

MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
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ANTIGUA AND BARBUDA

FINAL REPORT

(Adopted at the March 20, 2015 plenary session)

SUMMARY

Bearing in mind that Antigua and Barbuda was not party to the MESICIC when the First Round of MESICIC was conducted, the present report is a comprehensive review of its implementation of the provisions of the Inter-American Convention against Corruption that the Committee of Experts of the MESICIC selected for review in the First Round and the Fourth Round.

The provisions selected for review in the First Round are those provided for in Article III, paragraph 1 (Standards of conduct: conflicts of interest, conservation of public resources, obligation to report); Article III, paragraph 2 (Mechanisms to enforce the standards of conduct); Article III, paragraph 4 (Systems for registering income, assets and liabilities); Article III, paragraph 9 (Oversight bodies); Article III, paragraph 11 (Participation by civil society); Article XIV (Assistance and Cooperation), and Article XVIII (Central Authorities).

Article III, paragraph 9 was selected for the Fourth Round, which concerns the “*oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts.*”

The review was conducted in accordance with the Convention, the Report of Buenos Aires, the Committee’s Rules of Procedure and the methodologies it adopted for on-site visits and for the Fourth Round, including the criteria therein established for equal and impartial treatment for all the States party, functional equivalence, and the purpose of both the Convention and MESICIC of promoting, facilitating and strengthening cooperation among the States Party in the prevention, detection, punishment, and eradication of corruption.

The review was carried out taking into account the response received from Antigua and Barbuda to the questionnaire, the information compiled by the Technical Secretariat, and a new and important source of information, namely the on-site visit conducted between October 7 and 9, 2014 by the preliminary review subgroup for Antigua and Barbuda, composed of the Bahamas and Chile, with the support of the Technical Secretariat. During that visit, the information furnished by Antigua and Barbuda was clarified and expanded and the opinions of civil society organizations were heard. This provided the Committee with objective and complete information on those topics.

In keeping with the methodology for the Fourth Round in the case of States not parties to the MESICIC in the First Round, the review of the Convention provisions selected for the First and Fourth Rounds is to determine whether Antigua and Barbuda has a legal framework for each of the topics and oversight bodies reviewed, whether the legal framework is adequate for promoting the purposes of the Convention and whether there are objective results. The pertinent recommendations were formulated on the basis of those observations.

FIRST ROUND

With respect to the review of standards of conduct and mechanisms to enforce them, the recommendations made to the Antigua and Barbuda included the following: Regulate the Integrity in Public Life Act 2004 and the Prevention of Corruption Act 2004, in order to create and implement mechanisms and guidelines that make it possible to determine, in concrete cases, whether a person who performs public functions is in a situation of conflict of interests, and, at the same time, adopt measures necessary to protect public interests, such as dissociation from the exercise of their functions, withdrawal from official involvement in the matter, relinquishment of the private interests in conflict, or nullity of any decisions adopted by a person in such a position; and Establish an express obligation requiring

government officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

Regarding the review of the systems for registering income, assets and liabilities, the recommendations made included the following: Consider establishing administrative sanctions for those who fail to comply with the obligation to file a declaration of income, assets and liabilities; or those who report incomplete, inaccurate or false information; as well as for those who fail to provide the Integrity Commission with further information within a specified period, when so requested; these sanctions might include the withholding of salary and, for those who have left public service, fines and the disqualification from any public office until such time as the final asset declaration is filed; and Provide the Integrity Commission with auditors/investigators, who can assist the Commission in properly verifying the accuracy of the declarations of income, assets and liabilities filed under the Integrity in Public Life Act 2004.

With regard to the mechanisms to encourage participation by civil society and nongovernmental organizations in efforts to prevent corruption, the recommendations included the following: Consider revising the provision under Section 7(b) of the Freedom of Information Act 2004, which allows the Minister responsible for Public Information to exclude any public authority or function of a public authority from the application of the Act; Ensure that the public authorities that have not yet done so comply with Section 9 of the Freedom of Information Act 2004 and appoint their respective information officers; Strengthen the Office of the Commissioner of Information, by ensuring that it has the human, financial and technological resources needed to properly perform its functions, taking the availability of resources into account; and Compile and disseminate a clear and simple guide containing practical information to facilitate the effective exercise of rights pursuant to the Freedom of Information Act 2004, as required by Section 8(1) of the Act.

As for mutual assistance, mutual technical cooperation and central authorities, the following was recommended: Design and implement a comprehensive training and dissemination program for the competent authorities and officials, so that they are made aware of and are able to apply the provisions contained in the Convention and in other treaties that Antigua and Barbuda has signed that concern mutual assistance in the investigation or prosecution of acts of corruption; and consider the possibility of ratifying the Inter-American Convention on Mutual Assistance in Criminal Matters and participate actively in the Meetings of Ministers of Justice or Other Ministers or Attorneys General of the Americas (REMJA) and its Working Group on Legal Cooperation in Criminal Matters.

In addition, based on the review and contributions made throughout the report, the following were among the general recommendations also offered: design and implement, where appropriate, training programs for public servants responsible for application of the systems, standards, measures, and mechanisms included in this report, in order to ensure that they are thoroughly understood and properly handled and applied; and select and develop procedures and indicators, as appropriate, for verifying follow-up of the recommendations contained in this Report, and notify the Committee accordingly through the Technical Secretariat.

FOURTH ROUND

The oversight bodies of Antigua and Barbuda reviewed in this report are: The Integrity Commission; the Public Service Commission (PSC); the Office of the Attorney General; the Office of the Director of Public Prosecutions (DPP) and; the Office of the Director of Audit (ODA).

Some of the recommendations formulated to Antigua and Barbuda for its consideration in connection with the aforementioned bodies are, among others, the following:

Provide the Integrity Commission, the Office of the Attorney General, the Office of the DPP and the Office of the Director of Audit, with the appropriate infrastructure, budgetary and human resources needed for the proper performance of their function, within available resources.

As regards the Integrity Commission, ensure that the Commission has budgetary independence; consider providing it with the authority to impose administrative sanctions for breaches of the Integrity in Public Life Act 2004, subject to the Constitution and the fundamental principles of its legal system and maintain results on those sanctions that allow for a comprehensive evaluation of their effectiveness; and Consider amending the Integrity in Public Life Act 2004 to require that the Integrity Commission also report the results of its investigations to the appropriate House of Parliament, Service Commission, Board or other Authority in order for them to take the appropriate disciplinary action and inform the Integrity Commission on the outcome.

Regarding the PSC, Modify the Public Service Commission Regulations so that a public officer who is acquitted of a criminal charge in any Court is not precluded from having disciplinary proceedings instituted against him or her in respect of an alleged act of misconduct implicit in that criminal charge, in accordance with the fundamental principles of the legal system of Antigua and Barbuda; Consider establishing clear rules regarding the discretionary power of Permanent Secretaries to decide when to report a disciplinary or criminal matter to the Public Service Commission, as well as oversight mechanisms to ensure compliance; and Establish a reasonable time limit for disciplinary investigations to be concluded and presented to the Public Service Commission for its decision.

With respect to the Office of the Attorney General, take the necessary steps to establish the Anti-Corruption Unit and to review the existing legal anti-corruption framework to ensure that the Unit works in coordination with the existing oversight bodies, such as the Office of the Director of Public Prosecutions and the Integrity Commission; and consider establishing the legal obligation for the Office of the Attorney General to account for the budget allocated and to publish annual reports, disclosing its activities and the results achieved, as well as the institution's in-house performance, goals, challenges and achievements.

Concerning the Office of the DPP, adopt the measures necessary to preserve its autonomy; adopt coordination measures with other bodies; ensure a greater budgetary independence of the DPP; assign a sufficient number of prosecutors and support staff to it and ensure that prosecutors receive periodic training on how to prosecute corrupt acts; implement a system of follow-up for the cases of corruption the DPP initiates that enables it to find out how such cases are proceeding and what the outcomes are; develop and publish statistical data that makes it possible to clearly ascertain which of the cases prosecuted by the DPP are specifically related to corrupt acts as well as the outcomes of such cases, in order to identify challenges and recommend, where appropriate, corrective measures; and create and maintain an updated institutional website for the Office of the Director of Public Prosecutions with information on the DPP's activities, challenges, and the results of its prosecution of corrupt acts.

Regarding the ODA, consider providing the ODA with the legal obligation to report an irregularity, such as fraudulent activity, to appropriate authorities; take the necessary steps to ensure that the Public Accounts Committee (PAC) meets on a periodic basis and consider reviewing the Parliamentary Standing Orders and the PAC Regulations in order to ensure that ODA's reports presented to Parliament are addressed promptly so as to permit swift corrective actions; establish mechanisms to ensure that those authorities and bodies subject to DOA's oversight effectively comply with the recommendations issued in its audit reports; and adopt a system for monitoring acts detected during audits by the ODA that might constitute acts of corruption, which have been referred to the competent authorities for investigation and appropriate action, that will enable the Office to see how its findings are being processed and the outcomes thereof, as well as to publicize that information when appropriate.

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

**REPORT ON IMPLEMENTATION IN ANTIGUA AND BARBUDA OF THE CONVENTION
PROVISIONS SELECTED FOR REVIEW WITHIN THE FRAMEWORK OF THE FIRST AND
FOURTH ROUNDS ¹**

INTRODUCTION

1. Contents of the Report

[1] This report begins with a comprehensive review of the implementation, in Antigua and Barbuda, of the provisions of the Inter-American Convention against Corruption selected by the Committee of Experts of the Follow-up Mechanism (MESICIC) for the First Round of Review. The provisions selected for the First Round are those provided in Article III, paragraph 1 (Standards of conduct: conflicts of interest, conservation of public resources, obligation to report); Article III, paragraph 2 (Mechanisms to enforce the standards of conduct); Article III, paragraph 4 (Systems for registering income, assets and liabilities); Article III, paragraph 9 (Oversight bodies); Article III, paragraph 11 (Participation by civil society); Article XIV (Assistance and Cooperation), and Article XVIII (Central Authorities).²

[2] Second, the report presents a review of the implementation of the provision of the Inter-American Convention against Corruption selected by the Committee of Experts of the MESICIC for the Fourth Round of Review. The provision selected appears in paragraph 9 of Article III of the Convention, which concerns the “oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts.”

2. Ratification of the Convention and Adhesion to the Mechanism

[3] According to the official records of the OAS General Secretariat, Antigua and Barbuda ratified the Inter-American Convention against Corruption on January 13, 2004, and deposited its instrument of ratification on February 23, 2004.

[4] In addition, on December 10, 2010, Antigua and Barbuda signed the Declaration on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption.

I. SUMMARY OF INFORMATION RECEIVED AND THE ON-SITE VISIT

1. Response of Antigua and Barbuda

[5] The Committee wishes to acknowledge the cooperation that it received from Antigua and Barbuda throughout the review process and, in particular, from the Office of the Attorney General and Ministry of Legal Affairs and the Office of National Drug and Money Laundering Control Policy (ONDCP), which

¹ This Report was adopted by the Committee in accordance with the provisions of Article 3(g) and 25 of its Rules of Procedure and Other Provisions, at the plenary session held on March 20, 2015, at its Twenty-fifth Meeting, held at OAS Headquarters, March 16-20, 2015.

² Bearing in mind that Antigua and Barbuda was not party to the MESICIC when the First Round of MESICIC was conducted, Chapter XII of the Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption selected in the Fourth Round and for Follow-up on the Recommendations Formulated in the First Round (document SG/MESICIC/doc. 289/11 rev. 2) provides that “States that were not party to the Mechanism during the First Round of Review shall be subject to the methodology adopted by the Committee for that Round [(SG/MESICIC/doc.21/02)], insofar as the review of the Convention provisions that were selected for that Round are concerned, except with regard to their oversight bodies, which will be analyzed according to the methodology adopted by the Committee for the Fourth Round, taking into account that the Committee agreed at its Eighteenth Meeting that those bodies would be analyzed comprehensively.”

was evidenced, *inter alia*, in its Response to the Questionnaire and the constant willingness to clarify or complete its contents, and in the support for the on-site visit to which the following paragraph of this report refers. Together with its response, Antigua and Barbuda sent the provisions and documents it considered pertinent. The Response as well as the provisions and documents may be consulted at the following webpage: http://www.oas.org/juridico/english/mesicic4_atg.htm

[6] The Committee notes that the country under review gave its consent for the on-site visit, in accordance with provision 5 of the *Methodology for Conducting On-Site Visits*.³ As members of the preliminary review subgroup, the representatives of The Bahamas and Chile conducted the on-site visit from October 7 – 9, 2014, with the support of the MESICIC Technical Secretariat. The information obtained on that visit is included in the appropriate sections of this report, and the agenda of meetings is appended thereto, in keeping with provision 34 of the *Methodology for Conducting On-Site Visits*.

[7] For its review, the Committee took into account the information provided by Antigua and Barbuda up to October 9, 2014, the date on which the aforementioned on-site visit ended, as well as that furnished and requested by the Secretariat and the members of the review subgroup to carry out its functions, in keeping with the *Rules of Procedure and Other Provisions*; the *Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption Selected in the Fourth Round*; and the *Methodology for Conducting On-Site Visits*. This information is available at the following web page: http://www.oas.org/juridico/english/mesicic_docs_en.htm.

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

[8] The Committee did not receive any documents from civil society organizations within the time period established by the Committee in the schedule, in accordance with Article 34(b) of the Committee's *Rules of Procedure*.

[9] Nonetheless, during the on-site visit to Antigua and Barbuda, information was gathered from civil society, private sector organizations and professional associations, who were invited to participate in the meetings held for that purpose, pursuant to provision 27 of the *Methodology for Conducting On-Site Visits*. A list of invitees is included in the agenda of the on-site visit, which has been annexed to this report. This information is reflected in the appropriate sections of this report, wherever pertinent.

II. REVIEW, CONCLUSIONS, AND RECOMMENDATIONS ON THE STATE PARTY'S IMPLEMENTATION OF THE CONVENTION PROVISIONS SELECTED FOR THE FIRST AND FOURTH ROUNDS:

A) REVIEW OF THE IMPLEMENTATION OF THE CONVENTION PROVISIONS SELECTED FOR THE FIRST ROUND

1. Legal-institutional framework⁴

[10] Antigua and Barbuda is an independent and sovereign twin island state, which is a member of the Commonwealth of Nations, gaining its independence from Great Britain on November 1st, 1981.

[11] Antigua and Barbuda is also a member of the Organisation of Eastern Caribbean States (OECS) and the Caribbean Community and Common Market (CARICOM).

³ Document SG/MESICIC/doc.276/11 rev. 2, available at: http://www.oas.org/juridico/english/met_onsite.pdf

⁴ Antigua and Barbuda's Response to the Questionnaire within the framework of the Fourth Round, p. 1. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_que_resp_track.pdf

[12] The Constitution is the supreme law of Antigua and Barbuda, if any other law is inconsistent with the Constitution, the Constitution shall prevail, in so far as the inconsistency is concerned and the inconsistent part of the Act will be void.

[13] There are three branches of government, the Executive, the Legislature and the Judiciary and these three branches carry out their functions based on the principle of the separation of powers, which is rooted in the Constitution of Antigua and Barbuda.

[14] The executive authority of Antigua and Barbuda is vested in Her Majesty, which is in turn vested in the Governor General of Antigua and Barbuda who holds office during the pleasure of Her Majesty and who is Her Majesty's representative in Antigua and Barbuda. The Governor General exercises his functions on the advice of Cabinet or a Minister acting under the general authority of Cabinet except in cases where other provisions are made under the Constitution or any other law that requires the Governor General to act on his own discretion.

[15] One of the many functions of the Governor General is to appoint a Prime Minister of the country as the Head of Government. The Prime Minister must be a member of the House and is usually the leader of the political party that commands the support of the majority of the House. As part of the Prime Minister's functions he is to keep the Governor General fully and regularly informed concerning the conduct of government matters or where such a request is made by the Governor General.

[16] The Legislative branch of Parliament consists of Her Majesty, a Senate and the House of Representative. Fifteen Senators are appointed by the Governor General to sit in the Senate, ten are appointed on the advice of the Prime Minister, four are appointed on the advice of the Leader of the Opposition and one Senator is appointed on the advice of the Barbuda Council. A Senator vacates his seat on the dissolution of Parliament or otherwise, as stated in section 31(1) of the Constitution.

[17] The House of Representative is made up of a number of the elected members and includes the Speaker of the House who is a member of the house by virtue of holding that office. Also, if the Attorney General is not an elected member he will be a member of the House by holding or acting in that office but will not vote.

[18] Under Parliament's legislative functions, Parliament is empowered to make laws for the peace, order and good government of Antigua and Barbuda. An Act of Parliament is generally passed by a simple majority of both Houses unless it seeks to amend the Constitution or affect the constitutional rights of the citizens of Antigua and Barbuda, which in both cases must be passed by a two thirds majority and in the case of the rights of its citizens must be passed by way of a referendum with no less than two thirds of the voters cast on the referendum.

[19] The law of Antigua and Barbuda is founded in the British Common Law and the structure of the Judiciary is based on the principle of Stare Decisi. There are six (6) Magisterial Courts in three (3) Magisterial districts in Antigua and Barbuda which are inferior courts and are not courts of record. The Magisterial Courts exercise both criminal and civil jurisdiction as prescribe by statue: Magistrates Code of Procedure Cap 255 as amended.

[20] The Supreme Court of Justice consist of 3 High Courts of Justice and the Eastern Caribbean Court of Appeal which are superior courts of record. Appeals from the High Court and Magistrates' Courts lie with the Eastern Caribbean Court of Appeal in accordance with the Eastern Caribbean Supreme Court Act Cap 143).

[21] A single Puisne Judge sit in the High Court and hears either criminal or civil matters and three (3) Justices of Appeal sit in the Eastern Caribbean Supreme Court. Judges and Justices of Appeal are appointed by the Judicial and Legal Services Commission, which serves the islands of the Organization of Eastern Caribbean States (the OECS).

[22] The Final Court of Appeal is Her Majesty's Judicial Committee of the Privy Council, which is located in London, England.

[23] The Judiciary exercises its functions with no interference from the other branches of government in accordance with the principle of the Separation of Powers.

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

1.1. CONFLICTS OF INTEREST

1.1.1. Existence of provisions in the legal framework and/or other measures and enforcement mechanisms

[24] Antigua and Barbuda has a set of provisions regarding standards of conduct, among which the following should be noted:

[25] - Constitutional provisions, such as those found in Sections 30 and 39, which establish, respectively, the disqualifications from appointment as Senators or from election as a member of the House of Representatives. Among the disqualifications are the following: holding or acting in any public office or in the office of judge of the Supreme Court or Ombudsman, or being a member of the Constituencies Boundaries Commission, the Judicial and Legal Services Commission, the Public Service Commission or the Police Service Commission [Section 30(1)(g) and Section 39(1)(g)]; having, within the period of ten years immediately preceding the proposed date of his appointment as a Senator or election as a member of the House, been convicted on indictment by a court of competent jurisdiction of theft, fraud or other such crime involving dishonesty and who: i) has not appealed against that conviction; or ii) has appealed against that conviction and whose appeal has not been allowed; and iii) has not received a free pardon in respect of the offence [Section 30(1)(h) and Section 39(1)(h)]. Furthermore, Sections 30(1)(b) and 39(1)(b) provide, respectively, that a person shall not be qualified to be appointed as a Senator if he is a member of the House and a person shall not be qualified to be elected as a Representative if he is a Senator or temporary member of the Senate.

[26] - Statutory provisions that apply to persons in public life,⁵ such as those provided for in lettered paragraphs d, e, and f of the Code of Conduct set out in the Second Schedule of the Integrity In Public

⁵ Pursuant to Articles 2 and 3, the Integrity in Public Life Act applies to all persons in public life. Persons in public life are listed in the First Schedule of the Act and include the following: "1. Member of the Commission and the Secretary to the Commission; 2. Members of the House of Representatives; 3. Members of the Senate; 4. President of the Senate; 5. Speaker of the House of Representatives; 6. Parliamentary Secretaries; 7. Secretary to the Cabinet; 8. Members of the Barbuda Council; 9. Members of the Electoral Commission; 10. Financial Secretary and Deputy Financial Secretary; 11. Budget Director and Deputy Budget Director; 12. Permanent Secretaries and Principal Assistant Secretaries; 13. Heads and Deputy Heads of Diplomatic Missions; 14. Solicitor General; 15. Clerk to Parliament; 16. Chief Establishment Officer; 17. Accountant General and Deputy Accountant General; 18. Managers, Heads and Deputy Heads of Departments and Divisions; 19. Commander and Deputy Commander of the Defence Force; 20. Commissioner and Deputy Commissioner of the Police Force; 21. Police Officers of the rank of Inspector and above; 22. Chief Immigration Officer, Deputy Chief Immigration Officer and Senior Immigration Officers; 23. Superintendent of Prison and the Chief Officer; 24. All commissioned and warrant officers of the Antigua and Barbuda Defence Force; 25. Comptroller of Customs, Deputy Comptroller of Customs and Senior Customs Officers; 26. Commissioner of Inland Revenue, Deputy Commissioners, Senior Inland Revenue Officers and Auditors of Inland Revenue; 27. Legal Officers employed by the Government of Antigua and Barbuda; 28. Director of Public Prosecutions; 29. Magistrates; 30. Labour Commissioner

Life Act 2004⁶ which prohibits a person in public life, among others, from: 1) allowing private interests to conflict with his public duties or improperly influence his conduct in the performance of his public duties; 2) allowing the pursuit of his private interest to interfere with the proper discharge of his public duties; and any conflict between his private interests and his public duties shall be resolved in favor of his public duties; as well as 3) using his 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.

[27] Lettered paragraph i) of the Code of Conduct forbids someone, while he is a person in public life, from acquiring, or becoming a partner or shareholder in, or director or manager of a firm or company which has or had a contract with the Government or with the public body of which that person is or was a member or employee, during the tenure of his office; but this paragraph does not apply where the person to whom the Code applies makes a public disclosure of such partnership, shareholding or other interest.

[28] - Regulatory provisions, such as those contained in the Civil Service Regulations 1993,⁷ Paragraphs 42 to 54, which provides, *inter alia*, that private work and investments are not to conflict with civil service duties. Paragraph 42(1) establishes that no officer may work for a Public Board or Public Committee without prior approval of the Public Service Commission. If the Commission so approves, any fee paid for any work done by an officer performed during the duty hours of the civil service shall be paid into the Government Revenue [Paragraph 42(3)].

[29] Paragraph 43 of the Civil Service Regulations 1993 allows a public officer to carry out private work provided that: (a) the work is not carried on during hours of work; (b) the private work does not bring the officer or the Government into disrepute or hinder, conflict with or in any way affect his duties; and (c) the private work does not require the officer to use his official position to obtain a private benefit. In addition, paragraph 43(4) requires that every officer, on appointment and at any time after appointment, inform the Public Service Commission of any private work he carries out and if the Commission considers that such work is a contravention of the regulation, the Commission may direct the officer to discontinue the work; or impose such conditions on the officer as are necessary to ensure that the private work done by the officer is not in contravention of the regulations.

[30] Paragraph 44 of the Civil Service Regulations 1993 establishes that where the Public Service Commission finds that any private investment held by an officer would interfere or conflict in any way with his duties to the service, the Commission may direct that the officer divest himself of such investment.

[31] Antigua and Barbuda also has mechanisms to enforce the above-mentioned standards of conduct, among which the following should be noted:

[32] - The Prevention of Corruption Act 2004,⁸ which at Section 3(1)(e) and (f) establishes that a person commits an offence if he allows his private interest to conflict with his public duties or to improperly influence his conduct in the performance of his functions as a public official [Section 3(1)(e)]; or improperly uses for his benefit or that of a third party any classified or confidential information that he has obtained in his duties as a public official [Section 3(1)(f)].

and Deputy Labour Commissioner; 31. Chief Technical Officers of Ministries; 32. Members of the Public Service Commission; 33. Members of the Police Service Commission; 34. Member of the Public Service Board of Appeal; 35. Chairman, Deputy Chairman and Secretary of the Boards or governing bodies of statutory bodies; 36. Chief Executives and deputy chief executives, by whatever name known, of statutory bodies; 37. Heads and Deputy Heads of Divisions of statutory bodies; 38. Members of the Tenders Board; 39. Tax Compliance Officers; 40. Director of Audit and Deputy Director of Audit; 41. Members of the Tax Appeal Board; 42. Property Evaluation Officers; and 43. Senior Casino Inspectors.”

⁶ Available at: http://www.oas.org/juridico/PDFs/mesicic4_ant_int_pub_lif_act_04.pdf

⁷ Available at: http://www.oas.org/juridico/PDFs/mesicic4_ant_Civil_Service_Regulations_of_1993.pdf

⁸ Available at: http://www.oas.org/juridico/PDFs/mesicic4_ant_prev_corr_act.pdf

[33] Pursuant to Section 8(1) of the Prevention of Corruption Act, a person who commits the aforementioned offences is liable upon conviction on indictment to a fine not exceeding one hundred thousand Eastern Caribbean dollars⁹ and to imprisonment for a term not exceeding five years or, in addition to the penalty specified above, the court may do any or all of the following: (i) order the person convicted to pay the public body and in such manner as the Court directs, the amount or value of any property, benefit or advantage received by him; (ii) forfeit his right to claim any non-contributory gratuity or pension to which he would otherwise have been entitled; (iii) declare any right under any non-contributory pension scheme to which he is entitled to be forfeited; and (iv) declare him to be disqualified from holding any public office for a period not exceeding seven years from the date of conviction for the offence.

[34] – The Integrity In Public Life Act 2004, which at Section 21 provides that every person in public life shall observe the Code of Conduct specified in the Second Schedule of the Act and that a person in public life who is in breach of the Code of Conduct commits an offence and is liable on summary conviction, to a fine not exceeding fifty thousand Eastern Caribbean dollars¹⁰ or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

[35] In this regard, the Integrity Commission,¹¹ established by Section 4(1) of the Integrity in Public Life Act 2004 has, among other things, the power to receive complaints and to investigate breaches to the aforementioned Code of Conduct, as well as to conduct investigations of offences committed under the Prevention of Corruption Act 2004 [Sections 12(1)(b), (d) and (e), and 22, 23, 24 and 25 of the Integrity in Public Life Act 2004].

