the following recommendations:

2.4.1 Adopt the pertinent norms and measures so that "professional secrecy" is not an obstacle for professionals whose activities are regulated by the Organic Law of the Honduran Association of University Professionals in Public Accounting, Decree No. 19-93 of March 16, 1993, to bring to the attention of the competent authorities any anomaly, irregularity or indication of an act of corruption that they detect in the course of their work, particularly bribery of public

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officials. 19-93 of March 16, 1993, may bring to the attention of the competent authorities any anomaly, irregularity or indication of an act of corruption that they detect in the course of their work, particularly the bribery of national and foreign officials, in the event that these constitute a crime, also ensuring that the obligation to report is expressly established. (See paragraph 156 in Section 2.2 of Chapter II of this report).

2.4.2 Adopt a Code of Ethics that establishes the principles that members of the Honduran Association of University Professionals in Public Accounting must strictly observe in the performance of their duties, in order to guarantee integrity in the practice of the profession. (See paragraph 157 in Section 2.2 of Chapter II of this Report).

2.4.3 Ensure that the Code of Ethics contemplates the pertinent rules so that “professional secrecy” is not an obstacle for members to report to the competent authorities any anomaly, irregularity or indication of an act of corruption that they detect in the course of their work, particularly the bribery of national and foreign officials, in the event that these constitute a crime, also ensuring that the obligation to denounce is expressly established in the Code of Ethics. (See paragraph 157 in Section 2.2 of Chapter II of this Report).

2.4.4 Adopt the pertinent rules and measures so that “professional secrecy” is not an obstacle for professionals whose activities are regulated by the Code of Ethics of the Association of Business Experts and Public Accountants of Honduras, approved at the Extraordinary General Assembly held on January 28, 2005, may bring to the attention of the competent authorities any anomaly, irregularity or indication of an act of corruption that they detect in the course of their work, particularly the bribery of national and foreign officials, in the event that these constitute a crime, also ensuring that the obligation to report is expressly established. (See paragraph 158 in Section 2.2 of Chapter II of this Report).

2.4.5 To adopt the pertinent rules and measures aimed at making external audits mandatory for publicly-held companies providing for, among others, aspects such as: the frequency of audit examinations, the indicators to be examined during the same and the obligation to comply with the International Auditing Standards (ISA), as provided for in the Law on Accounting and Auditing Standards, Decree No. 129-2004 of December 31, 2004. (See paragraph 159 in Section 2.2 of Chapter II of this Report).

2.4.6 Adopt the pertinent rules and measures aimed at making external auditing mandatory for associations of any type that, in the development of their corporate purpose, enter into contracts with the State under analysis or other national or foreign entities that have state participation in their assets, providing for this, among others, aspects such as: the frequency of audit examinations, the indicators to be examined during the same and the obligation to comply with the International Auditing Standards (ISA), as provided in the Law on Accounting and Auditing Standards, Decree No. 129-2004 of December 31, 2004. (See paragraph 160 in Section 2.2 of Chapter II of this Report).

2.4.7 Strengthen the rules related to the application of International Financial Reporting Standards (IFRS), adopted by the Technical Board of Accounting and Auditing Standards, to ensure that companies are required to apply them, in order to achieve, through these international accounting standards, greater financial performance, consistency in accounting policies and processes and comparability of financial statements. (See paragraph 161 in Section 2.2 of Chapter II of this Report).
2.4.8 Adopt the pertinent measures to implement an accounting system based on the International Financial Reporting Standards (IFRS), applicable to companies, as well as to associations of any type that in the development of their corporate purpose enter into contracts with the State, with other States, or with national or foreign entities that have State participation in their capital. (See paragraph 162 in Section 2.2 of Chapter II of this Report).

2.4.9 Adopt the relevant rules or measures to strengthen review methods, such as accounting inspections and analysis of periodically requested information, to detect anomalies in accounting records that could indicate the payment of sums for corruption. (See paragraph 166 in Section 2.2 of Chapter II of this Report).

2.4.10 Broaden investigation tactics, such as follow-up on expenditures, crosschecking of information and accounts, and requests for information from financial entities in order to determine if such payments occurred. (See paragraph 167 in Section 2.2 of Chapter II of this Report).

2.4.11 Develop manuals, guides, or directives to instruct those who are responsible for reviewing accounting records on how to do so in order to detect amounts paid for corruption. (See paragraph 168 in Section 2.2 of Chapter II of this Report).

2.4.12 Implement computer programs that provide easy access to the necessary information to verify the veracity of accounting records and of the supporting documents on which they are based. (See paragraph 169 in Section 2.2 of Chapter II of this Report).

2.4.13 Establish institutional coordination mechanisms that allow public officials obtain, in an easily and timely manner, the collaboration that they need from other public institutions or authorities to carry out verifications and establish the authenticity of the aforementioned supporting documentation. (See paragraph 170 in Section 2.2 of Chapter II of this Report).

2.4.14 Develop training programs for public officials in bodies and agencies responsible of preventing and/or investigating instances of noncompliance with measures intended to safeguard the accuracy of accounting records, specifically designed to alert them to the methods used to disguise payments for corruption through said records and to instruct them on how to detect them. (See paragraph 171 in Section 2.2 of Chapter II of this Report).

2.4.15 Train public officials in the bodies or agencies in charge of preventing non-compliance with measures aimed at ensuring the accuracy of accounting records and detecting sums paid for corruption, concealed through such records, through training programs specifically designed for them, taking into account the particular role and functions they perform in the matter. (See paragraph 172 in Section 2.2 of Chapter II of this Report).

2.4.16 Compile and disseminate, detailed statistical information, disaggregated by year, on measures taken to prevent, investigate, and punish non-compliance with measures aimed at ensuring the accuracy of accounting records, such as the number of inspections or periodic or sample reviews carried out of the accounting records of companies; the number of criminal and/or administrative investigations for violations of such rules and/or other measures initiated and concluded; and the number of sanctions imposed as a result thereof, in order to identify challenges and adopt corrective measures, where applicable. (See paragraph 174 in Section 2.3 of Chapter II of this Report).
3. TRANSNATIONAL BRIBERY (ARTICLE VIII OF THE CONVENTION)

3.1 Existence of a legal framework and/or other measures

[177] The Republic of Honduras has no provisions that criminalize transnational bribery as required under Article VIII of the Convention.

[178] Notwithstanding the foregoing, the country under review has a set of provisions related to the conduct of transnational bribery, among which the following are noteworthy:

[179] – The Penal Code, Decree No. 130-2017 of January 31, 2019, Article 496 of which criminalizes bribery committed by a private individual and provides for the same penalties contemplated in Articles 492-495, when the conduct referred to therein is intended to corrupt foreign public officials or employees.315

[180] Article 492, which criminalizes bribery, establishes a prison sentence of 5 to 7 years, in addition to a fine in an amount up to three times the value of the gift or remuneration, and absolute disqualification for twice the time of the prison sentence for any public official or employee who, for his own benefit or that of a third party, “receives, solicits or accepts, for himself or for another person or entity, a gift, favor, promise or remuneration of any kind to perform in the exercise of his office an act contrary to the duties inherent thereto, or to omit or unjustifiably delay an act that should be performed.”316 In the event that the act performed or omitted or delayed, because of the remuneration or promise, constitutes a criminal offense, “the penalties to be imposed shall be increased by one third, without prejudice to the imposition of those corresponding to the crime or misdemeanor committed.”317

[181] Article 493, which criminalizes bribery (cohecho impropio), provides for a prison sentence of three to six years, a fine in an amount equal to or up to three times the value of the gift or retribution, and absolute disqualification for twice the duration of the prison sentence for any “public official or employee who, for his own benefit or that of a third party, receives, requests or accepts, himself or through an intermediary, a gift, favor, promise or remuneration of any kind to perform an act proper to his position.”318

[182] Article 494 referring to “after-the-act” bribery, which provides that the penalties contemplated in Articles 492 and 493 shall be imposed, in their respective cases, “when the gift, favor, promise or remuneration is received, requested or accepted by the public official or employee as a reward for the conduct described therein.

[183] Article 495 with respect to bribery in consideration of an official’s office or function and which establishes a prison sentence of six months to two years, as well as a fine of 100 to 200 days and special disqualification from public office or position for 1 to 3 years for any “public official or employee who, for his

315 Penal Code, Decree No. 130-2017 of January 31, 2019. Article 496. Article 496 criminalizes bribery committed by a private individual as follows: “Whoever offers or delivers, by himself or through an intermediary, a gift, favor, promise or remuneration of any kind to a public official or employee for the purposes described in the preceding articles, must be punished, in their respective cases, with the same prison sentences and fine as the corrupt public official or employee, and disqualification from obtaining public subsidies and aid, entering into contracts with the public sector and obtaining tax or Social Security benefits or incentives for twice the time of the prison sentence. The same penalties must be imposed when the above conduct is intended to corrupt foreign public officials or employees.”
316 Ibid., Article 492.
317 Ibid.
318 Ibid., Article 493.
319 Ibid., Article 494.
own benefit or that of a third party, accepts, himself or through an intermediary, a gift or present offered to him in consideration of his office or function.”

[184] Article 134, which defines a public official or employee, as well as a foreign public official or employee for criminal law purposes. Article 134(1) defines a public official or employee as “1) any person who, by legal provision, popular election, appointment, or contractual relationship, participates in the exercise of public functions, or in a public-private partnership; and 2) the managers of public companies, associations, or foundations, i.e., those in which the Public Administration owns a majority share.” For its part, Article 134(2) defines a foreign public official or employee as “1) any person engaged in the exercise of public functions or services on behalf of another country; and 2) any official or representative of an international public body.”

3.2 Adequacy of the legal framework and/or other measures

[185] The Committee, based on the information available to it and that it has analyzed, notes that the country under review does not yet have provisions that criminalize transnational bribery, as provided for in Article VIII of the Convention.

[186] Nevertheless, the Committee deems it appropriate to express some comments regarding the advisability that the country under review consider adopt, supplement or adapting certain provision of this regard.

[187] As noted in the Response to the Questionnaire and in the on-site visit, the country under review does not contemplate the criminal offense of transnational bribery in its domestic criminal law. In this regard, despite the fact that the conduct is punishable by Article 496 with the penalties provided for in Articles 492 - 495, the offense itself established in the Penal Code. In this regard, the country under review explained, during the on-site visit, that for the purposes of the penalties provided for in Articles 492-495, the functions of a foreign public official or employee are assimilated to those of a national public official. In other words, the applicable penalty is determined based on the conduct of such foreign public official or employee that matches the unlawful conduct described in the article that establishes the offense and the corresponding penalty for the national public official.

[188] In addition, during the on-site visit, the country under review reported that, previously, bribery of "public officials of other States or international organizations" was established as a criminal offense in Article 366-A of the Criminal Code, Decree No. 144-83 of August 23, 1983. The conduct was punishable

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320 Ibid., Article 495.
321 Ibid., Article 134.
322 Ibid., Article 134(1).
323 Ibid., Article 134(2).
324 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 19.
325 Ibid.
326 Penal Code, Decree No. 130-2017 of January 31, 2019, Article 496.
327 Ibid., Article 492-496.
328 Ibid., Article 496.
329 Ibid., Article 492-496.
330 Penal Code, Decree No. 144-83 of August 23, 1983, Article 366-A.
331 Ibid. Article 366-A was added by Decree 114-2006 of March 15, 2006, published in the Official Gazette No. 30, 961 of March 24, 2006. Article 366-A criminalized transnational bribery as follows: “Any natural person subject to Honduran jurisdiction, who offers, promises, or grants any pecuniary or other advantage, directly or indirectly, to a public official or official of another State or international organization, for such official or for another person in order for such official to act or refrain from acting in the
for both individuals and legal entities. However, that Penal Code was repealed with the entry into force of the new Penal Code, Decree No. 130-2017 of January 31, 2019, in June 2020, which abolished the previous characterization.

[189] In view of the fact that the country under review does not have the corresponding criminal offense to sanction the conduct of transnational bribery and impose the penalties provided in Articles 492-495, the Committee urges the country under review to consider adopting provisions that criminalize the offense of transnational bribery. This is so that it may have the legal basis to punish the conduct and impose the corresponding penalties provided for in its Penal Code, providing thus greater clarity with respect to the constituent elements of the crime to be punished. For these reasons, the Committee will formulate a recommendation to the country under review to adopt, subject to its Constitution and the fundamental principles of its legal system, provisions that criminalize transnational bribery, ensuring that the offense incorporates the elements of the conduct described in Article VIII of the Convention. (See Recommendation 3.4.1 in Section 3.4 of Chapter II, Section 3.4 of this Report). For the sake of clarity, the Committee will also formulate a recommendation that the country under review adopt, subject to its Constitution and the fundamental principles of its legal system, provisions that specifically provide for penalties for foreign public officials or employees and officials of international public organizations who engage in the conduct of transnational bribery, as described in Article VIII of the Convention. (See Recommendation 3.4.2 in Section 3.4 of Chapter II of this Report).

[190] With respect to the foregoing, the Committee considers that it should be noted that the Association for a More Just Society, a civil society organization, highlighted in its Response to the Questionnaire, the need to "strengthen the regulations on the matter, creating a specific section for bribery of foreign officials," since, according to the Association, it is only mentioned in a superfluous manner in the Penal Code. It also explained that part of the weakness of the criminal offense of transnational bribery is that "it is poorly or incompletely regulated." Therefore, the Association indicated that "the concept should be amended so that it is better developed and contains each of the scenarios in which it is possible to commit this crime, rather than, as at present, only regulating the conduct of wanting to corrupt the foreign official and not vice versa."

[191] Moreover, although the former Penal Code, Decree No. 144-83 of August 23, 1983, provided for sanctions applicable to legal persons, the Committee notes that the new Penal Code, Decree No. 130-2017 of January 31, 2019, does not contemplate the conduct of companies in its Article 496. Nor does it provide execution of his official duties, to obtain or retain a business or other undue advantage of an economic or commercial nature, shall be punished with imprisonment of 5 to 7 years, plus special disqualification equal to the duration of the imprisonment. Any individual who aids, abets, or conspires in the commission of the acts described in the preceding paragraph, shall be punished with half the time of imprisonment plus special disqualification equal to the duration of the imprisonment. Legal entities subject to Honduran jurisdiction that participate in any of the acts described above will be sanctioned in accordance with the following:

1) The penalties set forth in the second paragraph of Article 369-C of the Penal Code; or,
2) A fine of one hundred thousand (HNL 100, 000.00) to one million (HNL 1, 000,000.00) lempiras, depending on the seriousness of the act, or the benefit obtained; or,
3) A combination of both. The above rules established for legal entities apply without prejudice to the provisions of Article 34-A of this Code. Persons who in good faith report the acts of corruption described above shall be protected by the corresponding authorities.”

