

MECHANISM FOR FOLLOW-UP ON THE  
IMPLEMENTATION OF THE INTER-AMERICAN  
CONVENTION AGAINST CORRUPTION  
Nineteenth Meeting of the Committee of Experts  
September 12 to 16, 2011  
Washington, DC.

OEA/Ser.L  
SG/MESICIC/doc.286/11 rev. 4  
16 September 2011  
Original: English

BELIZE

FINAL REPORT

(Adopted at the September 16, 2011 Plenary Session)

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

**REPORT ON IMPLEMENTATION IN BELIZE OF THE CONVENTION PROVISIONS  
SELECTED FOR REVIEW IN THE THIRD ROUND, AND ON FOLLOW-UP TO THE  
RECOMMENDATIONS FORMULATED TO THAT COUNTRY IN PREVIOUS ROUNDS<sup>1</sup>**

**INTRODUCTION**

**1. Contents of the report**

[1] This report presents, first, a review of implementation in Belize of the provisions of the Inter-American Convention against Corruption selected by the Committee of Experts of the Follow-up Mechanism (MESICIC) for review in the Third Round: Article III, paragraphs 7 and 10, and Articles VIII, IX, X and XIII.

[2] Second, the report will examine follow-up to the implementation of the recommendations that were formulated to Belize by the MESICIC Committee of Experts in the previous rounds, which are contained in the report on that country adopted by the Committee and published at the following web pages: [www.oas.org/juridico/english/mec\\_rep\\_blz.pdf](http://www.oas.org/juridico/english/mec_rep_blz.pdf); and [www.oas.org/juridico/english/mesicic\\_II\\_inf\\_blz\\_en.pdf](http://www.oas.org/juridico/english/mesicic_II_inf_blz_en.pdf)

**2. Ratification of the Convention and adherence to the Mechanism**

[3] According to the official registry of the OAS General Secretariat, Belize deposited the instrument of ratification of the Inter-American Convention against Corruption on September 6, 2002.

[4] In addition, Belize signed the Declaration on the Mechanism for Follow-Up of Implementation of the Inter-American Convention against Corruption on June 9, 2003.

**I. SUMMARY OF THE INFORMATION RECEIVED**

**Response of Belize**

[5] The Committee wishes to acknowledge the cooperation that it received throughout the review process from Belize and in particular, from the Attorney General's Ministry, which was evidenced, inter alia, in the response to the Questionnaire and in the constant willingness to clarify or complete its contents. Together with its response, Belize sent the provisions and documents it considered pertinent. The response, along with said provisions and documents, may be consulted at the following web page: [http://www.oas.org/juridico/english/mesicic3\\_resp.htm](http://www.oas.org/juridico/english/mesicic3_resp.htm)

[6] For its review, the Committee took into account the information provided by Belize up to March 31, 2011,<sup>2</sup> and that furnished and requested by the Secretariat and the members of the review

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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 September 16, 2011, at its Nineteenth meeting, held at OAS Headquarters, September 12 – 16, 2011.

2. At the March 25, 2011 Plenary Meeting of the MESICIC Committee of Experts, the delegate from Belize informed of the difficulties that had resulted in Belize being unable to submit its response to the questionnaire for the Third Round by the deadline established by the Committee, at which time the Committee extended the deadline to March 31, 2011.

subgroup, to carry out its functions in keeping with its Rules of Procedure and the review Methodology.

## **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<sup>3</sup> FOR EXPENDITURES MADE IN VIOLATION OF THE ANTICORRUPTION LAWS (ARTICLE III (7) OF THE CONVENTION)**

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

[7] Belize 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:

[8] – Statutory provisions such as the Income and Business Tax Act, Chapter 55 of the Laws of Belize, Revised Edition 2000-2003, of which the following provisions should be noted:

[9] Section 3, which provides for a Commissioner of Income Tax to be appointed by the Governor-General for the due administration of the Act

[10] Section 5, which provides that income tax shall be payable at the rate or rates specified for each year of assessment upon the chargeable income<sup>4</sup> of any person<sup>5</sup> accruing in or derived from Belize or elsewhere.

[11] Section 6, which provides that tax shall be charged, levied and collected for each year of assessment upon the chargeable income of any person.

[12] Section 11, which provides that for the purpose of ascertaining the chargeable income of any person other than an employed person, there shall be deducted bona fide expenses wholly and exclusively incurred during the basis year by such person other than the employed person in the production of income, including, inter-alia: sums paid as interest on any money borrowed if the interest was payable on capital employed in acquiring the income, or sums paid as interest upon any money borrowed for the purpose of acquiring shares in a company or carrying on business in Belize (Section 11(1)(a)(i) and (ii), respectively); rent paid by a tenant occupied by himself for the purposes of acquiring income (Section 11(1)(b)); the cost of replacing a plant or machinery used in trade, after deducting depreciation and the proceeds of sale of the plant or machinery (Section 11(1)(c)); sums expended on reforestation (Section 11(1)(d)); sums expended for the repair of premises, plant and machinery employed in acquiring the income (Section 11(1)(e)); bad debts incurred in any trade,

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3. For the purposes of this report, the MESICIC Committee of Experts defines favorable tax treatment as all exemptions and any deductible items used for the purposes of determining the income tax base, and other treatment that gives rise to favorable reductions in the amount of tax payable by taxpayers.

4. Section 2 of the Income and Business Tax Act defines “chargeable income” as follows: “(i) in the case of an employed person, the aggregate amount of the income from the applicable sources specified in section 5 remaining after allowing the appropriate deductions and exemptions under this Act, but does not include “receipts” as defined in Part III of this Act; (ii) in the case of any person other than an employed person, the aggregate amount of the income from the applicable sources specified in section 5 remaining after allowing the appropriate deductions and exemptions under this Act.”

5. Section 2 of the Income and Business Tax Act defines “person” as: “a natural person or a legal person and includes a firm, a branch and any body of persons, whether corporate or incorporate.”

business, profession or vocation (Section 11(1)(f)); sums expended in establishing or developing an industry approved by the Minister as being of benefit to Belize, or sums expended for a purpose approved by the Minister as being for the welfare of the public or a particular section thereof (Section 11(1)(h)(i) and (ii), respectively); and such other deductions as may be prescribed by any rule made under this Act (Section 11(1)(i)). In addition, Section 12 provides a deduction for exhaustion due to wear and tear of certain buildings used for the purpose of trade, business, profession or vocation.

[13] Section 13 provides that for the purpose of ascertaining the chargeable income of any person, no deduction shall be allowed for: domestic or private expenses (Section 13(a)); disbursements or expenses not being money wholly and exclusively laid out for the purpose of acquiring the income upon which tax is payable (Section 13(b)); any capital withdrawn or any sum employed or intended to be employed as capital (Section 13(c)); capital employed in improvements, alterations, or additions<sup>6</sup> (Section 13(d)); any sum recoverable under an insurance or contract of indemnity (Section 13(e)); rent or cost of repairs to any premises or part of premises not paid or incurred for the purpose of producing the income (Section 13(f)); and any amount paid or payable in respect of the United Kingdom income tax or surtax or Commonwealth income tax as defined by this Act (Section 13(g)).

[14] Section 38(1), which provides that the Commissioner is to promptly assess the tax for the basis year and levy any applicable penalty. Section 28(2) provides that where a person has submitted a return, the Commissioner may either accept the return or refuse the return and determine the amount of the chargeable income and charge the person accordingly. Section 38(3) provides that where a person has not submitted a return and the Commissioner is of the opinion that that person is required to pay tax, the Commissioner may determine the amount of the chargeable income of that person and assess the corresponding tax.

[15] Section 39 provides that where it appears to the Commissioner that any person liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Commissioner may, within the year of assessment or within six years after the expiration thereof, assess such person at such amount or additional amount as according to his judgment ought to have been charged and the provisions of this Act as to notice of assessment, appeal and other proceedings under this Act shall apply to such assessment and to the tax charged thereunder.

[16] Section 32(1) requires every employer or person required to collect or pay tax to keep country records and books of account including an annual inventor in such form and containing such information as will enable the amounts of the taxes payable under this Act or those that should have been deducted, withheld or collected to be determined.

[17] Section 33, which grants the Commissioner or a senior officer authorized by him, and for any purpose related to administration or enforcement of the Income and Business Tax, to: audit or examine books and records, and other related documents (Section 33(1)(a)); examine property described in inventories or other property (Section 33(1)(b)); require owners and managers of properties and businesses to provide reasonable assistance with audits or examination (Section 33(1)(c)) and seize records, books, accounts, and other relevant documents (Section 33(1)(d)).

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6. Except for the deductions allowed by Section 11(1)(d) and (h) of the Income and Business Tax Act.

[18] In addition, Section 33(7) provides that any person who hinders, molests or in any way interferes with any person, in the exercise of this authority under this section is guilty of an offence.<sup>7</sup>

[19] Section 87 provides that any person who has failed to make a return as required and when required by the Rules Governing the Payment of Income Tax, or by Section 34 of the Income and Business Tax Act, is liable to penalty of five dollars a day for each day of default, not to exceed one thousand dollars.

[20] Section 88(1) provides that any person who, for the purpose of obtaining any deduction, rebate, reduction or repayment in respect of tax for himself or for any other person, or who knowingly makes any false statement or false representation shall be liable on conviction to a fine not exceeding five hundred dollars and to forfeit treble the amount of the tax with which he ought to be charged under this Act, or to imprisonment for a term not exceeding six months. Section 88(2) provides that any person who aids, abets, assists, counsels, incites or induces another person to make or deliver an false return or statement, or to keep or prepare any false accounts or particulars, is liable on summary conviction to a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months.