[36] – The Public Service Commission,¹² established under Section 99(1) of the Constitution, has among other things, the power to exercise disciplinary control over persons holding or acting in offices in the public service, as well as the power to remove such persons [Section 100(1) of the Constitution].

1.1.2. Adequacy of the legal framework and/or of other measures and enforcement mechanisms

[37] With respect to the constitutional, statutory and regulatory provisions addressing standards of conduct intended to prevent conflicts of interest and the mechanisms to enforce them examined by the Committee, based on the information available to it, they constitute, as a whole, a body of measures relevant to promoting the purposes of the Convention.

[38] Nonetheless, the Committee considers it appropriate to formulate certain observations regarding the advisability of developing, strengthening, and perfecting certain legal provisions that refer to the aforementioned standards and mechanisms.

[39] First, as mentioned in the previous section, the Code of Conduct, contained in the Integrity in Public Life Act 2004, forbids someone, while he is a person in public life, from acquiring, or becoming a partner or shareholder in, or director or manager of a firm or company which has or had a contract with the Government or with the public body of which that person is or was a member or employee, during the tenure of his office. However, this does not apply where the person to whom the Code applies makes a public disclosure of such partnership, shareholding or other interest.

⁹ 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

¹⁰ 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

¹¹ This oversight body will be discussed in further detail in Chapter II (B) of this report.

¹² This oversight body will be discussed in further detail in Chapter II (B) of this report.

[40] In this regard, there are no regulations or guidelines in place that specify what is considered a “public disclosure” – Would it be solely a disclosure to the Integrity Commission or to the public at large? In addition, the Committee believes that the public disclosure in itself would not be enough to avoid potential conflicts of interest in these situations and that there should be a register of disclosers and that the public disclosure form should expressly state the percentage of shares held.

[41] The Committee further believes that regulations would be helpful in providing the Integrity Commission with guidelines on how: to determine, in actual cases, whether a person in public life has a conflict of interest and, if so, to promptly take the necessary measures to protect the public interest and enforce the prescribed penalties, such as dissociation from the exercise of their functions, withdrawal from official involvement in the matter, relinquishment of the private interests in conflict, or nullity of any decisions adopted by a person in such a position.

[42] In light of the above, the Committee will formulate a recommendation (see recommendation “a” in section 1.1.4 of Chapter II (A) of this report).¹³

[43] Second, the Committee observes, for example, with the exception of the standards provided for the Constitution and in the Code of Conduct contained in the Integrity in Public Life Act 2004, there are no specific and more detailed standards to prevent conflicts of interest that apply to senior government officials.

[44] In this regard, considering that standards and mechanisms to prevent conflicts of interest are important for building citizen confidence and trust in the integrity of public institutions and in the public decision-making process, especially at its highest level, the Committee believes that it would be beneficial for Antigua and Barbuda to consider the possibility of establishing specific rules on conflicts of interest that are more stringent in the case of public servants working in certain areas of the Administration of the State, where a conflict of interest would be more damaging for the State and affect the citizenry’s perception of public integrity. The Committee will formulate a recommendation in this regard (see recommendation “b” in section 1.1.4 of Chapter II (A) of this report).

[45] Third, the Committee observes that there are no express standards to prevent conflicts of interest subsequent to one’s time in public service and applicable to all public servants in general,¹⁴ such as a rule prohibiting former public servants from involvement with entities with which they had recent association or in which they had performed any kind of intervention by virtue of their functions. The Committee will formulate a recommendation in this regard (see recommendation “c” in section 1.1.4 of Chapter II (A) of this report).¹⁵

[46] Fourth, the Committee also notes the absence of preventive mechanisms applicable to all public servants that would permit detection of conflicts of interest prior to the exercise of public functions and, as applicable, the adoption of appropriate corrective measures. The foregoing highlights the importance of creating or strengthening such mechanisms, in order to make it easier for the appropriate bodies, such as the Services Commissions, to perform their preventive function and ensure that no appointments are made in breach of the rules in force on ineligibility and incompatibility in public service. The Committee will

¹³ The country under review expressed its request for assistance from the OAS and from other States Parties to the MESICIC to comply with this recommendation.

¹⁴ Article 1 of the Inter-American Convention against Corruption provides that ““Public official”, “government official”, or “public servant” means any official or employee of the State or its agencies, including those who have been selected, appointed, or elected to perform activities or functions in the name of the State or in the service of the State, at any level of its hierarchy.”

¹⁵ The country under review expressed its request for assistance from the OAS and from other States Parties to the MESICIC to comply with this recommendation.

formulate a recommendation in that regard. (see recommendation “d” in section 1.1.4 of Chapter II (A) of this report).

[47] Fifth, the Committee observes that no provision is made for any mechanism suitable for promoting or providing advisory assistance and guidance on ethics, probity and transparency; as well as to disseminate existing code of conduct and answer questions from public servants about possible conflicts of interests and take steps to quickly remedy any situations detected that involve conflicts of interest, and it notes that this could be achieved, for instance, by implementing a system of excusals and recusals. The Committee will formulate a recommendation in this regard (see recommendation “e” in section 1.1.4 of Chapter II (A) of this report).¹⁶

[48] Finally, the Committee believes that it is important for programs to be routinely conducted to disseminate standards of conduct among all public servants and instruct them on those standards, including the rules on conflicts of interest, as well as training and refresher programs on those standards (see general recommendation “a” of Chapter II (A) of this report).

1.1.3. Results of the legal framework and/or of other measures and enforcement mechanisms

[49] Antigua and Barbuda states that results are not available.¹⁷ Considering the Committee does not have additional information that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms referred to above, it will formulate recommendations in this regard (see general recommendations “b” and “c” in Chapter II (A) of this report).

1.1.4. Conclusions and Recommendations

[50] Antigua and Barbuda has considered and adopted measures to establish, maintain and strengthen standards of conduct aimed at preventing conflicts of interest and mechanisms to enforce them, as described in section 1.1 of Chapter II (A) of this report.

[51] In light of the comments made in that section, the Committee suggests that Antigua and Barbuda consider the following recommendations:

- a) Regulate the Integrity in Public Life Act 2004 and the Prevention of Corruption Act 2004, in order to create and implement mechanisms and guidelines that make it possible to determine, in concrete cases, whether a person who performs public functions is in a situation of conflict of interests, and, at the same time, adopt measures necessary to protect public interests, such as dissociation from the exercise of their functions, withdrawal from official involvement in the matter, relinquishment of the private interests in conflict, or nullity of any decisions adopted by a person in such a position (see section 1.1.2 of Chapter II (A) of this report).
- b) Establish specific and more stringent rules on conflicts of interest in the case of public servants working in certain areas of government administration that would be more damaging to the State and affect, through their unethical behavior, the citizenry’s perception of the integrity of Antigua and Barbuda’s public officials (see section 1.1.2 of Chapter II (A) of this report).

¹⁶ In this regard, Antigua and Barbuda informed that an Anti-Corruption Office is presently being set up that will work along with the Integrity Commission in investigating, disseminating, implementing and sensitizing public servants and public officials in respect to conflicts of interest and to advise as to how to prevent potential conflicts of interest.

¹⁷ Antigua and Barbuda’s Response to the Questionnaire within the framework of the Fourth Round, p. 14.

- c) 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 (see section 1.1.2 of Chapter II (A) of this report).
- d) Create or strengthen mechanisms to ensure that no appointments are made in breach of the rules in force on ineligibility and incompatibility in public service (see section 1.1.2 of Chapter II (A) of this report).
- e) Design and implement mechanisms that allow the Integrity Commission or another appropriate body to promote instruction and guidance on ethics, as well as to disseminate the existing code of conduct, answer inquiries from public servants about possible cases of conflicts of interest (see section 1.1.2 of Chapter II (A) of this report).
- f) Establish a system of excusals and recusals in order to swiftly remedy any situations where a potential conflict of interest is detected (see section 1.1.2 of Chapter II (A) of this report).

1.2. STANDARDS OF CONDUCT AND MECHANISMS TO ENSURE THE PROPER CONSERVATION AND USE OF RESOURCES ENTRUSTED TO GOVERNMENT OFFICIALS

1.2.1. Existence of provisions in the legal framework and/or of other measures and enforcement mechanisms

[52] Antigua and Barbuda has a set of provisions concerning these standards, among which the following should be noted:

[53] – Constitutional provisions, such as those contained in Section 90, which provides that all revenues or other moneys raised or received by Antigua and Barbuda shall be paid into and form a Consolidated Fund. In that respect, Section 91 provides that no moneys shall be withdrawn from the Consolidated Fund except as authorized by a constitutional or legal provision, in accordance with an appropriation law or a law made in pursuance of section 93 of the Constitution. In addition, Section 92 provides that the Minister for the time being responsible for finance shall cause to be prepared and laid before the House of Representatives before, or not later than ninety days after, the commencement of each financial year, estimates of the revenues and expenditure of Antigua and Barbuda for that financial year and, once it has been approved by the House, a bill, known as an appropriation bill, shall be introduced in the House, providing for the issue from the Consolidated Fund of the sums to the purposes specified therein.

[54] – Statutory provisions, such as those found in Section 8(2) of the Finance Administration Act 2006, which states that an accounting officer¹⁸ is responsible in his role as a public officer and as a public officer accountable to the House, through the Public Accounts Committee for, among others, the control of, and accurate accounting for, public money, other than money for public purposes, received by the ministry, department or service for which he is accounting officer; and the control of, and accurate

¹⁸ Section 2(1) of the Finance Administration Act 2006 defines the term “accounting officer” as follows: “‘*accounting officer*’ means a public officer designated as such under section 8(1) and includes an acting accounting officer.”

accounting for the disbursement of public money, other than money for public purposes, received by the ministry, department or service for which he is accounting officer, in accordance with this Act and regulations and any other Act or regulations and the Treasury instructions.

[55] In addition, Section 8(5) of the Finance Administration Act 2006 provides that an accounting officer is accountable for discharging his responsibilities under this Act, the regulations and the Treasury instructions and any other Act or regulation in relation to financial administration with diligence and honesty and is subject to discipline under the applicable law for failing to do so.

[56] Section 10(1) of the Finance Administration Act 2006, also provides that “*a public officer, other than an accounting officer or a public officer referred to in section 9 of the Act, who in the discharge of his responsibilities as a public officer, comes into the possession or control of (a) public money that he knows or has reason to believe is intended to be paid to or received by the Government; or (b) stamps or securities that are Government property and that are intended to be placed on deposit with or entrusted to the Government, shall without delay deliver the money, stamps or securities into the possession of an accounting officer or delegate of an accounting officer concerned in or responsible for them or to the Accountant General.*”

[57] Pursuant to Section 10(2) a public officer or an accounting officer or delegate of an accounting officer referred to in subsection (1) is accountable for discharging his responsibilities under that subsection with diligence and honesty and is subject to discipline under the applicable law for failing to do so.

[58] – Statutory provisions, such as those stipulated in paragraph h) of the Code of Conduct set out in the Second Schedule of the Integrity In Public Life Act 2004 which prohibits a person in public life from using or allowing the use of public property (including money), equipment, supplies or services for any purpose other than for officially approved purposes.

[59] Antigua and Barbuda also has enforcement mechanisms for these standards, among which the following should be noted:

[60] – Section 97 of the Constitution, which provides for the existence of a Director of Audit¹⁹ who shall satisfy himself that all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes to which they were so appropriated and that the expenditure conforms to the authority that governs it. The Director also has the duty at least once in every year to audit and report on the accounts of all officers and authorities of the Government, the accounts of all courts of law in Antigua and Barbuda (including any accounts of the Supreme Court maintained in Antigua and Barbuda), the accounts of every Commission established by this Constitution and the accounts of the Clerk to the House and the Clerk to the Senate, and to submit reports on such audits to the Minister for the time being responsible for finance who shall, after receiving such report, lay it before the House not later than seven days after the House next meets.

[61] In addition, Section 98 of the Constitution provides for the appointment of a Public Accounts Committee, the duties of which include reporting to the House of Parliament in the case of any excess or unauthorized expenditure of public funds, the reason for such expenditure, and any measures it considers necessary in order to ensure that public funds are properly spent.

¹⁹ This oversight body will be discussed in further detail in Chapter II (B) of this report. See also the Office of the Director of Audit Act, 2014.

[62] – The Integrity In Public Life Act 2004, which under its Section 21 provides that every person in public life shall observe the Code of Conduct specified in the Second Schedule of the Act and that a person in public life who is in breach of the Code of Conduct commits an offence and is liable on summary conviction, to a fine not exceeding fifty thousand Eastern Caribbean dollars²⁰ or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

[63] In this regard, the Integrity Commission,²¹ established under Section 4(1) of the Integrity in Public Life Act 2004 has, among other things, the power to receive complaints and to investigate breaches to the aforementioned Code of Conduct.

1.2.2. Adequacy of the legal framework and/or of other measures and enforcement mechanisms.

[64] With respect to the constitutional and statutory provisions addressing standards and mechanisms to ensure the conservation and proper use of public resources examined by the Committee, based on the information available to it, they constitute, as a whole, a body of measures relevant for the promotion of the purposes of the Convention.

[65] That notwithstanding, the Committee deems it pertinent to reiterate the considerations mentioned in chapter II, letter “A”, section 1.1.2 of this report, regarding the advisability that the State under review give thought to designing and implementing awareness campaigns directed at all public servants on the existence, nature, and scope, in this particular case, of the provisions contained in the above-mentioned Code of Conduct, with regard to their obligation to ensure the conservation and proper use of public resources entrusted to them in the performance of their functions (see general recommendation “a” of Chapter II (A) of this report).

1.2.3. Results of the legal framework and/or of other measures and enforcement mechanisms

[66] Antigua and Barbuda states that results are not available.²² Considering the Committee does not have additional information that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms referred to above, it will formulate recommendations in this regard (see general recommendations “b” and “c” in Chapter II (A) of this report).

1.2.4. Conclusions and Recommendations

[67] **Antigua and Barbuda has considered and adopted measures intended to establish, maintain, and strengthen standards of conduct to ensure the conservation and proper use of resources entrusted to public officials in the performance of their functions, as described in section 1.2 of Chapter II (A) of this report.**

[68] The foregoing notwithstanding, and bearing in mind that the Office of the Director of Audit’s legal framework and results obtained will be reviewed in a comprehensive manner in Chapter II (B) of this report, the Committee will formulate relevant observations and specific recommendations regarding that Office in the corresponding section.

1.3. STANDARDS OF CONDUCT AND MECHANISMS CONCERNING MEASURES AND SYSTEMS REQUIRING GOVERNMENT OFFICIALS TO REPORT TO

²⁰ 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

²¹ This oversight body will be discussed in further detail in Chapter II (B) of this report.

²² Antigua and Barbuda’s Response to the Questionnaire within the framework of the Fourth Round, p. 17.

APPROPRIATE AUTHORITIES ACTS OF CORRUPTION IN THE PERFORMANCE OF PUBLIC FUNCTIONS OF WHICH THEY ARE AWARE

1.3.1. Existence of provisions in the legal framework and/or of other measures and enforcement mechanisms

[69] Antigua and Barbuda has a set of provisions regarding the aforementioned standards of conduct and mechanisms, among which the following should be noted:

[70] – The Integrity In Public Life Act 2004, which at Section 22(1) provides that a person who has reasonable grounds to believe that any person in public life is in breach of any provision of the Code of Conduct may make a complaint in writing to the Commission and shall state in the complaint the particulars of the breach including (a) the period within which the breach was committed; and (b) the names and addresses of persons involved in the commission of the breach.

[71] In this regard, Section 22(2) of the Integrity in Public Life Act 2004 requires that the person making a complaint under subsection (1) produce to the Commission (a) evidence to support the complaint including documentary evidence and sworn statements; and (b) such other particulars as may be prescribed by Regulations.

[72] In addition, pursuant to Section 22(3) of the Integrity in Public Life Act 2004, a person who makes a complaint under this section shall not be liable in civil or criminal proceedings provided he proves that the complaint was made in good faith.

[73] – The Freedom of Information Act 2004, which at Section 47(1) provides that a person may disclose information to the Information Commissioner or to any other authority on the wrong-doing by a public authority concerning, among others: “(...) *b) the commission of a criminal offence; c) failure to comply with a legal obligation; d) a miscarriage of justice; e) corruption, dishonesty or serious maladministration; f) abuse of authority or neglect in the performance of official duty; (...) h) unauthorised use of public funds; and that person shall not be liable in any legal proceedings or to any sanction relating to his employment if the information was disclosed in good faith and in the reasonable belief that it was true.*”

[74] In addition, Section 47(2) of the Freedom of Information Act 2004 provides that a person who, pursuant to subsection (1), discloses information maliciously or without reasonable belief of the truthfulness of that information, commits an offence and is liable on summary conviction to a fine not exceeding five thousand Eastern Caribbean dollars²³ or to imprisonment for a term not exceeding two years or both.

1.3.2. Adequacy of the legal framework and/or of other measures and enforcement mechanisms

[75] The norms regarding standards of conduct and mechanisms in relation to the measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions that the Committee has examined, based on the information available to it, are relevant for promoting the purposes of the Convention.

[76] Nonetheless, the Committee considers it appropriate to formulate certain observations regarding the advisability of complementing and developing certain legal provisions that refer to the

²³ 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

forementioned standards and mechanisms.

[77] First, the Committee observes that there is no express obligation requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware. The Committee will formulate a recommendation in this regard (see recommendation “a” in section 1.3.4 of Chapter II (A) of this report).

[78] Second, and with a view to making the rules regarding said obligation more effective, the Committee considers that they might be strengthened by adopting measures to facilitate compliance through the use of forms and computer and communications technologies, which will serve to encourage public employees to file such complaints, as well as measures that offer guarantees for whistle-blowers against any threats, retaliations, or reprisals to which they may be exposed as a result of doing their duty in this respect. The Committee will make recommendations in this regard (see recommendations “b” and “c” in section 1.3.4 of Chapter II (A) of this report)..

[79] Finally, the Committee deems it appropriate to reiterate the considerations mentioned in Chapter II. A. 1.1.2 and 1.2.2 of this report, regarding the advisability of the State under review considering designing and implementing awareness campaigns and training directed at all public servants on the existence, nature, and scope, in this particular case, of the provisions contained in the Law on Integrity in Public Office of 2004 and the Freedom of Information Law of 2004, regarding the mechanisms in place that public servants can use to report any acts of corruption they are aware of to the competent authorities (see general recommendation “a” of Chapter II (A) of this report).

1.3.3. Results of the legal framework and/or of other measures and enforcement mechanisms

[80] Antigua and Barbuda states that results are not available.²⁴ Considering the Committee does not have additional information that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms referred to above, it will formulate recommendations in this regard (see general recommendations “b” and “c” in Chapter II (A) of this report).

1.3.4. Conclusions and Recommendations

[81] **Antigua and Barbuda has considered and adopted measures to establish, maintain and strengthen standards of conduct and mechanisms concerning measures and systems requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware, as described in section 1.3 of Chapter II (A) of this report.**

[82] In light of the comments made in that section, the Committee suggests that Antigua and Barbuda consider the following recommendations:

- a) Establish an express obligation requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware (see section 1.3.2 of Chapter II (A) of this report).
- b) Adopt any measures needed to facilitate compliance with the reporting obligation through the use of forms and computer and communications technologies, which will serve to encourage public employees to file complaints and simplify the presentation thereof (see section 1.3.2 of Chapter II (A) of this report).

²⁴ Antigua and Barbuda’s Response to the Questionnaire within the framework of the Fourth Round, p. 19.

- c) Adopt the measures needed to afford guarantees to civil servants who report acts of corruption against any threats, retaliations, or reprisals to which they may be exposed as a result of doing their duty in this respect (see section 1.3.2 of Chapter II (A) of this report).

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

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

[83] Antigua and Barbuda has a set of provisions concerning these systems, among which the following should be noted:

[84] - Statutory provisions that apply to persons in public life,²⁵ such as those stipulated in Section 16(1) of the Integrity in Public Life Act 2004, which requires every person in public life to file a declaration in Form in the Third Schedule with the Integrity Commission setting out (a) his income, assets and liabilities;²⁶ (b) his public and private offices; (c) the assets of his children above eighteen years old and of any relative which were acquired partly or wholly with his income; (d) the assets of his or her spouse and of their children below eighteen years old; (e) any gifts received in the course of the performance of his public functions; and such other information required to be set out in Form 2 in the Third Schedule of the Integrity in Public Life Act 2004.

[85] The Integrity in Public Life Act 2004, Section 16(2) charges the Integrity Commission with the task of examining every declaration filed to ensure that it complies with the Act. If the Integrity Commission upon examination of a filed declaration is of the opinion that it is necessary or expedient to request further information in order to determine its accuracy, the Commission may request the person in public life to furnish any other documents or information as may be required within a specified period.²⁷ If following the examination of a declaration, the Integrity Commission is satisfied with the information presented; it shall issue a certificate in Form 3 in the Third Schedule of the Act.²⁸

[86] Pursuant to Section 17(1) and (2) of the Integrity in Public Life Act 2004, persons in public life are required to file their declaration within three months from the date of commencement and, thereafter, on or before the 31st March of each year. In addition, after he or she ceases to be a person in public life, Section 17(3) of the Act requires that he or she furnish a declaration at the end of six months from the date on which he or she so ceases his/her functions.

[87] Section 18 of the Integrity in Public Life Act 2004 regulates the requirements for the disclosure of trust property and blind trusts in the declarations. Section 18(1) provides that where a person in public life holds property in trust for another person he shall so state in his declaration but shall not be required to disclose the terms of the trust. On the other hand, Section 18(2) requires a person in public life who has assets in a blind trust to file a copy of the trust deed with the Integrity Commission.

[88] Declarations that are filed are secret and confidential and are not made public unless by order of the court with respect to court proceedings under the Integrity In Public Life Act, the Prevention of Corruption Act or the Perjury Act.²⁹

²⁵ See Footnote #5 above.

²⁶ Pursuant to Section 19 of the Integrity in Public Life Act 2004, the income, assets and liabilities of a person in public life include the income, assets and liabilities acquired, held or incurred by any other person as his agent or on his behalf.

²⁷ Section 16(3) of the Integrity in Public Life Act 2004.

²⁸ Section 16(4) of the Integrity in Public Life Act 2004.

²⁹ Section 14 of the Integrity in Public Life Act 2004.

[89] The Director of Public Prosecutions can apply *ex parte* to a judge in chambers to make an order directing the Chairman of the Integrity Commission to release documents for the Director of Public Prosecution's examination where he has reasonable ground to believe that an offence has been committed under the Prevention of Corruption Act, 2004.³⁰

[90] The Integrity in Public Life Act 2004 establishes sanctions for those who fail to comply with its provisions on declarations of income, assets and liabilities. Pursuant to Section 20 (3) of the Act, a person who fails to file a declaration to the Integrity Commission, without reasonable cause, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand Eastern Caribbean dollars³¹ or to a term of imprisonment not exceeding twelve months.

[91] In addition, Section 20 (1) provides that where a person who is required to file a declaration fails to do so, the Integrity Commission shall publish that fact in the Gazette and send a report, for appropriate action (a) in the case of the President of the Senate and of the Speaker of the House of Representatives, to the Governor-General; (b) in the case of a Senator, to the President of the Senate; (c) in the case of a Member of the House of Representatives, to the Speaker of the House of Representatives; (d) in the case of a person appointed by a Service Commission, to the relevant Service Commission; or (e) in the case of a person appointed holding office in a statutory body, to the person or authority having power to make an appointment to that office.

[92] Finally, Section 32(1) of the Integrity in Public Life Act 2004, provides that a person who (a) fails without reasonable cause to furnish to the Integrity Commission a declaration or further particulars thereof which he is required to furnish in accordance with the Act; or (b) knowingly makes a declaration which is false in some material particular; commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand Eastern Caribbean dollars³² or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

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

[93] The norms regarding the systems for registering income, assets and liabilities that the Committee has examined, based on the information available to it, are relevant for promoting the purposes of the Convention.

[94] Nonetheless, the Committee considers it appropriate to formulate certain observations regarding the advisability of complementing and developing certain legal provisions that refer to the aforementioned standards and mechanisms.

[95] First, the Committee finds that Section 14 and 15 of the Integrity in Public Life Act 2004 provide that the declaration of income, assets and liabilities are secret and confidential and prohibit their unauthorized disclosure.

[96] Inasmuch as the Convention makes express reference to the systems for making such declarations public, "where appropriate", the Committee believes that Antigua and Barbuda should, in keeping with the fundamental principles of its legal system, consider amending the Integrity in Public Life Act 2004, with a view to regulating the conditions, procedures and other relevant aspects with regard to disclosure of those declarations. The Committee will formulate a recommendation in this regard (see recommendation "a" in section 2.4 of this report).

³⁰ Section 14 of the Integrity in Public Life Act 2004.

³¹ 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

³² 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

[97] Second, during the on-site visit, the representatives of the Integrity Commission informed that the declarations of income, assets and liabilities are submitted in printed form. In order to facilitate the submission as well as the work of the Integrity Commission in reviewing the contents of these declarations, the Committee believes that Antigua and Barbuda should consider making electronic means available for completing the declaration as well as for submitting it to the Integrity Commission. The Committee will formulate a recommendation in this regard (see recommendation “b” in section 2.4 of this report).

[98] Third, there is no explicit provision in the Integrity in Public Life Act 2004 requiring the respective bodies and entities to provide the Integrity Commission with an updated list of those considered “Persons in Public Life” according to the First Schedule of the aforementioned Act. In addition, Antigua and Barbuda could consider establishing penalties should for those who fail to comply or are late in providing such a list when so requested by the Integrity Commission. The Committee will formulate a recommendation in this regard (see recommendations “c” and “d” in section 2.4 of Chapter II (A) of this report).

[99] Fourth, the Committee notes that it is only a criminal offence for a person who fails to comply with the obligation to file their asset declaration or who files such declaration with information that is false in some material particular. The Committee believes it is important for Antigua and Barbuda to consider imposing administrative sanctions on those who fail to comply with the obligation to declare their income, assets and liabilities; or those who report incomplete, inaccurate or false information; as well as on those who fail to provide the Integrity Commission with further information within a specified period, when so requested; these might include the withholding of salary and, for those who have left public service, fines and the disqualification from any public office so long as the final asset declaration has not been filed (see recommendation “e” of section 2.4 of Chapter II (A) of this report).