332 Penal Code, Decree No. 144-83 of August 23, 1983, Article 366-A.
334 Response to the Questionnaire Association for a More Just Society (Sixth Round), p. 8.
335 Ibid.
336 Ibid., p. 9.
337 Ibid.
338 Penal Code, Decree No. 144-83 of August 23, 1983, Article 366-A.
339 Penal Code, Decree No. 130-2017 of January 31, 2019, Article 496.
for penalties applicable to them.\textsuperscript{340} This was corroborated by the country under review during the on-site visit, in which its representatives confirmed that the criminal offense as currently provided for in the new Penal Code does not include companies.\textsuperscript{341} However, it should be recalled that the Convention prohibits and punishes the conduct of transnational bribery, both for natural and legal persons, such as companies. For this reason, the Committee will formulate a recommendation urging the country under review to adopt, subject to its Constitution and the fundamental principles of its legal system, appropriate rules and measures for prohibiting and punishing any businesses domiciled in its territory that engage in the conduct described in Article VIII of the Convention, irrespective of the penalties applicable to persons linked thereto who are found to have been involved in the commission of acts that constitute said conduct. (See Recommendation 3.4.3 in Section 3.4 of Chapter II of this Report).

[192] It should be noted that the Convention requires that a State Party that has not criminalized transnational bribery to provide the assistance and cooperation contemplated in the Convention in relation to this offense.\textsuperscript{342} In this regard, the country under review explained in its Response to the Questionnaire that any assistance or cooperation provided to another State Party in relation to transnational bribery would be based on the Convention itself, since it is already part of its domestic legal system, in accordance with the provisions of Articles 16 and 18 of the Political Constitution of the Republic of Honduras, 1982, Decree No. 131 of January 11, 1982.\textsuperscript{343} Thus, the country under review indicated in its Response to the Questionnaire that it may consider the Convention directly as the legal basis for providing this type of cooperation. It also took the opportunity to emphasize it is also a party to the United Nations Convention against Corruption\textsuperscript{344} as well as that bilateral and regional agreements which provide for cooperation in relation to his kind of offense.\textsuperscript{345} The country under review also explained that to explain that the Office of the Public Prosecutor, the Financial Intelligence Unit, and the Superior Court of Accounts work in coordination with other counterpart institutions with which various memorandums of cooperation have been signed.\textsuperscript{346} In addition, the country under review noted that Article 149 of its Code of Criminal Procedure deals with requests addressed to or received from foreign courts or authorities.\textsuperscript{347} In this regard, the Committee notes that the Republic of Honduras indicates that although it has several assistance and cooperation treaties, it does not have an international cooperation law that establishes the requirements that a request for legal cooperation by a foreign jurisdictional authority must meet in order to comply with the third paragraph of Article VIII of the Convention. In view of the foregoing, the Committee will formulate a recommendation for the country under review to adopt the standards and measures it deems appropriate for these purposes, including the possibility of adopting an international cooperation law. (See Recommendation 3.4.4 in Section 3.4 of Chapter II of this Report).

[193] In addition, for follow-up purposes, the Committee will make a recommendation to the country under review to select and develop, through the organs or agencies that will in due course be charged with the investigation and/or prosecution of the offense of transnational bribery, and with requesting and/or providing assistance and cooperation with respect thereto, as provided in the Convention, procedures and indicators, when appropriate and where they do not yet exist, to analyze objective results obtained in this regard and to follow

\textsuperscript{340} Ibid.
\textsuperscript{341} Ibid.
\textsuperscript{342} \textit{Inter-American Convention against Corruption}, Article VIII.
\textsuperscript{343} \textit{Political Constitution of the Republic of Honduras, 1982, Decree No. 131 of January 11, 1982}, Articles 16 and 18. Article 16 establish that international treaties approved by the National Congress and ratified by the Executive Branch become part of domestic law once they enter into force, while Article 18 establishes the hierarchy between treaties or conventions and domestic laws. In case of conflict, treaties and conventions prevail over laws.
\textsuperscript{344} \textit{Response to the Questionnaire of the Republic of Honduras (Sixth Round)}, p. 20; \textit{United Nations Convention Against Corruption}, Articles 49-59.
\textsuperscript{345} \textit{Response to the Questionnaire of the Republic of Honduras (Sixth Round)}, p. 20. Also, see page 20 for a list of the bilateral and regional agreements that have been signed.
\textsuperscript{346} Ibid.
\textsuperscript{347} \textit{Code of Criminal Procedure, Decree No. 09-99-E of December 30, 1999}, Article 150.
up on the recommendations made in this report in relation thereto. (See Recommendation 3.4.5 in Section 3.4 of Chapter II of this Report).

3.3 Results of the legal framework and/or other measures

[194] The country under review, in its Response to the Questionnaire, indicated that to date there have been no investigations of criminal cases involving the offense of transnational bribery. In this regard, the country under review explained that it lacks the requirements for prosecuting the offense of transnational bribery. Also, no criminal actions have been filed in the past five years under the previous Penal Code, Decree No. 144-83 of August 23, 1983.

[195] With regard to whether requests for assistance and cooperation in this area have been made in the past five years, the country under review indicated, during the on-site visit, that international requests for assistance have indeed been made, but that the acts were finally determined to constitute other criminal offenses.

[196] In view of the absence of legislation criminalizing transnational bribery, as provided for in Article VIII, the Committee cannot assess results in this area. Given that the country under review does not yet have results in this area, the Committee will formulate a recommendation that, once the offense of transnational bribery is criminalized, it prepare and disseminate detailed statistical information, compiled annually, on the investigations initiated, making it possible to establish how many have been suspended; how many have been prescribed; how many have been archived; how many are in process; and how many have been referred to the competent authority to resolve, in order to identify challenges and adopt corrective measures, when appropriate. (See Recommendation 3.4.6 in Section 3.4 of Chapter II of this Report).

[197] Along the same lines, the Committee will formulate a recommendation to the country under review to prepare and disseminate detailed statistical information, compiled annually, on the number of cases in judicial custody that are ongoing, suspended, time-barred, filed without a decision having been adopted, ready for a decision to be adopted, or that have already been the subject of a decision on the merits and the acquittal or conviction of said decision, in order to identify challenges and adopt corrective measures, when appropriate. (See Recommendation 3.4.7 in Section 3.4 of Chapter II of this Report).

[198] In relation to the above, in its Response to the Questionnaire, the Association for a More Just Society stressed the importance of “requiring the government of the Republic of Honduras to publish statistical data will contribute to strengthening the implementation of the Convention.”

3.4 Conclusions and recommendations

[199] On the basis of its analysis of the implementation in the Republic of Honduras of the provisions contained in Article VIII of the Convention, the Committee offers the following conclusions and recommendations:

[200] The Republic of Honduras has not adopted measures on to the definition of the transnational bribery, provided in Article VIII of the Convention, as described in Chapter II, Section 3.1 of this Report.

348 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 19.
349 Penal Code, Decree No. 144-83 of August 23, 1983, Article 366-A; Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 20.
350 Response to the Questionnaire of the Association for a More Just Society (Sixth Round), p. 7.
In view of observations made in Sections 3.2 and 3.3, the Committee suggests that the country under review consider the following recommendations:

3.4.1 Subject to its Constitution and the fundamental principles of its legal system, adopt provisions establishing transnational bribery as an offense, ensuring that the definition includes the conduct described in Article VIII of the Convention, which more specifically refers to the offering or granting, directly or indirectly, by nationals of a state party, persons having their habitual residence in its territory, and businesses domiciled there, to a government official of another state, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage, in connection with any economic or commercial transaction in exchange for any act or omission in the performance of that official's public functions. (See paragraph 189 in Section 3.2 of Chapter II of this Report).

3.4.2 Adopt, subject to its Constitution and the fundamental principles of its legal system, provisions that provide penalties specifically for foreign public officials or employees and officials of international public organizations who engage in the conduct of transnational bribery, as described in Article VIII of the Convention, for the purposes of greater clarity. (See paragraph 189 in Section 3.2 of Chapter II of this Report).

3.4.3 Adopt, subject to its Constitution and the fundamental principles of its legal system, appropriate measures for prohibit and punish any businesses domiciled in its territory that engage in the conduct described in Article VIII of the Convention, irrespective of the penalties applicable to persons linked thereto who are found to have been involved in the commission of acts that constitute said conduct. (See paragraph 191 in Section 3.2 of Chapter II of this Report).

3.4.4 Adopt such provisions and measures as it deems appropriate, including the possibility of adopting an international cooperation law, for the purpose of complying with the third paragraph of Article VIII of the Convention, which provides that a State Party that has not criminalized transnational bribery shall provide the assistance and cooperation provided for in the Convention, in relation to this offense, to the extent permitted by its laws. (See paragraph 192 in Section 3.2 of Chapter II of this Report).

3.4.5 Select and develop, through the organs or agencies that will in due course be charged with the investigation and/or prosecution of the offense of transnational bribery, and with requesting and/or providing assistance and cooperation with respect thereto, as provided in the Convention, procedures and indicators, when appropriate and where they do not yet exist, to analyze objective results obtained in this regard and to follow up on the recommendations made in this report in relation thereto. (See paragraph 193 in Section 3.2 of Chapter II of this Report).

3.4.6 Compile and disseminate, detailed statistical information, desegregated by year, on the investigations initiated into transnational bribery, in a manner which would make it possible to establish how many have been suspended; how many have prescribed; how many have been archived; how many are in process; how many have been referred to the competent authority to resolve; distinguishing between those that correspond to natural and legal persons, in order to identify challenges and adopt corrective measures, where appropriate. (See paragraph 196 in Section 3.3 of Chapter II of this Report).
3.4.7 Compile and disseminate, detailed statistical information, desegregated by year, on judicial proceedings initiated in connection with transnational bribery, in a manner which would make it possible to determine how many are ongoing, suspended, prescribed, or filed without a decision, as well as how many are ready for a decision, or have had a decision adopted, including whether this decision was to acquit or convict, in order to for identify challenges and adopt corrective measures, where appropriate. (See paragraph 197 in Section 3.3 of Chapter II of this Report).

4. ILLICIT ENRICHMENT (ARTICLE IX OF THE CONVENTION)

4.1 Existence of a legal framework and/or other measures

[202] The Republic of Honduras has a set of provisions related to illicit enrichment, among which the following should be noted:

[203] – The Political Constitution of the Republic of Honduras of 1982, Decree No. 131 of January 11, 1982, Article 222 of which establishes the Superior Court of Accounts as the governing body for overseeing the use of public resources. It is responsible for indicating cases of illicit enrichment.351

[204] Article 225 of the Political Constitution, which defines “illicit enrichment” as follows: “[I]llicit enrichment is presumed when the increase in the capital of a public official or government employee, from the date on which he or she took up their position until the date their employment ends, is significantly higher than it normally would be based on their lawful pay and emoluments and other lawful increases in their capital or income.”352 Likewise, illicit enrichment is presumed when a public servant does not authorize "the investigation of his or her bank deposits or business transactions in the country or abroad."353 Article 225 also takes into consideration the capital and income of the spouse and children of a public official or employee.354 In addition, it requires public officials and government employees to file declarations of assets as required by law.355

[205] – The Penal Code, Decree No. 130-2017 of January 31, 2019, Article 484 of which criminalizes illicit enrichment as follows: “[t]he public official or employee who increases his or her assets by more than HNL 500,000 above his legitimate income during the exercise of his functions and up to two years after having left office and for reasons that cannot be reasonably justified, must be punished with imprisonment from four to six years, [a] fine of up to three times the illicitly obtained enrichment, and [a]bsolute disqualification for twice the time of the prison sentence.”356 If the amount of the illicit enrichment exceeds HNL 1,000,000, they shall be punished with “an imprisonment sentence increased by one third, [a] fine in an amount up to four times the improper enrichment, [and a]bsolute disqualification for twice the time of the prison sentence.”357

[206] – The Organic Law of the Superior Court of Accounts, Decree No. 10-2002-E of December 19, 2002, Article 3 of which, on the attributions of said Court, provides that it is responsible for determining cases of improper enrichment.358

352 Ibid.
353 Ibid.
354 Ibid.
355 Ibid.
356 Penal Code, Decree No. 130-2017 of January 31, 2019, Article 484.
357 Ibid.
Article 53 regarding oversight of probity and public ethics, which aims to ensure that the actions of public officials and those linked to State-related financial, economic, and net-worth activities are guided by "principles of legality and ethical values of integrity, impartiality, probity, transparency, accountability, and efficiency that ensure adequate service to the community; and safeguard State property by preventing, investigating, and punishing public officials who use their positions, jobs, or influence to enrich themselves illicitly or commit other acts of corruption."\(^{359}\)

Article 54, which details the powers of the Superior Court of Accounts in the fulfillment of its probity and ethics function.\(^{360}\) Those powers include receiving and examining sworn declarations,\(^{361}\) as well as "investigating, verifying, and determining whether or not there are indications of illicit enrichment and processing the file as provided by law."\(^{362}\)

### 4.2 Adequacy of the legal framework and/or other measures

With respect to the provision by which the Republic of Honduras has classified illicit offense of enrichment, as provided in Article IX of the Convention, as a criminal offense, the Committee notes that, on the basis of the information available to it, it may be said to be pertinent for promoting the purposes of the Convention.

The Committee, nevertheless, deems it appropriate to express some comments about certain provisions in this regard that the country under review could consider supplementing, developing or adapting:

With respect to Article 484 of the Penal Code, which criminalizes illicit enrichment,\(^{363}\) the Committee notes that it establishes a minimum threshold value for the increase in assets of a given public official or employee for illicit enrichment to be considered. The Committee notes that the Article therefore leaves a loophole with respect to those public officials or employees who increase their assets in an amount less than the fixed threshold, which in this case is HNL 500,000. On this point, the country under review clarified and confirmed that if the public official or employee appropriates less than the threshold amount, it would not be a crime or, at least, such conduct would not constitute the crime of illicit enrichment, which under that definition would go unpunished. That said, the country under review noted that this would not preclude conducting investigations under other headings (e.g., tax evasion) when there is no justification for these funds. Regardless of that possibility, the Committee believes that the country under review would benefit from examining unjustified increases in assets below the minimum threshold of HNL 500,000, especially considering that salaries in the public service are, for the most part, below that threshold. In this regard, the Committee considers that the country under review would benefit from providing in its legislation for increases in net worth below this defined threshold, to the extent that such increases are produced in connection with, or as a consequence of, the performance of a public official’s duties, and cannot reasonably be justified as legally received income. This would ensure that public officials or employees who experience and illicitly enrich themselves with an increase in assets equivalent to an amount less than the fixed threshold of HNL 500,000 do not go unsanctioned. The Committee will formulate a recommendation for the country under review to adopt the pertinent standards and measures to include in the criminal offense of illicit enrichment of a public official or employee increases in assets of less than HNL 500,000 in excess of his or her legitimate income that cannot be reasonably justified. (See Recommendation 4.4.1 Section 4.4 of Chapter II of this Report).

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\(^{359}\) Ibid., Article 53.  
\(^{360}\) Ibid., Article 54.  
\(^{361}\) Ibid., Article 54(2).  
\(^{362}\) Ibid., Article 54(3).  
\(^{363}\) Penal Code, Decree No. 130-2017 of January 31, 2019, Article 484.
[212] Likewise, the Committee notes that Article 484 of the Penal Code, refers to increases in net worth above the legitimate income of a public official or employee during the exercise of his or her functions and up to two years after having ceased them, while the Political Constitution contemplates unjustified increases in net worth from “the date on which he or she took office, until the date on which he or she ceases his or her functions.” The Committee believes it would be advisable for the country under review to consider in its regulations that “whenever there is an increase in the net worth of a public official or government employee in excess of his lawful income during the performance of his functions that cannot be reasonably justified by that official or employee,” so as to broaden the scope of the Article. In this regard, the Committee will formulate a recommendation for the country under review to adapt, subject to its Constitution and the fundamental principles of its legal system, Article 484 of the Penal Code in relation to the conduct of illicit enrichment described in Article IX of the Convention, so as to eliminate the reference to “up to two years after having ceased them” provided for in said Article, such that its application is considered whenever there is an increase in the net worth of a public official or government employee in excess of his lawful income during the performance of his functions and that cannot be reasonably justified by him. (See Recommendation 4.4.2 in Section 4.4 of Chapter II of this Report).