[21] Section 90 provides that any person who obstructs or impedes or insults or molests the Commissioner, Chief Collector, or other officer lawfully authorized by this Act or any amendment thereto in the discharge of his duties or in his official capacity or in the exercise of his powers is guilty of an offense.

[22] - The International Business Companies Act, Chapter 270 of the Laws of Belize, Revised Edition 2000 – 2003, which, as noted by Belize, “*eliminates the opportunities for international business companies to evade taxes by imposing certain restrictions on them. These restrictions, inter-alia, prohibit international business companies from transacting with persons resident in Belize, from owning interest in real property in Belize (other than leased property), from owning stock in locally-registered companies, and from engaging in banking, insurance, trust formation, etc., without a license duly issued by the International Financial Services Commission established by the Act.*”<sup>8</sup>

[23] With respect to mechanisms in this field, Belize also informed that mechanisms for the internal monitoring of returns within the Income Tax Department exist, including Memoranda of Understanding that were going to be entered into between the Income Tax Department and with key stakeholders, such as the Customs Department, the General Sales Tax Department, and the Lands Department. In addition, Belize noted that the Income Tax Department has participation in an inter-departmental task force – along with the Joint Intelligence Command Center of the Police Department, the Heads of Government Departments - established by the Financial Intelligence Unit. The members of this Task Force share information and conduct joint investigations.<sup>9</sup>

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7. With respect to the term offense, section 86 of the Income and Business Tax Act provides as follows: “Any person who is guilty of an offence against this Act for which no punishment is herein otherwise specified shall be liable on summary conviction to a fine not exceeding five hundred dollars and in default of payment to imprisonment for a term not exceeding six months.”

8. See the response of Belize to the questionnaire for the Third Round, at p. 8, available at: [http://www.oas.org/juridico/english/mesicic3\\_blz\\_resp.pdf](http://www.oas.org/juridico/english/mesicic3_blz_resp.pdf)

9. With respect to inter-agency collaboration, Belize also informed the Review Subgroup that Section 11(1) of the Money Laundering and Terrorism (Prevention) Act, 2008, provides in pertinent part, as follows: “*Without prejudice to its powers and responsibilities under the Financial Intelligence Unit Act, the Financial Intelligence Unit (a) shall receive, analyse and assess reports of suspicious transactions issued by reporting entities pursuant to section 17(4); (b) shall take appropriate*

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

[24] With respect to provisions related to the denial or prevention of favorable tax treatment for expenditures made in violation of the anticorruption laws, the Committee notes that based on the information available to it, they can be said to constitute a set of relevant measures for promoting the purposes of the Convention.

[25] Nonetheless, the Committee considers that it would be beneficial for the country under review to consider taking such steps as it deems appropriate to make it easier for the appropriate authorities to detect sums paid for corruption in the event that they are being used as grounds for obtaining such treatment. (see Recommendation 1.4(a) in Section 1.4 of Chapter II of this Report)

## 1.3. Results of the legal framework and/or other measures

[26] With respect to results in this field, the response of the country under review notes the following: *“The records kept by the relevant entities, in particular, by the Income Tax Department, have focused on assessment, collection and audit of taxes and are therefore, not particularly tailored to show objective results that have been obtained in applying relevant laws, rules and measures.”*

[27] Taking the foregoing into account, the Committee will formulate a recommendation to the country under review so that, through the tax authorities responsible for processing applications for favorable tax treatment and the other authorities or organs with jurisdiction in that respect, it consider the selection and development of procedures and indicators, when appropriate and where they do not yet exist, to analyze the objective results obtained in this regard and to follow-up on the recommendations made in this report in relation thereto. (See recommendation 1.4(b) in Chapter II of this report)

## 1.4. Conclusions and recommendations

[28] Based on the review conducted in the foregoing sections, the Committee offers the following conclusions and recommendations with respect to the implementation in the country under review, of the provisions contained in Article III, paragraph 7 of the Convention:

[29] **Belize has considered and adopted measured intended to create, maintain and strengthen standards on the denial or prevention of favorable tax treatment for expenditures made in violation of the anticorruption laws, as described in section 1 of chapter II of this report.**

[30] In light of the comments formulated in that section, the Committee suggests that Belize consider the following recommendation:

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*action as it may consider necessary or shall forward relevant information to the appropriate law enforcement authorities, if having considered a report or other information, the Financial Intelligence Unit has reasonable grounds to suspect that the transaction involves proceeds of crime or terrorist financing; (c) shall send to the appropriate law enforcement authorities, any information derived from the examination or supervision of a reporting entity, if it gives the Financial Intelligence Unit reasonable grounds to suspect that a transaction involves proceeds of crime or terrorist financing; (d) may instruct any reporting entity to take such steps as may be appropriate, including the freezing of funds and other financial assets or economic resources of any person or entity, to facilitate any investigation, prosecution or proceeding for a money laundering offence or for terrorist financing, whether in Belize or elsewhere;”*

In addition, the definition of reporting entities provided in Section 2 of the Money Laundering and Terrorism (Prevention) Act, 2008, includes a wide range of business, as provided in the First Schedule to the Act. The text of the Act, including this Schedule, is available at: [http://centralbank.org.bz/dms20uc/dynamicdata/docs/20100428175450\\_2.pdf](http://centralbank.org.bz/dms20uc/dynamicdata/docs/20100428175450_2.pdf)

[31] Strengthen the standards and measures for the denial or prevention of favorable tax treatment for expenditures made in violation of the anticorruption laws. To comply with this recommendation, Belize could take the following measures into account:

- a. Consider adopting the measures deemed appropriate to make it easier for the appropriate authorities to detect sums paid for corruption in the event that they are being used as grounds for obtaining such treatment, such as the following: (see section 1.2 of Chapter II of this report):
  - i. Manuals, guidelines or directives that will guide them in reviewing those applications, so that they are able to verify that the applications contain the established requirements, to confirm the truthfulness of the information provided, and to determine the origin of the expenditures or payment on which the claims are based.
  - ii. The possibility of accessing the sources of information necessary to conduct those verifications and confirmations, including requests from financial institutions.
  - iii. Develop electronic programs that facilitate data consultation and cross-checking of information whenever necessary for the purposes of fulfilling their functions.
  - iv. Institutional coordination mechanisms that will provide the timely collaboration needed from other authorities, on such aspects as certifying the authenticity of the documents in support of the application of favorable tax treatment;
  - v. Training programs designed specifically to alert officials to the methods used to disguise payments for corruption and to instruct them in ways of detecting such payments in the applications;
  - vi. Channels of communication so that they may promptly report to those who must decide on favorable treatment and warn them of the anomalies detected or of any irregularity that could affect the decision.
- b. Select and develop, through the tax authorities responsible for processing applications for favorable tax treatment and the other authorities or organs with jurisdiction in that respect, 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 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 provisions in the legal framework and/or other measures**

[32] Belize has a set of provisions related to the prevention of bribery of domestic and foreign government officials, among which the following should be noted:

[33] - Statutory provisions, such as the Companies Act, Chapter 250 of the Laws of Belize, Revised Edition 2000 – 2003, of which the following should be noted:

[34] Section 103 of the First Schedule to the Act, which provides that Directors shall cause true accounts to be kept with respect to: all sums of money received and expended by the company and the matter in respect of which such receipts and expenditure takes place (Section 103(a)); and the assets and liabilities of the company (Section 103(b)). Section 104 of the First Schedule provides that the books shall be kept at the registered office of the company or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

[35] Section 105 of the First Schedule provides that *“The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company, except as conferred by law or authorized by the directors or by the company in general meeting.”*

[36] Section 106 of the First Schedule to the Act provides that *“Once at least in every year, the directors shall lay before the company in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.”*

[37] Section 107 of the First Schedule to the Act provides that *“A balance sheet shall be made out in every year and laid before the company in general meeting, made up to a date not more than six months before such meeting. The balance sheet shall be accompanied by a report of the directors as to the state of the company’s affairs, and the amount which they recommend to be paid by way of dividend, and the amount, if any, which they propose to carry to a reserve fund.”*

[38] Section 110(1) of the Act provides that a court may appoint one or more competent inspectors to investigate the affairs of any company and to report thereon in such manner as the court directs. In addition, Section 111(1) provides that a company may appoint inspectors to investigate its affairs by special resolution.

[39] Section 113(1) of the First Schedule to the Act requires that each company, at its annual general meeting, appoint an Auditor or auditors to hold office until the next annual general meeting. Section 114(1) provides that *“Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.”* Section 114(2) provides that the auditor/s *“...shall make a report to the shareholders on the accounts examined by them, and on every balance sheet laid before the company in general meeting during their tenure of office, and the report shall state - (a) whether or not they have obtained all the information and explanations they have required; and (b) whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company’s affairs according to the best of their information and the explanations given to them, as shown by the books of the company.”*

[40] Section 207 provides that *“If any director, officer, or contributory of any company being woundup destroys, mutilates, alters or falsifies any books, papers, or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account, or document belonging to the company with intent to defraud or deceive any person, he shall be guilty of a misdemeanour within the meaning of the Criminal Code, and be liable to imprisonment for any term not exceeding two years.”*

[41] - The Accountancy Profession Act, Chapter 305 of the Laws of Belize, Revised Edition 2000, Section 3(1) of which provides for the Institute of Chartered Accountants of Belize. Section 4 provides that the functions of the Institute include, inter-alia, regulating ethics, discipline, professional conduct and standards of its members (Section 4(a)); and promoting and increasing the knowledge, skill and proficiency of its members (Section 4(b)).

[42] Section 2 of the Act defines an “auditor” as “...a person who examines and reports on financial statements or accounts”, and “Public Accountant” as “a person practising as defined in section 9 (2) of this Act”.