[100] Fifth, as provided for in the “OAS Model Law on the Declaration of Interest, Income, Assets and Liabilities of Persons Performing Public Functions”,³³ the Committee believes it is important for Antigua and Barbuda to consider determining, on an annual basis, the criteria for selecting, from the universe of obligated persons, the declarations of income, assets and liabilities that will be subject to verification and review for the purposes set out in the Integrity in Public Life Act 2004. The Committee further believes those criteria should be objective and guided by the standards of impartiality, and any changes must be explained in the annual report stipulated in Section 29(1) of the Integrity in Public Life Act 2004 (see recommendation “f” of section 2.4 of Chapter II (A) of this report).

[101] The Committee also feels that Antigua and Barbuda could consider requiring even more information from the declarant to cover some additional matters that could prove useful in preventing conflicts of interests, such as those provided for in the “OAS Model Law on the Declaration of Interest, Income, Assets and Liabilities of Persons Performing Public Functions.” These include the declarant’s membership on boards of directors, administrative and supervisory boards, advisory boards, or any collegiate board, whether the position on the board is remunerated or honorary; and identification of any public posts or positions held by the declarant in the two years immediately preceding the declaration, whether paid or honorary, and as director, employee, consultant or representative of any commercial or nonprofit undertaking, specifying the organization that hired the official (see recommendation “g” in section 2.4 of Chapter II (A) of this report).

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

³³ Available at: http://www.oas.org/juridico/english/law_declaration.htm

[102] Through information provided during the on-site visit, the following was compiled regarding results in this area:

[103] During the on-site visit the representatives of the Integrity Commission reported that the Commission lacks the human resources (auditors/investigators) needed to assist the Commission in properly verifying the accuracy of the declarations filed under the Integrity in Public Life Act 2004.

[104] They also explained that between 350 and 400 persons in public life are required to present declarations of income, assets and liabilities. The representatives further reported that the compliance rate was slightly over 50% and that the Integrity Commission had found no discrepancies in the declarations submitted so far. However, the Committee did not receive detailed information on these results.

[105] The representatives of the Integrity Commission also reported that because of lack of resources they have not published the names of those persons who have failed to file a declaration in the Gazette, as required by Section 20(1) of the Integrity in Public Life Act 2004. In addition, the Integrity Commission informed that no training is provided to the persons in public life on how to file their declarations correctly.

[106] Based on the above information, the Committee believes that, first, without the human resources and technical expertise to assist the Integrity Commission members, it is very difficult for the Commission to conduct a proper and thorough review of the declarations of income, assets and liabilities, which may explain why the Integrity Commission has found no discrepancies in the declarations submitted to it since its establishment. The Committee will formulate a recommendation in this regard (see recommendation “h” in section 2.4 of Chapter II (A) of this report).

[107] Second, the Committee believes the country under review should consider carrying out sensitization campaigns and training programs to the persons in public life that are required to present their declarations pursuant to the Integrity in Public Life Act 2004. The Committee will formulate a recommendation in this regard (see recommendation “i” in section 2.4 of Chapter II (A) of this report).

[108] On the another hand, the Committee believes the country under review should consider enforcing the existing rules contained in the Integrity in Public Life Act 2004 with respect to those who fail to comply with their obligation to file an asset declaration within the prescribed time period or who file late and/or report incomplete, inaccurate or false information, by publishing their names in the Gazette and taking the necessary measures to effectively and swiftly enforce the existing criminal and/or administrative penalties. The Committee will formulate recommendations in this regard (see recommendations “j” and “k” in section 2.4 of Chapter II (A) of this report).

[109] Finally, apart from what has been reported above, the Committee has no other information that has been processed in such a way as to enable a comprehensive evaluation of the results of the standards and mechanisms on this subject. The Committee will formulate a recommendation in this regard (see recommendation “l” in section 2.4 of Chapter II (A) of this report).

2.4. Conclusions and Recommendations

[110] **Antigua and Barbuda has considered and adopted measures intended to establish, maintain and strengthen systems for registering income, assets and liabilities of persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public, as described in section 2 of Chapter II (A) of this report.**

[111] In light of the comments made in that section, the Committee suggests that Antigua and Barbuda consider the following recommendations:

- a) Consider amending the Integrity in Public Life Act 2004, with a view to regulating the conditions, procedures and other relevant aspects with regard to the disclosure of declarations of asset, income and liabilities, in accordance with the fundamental principles of the legal system of Antigua and Barbuda (see section 2.2 of Chapter II (A) of this report).
- b) Make electronic means available for completing the declaration of income, assets and liabilities, as well as for submitting it to the Integrity Commission (see section 2.2 of Chapter II (A) of this report).
- c) Consider making it mandatory for the various State institutions, agencies, entities and statutory bodies to provide a list of those required to file declarations of income, assets and liabilities when the Integrity Commission so requests, or at least annually, pursuant to the First Schedule of the Integrity in Public Life Act 2004 (see section 2.2 of Chapter II (A) of this report).
- d) Consider establishing appropriate penalties to State institutions, agencies, entities and statutory bodies, in the event of noncompliance or late compliance in providing a list of those required to file declarations of income, assets and liabilities to the Integrity Commission (see section 2.2 of Chapter II (A) of this report).
- e) Consider establishing administrative sanctions for those who fail to comply with the obligation to file a declaration of income, assets and liabilities; or those who report incomplete, inaccurate or false information; as well as for those who fail to provide the Integrity Commission with further information within a specified period, when so requested; these sanctions might include the withholding of salary and, for those who have left public service, fines and the disqualification from any public office until such time as the final asset declaration has been filed (see section 2.2 of Chapter II (A) of this report).
- f) Determine objective and impartial criteria for selecting, annually, from the universe of obligated persons, the declarations of income, assets and liabilities that will be subject to verification and review for the purposes set out in the Integrity in Public Life Act 2004; as well as explain any changes to the criteria in the annual report stipulated in Section 29(1) of the Integrity in Public Life Act 2004 (see recommendation “e” of section 2.4 of Chapter II (A) of this report).
- g) Consider expanding the information requested from the declarants to include additional matters that might prove useful in preventing conflicts of interest, such as the declarant’s membership on boards of directors, administrative and supervisory boards, advisory boards, or any collegiate board, whether the position be remunerated or honorary; and identification of any public posts or positions held by the declarant in the two years immediately preceding the declaration, whether paid or honorary, and as director, employee, consultant or representative of any commercial or nonprofit undertaking, specifying the organization the hired the official (see section 2.2 of Chapter II (A) of this report).

- h) Provide the Integrity Commission with auditors/investigators, who can assist the Commission in properly verifying the accuracy of the declarations of income, assets and liabilities filed under the Integrity in Public Life Act 2004 (see section 2.3 of Chapter II (A) of this report).
- i) Consider carrying out sensitization campaigns and training programs to the persons in public life that are required to present their declarations pursuant to the Integrity in Public Life Act 2004 (see section 2.3 of Chapter II (A) of this report).
- j) Publish in the Gazette the names of those persons who, although required by the Integrity in Public Life Act 2004, have failed to file a declaration of income, assets and liabilities (see section 2.3 of Chapter II (A) of this report).
- k) Take the measures necessary to effectively and swiftly enforce the existing criminal and/or administrative penalties with respect to those who fail to comply with their obligation to file an asset declaration within the prescribed time period or who file late and/or report incomplete, inaccurate or false information (see section 2.3 of Chapter II (A) of this report).
- l) Maintain and publish results that reflect the work done by the Integrity Commission to check the accuracy of the declarations of income, assets and liabilities, as well as information about the enforcement of the penalties provided for in the Integrity in Public Life Act 2004, with a view to identifying challenges and recommending corrective measures (see section 2.3 of Chapter II (A) of this report).

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

3.1. GENERAL PARTICIPATION MECHANISMS

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

[112] Antigua and Barbuda has a set of constitutional provisions in place that enshrine individual principles, rights and guarantees that permit, facilitate and protect participation by civil society and nongovernmental organizations in efforts aimed to combat corruption, such as the right to life, liberty, security of the person and the protection of the law,³⁴ as well as freedom of conscience, of expression (including freedom of the press) and of peaceful assembly and association.³⁵ It should be mentioned that Sections 12 and 13 of the Constitution expressly protect freedom of expression (including the freedom of the press) and freedom of assembly and association, respectively.

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

[113] Based on the information available to it, the Committee observes that Antigua and Barbuda's Constitution contains provisions that protect and promote the fundamental freedoms and rights of persons, which is an important foundation that enables civil society and nongovernmental organizations to operate freely and independently, thereby helping to prevent corruption.

³⁴ Section 3(a) of the Constitution.

³⁵ Section 3(b) of the Constitution.

[114] Although, in its response to the questionnaire,³⁶ Antigua and Barbuda states that there is no legal framework in place to encourage civil society and nongovernmental organizations to participate in efforts to prevent corruption, it also highlights the existence of the Integrity in Public Life Act 2004 and the Freedom of Information Act 2004.

[115] Nevertheless, and bearing in mind the categories to which the method for examining Convention Article III, paragraph 11 refers,³⁷ in each of the corresponding sections the Committee will make certain observations and will formulate a number of specific recommendations on the subject.

3.1.3. Results of the legal framework and/or of other measures

[116] Because the country under review did not provide any information on the results in this area, a comprehensive evaluation cannot be carried out.

3.2. MECHANISMS FOR ACCESS TO INFORMATION

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

[117] Antigua and Barbuda has a set of provisions regarding the mechanisms referred to, among which the following should be noted:

[118] – The Freedom of Information Act 2004, Section 6(1), provides that within the broad objectives of section 12 of the Constitution,³⁸ every person has the right, and is free, to receive and to disseminate information and ideas without interference. The paramount purpose of the Freedom of Information Act is to give maximum effect to the right to information held by public authorities³⁹ (subject only to such exceptions as are reasonably justifiable in a democratic society or specifically prescribed by law)⁴⁰ and to enhance good governance through knowledge, transparency and accountability.

[119] Section 10(1) of the Freedom of Information Act 2004 requires every public authority to publish and disseminate, in an accessible form and updated annually, basic information, such as an accurate and sufficiently detailed description of its structure, functions, duties and finances; relevant details concerning any services it provides directly to members of the public; and, any direct request or complaints mechanism.⁴¹

³⁶ Antigua and Barbuda's response to the questionnaire within the framework of the Fourth Round, p. 24.

³⁷ Methodology for review of the implementation of the provisions of the Convention selected within the framework of the first round, Chapter V, D, (SG/MESICIC/doc.21/02).

³⁸ Section 12 of the Constitution guarantees the Right to freedom of expression, including the freedom of the press.

³⁹ The definition of Public Authority is provided in Section 3 of the Act. It includes: "(a) the Government; (b) a Ministry of the Government and a department, division or unit, by whatever name known, of a Ministry; (c) the Barbuda Council established under section 123 of the Constitution and the Barbuda Local Government Act; (d) a body- i. established by or under the Constitution or any other law; ii. owned, controlled or substantially financed by the Government from public funds; iii. carrying out a function conferred by law or by executive action, or a public function conferred by the Government, only to the extent of that function; and (e) such other body carrying out a public function as the Minister may, by Order published in the Gazette, designate".

⁴⁰ Section 7 expressly excludes from the scope of the Act, the following: "(a) a commission of inquiry or the proceedings and findings of such a Commission, established pursuant to the Commissions of Inquiry Act; (b) such public authority or function of a public authority as the Minister may, by Order subject to negative resolution of the House of Representatives, determine; (c) a court, or the holder of a judicial office or other office pertaining to a court in its capacity or his capacity as such; or (d) a registry or other office of a court and the staff of such a registry or other office in their capacity as members of that staff in relation to matters pertaining to the administration of the court."

⁴¹ For the full list of requirements, please see the Freedom of Information Act, Section 10(1)(a) to (h).

[120] Section 15(1) of the Freedom of Information Act 2004 establishes the general right of every person to obtain, on request, access to information. To request such access, a person must make an application in writing addressed to a senior official or the information officer of a public authority or private body.⁴² The request must be sufficiently detailed to facilitate a determination, with reasonable effort, whether or not the authority holds a record containing that information.⁴³ The reason for a request of access to information is irrelevant,⁴⁴ but applicants may be required to pay a reasonable fee, which shall not exceed the cost of searching for, preparing and communicating the information.⁴⁵ Payment of a fee is not required for personal information and requests in the public interest.⁴⁶

[121] Furthermore, Section 18(1) stipulates that an official of a public authority must respond within 20 working days of the receipt of the request if the request has been approved and the applicant has paid the corresponding fees.⁴⁷ This period can be extended by a maximum of 40 days, by notice in writing within the initial 20 days, if the request is for a large number of records or requires a search through a large number of records and where compliance within twenty working days would unreasonably interfere with the operations of the public authority.⁴⁸

[122] Section 19(1) of the Freedom of Information Act establishes that a response to a request for access of information must be made in writing and state the following: “(a) *the applicable fee, if any, pursuant to Section 20, in relation to any part of the request which is granted, and the form in which the information will be communicated; (b) adequate reasons for the refusal in relation to any part of the request which is not granted subject only to Part IV; (c) in relation to any refusal to indicate whether or not the public body holds a record containing the relevant information, the fact of such refusal and adequate reasons for it; and (d) the right of appeal to the Commissioner or to a judicial review available to the applicant.*”

[123] Part IV (Sections 24 to 34) of the Freedom of Information Act 2004, expressly recognizes exceptions to the general right of access to information. These include, among others, the disclosure of personal information about a third party who is a natural person;⁴⁹ information privileged from production in legal proceedings;⁵⁰ commercial and confidential information;⁵¹ information that would likely endanger: the life, health or safety of any person;⁵² law enforcement operations;⁵³ defense and national security;⁵⁴ public economic interests;⁵⁵ and policy making and operations of public authorities.⁵⁶

[124] With regard to mechanisms responsible for the implementation and monitoring of the Freedom of Information Act 2004, the following should be noted:

⁴² The Freedom of Information Act, Section 17(1).

⁴³ *Ibid.*, Section 17(1).

⁴⁴ *Ibid.*, Section 17(4).

⁴⁵ *Ibid.*, Section 20(1).

⁴⁶ *Ibid.*, Section 20(2).

⁴⁷ However, Section 18(2) of the Freedom of Information Act provides that if a request for information relates to information which reasonably appears to be necessary to safeguard the life or liberty of a person, the official must provide a response within 48 hours.

⁴⁸ *Ibid.*, Section 18(3).

⁴⁹ *Ibid.*, Section 26.

⁵⁰ *Ibid.*, Section 27.

⁵¹ *Ibid.*, Section 28.

⁵² *Ibid.*, Section 29.

⁵³ *Ibid.*, Section 30.

⁵⁴ *Ibid.*, Section 31.

⁵⁵ *Ibid.*, Section 32.

⁵⁶ *Ibid.*, Section 33.

[125] Section 9(1) of the Act provides that every public authority must designate one of its officers as an information officer and ensure that members of the public have easy access to said officer. Pursuant to Section 9(2), the information officers are responsible for serving as a central contact within the public authority for receiving requests for information, for assisting persons seeking to obtain information and for receiving complaints regarding the performance of the public authority relating to the provision of information pursuant to the Act. They are also responsible for promoting, within the public authority, the best possible practices in relation to record maintenance, archiving and disposal.

[126] Section 35(1) of the Act provides for the appointment of an independent⁵⁷ Information Commissioner to, inter alia, monitor and report on compliance by public authorities with their obligations and to refer to the appropriate authorities cases which reasonably disclose evidence of criminal offences.⁵⁸

[127] Pursuant to Section 41 of the Act, a person who has made a request for information may apply in writing to the Commissioner for a decision that a public authority has failed to comply with an obligation under Part III of the Act, including (a) refusing to indicate whether or not it holds a record, or to communicate information, contrary to Section 16; (b) failing to respond to a request for information within the time limits established in Section 18; (c) failing to provide a notice in writing of its response to a request for information, in accordance with Section 19; (d) failing to communicate information forthwith, contrary to Section 19(3); (e) charging an excessive fee, contrary to Section 20; or failing to communicate information in the form requested, contrary to Section 21.

[128] The Information Commissioner has 30 days to decide on an application made pursuant to Section 41, after giving both the complainant and the relevant public authority or private body an opportunity to provide their views in writing.⁵⁹ In this regard, the Commissioner may dismiss the application or require the public authority or private body to take such steps as may be necessary to bring it into compliance with its obligations pursuant to the Act.⁶⁰ In any case, a copy of the decision must be provided to the complainant and the public authority together with information regarding the right of the parties to a review of the Commissioner's decision.⁶¹ In this regard, the complainant, or the relevant public authority may, within 28 days, apply to the High Court for a review of a decision of the Information Commissioner.⁶² The burden of proof is on the public body to show it acted in accordance with its obligations under Part III of the Act.⁶³

[129] Sections 43 and 44 provide the Information Commissioner, respectively, with the power to directly implement his/her decision and to investigate any breach of the obligations contained in the Act.

[130] Finally, Section 48 of the Act provides that a person who contravenes any of the provisions of subsection (1)⁶⁴ commits an offence and is liable on summary conviction to a fine not exceeding five thousand Eastern Caribbean dollars⁶⁵ or to imprisonment for a period not exceeding two years or to both.

⁵⁷ *Ibid.*, Section 38.

⁵⁸ *Ibid.*, Section 37.

⁵⁹ *Ibid.*, Section 42(1).

⁶⁰ *Ibid.*, Section 42(4)(a) and (b).

⁶¹ *Ibid.*, Section 42(5).

⁶² *Ibid.*, Section 45(1).

⁶³ *Ibid.*, Section 45(2).

⁶⁴ These include: (a) obstructing access to any record contrary to Part III of the Freedom of Information Act 2004; (b) obstructing the performance by a public authority of a duty pursuant to Part III of the Act; (c) interfering with the work of the Commissioner; (d) Destroying, mutilating, removing or in any way altering a record with intent to prevent the disclosure of information contained therein; or (e) failing to comply with a decision or an order of the Commissioner made pursuant to section 42 or 43 of the Act.

⁶⁵ 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

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

[131] The laws regarding the mechanisms for access to information that the Committee has analyzed, based on light of the information available to it, are relevant for promoting the purposes of the Convention.

[132] Nonetheless, the Committee considers it appropriate to formulate certain observations regarding the advisability of complementing and developing certain legal provisions that refer to the aforementioned laws and mechanisms.

[133] First, the Committee is concerned with the provision found in Section 7(b), which allows for the Minister responsible for public information, subject to negative resolution of the House of Representatives, to exclude any public authority or function of a public authority from the application of the Freedom of Information Act 2004. Unlike the exemption of documents, the Committee believes that exempting government bodies could undermine the mechanism by completely removing the possibility of review or appeal of a decision to deny access to information. The Committee believes it would be appropriate for Antigua and Barbuda to consider revising this provision. The Committee will formulate a recommendation in this regard (see recommendation “a” in section 3.2.4 of Chapter II (A) of this report).

[134] Second, the Committee believes that Antigua and Barbuda should consider issuing regulations to further clarify the exceptions to the general right of access to public information contained in Part IV of the Freedom of Information Act 2004, without widening these exceptions. For instance, Section 31 of the Act provides for an exception to the right of access to public information if such access would, or would be likely to, cause serious prejudice to the defense or national security of Antigua and Barbuda. However, there is no further definition of what the terms “defense” and “national security” consist of. The Committee believes that without clear guidelines, many requests could be denied based on a broad interpretation of these and other terms. In this regard, the Committee will formulate a recommendation (see recommendation “b” in section 3.2.4 of Chapter II (A) of this report).

[135] Third, during the on-site visit the Information Commissioner informed that, despite his efforts, only approximately 25% of public authorities have appointed their respective information officers as required by Section 9 of the Freedom of Information Act 2004. The Committee believes that the fact that approximately 75% of the public authorities do not have information officers undermines the implementation of the Act. Pursuant to the Freedom of Information Act 2004, not only do these officers serve as the central contact for receiving requests for information, they are also responsible for promoting, within the public authority, the best possible practices in relation to record maintenance, archiving and disposal. The Committee will formulate a recommendation in this regard (see recommendation “c” in section 3.2.4 of Chapter II (A) of this report).

[136] Fourth, besides the problem identified in the paragraph above, the Information Commissioner highlighted many difficulties that he has found regarding full implement of the Freedom of Information Act 2004 since he took office in August 2012. One is the need of diligent record-keeping by the public authorities. Another concern is the lack of budget and staff in his Office. There is no specific allocation for the Office of the Information Commissioner in the National Budget, rather it falls under the Minister of Information.

[137] With regard to staffing, the Information Commissioner informed that there are only two staff in his Office (one executive and one secretary, who is shared with the Integrity Commission). He further mentioned the need for the Freedom of Information Act 2004 to be amended to include, among other, the following staff posts in his office: registrar, registrar of hearings, appeals analyst and senior appeals analyst. This, according to him, would strengthen his office’s capacity to carry out the important functions

established by the Freedom of Information Act 2004.

[138] In light of the above, the Committee will formulate recommendations (see recommendations “d” and “e” in section 3.2.4 of Chapter II (A) of this report).

[139] Fifth, the Committee notes that Section 8(1) of the Freedom of Information Act 2004 requires the Information Commissioner, as soon as practicable, to compile a clear and simple guide containing practical information to facilitate the effective exercise of rights pursuant to this Act, and to disseminate the guide widely in an accessible form. In addition, Section 11(a) requires the Commissioner to publish a guide on minimum standards and best practices regarding the duty of public authorities to publish information pursuant to Section 10 of the Act.

[140] However, during the on-site visit, the Information Commissioner informed that these guides were still being prepared. The Committee will formulate recommendations in this regard (see recommendations “f” and “g” in section 3.2.4 of Chapter II (A) of this report).

[141] Sixth, the Committee believes it is important that awareness and training programs be routinely conducted to disseminate to the public in general as well as to instruct public officers on the rights and obligations regarding access to information contained in the Freedom of Information Act 2004. The Committee will formulate a recommendation in this regard (see recommendation “h” in section 3.2.4 of Chapter II (A) of this report).

[142] Concerning this topic, during the on-site visit, the representative of the Antigua and Barbuda Media Congress Steering Committee presented a number of observations.⁶⁶ Among them, the following:

[143] *“The passage of the legislation can be considered the first step in achieving openness and reducing the gap between government and civil society.*

[144] *The related question is how far reaching is this 10-year-old legislation?*

[145] *While the answer to that question may vary depending on who is asked, one thing is clear - 10 years on from passing the Freedom of Information Act, our country has shown no evidence of having gone beyond the passage of the legislation and the establishment of the legal framework for the acts.*

[146] *Public awareness and education campaigns have been very limited. Media houses, and as a media worker I speak from experience and knowledge, newsrooms have had no success of obtaining information via this media – at least not the journalists I know and with whom I communicated ahead of today’s event.*

[147] *I dare say though, the media, individuals or citizen action groups have to be more pro-active in seeking information on the decision-making process which they require. Without pressure being brought to bear on authorities, the barriers will remain.*

[148] *But how can individuals be proactive when they are uncertain of the rights that exist under the Act?*

[149] *It is for that reason I believe there’s need for sensitizing the public and creating an awareness of the existence of the act; providing locations where the public can learn what the act offers; and providing access points for receiving requests and for delivering documents.*

⁶⁶ http://www.oas.org/juridico/PDFs/mesicic4_atg_fre_info.pdf

[150] *These can be done through public library systems and community centres which would serve as buffers for the services offered at the office of the Information Commissioner, which I should add, is understaffed as indicated by the Information Commissioner Mr Alister Thomas (who is here with us today).*

[151] *The general presumption is that citizens can utilise material published in the media and on the Internet. But, there is again, the need to examine more carefully, the requirements of citizens who may be illiterate or whose first language may be other than the official language.*

[152] *In other words, the practical measures to provide access to information should be more integrated into national information systems and to be tailored to match the information-seeking characteristics of the citizenry (...)."*

[153] Seventh, the Committee notes that Section 20(3) of the Freedom of Information Act 2004 authorizes the Minister responsible for public information, after consultation with the Information Commissioner, to make regulations providing for the fees to be paid; for the manner in which fees are to be calculated; that no fee is to be charged in specific cases; and for any other matter relating to fees. However, these regulations have not been issued since the Act came into force in 2004. Taking into account the importance that the fees charged, if any, need to be reasonable and clearly set based on objective criteria, the Committee will formulate a recommendation in this regard (see recommendation "i" in section 3.2.4 of Chapter II (A) of this report).

[154] Finally, the Committee notes that there is no standard form for the requests for information, which could be useful for those wishing to make a request. In addition, the Committee believes technology could be used to facilitate the submission of requests of access to public information as well as the response to these requests. The Committee will formulate a recommendation in this regard (see recommendation "j" in section 3.2.4 of Chapter II (A) of this report).

3.2.3. Results of the legal framework and/or of other measures

[155] Because the country under review did not provide any information on the results in this area, a comprehensive evaluation cannot be carried out.

[156] However, the Committee notes that Section 14 of the Freedom of Information Act 2004 requires information officers to submit, each financial year, a report on the activities of the public authority pursuant to, or promoting compliance with the Act, which shall include information about: (a) the number of requests for information received, granted in full or in part, or refused; (b) how often and which provisions of this Act were relied upon to refuse, in part or in full, requests for information; (c) appeals from refusals to communicate information; (d) fees charged for requests for information; and (e) its activities pursuant to sections 10 and 12.

[157] In addition, Section 39(1) of the Freedom of Information Act 2004, requires that Information Commissioner, within three months after the end of each financial year, to prepare and submit to the Minister responsible for public information a report on the operations of the Office of the Commissioner during the preceding financial year and such other information as the Minister may direct in writing.

[158] During the on-site visit, the Information Commissioner informed that the reports for the two previous years were being finalized and would be submitted when completed. However, the Commissioner mentioned that his initial impressions were that many public authorities initially deny

access to public information and that such access is only given afterwards, following an appellate procedure.

[159] In light of the above, the Committee will formulate a recommendation for Antigua and Barbuda to consider maintaining and publishing results on the implementation of the Freedom of Information Act 2004, including the information required by Section 14 of the Act, as well as the average response time of each public authority to requests for access to public information, in order to identify challenges and recommend corrective measures (see recommendation “k” in section 3.2.4 of Chapter II (A) of this report).