[213] In addition, during the on-site visit, the country under review explained the difference between the role of the Superior Court of Accounts and that of the Office of the Public Prosecutor in this area. To that end, the country under review considered it appropriate to provide additional background on the creation of the Superior Court of Accounts. In this regard, the country under review indicated that prior to its creation in 2002, there was a General Directorate of Administrative Propriety and Honesty. This office applied the Law against Illicit Enrichment of Public officials, which was repealed, and the Office of the Comptroller General of the Republic focused on *posteriori* investigation. The country under review noted that the General Directorate of Administrative Propriety was also responsible for examining the declarations and following up on investigations into the actions of public officials and employees that merited an inquiry. When they were merged, the Superior Court of Accounts was established and the area of administrative probity was incorporated within it. Accordingly, the country under review (the Congress at that time) granted it the power to act as the governing body for overseeing public resources and, at the same time, determining the existence of illicit enrichment, in accordance with Article 222 of the Political Constitution. Thus, from this perspective, it is with the sworn statements of income, assets, and liabilities examined by the Superior Court of Accounts, as the supervisory body of public resources, that investigations of the crime of illicit enrichment are initiated. In this regard, the country under review informed the Committee that the Superior Court of Accounts applies a special administrative law.

[214] The Office of the Public Prosecutor, as the instigator of criminal proceedings, becomes involved whenever there is a criminal investigation. However, the investigation of illicit enrichment is the sole responsibility of the Superior Court of Accounts, in accordance with the Political Constitution and its Organic Law of the Superior Court of Accounts, Decree No. 10-2002-E of December 19, 2002. In this regard, the country under review clarified that this is the only offense in which the Office of the Public Prosecutor requires a prior investigation by the Court. It also explained that the Court can conduct the investigation from an administrative law perspective and if it is not contested by the accused, refer such matter to the Office of the Public Prosecutor to make its investigation to see if there are other illicit acts. Bearing in mind that close collaboration between the two public authorities is necessary to punish this conduct, the

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364 Ibid.
366 Penal Code, Decree No. 130-2017 of January 31, 2019, Article 484.
368 Ibid.
Committee shall formulate a recommendation to the country under review to adopt inter-agency coordination mechanisms between the competent authorities to investigate and prosecute illicit enrichment in both the administrative and criminal spheres, and to that end provide the measures considered appropriate to maintain direct and fluid communication between those authorities and to receive timely notification of investigations and cases of illicit enrichment. (See Recommendation 4.4.3 in Section 4.4 of Chapter II of this Report).

[215] With respect to the obligation of public officials or government employees to file sworn declarations of income, assets, and liabilities, as established in Article 225 of the Political Constitution, the country under review indicated during the on-site visit that, based on its observations, there is no strong culture in Honduras associated with the presentation of such declarations. In this regard, the Committee considers that it is necessary to mention the importance of promoting a culture of integrity among public officials, as well as good practices that make it possible to avoid occasions that could constitute acts of corruption or disciplinary offenses, such as the presentation of sworn declarations, in which the public official or government employee reports all income, assets, and revenue that he or she possesses or receives. In this regard, the Committee believes that the country under review could benefit from conducting awareness and integrity campaigns targeting public officials or government employees on the importance of submitting sworn declarations with true and accurate information regarding their income, assets, and revenue, while providing for measures to ensure that they are alert to situations in which their personal interests may influence the performance of their functions and responsibilities, for private benefit, thus affecting the public interest. The Committee will formulate a recommendation in the country under review to that effect. (See Recommendation 4.4.4 in Section 4.4 of Chapter II of this Report).

[216] Furthermore, given that these declarations only include the spouse and children of the public official or government employee, during the on-site visit, the country under review noted that they often overlook other persons related to the public official or government employee who may be involved. In this regard, the Committee considers that, although the active party in illicit enrichment is invariably the public official or government employee, given that the offense is characterized in such a way as to sanction those who hold an institutionalized position and take advantage of it to illicitly increase their wealth, this does not exclude the possibility that others may be involved. In this regard, the Committee considers that it is precisely in this context that declarations of income, assets, and revenue are a useful tool if they are broad enough in scope to detect areas of possible conflict of interest, which makes it possible to implement preventive measures aimed at avoiding occasions that could constitute opportunities to increase their net worth. It should be recalled that in the first round of review, the Committee formulated a recommendation addressed to the country under review aimed at “optimizing the systems for analyzing the content of declarations, and adopting appropriate measures, so that they also serve as a useful tool for detecting and preventing conflicts of interest, in addition to their use as a suitable instrument for detecting possible cases of illicit enrichment.”

[217] Also, in relation to the above, the Committee notes that Article 225 of the Political Constitution, which requires public officials or government employees to submit their sworn declarations of assets as required by law, is the same Article that establishes what must be considered to determine the increase in the wealth of a public official or government employee characterized as illicit enrichment in the Constitution. In this regard, on the basis of Article 225, the Committee understands that, in order to determine the increase referred to, the country under review takes into account the increases in wealth and income of the public official.

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373 Ibid.
374 Ibid.
or government employee that are significantly higher than what he or she would normally be able to earn in a lawful manner, as well as those of his or her spouse and children,\textsuperscript{375} and therefore it is assumed that the declarations include these persons. However, considering that it may turn out that a public official or government employee needs the participation of a private individual to enrich himself illicitly (e.g., to disguise funds illicitly received through his position), the Committee believes that the country under review should take this reality into account. To overcome this, without prejudice to the provisions of Article 225 of the Political Constitution,\textsuperscript{376} the Committee considers that the country under review could supplement its legislation in this regard with a definition of conflict of interest that is broad enough to include affiliations, personal associations, and family interests of the public official or government employee, as well as private and legitimate activities related thereto, which could reasonably be expected to unduly influence the performance of their functions, so as to open up the possibility of their inclusion in the declarations of income, assets, and revenue of public officials and employees.\textsuperscript{377} The Committee will formulate a recommendation to that effect. (See Recommendation 4.4.5 in Section 4.4 of Chapter II of this Report). The Committee will also take this opportunity to make an additional recommendation. This recommendation will aim to ensure that public officials and government employees covered by the offense include high-ranking officials, including those who hold a high-level position of trust as a result of an appointment, so as to ensure that, in the exercise of their functions, they serve the interests of the public with objectivity and integrity. (See Recommendation 4.4.6 in Section 4.4 of Chapter II of this Report).

[218] In addition, the country under review explained that, although it has a system that receives declarations, it does not yet make optimal use of modern information technology to achieve its objectives in this area. Notwithstanding the above, with the advent of the COVID-19 pandemic and the resulting new working context, the representatives of the country under review informed the Committee that they needed to explore the possibility of making the declarations online. In this regard, they indicated that they were able to work out several scenarios with the IT unit that will allow public officials to make their declarations online. They also pointed out that they received support from the Inter-American Development Bank. On this subject, the Committee considers it appropriate to recall that, in the framework of the first round, a recommendation was made to the country under review to incorporate the use of information technology in connection with the submission of sworn statements, so as to make it easier for public officials to comply with their obligation electronically and to enable the Superior Court of Accounts to take advantage of the benefits offered by such technology to optimize the performance of its functions in this area.\textsuperscript{378}

[219] With respect to the provision of assistance and cooperation provided for in the Convention, in relation to the offense of illicit enrichment described in Article IX of the Convention, the country under review informed the Committee, during the on-site visit, that it has procedures within its domestic legal system for requesting and granting international cooperation to investigate and prosecute the offense of illicit enrichment across borders. In this regard, the country under review clarified that requests for international cooperation are attended to and executed in accordance with the procedures established in bilateral treaties and multilateral conventions applicable to each specific case. However, the country under review did not provide more information than the aforementioned, which would allow the Committee to corroborate and assess those procedures in greater detail. In light of the above, the Committee will formulate a recommendation to the country under review so that it adopts, to the extent its laws so permit, the pertinent measures to strengthen the procedures for providing the assistance and cooperation provided for in the Convention, in relation to the conduct of illicit enrichment, as described in Article IX thereof, in order to expedite the process of detecting.

\textsuperscript{375} Ibid.
\textsuperscript{376} Ibid.
\textsuperscript{377} Ibid.
investigating and prosecuting this offense and to ensure that the competent authorities have direct access to the information they need to determine whether or not punishable acts have occurred. (See Recommendation 4.4.7 in Section 4.4 of Chapter II of this Report).

[220] Similarly, in view of the fact that the Committee also lacks information that would enable it to make a comprehensive assessment of the results of mutual assistance in this sphere, it will formulate a recommendation to the country under review to prepare and disseminate information compiled annually on the number of requests for mutual assistance formulated to other States Parties for the investigation or prosecution of this offense, indicating how many of these were granted and how many were denied; as well as the number of requests made to it by other States Parties for the same purpose, indicating how many were granted and how many were denied, in order to identify challenges and adopt corrective measures, when appropriate. (See Recommendation 4.4.8 in Section 4.4 of Chapter II of this Report).

4.3 Results of the legal framework and/or other measures

[221] With respect to the results on the offense of illicit enrichment, the country under review presented the following information in its Response to the Questionnaire:

[222] In the past five years, 4 tax subpoenas have been filed and four convictions have been obtained380 In 2017, nine tax injunctions were filed and one conviction was obtained381 As for 2018, two tax injunctions were filed and one conviction was obtained, while with respect to the 3 tax injunctions filed in 2019, no conviction was obtained382 In 2020, no tax injunctions were filed and therefore no convictions were obtained383

[223] Regarding the case files with circumstantial evidence of illicit enrichment that were referred to the Office of the Public Prosecutor in the past five years, the Superior Court of Accounts presented the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Files with indications of Illicit Enrichment Referred to the Office of the Public Prosecutor</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>2</td>
</tr>
<tr>
<td>2017</td>
<td>3</td>
</tr>
<tr>
<td>2018</td>
<td>4</td>
</tr>
<tr>
<td>2019</td>
<td>1</td>
</tr>
<tr>
<td>2020</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: Superior Court of Accounts

[224] The Committee takes note of the effort made by the country under review to compile these data related to the offense of illicit enrichment. In this regard, the Committee believes that it would benefit from

379 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 22.
380 Ibid.
381 Ibid.
382 Ibid.
383 Ibid.
continuing to develop such data. To this end, the Committee will formulate recommendations on the advisability of preparing and disseminating detailed statistical information, compiled annually, on the investigation and prosecution of the crime of illicit enrichment. (See Recommendations 4.4.9 and 4.4.10 in Section 4.4 of Chapter II of this Report.)

**4.4 Conclusions and recommendations**

[225] On the basis of its analysis of the implementation in the Republic of Honduras of the provisions contained in Article IX of the Convention, the Committee offers the following conclusions and recommendations:

[226] **The Republic of Honduras has adopted measures on the illicit enrichment as provided in Article IX of the Convention, as described in Chapter II, Section 4.1 of this Report.**

[227] In view of observations made in Sections 4.2 and 4.3, the Committee suggests that the country under review consider the following recommendations:

4.4.1 Adopt the pertinent norms and measures oriented to contemplate in the criminal offense of illicit enrichment, increases in assets of less than HNL 500,000.00 of a public official or employee above their legitimate income and that cannot be reasonably justifiable. (See paragraph 211 in Section 4.2 of Chapter II of this Report)

4.4.2 Adapt, subject to its Constitution and the fundamental principles of its legal system, Article 484 of the Penal Code, Decree No. 130-2017 of January 31, 2019, which relates to the conduct of illicit enrichment described in Article IX of the Convention in such a way that the element “up to two years after having ceased in them” provided in said article is eliminated therein, so that its application is considered whenever there is an increase in the assets of a public official or employee with excess respect to his legitimate income during the exercise of his functions and that cannot be reasonably justified by him. (See paragraph 212 in Section 4.2 of Chapter II of this Report).

4.4.3 Adopt inter-institutional coordination mechanisms between the competent authorities to investigate and determine whether there was illicit enrichment, both in the administrative and criminal spheres, providing for this, the measures considered appropriate to maintain direct and fluid communication between said authorities and to receive timely alerts on investigations and cases of illicit enrichment. (See paragraph 214 in Section 4.2 of Chapter II of this Report).

4.4.4 Conduct awareness and integrity promotion campaigns aimed at public officials or employees on the importance of submitting sworn statements with true and accurate information on their income, assets and income, providing for measures to ensure that they are alert to situations in which their personal interests may influence the fulfillment of their duties and responsibilities, for private benefit, thus affecting the public interest. (See paragraph 215 in Section 4.2 of Chapter II of this Report).

4.4.5 Contemplate, subject to its Constitution and the fundamental principles of its legal system, a definition of conflict of interest in its regulations that is sufficiently broad to include affiliations, personal associations and family interests of the public official or employee, as well as private and legitimate activities linked to the same, which could reasonably
influence unduly the performance of their functions, so as to open the possibility of their inclusion in the declarations of income, assets and income of public officials and employees. (See paragraph 217 in Section 4.2 of Chapter II of this Report).

4.4.6 Adopt the pertinent standards and measures to ensure that, within the public officials and employees covered by the criminal offense of illicit enrichment, high-ranking officials are included, including those who hold a high-level position or a position of trust as a result of an appointment, so as to ensure that, in the exercise of their functions, they serve the interests of the public with objectivity and integrity. (See paragraph 217 in Section 4.2 of Chapter II of this Report).

4.4.7 Adopt, to the extent that their laws so permit, the pertinent measures to strengthen the procedures for providing the assistance and cooperation provided for in the Convention, in relation to the conduct of illicit enrichment, as described in Article IX thereof, in order to expedite the process of detecting, investigating and prosecuting this offense and to ensure that the competent authorities have direct access to the information they need to determine whether or not punishable acts have occurred. (See paragraph 219 in Section 4.2 of Chapter II of this Report).

4.4.8 Compile and disseminate detailed statistical information, disaggregated by year on the use of the Convention in this area, including the following: the number of mutual assistance requests made to other States Parties for the investigation or prosecution of this offense; the number of those requests that were granted and on how many were denied; the number of requests made to it for the same purpose by other States Parties and how many of those requests were granted and how many were denied, in order to identify challenges and adopt corrective measures, when appropriate. (See paragraph 220 in Section 4.3 of Chapter II of this Report).

4.4.9 Compile and disseminate detailed statistical information, disaggregated by year, regarding investigations initiated in relation to the crime of illicit enrichment, which will make it possible to establish how many have been suspended; how many have prescribed; how many have been archived; how many are being processed; and how many have been referred to the competent authority to resolve, in order to identify challenges and adopt corrective measures, when appropriate. (See paragraph 224 in Section 4.3 of Chapter II of this Report).

4.4.10 Compile and disseminate detailed statistical information, disaggregated by year, on judicial proceedings initiated in relation to the crime of illicit enrichment, in manner which would make it possible to determine how many are ongoing; how many have been suspended, prescribed, or closed without a decision; how many are ready for a decision, or have had a decision adopted on merits, and whether this decision was to acquit or convict, in order to identify challenges and adopt corrective measures, when appropriate. (See paragraph 224 in Section 4.3 of Chapter II of this Report).