[43] Section 9(1) of the Act provides in pertinent part, that no person, “...unless he possesses a valid practising certificate issued by the Council,<sup>10</sup> shall practise as a public accountant.” In addition, Section 9 (2) provides that “A person practises as a public accountant within the meaning of subsection (1) of this section if, for reward, he prepares or examines financial, accounting or related statements, or issues any written report or certificate concerning any such statements, but a person does not practise accountancy as aforesaid by reason only that he does so in the course of his duties as an employee.” Section 9(5) imposes fines and/or imprisonment for contravention of this Section.

[44] Sections 10 and 11 establish the qualifications, requirements and procedures for registration of Chartered Accountants.

[45] Section 12 authorizes disciplinary action by the Council of the Institute with respect to its members, if the member: has been convicted of a criminal offence involving dishonesty (Section 12(a)); if an enquiry by the Council determines that the member has: procured their practicing certificate through misleading, false, or fraudulent representations (Section 12(b)(i)), or “have been guilty of grave impropriety or infamous conduct, in the performance of his professional duties, or of gross negligence or gross incapacity or to have been guilty of any act, default or conduct bringing discredit or calculated to bring discredit upon the profession, the Council may, if it thinks fit, exercise in respect of that person all or any of the disciplinary powers conferred on the Institute by subsection (2) of this section.”

[46] The Code of Ethics adopted by the Institute of Chartered Accountants of Belize, which are the Code of Ethics of the International Federation of Accountants,<sup>11</sup> Part A, Section 4.1 of which, provides that “Members have an obligation to respect the confidentiality of information about a client’s or employer’s affairs acquired in the course of professional services. The duty of confidentiality continues even after the end of the relationship between the member and the client or employer.”

[47] In addition, Section 4.2 of the Code of Ethics provides that “Confidentiality should always be observed by a member unless specific authority has been given to disclose information or there is a legal or professional duty to disclose.”

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10. Section 6(1) of the Accountancy Profession Act, provides in pertinent part that “There shall be a President, Vice President, a Secretary and a Treasurer of the Institute each to be elected at the annual general meeting of the Institute, in each year by a simple majority vote, and these officers together with two others elected likewise as committee members, shall form the Council of the Institute.”

11. Belize also informed that the Institute requires its Members to be governed by the International Code of Ethics of the International Federation of Accountants as well as by that Federation’s International Standards in Auditing.

[48] Section 4.8 of the Code provides guidance on issues that should be considered when determining whether confidential information should be disclosed, including: “*When disclosure is authorised...*” (Section 4.8(a)); “*When disclosure is required by law: Examples of when a member is required by law to disclose confidential information are: i) To produce documents or to give evidence in the course of legal proceedings; and ii) To disclose to the appropriate public authorities infringements of the law which come to light.*” (Section 4.8(b)); and “*When there is a professional duty or right to disclose: i) To comply with technical standards, regulations and ethics requirements; such disclosure is not contrary to this section; ii) To protect the professional interests of the member in legal proceedings; iii) To comply with the quality (or peer) review of the Institute or professional body; and iv) To respond to an inquiry or investigation by the Institute or regulatory body.*” (Section 4.8(c)).

[49] Section 5.5 of the Code provides that “*A member should not be associated with any return or communication in which there is reason to believe that it: a) Contains a false or misleading statement; b) Contains statements or information furnished recklessly or without any real knowledge of whether they are true or false; or c) Omits or obscures information required to be submitted and such omission or obscurity would mislead the revenue authorities...*” In addition, this Section reminds members that the Income Tax Act “*...makes liable to penalties a person who for himself or any other person, makes a false statement or representation in connection with a tax return. The section also makes persons who aid or abet another person in such falsehoods liable to penalties.*”

[50] - In addition, as noted by Belize,<sup>12</sup> there are also relevant provisions in “*The Financial Intelligence Unit Act, the International Business Companies Act...the Banks and Financial Institutions Act, the Cooperative Societies Act, the Credit Unions Act, the Insurance Act and Regulations; the Finance and Audit (Reform) Act and the Financial Orders and Stores Orders, which regulate the management of Government Accounts.*”

## **2.2. Adequacy of the legal framework and/or other measures**

[51] With respect to the provisions related to the prevention of bribery of domestic and foreign government officials, the Committee notes that based on the information available to it, they can be said to constitute a set of pertinent measures for promoting the purposes of the Convention.

[52] Nonetheless, the Committee considers that it might be useful for the country under review to consider complementing or adjusting certain legal provisions in this area, as follows:

[53] First, and with relation to the bookkeeping requirements of the Companies Act, the Committee observes that it requires certain companies to hire an auditor, for the purposes of inter-alia, reviewing company accounts and reporting to shareholders on the company balance sheets.

[54] In addition, the Accounting Profession Act, at Section 9, prohibits the practice of accountancy without a practicing certificate issued by the Institute of Chartered Accountants. In this sense, because Section 9 also provides that a person practices as an accountant, if, inter-alia, he prepares or reviews financial accounts or statements, the auditors required by the Companies Act, because they review balance statements and accounts, would presumably have to be qualified accountants. However, the Companies Act does not require the auditors that companies are required to hire to be qualified accountants. Nor is there a related provision which requires companies to hire qualified

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12. See the response of Belize to the questionnaire for the Third Round, at p. 14, supra note 7.

accountants to maintain or review their bookkeeping. The Committee will formulate a recommendation in this regard. (See recommendation 2.4(a) in Chapter II of this report)

[55] Second, the Committee considers that the country under review may wish to consider holding awareness campaigns that target individuals responsible for the entry of accounting records and for accounting for their accuracy, to raise awareness of the importance of abiding by the standards in force to ensure the veracity of those records and the consequences for their violation. The country could also consider implementing training programs specifically designed to instruct those who work in the area of internal control in publicly held companies and other types of associations required to keep accounting records, on how to detect corrupt acts through their work. (See recommendation 2.4(b) in Chapter II of this report)

[56] Third, the Committee believes that it would be useful for the country under review to consider holding awareness and integrity promotion campaigns that target the private sector. In this regard, the country could consider the adoption of measures such as the production of manuals and guidelines for companies on best practices that should be implemented to prevent corruption. (See Recommendation 2.4(c) in Chapter II of this report).

[57] Fourth, the Committee believes that it would be beneficial for the country under review to consider the application of and the adoption of such measures as it deems appropriate to make it easier for the organs and agencies responsible for the prevention and/or investigation of noncompliance with measures designed to safeguard the accuracy of accounting records to detect sums paid for acts of corruption concealed in those records. (See recommendation 2.4 (d) in Chapter II of this report.)

### **2.3. Results of the legal framework and/or other measures**

[58] Belize did not present any information on results with respect to this field. In light that fact, the Committee will formulate a recommendation to the country under review so that, through the organs and agencies responsible for prevention and/or investigation of violations of measures designed to safeguard the accuracy of accounting records and ensure that publicly held companies and other types of associations required to establish internal accounting controls do so in the appropriate manner, it consider the selection and development of 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 Recommendation 2.4(e) in Section 2.4 of Chapter II of this Report).

### **2.4. Conclusions and recommendations**

[59] Based on the review conducted in the foregoing sections, the Committee offers the following conclusions and recommendations with respect to the implementation in the country under review, of the provisions contained in Article III, paragraph 10 of the Convention:

**[60] Belize has considered and adopted measures intended to create, maintain and strengthen provisions for the prevention of the bribery of domestic and foreign government officials, as described in section 2 of Chapter II of this report.**

[61] In light of the comments formulated in the above-noted sections, the Committee suggests that the Belize consider the following recommendation:

[62] Strengthen the standards and measures on the prevention of bribery of domestic and foreign government officials. To comply with this recommendation, Belize could take the following measures into account:

- a. Adopt the necessary provisions to ensure that the auditors that companies are required to hire, for the purposes of reviewing books and records, are qualified accountants (see Section 2.2 of Chapter II of this Report).
- b. Conduct awareness campaigns that target individuals responsible for the entry and accuracy of accounting records, on the importance of abiding by the standards in force to ensure the veracity of said records and the consequences of their violation, in addition to implementing training programs specifically designed to instruct those who work in the area of internal control in publicly held companies and other types of associations required to keep accounting records, on how to detect corrupt acts through their work (see Section 2.2 of Chapter II of this Report).
- c. Consider holding awareness and integrity promotion campaigns that target the private sector and consider adopting measures such as the production of manuals and guidelines for companies on best practices that should be implemented to prevent corruption (see Section 2.2 of Chapter II of this Report).
- d. Consider the adoption of the measures necessary to facilitate the detection, by the organs and entities responsible for preventing and/or investigating violations of measures designed to safeguard the accuracy of accounting records and protect their contents, of sums paid for corruption that are concealed in those records, such as the following (See section 2.2 of chapter II of this report):
  - i. Review methods, including account inspections and analysis of periodically requested information, by which to detect anomalies in accounting records that could indicate the payment of sums for corruption;
  - ii. 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;
  - iii. Manuals, guidelines or directives for those organs and agencies that do not yet have them, on how to review accounting records in order to detect sums paid for corruption;
  - iv. Develop electronic 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; and
  - v. Institutional coordination mechanisms that enable those organs or entities to easily obtain the necessary collaboration from other institutions to verify the veracity of accounting records and of the supporting documents on which they are based or to establish their authenticity.
  - vi. Training programs for the officials of these organs and entities, specifically designed to alert them to the methods used to disguise payments for corruption in those records and to instruct them on how to detect them.