3.2.4. Conclusions and Recommendations

[160] **Antigua and Barbuda has considered and adopted measures intended to establish, maintain and strengthen mechanisms for access to information, as described in section 3.2 of Chapter II (A) of this report.**

[161] In light of the comments made in that section, the Committee suggests that Antigua and Barbuda consider the following recommendations:

- a) Consider revising the provision under Section 7(b) of the Freedom of Information Act 2004, which allows the Minister responsible for Public Information to exclude any public authority or function of a public authority from the application of the Act (see section 3.2.2 of Chapter II (A) of this report).
- b) Issue regulations to further clarify the exceptions to the general right of access to public information contained in Part IV of the Freedom of Information Act 2004, without widening these exceptions (see section 3.2.2 of Chapter II (A) of this report).
- c) Ensure that the public authorities that have not yet done so comply with Section 9 of the Freedom of Information Act 2004 and appoint their respective information officers (see section 3.2.2 of Chapter II (A) of this report).
- d) Establish policies, mechanisms and/or procedures, to be observed by all, for administering, organizing, and preserving the information and documents in the possession or under the control of public institutions (see section 3.2.2 of Chapter II (A) of this report).
- e) Strengthen the Office of the Commissioner of Information, by ensuring that it has the human, financial, I.T. and technological resources needed to properly perform its functions, taking the availability of resources into account (see section 3.2.2 of Chapter II (A) of this report).
- f) Compile and disseminate a clear and simple guide containing practical information to facilitate the effective exercise of rights pursuant to the Freedom of Information Act 2004, as required by Section 8(1) of the Act (see section 3.2.2 of Chapter II (A) of this report).
- g) Prepare and publish a guide on minimum standards and best practices regarding the duty of public authorities to publish information pursuant to Section 10 of the Freedom of Information Act 2004, as required by Section 11(a) of the Act (see section 3.2.2 of Chapter II (A) of this report).

- h) Implement training and awareness programs about the mechanisms for access to information, in order to make it easier for public servants and citizens to understand those mechanisms (see section 3.2.2 of Chapter II (A) of this report).
- i) Issue the regulations provided for in Section 20(3) of the Freedom of Information Act 2004 regarding the fees to be charged for access to public information, if any, ensuring that they are reasonable and clearly set based on objective criteria (see section 3.2.2 of Chapter II (A) of this report).
- j) Prepare a standard form or template that could be used to make requests for access to public information and optimize the use of the available technology to facilitate such access (see section 3.2.2 of Chapter II (A) of this report).
- k) Maintain and publish results on the implementation of the Freedom of Information Act 2004, including the information required by Section 14 of the Act, as well as the average response time of each public authority to requests for access to public information, in order to identify challenges and recommend corrective measures (see section 3.2.3 of Chapter II (A) of this report).

3.3. MECHANISMS FOR CONSULTATION

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

[162] In its response to the questionnaire,⁶⁷ Antigua and Barbuda states that there are no specific mechanisms for consultation.

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

[163] Taking into account the foregoing, the Committee will formulate recommendations in this regard (see recommendations “a” and “b” in section 3.3.4 of Chapter II (A) of this report).

3.3.3. Results of the legal framework and/or of other measures

[164] Considering that the country under review did not provide the information on these mechanisms that would have enabled the Committee to make a comprehensive evaluation of the results of the mechanisms referred to above, it will formulate recommendations in this regard (see general recommendations “b” and “c” of Chapter II (A) of this report).

3.3.4. Conclusions and Recommendations

[165] **Antigua and Barbuda has not yet considered and adopted measures intended to establish, maintain and strengthen mechanisms for consulting civil society and nongovernmental organizations on efforts intended to prevent corruption, as described in section 3.3 of Chapter II (A) of this report.**

[166] In light of the comments made in that section, the Committee suggests that Antigua and Barbuda consider the following recommendations:

⁶⁷ Antigua and Barbuda’s response to the questionnaire within the framework of the Fourth Round, p. 30.

- a) Create 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 (see section 3.3.2 of Chapter II (A) of this report).
- b) Design and put into practice programs to publicize the consultation mechanisms and, where appropriate, provide training and the instruments needed for those mechanisms to be implemented effectively (see section 3.3.2 of Chapter II (A) of this report).

3.4. MECHANISMS TO ENCOURAGE PARTICIPATION IN PUBLIC ADMINISTRATION

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

[167] Antigua and Barbuda has not provided information on such mechanisms in its response to the questionnaire⁶⁸ and no further information was received during the on-site visit.

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

[168] Taking into account the foregoing, the Committee will formulate recommendations in this regard (see recommendations “a” and “b” in section 3.4.4 of Chapter II (A) of this report).

3.4.3. Results of the legal framework and/or of other measures

[169] Considering that the country under review did not provide the information on these mechanisms that would have enabled the Committee to make a comprehensive evaluation of the results of the mechanisms referred to above, it will formulate recommendations in this regard (see general recommendations “b” and “c” of Chapter II (A) of this report).

3.4.4. Conclusions and Recommendations

[170] **Antigua and Barbuda has not yet considered and adopted measures intended to establish, maintain and strengthen mechanisms that encourage participation in public administration by civil society and nongovernmental organizations, as described in section 3.4 of Chapter II (A) of this report.**

[171] In light of the comments made in that section, the Committee suggests that Antigua and Barbuda consider the following recommendations:

- a) Develop, taking into account its domestic legal system, standards and procedures that establish, maintain and strengthen mechanisms to encourage the participation by civil society and nongovernmental organizations in the processes of adopting public policies and decisions, as part of the effort to prevent corruption (see section 3.4.2 of Chapter II (A) of this report).
- b) Design and put into place specific programs to publicize the mechanisms to encourage participation in public administration (see section 3.4.2 of Chapter II (A) of this report).

3.5. MECHANISMS FOR PARTICIPATION IN THE FOLLOW-UP OF PUBLIC ADMINISTRATION

⁶⁸ *Ibid.*, p. 31.

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

[172] Antigua and Barbuda has not provided information on such mechanisms in its response to the questionnaire⁶⁹ and no further information was received during the on-site visit.

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

[173] Taking into account the foregoing, the Committee will formulate recommendations in this regard (see recommendations “a” and “b” in section 3.5.4 of Chapter II (A) of this report).

3.5.3. Results of the legal framework and/or of other measures

[174] Considering that the country under review did not provide the information on these mechanisms that would have enabled the Committee to make a comprehensive evaluation of the results of the mechanisms referred to above, it will formulate recommendations in this regard (see general recommendations “b” and “c” of Chapter II (A) of this report).

3.5.4. Conclusions and Recommendations

[175] **Antigua and Barbuda has not yet considered and adopted measures intended to establish, maintain and strengthen mechanisms to encourage civil society and nongovernmental organizations to participate in the follow-up of public administration, as described in section 3.5 of Chapter II (A) of this report.**

[176] In light of the comments made in that section, the Committee suggests that the Antigua and Barbuda consider the following recommendations:

- a) Develop, taking into account its own domestic legal system, standards and procedures that establish, maintain and strengthen mechanisms to encourage civil society and non-governmental organizations to participate in the follow-up of public administration as part of the effort to prevent corruption by promoting new forms of social control, such as community oversight committees to oversee public activities or public works (see section 3.5.2 of Chapter II (A) of this report).
- b) Design and implement specific programs to publicize the mechanisms for encouraging participation in the follow-up of public administration (see section 3.5.2 of Chapter II (A) of this report).

4. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)

4.1. MUTUAL ASSISTANCE

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

[177] – Antigua and Barbuda has a set of provisions and measures related to the above-referenced mechanisms, notably the Mutual Assistance in Criminal Matters Act 1993.⁷⁰ This Act makes “(...) *provision with respect to the Scheme relating to Mutual Assistance in Criminal Matters within the Commonwealth and to facilitate its operation in Antigua and Barbuda and to make provision concerning*

⁶⁹ *Ibid.*, p. 31.

⁷⁰ Available at: http://www.oas.org/juridico/PDFs/mesicic4_ant_mla_act_93.pdf

Mutual Assistance in Criminal Matters between Antigua and Barbuda and other countries other than Commonwealth Countries.”

[178] The types of assistance which can be provided under the Act include assistance in obtaining evidence, identifying and locating persons, serving documents, tracing property, transferring prisoners and obtaining and requesting assistance in relation to restraint, forfeiture and confiscation orders.

[179] Part IV of the Act makes provision for the Act to extend to countries other than Commonwealth countries. Sections 29 and 30 provide as follows: “29. *In this Part - "country" means a country other than one included in the definition of ‘commonwealth country’ in section 3 (1); ‘Treaty’ includes a convention, protocol, agreement or arrangement. 30. (1) The regulations may make provision to give effect to a treaty, set out in the regulations, for bilateral mutual assistance in criminal matters between Antigua and Barbuda and a country specified in the regulations. (2) For that purpose, the regulations may, in particular - direct that this Act shall apply in relation to the country so specified as if it were a Commonwealth country, subject to such limitations, conditions, exceptions or qualifications (if any) as may be prescribed; or extend, as provided in section 36 (2), the application of any other Act, in relation to the country so specified, and this Act or, as the case may be, the other Act shall apply accordingly.”*

[180] In addition, the Schedule of the Mutual Assistance in Criminal Matters Act 1993 sets out among other things the general requirements for the request for assistance to Commonwealth Countries. Pursuant to Section 1 of the Schedule, “*a request for assistance under the Act made by a Commonwealth country shall specify the assistance requested; identify the person, agency or authority that initiated the request; state any period within which the country wishes the request to be complied with; if the request would involve travel by any person from Antigua and Barbuda to the country, give details of allowances and accommodation to which the person would be entitled; and contain such information as is available to the central authority for the country as will facilitate compliance with the request.”*

[181] – Antigua and Barbuda also has a mutual legal assistance treaty in place with the United States,⁷¹ which provides for mutual assistance in connection with the investigation, prosecution and prevention and criminal offenses and in proceedings related to criminal matters.

[182] – In February 2008, Antigua and Barbuda signed a Memorandum of Understanding with the OAS General Secretariat to Participate in the OAS’ Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition.⁷²

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

[183] The provisions cited in the preceding section can help achieve the Convention’s purposes of promoting and facilitating mutual assistance among the States Parties, and can serve the specific ends of the Convention that pertain to the investigation and prosecution of acts of corruption, provided they are used for that purpose.

[184] In its reply to the questionnaire⁷³ and during the *on site* visit, the State under review pointed out that it had only received six requests for mutual assistance relating to corruption offenses and that all six had been fulfilled. However, none of the requests had invoked the Convention. For that reason, the Committee wishes to underscore the importance of applying the mutual assistance provisions already in

⁷¹ Available at: http://www.oas.org/juridico/PDFs/mesicic4_ant_mla_ratification_US_and_Antigua_2000.pdf

⁷² Text of the Memorandum of Understanding, available at: <http://www.oas.org/dil/AgreementsPDF/37-2009.PDF>. For more information on the OAS’ Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition, see: <http://www.oas.org/Juridico/mla/index.html>

⁷³ Antigua and Barbuda’s response to the questionnaire within the framework of the Fourth Round, pp. 35 and 38.

effect in Antigua and Barbuda and the Convention itself to specific cases of acts of corruption, which presupposes familiarity with those provisions on the part of those responsible for enforcing them, The foregoing applies not just to the requested State but also, and above all, to the State requesting mutual assistance in criminal matters from other States. Taking the foregoing into account, the Committee will make a recommendation in this regard (see recommendation “a” in section 4.1.4 of Chapter II (A) of this report).

[185] Furthermore, the Committee believes that Antigua and Barbuda should consider ratifying the Inter-American Convention on Mutual Assistance in Criminal Matters and participate actively in the Meetings of Ministers of Justice or Other Ministers or Attorneys General of the Americas (REMJA) and its Working Group on Legal Cooperation in Criminal Matters (see recommendation “b” in Section 4.1.4 of Chapter II (A) of this report).

4.1.3. Results of the legal framework and/or of other measures

[186] Besides the information alluded to in section 4.1.2. above, the country under review did not provide additional information on the results in this area, thereby precluding a comprehensive review of the matter. Therefore, the Committee will formulate the corresponding recommendations (see general recommendations “b” and “c” of Chapter II (A) of this report).

[187] The Committee believes it is important for Antigua and Barbuda to design and implement an information program that enables its authorities to constantly follow up on requests for mutual assistance that concern acts of corruption and, in particular, those contemplated in the Convention (see recommendation “c” in Section 4.1.4 of Chapter II (A) of this report).

4.1.4. Conclusions and Recommendations

[188] Antigua and Barbuda has considered and adopted certain measures related to mutual assistance, in accordance with the provision contained in Article XIV of the Convention and as described and reviewed in Section 4.1 of Chapter II (A) of this report.

[189] In light of the comments made in that section, the Committee suggests that Antigua and Barbuda consider the following recommendations:

- a) Design and implement a comprehensive training and dissemination program for the competent authorities and officials, so that they are made aware of and are able to apply the provisions contained in the Convention and in other treaties that Antigua and Barbuda has signed that concern mutual assistance in the investigation or prosecution of acts of corruption (see section 4.1.2 of Chapter II (A) of this report).
- b) Consider the possibility of ratifying the Inter-American Convention on Mutual Assistance in Criminal Matters and actively participate in the Meetings of Ministers of Justice or Other Ministers or Attorneys General of the Americas (REMJA) and its Working Group on Legal Cooperation in Criminal Matters (see section 4.1.2 of Chapter II (A) of this report).
- c) Design and implement an information program that enables authorities of Antigua and Barbuda to constantly follow up on requests for mutual assistance that concern acts of corruption, in particular, those contemplated in the Convention (see section 4.1.2 of Chapter II (A) of this report).

4.2. MUTUAL TECHNICAL COOPERATION

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

[190] In its response to the questionnaire,⁷⁴ Antigua and Barbuda indicates that “*The Office of National Drug and Money Laundering Control Policy (ONDCP) are the money laundering experts. Corruption is dealt with as a predicate offence to money laundering. The ONDCP is also a member of Egmont as a competent authority and are authorised to liaise with other competent authorities pursuant to section 12 of the ONDCP Act 2003.*”

[191] Antigua and Barbuda further clarified that the ONDCP fulfills letter of requests, even in respect to acts of corruption. However, it is the police that investigate acts of corruption and the DPP that prosecutes offences of corruption. Further, as indicated above, corruption is dealt with as a predicate offence to money laundering under the Money Laundering (Prevention) Act. In this regard, any offence for which a charge has been brought alleging conduct (including the offence of corruption) from which proceeds of crime of \$50,000 (Eastern Caribbean Dollars) or more has been derived directly or indirectly is considered a money laundering offence (Section 3 of the MLPA (Amendment) Act 2013).

[192] It also reports that no request for technical assistance has been made under the Convention, however.⁷⁵

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

[193] Based on the information at its disposal and the remarks by the State under review in its reply to the questionnaire to the effect that the Government has not requested nor received requests from other States Parties for the mutual technical assistance referred to in the Convention, the Committee will make a recommendation to Antigua and Barbuda that it consider selecting and prioritizing specific areas for which it believes it needs technical assistance from other States Parties in order to strengthen its capacity to prevent, detect, investigate, and punish acts of corruption. The Committee also urges the other States Parties to redouble their efforts to engage in technical cooperation with Antigua and Barbuda on the most effective ways and means of fulfilling the purposes of the Convention (see recommendation “a” in section 4.2.4 of Chapter II (A) of this report).

[194] Likewise, and with the same goal of strengthening the capacity of the State under review to prevent, detect, investigate, and punish acts of corruption, the Committee deems it advisable that Antigua and Barbuda consider developing, with the support of international cooperation agencies or organizations, technical cooperation programs and/or projects in the areas referred to in the Convention. The Committee will therefore make a recommendation in this regard. (see recommendation “b” in section 4.2.4 of Chapter II (A) of this report).

4.2.3. Results of the legal framework and/or of other measures

[195] Taking the two foregoing sections into account, the State under review does not provide information on results in this area, so it is not possible to make a comprehensive assessment. The Committee will therefore make recommendations in this regard (see general recommendations “b” and “c” of Chapter II (A) of this report).

⁷⁴ *Ibid.*, p. 36.

⁷⁵ *Ibid.*, p. 36.

4.2.4. Conclusions and Recommendations

[196] **Antigua and Barbuda has considered and adopted certain measures in the area of mutual technical cooperation, in keeping with Article XIV of the Convention and as described and examined in section 4.2 of Chapter II (A) of this report.**

[197] In light of the comments made in that section, the Committee suggests that Antigua and Barbuda consider the following recommendations:

- a) Identify and prioritize specific areas in which Antigua and Barbuda believes it needs technical cooperation from other States parties in order to strengthen its capacity to prevent, detect, investigate and punish acts of corruption (see section 4.2.2 of Chapter II (A) of this report).
- b) Develop, with the support of international cooperation agencies or organizations, technical cooperation programs and/or projects in the areas referred to in the Convention (see section 4.2.2 of Chapter II (A) of this report).

5. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

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

[198] In its response to the questionnaire,⁷⁶ Antigua and Barbuda indicates that under the Mutual Assistance in Criminal Matters Act 1993, the Central Authority for mutual assistance is the Attorney General, who is the Minister responsible for Legal Affairs.

[199] In addition, the response also informs that “*requests for assistance which are sent to the Central Authority are forwarded to the Legal Department of the Office of National Drug and Money Laundering Control Policy (ONDPC) to be fulfilled and the ONDCP also prepares Letters of Request for the approval of the Central Authority.*”⁷⁷

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

[200] The fact that the Antigua and Barbuda has designated the Attorney General and Minister of Legal Affairs as an authority responsible for filing and receiving requests for mutual legal assistance is a step forward in the implementation of the Convention, given the importance attached to fulfillment of the obligations assigned to it.

[201] Nevertheless, the OAS General Secretariat has not received formal notification of the designation of a central authority to serve as the conduit for the mutual assistance and mutual technical cooperation provided for in the Convention; designating a central authority would facilitate communication and coordination with the central authorities of other States Parties for those purposes. The Committee will formulate a recommendation on this point (see recommendation in section 5.4 of Chapter II (A) of this report).

5.3. Results of the legal framework and/or of other measures

[202] Please see section 4.1.3 above.

⁷⁶ *Ibid.*, p. 37.

⁷⁷ *Ibid.*, p. 38.

5.4. Conclusions and Recommendations

[203] **Antigua and Barbuda has considered and adopted certain measures relating to the designation of the central authorities referred to in Article XVIII of the Convention, as described and reviewed in section 5 of Chapter II (A) of this report.**

[204] In light of the comments made in that section, the Committee suggests that Antigua and Barbuda consider the following recommendation:

- Report the designation of central authorities to the OAS General Secretariat, in accordance with the formalities provided for that purpose (see section 5.2 of Chapter II (A) of this report).⁷⁸

6. GENERAL RECOMMENDATIONS

[205] Based on the review and contributions made throughout this report, the Committee suggests that Antigua and Barbuda consider the following general recommendations:

- a) Design and implement, where appropriate, training programs for public servants responsible for application of the systems, standards, measures, and mechanisms considered in Chapter II (A) of this Report, in order to ensure that they are adequately understood, managed and implemented.
- b) Select and develop procedures and indicators, as appropriate, for verifying follow-up of the recommendations contained in Chapter II (A) of this Report, and notify the Committee accordingly by way of the Technical Secretariat. For said purposes, the country under review could consider taking into account the list of the most widely used indicators applicable to the inter-American system and that were available for selection by the country under review, and which have been published by the Technical Secretariat of the Committee at the OAS website, as well as information resulting from the review of the mechanisms developed pursuant to recommendation 6(c) below.
- c) Develop, as appropriate and where none exist, procedures to review the mechanisms mentioned in Chapter II (A) of this Report and the recommendations contained herein.

7. FOLLOW-UP

[206] The Committee will consider the periodic reports from Antigua and Barbuda on its progress in implementing the above recommendations in the framework of the Committee's plenary meetings, as prescribed in Article 29 of the Rules of Procedure.

[207] The Committee will also review the progress made with implementation of the recommendations made in the present report, as prescribed in Articles 31 and, as necessary, 32 of the Rules of Procedure.

B) REVIEW OF THE IMPLEMENTATION OF THE CONVENTION PROVISION SELECTED FOR THE FOURTH ROUND

⁷⁸ OAS Form for Designation of the Central Authority under OAS Conventions, available at: https://www.oas.org/dil/esp/OAS_form_designacion_autoridad_central.doc

OVERSIGHT BODIES, WITH A VIEW TO IMPLEMENTING MODERN MECHANISMS FOR PREVENTING, DETECTING, PUNISHING, AND ERADICATING CORRUPT ACTS (ARTICLE III (9) OF THE CONVENTION)

[208] Antigua and Barbuda has a set of oversight bodies⁷⁹ with a view to developing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts, among which the following are highlighted: The Integrity Commission; the Office of the Attorney General; the Office of the Director of Public Prosecutions; the Public Service Commission and; the Office of the Director of Audit.

[209] The following is a brief description of the purposes and functions of the five bodies selected by Antigua and Barbuda for review in the present report.

[210] The Integrity Commission is established pursuant to Section 4 of the Integrity in Public Life Act 2004.⁸⁰ It is responsible for receiving declarations of the affairs of persons holding specific positions in public life; as well as for establishing probity, integrity and accountability in public life and for related matters, such as the investigation of complaints in contravention of the Prevention of Corruption Act 2004.⁸¹

[211] The Integrity Commission can, among other things, bring charges against persons in public life for not filing their declarations as well as against a person who breaches the Code of Conduct set out in the Second Schedule of the Integrity in Public Life Act 2004. Further, the Commission can refer matters to the Director of Public Prosecutions for appropriate action.

[212] The Office of the Attorney General Office is responsible for ensuring that the legislative and administrative framework is in Antigua and Barbuda to control, combat and eradicate corruption. It is established by Section 82 of the Constitution.

[213] The Office of the Director of Public Prosecutions is responsible for all criminal prosecutions in Antigua and Barbuda. It is established by Section 87 of the Constitution.

[214] The Public Service Commission is responsible for appointing, promoting, transferring, confirming and removing those persons holding or acting as public officers that fall under its purview, as well as exercise disciplinary control over them. It is established by Section 99 of the Constitution.

[215] The Office of the Director of Audit is responsible for the audit of financial statements of Government Ministries, Departments, Statutory Boards and Similar Bodies. It is established by Section 97 of the Constitution.

1. THE INTEGRITY COMMISSION

⁷⁹ The Methodology approved for the Fourth Round (document SG/MESICIC/doc.289/11 rev.2) states the following in Section IV, in reference to Article III, paragraph 9 of the Convention which concerns oversight bodies: *“With respect to the foregoing provision, the review shall consider if the measures adopted by the States Parties in this respect are designed “to create, maintain and strengthen” oversight bodies, with a view to implementing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts, as provided in Article III (9) of the Convention. - To that end, first, note will be made of the oversight bodies in the country concerned that would be relevant for the purposes of the above provision of the Convention, that is, for preventing, detecting, punishing, and eradicating corrupt acts.- Second, bearing in mind that in the States Parties to the MESICIC there are numerous oversight bodies that have been assigned the aforementioned purposes, each country will select four or five such bodies, taking into account their institutional importance and that their assigned functions encompass one or more of the purposes of preventing, detecting, punishing, and eradicating corrupt acts that trigger disciplinary; administrative; financial or civil, and criminal responsibility.”*

⁸⁰ Available at: http://www.oas.org/juridico/PDFs/mesicic4_ant_int_pub_lif_act_04.pdf

⁸¹ Available at: http://www.oas.org/juridico/PDFs/mesicic4_ant_prev_corr_act.pdf

1.1 Existence of a legal framework and/or other measures

[216] The Integrity Commission has a set of provisions in its legal framework, as well as other measures that refer, among others, to the following:

[217] With respect to its objectives and scope of functions, Section 12(1) of the Integrity in Public Life Act 2004 states that the functions of this Commission include, among others, receiving and retaining all declarations filed with it under this Act; receiving and investigating complaints regarding noncompliance with or contravention of any provisions of this Act or the Prevention of Corruption Act, 2004; making inquiries as it considers necessary in order to verify or determine the accuracy of a declaration filed under this Act; conducting an investigation into any offence of corruption under the Prevention of Corruption Act, 2004 if it is satisfied that there are grounds for an investigation; examining the practices and procedures of Statutory Corporations and Departments of Government to determine whether there are corrupt practices, as well as advising them of any change in practice or procedure which may be necessary to eliminate corrupt practices.

[218] Section 12(2) of the Integrity in Public Life Act 2004 also sets out that in the performance of its functions, the Commission and its Staff are not subject to the control or direction of any other person or authority. Section 13(1) of the Act also states that the Commission shall have the same powers, rights and privileges as a commission of inquiry appointed under the Commissions of Inquiry Act, which includes the power to summon witnesses, and to call for the production of books, plans, and documents, as well as to examine witnesses and parties concerned on oath.

[219] The Integrity Commission is made up of three (3) Commissioners, a Chairman and two other members, namely, a lawyer who has been practicing in the Commonwealth for at least 10 years, a Public Accountant who has been practicing for at least 10 years and a person of upstanding character in the community, who is known to be of upstanding character.⁸² A person cannot be a member of the Commission if that person: a) is a member of the House of Representatives or the Senate; b) is a person in public life other than as a member of the Commission; c) has, at any time during the three years preceding his appointment, been a public officer; d) has at any time during the five years preceding his appointment held office in a political party; or e) would otherwise be disqualified to be a member of the House of Representatives or the Senate.⁸³

[220] The members of the Commission are appointed by the Governor-General acting on his own discretion. They hold office for a period not exceeding three years and are eligible for reappointment.⁸⁴ A vacancy in the membership of the Commission occurs at the expiration of the term of his appointment; on the absence of the member from three consecutive meetings of the Commission, unless the absence is approved by the Governor-General; if the member with his consent is nominated for election to the House of Representatives or is appointed a Senator; if the member is appointed to any public office; or on his resignation or removal from office.⁸⁵ A member of the Commission can only be removed by the Governor-General after recommendation from a tribunal which is selected by him. Removal of a member of the Commission is on the grounds of inability to exercise his functions or for misbehavior.⁸⁶

[221] Section 30 of the Integrity in Public Life Act 2004 provides for the Secretary and staff of the Commission. According to this Section, the Commission is to be provided with staff adequate for the prompt and efficient discharge of its functions.⁸⁷ They are to be public officers appointed by the Public

⁸² Section 4(2) and (4) of the Integrity in Public Life Act 2004.