5. NOTIFICATION OF CRIMINALIZATION OF TRANSNATIONAL BRIBERY AND ILLICIT ENRICHMENT (ARTICLE X OF THE CONVENTION)

5.1 Existence of provisions in the legal framework and/or other measures
The Republic of Honduras has not criminalized transnational bribery and illicit enrichment as provided in Articles IX of the Inter-American Convention against Corruption.

The country under review has also criminalized illicit enrichment, as provided in Article IX of the Inter-American Convention against Corruption, prior to the date on which it ratified the Convention.

5.2 Adequacy of the legal framework and/or other measures

Bearing in mind that the Republic of Honduras has not criminalized transnational bribery and illicit enrichment as provided in Articles IX, respectively, of the Inter-American Convention against Corruption, should it do so, the Committee will recommend that it notify the OAS Secretary General of that fact, in accordance with Article X of the Convention (See the recommendation in Chapter II, Section 5.3. of this report).

The Republic of Honduras has also criminalized illicit enrichment, as provided in Article IX of the Inter-American Convention against Corruption, prior to the date on which it ratified the Convention. Consequently, the Committee will not formulate a recommendation to that effect.

5.3 Conclusions and recommendation

On the basis of the analysis conducted in foregoing sections, the Committee offers the Amazon Region following conclusions and recommendations with respect to implementation in the country under review of the provisions contained in Article X of the Convention:

The Republic of Honduras has not criminalized transnational bribery as provided for in Article VIII of the Convention. Accordingly, should it do so, the Committee recommends that it notify the OAS Secretary General of that fact, in accordance with Article X of the Convention.

6. EXTRADITION (ARTICLE XIII OF THE CONVENTION)

6.1 Existence of a legal framework and/or other measures

The Republic of Honduras has a set of provisions related to extradition, among which the following should be noted:

– The Political Constitution of the Republic of Honduras of 1982, Decree No. 131 of January 11, 1982, Article 102 of which provides the following:

“No Honduran may be expatriated or handed over by the authorities to a foreign State. No Honduran may be extradited or handed over by the authorities to a foreign State. Exceptions to this provision are cases related to crimes of trafficking of narcotics in any of their forms, terrorism and any other illegal act of organized crime and when there exists a Treaty or Convention of extradition with the requesting country. In no case may a Honduran be extradited for political and common crimes.”

Article 313(4) provides that it is incumbent upon the Supreme Court of Justice “to hear extradition cases and other cases that must be tried in accordance with international law.”

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385 Ibid., Article 313(4).
[238] – The Organic Law of the Superior Court of Accounts, Decree No. 10-2002-E of December 19, 2002, Article 104 of which provides that, for the purposes of the Convention, the Court shall be the central authority for directly formulating and receiving the requests for assistance and cooperation referred to therein.\footnote{Organic Law of the Superior Court of Accounts, Decree No. 10-2002-E of December 19, 2002, Article 104.}

[239] – The Code of Criminal Procedure, Decree No. 09-99-E of December 30, 1999, Article 150 of which establishes that “[t]he extradition of accused or convicted persons shall be governed by the provisions of the international treaties to which Honduras is a party and by the laws of the country.”\footnote{Code of Criminal Procedure, Decree No. 09-99-E of December 30, 1999, Article 150.}

[240] Article 285, of the Code of Criminal Procedure, as amended by Legislative Decree No. 74-2013, on the rules of the prosecutorial request in relation to the detention of a defendant, which provides in paragraph 3 that “[i]f the defendant has not been detained because he is abroad, the Public Prosecutor's Office shall file [a] prosecutorial request for the purposes of requesting his extradition when appropriate.”\footnote{Ibid., Article 285(4), amended by Decree No. 74-2013 of May 8, 2013 and published in the Official Gazette No. 33,301 of December 11, 2013.}

### 6.2 Adequacy of the legal framework and/or other measures

[241] With respect to the provision by which the Republic of Honduras establishes as a criminal offense extradition, as provided in Article XIII of the Convention, the Committee notes that, on the basis of the information available to it and that it reviewed, it may be said to be pertinent for promoting the purposes of the Convention.

[242] The Committee, nevertheless, deems it appropriate to express some comments about certain provisions in this regard that the country under review could consider supplementing, developing, or adapting.

[243] In its Response to the Questionnaire,\footnote{Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 26.} as well as in the on-site visit, the country under review noted that, apart from Article 313(4) of the Political Constitution, it has no other provisions in this area. In this regard, the Committee notes that there is no law regulating extradition proceedings as such in its domestic law; which does not prevent it from hearing and ruling on extradition requests.\footnote{Ibid.} In this regard, the country under review indicated that such requests may be answered in accordance with the applicable conventional norms, the general principles of international law, and additional relevant norms of domestic criminal procedure.\footnote{Ibid.}

[244] In this regard, the country under review asserted that, bearing in mind that the Convention is already part of domestic law, in accordance with Article 16 of the Political Constitution,\footnote{Political Constitution of the Republic of Honduras, 1982, Decree No. 131 of January 11, 1982, Article 16.} it may serve as a legal basis for requesting the extradition of a person for purposes of prosecution or legal action in connection with the conduct described in Article VI. Such conduct, for the purposes of the Convention, constitutes acts of corruption,\footnote{Inter-American Convention against Corruption, Article VI.} regardless of the denomination or \textit{nomen juris} used in domestic law.\footnote{Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 26.}
With respect to the foregoing, during the on-site visit, the country under review took the opportunity to remind the Committee that, in Honduras, international conventions and treaties have a higher rank than ordinary law, as enshrined in Article 18 of the Political Constitution.\textsuperscript{395}

With respect to the consideration of the offenses referred to in extradition treaties, the country under review clarified, in its Response to the Questionnaire, that if an extradition treaty exists between the requested and requesting States Parties, “the offenses that give rise to such a request shall be understood to include those that characterize the criminal conduct described in the Convention, provided that both are also States Parties.”\textsuperscript{396}

In addition, during the on-site visit, the country under review informed the Committee that, although Congress has not yet passed a bill on the subject, there have been discussions on the advisability of creating an extradition law in Honduras, to provide greater clarity, certainty, and confidence in matters of this nature. By way of example, during the on-site visit, the country under review mentioned that on June 13, 2012, the Plenary of Magistrates of the Supreme Court of Justice resolved to send a bill on extradition to the legislature. Those discussions are still ongoing. Therefore, the country under review explained that it is awaiting the approval of a procedural law that specifically allows for the processing of this type of request, in addition to the provisions of the Code of Criminal Procedure\textsuperscript{397} in this area.

Considering that the country under review does not have a law that regulates the extradition procedure as such, and that it would be advisable for it to have one in order to acquire greater legal certainty with respect to the procedure to be followed in this matter and to provide better guidance on this need, the Committee will formulate a recommendation aimed at the adoption of a law that regulates said procedure, including the different stages of the process, establishing, among other aspects, the criteria for authorizing or not authorizing said extradition. (See Recommendation 6.4.1 in Section 6.4 of Chapter II of this Report).

Regarding the above, the Association for a More Just Society identified, as one of the shortcomings with regard to extradition, the lack of regulations governing extradition processes in the country.\textsuperscript{398} In this regard, the Association proposed, in its Response to the Questionnaire, the creation of “legislation that determines the extradition process in a more detailed manner and expands the scenarios in which that process can be applied.”\textsuperscript{399}

Such a law could cover, among other aspects, matters such as: the extraditable offenses provided for in the Convention; the extradition request and supporting documentation; the documentary requirements, as well as their certification and authentication; the competent authorities to transmit and receive extradition requests; the deadlines for granting the same; the competent authorities and those involved in the extradition process (e.g. Office of Public Prosecution, Ministry of Foreign Affairs, the Judiciary, the requested State Party, etc.); the requirements and methods of verification of an extradition request; the procedure after the arrest of the requested person; the extradition hearing; the criteria to be considered for the decision on the admissibility of the extradition; and appeals and petitions for review to the Judiciary.

Furthermore, given that such extradition requests may be granted or denied by the requested State Party, the Committee believes that it would be important for the country under review, when it is the requested State Party, to inform the requesting State in a timely manner of the outcome of its request. In this regard, the

\textsuperscript{396} Ibid.
\textsuperscript{398} Response to the Questionnaire of the Association for a More Just Society (Sixth Round), p. 13.
\textsuperscript{399} Ibid.
country under review explained that, to determine how to proceed in this matter, it refers to the provisions of the Code of Criminal Procedure, which provides in Article 151 that the resolutions of the jurisdictional bodies must be notified to all parties on the same day of their issuance or the following business day. Based on the provisions of the aforementioned Code of Criminal Procedure, which establishes general procedural rules for all types of criminal proceedings, the country under review informed the Committee, during the on-site visit, that the judges have determined that, in matters of extradition, the procedure to follow is to notify the requesting State Party, through its embassy and its central authorities, and to communicate all decisions handed down in relation to its request and the corresponding extradition process, when applicable.

[252] Notwithstanding the foregoing, in view of the considerations put forward by the country under review during the on-site visit regarding the advisability of having a procedural law that clearly defines how to carry out the extradition procedure, including the main stages of an extradition process, the Committee will formulate a recommendation to the country under review that it expressly include in such a law the obligation to inform the country under review in a timely manner of the outcome of its extradition request. In this regard, the Committee will formulate a recommendation aimed at adoption of the pertinent rules and measures, as part of a law regulating the procedure for extradition proceedings, to ensure that the requesting State Party is informed in a timely manner of the outcome of its extradition request, including the content of the decision of the competent court granting or denying the request, providing additionally in this law the deadline and the means by which it should be notified. (See Recommendation 6.4.2 in Section 6.4 of Chapter II of this Report).

[253] In addition, it should be noted that the country under review, both in its Response to the Questionnaire and during the on-site visit, mentioned the provisions of Article 102 of the Political Constitution, which establishes, as a general rule, that no person with Honduran nationality, whether by birth or naturalization, may be extradited. In this regard, the country under review explained that in the event of a denial, the country under review, as the requested State Party, shall, via the Central Authority, request the Office of the Public Prosecutor to present the prosecutor’s request for trial of the person in Honduras, in accordance with domestic law and the aut dedere au judicare principle of international law. This means that, although there is no specific rule in this regard, the extraditable subject of the denied request must be tried. In this regard, during the on-site visit, the country under review clarified that the conventions in use already require the adjudication of denial. Notwithstanding the applicability of these general principles of international law in its domestic legislation, in view of the country under review’s position regarding the advisability of having a law that regulates the procedure for extradition proceedings, it is considered that it would also be advisable for it to include provisions in this regard in order to ensure that regulations under its domestic law include this obligation. Therefore, the Committee will formulate a recommendation to the country under review to adopt pertinent norms and measures, as part of a law of this nature, to establish the obligation of the requesting State to prosecute the extraditable subject of the denied extradition request whose surrender was denied for reasons of nationality or because the State considers itself to have jurisdiction, in accordance with the principle of aut dedere au judicare. The Committee will make a recommendation in that respect. (See Recommendation 6.4.3 in Section 6.4 of Chapter II of this Report).

[254] In addition, also in relation to Article 102 of the Political Constitution, the country under review indicated, in its Response to the Questionnaire and during the on-site visit, that there are two grounds for

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403 Ibid.
extradition of nationals: extradition for crimes committed by an organized criminal group and crimes of trafficking of narcotics. Therefore, the country under review explained that the extradition of a Honduran person for a criminal conduct described in the Convention is possible, to the extent that it is committed by members of an organized criminal group. In this regard, the Committee believes that the country under review could extend these exceptions to all acts of corruption described in Article VI of the Convention, regardless of whether they are committed by members of an organized criminal group. The Committee will formulate a recommendation to the country under review to adopt pertinent standards and measures, subject to its Constitution and the fundamental principles of its legal system, to ensure that any person with Honduran nationality who engages in any of the acts of corruption described in Article VI of the Convention may be extradited. (See Recommendation 6.4.4 in Section 6.4 of Chapter II of this Report).

[255] In relation to the above, in its independent Response to the Questionnaire, the Association for a More Just Society indicated that since the Convention is not expressly mentioned in the legal framework related to extradition and the Convention is not used as a legal basis, at least not expressly, extradition does not apply to corruption offenses. In this regard, the Association confirmed that cases related to crimes of trafficking of narcotics in any of their forms, terrorism and any other illegal act of organized crime are only exempted from Article 102 of the Political Constitution, that is when there is an extradition treaty or Convention with the requesting country.

[256] In addition, during the on-site visit, the country under review indicated that when an extradition request is denied for an offense referred to in the Convention and it exercises jurisdiction over the offense in question, it always notifies the requesting State Party of the final outcome of the extraditable person's trial in Honduras. In this regard, the Committee takes note of the measures being taken to ensure that the requesting State is informed of the final outcome of the criminal proceedings of the extraditable person. However, the Committee considers that it would be advisable to establish this obligation expressly in its domestic law. For this reason, the Committee will formulate a recommendation for the country under review to adopt pertinent standards and measures, as part of the law governing the procedure for extradition proceedings, to ensure that the requesting State whose extradition request is denied is informed in a timely manner of the final outcome of any criminal proceedings that the country under review undertakes because it considers itself to have jurisdiction over the matter. (See Recommendation 6.4.5 in Section 6.4 of Chapter II of this Report).

[257] Among the challenges facing the country under review is the question of the most appropriate and adequate public authority to act as the Central Authority in extradition matters. In this regard, the country under review indicated in its Response to the Questionnaire that consideration could be given to the possibility of transferring this function to the Office of the Public Prosecutor, given that it is responsible for directing criminal investigations. It also pointed to the fact that the Office of the Public Prosecutor has a monopoly over criminal proceedings for “public action” crimes. In this regard, the Committee notes that the Superior Court of Accounts is authorized to act as the Central Authority for the purposes of the Convention.

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405 For what is meant by “organized criminal group” under Honduran criminal law, see Penal Code, Decree No. 130-2017 of January 31, 2019, Article 136.
406 Inter-American Convention against Corruption, Article VI.
407 Ibid.
408 Inter-American Convention against Corruption, Article VI.
409 Response to the Questionnaire of the Partnership for a More Just Society (Sixth Round), p. 11-13.
411 The Inter-American Convention against Corruption applies to the offenses it establishes. For a list of the acts of corruption covered by the Convention, see Article VI of the Convention.
412 Ibid. for a More Just Society (Sixth Round), p. 11.
413 Ibid.
414 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 27.
415 Ibid.
under its Organic Law.\textsuperscript{416} In this regard, the Committee understands that the legislation of the country under review already establishes the Superior Court of Accounts as the Central Authority.\textsuperscript{417} Nevertheless, taking into account the considerations mentioned by the country under review, the Committee will formulate a recommendation for the country under review to reconsider which is the most appropriate competent authority for the purposes of the Convention with regard to extradition, in order to designate it as the Central Authority. (See Recommendation 6.4.6 in Section 6.4 of Chapter II of this Report).