- e. Select and develop, through the authorities responsible for preventing and/or investigating violations of measures designed to safeguard the accuracy of accounting records and protect their contents, as well as the other authorities or entities that have responsibility in this area, procedures and indicators, when appropriate and where they do not yet exist, to analyze the objective results obtained in this regard and to follow-up on the recommendations formulated in this report in relation thereto (see Section 2.3 of Chapter II of this Report).

### 3. TRANSNATIONAL BRIBERY (ARTICLE VIII OF THE CONVENTION)

#### 3.1. Existence of provisions in the legal framework and/or other measures

[63] Belize has a set of legal provisions related to transnational bribery, among which the following should be noted:

[64] - The Prevention of Corruption Act, 2007, Section 22 of which provides as follows: *“(1) A person who, by himself or in conjunction with any other person, or an agent, engages or attempts to engage in any of the acts specified in Part 1 of the Third Schedule commits an act of corruption; (2) Any person who commits an act of corruption commits an offence and is liable: (a) on summary conviction: (i) in the case of a first offence, to a fine not less than ten thousand dollars; and (ii) in the case of a second or subsequent offence, to a fine not less than twenty thousand dollars or to imprisonment for a period not exceeding two years or to both fine or imprisonment, (b) on conviction on indictment: (i) in the case of a first offence, to a fine not less than twenty-five thousand dollars or to imprisonment for a period not exceeding two years or to both fine and imprisonment; and (ii) in the case of a second or subsequent offence to a fine not less than fifty thousand dollars or to imprisonment for a period not exceeding three years or to both fine and imprisonment.”*

[65] - The Prevention of Corruption Act, 2007, which at Section 1(e) of the Third Schedule, provides that a person commits an act of corruption if *“he being a natural person or a corporation, either aggregate or sole, club, society or other body of one or more persons, offers or grants, directly or indirectly to a person performing public functions in a foreign State, any article or money or other benefit, being a gift, favour, promise or advantage<sup>13</sup> in connection with any economic or commercial transaction for an act to be performed or omitted by that person in the performance of his public functions.”*

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13. Section 2 of the Prevention of Corruption Act, 2007, defines “advantage”, as including: “(a) money or donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, over a value of \$2,500.00; (b) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage; (c) any office, dignity, employment, contract of employment or services and any agreement to give employment or render services in any capacity; (d) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part; (e) any valuable consideration or benefit of any kind or any discount, commission, rebate, bonus, deduction or percentage over a value of \$2,500.00; (f) any forbearance to demand any money or money’s worth or valuable thing; (g) any other service or favour or advantage of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted and includes the exercise or the forbearance from the exercise of any right or any official power or duty; (h) any right or privilege; (i) any aid, vote, consent or influence or pretended aid, vote, consent or influence; (j) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of paragraphs (a) to (i).” Additionally, Belize informed the Plenary of the Committee of Experts that although the definition of advantage includes a minimum dollar amount of \$2500, a person could nonetheless be prosecuted for receiving *“any article or money or other benefit, being a gift, favour, promise...”*, even if it were for less than \$2500.

### **3.2. Adequacy of the legal framework and/or other measures**

[66] With respect to the provisions related to the criminalization of transnational bribery as provided for by Article VIII of the Convention, the Committee notes that based on the information available to it, they may be said to constitute a coherent set of measures that are pertinent for promoting the purposes of the Convention.

### **3.3. Results of the legal framework and/or other measures**

[67] With respect to results in this field, the response of Belize notes that *“The POCA 2007, which criminalizes transnational bribery in Belize, is fairly recent. It came into effect in 2008. Thus, the period of time that has elapsed since then has been short and, in our view, insufficient to allow us to make an evaluation of objective results obtained in its implementation.”*<sup>14</sup>

[68] Considering that the Committee does not have sufficient information to enable it to make a comprehensive evaluation of the results of this topic, the Committee will formulate a recommendation to the country under review so that, through the organs or agencies charged with requesting and/or providing assistance and cooperation with respect to transnational bribery, as provided in the Convention, it consider the selection and development of 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 Recommendation 3.4. of Chapter II of this Report)

### **3.4. Conclusion and recommendation**

[69] On the basis of the review conducted in foregoing sections, the Committee offers the following conclusions and recommendation with respect to implementation in the country under review of the provisions contained in Article VIII of the Convention:

**[70] Belize has adopted measures on the offense of transnational bribery as provided in Article VIII of the Convention, as described in Chapter II, Section 3 of this report.**

[71] In light of the comments formulated in that section, the Committee suggests that the country under review consider the following recommendation:

- Select and develop, through the organs and agencies responsible for investigating and/or prosecuting the crime of transnational bribery, and for requesting and/or providing the assistance and cooperation provided for in connection with it in the Convention, procedures and indicators, when appropriate and when they do not exist, to analyze the objective results obtained in this regard and to follow-up on the recommendations made in this report in relation thereto. (See section 3.3 of Chapter II of this report.)

## **4. ILLICIT ENRICHMENT (ARTICLE IX OF THE CONVENTION)**

### **4.1. Existence of provisions in the legal framework and/or other measures**

[72] Belize has a set of legal provisions related to illicit enrichment, among which the following should be noted:

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14. See the response of Belize to the questionnaire, at p. 15, supra note 7.

[73] - The Prevention of Corruption Act, 2007, Section 22 of which provides as follows: “(1) A person who, by himself or in conjunction with any other person, or an agent, engages or attempts to engage in any of the acts specified in Part 1 of the Third Schedule commits an act of corruption; (2) Any person who commits an act of corruption commits an offence and is liable: (a) on summary conviction: (i) in the case of a first offence, to a fine not less than ten thousand dollars; and (ii) in the case of a second or subsequent offence, to a fine not less than twenty thousand dollars or to imprisonment for a period not exceeding two years or to both fine or imprisonment, (b) on conviction on indictment: (i) in the case of a first offence, to a fine not less than twenty-five thousand dollars or to imprisonment for a period not exceeding two years or to both fine and imprisonment; and (ii) in the case of a second or subsequent offence to a fine not less than fifty thousand dollars or to imprisonment for a period not exceeding three years or to both fine and imprisonment.”

[74] - The Prevention of Corruption Act, 2007, which at Section 33(1) provides that “Where upon examination of a complaint made under section 34<sup>15</sup>, or otherwise, the Commission, in the course of an investigation under section 37<sup>16</sup> is of the view that a public servant, or any other person on his behalf is in possession of property or pecuniary resource disproportionate to his legitimate sources of income, the Commission shall conduct a separate inquiry to determine whether such person has committed a breach of the provisions of the Act in connection with that property or pecuniary resource.”

[75] Part 1 of the Third Schedule to the Act provides in pertinent part that a person commits an act of corruption, if “he or any other person, on his behalf, illegally acquires property or pecuniary resources disproportionate to his legitimate source of income.” (Section 1(j))

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

[76] With respect to the provisions related to the criminalization of illicit enrichment as provided for by Article IX of the Convention, the Committee notes that based on the information available to it, they may be said to constitute a coherent set of measures that are pertinent for promoting the purposes of the Convention.

[77] Notwithstanding, the Committee considers it appropriate to formulate the following observations:

[78] The Committee notes that paragraph 1(j) of Part 1 of the Third Schedule to the Prevention of Corruption Act 2007, which criminalizes illicit enrichment, requires a person to have “illegally” acquired property or pecuniary resources. This element is not found in the definition of the Convention.

[79] Similarly, whereas the Convention provides for a “significant increase in the assets of a government official”, the Committee observes that 1(j) of the Act makes reference to property or pecuniary resources “disproportionate” to a legitimate source of income.

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15. Section 34(1) of the Prevention of Corruption Act, 2007 provides as follows: “Any person who has reasonable grounds to believe that a person (a) is in breach of this Act; (b) has committed an act of corruption, or of corrupt activities may make a complaint in writing to the Commission.”

16. Section 37(1) of the Prevention of Corruption Act, 2007 provides as follows: “Where upon examination of a complaint made under Section 34, or otherwise, the Commission is of the view that an investigation is necessary to ascertain whether any person has committed a breach of any provision of the Act, it shall inquire into the matter.”

[80] Finally, the Committee observes that the provisions of the Prevention of Corruption Act under review do not contain the element of a “*that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions*”, which is found in the Convention.

[81] The Committee will formulate a recommendation, bearing the foregoing points in mind. (see Recommendation 4.4(a) of Chapter II of this Report)

#### **4.3. Results of the legal framework and/or other measures**

[82] With respect to results in this field, the response of Belize notes that “*The POCA 2007, which criminalizes illicit enrichment in Belize, is fairly recent. It came into effect in 2008. Thus, the period of time that has elapsed since then has been short and, in our view, insufficient to allow us to make an evaluation of objective results obtained in its implementation.*”<sup>17</sup>

[83] Considering that the Committee does not have sufficient information to enable it to make a comprehensive evaluation of the results of this topic, the Committee will formulate a recommendation to the country under review so that, through the organs or agencies charged with requesting and/or providing assistance and cooperation with respect to illicit enrichment, as provided in the Convention, it consider the selection and development of 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 Recommendation 4.4(b) of Chapter II of this Report)

#### **4.4. Conclusions and Recommendations.**

[84] On the basis of the review conducted in foregoing sections, the Committee offers the following conclusion and recommendation with respect to implementation in the country under review of the provisions contained in Article IX of the Convention:

**[85] Belize has adopted measures on the offense of illicit enrichment as provided in Article IX of the Convention, as described in Chapter II, Section 4 of this report.**

[86] In light of the comments formulated in that section, the Committee suggests that Belize consider the following recommendations:

- a. Evaluate the need to modify Section 1(j) of the Third Schedule to the Prevention of Corruption Act, 2007, in order to bring it in line with the definition of illicit enrichment provided in Article IX of the Convention.
- b. Select and develop, through the organs and agencies that would, in due course, be responsible for the investigation and/or prosecution of the offense of illicit enrichment, 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 Chapter II, Section 4.3 of this report).