⁸³ Section 5 of the Integrity in Public Life Act 2004.

⁸⁴ Section 4(3) and 6 of the Integrity in Public Life Act 2004.

⁸⁵ Section 8 of the Integrity in Public Life Act 2004.

⁸⁶ Section 9 of the Integrity in Public Life Act 2004.

⁸⁷ Section 30(3) of the Integrity in Public Life Act 2004.

Service Commission.⁸⁸ Before assuming his functions, every person appointed under Section 30 or authorized to perform any functions under the Act has to take and subscribe the oath of office and the oath of secrecy contained in Form 1 in the Third Schedule before the Chairman.⁸⁹ In addition, the Commission is further empowered to appoint where necessary Auditors to examine and verify the accuracy of the declarations filed under the Act or complaints of financial irregularities arising from a breach of the code of conduct specified in the Second Schedule.⁹⁰

[222] During the on-site visit, the representatives of the Integrity Commission informed that it only has two staff, the Secretary and a junior staff member. In the additional information provided to the Response to the Questionnaire,⁹¹ the country under review also noted that “*A position for senior members of the Commission is supposed to be advertised, interviews held and then the member is to be selected based on the interviews. However, at present the Commission is dependent on the Ministry of Legal Affairs for the hiring of persons for the Commission.*”

[223] With respect to the existence of documented procedures for performing their tasks, the country under review states the following in the additional information provided to the Response to the Questionnaire:⁹² “*The Integrity Commission does not have any manuals in respect to functions of the staff of the Integrity commission, however, when new employee is appointed the new employee is given a job letter that states their functions. Due to the lack of funding and human resources job letters are drafted in such a way to not only state the particular functions of the new employee but also to allow for flexibility in the carrying out the day to day functions of the Integrity Commission.*”

[224] With respect to its budget, Section 27 of the Integrity in Public Life Act 2004 states that the funds of the Commission shall consist of such funds as may be appropriated to the Commission by Parliament. In addition, Section 31 further states that all expenses incurred by the Commission for the purposes of the Act are a charge on the Consolidated Fund.

[225] The country under review also notes the following with respect to budget (or lack thereof) in the additional information provided to the Response to the Questionnaire:⁹³ “*As mentioned above the Integrity Commission as an autonomous body has not received a budget since it was established in 2006 to carry out its functions fully as an oversight body. The Commission has prepared a budget annually since 2006 and submitted it to the Minister each year. Funds should have been appropriated to the Commission by Parliament based on a prepared budget since the Commission was established in 2006 to allow for absolute independence from the Minister. The Commission would then sustain itself and if necessary another budget would be prepared for the appropriation of funds to the Commission.*”

[226] With respect to coordination mechanisms, Section 25 of the Integrity in Public Life Act 2004 provides that upon the conclusion of an investigation of a breach of the Code of Conduct contained in the Act, the Integrity Commission is to forward the report to the Governor-General, and if the Commission is of the opinion that the evidence before it may warrant that the Director of Public Prosecutions take action against the person the Commission is to forward a copy of the report to him. Moreover, pursuant to Section 20(1) of the Act, when any person fails to furnish to the Integrity Commission a declaration of income, assets and liabilities as required under the Act, the Commission is to send a report, for

⁸⁸ Section 30(4) of the Integrity in Public Life Act 2004. However, the Secretary is appointed by the Governor-General on such terms and conditions as he may determine [Section 30(1)].

⁸⁹ Section 30(5) of the Integrity in Public Life Act 2004. The same requirement applies to members of the Integrity Commission, who are required to make and subscribe such oath before the Governor-General [Section 4(5)].

⁹⁰ Section 12(1)(e) of the Integrity in Public Life Act 2004.

⁹¹ Antigua and Barbuda's Response to the Questionnaire within the framework of the Fourth Round, p. 51. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_que_resp_track.pdf

⁹² Antigua and Barbuda's Response to the Questionnaire within the framework of the Fourth Round, p. 53.

⁹³ Antigua and Barbuda's Response to the Questionnaire within the framework of the Fourth Round, p. 51.

appropriate action to the following authorities: (a) in the case of the President of the Senate and of the Speaker of the House of Representatives, to the Governor-General; (b) in the case of a Senator, to the President of the Senate; (c) in the case of a Member of the House of Representatives, to the Speaker of the House of Representatives; (d) in the case of a person appointed by a Service Commission, to the relevant Service Commission; or (e) in the case of a person appointed holding office in a statutory body, to the person or authority having power to make an appointment to that office.

[227] As regards transparency and accountability, Section 28 of the Integrity in Public Life Act 2004 states that the Commission shall keep proper accounts of all sums appropriated, its assets and liabilities and those accounts shall be audited annually by the Director of Audit or an auditor appointed by the Governor-General.

[228] In addition, Section 29 of the Act provides that the Commission is to prepare and submit a report to the Minister responsible for Justice and Legal Affairs on or before June 30th in each year, on the activities of the Commission during its preceding year and its audited accounts. A copy of this report together with the auditor's report is to be laid before the House of Representatives at the sitting following the receipt of the report.

[229] In order to keep citizens abreast of its activities, the Integrity Commission has a website,⁹⁴ which includes the contact information for the Commission, as well as the Integrity in Public Life Act 2004 and the forms contained therein.

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

[230] The Integrity Commission has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were briefly described in section 1.1. Nevertheless, the Committee considers it appropriate to set forth certain observations with respect to these provisions and/or other measures.

[231] The Committee first notes the important role that the Integrity Commission should play in tackling corruption in Antigua and Barbuda pursuant to the Integrity in Public Life Act 2004 and the Prevention of Corruption Act 2004. As stated under section 1.1, this oversight body is responsible for receiving, reviewing and investigating the declarations of income, assets and liabilities that persons in public life are required to submit, as well as to receive and investigate complaints of acts of corruption carried out by any public officials under the Prevention of Corruption Act 2004 and of noncompliance with the Code of Conduct contained in the Integrity in Public Life Act 2004.

[232] Taking into account that Antigua and Barbuda's standards of conduct intended to prevent conflicts of interest and the mechanisms to enforce them as well as its systems for registering income, assets and liabilities are reviewed in further detail in Sections 1.1 and 2 of Chapter II (A) above, respectively, this review will focus on the Integrity Commission's other functions related to the fight against corruption and to the promotion of integrity of persons in public life.

[233] First, the Committee notes that this oversight body, despite having been established in 2006 and entrusted to carry out important functions to combat corruption in Antigua and Barbuda, lacks a budget and appropriate staff. This situation was highlighted during the on-site visit and expressed in the following terms in the additional information provided to the Response to the Questionnaire:⁹⁵

⁹⁴ <http://integritycommission.gov.ag/>

⁹⁵ Antigua and Barbuda's Response to the Questionnaire within the framework of the Fourth Round, p. 61.

[234] *“As there is no funding there are difficulties such of lack of human and other resources. There is only a secretary and a junior staff in the office, which is not sufficient and will not be sufficient if the office is to function as mandated to under the [Integrity in Public Life] Act. Further the Commission should have enough staff to send to the Ministries to sensitize persons and to inform the public as to the functions of the Commission.”*

[235] Moreover, during the on-site visit, the representatives of the Integrity Commission informed that the Commission has prepared a budget annually since 2006 and submitted it to the Minister of Justice and Legal Affairs each year. According to the representatives, funds should have been appropriated to the Commission by Parliament based on a prepared budget since the Commission was established in 2006 in order to allow for absolute independence from the Minister of Justice and Legal Affairs. However, that has not happened and the lack of financing continues to affect the full functioning of the Integrity Commission. The representatives also informed that the Commission’s office space and layout are not appropriate, since it allows others in the building to hear private discussions and deliberations.

[236] In addition, according to information provided during the on-site visit, the Committee further notes that the Commission had not been fully operational since at least 2010 when one member resigned and another subsequently passed away one year later. The Chairman was the only serving Commissioner of the Integrity Commission for a period of time, who subsequently became seriously ill and could not perform his functions. Further the two other Commissioners were not replaced and the Chairman’s appointment, due to an oversight, was even stretched a year beyond its three-year term. New Commissioners were finally sworn in on October 1, 2014.⁹⁶

[237] Given the foregoing and taking into account the importance of this oversight body, the Committee believes that the country under review should consider strengthening its institutional framework and independence, as well as providing the Integrity Commission with the appropriate infrastructure and budgetary and human resources needed for the proper performance of its functions, within available resources. The Committee will formulate recommendations in this regard (see recommendations 1.4.1 and 1.4.2 in section 1.4 of Chapter II (B) of this report).

[238] Second, as highlighted in section 2.2 of Chapter II (A) above, the Committee notes that the Integrity Commission does not have the authority to impose administrative sanctions for breaches of the Integrity in Public Life Act 2004 on those persons in public life.⁹⁷

[239] For example, with respect to violations of the Code of Conduct, Section 25 of the Act provides that, upon the conclusion of an inquiry into a breach of the Code of Conduct, the Integrity Commission is to report to the Governor-General, as well as to the Director of Public Prosecutions (DPP), if the Commission is of the opinion that the evidence before it may warrant that the DPP take action against the person. As such, the Commission is limited to investigating breaches of the Code, and forwarding the results of those investigations to these authorities, with no ability to impose sanctions.

[240] In addition, there are no requirements for the results of these investigations to be reported to the appropriate House of Parliament, Service Commission, Board or other Authority in order for them to take the appropriate disciplinary action and inform the Integrity Commission.

[241] The Committee believes that the use of administrative sanctions would prove to be a useful tool to assist in ensuring compliance by persons in public life with the Integrity in Public Life Act 2004. The Committee also believes that the country under review should consider requiring that the Integrity Commission report the results of its investigations to the appropriate House of Parliament, Service

⁹⁶ The new Commissioners are: Attorney Radford Hill (Chairman), Accountant Neil Coates and Pastor Ivor Davis.

⁹⁷ See Footnote #5 above.

Commission, Board or other Authority in order for them to take the appropriate disciplinary action and inform the Integrity Commission on the outcome. The Committee will formulate recommendations in this regard (see recommendations 1.4.3 and 1.4.4 in section 1.4 of Chapter II (B) of this report).

[242] Third, during the on-site visit, the representatives of the Integrity Commission stated that regulations for the Integrity in Public Life Act 2004 have never been enacted. In this regard, the Committee notes that, for instance, there are no written procedures about how to initiate and carry on investigations when a complaint is received or how to receive such complaints.

[243] Given the importance of regulations for the operation of the Commission, that would help further flesh out their duties and responsibilities, the country under review should consider issuing regulations for the Integrity in Public Life Act 2004. The Committee will formulate a recommendation in this regard (see recommendation 1.4.5 in section 1.4 of Chapter II (B) of this report).

[244] Fourth, the Committee notes that the Integrity in Public Life Act 2004 does not expressly confer to the Integrity Commission the power to conduct investigations regarding breaches of the Code of Conduct on its own initiative; instead it can only investigate complaints that come to it from the public, according to sections 12(1)(b) and 22 of the Act.

[245] In this regard, the Committee believes it is essential for the country under review to consider strengthening the Integrity Commission by providing it with the authority to conduct investigations on its own initiative so that it can effectively enforce the Integrity in Public Life Act 2004. The Committee will make a recommendation in this regard (see recommendation 1.4.6 in section 1.4 of Chapter II (B) of this report).

[246] Fifth, the Committee believes that Section 22 of the Integrity in Public Life Act 2004 places an excessive burden on the complainant or whistleblower, with no reasonable guarantees of anonymity or identity protection. The complainant must make a complaint in writing and include, among others, the names and addresses of the persons involved in the commission of a breach of the Code of Conduct, as well as evidence to support the complaint including documentary evidence and sworn statements.

[247] In light of the above, the Committee suggests that the country under review consider amending this section of the Act taking into account that, in general, citizens lack sufficient means to produce the appropriate evidence required. In addition, although the topic of systems for protecting public servants and private citizens who, in good faith, report acts of corruption will be reviewed in Antigua and Barbuda's Report for Second Round of the MESICIC, the Committee believes that the country under review could consider reviewing the parameters established in the "*OAS Model Law To Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses*",⁹⁸ adopted by the Committee of Experts of MESICIC. The Committee will formulate a recommendation in this regard (see recommendation 1.4.7 in section 1.4 of Chapter II (B) of this report).

⁹⁸ This Model Law was the result of an extensive consultation process carried out in the framework of a cooperation program developed by the OAS General Secretariat, through the Department of Legal Cooperation of the Secretariat for Legal Affairs in its capacity as Technical Secretariat of the MESICIC, which, with the support of an international consultant in drafting the first version, was discussed at a workshop held in Lima in April 2011, with the participation of officials from Peru, Canada, Chile, Mexico, and the United States. The results of this workshop were presented at the Second Conference on the Progress and Challenges in Hemispheric Cooperation against Corruption, held in Cali, Colombia, in June the same year. This Model Law was later brought to the consideration of the members of the Committee of Experts of the MESICIC and civil society organizations for their comments and observations, which are incorporated in this latest version and endorsed by the Committee, at the March 22, 2013 plenary session, within the framework of the Twentieth First Meeting of the Committee, held at OAS headquarters in Washington, D.C., from March 18 to 22, 2013. For further information, see: http://www.oas.org/juridico/PDFs/model_law_reporting.pdf

[248] Sixth, the Committee takes note that Section 29(1) of the Integrity in Public Life Act 2004 requires that the Integrity Commission prepare and present annual reports on its activities. However, during the on-site visit, the representatives informed that because of the lack of budget no reports had been prepared thus far.

[249] Also, in the additional information provided to the Response to the Questionnaire,⁹⁹ the country under review notes that “*Yearly reports which are prepared by the Commission become public after they are presented to Parliament by the Permanent Secretary or the Minister of Legal Affairs.*”

[250] Given the foregoing and taking into account the importance of accountability and transparency, the Committee believes that the country under review should consider preparing and publishing the annual reports of the Integrity Commission on its website¹⁰⁰ and on the official government website¹⁰¹ when they are presented to Parliament. The Committee also believes these reports should contain details on the work carried out by the Commission with respect to all its functions under the Integrity in Public Life Act 2004, such as compliance, investigation and public education, as well as all legal matters undertaken. The Committee will formulate recommendations in this regard (see recommendations 1.4.8 and 1.4.9 in section 1.4 of Chapter II (B) of this report).

[251] Seventh, the Committee notes that even though the Integrity Commission has a website in place,¹⁰² that website only contains very limited information and does not seem to be updated (for instance, it still contains the name of the three original members of the Commission). Despite the contact information provided, there is no information or orientation on how to present complaints or corruption allegations to the Commission. There is also no information about the work of the Commission.

[252] In addition, unless the web address is provided, it is not easy to access the Integrity Commission’s website since there are no links to it in the Official Government Websites Directory.¹⁰³

[253] In light of the above and taking into consideration the importance of publicizing the Integrity Commission Website and other channels to report breaches to the Code of Conduct and to the Prevention of Corruption Act 2004, so as to encourage their use, as well as orientation on how to present such complaints, the Committee will formulate recommendations (see recommendations 1.4.10 and 1.4.11 in section 1.4 of Chapter II (B) of this report).

[254] Eighth, during the on-site visit, the representatives informed that since 2007 there have been no awareness campaigns and training to public officials on the work of the Commission, nor on the Integrity in Public Life Act 2004 or the Prevention of Corruption Act 2004. In this regard, Antigua and Barbuda states the following in the additional information provided to the Response to the Questionnaire:¹⁰⁴

[255] “*There are no ongoing campaigns to sensitive (sic) the public about the functions of the Commission, except for responding to persons who call for clarification when completing and filing declarations. However (sic) in 2007 there were radio and television programs on the Government Information Service to familiarize public officials who fall under the First Schedule of the Act, about the Act itself and their obligations (...)*”

[256] “*(...) Posters displaying the Code of Conduct of the Second Schedule of the Integrity In Public Life Act 2004 have been printed and sent to Government Offices to be displayed (...)*”

⁹⁹ Antigua and Barbuda’s Response to the Questionnaire within the framework of the Fourth Round, p. 58.

¹⁰⁰ <http://integritycommission.gov.ag/>

¹⁰¹ <http://www.ab.gov.ag/>

¹⁰² <http://integritycommission.gov.ag/>

¹⁰³ http://www.ab.gov.ag/article_details.php?id=359

¹⁰⁴ Antigua and Barbuda’s Response to the Questionnaire within the framework of the Fourth Round, pp. 55 and 59.

[257] Given the importance of the awareness campaigns and training to public servants and to the public in general, the Committee believes the country under review should consider conducting permanent, on-going training for public servants regarding their responsibilities in observing the Integrity in Public Life Act 2004, as well as outreach programs to the public about their work. The Committee will formulate recommendations in this regard (see recommendations 1.4.12 and 1.4.13 in section 1.4 of Chapter II (B) of this report).

[258] Finally, with respect to job descriptions and post classification manuals of its personnel, the Committee finds that, despite the fact that new employees are given a job letter that states their functions, there is no proper system of job descriptions or post classification in place. The Committee will make a recommendation in that regard (see recommendation 1.4.14 in section 1.4 of Chapter II (B) of this report).

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

[259] In the additional information provided to the Response to the Questionnaire,¹⁰⁵ the country under review stated the following with respect to the work of the Integrity Commission:

[260] *“The Commission has no ongoing investigations, however, in 2008 there was a complaint which was investigated however no offence had been committed nor was there a breach of the Code of Ethics. Two other complaints were received in the last year but there was no basis to conduct a full investigation or charge anyone after making preliminary enquiries (...)*

[261] *No statistics are available as there have been no investigation or charges against anyone.”*

[262] Taking into account that the Integrity Commission was established in 2006, the Committee believes that the inexistence of results reveals that the lack of appropriate financial and human resources have kept the Integrity Commission from functioning as mandated under the Integrity in Public Life Act 2004.

[263] In this regard, the Committee reiterates what was expressed throughout section 2.2 above as well as recommendation g) of section 2.4 of Chapter II (A) of this report, regarding the need for the country under review to consider providing the Integrity Commission with auditors/investigators, who can assist the Commission in properly verifying the accuracy of the declarations of income, assets and liabilities filed under the Integrity in Public Life Act 2004.

[264] In addition, as provided for in Section 12(1)(e) of the Integrity in Public Life Act 2004, the Committee believes the Integrity Commission would also benefit from the assistance of certified fraud examiners/investigators in investigating financial irregularities arising from a breach of the Code of Conduct or the Prevention of Corruption Act 2004.

[265] The Committee also notes that, because of a lack of funds and human resources, the Commission is not fulfilling its functions of examining the practices and procedures of Statutory Corporations and Departments of Government to determine whether there are corrupt practices, as well as advising them of any change in practice or procedure which may be necessary to eliminate corrupt practices.¹⁰⁶

[266] Given the foregoing, the Committee will formulate recommendations (see recommendations 1.4.15, 1.4.16 and 1.4.17 in section 1.4 of Chapter II (B) of this report).

1.4. Conclusions and recommendations.

¹⁰⁵ *Ibid.*, p. 60.

¹⁰⁶ Section 12(1)(f) and (g) of the Integrity in Public Life Act 2004.

[267] Based on the comprehensive review conducted with respect to Integrity Commission in the foregoing sections, the Committee offers the following conclusions and recommendations:

[268] **Antigua and Barbuda has not adopted measures intended to maintain and strengthen the Integrity Commission as an oversight body, as indicated in section 1 of Chapter II (B) of this report.**

[269] In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

- 1.4.1 Provide the Integrity Commission with the appropriate infrastructure, budgetary and human resources needed for the proper performance of its function while ensuring its independence, within available resources (see section 1.2 of Chapter II (B) of this report).
- 1.4.2 Ensure that the Integrity Commission has budgetary independence (see section 1.2 of Chapter II (B) of this report).
- 1.4.3 Subject to its Constitution and the fundamental principles of its legal system, consider providing the Integrity Commission with the authority to impose administrative sanctions for breaches of the Integrity in Public Life Act 2004, and maintain results on those sanctions that allow for a comprehensive evaluation of their effectiveness (see section 1.2 of Chapter II (B) of this report).
- 1.4.4 Consider amending the Integrity in Public Life Act 2004 in order to require that the Integrity Commission also report the results of its investigations to the appropriate House of Parliament, Service Commission, Board or other Authority in order for them to take the appropriate disciplinary action and inform the Integrity Commission on the outcome (see section 1.2 of Chapter II (B) of this report).
- 1.4.5 Enact regulations for the Integrity in Public Life Act 2004, with a view to, among others, establishing written procedures about how the Integrity Commission is to receive complaints, as well as on how to initiate and carry on investigations (see section 1.2 of Chapter II (B) of this report).
- 1.4.6 Consider providing the Integrity Commission with the authority to conduct investigations on its own initiative so that it can effectively enforce the Integrity in Public Life Act 2004 (see section 1.2 of Chapter II (B) of this report).
- 1.4.7 Consider amending Section 22 of the Integrity in Public Life Act 2004 in order to lessen the burden of proof required to present a complaint to the Integrity Commission, taking into account the parameters established in the “*OAS Model Law To Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses*”¹⁰⁷ (see section 1.2 of Chapter II (B) of this report).
- 1.4.8 Ensure that the Integrity Commission prepares its annual reports and publishes them on its website as well as on the official government website when they are presented to Parliament (see section 1.2 of Chapter II (B) of this report).
- 1.4.9 Ensure that the Integrity Commission’s annual reports contain details on the work carried out with respect to all its functions under the Integrity in Public Life Act 2004, such as

¹⁰⁷ Available at: http://www.oas.org/juridico/PDFs/model_law_reporting.pdf

compliance, investigation and public education, as well as all legal matters undertaken by the Commission (see section 1.2 of Chapter II (B) of this report).

- 1.4.10 Update and improve the website of the Integrity Commission, including, among others, information about its work, its annual reports and the auditor's reports. Additionally, provide guidance on the website on how to present complaints to the Commission and on how the interested person can follow-up on its status (see section 1.2 of Chapter II (B) of this report).
- 1.4.11 Broadly publicize the Integrity Commission's contact information and website on the Official Website of the Government of Antigua and Barbuda¹⁰⁸ (see section 1.2 of Chapter II (B) of this report).
- 1.4.12 Establish and implement public awareness campaigns to publicize the Integrity Commission's work of promoting integrity in public life and combating corruption, including a program to inform individuals on the manner by which they may submit complaints to the Integrity Commission respecting alleged breaches to the Code of Conduct and acts of corruption (see section 1.2 of Chapter II (B) of this report).
- 1.4.13 Establish a training program executed by the Integrity Commission in order to ensure that permanent, ongoing training is provided to persons in public life regarding their duties and obligations under the Integrity in Public Life Act 2004, as well as ensure that outreach programs are in place (see section 1.2 of Chapter II (B) of this report).
- 1.4.14 Implement a job description and post classification manual for the personnel of the Integrity Commission (see section 1.2 of Chapter II (B) of this report).
- 1.4.15 Provide the Integrity Commission with certified fraud examiners/investigators who can assist the Commission in investigating financial irregularities arising from a breach of the Code of Conduct or the Prevention of Corruption Act 2004 (see section 1.3 of Chapter II (B) of this report).
- 1.4.16 Ensure that the Integrity Commission has the proper resources to fulfill its functions of examining the practices and procedures of Statutory Corporations and Departments of Government to determine whether there are corrupt practices, as well as advising them of any change in practice or procedure which may be necessary to eliminate corrupt practices (see section 1.3 of Chapter II (B) of this report).
- 1.4.17 Maintain and publish, by coordinating with the appropriate bodies, where applicable, results on the number of investigations begun and indicate how many remain ongoing; how many have been suspended for whatever reason; how many have been shelved due to statute of limitations; how many have been shelved without a decision being reached on the merits in the case under investigation; how many are at a stage that allows a decision to be reached on the merits of the case under investigation; and how many have been referred to the competent body in order for such a decision to be taken (see section 1.3 of Chapter II (B) of this report).

¹⁰⁸ <http://www.ab.gov.ag/>

2. THE PUBLIC SERVICE COMMISSION (PSC)

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

[270] The Public Service Commission (PSC) has a set of provisions in its legal framework, as well as other measures that refer, among others, to the following:

[271] The Constitution of Antigua and Barbuda establishes the Public Service Commission (PSC),¹⁰⁹ which is responsible for the appointment, promotion, transfer and removal of public officers that fall under its purview, as well as exercise disciplinary control over them, in accordance with Section 100 of the Constitution.¹¹⁰

[272] The independence of the PSC is established by Section 99(11) of the Constitution, in the following terms: *“The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.”* In addition, Section 99(12) of the Constitution provides the PSC with the power to regulate its own procedure. In this regard, the PSC has approved the Public Service Regulations 1967¹¹¹ and the Public Service Directions 1967.¹¹²

[273] With respect to the composition of the PSC, Section 99(1) of the Constitution provides that it is to consist of a Chairman and not less than two nor more than six members,¹¹³ who are appointed by the Governor-General on the advice of the Prime Minister after consulting with the Leader of the Opposition.

[274] Members of the PSC may only be removed from office on the grounds of inability to carry out their functions (whether arising from infirmity of body or mind or any other cause) or for misbehavior.¹¹⁴ Removal of a member of the Commission may take place on representation by the Prime Minister to the Governor-General who will appoint a tribunal to investigate and advise him on whether the member ought to be removed.¹¹⁵

[275] Pursuant to Section 9(1) and (2) of the Public Service Commission Regulations No. 13 of 1967,¹¹⁶ all decisions of the PSC require a majority of its members and dissenting decisions are to be recorded.

[276] In this regard, pursuant to Section 107 of the Constitution decisions made by the PSC with respect to disciplinary proceedings may be appealed to the Public Service Board of Appeal¹¹⁷ or through the Court system.

[277] During the on-site visit, the representatives of the Public Service Commission informed that besides the Chairman and its six members, the PSC has 5 administrative staff: a Secretary, an Executive Officer, a Senior Clerk, a Junior Clerk and a Petty Officer Class III.

¹⁰⁹ Section 99(1) of the Constitution.