[258] The country under review also noted, in Response to the Questionnaire, that the lack of technical cooperation in this area constitutes a challenge.\textsuperscript{418} Therefore, the Committee will formulate a recommendation to adopt the pertinent measures to promote international legal cooperation in extradition matters and to strengthen inter-institutional coordination to achieve the agility and effectiveness required in extradition proceedings. (See Recommendation 6.4.7 in Section 6.4 of Chapter II of this Report).

[259] In its Response to the Questionnaire, the country under review also underscored the need for training programs, with mandatory annual courses, as well as mandatory courses in the event of promotion or change of functions. Given this need, the Committee will formulate two recommendations for consideration by the country under review. One recommendation is for the country under review to design and implement systematic and ongoing training programs for the administrative and judicial authorities with jurisdiction over extradition, on the possibilities of application of the Convention in extradition cases, in order to benefit from its greater use and promote its use, both in the formulation and consideration of extradition requests. (See Recommendation 6.4.8 in Section 6.4 of Chapter II of this Report). The other recommendation is for the country under review to develop and maintain updated indicators that make it possible to analyze and verify the results obtained during the development of such training programs, such as the number of participants, the positions of these officials, the participating institutions, the dates on which they are held, the frequency with which they are offered, the content, among other aspects, in order to identify challenges and adopt corrective measures, as appropriate. (See Recommendation 6.4.9 in Section 6.4 of Chapter II of this Report).

[260] In addition, in view of the fact that the country under review does not yet have the aforementioned measures in place, the Committee will formulate a recommendation to select and develop, through the appropriate organs or agencies, procedures and indicators that would enable it to verify follow-up on the recommendations formulated to the country under review in this area and to analyze the results obtained in this regard. (See Recommendation 6.4.10 in Section 6.4 of Chapter II of this Report).

6.3 Results of the legal framework and/or other measures

[261] With respect to extradition results, the country under review reported in its Response to the Questionnaire that “100% of the requests are immediately referred to the plenary where a specialized judge (juez natural) is appointed.”\textsuperscript{419} It also indicated that “100% of the cases, since the appointment of the Specialized Judge, have been admitted.”\textsuperscript{420} Regarding the case files, 100% have resulted in “arrest/detention warrants being issued immediately.”\textsuperscript{421}

\begin{flushright}
417 Ibid.
418 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 28-29.
419 Ibid., p. 28-29.
420 Ibid.
421 Ibid.
\end{flushright}
In addition, the country under review indicated, in its Response to the Questionnaire, that “arrest warrants have been and are being renewed periodically by each Specialized Judge.” It also reported that all arrest warrants have been forwarded to the Security Secretariat/National Police. The country under review considered it necessary to mention that, since 2016, all the applications to the Supreme Court of Justice are for offenses related to drug trafficking.

However, the Committee notes that these data do not specifically refer to extraditions related to the acts of corruption referred to in Article VI of the Convention. In this regard, the Committee believes that the country under review could benefit from having detailed data on the subject, broken down by year. To this end, the Committee will formulate a recommendation to compile and disseminate detailed statistical information, disaggregated by year, on extradition requests made to other States Parties for the investigation or prosecution of such crimes of acts of corruption, indicating how many have been accepted and how many have been denied; as well as requests for the same purpose made by those States Parties, indicating how many have been accepted and how many have been denied, in order to identify challenges and adopt corrective measures, when appropriate. The Committee will make a recommendation in that regard. (See Recommendation 6.4.11 in Section 6.4 in Chapter II of this Report).

6.4 Conclusions and recommendations

On the basis of its analysis of the implementation in the Republic of Honduras of the provisions contained in Article XIII of the Convention, the Committee offers the following conclusions and recommendations:

The Republic of Honduras has adopted measures on extradition, as provided in Article XIII of the Convention, as described in Chapter II, Section 6.1 of this Report.

In view of observations made in that Sections 6.2 and 6.3, the Committee suggests that the country under review consider the following recommendations:

6.4.1 Adopt a law that regulates the procedure to be used in extradition processes, including the different stages of the process, providing for, among other aspects, the criteria for authorizing or not such extradition. (See paragraph 248 in Section 6.2 of Chapter II of this Report).

6.4.2 Consider adopting the relevant rules and measures, as part of a law regulating the procedure for extradition proceedings, to ensure that the requesting State Party is informed in a timely manner of the outcome of its extradition request, including the content of the decision of the competent court granting or denying the request, providing additionally in this law, the deadline and the means by which it should be notified. (See paragraph 252 in Section 6.2 of Chapter II of this Report).

6.4.3 Adopt the relevant rules and measures, as part of the law governing the procedure for extradition proceedings, to expressly establish the obligation of the requested State to prosecute the extraditable person who is the subject of the extradition request refused whose surrender was denied on grounds of nationality or because the State considers itself

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422 Ibid.
423 Ibid.
424 Ibid.
425 Inter-American Convention against Corruption, Article VI.
6.4.4 Consider adopting the relevant rules and measures, subject to its Constitution and the fundamental principles of its legal system, to ensure that any person with Honduran nationality who engages in any of the conducts constituting acts of corruption described in Article VI of the Convention may be extradited. (See paragraph 254 in Section 6.2 of Chapter II of this Report).

6.4.5 Adopt the relevant rules and measures, as part of the law governing the procedure for extradition proceedings, to ensure that the requesting State whose extradition request is denied is informed in a timely manner of the final outcome of any criminal proceedings it undertakes on the grounds that it considers itself to have jurisdiction over the matter. (See paragraph 256 in Section 6.2 of Chapter II of this Report).

6.4.6 Reconsider which is the most appropriate competent authority for the purposes of the Convention on extradition, in order to designate it as the Central Authority. (See paragraph 257 in Section 6.2 of Chapter II of this Report).

6.4.7 Adopt the pertinent measures to promote international legal cooperation in extradition matters and strengthen inter-institutional coordination to achieve the agility and effectiveness required in extradition proceedings. (See paragraph 258 in Section 6.2 of Chapter II of this Report).

6.4.8 Design and implement systematic and continuous training programs for administrative and judicial authorities with competence in extradition matters, on the possibilities of application of the Convention in extradition cases, in order to benefit from a greater use of the Convention and promote its use, both in the formulation and consideration of extradition requests. (See paragraph 259 in Section 6.2 of Chapter II of this Report).

6.4.9 Develop and select indicators to analyze and verify the results obtained during the development of such training programs for administrative and judicial authorities with jurisdiction in extradition matters, such as the number of participants, the position of participating officials, the participating institutions, the dates on which they are held, the frequency with which they are offered and the content, among other aspects, in order to identify challenges and adopt corrective measures, when appropriate. (See paragraph 259 in Section 6.2 of Chapter II of this Report).

6.4.10 Select and develop, through the appropriate authorities, procedures and indicators that enable it to verify follow-up on the recommendations made to the country under review in this area and analyze the results obtained in this regard. (See paragraph 260 in Section in 6.2 of Chapter II of this Report).

6.4.11 Compile and disseminate detailed statistical information, disaggregated by year, on extradition requests made to other States Parties for the investigation or prosecution of such crimes of acts of corruption, indicating how many have been accepted and how many have been denied; as well as the requests made by those States Parties for the same purpose, indicating how many have been accepted and how many have been denied, in order to
III. REVIEW, CONCLUSIONS AND RECOMMENDATIONS ON IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION PROVISIONS SELECTED FOR THE SIXTH ROUND

1. Bank Secrecy (Article XVI of the Convention)

1.1 Existence of provisions in the legal framework and/or other measures

[267] The Republic of Honduras has a set of provisions related to Bank secrecy, among which the following should be noted:


[269] Article 62, which establishes that the rights of each person “are limited by the rights of others, by the security of all, and by just demands for general welfare, in a democratic society.” 427

[270] Article 100, which establishes the inviolable right to secrecy of communications of all persons, unless otherwise ordained by a judicial ruling. 428 In this regard, it should be clarified that merchants’ books and vouchers and personal documents may be subject to inspection or audit by the competent authority, in accordance with the law. 429 In any case, Article 100 prescribes that secrecy must be maintained with respect to the subject matter of the action of the said authority. 430

[271] – The Commercial Code, Regulation No. 73-50, Article 956, which establishes in relation to banking secrecy that “[i]nstitutions may not disclose deposits and other operations except to the depositor, debtor, or beneficiary, to their legal representatives or to whoever has the power to dispose of the account or to intervene in the operation; except when requested by the judicial authority by virtue of an order issued in a trial in which the depositor is a party, and by the banking authorities for tax purposes. Credit institutions’ officers shall be liable under the terms of the law for violation of established secrets and, if secrets are disclosed, the institutions shall be obliged to make reparation for any damage done.” 431

[272] – The Code of Criminal Procedure, Decree No. 09-99-E of December 30, 1999, Article 149 of which provides as follows: “requests addressed to or received from foreign courts or authorities,” 432 must be processed through diplomatic channels and “in exceptional and extremely important cases, the judge or member of a sentencing court designated for the purpose may conduct proceedings in another State, subject to its prior authorization.” 433

427 Ibid., Article 62.
428 Ibid., Article 100.
429 Ibid.
430 Ibid.
431 Commercial Code, Rule No. 73-50, Article 956.
433 Ibid.
Article 229, concerning the power of the judicial authorities to order a witness who refuses to testify and who invokes his right to abstain or to keep a secret, to testify, provided that the said judicial authorities are convinced that it is not a State secret.\textsuperscript{434} Such an order must be substantiated in a resolution to that effect.\textsuperscript{435}

Article 274 regarding summonses issued by the authorities in charge of the preliminary investigation and the obligation to cooperate with them. It provides that officials and employees “shall provide the representatives of the Office of the Public Prosecutor with all the information they require, except in the case of State secrets.”\textsuperscript{436} Likewise, “the officers of the institutions that form part of the national financial system must, in response to a judicial order, provide the corresponding authority with the information requested.”\textsuperscript{437} In this regard, the judge shall have 24 hours to resolve a petition from the time it is filed.\textsuperscript{438} Article 274 also provides for the imposition of a fine equivalent to three times the value of his or her salary in the event that a public official or government employee fails to comply with this duty.\textsuperscript{439}

The Organic Law of the Superior Court of Accounts, Decree No. 10-2002-E of December 19, 2002, Article 103 of which establishes the entities\textsuperscript{440} that shall be obliged to provide the Court, for the performance of its functions, “all the information it may request regarding the individuals or legal entities subject to investigation.”\textsuperscript{441} In this regard, Article 103 further provides that “the protection of other laws may not be invoked to refuse to provide the written information requested.”\textsuperscript{442} Pursuant to Article 103, as amended by Decree No. 145-2019 of March 5, 2020, documents that constitute evidence of irregular or illegal acts committed in the Public Administration and that could be important for the audits and investigations conducted by the Court, “must be set aside and kept with all due security measures.”\textsuperscript{443} The Article also provides that any person in possession of the aforementioned documents must submit them to the Court, at the Court’s sole request, failing which it must request the competent court to seize said documents and notify the Office of the Public Prosecutor.\textsuperscript{444} Article 104, which establishes the Superior Court of Accounts as the Central Authority to directly formulate and receive the requests for assistance and cooperation referred to in the aforementioned Convention.\textsuperscript{445}

Article 104, which establishes the Superior Court of Accounts as the Central Authority to directly formulate and receive the requests for assistance and cooperation referred to in the aforementioned Convention.\textsuperscript{446}

\textsuperscript{434} Ibid., Article 229.
\textsuperscript{435} Ibid.
\textsuperscript{436} Ibid., Article 274.
\textsuperscript{437} Ibid.
\textsuperscript{438} Ibid.
\textsuperscript{439} Ibid.
\textsuperscript{440} Pursuant to Article 103 of the Organic Law of the Superior Court of Accounts, Decree No. 10-2002-E of December 19, 2002 such entities include agencies, organs, entities, dependencies of the State, commercial enterprises, institutions of the national financial system, private organizations for development, non-governmental organizations, cooperative associations, labor unions, professional associations, political parties and any entity of a public or private nature.
\textsuperscript{441} Organic Law of the Superior Court of Accounts, Decree No. 10-2002-E of December 19, 2002, Article 103.
\textsuperscript{442} Ibid.
\textsuperscript{444} Ibid.
\textsuperscript{445} Ibid., Article 104.
transparent rules for management by public officials, public procurement, the determination of illicit enrichment, and oversight of assets and liabilities, with a view to safeguarding State property.\textsuperscript{446}

[278] Article 61(9), which provides that a government official’s sworn declaration of assets must contain an express and irrevocable authorization by him/her and his/her spouse or domestic partner empowering the Superior Court of Accounts to investigate their accounts, bank deposits, assets, or businesses located in the country or abroad.\textsuperscript{447} In this regard, it also states that no institution of the National Financial System “may invoke banking secrecy as a pretext for refusing to provide information directly requested by [the] competent authority.”\textsuperscript{448}

[279] However, the information provided “may only be used for the purposes of the investigation and with the necessary confidentiality.”\textsuperscript{449} Contravention of this rule generates liability for the public official or executive and the financial institution that refuses to provide the requested information or delays its transmission.\textsuperscript{450}

[280] The Circular of the National Banking and Insurance Commission, Circular CNBC No. 017-2016 of April 26, 2016, which resolves that “the institutions of the financial system must provide the financial information officially required by the Superior Court of Accounts, regarding individuals and legal entities subject to investigation for illicit enrichment.”\textsuperscript{451}

1.2 Adequacy of the legal framework and/or other measures

[281] With they relate to the provisions on extradition, the Committee notes that, on the basis of the information available to it, they may be said to constitute an analyzed set of measures that are pertinent for promoting the purposes of the Convention.

[282] However, the Committee considers it appropriate to make the following observations:

[283] In its Response to the Questionnaire\textsuperscript{452} and in connection with the on-site visit, the country under review said that although the Political Constitution guarantees the right to personal privacy,\textsuperscript{453} as well as the right to secrecy of communications\textsuperscript{454} in Articles 76 and 100,\textsuperscript{455} respectively, this does not mean that those fundamental rights are absolute. On the contrary, by their nature, they are limited by the exercise of the rights of others.\textsuperscript{456} Pursuant to Article 62,\textsuperscript{457} they must be carefully weighed against the exercise of the rights of others, bearing in mind the safety of all, the general welfare, and democratic ideals.\textsuperscript{458} For example, such rights cannot prevent inspections by the competent authorities, as provided for in Article 100.\textsuperscript{459} With an authorization backed by a court order, it is possible, for example, to inspect merchants’ books and vouchers and personal

\footnotesize{\textsuperscript{446} General Regulations of the Organic Law of the Superior Court of Accounts, Administrative Agreement No. 001-2020-TSC of September 29, 2020, Article 4.\textsuperscript{447} Ibid. Article 61(9).\textsuperscript{448} Ibid.\textsuperscript{449} Ibid.\textsuperscript{450} Ibid.\textsuperscript{451} Circular of the National Banking and Insurance Commission, CNBC Circular No. 017-2016 dated April 26, 2016.\textsuperscript{452} Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 31.\textsuperscript{453} Article 102.\textsuperscript{454} Ibid., Article 100.\textsuperscript{455} Ibid., Articles 76 and 100.\textsuperscript{456} Ibid., Article 62.\textsuperscript{457} Ibid., Article 100.\textsuperscript{458} Ibid., Article 62.\textsuperscript{459} Ibid., Article 100.}
documents.\textsuperscript{460} In this regard, the country under review explained that bank secrecy is not absolute in Honduras.\textsuperscript{461} In this regard, the country under review referred the Committee to the Political Constitution, the Convention, and Article 956 of the Commercial Code, all of which grants the judiciary branch the power to issue an order lifting banking secrecy.\textsuperscript{462} In addition Article 103 of the Organic Law of the Superior Court of Accounts requires entities to provide the Court with “all information it requests in connection to natural or legal persons that are the subject of an investigation,”\textsuperscript{463} such that protections provided by other laws may not be use as a basis to refuse to submit the requested information.\textsuperscript{464} In this regard, the country under review explained that these provisions, along with the appropriate accompanying legal order, ensure that competent authorities can access the information they require to conduct their investigations.