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17. See the response of Belize to the questionnaire, at p. 18, supra note 7.

## **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**

[87] Belize criminalized transnational bribery as provided for by Article VIII of the Inter-American Convention against Corruption, after the date on which it ratified the Convention, as noted in Chapter II, Section 3 of this Report.

[88] Belize criminalized illicit enrichment as provided for by Article IX of the Inter-American Convention against Corruption, after the date on which it ratified the Convention, as noted in Chapter II, Section 3 of this Report.

### **5.2. Adequacy of the legal framework and/or other measures**

[89] Belize criminalized transnational bribery as provided in Article VIII of the Inter-American Convention against Corruption, after the date on which it ratified the Convention, but it has not yet formally notified the OAS Secretary General of that criminalization, in accordance with Article X thereof. The Committee will formulate a recommendation in this regard. (See recommendation (a) in Chapter II, Section 5.3 of this report).

[90] Belize criminalized illicit enrichment as provided in Article IX of the Inter-American Convention against Corruption, after the date on which it ratified the Convention, but it has not yet formally notified the OAS Secretary General of that criminalization, in accordance with Article X thereof. The Committee will formulate a recommendation in this regard. (See recommendation (b) in Chapter II, Section 5.3 of this report).

### **5.3. Conclusions and recommendations**

[91] On the basis of the analysis conducted in the sections 5.1 and 5.2 above, the Committee offers the following conclusions and recommendations with respect to implementation in the country under review of the provisions contained in Article X of the Convention:

- a. **Belize criminalized transnational bribery as provided in Article VIII of the Inter-American Convention against Corruption, subsequent to the date on which it ratified the Convention, but it has not formally notified the OAS General Secretariat of that criminalization. Accordingly, the Committee recommends that Belize proceed with that notification, in accordance with Article X of the Convention.**
- b. **Belize criminalized illicit enrichment as provided in Article IX of the Inter-American Convention against Corruption, subsequent to the date on which it ratified the Convention, but it has not formally notified the OAS General Secretariat of that criminalization. Accordingly, the Committee recommends that Belize proceed with that notification, in accordance with Article X of the Convention.**

## 6. EXTRADITION (ARTICLE XIII OF THE CONVENTION)

### 6.1. Existence of provisions in the legal framework and/or other measures

[92] Belize has a set of provisions related to extradition, among which the following should be noted:

[93] - Statutory provisions such as the Extradition Act, Chapter 112 of the Laws of Belize, Revised Edition 2000 – 2003. The country under review notes with respect to this Act, that it “*regulates extradition arrangements with Guatemala and with the United States of America and is the only legal basis in the country for extradition.*”<sup>18</sup> The following provisions of this Act should be noted:

[94] The Schedule to the Act, which reproduces the Extradition Treaty between the Government of Belize and the Government of the United States of America, which provides at Article 2, paragraph 1, that “*An offense shall be an extraditable offense if it falls within any of the descriptions listed in the Schedule annexed to this Treaty, which is an integral part of the Treaty, or any other offense, provided that in either case the offense is punishable under the laws in both Contracting States by deprivation of liberty for a period of more than one year or by a more severe penalty.*”

[95] Article 3 of the Schedule provides that extradition shall not be refused on the ground that the person sought is a national of the requested State.

[96] Article 4, paragraph 1 of the Schedule provides that extradition shall not be granted for political offenses.

[97] Article 9 of the Schedule provides for the provisional arrest of a requested person, and also establishes procedures for applying for and processing a request for provisional arrest.

[98] Article 10 of the Schedule provides in pertinent part that, “*2. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition*” (Article 10(2); “*3. If the request is denied in whole or in part, the Requested State shall provide an explanation of the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.*” (Article 10(3); and “*4. If the request for extradition is granted, the authorities of the Contracting State shall agree on the time and place for the surrender of the person sought.*” (Article 10(4))

[99] The [Second] Schedule to the Act contains a list of extraditable offenses between Belize and the United States, and includes, inter-alia, “*Offenses against the law relating to bribery of persons, including corrupt offering, paying, or making of inducements to any foreign official or foreign political party, official thereof, or candidate for foreign political office to assist suc[h] person in obtaining or retaining business for himself or in directing business to any other person; soliciting bribes, offering or accepting bribes;*”

[100] - The bilateral extradition treaties signed by Belize with other states parties to the Inter-American Convention against Corruption, such as the United States, Guatemala and Mexico.<sup>19</sup>

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18. See the response of Belize to the questionnaire for the Third Round of Review, at p. 19, supra note 7.

19. These treaties may be consulted at: <http://www.oas.org/juridico/MLA/en/usa/index.html>

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

[101] With respect to provisions related to extradition, the Committee notes that based on the information available to it, they can be said to constitute a set of pertinent measures for promoting the purposes of the Convention.

[102] The Committee nevertheless deems it appropriate to express the following observation:

[103] The Committee observes that under the Extradition Act and as noted by the country under review, extradition is only possible with respect to Guatemala, the United States and Mexico. Therefore, because the Convention cannot be the basis for extradition, and because Belize has only entered into bilateral extradition treaties with Guatemala, Mexico, and the United States, extradition would not be possible with any of the remaining States Parties to the Convention, with respect to the acts of corruption contained therein. The Committee will formulate recommendations in this regard (See recommendations 6.4(a) and (b) in Chapter II, Section 6.4 of this report).

[104] In addition, the Committee notes that the Extradition Act does not contain any provision which requires the requesting state to be informed of the final outcome of cases, where the request has been denied because the requested state deems that it has jurisdiction over the offense, and has decided to submit the case to its competent authorities for prosecution. The Committee will formulate a recommendation in this regard (See recommendation 6.4(c) in Chapter II, Section 6.4 of this report).

## **6.3. Results of the legal framework and/or other measures**

[105] With respect to results in this field, the response of Belize notes the following: *“Records indicate that over the last five years there have been a number of requests made from the United States of America for extradition, but none have been made by Belize. Of the cases within the last five years, only three remain pending before Belizean Courts.”*<sup>20</sup>

[106] Considering that the Committee does not have sufficient information to enable it to make a comprehensive evaluation of the results of this topic, the Committee will formulate a recommendation to the country under review so that, through the organs or agencies charged with requesting and/or providing assistance and cooperation with respect to extradition, as provided in the Convention, it consider the selection and development of 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 Recommendation 6.4(d) of Chapter II, Section 6.4 of this Report)

## **6.4. Conclusions and recommendations**

[107] On the basis of the review conducted in foregoing sections, the Committee offers the following conclusions and recommendations with respect to implementation in the country under review of the provisions contained in Article XIII of the Convention:

**[108] Belize has adopted certain measures regarding extradition as provided in Article VIII of the Convention, as described in Chapter II, Section 6 of this report.**

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20. See the response of Belize to the questionnaire for the Third Round of Review, at p. 22, *supra* note 7.

[109] In light of the comments formulated in that section, the Committee suggests that Belize consider the following recommendations:

- a. Implement provisions which ensure that the acts of corruption contained in the Convention are extraditable offenses in Belize, with respect to the remaining States Parties to the Convention. (See Section 6.2 of Chapter II of this Report)
- b. Consider using the Convention as a legal basis for extradition with those State Parties to the Convention that are not currently covered by the Extradition Act or bilateral extradition treaties. (See Section 6.2 of Chapter II of this Report)
- c. Consider the convenience of establishing relevant measures to inform, in due course, a requesting state that its extradition request for offenses covered by the Convention has been denied because the State deems that it has jurisdiction over the offence and it has decided to submit the case to its competent authorities for the purposes of prosecution, and to report on the final result of the case. (See Section 6.2 of Chapter II of this Report)
- d. Consider the utility of the Inter-American Convention against Corruption for extradition purposes in corruption cases, which could consist of, among other measures, the implementation of training programs detailing the possibility of applying the Convention to extradition cases, specifically designed for the administrative and judicial authorities with competence in this area. (See Section 6.3 of Chapter II of this Report)
- e. Select and develop, through the competent organs or agencies, procedures and indicators, when appropriate and where they do not yet exist, to verify the follow up to the recommendations formulated in this report with respect to this area; and to analyze objective results obtained in relation to requests for extradition formulated to other States Parties to the Convention, for the investigation or prosecution of the crimes that have been criminalized pursuant thereto and the steps that have been taken to respond to similar requests from other States Parties. (See Section 6.3 of Chapter II of this Report)

### **III. OBSERVATIONS REGARDING THE PROGRESS MADE WITH IMPLEMENTING THE RECOMMENDATIONS ISSUED IN REPORTS FOR PREVIOUS ROUNDS**

[110] With respect to implementation of the recommendations issued to Belize in the report from the First Round on which it did not supply information with regard to progress in their implementation in its response to Section II of the Questionnaire for the Second Round, or on those for which it supplied information but which the Committee considered in Section IV of the report for that round that they needed additional attention, and on the basis of the information available to it, referring to progress in implementation subsequent to that report, the Committee notes the following:

## FIRST ROUND<sup>21</sup>

### 1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE COMPLIANCE (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)

#### 1.1. Standards of conduct to prevent conflict of interest and enforcement mechanisms

##### Recommendation 1.1.

*Consider strengthening the implementation of the provisions on conflicts of interest, and ensure that the laws on this matter are applicable to all public officials and employees, so as to permit the practical and effective application of a public ethics system.*

Measures suggested by the Committee that require information on their implementation or which required further attention within the Framework of the report from the Second Round:

*a. Establish a standard for addressing the conflicts that can occur between individual specific government matters in which those persons that perform public functions would be expected to act as part of their responsibilities and an official's or family member's financial interests or his outside activities or negotiations for future private employment arrangements. Such a standard could include recusal, request by the person that performs public functions for permission to continue to act, request by the official for a transfer of duties (if appropriate), or direction by an appropriate authority for divestiture/resignation when the conflict is pervasive.*

*b. Establish suitable restrictions for persons who leave public service, such as prohibitions on participation as a representative of a private interest in ongoing specific matters in which they had participated in an official capacity, or for a reasonable time, restrictions on dealing with former government body in which they served.*

[111] In its response,<sup>22</sup> Belize presents information with respect to the implementation of the foregoing recommendation and its measures. In this regard, the Committee notes, as steps which contribute to progress in the implementation of the recommendation, the following:

[112] – The Prevention of Corruption Act, 2007, which, as noted by Belize, “*establishes standards to address possible cases of conflict of interest that can occur between a public official's performance of his duties with his outside activities or future negotiations.*” Specifically, Part I of the Third Schedule to that Act provides that a person commits an act of corruption if, inter-alia, “*(h) he acquires, or becomes a partner, associate or shareholder in, or a director of a firm or company which has a contract with the Government or with the public body of which such person is a member or employee unless the person makes a disclosure of such partnership, association, shareholding or other interest to the Commission;*” and “*(i) he illegally uses official influence in support of any scheme, or in furtherance of any contract or proposed contract or other matter in regard to which he has an interest;*”

[113] – Section 25(1) of the Prevention of Corruption Act, 2007, which provides that “*Every person who, subject to subsection (2)<sup>23</sup>, acquires or holds a private interest in any contract, agreement or*

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21. The references to sections that appear in italics in the recommendations and measures transcribed herein, refer to the report from the First Round of Review.

22. See the response of Belize to the Questionnaire for the Third Round of Review, at. p. 24, supra note 7.

*investment emanating from or connected with the public body in which he or she is employed or which is made on account of that public body, commits an offense of corrupt activities and is liable on summary conviction to a fine of not less than ten thousand dollars.”*

[114] The Committee takes note of the steps taken by Belize to move forward with implementation of the foregoing recommendation and its measures, and of the need for those steps to continue, bearing in mind, with respect to measure “a”, that no provisions have been found which create mechanisms for addressing certain conflicts of interest, such as recusal. Similarly, no provisions have been found which deal with post-employment conflicts of interest, as suggested in measure “b”.

[115] In addition, the Committee takes note of the difficulty expressed by Belize with respect to the implementation of the foregoing recommendation and its measures, in the sense that *“One of the principal challenges faced in the implementation of the present recommendation is the limited knowledge of the POCA 2007 by public officials and the general public. Wider dissemination of the provisions of the POCA 2007 and its relationship with other relevant pieces of legislation...and with existing practices is necessary. Also, as the Committee of Experts observed, it is desirable to include specific provisions in the Act establishing standards to regulate the activities of former public servants after they leave government service.”*<sup>24</sup>

**1.2. Standards of conduct to ensure the proper conservation and use of resources entrusted to government officials in the performance of their functions and enforcement mechanisms**

Recommendation suggested by the Committee that was satisfactorily considered within the Framework of the Second Round:

Recommendation 1.2.

*Strengthen implementation of laws and regulatory systems on the proper conservation and use of public resources.*

[116] The Committee notes that recommendation 1.2, above, was deemed to have been satisfactorily considered within the framework of the report for the Second Round.

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23. Section 25(2) of the Prevention of Corruption Act, 2007, provides as follows: *“Subsection (1) does not apply to a person (a) who acquires or holds such interest as a shareholder of a listed company; (b) whose conditions of employment do not prohibit him or her from acquiring or holding such interest; or (c) in the case of a tender process, a public officer who acquires a contract, agreement or investment through a tender process and whose conditions of employment do not prohibit him from acquiring or holding such interest and who acquires or holds such interest through an independent tender process, or (d) unless the person makes a disclosure of such interest to the relevant public body within thirty days of acquiring or holding such interest.”*

24. See the response of Belize to the questionnaire for the Third Round of Review, at. p. 25, supra note 7

**1.3. Standards of conduct and mechanisms concerning measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware**

Recommendation suggested by the Committee that was satisfactorily considered within the Framework of the Second Round:

Recommendation 1.3.

*Develop and strengthen mechanisms requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.*

Measures suggested by the Committee that were satisfactorily considered within the Framework of the Second Round:

*a. Establish standards and mechanisms that require public servants to report to appropriate authorities, acts of corruption in the performance of public functions of which they are aware. This should be complemented by measures that protect public servants who report acts of corruption in good faith.*

*b. Facilitate compliance with this obligation by such measures as it deems appropriate.*

[117] The Committee notes that recommendation 1.3, above, and its measures, were deemed to have been satisfactorily considered within the framework of the report for the Second Round.

**2. SYSTEMS FOR REGISTERING INCOME, ASSETS AND LIABILITIES (ARTICLE III, PARAGRAPH 4 OF THE CONVENTION)**

Recommendation 2.1

*Consider strengthening the systems for registering income, assets, and liabilities.*

Measures suggested by the Committee that were satisfactorily considered within the Framework of the Second Round:

*a. Consider taking necessary steps to enforce the current financial declaration requirements for those to whom the Prevention of Corruption in Public Life Act law currently applies, including implementing penalties for those who fail to file and establishing penalties for late filing.*

*b. Identify positions not currently covered by the Act which have duties where the potential for conflict of interest is substantial and require the individuals holding those positions to file financial declarations.*

Measures suggested by the Committee that require information on their implementation or which required further attention within the Framework of the report from the Second Round

*c. Use the financial declarations not only to detect actual violations of law and conflicts of interest, but to also serve as a basis for providing counseling on the prevention of conflicts of interest.*

*d. Consider making the reports public, were appropriate.*

[118] In its response,<sup>25</sup> Belize presents information with respect to the implementation of measures “c” and “d” of the foregoing recommendation. In this regard, the Committee notes, as steps which contribute to progress in the implementation of the recommendation, the following:

[119] – As noted by Belize, the Prevention of Corruption Act 2007, “*also vests the Commission with wide investigative powers which can be used by the Commission to undertake proactive action such as the provision of counseling services to declarants on the prevention of conflicts of interest.*”

[120] – Section 12 of the Prevention of Corruption Act, 2007, which provides in pertinent part, that “*(1) The Commission shall examine every declaration furnished to it and may request from the declarant any information or explanation relevant to a declaration made by him, which in its opinion, would assist in its examination. (2) Where upon examination under subsection (1), the Commission is satisfied that a declaration has been fully made, it shall publish or cause to be published a certificate in the Gazette in the form prescribed by Form B in the Second Schedule within sixty days thereafter.*”

[121] The Committee takes note of the satisfactory consideration by Belize of measure “d”, above, through the publication of certificates of declarations in the Gazette, which contain a summary of the declarations that have been submitted.

[122] In addition, the Committee takes note of the need for the country under review to pay additional attention to the implementation of measure “c”, considering that no actions have been reported regarding counseling on the prevention of conflicts of interest, other than tangentially through the investigative powers of the Integrity Commission.

### **3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4 AND 11 OF THE CONVENTION)**

Recommendation suggested by the Committee that required further information on its implementation or which required further information within the Framework of the Second Round:

#### Recommendation 3

*Strengthen, and when appropriate create, oversight bodies in particular in the area of functions to enforce compliance with the matters covered by the provisions of Article III, paragraphs 1, 2, 4, and 11 of the Convention; provide them with the necessary resources to enable them to carry out their functions in full; and establish mechanisms necessary to permit effective institutional coordination, as well as periodic evaluation and monitoring, of the measures they adopt.*

[123] In its response,<sup>26</sup> Belize presents information with respect to the implementation of the foregoing recommendation. In this regard, the Committee notes, as steps which contribute to progress in the implementation of the recommendation, the following:

[124] – The Prevention of Corruption Act, 2007, which, as noted by Belize, “*...contains provisions that also address, in part, the recommendation under consideration. For example, it advances the work of the Integrity Commission by giving it wider power than its predecessor Act. POCA 2007 authorizes the Commission to examine declarations, to conduct their own enquiries thereon or to*

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25. See the response of Belize to the questionnaire for the Third Round of Review, at. p. 26, supra note 7

26. See the response of Belize to the questionnaire for the Third Round of Review, at. p. 27, supra note 7

*request further information from persons in public life (the declarants); or where they deem it appropriate, it may advise the Governor General to appoint a Tribunal to carry out such enquiries. The POCA also ensured that the independence (s. 5) and the financial stability of the Commission are safeguarded by establishing a Secretariat (s. 7) for the Commission and requiring such Secretariat to submit yearly budget estimates of the Commission to be included in the budget for the relevant year (s. 52). Further, the Commission itself selects and appoints its own staff (s. 51).*

[125] The Committee takes note of the steps taken by Belize to move forward with implementation of the foregoing recommendation, as well as the need for those steps to continue, bearing in mind that no information was presented on the strengthening of any oversight bodies other than the Integrity Commission.