¹¹⁰ The exception being the following, pursuant to section 100(3) of the Constitution: a. any office to which section 101 of the Constitution applies (such as offices of Secretary to the Cabinet, Permanent Secretary, head or deputy head of a department of government); b. the office of the Director of Public Prosecutions; c. the office of the Director of Audit; d. the office of the Attorney-General; e. the office of the Supervisor of Elections; f. any office to which section 103 of the Constitution applies (those under the purview of the Judicial and Legal Services Commission); g. any office in the Police Force.

¹¹¹ Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_pub_serv_comm_reg_1967.pdf

¹¹² Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_pub_serv_direct.pdf

¹¹³ Pursuant to Article 99(2) of the Constitution, a person is not be qualified to be appointed as a member of the commission if: a) he is a public officer; b) he is a member of either House of Parliament; c) he is below the age of twenty-five years; or d) he is not resident in Antigua and Barbuda.

¹¹⁴ Section 99(4) of the Constitution.

¹¹⁵ Section 99(5) and (6) of the Constitution.

¹¹⁶ Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_pub_serv_comm_reg_1967.pdf

¹¹⁷ See sections 106-108 of the Constitution and the Public Service Board of Appeal Regulations 1999.

[278] With respect to training, the representatives of the PSC informed during the on-site visit that the Commission does not provide training. The training is provided by the Training Department of the Government of Antigua and Barbuda.

[279] With respect to manuals, in the additional information provided to the Response to the Questionnaire,¹¹⁸ the country under review states that “*there are no manuals detailing the functions of personnel, however, everyone who is appointed to the public sector is given a job letter which would detail what their functions are. The introduction of such manuals may happen during the public section transformation which is in its initial stages.*”

[280] With respect to coordination mechanisms, in the additional information provided to the Response to the Questionnaire,¹¹⁹ it is noted that “*the Public Service Commission exercises its functions in respect to section 100(1) of the Constitution as mentioned above in conjunction with the Chief Establishment Officer who is the principal liaison officer between the Permanent Secretaries of the various government departments, the Government and the Commission: section 4 of the Public Service Directions No. 12 of 1967. The duties the Chief Establishment Officer to among other things is to attend the meetings of the Public Service Commission and to keep the Commission fully informed of the requirements of the public service: section 5 of the Public Service Regulations No.13 of 1967.*”

[281] The procedures for discipline of public officers are established in the Second Schedule of the Public Service Commission Regulations 1967 No. 13. Section 9 of the Second Schedule grants the Permanent Secretary the authority to institute disciplinary proceedings against an officer on the grounds of misconduct which if proved would justify his dismissal from the public service. The Permanent Secretary causes a preliminary investigation, after which and based on the results of the investigation, shall consult with the Chief Establishment Officer.¹²⁰

[282] The Chief Establishment Officer, if he considers charges are to be framed against the officer, and after consulting the Attorney General as to the terms of the charge(s) shall forward to the officer a statement of the charge(s) framed against him with a brief statement of the allegations, if the charges are not clear. The accused officer is to then state in writing before a day to be specified any grounds on which he relies to exculpate himself.¹²¹

[283] According to the information presented during the on-site visit,¹²² the PSC then holds a hearing, giving the accused officer the opportunity to have legal representation and to present evidence/witnesses to support his case. The Ministry of Legal Affairs represents the respective Permanent Secretary/Head of Department during the hearing and also presents evidence/witnesses in support of the charges levied against the accused officer. The Commission then makes a decision based on what is presented. The Commission may decide to terminate or demote the officer, or decide on some other form of punishment, such as reduction in rank and/or in salary; suspension, deferment or stoppage of increment; or reprimand.¹²³ This decision is communicated to the Permanent Secretary through the Establishment Officer, who will act on the decision.

¹¹⁸ Antigua and Barbuda’s Response to the Questionnaire within the framework of the Fourth Round, p. 53.

¹¹⁹ Ibid., p. 43.

¹²⁰ Pursuant to Sections 14 and 15 of the Civil Service Act, the Chief Establishment Officer is the Head of the Establishment Department, which is responsible, among others, for: a) maintaining the classification of the offices in the Civil Service; b) administering any regulations respecting the Civil Service; and c) providing for and establishing procedures for consultation and negotiation between the Establishment Department and an appropriate recognized association in respect of (i) the classification of officers; (ii) any grievances; (iii) remuneration; and (iv) the terms and conditions of employment.

¹²¹ Section 9 of the Service Commission Regulations 1967 No. 13.

¹²² Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_pub_ser_com_bri_pre_pur_fct_stru.pdf

¹²³ Section 8(1) of the Service Commission Regulations 1967 No. 13.

[284] Section 2 of the Second Schedule of the Public Service Commission Regulations 1967 No. 13. provides that if criminal proceedings are instituted against a public officer in any Court, proceedings for his dismissal upon any grounds involved in the criminal charge shall not be taken until the conclusion of the criminal proceedings and determination of any appeal therefrom.

[285] Section 3 of the aforementioned Second Schedule further provides that if acquitted of a criminal charge in any Court, a public officer shall not be dismissed or otherwise punished on any charge upon which he has been acquitted, but he may be dismissed or otherwise punished on any charges arising out of the conduct in the matter, unless the charges raise substantially the same issues as those on which he has been acquitted.

[286] With respect to the manner in which necessary budgetary resources for its operations are ensured, during the on-site visit, the representatives of the Public Service Commission explained that budgetary resources needed by the Commission are assured through the submission of Annual Estimates to the Budget Office, Ministry of Finance. The amount of funds allocated is determined by budgetary allocations made by the Ministry of Finance, which is determined by the Government's fiscal situation and also by expenditure trends of the office over the years. Offices are expected to stay within the budgetary allocations. The final amount allocated is determined by the Ministry of Finance. The Annual Estimates are submitted by October of the previous year, to be implemented when the Budget is passed for the following year.

[287] According to information requested and received during the on-site visit, the total approved annual budget allocated to the PSC in the past five years is as follows (in Eastern Caribbean dollars¹²⁴): EC\$390,793 (2010); EC\$406,845 (2011); EC\$409,583 (2012); EC\$ 423,591 (2013); and EC\$ 419,499 (2014).¹²⁵

[288] As regards transparency and accountability, Section 99(15) of the Constitution requires the PSC to make an annual report on its activities to the Governor-General, who forwards it to be laid before both Houses of Parliament.¹²⁶

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

[289] The Public Service Commission has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were briefly described in section 2.1. Nonetheless, the Committee considers it appropriate to set forth certain observations with respect thereto.

[290] First, the Committee notes that, according to the Public Service Commission Regulations 1967, administrative/disciplinary liability is not fully independent from criminal liability.

[291] For instance, pursuant to Section 2 of the Second Schedule of the Public Service Commission Regulations 1967 No. 13, if charges have been instituted in any court against a public officer, no disciplinary proceedings against the officer on the same grounds may be instituted until the conclusion of the criminal proceedings and determination of any appeal therefrom. In addition, Section 3 does not allow for the dismissal or disciplinary punishment of the public officer, if the charge is substantially the same as that in respect of which the court has acquitted the officer.

¹²⁴ 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

¹²⁵ For complete information on the budget of the PSC for each of these years, see http://www.oas.org/juridico/english/mesicic4_atg.htm

¹²⁶ During the on-site visit, the PSC provided copies of its Annual Reports for the years 2010, 2011 and 2012. Available at: http://www.oas.org/juridico/english/mesicic4_atg.htm

[292] In this regard, during the on-site visit, the representatives of the Commission mentioned that, in situations where the Police have been brought in by the Permanent Secretary and a criminal case is before the Courts involving an officer, the Commission is unable to take any action until the criminal case is complete, which may take years.¹²⁷

[293] In addition, during the on-site visit, one of the commissioners of the PSC expressed that many of the laws and regulations of the Commission were archaic and needed to be updated as soon as possible.¹²⁸

[294] Given the foregoing, the Committee considers that the country under review should consider taking the necessary steps so that administrative disciplinary proceedings on account of acts that may result in criminal liability are not subordinated to the criminal proceedings. The Committee further considers that the Public Service Commission Regulations 1967 should be modified to explicitly state that a public officer who is acquitted of a criminal charge in any Court is not precluded from having proceedings instituted against him in respect of an alleged act of misconduct implicit in that criminal charge.

[295] The Committee believes that fully conditioning the administrative/disciplinary proceedings and liability upon the statutes of limitation and outcomes of the criminal proceedings can result in the ineffectiveness of the administrative/disciplinary proceedings. In other words, when criminal proceedings prescribe or are set aside or exonerated, administrative/disciplinary liability also ceases to exist. The Committee will formulate recommendations in this regard (see recommendations 2.4.1 and 2.4.2 in section 2.4 of Chapter II (B) of this report).

[296] Second, the Committee notes the following expressed in the additional information provided to the Response to the Questionnaire:¹²⁹ *“Complaints in respect to public servants are made to the Permanent Secretary which depending on the gravity of the complaint is in turn transmitted to the Public Service Commission as discussed above. Complaints can also be dealt with internally by the Permanent Secretaries themselves.”*

[297] In addition, during the on-site visit, the representatives of the PSC informed that the Commission had found that Permanent Secretaries were not following procedure in terms of officers who have been accused of stealing, i.e. some Permanent Secretaries were allowing officers to repay monies instead of either calling in the police or reporting the matter to the Chief Establishment Officer who is to then contact the legal department in order to frame charges.¹³⁰

[298] In light of this situation, the Committee notes that there should be clearer rules and oversight regarding the discretionary power of Permanent Secretaries to decide when to report a disciplinary or criminal matter to the Public Service Commission. The Committee further believes that Permanent Secretaries should be prohibited from dealing internally with complaints of alleged criminal offences, particularly acts of corruption, fraud and embezzlement. Instead, they should be required to report these matters promptly to the appropriate bodies, such as the Establishment Department, the Public Service Commission, the Integrity Commission and the Police. The Committee will formulate recommendations in this regard (see recommendations 2.4.3 and 2.4.4 in section 2.4 of Chapter II (B) of this report).

¹²⁷ See “The Public Service Commission - Brief Presentation on its Purpose, Functions, and Structure”, available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_pub_ser_com_bri_pre_pur_fct_stru.pdf

¹²⁸ See “Concerns Given by the Acting Chairman at OAS Seminar on 9th October, 2014”, available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_con_act_chair_psc.pdf

¹²⁹ Antigua and Barbuda’s Response to the Questionnaire within the framework of the Fourth Round, p. 55.

¹³⁰ See “The Public Service Commission - Brief Presentation on its Purpose, Functions, and Structure”, available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_pub_ser_com_bri_pre_pur_fct_stru.pdf

[299] Third, the Committee notes that one of the main difficulties mentioned during the on-site visit was time delays in the Attorney General's Office before charges are framed so that the hearing can be held by the Commission on disciplinary matters.

[300] In this regard, the representatives of the Public Service Commission explained that "*the Commission is faced with situations where officers have been accused of wrongdoing and have been placed on interdiction by the Permanent Secretary. The process from conducting a preliminary investigation to having charges being framed against the officer (if warranted) can be extremely long and drawn out. The Commission's hands are tied until those charges can be framed. Sometimes officers are interdicted for years before the matter is concluded.*"¹³¹

[301] In addition, the representatives of the Public Service Commission further explained that, pending an investigation, interdicted public officers may have up to 50% of their salary cut. They further highlighted that this situation can last over two years because there are no limits on how long a disciplinary investigation can last at the Attorney General's Office. They did inform, however, that if the public officer is found not guilty of disciplinary charges, his retained salary is paid back retroactively.

[302] In light of the above, the Committee believes that it is in the best interest of both the country under review and of the public officer accused of wrongdoing to have the investigation and related disciplinary proceedings carried out in a timely manner. The accused is being paid half of his salary while the country under review is paying that amount for a person who is suspended and, thus, not working.

[303] In this regard, the Committee believes the country under review should consider establishing an investigative unit within the Public Service Commission to deal with disciplinary investigations in an opportune manner. The Committee further believes the country under review should consider establishing a reasonable time limit within which disciplinary investigations are to be concluded and presented to the Public Service Commission for its decision. The Committee will formulate recommendations in this regard (see recommendations 2.4.5 and 2.4.6 in section 2.4 of Chapter II (B) of this report).

[304] Fourth, supplementing the above recommendations, the Committee believes the PSC could benefit from having coordination mechanisms, where applicable, with the Office of the Attorney General, with the Office of the Director of Public Prosecutions and with the Royal Police Force of Antigua and Barbuda for matters relating to the investigation of offenses by public servants that may involve both disciplinary and criminal liability. The Committee will formulate a recommendation in this regard (see recommendation 2.4.7 in section 2.4 of Chapter II (B) of this report).

[305] With respect to the foregoing paragraph, the Committee considers that the implementation, where applicable, of coordination mechanisms, such as agreements between the above-mentioned bodies, could prove to be very useful for achieving effective coordination.

[306] In addition, the Committee deems it advisable for the PSC to adopt coordination mechanisms with the Integrity Commission for the harmonious performance of their functions (see recommendation 2.4.8 in section 2.4 of Chapter II (B) of this report).

[307] Fifth, another difficulty mentioned during the on-site visit was the need for Permanent Secretaries to more frequently evaluate officers. The representatives of the Commission informed that most officers are assessed only when there is a recommendation for their confirmation into a post. In their view, assessments need to be done on a yearly basis so that the Commission can have a more accurate picture of the officer's performance. This would also prevent officers from being victimized because their yearly assessments could be looked at in the event that there may be a "personality clash" between the officer

¹³¹ Ibid.

and their supervisor.¹³² The Committee will formulate a recommendation in this regard (see recommendation 2.4.9 in section 2.4 of Chapter II (B) of this report).

[308] Sixth, with respect to job descriptions and post classification manuals of its personnel, the Committee finds that, despite the fact that new employees are given a job letter that states their functions, there is no proper system of job descriptions or post classification in place for those persons in the public service. The Committee will make a recommendation in that regard (see recommendation 2.4.10 in section 2.4 of Chapter II (B) of this report).

[309] Eighth, with respect to accountability mechanisms, the Committee notes that while the Public Service Commission prepares annual reports, there is no legal obligation for the PSC to publicize such reports.

[310] The Committee further notes that the Public Service Commission lacks a website whereby the general public can access and consult on the work it carries out. The Committee observes that this Commission does not appear in a search of the government website of Antigua and Barbuda, leading to this oversight body having no online presence. The country under review should consider establishing a website for the Public Service Commission, containing basic information, such as its mandate, composition of the Commission, relevant legislation, and contact information. It should also contain, among others, its decisions, forms, annual reports and statistics on its work. The Committee will formulate a recommendation in this regard (see recommendation 2.4.11 in section 2.4 of Chapter II (B) of this report).

[311] Finally, while noting that training for public servants is the responsibility of the Training Department and not of the Public Service Commission, the Committee believes that the country under review should consider provide training for public officers on ethics and on the mechanisms to prevent and combat fraud and corruption in the public sector. The Committee will formulate a recommendation in this regard (see recommendation 2.4.12 in section 2.4 of Chapter II (B) of this report).

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

[312] As requested during the on-site visit, the PSC provided information regarding the outcomes of the exercising of disciplinary oversight over public servants assigned to it under section 99(1) of the Constitution.¹³³

[313] The document provided contains three sections. The first section shows two disciplinary cases pending in the Attorney General's Office since 2012 and 2013, respectively; the second section provides information on the disciplinary cases that have taken place in the past five (5) years and how they were concluded; and the third section contains information on a case pending disciplinary hearing because a criminal case against the officer was still before the courts.¹³⁴

[314] With regard to the information on the results of the disciplinary cases that took place in the previous five (5) years, the Committee notes that there were a total of eleven (11) disciplinary hearings in this period (one in 2009, one in 2011, four in 2012 and five in 2014). Eight (8) of these disciplinary hearings were related to fraud, misappropriation, conflicts of interest or another act of corruption.

¹³² See "Concerns Given by the Acting Chairman at OAS Seminar on 9th October, 2014", available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_con_act_chair_psc.pdf

¹³³ See "Disciplinary Matters that have come before the Public Service Commission, Antigua and Barbuda. Compiled October, 2014", available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_dis_mat.pdf

¹³⁴ The country under review informed that this case involving a Senior Executive Officer from the Antigua and Barbuda Defence Force was heard in the criminal assizes of the High Court. The officer was found guilty of the charges on 24th October, 2014 and was awaiting sentencing. She will most likely be dismissed from the Service.

[315] The Committee notes that in one of the cases, the officer in question resigned and no further sanctions were applied; in another case, three officers were reinstated because of lack of sufficient evidence to charge them with fraud; and in two cases, the officers were dismissed from public service, one of them following a criminal sentence for fraud.

[316] However, the Committee further notes that in half of the eight disciplinary hearings regarding cases of fraud, misappropriation or another act of corruption, the officers in question were not dismissed, despite the fact that one of them stole a total of EC\$95,052.10 from the Ministry of Sports and another officer misappropriated a total of EC\$25,478.00 from the Inland Revenue Service. In these cases, the officers in question were required to repay the full amount stolen; transferred to another entity and either suspended and/or demoted, as well as forbidden to be placed in any position where they would handle or have access to Government funds. In addition, the PSC disciplinary decisions in these cases express that if such conducts are repeated, the officer services will be terminated.

[317] Regarding the foregoing information, the Committee believes that the country under review should consider reviewing the criteria for disciplinary sanctions in cases of fraud, misappropriation and other acts of corruption in order to ensure that they are sufficiently dissuasive. The Committee will formulate a recommendation in this regard (see recommendation 2.4.13 in section 2.4 of Chapter II (B) of this report).

[318] Considering that the Committee does not have additional information other than that referred to above that might enable it to make a comprehensive evaluation of the results of this topic, particularly information on disciplinary cases dealt with internally by Permanent Secretaries, the Committee will formulate a recommendation to the country under review to consider maintaining and publishing statistics as set out in the Questionnaire for the Fourth Round of Review. This type of information would assist the Committee in enabling it to make a comprehensive evaluation with respect to the objective results obtained in the application of the legal framework and other measures in place, as it corresponds to the implementation of Article III, paragraph 9 of the Convention. The Committee will formulate a recommendation in this regard (see recommendation 2.4.14 in section 2.4 of Chapter II (B) of this report).

2.4. Conclusions and recommendations.

[319] Based on the comprehensive review conducted with respect to the Public Service Commission in the foregoing sections, the Committee offers the following conclusions and recommendations:

[320] **Antigua and Barbuda has considered and adopted measures intended to maintain and strengthen the Public Service Commission as an oversight body, as indicated in section 2 of Chapter II (B) of this report.**

[321] In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

- 2.4.1 Modify the Public Service Commission Regulations so that a public officer who is acquitted of a criminal charge in any Court is not precluded from having disciplinary proceedings instituted against him or her in respect of an alleged act of misconduct implicit in that criminal charge, in accordance with the fundamental principles of the legal system of Antigua and Barbuda (see section 2.2 of Chapter II (B) of this report).
- 2.4.2 Take the necessary steps so that administrative disciplinary proceedings on account of acts that may result in criminal liability are not subordinated to the criminal proceedings, so that both proceedings can run simultaneously without one depending on the outcome

of the other, in accordance with the fundamental principles of the legal system of Antigua and Barbuda (see section 2.2 of Chapter II (B) of this report).

- 2.4.3 Consider establishing clear rules regarding the discretionary power of Permanent Secretaries to decide when to report a disciplinary or criminal matter to the Public Service Commission, as well as oversight mechanisms to ensure compliance (see section 2.2 of Chapter II (B) of this report).
- 2.4.4 Take the necessary steps to require Permanent Secretaries to promptly report complaints of alleged criminal offences, particularly acts of corruption, fraud and embezzlement to the appropriate bodies, such as the Establishment Department, the Public Service Commission, the Integrity Commission and the Police; and to prohibit Permanent Secretaries from dealing internally in these cases (see section 2.2 of Chapter II (B) of this report).
- 2.4.5 Establish an investigative unit within the Public Service Commission to deal with disciplinary investigations in an opportune manner (see section 2.2 of Chapter II (B) of this report).
- 2.4.6 Establish a reasonable time limit within which disciplinary investigations are to be concluded and presented to the Public Service Commission for its decision (see section 2.2 of Chapter II (B) of this report).
- 2.4.7 Establish coordination mechanisms, where applicable, with the Attorney General's Office, with that of the Director of Public Prosecutions, and with the Police in respect of the investigation of offenses by public servants that may involve both disciplinary and criminal liability (see section 2.2 of Chapter II (B) of this report).
- 2.4.8 Adopt coordination mechanisms with the Integrity Commission that enables it to perform its function of exercising disciplinary oversight over public servants, assigned to the Public Service Commission under Section 99(1) of the Constitution, in harmony with the investigating function assigned to the Integrity Commission under Section 12(1)(b) and (d) of the Integrity in Public Life Act 2004 (see section 2.2 of Chapter II (B) of this report).
- 2.4.9 Take the necessary steps to evaluate the performance of public officers on a yearly basis so that the Public Service Commission can have a more accurate picture of the officer's performance and assist the Commission in identifying possible cases of retaliation (see section 2.2 of Chapter II (B) of this report).
- 2.4.10 Implement a job description and post classification manual for those in the public service (see section 2.2 of Chapter II (B) of this report).
- 2.4.11 Establish and maintain updated websites for the Public Service Commission, in order to allow easy access to the public of the information related to the work of the Commission. Ensure that the website contains, among others, basic information, such as its mandate, composition of the Commission, relevant legislation, and contact information, as well as its decisions, forms, annual reports and statistics on the results of its work (see section 2.2 of Chapter II (B) of this report).

- 2.4.12 Provide training to public officers on ethics and on the mechanisms to prevent and combat fraud and corruption in the public sector (see section 2.2 of Chapter II (B) of this report).
- 2.4.13 Review the criteria for disciplinary sanctions in cases of fraud, misappropriation and other acts of corruption in order to ensure that they are sufficiently dissuasive (see section 2.3 of Chapter II (B) of this report).
- 2.4.14 Maintain and publicize statistics that provide information on the origin and outcome of all types of disciplinary processes related to fraud and acts of corruption carried out directly by Permanent Secretaries, such as information on the reasons for instituting (or not) a disciplinary proceeding, reasons why the matter was not reported to the Public Service Commission, the Integrity Commission and/or the Police, its outcome, the sanction imposed, and the reasons for withdrawal, in order to identify challenges and recommend corrective measures (see section 2.3 of Chapter II (B) of this report).

3. OFFICE OF THE ATTORNEY GENERAL

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

[322] The Office of the Attorney General has a set of provisions in its legal framework, as well as other measures that refer, *inter alia*, to the following:

[323] As the Government's principal Legal Advisor, in accordance with Section 82(1) of the Constitution, the Attorney General is tasked with advising the various Government Departments which do not have their own legal department or team of lawyers to advise them in legal matters. Legal advice is usually sought in cases where there are doubts about the legality or constitutional propriety of proposed administrative action or legislation; where there is need for interpretation and application of domestic, regional and international obligations; where the matter that arises presents novel legal issues and where agreements have to be negotiated and supervised between the Government and third parties. In addition, lawyers who work in the Office of the Attorney General represent the Attorney General in court in matters brought against the Government or instituted by the Government. The Office is also responsible for the provision of the efficient legislative drafting service including related legislative advice for the Government of Antigua and Barbuda.

[324] Pursuant to Section 82(1) and (2), the Attorney General is appointed by the Governor-General and must be a citizen entitled to practice as a barrister in Antigua and Barbuda.

[325] During the on-site visit, the representatives of the Office of the Attorney General informed that the Attorney General is also the Minister of Justice and Legal Affairs, Public Safety, Immigration and Labor. The Attorney General is responsible for the following divisions: the Office of the Attorney General and the Ministry Headquarters; Office of the Director of Public Prosecutions (DPP); Government Printing Office; Land Registry; Industrial Court; Registrar and Provost Marshall; Magistrates' Division; Legal Aid and Advice Centre; Industrial Property and Commerce.

[326] In addition, during the on-site visit, the Attorney General informed that they were in process of establishing an Anti-Corruption Unit within his Office, which would start functioning in January 2015.

[327] As regards the way in which the human resources needed for the Office of the Attorney General's operations are identified, under Section 103(1) and (2) of the Constitution, the authority to appoint and remove them and to exercise disciplinary control over them vest in the Governor General, acting in

accordance with the advice of the Judicial and Legal Services Commission pursuant to the applicable provisions of the Supreme Court Order of 1967.

[328] During the on-site visit, the representatives informed that the Office of the Attorney General has a total of nineteen legal staff positions, including the Solicitor General, Deputy Solicitor General, Legal Draftsman, Crown Counsels and Crown Solicitors. Seven of these positions are established (permanent), one is established (on contract), two are non-Established (on contract) and nine positions are vacant.

[329] Regarding training, the representatives informed that some of its legal staff participated in training activities in the past three years. However, they informed that the training was not related to anti-corruption.

[330] Regarding the way in which it provides the public with information, the representatives of the Office of the Attorney General informed that they were working on establishing a website for the Office, as well as publishing the Official Gazette on-line. In addition, they highlighted the existence of an official website with Antigua and Barbuda's legislation (available at <http://laws.gov.ag/>) which contains the full text of the Bills currently before the Parliament of Antigua and Barbuda and the Laws or Acts already passed and currently enforced.¹³⁵

[331] With respect to the manner in which necessary budgetary resources for its operations are ensured, during the on-site visit, the representatives of the Office of the Attorney General explained that budgetary resources needed by the Office are assured through the same process described in section 2.1 of Chapter II(B) above.

[332] According to information received subsequent to the on-site visit, the total approved annual budget allocated to the Office of the Attorney General and the Ministry of Legal Affairs Headquarters in the past four years is as follows (original figures, in Eastern Caribbean dollars¹³⁶): EC\$4,144,362 (2011); EC\$3,328,671 (2012); EC\$ 2,914,380 (2013); and EC\$ 2,883,044 (2014).¹³⁷

3.2 Adequacy of the legal framework and/or of other measures

[333] The Office of the Attorney General has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were briefly described in section 3.1. Nonetheless, the Committee considers it appropriate to set forth certain observations with respect thereto.

[334] First, the Committee takes note of the important announcement of the Attorney General, during the on-site visit, regarding the establishment of an Anti-Corruption Unit within his Office in January 2015.

[335] The Attorney General further informed that the Unit would have an independent budget line and would work with the existing oversight bodies, such as the Office of the DPP and the Integrity Commission, among others.¹³⁸

¹³⁵ In this regard, Antigua and Barbuda informed that the website is now up and running as of the end of January, 2015 www.legalaffairs.gov.ag and was officially launched on the 9th January, 2015.