[284] However, the Committee notes that Honduras’ domestic law does not specifically provide for the lifting of bank secrecy when the information is requested for the purpose of a proceeding relating to an act of corruption in another State Party. In this regard, the Committee notes that Honduras does not yet have a regulation in its domestic law that expressly lifts bank secrecy for a requesting State Party. In this regard, the country under review indicated that the information would have to be provided in these cases because the provisions of the Convention are part of its domestic legal system and are ranked higher than ordinary laws.\textsuperscript{465} Nevertheless, the Committee considers it pertinent for the country under review to consider that such international assistance requires a more specific legal basis. Therefore, the Committee considers that the country under review could benefit from having more explicit rules in this regard to make it clearer how the Convention operates in conjunction with its domestic regulations to ensure that the requesting State Party is provided with the information it seeks. In this regard, the Committee will formulate a recommendation for the country under review to adopt the pertinent rules and measures, in accordance with its legal system, to ensure that the Convention may be invoked as a basis to provide information requested by another State Party for the purposes of a proceeding relating to an act of corruption and bank secrecy, in accordance with the provisions of Article XVI of the Convention. (See Recommendation 1.4.1 Section 1.4 of Chapter III of this Report).

[285] With respect to the existence of regulations that clearly establish that assistance requested by another State Party may not be denied on the grounds of bank secrecy when such assistance consists of a request for information for the purposes of a proceeding relating to an act of corruption, the country under review indicated, in its Response to the Questionnaire, that Honduras, by virtue of having signed the Convention, is obligated to provide mutual legal assistance, which includes providing banking and financial information.\textsuperscript{466} However, the Committee believes that this principle provided for in the Convention, i.e., the obligation to provide information to a requesting State without being able to refuse to provide it on the grounds that it is protected by bank secrecy, should also have a legal basis in its domestic law.

[286] Regarding domestic legislation in this area, the country under review indicated in its Response to the Questionnaire, that Article 149 of the Code of Criminal Procedure, which provides that “[r]equests addressed to foreign courts or authorities, or those received from them, shall be processed through diplomatic channels.”\textsuperscript{467} In this regard, the Committee notes that, while Article 149 provides the means by which requests must be transmitted or received, it does not establish an obligation to provide such assistance.

\textsuperscript{460} Ibid.
\textsuperscript{461} Ibid.
\textsuperscript{463} Commercial Code, Rule No. 73-50, Article 956.
\textsuperscript{464} Ibid. 10-2002-E of December 19, 2002, Article 103.
\textsuperscript{465} Ibid.
\textsuperscript{466} Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 33.
\textsuperscript{467} Ibid. p. 34.
[287] In addition, the country under review, both in its Response to the Questionnaire and during the on-site visit, referred the Committee to Article 103 of the Organic Law of the Superior Court of Accounts. In this respect, the Committee notes that this Article establishes that the requested entities may not invoke the protection of other laws to refuse to provide the Superior Court of Accounts with the information it requests so that it can fully perform its functions in relation to the audits and investigations for which it is responsible. However, bearing in mind that those functions include the Court's responsibility to formulate and receive requests for assistance and cooperation under the Convention, in accordance with Article 104, the Committee believes that the country under review could benefit from extending this principle to requests for information that it receives from other States Parties in connection with a proceeding involving an act of corruption. The Committee further notes that the country under review highlighted in its Response to the Questionnaire that Article 61(9) of the General Regulations of the Organic Law of the Superior Court of Accounts, as amended by Administrative Agreement No. 001-2020-TSC of September 29, 2020, expressly provides that no institution of the national financial system, “may use bank secrecy as grounds for refusing to provide information requested directly by [the] competent authority.” In this regard, the Committee notes the limited scope of Article 61(9). Said article is aimed at ensuring that financial institutions provide the information requested by the Superior Court of Accounts regarding the investigations it conducts in relation to the sworn asset declarations provided by public officials. Based on the foregoing observations, the Committee will formulate a recommendation to the country under review to adopt the pertinent rules and measures, to ensure that a requested State Party may not invoke bank secrecy as a basis for refusal to assistance to a requesting State Party, when such assistance is sought for the purpose of a proceeding relating to an act of corruption, in accordance with the provisions of Article XVI of the Convention. (See Recommendation 1.4.2 in Section 1.4 of Chapter III this Report).

[288] With respect to the obligation of the States Parties to the Convention not to use information protected by bank secrecy received for any purpose other than the process for which it was requested, unless authorized by the requested State Party, the country under review, in its Response to the Questionnaire, indicated that “legislative measures have been adopted to regulate the right not to use protected or privileged information, both to maintain the confidentiality of bank secrecy within the framework of the Convention, and for other unauthorized purposes.” In this regard, the country under review emphasized that Article 100 of the Political Constitution establishes the obligation to maintain secrecy with respect to matters unrelated to the subject matter of the action of the public authority. As another example, the country under review cited Article 956 of the Commercial Code, which establishes banking secrecy, as well as the possibility of its lifting by means of an order issued by the competent judicial authority. It also pointed out that the same article provides for the liability of the officers of credit institutions for violating any secret that they become aware of, and also establishes the obligation for the institutions to repair any harm done as a result of such violation. In this regard, the country under review informed the Committee, during the on-site visit, that this regulation is designed to ensure that the information can only be used for a particular investigation and what is specifically mentioned in the order. Likewise, the Committee takes note of the General Regulations governing the Organic Law of the Superior Court of Accounts, as amended by Administrative Agreement No. 001-2020-TSC of 2020.

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469 Ibid.
470 Ibid., Article 104.
471 Ibid.
472 Ibid., Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 30
473 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 35.
475 Commercial Code, Rule No. 73-50, Article 956.
476 Ibid.
September 29, 2020, Article 61(9) of which clearly indicates that the information provided “may only be used, with the required confidentiality, for the purposes of the investigation.”

[289] Nevertheless, as mentioned above, said provision refers to information when the Court investigates accounts, bank deposits, assets, or businesses located in Honduras or abroad that have been declared by a public official in his or her sworn statement. On the other hand, the Committee notes that while these regulations establish measures to protect the secrets that come to the knowledge of its officials, they are not aimed at ensuring that the requesting State Party is obliged not to use the information protected by bank secrecy that it receives for any purpose other than the process for which it was requested, as provided for in the Convention. For this reason, the Committee shall formulate a recommendation for the country under review to adopt the pertinent rules and measures, in accordance with its legal system, to ensure that the requesting State Party is, within the sphere of its attributions, obligated to not use the information protected by bank secrecy received from the requested State Party for any purpose other than the process for which it was requested, unless authorized by the requested State Party, in accordance with the provisions of Article XVI of the Convention. (See Recommendation 1.4.3 in Section 1.4 of Chapter II of this Report).

[290] Regarding the procedure and requirements for requesting information from the competent authorities of the country under review, the Response to the Questionnaire highlighted Article 149 of the Code of Criminal Procedure, Decree No. 09-99-E of December 30, 1999, which requires that the requests be processed through diplomatic channels. In addition, when information is required from the institutions of the national financial system, for the purposes of a preliminary investigation, Article 274 requires the authorities in charge of the investigation to file a petition before the competent Judge to obtain the court order that will allow them to collect the information needed. In this regard, Article 274 grants 24 hours to the Judge to resolve the petition. However, the Committee notes that Article 274 refers to information for domestic investigations and not for the purposes of a judicial proceeding that is subject to the knowledge of the judicial body of another State Party related to an act of corruption and for which assistance is requested for the lifting of the bank secrecy protecting the information it requires.

[291] In addition to the above, during the on-site visit, the country under review clarified that the competent court may examine the requirements of a request to lift bank secrecy. However, according to Article 149 of the Code of Criminal Procedure, diplomatic channels must first be exhausted before the request is passed on to the judicial authority that will determine whether the formal requirements to authorize the lifting of the bank secrecy have been met. In this regard, the country under review clarified that the Code of Criminal Procedure and the formal requirements made in international petitions must be adhered to. However, the country under review did not provide additional information that would allow the Committee to know the requirements for lifting bank secrecy, nor was any information provided during the on-site visit clarifying the formalities that must be met. Therefore, the Committee will formulate a recommendation that the country under review adopt the pertinent rules and measures, in accordance with its legal system, to adopt a procedure whereby its competent authorities can transmit requests for assistance or information received from other States Parties, when such assistance relates to bank secrecy and has been requested for the purposes of a proceeding relating to an act of corruption, providing for the requirements, deadlines and, as far as possible, the use of electronic means, to ensure that the requesting States Parties receive the information they require in an expeditious, efficient and effective manner. (See Recommendation 1.4.4 in Section 1.4 of Chapter III of this Report).

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479 Ibid., Article 274.
480 Ibid., Article 149.
[292] In the same vein, considering that the Code of Criminal Procedure\textsuperscript{481} does not clearly establish the deadline for financial institutions to comply with their obligation to provide the competent authorities with the banking information requested by court order \textsuperscript{482} and taking into account the absence of provisions, the Committee will formulate a recommendation for the country under review to adopt the pertinent standards and measures, in accordance with its legal system, aimed at defining the time period that financial institutions located in its territory shall have to submit the information requested, providing for the use of electronic means, as soon as possible, in order to ensure that the Central Authority receives the information requested by the requesting State in an expeditious, efficient and effective manner. (See Recommendation 1.4.5 in Section 1.4 of Chapter III of this Report).

[293] The Committee also notes the lack of coordination mechanisms and channels of communication between the competent authorities in the country under review and the financial institutions located in its territory that possess the requested information. The Committee also notes the lack of coordination mechanisms and channels of communication between the competent authorities in the country under review and the equivalent authorities in the requesting States Parties. In light of the above, the Committee will formulate a recommendation for the country under review to consider adopting the pertinent measures, in accordance with its legal system, to establish coordination mechanisms and channels of communications between the competent authorities in the country under review for receiving and processing requests for assistance or information from other States Parties for the purpose of a proceeding related to acts of corruption when it is related to bank secrecy and the financial institutions located in its territory that possess the requested information, providing, as far as possible, for the use of electronic means for this purpose. Similarly, the Committee will formulate a recommendation for the country under review to adopt the pertinent measures, in accordance with its legal system, to ensure that there are expeditious, efficient and effective channels of communication between those authorities and the authorities of other States Parties requesting assistance or information, including, to the extent possible, the use of electronic means. (See Recommendations 1.4.6 and 1.4.7 in Section 1.4 of Chapter III of this Report).

[294] Regarding the above, the Association for a More Just Society highlighted the lack of inter-agency coordination with respect to the regulation of bank secrecy, which results in a lack of uniformity regarding the rules applicable to bank secrecy.\textsuperscript{483}

[295] With respect to deadlines for responding to requests for assistance submitted to the country under review when they are denied, the country under review indicated during the on-site visit that, in accordance with the provisions of Article 151 of the Code of Criminal Procedure, the decisions of the courts must be notified to all parties, either on the same day they are issued or on the following working day.\textsuperscript{484} In this regard, the Committee notes that it is not clear whether such a judicial decision should indicate, when a request for assistance or information is denied, the reason and the rule on which the decision in question is based, as well as whether an appeal may be lodged against this decision before an authority other than the one that made it. Therefore, the Committee believes it would be advisable for the country under review to consider adopting the appropriate measures, in accordance with its legal system, to address this obligation. Taking this need into account, the Committee will formulate a recommendation for the country under review to adopt the pertinent rules and measures, in accordance with its legal system, to ensure that, when a request for assistance or information is denied, it should indicate the reason and the rule on which the decision is based and whether there is any recourse to an authority other than the one that made the decision. (See Recommendation 1.4.8 in Section 1.4 of Chapter III of this Report).

\textsuperscript{481} Ibid.
\textsuperscript{482} Ibid.
\textsuperscript{483} Response to the Questionnaire of the Association for a More Just Society (Sixth Round), p. 16.
\textsuperscript{484} Code of Criminal Procedure, Decree No. 09-99-E of December 30, 1999, Article 151.
[296] In addition, the Committee notes that it is not clear which supervisory body is responsible for ensuring that the competent authorities in this area comply with the regulations and measures governing the processing of requests for assistance or information from other States Parties. In its Response to the Questionnaire, the country under review highlighted the following authorities as those mainly responsible for ensuring compliance with the standards governing this area: “the Superior Court of Accounts, the Office of the Public Prosecutor, the Office of the Attorney General, the Supreme Court of Justice, the Office of Administration of Seized Assets, the Financial Intelligence Unit, the National Police, and the Presidential Directorate for Transparency, Modernization, and State Reform.” However, the Committee does not have further information that would allow it to ascertain the role of each of these authorities in relation to the oversight exercised, nor how they operate together to ensure compliance with applicable standards and measures in this field. In view of the foregoing, the Committee will formulate a recommendation for the country under review to consider adopting the pertinent standards and measures, in accordance with its legal system, aimed at clarifying which authority is competent to ensure compliance with the standards and/or measures related to the processing of requests for assistance or information from other States Parties for the purpose of a proceeding related to acts of corruption, when this is related to bank secrecy. (See Recommendation 1.4.9 in Section 1.4 of Chapter II of this Report).

[297] In addition, although the existence of sanctions for officials who do not comply with the obligation to provide protected information was mentioned during the on-site visit, when the authorities of the country under review present a previously requested court order, it is not clear which entity is authorized to punish them. For this reason, the Committee will formulate a recommendation that the authorities competent to enforce compliance with the rules and measures in this area be also empowered to sanction the financial institutions and public authorities that fail to comply with this obligation. (See Recommendation 1.4.10 in Section 1.4 of Chapter III of this Report).

[298] Finally, given that the country under review does not have standards that define the procedure for processing requests for assistance or information from other States Parties to the Convention and that it is also not clear which body is responsible for ensuring compliance with the standards in this area, the Committee considers that it would be beneficial, once the above measures are adopted, for this information to be made public. In light of the above, the Committee will formulate a recommendation to the country under review so that it adopts the appropriate measures, in accordance with its legal system, to publish on the web page of the corresponding authority, in such a way that they are easily accessible, the rules containing the procedure for processing requests for assistance or information from other States Parties for a proceeding related to acts of corruption, when this is related to bank secrecy, as well as the competent authorities for such processing and for ensuring compliance with those rules. (See Recommendation 1.4.11 in Section 1.4 of Chapter III of this Report).