#### **4. MECHANISMS TO PROMOTE THE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11 OF THE CONVENTION)**

##### **4.1. General Participation Mechanisms**

Recommendation suggested by the Committee that requires information on its implementation or which required further attention within the Framework of the report from the Second Round

Recommendation 4.1:

*Consider whether the recommendations related to specific mechanisms referred to below indicate a need for Belize to strengthen its general approach to encouraging civil society and nongovernmental organizations in efforts to prevent corruption.*

[126] With respect to the implementation of the foregoing recommendation, in its response, the country under review presents information additional to that reviewed by the Committee in the Report from the Second Round. In this regard, the Committee notes, as steps which contribute to progress in the implementation of the measure, the following:

[127] *“Belize amended its Constitution by virtue of the Belize Constitution (Sixth Amendment) Act, 2008, inter alia, to enlarge the membership of the Senate to ensure that Senators nominated by the Opposition and non-governmental organizations together constitute the majority in the Upper House. The Amendment also sought to extend the powers and functions of the Senate to enable them to initiate and conduct public enquiries into mismanagement or corruption by persons in the central government of public statutory bodies, and provides for the expeditious submission of reports by the Auditor General to the National Assembly.*

[128] *Additionally, s. 21 of the POCA 2007 requires that civil society organizations be consulted by the National Assembly before extending the application of this Act to any public servant of class of public servants who are not presently required to file sworn financial declarations. These measures adopted by Belize complement existing administrative practice, including the three advisory bodies that were formed in 2006 to aid the Minister and the Ministry of the Public Service: the Human resource Development Committee, the Council on Good Governance and Public Sector Modernization, and the Joint Staff Relations Council. Each of these Committees has membership from other Government Ministries and from relevant Civil Society organizations.*

[129] *Of note is that in 2008 – 2009, the Minister of the Public Service conducted country-wide consultations with public servants and civil society on matters.”*

[130] The Committee takes note of the steps taken by the country under review to advance in its implementation of the foregoing recommendation as well as the need for it to continue to give attention thereto, taking into account the need to continue to further those efforts.

#### **4.2. Mechanisms for access to information**

##### Recommendation 4.2.

*Strengthen the mechanisms on access to information.*

Measure suggested by the Committee that was satisfactorily considered within the Framework of the Second Round:

*b. Strengthen systems that ensure public access, as appropriate, to information on public administration bodies and their program-related and financial activities, in particular as regards those bodies concerned with the issues covered in this report; and improve, where possible, the use of modern technologies to that effect*

Measures suggested by the Committee that require information on their implementation or which required further attention within the Framework of the report from the Second Round

*a. Conduct a comprehensive review of the rules and regulations that provide exceptions to the right of access to public information, in order to ensure that they do not obstruct the exercise of the right to information as an effective mechanism in efforts against corruption, in accordance with the observations in section 4.2.2 of this report.*

*c. Carry out a comprehensive evaluation of the use and effectiveness of mechanisms for access to information, and, based on the results of that evaluation, consider the adoption of measures to promote, facilitate, and consolidate the effectiveness of these mechanisms.*

[131] In its response,<sup>27</sup> Belize presents information with respect to the implementation of the remaining measures of the foregoing recommendation. In this regard, the Committee notes, as steps which lead to the determination that measure “a” has been satisfactorily considered, the following:

[132] – The Freedom of Information (Amendment) Act, Act No. 7 of 2008, which amended the Freedom of Information Act (2000), and which, inter-alia, “...invalidates secrecy provisions in public contracts, reduces the categories of exempt documents, and penalizes unreasonable refusal to provide access to public documents.”

[133] In light of the foregoing, and taking into account, that the analysis from the report on Belize from the First Round, and on which this suggested measure was based, stated in pertinent part, that “*The list of documents that are exempt from disclosure under the Freedom of Information Act includes Cabinet documents, as well as documents whose disclosure would, or would be reasonably likely to prejudice an investigation of a legal or administrative breach (Sections 23 (1) and 24). A*

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27. See the response of Belize to the questionnaire for the Third Round of Review, at. p. 29, supra note 7

*number of additional exemptions exist that could limit unnecessarily access to information.*”,<sup>28</sup> the Committee takes note of the satisfactory consideration of measure “a”, above by Belize

[134] With respect to measure “c”, the Committee takes note of the difficulties with respect to its implementation, as noted by Belize, in the sense that *“The implementation of the suggested measures represents a challenge for small, thriving countries like Belize – conducting comprehensive review of rules and regulations, while strengthening existing systems and carrying out comprehensive evaluations of the use and effectiveness of existing mechanisms on access to information.”* Accordingly, the Committee takes note of the need for the country under review to give additional information to the implementation of measure “c”, above.

### **4.3. Mechanisms for consultation**

#### Recommendation 4.3.

*Strengthen existing mechanisms and consider creating other ones as part of their efforts to combat corruption.*

Measure suggested by the Committee that was satisfactorily considered within the Framework of the Second Round:

*b. Design and implement programs to publicize consultation mechanisms and, as appropriate, provide training and instruments to officials necessary for effective implementation of those mechanisms.*

Measure suggested by the Committee that require information on its implementation or which required further attention within the Framework of the report from the Second Round:

*a. Strengthen consultation mechanisms to enable civil society and nongovernmental organizations to generate opinions and proposals to be taken into account in preventing, detecting, investigating, and punishing corruption.*

[135] In its response,<sup>29</sup> Belize presents information with respect to the implementation of the foregoing recommendation and its measures. In this regard, the Committee notes, as steps which contribute to progress in the implementation of the recommendation, the following:

[136] – The review and enhancement of the Government website in order to make it more user friendly, including constant updating of the information on the work undertaken by the Government as well as with country and public service information, and contact information.

[137] – Public Service Week, held by the Public Service of Belize, and which provides the general public and civil society with an opportunity for approach, communication and dialogue with the Public Service.

[138] The Committee takes note of the steps taken by Belize to move forward with implementation of measure “a” of the foregoing recommendation, and of the need for those steps to continue.

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28. See the report on Belize from the First Round of Review, available at:

[http://www.oas.org/juridico/english/mec\\_rep\\_blz.pdf](http://www.oas.org/juridico/english/mec_rep_blz.pdf)

29. See the response of Belize to the questionnaire for the Third Round of Review, at. p. 30, supra note 7

#### **4.4. Mechanisms to encourage participation in public administration**

##### Recommendation 4.4.

*Implement mechanisms to encourage civil society and nongovernmental organizations to participate in public administration.*

Measure suggested by the Committee that was satisfactorily considered within the Framework of the Second Round:

*b. Promote public awareness of available corruption prevention mechanisms.*

Measure suggested by the Committee that require information on its implementation or which required further attention within the Framework of the report from the Second Round:

*a. Develop standards and procedures to establish, maintain and strengthen mechanisms to encourage participation by civil society and nongovernmental organizations in public administration as part of the efforts to prevent corruption*

[139] In its response,<sup>30</sup> Belize presents information with respect to the implementation of the foregoing recommendation and its measures. In this regard, the Committee notes, as a step which contributes to progress in the implementation of the recommendation, the following:

[140] – The process of consultation with the public and private sectors for the adoption of the Plan of Action for the Implementation of the Recommendations formulated by the MESICIC for Belize.

[141] The Committee takes note of the step taken by Belize to move forward with implementation of measures “a” of the foregoing recommendation and of the need for those steps to continue.

#### **4.5. Mechanisms to encourage participation in the follow-up of public administration**

##### Recommendation 4.5.

*Implement mechanisms to encourage civil society and nongovernmental organizations to participate in public administration.*

Measures suggested by the Committee that require information on their implementation or which required further attention within the Framework of the report from the Second Round:

*a. Promote, where appropriate, methods to facilitate civil society and non-governmental organizations' efforts to engage in activities in the follow up of public administration and prevention of corruption.*

*b. Design and implement specific programs to publicize mechanisms to encourage participation in follow-up on public administration and, as appropriate, provide the necessary training and tools to public officials for the effective implementation of those mechanisms.*

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30. See the response of Belize to the questionnaire for the Third Round of Review, at. p. 30, supra note 7

[142] In its response,<sup>31</sup> Belize presents information with respect to the implementation of the foregoing recommendation and its measures. In this regard, the Committee notes, as a step which contributes to progress in the implementation of the recommendation, the following:

[143] – The process of consultation with the public and private sectors for the adoption of the Plan of Action for the Implementation of the Recommendations formulated by the MESICIC for Belize.

[144] The Committee takes note of the step taken by Belize to move forward with implementation of measures “a” and “b” of the foregoing recommendation and of the need for those steps to continue.

## **5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)**

Recommendations suggested by the Committee that required further information on their implementation or which required further information within the Framework of the Second Round:

### Recommendation 5.1

*Design and implement a comprehensive program of dissemination and training specifically geared to the competent authorities and officials, to ensure they are familiar with and can apply the provisions in force on mutual legal assistance for investigation and prosecution of acts of corruption in the Convention and in other treaties signed by Belize.*

### Recommendation 5.2:

*Identify and ascribe priority to specific areas in which it deems it could need or it could be useful for it to receive technical cooperation from other States Parties in order to further strengthen its capacity to prevent, detect, investigate and punish corruption.*

### Recommendation 5.3:

*Strengthen efforts to exchange technical cooperation with other States Parties on the most effective ways and means to prevent, detect, investigate, and punish corruption.*

[145] In its response,<sup>32</sup> Belize notes the following with respect to the implementation of the foregoing recommendations:

[146] – *“Mechanisms exist in Belize which address, in part, the three Recommendation made by the Committee under this section. This includes the fact that Belize has bilateral mutual legal assistance treaties with the United States of America and with the Caribbean Community, and is currently pursuing negotiations of a similar treaty with its northernmost neighbor, the United Mexican States. Belize is also Party to relevant international conventions which make wide provisions for mutual legal assistance among member States. These include the present Convention, the United Nations convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the United Nations Convention against Transnational Organized Crime.”*

[147] – *“Belize has not developed any specific training course on the subject-matter for its competent authorities and officials. However, such officials have continued to benefit from relevant training sessions organized by relevant international organizations such as the United Nations Office on*

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31. See the response of Belize to the questionnaire for the Third Round of Review, at. p. 31, supra note 7.