¹³⁶ 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

¹³⁷ For complete information on the budget for each of these years, see http://www.oas.org/juridico/english/mesicic4_atg.htm

¹³⁸ In this regard, Antigua and Barbuda informed that the Anti-Corruption Agency that is being proposed to be set up will be an Independent office as the office is expected to have a mandate of policy making and investigating corrupt acts. Draft legislation has already been posed in this regard.

[336] In addition, the Office of the Attorney General's representatives mentioned that they were in the process of reviewing the country's existing anti-corruption legislation with a view to making improvements, if needed, such as establishing a legal framework for the new Anti-Corruption Unit.

[337] Given the foregoing, the Committee wishes to express its support for the establishment of a specialized Anti-Corruption Unit within the Office of the Attorney General and commends the country under review for this important initiative. The Committee believes this Unit could strengthen the Office's capacity to provide timely legal advice in these specialized matters, as well as serve as a coordination mechanism with all the existing oversight bodies. In this regard, the Committee further believes this unit should not seek to replace but instead to complement and assist the work of the Office of the DPP and the Integrity Commission, among others. The Committee will formulate a recommendation in this regard (see recommendation 3.4.1 in section 3.4 of Chapter II (B) of this report).

[338] Second, during the on-site visit, the representatives of the Office of the Attorney General highlighted some difficulties faced by the limited budget of the Office, which has decreased in the past three years. In this regard, they informed that they do not have sufficient budget for training of their staff or to promote awareness campaigns, particularly in specialized areas such as anti-corruption.

[339] In addition, the Committee notes that nine of the nineteen existing legal staff positions in the Office of the Attorney General are vacant.

[340] In light of the above, the Committee highlights the importance of strengthening the Office of the Attorney General, especially its soon to be established Anti-Corruption Unit, by ensuring that it has the human, financial and technological resources necessary for the proper performance of its functions, bearing in mind the availability of resources (see recommendation 3.4.2 in section 3.4 of Chapter II (B) of this report).

[341] The Committee further underscores the importance of ensuring that the staff of the Office of the Attorney General has access to training as an optimal way to strengthen the knowledge and skills needed to ensure the proper fulfillment of public duties and, accordingly, it will formulate a recommendation (see recommendation 3.4.3 in section 3.4 of Chapter II (B) of this report).

[342] Third, another difficulty mentioned during the on-site visit was that the Office of the Attorney General does not have an appropriate legal library for research and that its staff does not have access to legal databases and information on the Internet. Given the usefulness of technology in facilitating the work performed by oversight bodies, the Committee believes it would be appropriate for the Office of the Attorney General to have computer systems and modern technologies which would enable its staff to conduct computerized legal research as well as enable it to perform such functions as creating and maintaining updated databases of its decisions and facilitating and streamlining interinstitutional coordination and cooperation actions for receiving and providing, in a timely fashion, the legal advice for which it is responsible. The Committee will formulate a recommendation in this regard (see recommendation 3.4.4 in section 3.4 of Chapter II (B) of this report).

[343] Fourth, the Committee was unable to identify the existence of documented procedures whereby the legal and administrative personnel who make up the staff of the Office of the Attorney General are to discharge their functions. The Committee therefore believes it would be useful for the State under review to have documents of that kind, bearing in mind the specific nature of the functions performed by its staff. The Committee will formulate a recommendation in this regard (see recommendation 3.4.5 in section 3.4 of Chapter II (B) of this report).

[344] Fifth, with respect to accountability mechanisms, the Committee observes that there is no legislation in place that mandates an annual report of the activities of the Office of the Attorney General.

The Committee underscores the importance of these annual reports to enhance accountability and transparency of the Office of the Attorney General. The Committee believes these annual reports should include, among others, information on the activities undertaken by this oversight body, its human resources, organizational chart, budget allocation, expenditures, training provided as well as statistics on their work. The Committee will formulate recommendations in this regard (see recommendations 3.4.6 and 3.4.7 in section 3.4 of Chapter II (B) of this report).

[345] Sixth, the Committee observes the existence of a website with the full text of the Bills currently before the Parliament of Antigua and Barbuda and the Laws or Acts already passed and currently enforced.¹³⁹ However, the Committee notes that the website only contains legislation up to 2013.

[346] The Committee further notes that there is no website for the Office of the Attorney General, although its representatives informed during the on-site visit that they were working on establishing one.

[347] Given the foregoing, the Committee will formulate a recommendation for the country under review to consider establishing and maintaining an updated website for the Office of the Attorney General, in order to allow easy access by the public to the information related to its work and how to contact the Office (see recommendations 3.4.8 and 3.4.9 in section 3.4 of Chapter II (B) of this report).

[348] Finally, the Committee also notes that there is no internal audit unit within the Office of the Attorney General. Taking into consideration the portfolio of the Office of the Attorney General/Ministry of Legal Affairs, the Committee deems it beneficial for the country under review to consider establishing such a unit to set up standards, guidelines and instructions, as well as procedures for the conduct of internal audit activities and to provide an assessment of the performance of government policies, programs and operations. The Committee will formulate a recommendation in this regard (see recommendation 3.4.10 in section 3.4 of Chapter II (B) of this report).

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

[349] Antigua and Barbuda's response to the questionnaire provides no results regarding how the Office of the Attorney General discharges its functions and responsibilities related to the prevention of acts of corruption, particularly as regards overseeing that public servants perform their duties in accordance with the law.

[350] However, as described in section 2.2 of Chapter II (B) above, the Committee notes that there are delays in the Attorney General's Office to frame charges so that the disciplinary hearings can be held by the Public Service Commission (PSC). In this regard, the Committee reiterates the recommendations formulated in Section 2.4 of Chapter II (B) of this report regarding the need for the country under review to consider the establishment of coordination mechanisms, where applicable, between the PSC and the Attorney General's Office, as well as to consider establishing a reasonable time limit for disciplinary investigations to be concluded and presented to the PSC (see recommendations 2.4.6 and 2.4.7 in section 2.4 of Chapter II (B) of this report).

[351] In addition, the country under review provided information with respect to the forfeiture of assets from money laundering cases prosecuted under the Money Laundering Prevention Act 1996 (a total of US\$80,616, €\$19,430 and EC\$300 was forfeited). No information was provided regarding the recovery of amounts related to cases of corruption.

[352] The Committee does not have additional information other than that referred to above that might enable it to make a comprehensive evaluation of the results of this topic, particularly information on the

¹³⁹ <http://laws.gov.ag/>

work of the Office of the Attorney General in providing legal advice to other entities and bodies such as the Office of the Director of Audit, the Accountant General and the Inland Revenue Department, among others, regarding the recovery of the amounts overpaid or fraudulently stolen from the State. The Committee will formulate a recommendation in this regard (see recommendation 3.4.11 in section 3.4 of Chapter II (B) of this report).

3.4. Conclusions and recommendations.

[353] Based on the comprehensive review conducted with respect to the Office of the Attorney General in the foregoing sections, the Committee offers the following conclusions and recommendations:

[354] Antigua and Barbuda has considered and adopted measures intended to maintain and strengthen the Office of the Attorney General as an oversight body, as indicated in section 3 of Chapter II (B) of this report.

[355] In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

- 3.4.1. Take the necessary steps to establish the Anti-Corruption Unit within the Office of the Attorney General and to review the existing legal anti-corruption framework to ensure that the Unit works in coordination with the existing oversight bodies, such as the Office of the Director of Public Prosecutions and the Integrity Commission (see section 3.2 of Chapter II (B) of this report).
- 3.4.2. Strengthen the Office of the Attorney General, especially its soon to be established Anti-Corruption Unit, by ensuring that it has the human, financial and technological resources necessary for the proper performance of its functions, bearing in mind the availability of resources (see section 3.2 of Chapter II (B) of this report).
- 3.4.3. Provide the Office of the Attorney General with the financial resources necessary to ensure the regular training of its officers in the tasks they perform, bearing in mind the availability of those resources (see section 3.2 of Chapter II (B) of this report).
- 3.4.4. Provide the Office of the Attorney General with computer systems and modern technologies, to enable its staff to conduct computerized legal research as well as to enable it to perform such functions as creating and maintaining its own updated databases of its decisions and facilitating and streamlining interinstitutional coordination actions for receiving and providing, in a timely fashion, the legal advice for which it is responsible (see section 3.2 of Chapter II (B) of this report).
- 3.4.5. Adopt manuals, guides, or other types of documented procedures for the tasks that are to be performed by the Office of the Attorney General's legal and administrative staff (see section 3.2 of Chapter II (B) of this report).
- 3.4.6. Consider establishing the legal obligation for the Office of the Attorney General to account for the budget allocated and to publish annual reports, disclosing its activities and the results achieved, as well as the institution's in-house performance, goals, challenges and achievements (see section 3.2 of Chapter II (B) of this report).
- 3.4.7. Ensure that the annual report of the activities of the Office of the Attorney General contains relevant content that informs the public of the work undertaken by this oversight body, such as its human resources, organizational chart, budget allocation,

expenditures, training provided as well as statistics on their work (see section 3.2 of Chapter II (B) of this report).

- 3.4.8. Create and maintain an updated institutional website for the Office of the Attorney General, in order to allow easy access by the public to the information related to its work and how to contact the Office. Ensure that the website contains, among others, the annual reports referred to in the previous recommendation, strategic plans, relevant legislation and job descriptions/specifications for posts (see section 3.2 of Chapter II (B) of this report).
- 3.4.9. Maintain up-to-date the website <http://laws.gov.ag/>, which contains Bills currently before the Parliament of Antigua and Barbuda and the Laws or Acts already passed and currently enforced, along with the status of bills being processed and the publication of international treaties in force (see section 3.2 of Chapter II (B) of this report).
- 3.4.10. Establish an internal audit unit within the Office of the Attorney General (see section 3.2 of Chapter II (B) of this report).
- 3.4.11. Maintain and publish statistics on the legal advice provided by the Attorney General's Office to various bodies and entities regarding the recovery of amounts overpaid or fraudulently stolen from the State (see section 3.3 of Chapter II (B) of this report).

4. OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (DPP)

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

[356] The Office of the Director of Public Prosecutions (DPP) has a set of provisions in its legal framework and other measures, that refer, *inter-alia*, to the following:

[357] With respect to the DPP's objectives and functions, Section 88(1) of the Constitution establishes that, subject to Section 89 of the Constitution, the Director of Public Prosecutions has the power in any case in which he considers it desirable so to do: a) to institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence against any law;¹⁴⁰ b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

[358] Section 88(2) provides that the powers to take over and continue or to discontinue any criminal proceedings instituted by any other person or authority are vested in the DPP to the exclusion of any other person or authority, subject to Section 89 of the Constitution.

[359] In addition, Section 88(3) provides that criminal proceedings include any appeal from any determination of any court in criminal proceedings or any case, while section 88(4) states that the function of the DPP may be exercised through other persons acting under and in accordance with his or her general or specific instructions.

[360] The Director of Public Prosecution also has the power granted to him under Section 45 of the Constitution with respect to the prosecution of unqualified persons sitting or voting in either House of Parliament.

¹⁴⁰ Article 31 of the Police Act also authorizes the Police to prosecute summary offences in a magistrate court or inferior courts.

[361] Regarding the way in which the DPP's decisions are adopted, subsequent to the on-site visit the office's representatives provided a copy of a Guide/Code for Prosecutors of Antigua and Barbuda,¹⁴¹ Chapter 6 of which sets out the decision-making process, principally as regards the initiation of criminal proceedings.

[362] With respect to its independence, Section 88(5) of the Constitution states that, subject to Section 89 of the Constitution, in the exercise of the functions vested in him by Section 88(1) and by Section 45 of the Constitution, the DPP shall not be subject to the direction or control of any other person or authority.

[363] Section 89 of the Constitution provides for an exception to the independence of the DPP in the case of offences against any law relating to official secrets; mutiny or incitement to mutiny; and any offence under any law relating to any right or obligation of Antigua and Barbuda under international law. In these cases, the Attorney-General may give general or special directions to the DPP as to the exercise of the powers conferred by Section 88 of the Constitution and the DPP must act in accordance with those directions.

[364] Section 87(2) of the Constitution provides for the appointment of the DPP by the Governor General on the advice of the Judicial and Legal Services Commission. Section 87(4) establishes that a person shall not be qualified to be appointed to hold or act in the Office of DPP unless: (a) he is qualified to practice as a barrister in a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth; and (b) he has practised for not less than seven years as a barrister in such court.

[365] Section 87(6) and (11) provide that the Director of Public Prosecutions shall vacate his office when he attains fifty-five years of age or such other age as may be prescribed by Parliament. Similarly, section 87(7) of the Constitution provides that the DPP may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of mind or body or from any other cause) or for misbehavior. Sections 87(8) through 87(10) outline the procedure whereby upon the Judicial and Legal Services Commission makes a representation to the Governor General that the DPP ought to be removed, and the Governor General appoints a tribunal to enquire into the matter and report back to him as to whether or not the DPP should be removed.

[366] Regarding its human resources and the rules governing them, pursuant to Section 103 of the Constitution, the power to appoint legal officers in the department of the DPP, the power to exercise disciplinary control over such persons and the power to remove such persons from office vests in the Governor General on the advice of the Judicial and Legal Services Commission.

[367] During the on-site visit, the representatives informed that the Office of the Director of Public Prosecutions has a total of ten staff positions: Three attorneys (Two Crown Counsels 2 and one Crown Counsel 1), five administrative staff and two vacant posts (Senior Crown Counsel and Crown Counsel 1). Nine of the posts are established (permanent) and one is established (on contract).¹⁴²

[368] With respect to training, during the on-site visit, the DPP provided a list of all training activities from 2012 to 2014 in which his staff participated which include, among others, forums and workshops relating to the investigation and prosecution of complex transnational crimes, financial crime prevention, asset recovery and proceeds of crime training.¹⁴³

¹⁴¹ Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_gui_pro.pdf

¹⁴² See "Information requested from the DPP during on-site visit", available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas.pdf

¹⁴³ For the full list of training activities, see the "Information requested from the DPP during on-site visit", available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas.pdf

[369] Regarding handbooks or documented procedures for exercising its functions, the DPP has its Guide for Prosecutors, effective January 1, 2013,¹⁴⁴ which refers, inter alia, to the role, ethics, and impartiality of the Director; his relations with the Police and other investigators; the adoption of decisions regarding charges to be brought during the judgment phase of proceedings and upon appeal; and his relations with the media.

[370] Regarding its internal control mechanisms, during the on-site visit, DPP representatives indicated that the office did not have an internal auditing unit. In addition, as regards any claims, complaints, or allegations that might be filed in connection with the actions of its legal personnel, in addition to the disciplinary proceedings that may be brought before the Judicial and Legal Services Commission, complaints for professional misconduct of attorneys-at-law may be brought to the Disciplinary Committee constituted under the Legal Profession Act 2008, which also establishes a Code of Conduct for legal professionals and the disciplinary proceedings for those who breach its provisions.

[371] As for its budgetary resources, according to information provided by the country under review during the on-site visit, despite having a specific line item, the DPP budget is not independent from the budget of the Office of the Attorney General and Ministry of Legal Affairs. In addition, according to information requested and received subsequent to the on-site visit, the total approved annual budget allocated to the Office of the DPP in the past four years is as follows (original figures, in Eastern Caribbean dollars¹⁴⁵): EC\$913,815 (2011); EC\$624,689 (2012); EC\$ 952,143 (2013); and EC\$ 768,427 (2014).¹⁴⁶

[372] Regarding coordination mechanisms for harmonizing the functions of the Office of the DPP with those of other oversight bodies or government authorities, during the on-site visit, the DPP informed that his office had a very good working relationship with both the Office of National Drug and Money Laundering Control Policy (ONDCP) and with the Royal Police Force of Antigua and Barbuda. He also informed that his office had never received any requests for legal advice from the Integrity Commission.

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

[373] The Office of the Director of Public Prosecutions (DPP) has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were briefly described in section 4.1. Nonetheless, the Committee considers it appropriate to set forth certain observations with respect thereto.

[374] First, bearing in mind that, based on information provided by the DPP during the on-site visit, his office depends administratively (and thus financially) on the Office of the Attorney-General and Ministry of Legal Affairs, and considering, furthermore, that, pursuant to Section 88(5) of the Constitution, subject to Section 89 of the Constitution described in the paragraphs above, the Director of Public Prosecutions shall not be subject in the exercise of his functions to the direction or control of any other person or authority, the Committee will recommend to the country under review that it consider adopting the necessary measures to ensure that the Office's autonomy is not impaired by that dependency (see recommendations 4.4.1 and 4.4.2 in section 4.4 of Chapter II (B) of this report).

[375] Second, bearing in mind the information provided by the DPP during the on-site visit indicating more senior prosecutors were needed (at least three new posts), as well as the fact that at the time of the visit two of the ten posts in the office were vacant (including the post of Senior Crown Counsel), the

¹⁴⁴ Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_gui_pro.pdf

¹⁴⁵ 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

¹⁴⁶ For complete information on the budget for each of these years, see http://www.oas.org/juridico/english/mesicic4_atg.htm

Committee will offer the country under review a recommendation in that regard (see recommendation 4.4.3 in section 4.4 of Chapter II (B) of this report).

[376] Third, although following the on-site visit the DPP's representatives provided a copy of two nearly identical documents, a Code and a Guide for Prosecutors of Antigua and Barbuda referred to in the previous section, the Committee observes that they do not themselves constitute a manual or set of instructions describing the functions of the DPP's prosecutors in accordance with the terms of section 2.2 of both documents. Bearing in mind the usefulness of having instruments, manuals, and/or guides for directing prosecutors in dealing with criminal proceedings arising from the commission of corrupt acts, the Committee will formulate a recommendation in this regard (see recommendation 4.4.4 in section 4.4 of Chapter II (B) of this report).

[377] Related to this is the fact that during the on-site visit, the DPP highlighted the need for his office to have a budget for training in order to ensure that its prosecutors receive the periodic training they need to maintain and improve their knowledge and skills with regard to prosecuting acts of corruption. The Committee will formulate a recommendation in this regard (see recommendation 4.4.5 in section 4.4 of Chapter II (B) of this report).

[378] Fourth, bearing in mind what the DPP mentioned during the on-site visit regarding the difficulties the DPP faced in fulfilling its functions, in the sense that more financial resources needed, and noting, moreover, that its regular budget allocation has declined in the past year, the Committee will offer the country under review a recommendation that it consider adopting appropriate measures to ensure that the DPP receives the budgetary resources it needs to perform its functions in a timely manner (see recommendation 4.4.6 in section 4.4 of Chapter II (B) of this report).

[379] Fifth, the Committee observes an absence of accountability mechanisms publicizing the work of the DPP, or informing the public of the results of its performance of its functions. In this regard, DPP representatives noted that the Office does not prepare an annual report summarizing its activities, the only annual reports that they prepare in respect of the number of cases before the court and this is sent to the court. In this sense, the Committee notes that there is no legal obligation for the DPP to prepare such a report. In light of this circumstance as well as the importance of enhancing the accountability of the Office of the DPP, the Committee will formulate the corresponding recommendations (see recommendations 4.4.7 and 4.4.8 in section 4.4 of Chapter II (B) of this report).

[380] Sixth, the Committee observes that the DPP has no institutional website, which would allow members of the public to learn of the objectives and functions of the DPP and the procedures established for the performance of its functions, among others.

[381] Given the foregoing, the Committee will formulate a recommendation for the country under review to consider establishing and maintaining an updated website for the Office of the DPP, in order to allow easy access by the public to the information related to its work and how to contact the Office (see recommendation 4.4.9 in section 4.4 of Chapter II (B) of this report).

[382] Finally, although the DPP's representatives stated that they maintained permanent coordination with the Office of National Drug and Money Laundering Control Policy (ONDCP) and the Royal Police Force of Antigua and Barbuda, chiefly as regards police investigations into suspected punishable acts for their later prosecution before the courts, the Committee believes it would be useful for the State under review to consider strengthening that relationship through effective coordination mechanisms between the actors involved in the investigation and prosecution of corrupt acts that trigger criminal responsibility, including the Integrity Commission, the Royal Police Force of Antigua and Barbuda, the Office of the Attorney General (including the future Anti-Corruption Unit), the Office of National Drug and Money Laundering Control Policy (ONDCP), in order to establish effective and timely procedures and/or

guidelines for exchanges of information and legal advice for the correct presentation before the courts of criminal proceedings related to acts of corruption. The Committee will make a recommendation in this regard (see recommendation 4.4.10 in section 4.4 of Chapter II (B) of this report).

[383] In this regard, it is also worth mentioning that during the on-site visit the DPP informed that the Office of the Attorney General was working on a proposal to amend the Police Act, which would require that before the Police lay a charge, a copy of the files be provided to the DPP.

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

[384] Subsequent to the on-site visit, the Director Public Prosecutions (DPP) provided the following data with respect to the outcomes achieved by his Office in relation to the percentage of cases completed:¹⁴⁷

[385] “2012- disposal rate (78%), Court of Appeal (100%), Rate of conviction in High Court (90%)

[386] 2013- disposal rate (78%), Court of Appeal (80%), Rate of conviction in High Court (93%)

[387] 2014- (pending)”

[388] In addition, subsequent to the on-site visit, the DPP provided a document listing 31 cases (concluded between 2009 to January 21, 2014) of various kinds of criminal conduct, including falsification of accounts, forgery, conspiracy to defraud, fraudulent conversion, larceny and embezzlement, for the years 2009 to 2014, with a cut-off date of January 21, 2014, indicating the name of the accused, the criminal conduct he or she was accused of, the attorneys, the verdict and the sentence. However, the Committee notes that it appears that the great majority of these cases are not related to fraud against the government and public funds, but against private companies. Besides, in the only embezzlement case presented, the accused was discharged.

[389] The country under review also informed that in October 2014, a former senior executive officer at the Antigua & Barbuda Defence Force (ABDF) became the first person to be prosecuted under the Prevention of Corruption Act 2004. The officer was accused of committing 26 counts of uttering, forgery and obtaining money, in relation to the misappropriation of nearly EC\$350,000.

[390] Regarding the foregoing information, the Committee notes that, although it shows that the DPP has exercised its function, under section 88(1) of the Constitution, of prosecuting criminal behavior, the information is not broken down in such a way as to show results relating specifically to acts of corruption defined as crimes by the Criminal Code, the Integrity in Public Life Act 2004, the Prevention of Corruption Act 2004 and other relevant laws.

[391] Additionally, the Committee notes the very high conviction rate of the DPP. However, no information was provided regarding the number of cases rejected vis-à-vis the number of cases that were investigated and actually brought to court.

[392] In this regard, taking into account that the Committee does not have additional information other than that referred to above that might enable it to make a comprehensive evaluation of the results of this topic, the Committee believes it useful for the country under review to consider compiling and publishing statistics regarding the investigations conducted by competent authorities involving acts of corruption established as such in the Criminal Code, in the Larceny Act, in the Integrity in Public Life Act 2004 and in the Prevention of Corruption Act 2004, including data that clearly establish how many investigations

¹⁴⁷ See “Information requested from the DPP during on-site visit”, available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas.pdf

are on-going; how many have been suspended or dismissed for whatever reason; how many have been closed because the statutory time limit has expired; how many have been referred for criminal prosecution (and the ultimate disposition of such referrals) and how many have been referred to competent authorities for disciplinary (i.e., non-criminal) measures; with a view to identifying challenges and recommending corrective actions, where applicable. The Committee will formulate a recommendation in this regard (see recommendation 4.4.11 in section 4.4 of Chapter II (B) of this report).

[393] The Committee also believes it is useful for the country under review to consider compiling and publishing statistics regarding the prosecutions instituted in connection with acts of corruption established as such in the Criminal Code, in the Larceny Act, in the Integrity in Public Life Act 2004 and in the Prevention of Corruption Act 2004, including data that clearly establish how many cases are on-going; how many have been suspended or dismissed for whatever reason; how many have been closed because the statutory time limit has expired; how many have been disposed of through a plea by the defendant; how many have proceeded to trial (and the outcome of any trial; how many have been referred to competent authorities for appropriate (i.e., non-criminal) disciplinary measures; with a view to identifying challenges and recommending corrective actions, where applicable. The Committee will formulate a recommendation in this regard (see recommendation 4.4.12 in section 4.4 of Chapter II (B) of this report).

4.4. Conclusions and recommendations

[394] Based on the comprehensive review conducted with respect to the Office of the Director of Public Prosecutions (DPP) in the foregoing sections, the Committee offers the following conclusions and recommendations:

[395] Antigua and Barbuda has considered and adopted measures intended to maintain and strengthen the Office of the Director of Public Prosecutions (DPP) as an oversight body, as indicated in section 4 of Chapter II (B) of this report.

[396] In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

- 4.4.1. Ensure that the autonomy of the Office of the Director of Public Prosecutions, provided for under Section 88(5) of the Constitution, is not impaired by its administrative dependence on the Office of the Attorney General and Ministry of Legal Affairs (see section 4.2 of Chapter II (B) of this report).
- 4.4.2. Ensure that the Office of the Director of Public Prosecutions has a greater budgetary independence (see section 4.2 of Chapter II (B) of this report).
- 4.4.3. Adopt, within available resources, appropriate measures to ensure that the Office of the Director of Public Prosecutions has the senior prosecutors, legal officers, and support personnel it needs to perform its functions (see section 4.2 of Chapter II (B) of this report).
- 4.4.4. Develop instruments, manuals, and/or guides for directing prosecutors in effectively and correctly initiating and pursuing criminal proceedings for the commission of corrupt acts (see section 4.2 of Chapter II (B) of this report).
- 4.4.5. Provide the Office of the Director of Public Prosecutions with the financial resources necessary to ensure that its prosecutors receive the periodic training they need to maintain and improve their knowledge and skills with regard to prosecuting acts of

corruption, bearing in mind the availability of those resources (see section 4.2 of Chapter II (B) of this report).