1.3 Results of the legal framework and/or other measures

[299] In its Response to the Questionnaire, the country under review reported, with respect to the number of requests for assistance received from other States Parties involving information protected by bank secrecy that were received and processed, that there is no specific reference by another State Party to a request to the Superior Court of Accounts, as the Central Authority in this area, requesting technical assistance in the area of bank secrecy. However, the Committee believes that the country under review could benefit from having detailed statistical data in this field, disaggregated by year. Accordingly, the Committee will formulate a

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485 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 35-36.
487 Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 35-36.
recommendation for the country under review to compile and disseminate detailed statistical information, disaggregated by year, indicating the number of requests made to it in this regard by other States Parties that have been denied and accepted, in order to be able to evaluate the results of the application of the rules and/or measures on assistance related to bank secrecy, with respect to a proceeding involving an act of corruption. (See Recommendation 1.4.12 in Section 1.4 of Chapter III of this Report).

[300] With respect to the number of requests for assistance sent to other States Parties that have involved information protected by bank secrecy, the country under review indicated in its Response to the Questionnaire, that in the requests sent to date and on file with the office designated as the liaison office of the Special Prosecutor for Transparency and Combating Public Corruption (FETCCOP), there is no specific reference to a request to the Superior Court of Accounts, as the Central Authority, requesting technical assistance in the area of bank secrecy for another State Party. Nevertheless, the Committee considers that the country under review would appreciate having detailed statistical data disaggregated by year. In this regard, the Committee will formulate a recommendation that the country under review compile and disseminate detailed statistical information, disaggregated by year, indicating the number of requests made to it in this regard by other States Parties that have been denied and accepted, in order to make it possible to evaluate the results of the application of the rules and/or measures on assistance related to bank secrecy, for the purpose of a proceeding related to an act of corruption. (See Recommendation 1.4.13 in Section 1.4 of Chapter III of this Report).

[301] In regard to the number of sanctions imposed on financial institutions and public authorities for noncompliance with the rules on the processing of assistance related to bank secrecy for the purposes of Article XVI of the Convention, the country under review indicated in its Response to the Questionnaire that “to date, no sanctions have been imposed on banking institutions for noncompliance with the rules on bank secrecy.” Given the foregoing, the Committee will formulate a recommendation for the country under review to compile and disseminate, once it does impose sanctions, detailed statistical information, disaggregated by year, indicating the number of sanctions imposed on financial institutions and public authorities for noncompliance with the rules related to the processing of such assistance, in order to identify challenges and adopt corrective measures, as appropriate. (See Recommendation 1.4.14 in Section 1.4 of Chapter III of this Report).

[302] In relation to the above, in its Response to the Questionnaire, the Association for a More Just Society pointed out “the lack of access to statistical information on the requests on this subject submitted, received, admitted, and denied by the Government.” In this regard, the Association indicated in its reply that consideration should be given to making this information available, “so that, persons wishing to access it are able to do so easily and to compare it with other data.”

1.4 Conclusions and recommendations

[303] On the basis of its analysis of the implementation in the Republic of Honduras of the provisions contained in Article XVI of the Convention, the Committee offers the following conclusions and recommendations:

[304] The Republic of Honduras has adopted measures on bank secrecy is as provided in Article XVI of the Convention, as described in Chapter III, Section 1.1 of this Report.

488 Ibid.
489 Ibid.
490 Response to the Questionnaire of the Partnership for a More Just Society (Sixth Round), p. 16.
491 Ibid.
In view of observations made in Sections 1.2 and 1.3, the Committee suggests that the country under review consider the following recommendations:

1.4.1 Adopt the pertinent rules and measures, in accordance with its legal system, to ensure that the Convention may be invoked as a basis to provide information requested by another State Party for the purposes of a proceeding relating to an act of corruption and bank secrecy, in accordance with the provisions of Article XVI of the Convention. (See paragraph 284 in Section 1.2 of Chapter III of this Report).

1.4.2 Adopt the pertinent rules and measures, in accordance with its legal system, to ensure that a requested State Party may not invoke bank secrecy as a basis for refusal to assistance to a requesting State Party, when such assistance is sought for the purpose of a proceeding relating to an act of corruption, in accordance with the provisions of Article XVI of the Convention. (See paragraph 287 of in Section 1.2 of Chapter III of this Report).

1.4.3 Adopt the pertinent rules and measures, in accordance with its legal system, aimed at ensuring that the requesting State Party is, within the sphere of its attributions, obligated to not use the information protected by bank secrecy that it receives from the requested State Party for any purpose other than the process for which it was requested, unless authorized by the requested State Party, in accordance with the provisions of Article XVI of the Convention. (See paragraph 289 in Section 1.2 of Chapter III of this Report).

1.4.4 Adopt the pertinent rules and measures, in accordance with its legal system, aimed at having a procedure by means of which its competent authorities may transmit requests for assistance or information received from other States Parties, when such assistance is related to bank secrecy and has been requested for the purposes of a process related to an act of corruption, providing for the requirements, deadlines and, as soon as possible, the use of electronic means, to ensure that the requesting States Parties receive the information they require in an expeditious, efficient and effective manner. (See paragraph 291 in Section 1.2 of Chapter III of this Report).

1.4.5 Adopt the pertinent rules and measures, in accordance with its legal system, aimed at establishing coordination and communication mechanisms between the competent authorities in the country under review to receive and process requests for assistance or information from other States Parties for the purpose of a proceeding related to acts of corruption when it is related to bank secrecy and the agencies of the financial institutions located in its territory that possess the requested information, providing for, to the extent possible, the use of electronic means for this purpose. (See paragraph 292 in Section 1.2 of Chapter III of this Report).

1.4.6 Adopt the pertinent rules and measures, in accordance with its legal system, aimed at defining the deadline for financial institutions located in its territory to submit the information requested, providing for the use of electronic means as soon as possible, in order to ensure that the Central Authority receives, in an expeditious, efficient and effective manner, the information required by the requesting State Party. (See paragraph 293 in Section 1.2 of Chapter III of this Report).

1.4.7 Adopt the pertinent measures, in accordance with its legal system, aimed at ensuring expeditious, efficient and effective channels of communication between said authorities
and the authorities of other States Parties requesting the information, providing for this, to the extent possible, the use of electronic means. (See paragraph 293 in Section 1.2 of Chapter III of this Report).

1.4.8 Adopt the pertinent rules and measures, in accordance with its legal system, aimed at ensuring that, when a request for assistance or information is denied, the reason and the rule on which the decision is based must be indicated, as well as whether there is any recourse to an authority other than the one that made the decision. (See paragraph 295 in Section 1.2 of Chapter III of this Report).

1.4.9 Adopt the pertinent rules and measures, in accordance with its legal system, aimed at ensuring that the competent authorities are clearly identified to ensure compliance with the rules and/or measures relating to the processing of requests for assistance or information from other States Parties for the purpose of a proceeding relating to acts of corruption, when it is related to bank secrecy. (See paragraph 296 in Section 1.2 of Chapter III of this Report).

1.4.10 Adopt the pertinent norms and measures, in accordance with its legal system, aimed at ensuring that such authorities are also empowered to impose sanctions on those public institutions and financial entities located in its territory that do not comply with the norms on the matter. (See paragraph 297 in Section 1.2 of Chapter III of this Report).

1.4.11 Adopt the pertinent measures, in accordance with its legal system, aimed at publishing on the web page of the corresponding authority, the rules containing the procedure for the processing of requests for assistance or information from other States Parties for the purpose of a process related to acts of corruption, when this is related to bank secrecy, as well as the competent authorities for such processing and to ensure compliance with such rules, in such a way that they are easily accessible. (See paragraph 298 in Section 1.2 of Chapter III of this Report).

1.4.12 Compile and disseminate detailed statistical information, disaggregated by year, indicating the number of requests made to it in this regard by other States Parties that have been denied and accepted, in order to make it possible to evaluate the results of the application of the rules and/or measures on assistance related to bank secrecy, for the purpose of a process related to an act of corruption. (See paragraph 299 in Section 1.3 of Chapter III of this Report).

1.4.13 Compile and disseminate detailed statistical information, disaggregated by year, indicating the number of requests made to it in this regard by other States Parties that have been denied and accepted, in order to make it possible to evaluate the results of the application of the rules and/or measures on assistance related to bank secrecy, for the purpose of a process related to an act of corruption. (See paragraph 300 in Section 1.3 of Chapter III of this Report).

1.4.14 Compile and disseminate, once sanctions have been imposed, detailed statistical information, disaggregated by year, indicating the number of sanctions imposed on financial institutions and public authorities for non-compliance with the rules regarding the processing of such assistance, in order to identify challenges and take corrective measures, where appropriate. (See paragraph 301 in Section 1.3 of Chapter III this Report).
IV. BEST PRACTICES

[306] The country under review presented the following information on best practices with respect to the implementation of the provisions of the Convention selected for the Third and Sixth Rounds of review.\textsuperscript{492}

[307] In its Response to the Questionnaire, the country under review indicated the Office of the Public Prosecutor proposed carrying out training in the fight against corruption. The purpose of these periodic training courses will be to strengthen knowledge and unify the criteria used by the various Office of the Public Prosecutors and the Superior Court of Accounts for the preparation of audits and auditors’ reports.\textsuperscript{493}

[308] The Office of the Public Prosecutor also made another proposal for the creation of a system similar to that of the Financial Intelligence Unit, to detect atypical situations in asset transactions, involving the recording, transfer, or disposal of assets, since criminal organizations habitually hide assets of illicit origin or seek to give them the appearance of legally acquired assets.\textsuperscript{494} In this regard, the country under review explained that this “would trigger alerts that could help prevent commission of the crime of money laundering.”\textsuperscript{495}

\begin{itemize}
\item[492] Response to the Questionnaire of the Republic of Honduras (Sixth Round), p. 40-41.
\item[493] Ibid., p. 40.
\item[494] Ibid., p. 41.
\item[495] Ibid.
\end{itemize}
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<th><strong>September 24, 2021</strong></th>
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<tbody>
<tr>
<td>16:30 hrs. – 17:00 hrs.</td>
<td>Coordination meeting of representatives of the country under review, the member states of the subgroup, and the Technical Secretariat</td>
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<tr>
<td><em>(Time: Santiago de Chile, Chile)</em></td>
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<tr>
<td>15:30 hrs. – 16:00 hrs.</td>
<td><em>(Time: Washington, D.C.)</em></td>
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<tr>
<td>13:30 hrs. – 14:00 hrs.</td>
<td><em>(Time: Tegucigalpa, Honduras)</em></td>
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<thead>
<tr>
<th><strong>September 27, 2021</strong></th>
<th>Meetings with civil society organizations and/or, inter alia, private sector organizations, academics or researchers</th>
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<tbody>
<tr>
<td>12:00 hrs. – 13:00 hrs.</td>
<td>Session 1:</td>
</tr>
<tr>
<td><em>(Time: Santiago de Chile, Chile)</em></td>
<td><strong>Topics:</strong></td>
</tr>
<tr>
<td>11:00 hrs. – 12:00 hrs.</td>
<td>▪ Bank Secrecy <em>(Article XVI of the Convention)</em></td>
</tr>
<tr>
<td><em>(Time: Washington, D.C.)</em></td>
<td>▪ Denial or prevention of favorable tax treatment for expenditures made in violation of the anticorruption laws <em>(Article III, paragraph 7 of the Convention)</em></td>
</tr>
<tr>
<td>9:00 hrs. – 11:00 hrs.</td>
<td>▪ Prevention of bribery of domestic and foreign government officials <em>(Article III, paragraph 10 of the Convention)</em></td>
</tr>
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<td>▪ Transnational bribery <em>(Article VIII of the Convention)</em></td>
</tr>
<tr>
<td>Time: Tegucigalpa, Honduras</td>
<td>Participants:</td>
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<tr>
<td>▪ Illicit enrichment (Article IX of the Convention)</td>
<td>▪ Asociación para una Sociedad más Justa (ASJ)</td>
</tr>
<tr>
<td>▪ Extradition (Article XIII of the Convention)</td>
<td>- Mr. Juan Carlos Aguilar, Legal Officer</td>
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<td>- Mr. Lester Ramírez Irias, Director of Governance and Applied Studies</td>
</tr>
</tbody>
</table>

### Session 2

**13:15 hrs. – 14:15 hrs.**<br>(Time: Santiago de Chile, Chile)

**12:15 hrs. – 13:15 hrs.**<br>(Time: Washington, D.C.)

**10:15 hrs. – 11:15 hrs.**<br>(Time: Tegucigalpa, Honduras)

#### Topics:

- Bank Secrecy (Article XVI of the Convention)
- Denial or prevention of favorable tax treatment for expenditures made in violation of the anticorruption laws (Article III, paragraph 7 of the Convention)
- Prevention of bribery of domestic and foreign government officials (Article III, paragraph 10 of the Convention)
- Transnational bribery (Article VIII of the Convention)
- Illicit enrichment (Article IX of the Convention)
- Extradition (Article XIII of the Convention)

#### Participants:

- **Honduran Association of Public Accountants**
  - Mr. Miguel Ángel Domínguez Aguilar, Chairman of the Board of Directors
  - Mr. Jorge Alberto Valdez Garay, Former Chairman of the Board of Directors
- **Organizations of the Honduras Anti-Corruption Coalition**
  - Ms. Adelina Vasquez, National Coordinator
- **Conseil National Anti-Corruption**
  - Mr. Odir Fernandez, Head of the Investigation, Analysis and Case Follow-up Unit
Mr. César Espinal, Coordinator of the Anti-Corruption Criminal Policy Observatory

### Meetings with Public Authorities: Topics of the Third Round

<table>
<thead>
<tr>
<th>Time</th>
<th>Location</th>
<th>Panel 1:</th>
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<tbody>
<tr>
<td>15:30 hrs. – 18:00 hrs.</td>
<td>Santiago de Chile, Chile</td>
<td><strong>Denial or prevention of favorable tax treatment for expenditures made in violation of the anticorruption laws (Article III, paragraph 7 of the Convention)</strong></td>
</tr>
<tr>
<td>14:30 hrs. – 17:00 hrs.</td>
<td>Washington, D.C.</td>
<td>- Strengthen standards on denial or prevention of favorable tax treatment for expenditures made in violation of the anticorruption laws</td>
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<tr>
<td>12:30 hrs. – 15:00 hrs.</td>
<td>Tegucigalpa, Honduras</td>
<td>- Measures to facilitate the detection of sums paid for corruption by the competent authorities</td>
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<td>- Manuals and protocols to facilitate the detection of bribery payments</td>
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<td>- Access to information sources</td>
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<td>- Software to facilitate data consultation and cross-checking of information</td>
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<td>- Interinstitutional coordination mechanisms</td>
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<td>- Training programs</td>
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<td>- Communication channels</td>
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<td>- Competent authorities for processing applications for tax benefits</td>
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<td>- Outcomes</td>
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<td>- Challenges</td>
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**Participants:**

- **Revenue Administration Service (SAR)**
  - Mr. David Edgardo Sabillón, Inspector General & Attorney at Law
  - Ms. Yessy Yamileth Martínez, Head of the Tax Audit Department

- **Secretariat of State/Ministry of Finance (SEFIN)**
  - **Tax Policy Directorate**
- Ms. Ada Lorena Godoy Ramírez, Director of Tax Policy
  ○ General Directorate of Customs Franchise Oversight
    - Mr. Marvin Espinal Pinel, Senior Counsel

- Office of the Public Prosecutor (MP)
  ○ Special Prosecutor's Office for Transparency and Combating Public Corruption (FETCCOP)
    - Mr. Héctor Morales, Chief Prosecutor