32. See the response of Belize to the questionnaire for the Third Round of Review, at. p. 32, supra note 7.

*Drugs and Crime. Of particular note is the fact that, with its existing resources, Belize has been able to assist its counterparts by respond[ing] to their requests for legal assistance, which in itself, has been a learning experience.”*

[148] The Committee takes note of the comments expressed by Belize, and takes note of the need for Belize to give additional attention to the implementation of recommendations 5.1, 5.2 and 5.3, above.

## **6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)**

Recommendations suggested by the Committee that required further information on their implementation or which required further information within the Framework of the Second Round:

### Recommendation 6.1:

*Formalize the designation of the Solicitor General as the Central Authority provided for in Article XCIII of the Convention for the purposes of international assistance and cooperation envisaged in that treaty, and communicate that designation to the Secretariat of the OAS in accordance with the procedures provided to that end..*

### Recommendation 6.2:

*Ensure that said authority has sufficient resources to enable it to carry out its functions.*

[149] On July 29, 2011, Belize informed the General Secretariat of the OAS of the designation of the Attorney General’s Ministry as the central authority for the purposes of the Inter-American Convention against Corruption.

[150] In this regard, the Committee takes note of the satisfactory consideration of recommendation 6.1, above.

[151] In its response, Belize does not refer to any steps taken with respect to the implementation of recommendation 6.2. Accordingly, the Committee reiterates the need for the country under review to give additional attention to its implementation..

## **7. GENERAL RECOMMENDATIONS**

Recommendations suggested by the Committee that required further information on their implementation or which required further information within the Framework of the Second Round:

### Recommendation 7.1

*Design and implement, when appropriate, training programs for public servants in charge of applying the systems, standards, measures and mechanisms considered in this report, with the objective of assuring adequate knowledge, handling, and implantation of the above.*

### Recommendation 7.2

*Select and develop procedures and indicators, as appropriate, that enable verification of the follow-up to the recommendations contained in this report, and communicate the results of this follow-up to the Committee through the Technical Secretariat. With this in mind, it may take into account the list of more general indicators applicable within the Inter-American system that were available for the*

*selection indicated by the State under review and posted on the OAS website by the Technical Secretariat of the Committee; as well, consider information derived from the review of the mechanisms developed in accordance with recommendation 7.3 below.*

### Recommendation 7.3

*Develop, as appropriate and where they do not yet exist, procedures designed to analyze the mechanisms mentioned in this report, and the recommendations contained in it.*

[152] In its response, Belize does not refer to any steps taken with respect to the implementation of recommendations 7.1, 7.2, or 7.3, above. Accordingly, the Committee reiterates the need for the country under review to give additional attention to their implementation.

## **SECOND ROUND<sup>33</sup>**

[153] Based on the information available to it, the Committee offers the following observations with respect to the implementation of the recommendations formulated to Belize in the report from the Second Round:

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

#### **1.1. Systems of government hiring**

##### Recommendation 1.1.:

*Consider strengthening the systems of government hiring.*

##### Measures Suggested by the Committee:

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

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

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

*d. Adopt, through the appropriate legislative and/or administrative procedures and in keeping with the principle of due process, provisions for the establishment of administrative challenge mechanisms*

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33. The references to sections that appear in italics in the recommendations and measures transcribed herein, refer to the report from the Second Round of Review.

*to clarify, modify or revoke substantial acts that are part of the recruitment and selection procedures in the Public Service, ensuring a timely, objective, impartial, and effective procedure.*

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

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

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

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

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

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

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

[154] In its response,<sup>34</sup> Belize presents information with respect to the implementation of the foregoing recommendation and its measures. In this regard, the Committee notes, as a step which contributes to progress in the implementation of the recommendation, the following:

[155] – The Services Commissions (Amendment) Regulations, 2009, which, as noted by Belize, “restores in part the delegation of powers by the Services Commissions and provides that ‘the power to transfer Public Officers within the clerical, secretarial, administrative and accounting grades, is delegated to the Chief Executive Officer of the Ministry of the Public Service.’ Further, with respect to ‘the administrative and accounting grades, the Chief Executive Officer of the Ministry of the Public service shall exercise the said power to transfer after consultation with the Administrative and Accounts Post Panel.’”

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34. See the response of Belize to the Questionnaire for the Third Round, at. p. 34, supra note 7.

[156] – The Public Service (Amendment) Regulations, 2009, which, as noted by Belize, “establishes a new procedure for filling vacancies. It requires that the CEO of the Ministry where the vacancy occurs shall report it to the Chief Executive Officer of the Ministry of the Public Service and state his recommendations for filling the post. It also vests the decisions regarding travel arrangements for overseas appointments, applications for secondment, and applications for grant of leave (vacation leave, extended sick leave, special leave, leave without pay) to be determined by the Chief Executive Officer of the Ministry of the Public Service.”

[157] – The Committee takes note of the steps taken by Belize to progress in implementation of the foregoing recommendation and its measures, as well as the need for Belize to continue to give attention to their implementation.

## **1.2. Government systems for the procurement of goods and services**

### Recommendation 1.2.:

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

### Measures Suggested by the Committee:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[158] In its response,<sup>35</sup> Belize presents information with respect to the implementation of the foregoing recommendation and its measures. In this regard, the Committee notes, as a step which contributes to progress in the implementation of the recommendation, the following:

[159] – The evaluation of the country procurement system carried out within the framework of the Inter-American Development Bank, and at the request of the Government of Belize, and using the methodology of the Organisation for Economic Cooperation and Development/ Development Assistance Committee (OECD/DAC), the results of which recommended, inter-alia, that procurement legislation be reformed, fleshed out and the corresponding regulations developed.

[160] – The Finance and Audit (Reform) (Amendment) Act, 2010, which is a Bill that is currently before the legislature for approval.

[161] – The Committee takes note of the steps taken by Belize to progress with implementation of the foregoing recommendation and its measures, as well as the need for Belize to continue to give attention to their implementation.

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

### Recommendation 2:

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

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35. See the response of Belize to the Questionnaire for the Third Round, at. p. 34, supra note 7.

Measures Suggested by the Committee:

- a. Protection for persons who report acts of corruption subject to investigation in administrative or judicial proceedings;*
- b. Protection of whistleblowers and their families, not only in relation to their physical integrity but also as it concerns the workplace, especially when the person is a public official and the acts of corruption involve superiors or co-workers;*
- c. Expand the existing mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who, in good faith, report acts of corruption;*
- d. The creation of mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it;*
- e. Witness protection mechanisms that offer witnesses the same guarantees as public servants and private citizens;*
- f. Mechanisms to facilitate international cooperation on the foregoing matters, when appropriate, including the technical assistance and cooperation provided for by the Convention, as well as the exchanges of experiences, training, and mutual assistance.*
- g. A simple whistleblower protection application process.*
- h. Provisions which provide for administrative and criminal sanctions for the failure to observe the rules and/or duties relating to protection.*
- i. Provisions that clearly delineate the respective competence of judicial and administrative authorities with respect to this area.*

[162] In its response,<sup>36</sup> Belize presents information with respect to the implementation of the foregoing recommendation and its measures; specifically, information relating to provisions of the Prevention of Corruption Act, 2007. In this regard, the Committee notes the need for the country under review to give additional attention to the implementation of this recommendation and its measures, considering that the existing mechanisms for protection contained in the POCA, 2007 were already taken into consideration in the report from the Second Round of Review.

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

Recommendation 3.1:

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

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36. See the response of Belize to the Questionnaire for the Third Round, at. pp. 40-41, supra note 7.

Recommendation 3.2:

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

Recommendation 3.3:

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

Recommendation 3.4:

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

[163] With respect to the implementation of recommendations 3.1, 3.2, 3.3 and 3.4, above, in its response,<sup>37</sup> Belize notes the following: *“During the period under evaluation, the country did not adopt any specific measure to address the measures suggested by the Committee under this section.”* In this regard, the Committee takes note of the need for Belize to give additional attention to the implementation of the foregoing recommendations.

[164] In addition, the Committee takes note of the difficulty expressed by Belize with respect to the implementation of these recommendations, in the sense that, *“One of the greatest difficulties in following recommendations or adopting suggested measures arises when such recommendations or suggested measures involve the adoption of new legislation or the amendment of existing legislation. This, of course, is due to the process involved with such undertakings. As expected, it is even more challenging to seek to amend legislation when the recommendation is to add specific wording (‘directly or indirectly’) when the country is satisfied that the specific provisions (‘for himself or another person’) already make provisions for “directly or indirectly”, albeit without using that specific terminology. This, in our view, sufficiently keeps with the intent of the Convention.”*<sup>38</sup>

#### **4. GENERAL RECOMMENDATIONS**

Recommendation 4.1:

*“Design and implement, when appropriate, training programs for public servants responsible for implementing the systems, provisions, measures, and mechanisms considered in this report, for the purpose of ensuring that they are adequately known, managed, and implemented.”*

Recommendation 4.2:

*“Select and develop procedures and indicators, when appropriate and where they do not yet exist, to analyze the results of the systems, provisions, measures, and mechanisms considered in this report, and to verify follow-up on the recommendations made herein.”*

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37. Ibid, at p. 41.

38. Ibid, at pp. 41-42.

[165] With respect to the implementation of recommendations 4.1 and 4.2, above, in its response,<sup>39</sup> Belize notes the following: “*During the period under evaluation, the country did not adopt any specific measure to address the measures suggested by the Committee under this section.*” In this regard, the Committee takes note of the need for Belize to give additional attention to the implementation of the foregoing recommendations.

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39. Ibid, at p. 41.