  ○ Special Prosecutor's Office against Organized Crime (FESCCO)
    - Mr. Franklin Morales, Chief Prosecutor
    - Mr. Ronal Banegas, Deputy Chief Prosecutor

  ○ Prosecutorial Unit to Support the Police Screening Process (UF-ADPOL)
    - Mr. Luis Armando Echeverría, Chief Prosecutor

  ○ Special Prosecutor's Office for Tax and Related Crimes (FE-CDT)
    - Mr. Carlos Fabricio Erazo Ordoñez, Deputy Chief Prosecutor

  ○ Criminal Prosecution Strategy Module (MEPP)
    - Ms. Karen L. Martinez Ponce, National Coordinator
<table>
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<tr>
<th>Time</th>
<th>Event Description</th>
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<tbody>
<tr>
<td>18:00 hrs. – 18:15 hrs.</td>
<td>(Time: Santiago de Chile, Chile) Informal meeting of the representatives of the Member States of the Subgroup and the Technical Secretariat.</td>
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<tr>
<td>17:00 hrs. – 17:15 hrs.</td>
<td>(Time: Washington, D.C.)</td>
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<tr>
<td>15:00 hrs. – 15:15 hrs.</td>
<td>(Time: Tegucigalpa, Honduras)</td>
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**September 28, 2021**

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<tr>
<td>12:00 hrs. – 14:30 hrs.</td>
<td>(Time: Santiago de Chile, Chile) Meetings with Public Authorities: Topics of the Third Round</td>
</tr>
<tr>
<td>11:00 hrs. – 13:30 hrs.</td>
<td>(Time: Washington, D.C.)</td>
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<tr>
<td>9:00 hrs. – 11:30 hrs.</td>
<td>(Time: Tegucigalpa, Honduras)</td>
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<td><strong>Panel 2:</strong> Prevention of bribery of domestic and foreign government officials (Article III, paragraph 10 of the Convention)</td>
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<td>• legal framework and standards on prevention of bribery of domestic and foreign government officials</td>
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<td>• Measures aimed at ensuring the accuracy of accounting records and detecting amounts paid for corruption</td>
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<td>o Review methods</td>
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<td>o Research tactics</td>
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<td>o Manuals, guides and guidelines</td>
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<td>o Computer Programs</td>
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<td>o Inter-agency coordination mechanisms</td>
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<td>o Training programs</td>
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<td>• Notification of the competent authorities of any acts of corruption detected</td>
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<td>• Awareness-raising and integrity promotion campaigns</td>
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<td>• Competent and responsible authorities for prevention and/or investigation and internal controls</td>
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<td>• Results</td>
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<td>• Difficulties</td>
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496 The second paragraph of provision 20 of the Methodology for Conducting On-Site Visits states: “At the conclusion of the meetings on each day of the on-site visit, the Technical Secretariat shall organize an informal meeting with the members of the Subgroup, to exchange preliminary points of view on the topics addressed at those meetings.”
Participants:

- **Office of the Public Prosecutor (or: Public Prosecution Service) (MP)**
  - Special Prosecutor's Office for Transparency and Combating Public Corruption (FETCCOP)
    - Mr. Héctor Morales, Chief Prosecutor
  - Special Prosecutor's Office against Organized Crime (FESCCO)
    - Mr. Franklin Morales, Chief Prosecutor
    - Mr. Ronal Banegas, Deputy Chief Prosecutor
  - Prosecutorial Unit to Support the Police Screening Process (UF-ADPOL)
    - Mr. Luis Armando Echeverría, Chief Prosecutor
- **National Banking and Insurance Commission (CNBS)**
  - Ms. Ada Mass Herrera, International Cooperation Specialist
  - Ms. Odalis Suazo Mejía, Legal Specialist of the Financial Intelligence Unit (UIF)
- **Revenue Administration Service (SAR)**
  - Mr. David Edgardo Sabillón, Inspector General & Attorney at Law
  - Ms. Yessy Yamileth Martínez, Head of the Tax Audit Department
- **Superior Court of Accounts (TSC)**
  - Legal Directorate
    - Ms. Karen Martínez Villatoro, Director
    - Mr. Mario Tinoco, Deputy Director
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<th>Time</th>
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<tr>
<td>14:30 hrs. – 14:45 hrs.</td>
<td><strong>Panel 3:</strong> Transnational bribery (Article VIII of the Convention)</td>
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<td><strong>Notes:</strong></td>
<td>- Legal framework</td>
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<td>- Criminal type</td>
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<td>- Competent authorities</td>
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<td>- Procedures and indicators to analyze the objective results obtained in relation to the investigation and prosecution of crime</td>
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<td>- Procedures and indicators for to analyze the objective results obtained in relation to assistance and cooperation</td>
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<td>- Difficulties</td>
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<td><strong>Participants:</strong></td>
<td>- Office of the Public Prosecutor (MP)</td>
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**September 29, 2021**

**Meetings with Public Authorities: Topics of the Third Round**

<table>
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<tr>
<th>Time</th>
<th>Event</th>
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<tr>
<td>12:00 hrs. – 14:30 hrs.</td>
<td><strong>Panel 3:</strong> Transnational bribery (Article VIII of the Convention)</td>
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<td><strong>Notes:</strong></td>
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<td>- Difficulties</td>
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<td><strong>Participants:</strong></td>
<td>- Office of the Public Prosecutor (MP)</td>
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**Informal meeting** of the representatives of the Member States of the Subgroup and the Technical Secretariat
- 81 -

<table>
<thead>
<tr>
<th>Special Prosecutor's Office for Transparency and Combating Public Corruption (FETCCOP)</th>
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<tbody>
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<td>- Mr. Héctor Morales, Chief Prosecutor</td>
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<td>- Ms. Karen L. Martínez, National Coordinator</td>
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- Superior Court of Accounts (TSC)

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<th>Legal Directorate</th>
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<td>- Ms. Karen Martínez Villatoro, Director</td>
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<td>- Mr. Mario Tinoco, Deputy Director</td>
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<th>Special Audits Management</th>
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<tr>
<td>- Mr. José Fernando Fuentes</td>
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<td>- Mr. Mario Tinoco, Deputy Director</td>
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<th>Anti-Corruption and Illicit Enrichment Unit</th>
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<tr>
<td>- Ms. Nery Tercero, Deputy Chief</td>
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</table>

- National Banking and Insurance Commission (CNBS)

| - Ms. Ada Mass Herrera, International Cooperation Specialist |
| - Ms. Odalis Suazo Mejía, Legal Specialist of the Financial Intelligence Unit (UIF) |

Illicit enrichment (Article IX of the Convention)
- Legal framework
- Criminal type
- Competent authorities
- Procedures and indicators to analyze the objective results obtained in relation to the investigation and prosecution of crime
- Procedures and indicators for to analyze the objective results obtained in relation to assistance and cooperation
- Difficulties

**Participants:**

- **Superior Court of Accounts (TSC)**
  - Legal Directorate
    - Ms. Karen Martínez Villatoro, Director
    - Mr. Mario Tinoco, Deputy Director
  - Special Audits Management
    - Mr. José Fernando Fuentes
    - Mr. Mario Tinoco, Deputy Director
  - Anti-Corruption and Illicit Enrichment Unit
    - Ms. Nery Tercero, Deputy Chief

- **Office of the Public Prosecutor (MP)**
  - Special Prosecutor's Office for Transparency and Combating Public Corruption (FETCCOP)
    - Mr. Héctor Morales, Chief Prosecutor
  - Special Prosecutor's Office against Organized Crime (FESCCO)
    - Mr. Franklin Morales, Chief Prosecutor
    - Mr. Ronal Banegas, Deputy Chief Prosecutor

**Extradition (Article XIII of the Convention)**

- Legal framework and rules established by the Convention as the legal basis for extradition
- Competent authorities to process extradition requests
- Measures to ensure that the requesting State is informed in a timely manner of the outcome of its extradition request
- Measures to benefit from the increased use of the Convention in extradition cases
- Results
- Difficulties

**Participants:**

- **Supreme Court of Justice (CSJ)**
  - Ms. Nilser Jasmín Ramírez Carvajal, Trial Judge of the Sentencing Court with National Jurisdiction in Corruption Matters
  - Ms. Reina María López, Secretary General of the Supreme Court of Justice

- **Superior Court of Accounts (TSC)**
  - **Legal Directorate**
    - Ms. Karen Martínez Villatoro, Director
    - Mr. Mario Tinoco, Deputy Director
  - **Special Audits Management**
    - Mr. José Fernando Fuentes
    - Mr. Mario Tinoco, Deputy Director
  - **Anti-Corruption and Illicit Enrichment Unit**
    - Ms. Nery Tercero, Deputy Chief

- **Secretary of Security/National Police**
  - Rommel Martínez, Police Director of Investigations

- **Office of the Public Prosecutor (MP)**
  - **Special Prosecutor's Office for Transparency and Combating Public Corruption (FETCCOP)**
    - Mr. Héctor Morales, Chief Prosecutor
  - **Special Prosecutor's Office against Organized Crime (FESCCO)**
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<th>Time</th>
<th>Activity</th>
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| 14:30 hrs. – 14:45 hrs.  
(Time: Santiago de Chile, Chile) | Informal meeting of the representatives of the Member States of the Subgroup and the Technical Secretariat |
| 13:30 hrs. – 13:45 hrs.  
(Time: Washington, D.C.) |  |
| 11:30 hrs. – 11:45 hrs.  
(Time: Tegucigalpa, Honduras) |  |

**September 30, 2021**

<table>
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| 12:00 hrs. – 14:30 hrs.  
(Time: Santiago de Chile, Chile) | Meetings with Public Authorities: Banking Secrecy (Topic of the Sixth Round) |
| 11:00 hrs. – 13:30 hrs.  
(Time: Washington, D.C.) | **Panel 4:**  
**Bank Secrecy (Article XVI of the Convention)**  
- Legal framework  
- Rules on the obligation not to use information protected by bank secrecy for other purposes  
- Procedure for requesting assistance or information, requirements and deadlines  
- Competent authorities  
- Coordination mechanisms and communication channels  
- Obligations related to the denial of a request for assistance or information  
- Use of technologies  
- Results  
- Difficulties |
| 9:00 hrs. – 11:30 hrs.  
(Time: Tegucigalpa, Honduras) | **Participants:**  
- Mr. Franklin Morales, Chief Prosecutor  
- Mr. Ronal Banegas, Deputy Chief Prosecutor |
<table>
<thead>
<tr>
<th>Institution</th>
<th>Officers</th>
</tr>
</thead>
</table>
- Ms. Odalis Suazo Mejía, Legal Specialist of the Financial Intelligence Unit (UIF) |
| Office of the Public Prosecutor (MP)            | o Special Prosecutor's Office for Transparency and Combating Public Corruption (FETCCOP)  
- Mr. Héctor Morales, Chief Prosecutor  
- Mr. Franklin Morales, Chief Prosecutor  
- Mr. Ronal Banegas, Deputy Chief Prosecutor  
- Special Prosecutor's Office against Organized Crime (FESCCO)  
- Mr. Luis Armando Echeverría, Chief Prosecutor  
- Prosecutorial Unit to Support the Police Screening Process (UF-ADPOL)  
- Criminal Prosecution Strategy Module (MEPP)  
- Ms. Karen L. Martinez Ponce, National Coordinator |
| Office of the Attorney General of the Republic (PGR) | - Mr. Edgardo Andrés Molina Ortiz, National Director of Judicial Prosecution (Procuración Judicial)  
- Ms. Ángela Joan Rosales Colindres, Judicial Prosecutor  
- Mr. Luis Enrique Urbina Portillo, Judicial Prosecutor |
| Superior Court of Accounts (TSC)                 | o Legal Directorate  
- Ms. Karen Martínez Villatoro, Director  
- Mr. Mario Tinoco, Deputy Director |
- Special Audits Management
  - Mr. José Fernando Fuentes
  - Mr. Mario Tinoco, Deputy Director
- Anti-Corruption and Illicit Enrichment Unit
  - Ms. Nery Tercero, Deputy Chief

- **Supreme Court of Justice (CSJ)**
  - Ms. Nilser Jasmín Ramírez Carvajal, Trial Judge of the Sentencing Court with National Jurisdiction in Corruption Matters
  - Ms. Reina María López, Secretary General of the Supreme Court of Justice

- **Office for the Administration of Seized Assets (OABI)**
  - **Office of the Executive Director**
    - Mr. Francisco René Flores Bonilla, Executive Director
    - Mr. Humberto Emilio Miller, Private Secretary of the Office of the Executive Director
  - **Legal Unit**
    - Mr. Gabriel Alejandro Tróchez, Acting Chief

14:30 hrs. – 14.45 hrs.
(Time: Santiago de Chile, Chile)

13:30 hrs. – 13:45 hrs.
(Time: Washington, D.C.)

**Final meeting** between the representatives of the country under review, the Member States of the Subgroup, and the Technical Secretariat

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The third paragraph of provision 20 of the Methodology for Conducting On-Site Visits states the following:

>“At the end of the on-site visit, a meeting shall be held, to be attended by the Subgroup experts, the Technical Secretariat, and the Lead Expert of the country under review and/or the official appointed in his place in accordance with provision 10, second paragraph of this Methodology. That meeting shall identify, if necessary, the information that, exceptionally, the country under review is still to submit through the Technical Secretariat and the deadline within which it is to do so, and it shall also coordinate any other pending matters arising from the on-site visit.”
<table>
<thead>
<tr>
<th>Time: Tegucigalpa, Honduras</th>
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<td>11:45 hrs. – 12:00 hrs.</td>
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<tr>
<td><strong>Informal meeting</strong> of the representatives of the Member States of the Subgroup and the Technical Secretariat</td>
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APPENDIX

CONTACT IN THE COUNTRY UNDER REVIEW IN COORDINATING THAT ON-SITE VISIT, AND REPRESENTATIVES OF THE MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP AND OF THE MESICIC TECHNICAL SECRETARIAT

COUNTRY UNDER REVIEW:
REPUBLIC OF HONDURAS

Roy Pineda Castro
Lead Expert on the Committee of Experts of the MESICIC
Judge, Superior Court of Accounts

Jorge Medina
Alternate Expert on the Committee of Experts of the MESICIC
Advisor to the Office of the President

Melissa Paz
Alternate Expert on the Committee of Experts of the MESICIC
Director of Communication, Superior Court of Accounts

MEMBER OF THE SUBGROUP OF REVIEW:

CHILE

Eugenio Rebolledo Suazo
Lead Expert on the Committee of Experts of the MESICIC
Government Auditor General, Government General Internal Audit Council

Valentina Acharan Jacou
Alternate Expert on the Committee of Experts of the MESICIC
Counsel, Government General Internal Audit Council

Julio Torres Gonzalez
Alternate Expert on the Committee of Experts of the MESICIC
Analyst, Directorate of International and Human Security (DISIN), Ministry of Foreign Affairs

TECHNICAL SECRETARIAT OF THE MESICIC:

Alexsa McKenzie
Legal Consultant Legal Cooperation Department
OAS Secretariat for Legal Affairs

Rodrigo Silva
Legal Officer of Department of Legal Cooperation
OAS Secretariat for Legal Affairs

Camila F. Tort
Legal Consultant of Department of Legal Cooperation
OAS Secretariat for Legal Affairs

Pedro Lupera
Legal Consultant Department of Legal Cooperation
OAS Secretariat for Legal Affairs