- 4.4.6. Adopt appropriate measures to ensure that the Office of the Director of Public Prosecutions receives the budgetary resources it needs to perform its functions in a timely fashion (see section 4.2 of Chapter II (B) of this report).
- 4.4.7. Consider establishing the legal obligation for the Office of the Director of Public Prosecutions to account for the budget allocated and to publish annual reports, disclosing its activities and the results achieved, as well as the institution's in-house performance, goals, challenges and achievements (see section 4.2 of Chapter II (B) of this report).
- 4.4.8. Ensure that the annual report of the activities of the Office of the Director of Public Prosecutions contains relevant content that informs the public of the work undertaken by this oversight body, such as its human resources, organizational chart, budget allocation, expenditures, training provided as well as statistics on its work (see section 4.2 of Chapter II (B) of this report).
- 4.4.9. Create and maintain an updated institutional website for the Office of the Director of Public Prosecutions, in order to allow easy access by the public to information about its objectives and functions, the procedures established for carrying out those functions, and how to contact the Office. Ensure that the website contains, among others, the annual reports referred to in the previous recommendation, strategic plans, relevant legislation and job descriptions/specifications for posts (see section 4.2 of Chapter II (B) of this report).
- 4.4.10. Implement coordination mechanisms between the Office of the Director of Public Prosecutions, the Integrity Commission, the Royal Police Force of Antigua and Barbuda, the Office of the Attorney General (including the future Anti-Corruption Unit), and the Office of National Drug and Money Laundering Control Policy (ONDPCP), in order to establish effective and timely procedures and/or guidelines for exchanges of information and legal advice for the correct presentation before the courts of criminal proceedings related to acts of corruption (see section 4.2 of Chapter II (B) of this report).
- 4.4.11. Compile and publish statistics regarding the investigations conducted by competent authorities involving acts of corruption established as such in the Criminal Code, in the Larceny Act, in the Integrity in Public Life Act 2004 and in the Prevention of Corruption Act 2004, including data that clearly establish how many investigations are on-going; how many have been suspended for whatever reason; how many have been barred because the statutory time limit has expired; how many have been archived without a decision regarding whether to refer the matter for prosecution; how many are in a position where a decision to refer the matter for prosecution could be adopted; and how many have been referred to the competent authority for prosecution with a view to identifying challenges and recommending corrective actions, where applicable (see section 4.3 of Chapter II (B) of this report).
- 4.4.12. Compile and publish statistics regarding the prosecutions instituted involving acts of corruption established as such in the Criminal Code, in the Larceny Act, in the Integrity in Public Life Act 2004 and in the Prevention of Corruption Act 2004, including data that clearly establish how many cases are on-going; how many have

been suspended or dismissed for whatever reason; how many have been closed because the statutory time limit has expired; how many have been disposed of through a plea by the defendant; and how many have proceeded to trial (and the outcome of any trial); and how many have been referred to the competent authority to for disciplinary action, with a view to identifying challenges and recommending corrective actions, where applicable (see section 4.3 of Chapter II (B) of this report).

5. THE OFFICE OF THE DIRECTOR OF AUDIT

5.1 Existence of a legal framework and/or other measures

[397] The Office of the Director of Audit (ODA) has a set of provisions in its legal framework and other measures, that refer, *inter-alia*, to the following:

[398] With respect to its objectives and functions, Section 97(2) of the Constitution of Antigua and Barbuda establishes that the Director of Audit shall audit and report at least once every year on the public accounts of Antigua and Barbuda, the accounts of all officers and authorities of the Government, the accounts of all courts of law in Antigua and Barbuda (including any accounts of the Supreme Court maintained in Antigua and Barbuda), the accounts of every Commission established by the Constitution and the accounts of the Clerk to the House and the Clerk to the Senate.¹⁴⁸

[399] Section 97(3) of the Constitution empowers the Director of Audit to carry out audits of the accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of Antigua and Barbuda.¹⁴⁹

[400] Section 97(7) of the Constitution establishes that the Director of Audit shall exercise such other functions in relation to the accounts of the Government, the accounts of other authorities or bodies established by law for public purposes or the accounts of enterprises that are owned or controlled by or on behalf of Antigua and Barbuda as may be prescribed by or under any law enacted by Parliament.

[401] Section 97(5) of the Constitution provides that the Director of Audit shall submit every report made by him in pursuance of this Section to the Minister for the time being responsible for finance who shall, after receiving such report, lay it before the House not later than seven days after the House next meets. However, Section 97(6) provides that if the Minister fails to lay the report before the House in that period, the Director of Audit shall transmit copies of that report to the Speaker who shall, as soon as practicable, present them to the House.

[402] In addition, Section 9(1)(3) of the Office of the Director of Audit Act 2014 provides that the Director of Audit shall satisfy himself or herself that a) all reasonable precautions have been taken to safeguard the collection and custody of revenue and that the law, directions and instructions relating thereto are duly observed; b) expenditure is incurred with due regard to the economy and to the value obtained; c) public moneys other than those appropriated are dealt with in accordance with the proper authority; d) all reasonable precautions are taken to safeguard the receipt, custody, issue and proper use of cash, stamps, securities and stores and that the regulations, directions and instructions relating thereto are duly observed; and that adequate regulations, directions or instructions exist for the guidance of the accounting officer.

¹⁴⁸ See also Section 9(1)(b) of the Office of the Director of Audit Act 2014, available at: http://www.oas.org/juridico/PDFs/mesicic4_ant_dir_aud.pdf

¹⁴⁹ See also Section 9(2) of the Office of the Director of Audit Act 2014.

[403] Section 21(1) extends the power of the Director of Audit to carry out an examination into the economy, efficiency and effectiveness with which an authority or body has in that year used any Government resources in discharging its functions.¹⁵⁰

[404] Regarding its independence, pursuant to Section 97(8) of the Constitution, the Director of Audit, in the exercise of his or her functions, is not subject to the direction or control of any person or authority.

[405] Section 97(4) further provides that the Director of Audit and any other officer authorized by him shall have access to all books, records, returns, reports and other documents, which in his opinion relate to any of the accounts. Section 17 of the Office of the Director of Audit Act 2014 further expands on the powers of the Director of Audit in this respect. For example, for the purpose of the examination of any account, the Director of Audit is entitled to have all access at all convenient times to any records, books, vouchers, electronic data, other documents, moneys, stamps, securities, stores, equipment and other property of the Government, or a statutory body or a public organization in the possession or under the control of any person; and to examine any person on oath on any matter pertaining to any account subject to audit by him or her.

[406] Additionally, Section 11 of the Office of the Director of Audit Act 2014 provides that, “*subject to any duty imposed on him by the Constitution and this Act, the Director of Audit shall have (a) complete discretion in the discharge of his functions and, in particular, in determining whether to carry out any examination of accounts under of this Act as to the manner in which any such examination is carried out; but in determining whether to carry out any such examination he may take into account any requests made by the Public Accounts Committee; and (b) a duty to follow up recommendations and bring the results to the attention of the Public Accounts Committee.*”

[407] Section 26(1) of the Office of the Director of Audit Act 2014 further provides that no criminal or civil proceedings shall be taken against the Director of Audit, or against any person acting on his/her behalf or under his/her direction, for anything done, reported or said in good faith in the course of the performance or purported performance of his/her powers, duties or functions under the ODA Act 2014 or any other Act.

[408] Section 102(1) of the Constitution provides that the Director of Audit is to be appointed by the Governor General, acting in accordance with the advice of the Public Service Commission, after this Commission has consulted the Prime Minister and obtained his agreement.¹⁵¹

[409] Section 102(3) of the Constitution further provides that the provisions of Subsections (5) to (11) inclusive of Section 87 of the Constitution (which relates to the appointment and removal of the Director of Public Prosecutions) shall apply in relation to the Director of Audit as they apply in relation to the Director of Public Prosecutions so, however, that in Subsection (9) and (10) references to the Judicial and Legal Services Commission shall be read as references to the Public Service Commission.¹⁵²

[410] With respect to the staff of the Office, Section 3(2) of the Office of the Director of Audit Act 2014 provides that the Public Service Commission has to consult with the Director of Audit before appointing ODA staff. As public servants, ODA staff is subject to the provisions on appointment, termination of appointment and discipline contained within the Civil Service Act, the Civil Service Regulations 1993,

¹⁵⁰ Section 21(3) of the Office of the Director of Audit Act 2014 provides that the Director of Audit shall consult the authority or body and the respective Ministry in determining whether the income of that particular authority or body is such as to bring it within the category specified in Section 21(1). In addition, Section 21(4) provides that for the purposes of this section money is received from public funds if it is paid: (a) out of moneys provided by appropriation of Parliament; or (b) by an authority or body which itself falls within Section 21(1), including an authority or body falling within that subsection by virtue of this paragraph.

¹⁵¹ See also Section 4 of the Office of the Director of Audit Act 2014.

¹⁵² See also Section 7 of the Office of the Director of Audit Act 2014.

the Public Service Regulations 1967, among others. ODA Staff is also required to follow the International Organization of Supreme Audit Institution Standards (ISSAI's), including two important standards: ISSAI 10 - Independence and 30 - Code of Ethics. Additionally, the Director of Audit and the Deputy Director of Audit are subject to the Integrity in Public Life Act 2004, including the Code of Conduct contained in the Second Schedule of the Act.

[411] In accordance with the information provided by ODA's representatives during the on-site visit,¹⁵³ positions are filled in the Office, after the Director has updated the respective job description and sent same to the Public Service Commission via the Establishment Department. The Office of the Director of Audit presently has 19 staff members. Four (4) of those are seconded to different departments and one (1) is on study leave. All of them are established workers, none on contract. In addition, there are sixteen (16) vacant posts within the Office: one (1) Audit Manager; six (6) Auditors; one (1) Assistant Auditor; five (5) Examiners of Accounts II, and; three (3) Examiners of Accounts I.

[412] With respect to the existence of manuals or documents for performing their tasks and describing their functions, in the additional information provided to the Response to the Questionnaire¹⁵⁴ and during the on-site visit,¹⁵⁵ the country under review informed that the ODA follows the OECS Harmonized Audit Manual that was prepared in 2009 by CRC Sogema for the Caribbean Centre for Development Administration (CARICAD).¹⁵⁶ In addition, it states the following in its Response to the Questionnaire: *"The Audit Department is not yet in full compliance of these standards but is working towards full compliance. For example, every Friday, an internal training course is conducted on the [International Organization of Supreme Audit Institutions] standards. Additionally, at least once a year regional training courses usually take place in the region on these standards."*

[413] During the on-site visit, the Director of Audit also provided a copy of the audit program (expenditure), which contains a checklist of the audit procedures required for these types of audit,¹⁵⁷ as well as audit plans, which detail the function, objective, step-by-step process and highlight the performance of ODA's staff members.¹⁵⁸

[414] Regarding training, during the on-site visit, the Director of Audit presented information with respect to training activities ODA staff participated in the past 3 (three) years, including workshops and meetings on different topics held by the Caribbean Supreme Audit Institutions (CAROSAI), as well as various computer IT training, some of which were provided by Antigua and Barbuda's Training Department.¹⁵⁹

[415] With respect to institution building, during the on-site visit, the Director of Audit informed that they are implementing their Strategic Plan 2013 - 2017,¹⁶⁰ which contains, *inter alia*, ODA's vision, mission,

¹⁵³ See pages 2 and 3 of the document "OAS - Meeting with Audit Dept. Oct 2014". Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁵⁴ Antigua and Barbuda's Response to the Questionnaire within the framework of the Fourth Round, p. 52. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_que_resp_track.pdf

¹⁵⁵ See pages 2 and 4 of the document "OAS - Meeting with Audit Dept. Oct 2014". Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁵⁶ This manual sets out the audit organization standards, standards and processes as well as general policies for conducting audits. It is available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_har_aud_man_fin_24_mar_2010.pdf

¹⁵⁷ Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_aud_prog_exp.pdf

¹⁵⁸ Two of these audit plans were provided and are available, respectively, at:

http://www.oas.org/juridico/PDFs/mesicic4_atg_aud_pla_2014_2.pdf and

http://www.oas.org/juridico/PDFs/mesicic4_atg_aud_pla_2014.pdf

¹⁵⁹ For the full list of training activities, see pages 3 and 4 of the document "OAS - Meeting with Audit Dept. Oct 2014". Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁶⁰ Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_str_pla_2013_2017.pdf

values and five (5) strategic objectives identified as their current priorities. Each strategic objective is supported by specific actions they will undertake.

[416] Additionally, the Director of Audit informed that the Office has completed one (1) of three sections of INTOSAI’s 3i Program,¹⁶¹ which deals with the self-evaluation of the office in respect to Compliance, Financial and Performance audits.¹⁶²

[417] With respect to the manner in which budgetary resources are ensured for their operations, the country under review, in the additional information provided to the Response to the Questionnaire, states that:¹⁶³ *“Prior to the passing of the Office of the Director of Audit Act 2014, the Audit Department would prepare a budget, and a business plan which were sent to the Minister Responsible for Finance and changes would normally be made to the budget. The budget would then be sent to Cabinet for discussion by the Minister and then to Parliament for approval. On approval payments would then be made in accordance to the approved budget from the Consolidated Fund.”*

[418] *However, section 12 of the Act legislates as to the sources of funds of the Office of the Director of Audit and section 13 of the Act makes it clear that the financial affairs of the Office of the Director of Audit shall be conducted in accordance with the budget and business plan prepared by the Director of Audit to be presented to the Minister responsible for Finance to be included in the national budget.”*

[419] In addition, during the on-site visit, the Director of Audit provided the following information¹⁶⁴ regarding ODA’s budget (in Eastern Caribbean dollars¹⁶⁵):

Year	Budget	Actual	Countries Annual Budget
2009	\$1,490,341.00	\$931,694.10	\$974,768,630.00
2010	\$1,505,790.00	\$895,742.07	\$886,478,273.00
2011	\$1,205,816.00	\$1,010,361.1	\$824,900,972.00
2012	\$1,051,330.00	\$920,799.06	\$752,591,253.00
2013	\$1,107,368.00	\$1,030,265.11	\$1,086,239,200.00
2014	\$1,109,434.00	N/A	\$874,824,842.00

[420] With respect to the manner with which the general public is provided information with respect to their objectives and functions, the Director of Audit presented the following information during the on-site visit:¹⁶⁶ *“Presently, the Office of the Director of Audit does not inform the citizens of Antigua and Barbuda about its objectives and functions. The Director of Audit presents his reports to the Minister of Finance and Corporate Governance, for onward submission to Parliament. These reports are made public after the PAC [Public Accounts Committee] meets to discuss the said reports. However, according to section 25(6) of the Office of the Director of Audit Act, having laid the report before the House of Representatives, the Director of Audit shall publish the report on the website of the Government and carry out any other reasonable actions to ensure that the findings of the audit are made known to the public.”*

¹⁶¹ See page 4 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁶² For more information on the International Standards of Supreme Audit Institutions (ISSAI) Implementation Initiative (INTOSAI’s 3i Program), please see: <http://www.idicommunity.org/3i/index.php/3i-programme/about-the-3i-programme>

¹⁶³ Antigua and Barbuda’s Response to the Questionnaire within the framework of the Fourth Round, p. 56. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_que_resp_track.pdf

¹⁶⁴ See page 6 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁶⁵ 1 U.S. dollar = approximately 2.7 Eastern Caribbean Dollars (as of October 17, 2014).

¹⁶⁶ See page 5 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

[421] The Director of Audit further informed that the last annual report for the Office was prepared for the year 2012¹⁶⁷ and that, since the Office of the Director of Audit Act came into effect in 2014, an internal auditors report was not due until 2015.¹⁶⁸

[422] In addition, the country under reviews informs in the additional information provided to the Response to the Questionnaire¹⁶⁹ that the Audit Department does not have a website. However, one month after audit reports are presented to the Public Accounts Committee the reports can be posted on the government website (<http://www.ab.gov.ag>).

[423] Regarding coordination mechanisms for harmonizing functions, Section 22 (3) of the Office of the Director of Audit Act 2014 provides that if there are any instances of fraud or error, the Director of Audit shall immediately send a written notice of such irregularity to the relevant accounting officer (Permanent Secretary) and a copy to the Financial Secretary. During the on-site visit, the Director of Audit informed that a copy of the notice is also sent to the Attorney General, the Minister of Finance and the Minister responsible for that Ministry.¹⁷⁰

[424] Regarding mechanisms for internal control and dealing with claims, complaints, or allegations related to the pursuit of its objectives and to the performance of its personnel, during the on-site visit it was stated that the ODA does not have an internal auditing unit. Nevertheless, as regards external control, Section 14(1) of the Office of the Director of Audit Act 2014 provides that “*Each year any qualified auditor entitled to practise as a professional accountant in Antigua and Barbuda, appointed by the Minister [of Finance] after consultation with the Public Accounts Committee, and with the approval by a resolution of the House of Representatives, shall examine and audit the accounts of the Office of the Director of Audit and shall prepare a report on his findings.*”

[425] The Director of Audit further informed, during the on-site visit, that staff members are assessed through appraisal reports that are sent to the Public Service Commission via the Establishment Department.¹⁷¹ In addition, a copy of a “Staff Compliance Confirmation Checklist (Statement of Independence)” was provided.¹⁷²

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

[426] The Office of the Director of Audit (ODA) has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were briefly described in section 5.1. Nevertheless, the Committee considers it appropriate to set forth certain observations with respect to these provisions and/or other measures.

[427] First, bearing in mind that, even though, under Section 97(8) of the Constitution, the Director of Audit is not subject in the exercise of his function to the direction or control of any other person or authority, the Committee notes that Section 97(5) of the Constitution provides that he/she shall submit any report made pursuant to the functions assigned to him/her by Section 97 of the Constitution to the Minister of Finance, who shall forward it to the House of Representatives. The Committee considers that arrangement to be a restriction on the functional autonomy proper to an oversight body, such as the ODA.

¹⁶⁷ Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_off_dir_aud_ann_mgmt_rep_12.pdf

¹⁶⁸ See page 5 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁶⁹ Antigua and Barbuda’s Response to the Questionnaire within the framework of the Fourth Round, p. 54. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_que_resp_track.pdf

¹⁷⁰ See page 1 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁷¹ *Ibid.*, page 5.

¹⁷² Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_sta_com_con_check.pdf

The Committee is aware that this restriction has constitutional status, as does the Director of Audit's autonomy. For that reason, it will not formulate a recommendation on the issue.

[428] In connection with the above, it is worth noting that, in its Strategic Plan 2013 - 2017, one of the five planned actions to fulfill its strategic objective of achieving greater organizational independence is to “*obtain legislative authority to table reports directly with Parliament rather than through the Minister of Finance.*”¹⁷³

[429] Second, during the on-site visit, the Director of Audit informed that his Office does not have a Fraud or Forensic Audit Unit. In addition, he informed that there is no legal obligation for the Office of the Director of Audit to send any requests in respect to fraud to the Integrity Commission, the Public Service Commission, the Police or the DPP.¹⁷⁴

[430] The only legal basis by which the Director of Audit may report an irregularity, such as fraudulent activity, is what is found under Section 22(3) of the Office of the Director of Audit Act 2014. This Subsection provides that if it appears to the Director of Audit that an irregularity has occurred in the a) receipt, custody, issue or expenditure of public moneys; b) receipt, custody, issue, sale, transfer or delivery of stamps, securities, stores or other Government property; or c) in accounting for the procedures specified in paragraphs (a) and (b), the Director of Audit shall immediately send a written notice of such irregularity to the relevant accounting officer and send a copy of the notice to the Financial Secretary.

[431] In this respect, the Committee believes the country under review should consider requiring that the Office of the Director of Audit be required to report breaches or suspicious fraudulent activities to other appropriate authorities for further action, such as the Integrity Commission, the Royal Police Force of Antigua and Barbuda, the DPP, the Public Service Commission, the Office of the Attorney General (including its future Anti-Corruption Unit), the Office of the Accountant General, and/or the Office of National Drug and Money Laundering Control Policy (ONDCP). In the Committee's view, this would facilitate mutual support between the ODA and such bodies and make the detection, investigation, and punishment of acts of corruption more effective. The Committee will formulate recommendations in this regard (see recommendations 5.4.1 and 5.4.2 in section 5.4 of Chapter II (B) of this report).

[432] In connection with the above, it is worth noting that during the on-site visit, the Director of Audit informed that “*The Office of the Director of Audit has detected practices that can be considered fraudulent. The required information has been passed on to the respective accountant officers (Permanent Secretaries), the Royal Police Force of Antigua and Barbuda and the Attorney General. However, on most of these cases follow up by the parties described above was lacking. More co-operation is needed.*”¹⁷⁵

[433] Third, the Committee notes the absence of mechanisms for ensuring compliance with the recommendations issued by the ODA in its audit reports. In the additional information provided to the Response to the Questionnaire¹⁷⁶ the country under review highlights the following: “*In respect to institutional strengthening, the reporting cycle which would allow for institutional strengthening is seldom completed. This requires that the completed audit reports are passed to the Minister Responsible for Finance, to be submitted to the Public Accounts Committee to make recommendations to promote*

¹⁷³ See page 8 of the document “Strategic Plan 2013 - 2017”, available at:

http://www.oas.org/juridico/PDFs/mesicic4_atg_str_pla_2013_2017.pdf

¹⁷⁴ See page 1 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁷⁵ See page 8 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁷⁶ Antigua and Barbuda's Response to the Questionnaire within the framework of the Fourth Round, p. 54. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_que_resp_track.pdf

institutional strengthening. However, when the reports are passed to the Public Accounts Committee there is no follow up and no recommendations are made. Further the Public Accounts Committee has met twice in almost three (3) years.”

[434] In addition, during the on-site visit, the Director of Audit further stressed that the “*Public Accounts Committee has not meet [sic] in the calendar year 2014, and had one (1) meeting in February 2013. The meeting in 2013 looked at what are the roles and responsibilities of members of PAC [Public Accounts Committee]. Therefore, the performance, accountability mechanism is not in place in respect to the Objectives of the Office of the Director of Audit.*”¹⁷⁷

[435] The Committee notes that without the Public Accounts Committee (PAC) meeting on regular basis to review ODA’s reports, the country under review appears to be deprived of a mechanism for following-up on the recommendations issued by the Office in any of its audit reports. The Public Accounts Committee would presumably have this ability to follow-up on the recommendations issued by ODA once they have been laid in the House of Representatives, pursuant to Section 98 of the Constitution. However, if the PAC is not meeting, compliance with ODA’s recommendations may remain unaddressed and unresolved. As a result, a channel of accountability to implement the recommendations is not being utilized effectively.¹⁷⁸

[436] The Committee considers that in light of the important work being carried out by the Office of the Director of Audit, it is extremely important for the country under review to consider taking the necessary steps to ensure that a functioning mechanism is implemented to ensure adequate follow-up and compliance with the recommendations issued by the Office.

[437] Given the foregoing and taking into consideration that ODA’s recommendations are not in and of themselves binding on the ministries and other public agencies subject to its oversight, the Committee suggests that the country under review consider taking the necessary steps to ensure that the Public Accounts Committee (PAC) meets on a periodic basis and that the Parliamentary Standing Orders and the PAC Regulations are reviewed in order to ensure ODA’s reports presented to Parliament are addressed promptly so as to permit swift corrective actions. The Committee further suggests that the country under review consider adopting other measures it deems necessary to ensure that those authorities and bodies subject to the DOA’s oversight effectively comply with the recommendations issued in its audit reports. The Committee will formulate recommendations in this regard (see recommendations 5.4.3 and 5.4.4 in section 5.4 of Chapter II (B) of this report).

[438] In connection with the above, it is worth noting that, in its Strategic Plan 2013 - 2017, one of the five planned actions to fulfill its strategic objective of achieving greater organizational independence is to “*Work with parliamentarians and staff to achieve an active and effective Public Accounts Committee.*”¹⁷⁹

[439] Fourth, in the additional information provided to the Response to the Questionnaire¹⁸⁰ the country under review indicated that “*the Audit Department is lacking human resources such as other auditors and*

¹⁷⁷ See page 6 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁷⁸ In this regard, Antigua and Barbuda informed that a new Public Accounts Committee has been appointed with the Leader of the Opposition heading the Committee. The PAC is another mechanism for monitoring and scrutinizing the use and management of government finances.

¹⁷⁹ See page 8 of the document “Strategic Plan 2013 - 2017”, available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_str_pla_2013_2017.pdf

¹⁸⁰ Antigua and Barbuda’s Response to the Questionnaire within the framework of the Fourth Round, p. 49. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_que_resp_track.pdf

middle management.” In this regard, during the on-site visit, the Director of Audit further informed that there were sixteen (16) vacant posts within his Office,¹⁸¹ including one Audit Manager and six Auditors.

[440] The Director of Audit also informed that, in 2013, he started to outfit the ODA with a modern computer network and that the entire office was fully networked and equipped with respect to computers and other ancillary devices. However, the required auditing software namely “TeamMate” and “IDEA” which had been budgeted for in 2013 had not been purchased.

[441] In addition, the Director of Audit expressed that Section 13 of the Office of the Director of Audit Act 2014 was not being complied with. Section 13(2) of the Act provides that the Director of Audit shall, before the start of a financial year, prepare and submit his Office’s budget and business plan to the Minister responsible for Finance for inclusion in the national budget. Section 13(4) further provides that the Minister responsible for Finance shall consider the budget and business plan submitted to him and, within one month of receipt thereof, submit the budget for approval by the Parliament and for inclusion in the budget as a separate line of funds from the Consolidated Fund. However, the Director of Audit informed that ODA’s budget was not submitted for approval by the Parliament, instead it was the Minister of Finance who made the decision on ODA’s budget.

[442] The Committee observes that this infringement of the laws related to ODA funds provided by the Office of the Director of Audit Act 2014 may affect the independence of the Director of Audit, since ODA audits the accounts of the Ministry of Finance. In addition, the Committee notes that the budget of the Office of the Director of Audit averaged less than 0.15% of the country’s national budget from 2009 to 2014.

[443] The Committee believes that insufficient budget, staff and appropriate technological resources, such as audit software, may place a limitation on the scope of audits, and increase the risk that audits may fail to identify fraudulent activities, as well as misstatements of Government accounts. It may also make it more difficult for the Office of the Director of Audit to carry out other important duties, such as “performance audits”, that is the examination of the programs, functions, operations and procedures of a Government entity to assess whether such an entity is achieving economy, efficiency and effectiveness in its use of available resources.

[444] Given the foregoing, the country under review should consider ensuring that Section 13 of the Office of the Director of Audit Act 2014 is complied with as well as providing the Office of the Director of Audit with sufficient budget, human and technological resources to adequately carry out its functions, within available resources. The Committee will formulate recommendations in this regard (see recommendations 5.4.5 and 5.4.6 in section 5.4 of Chapter II (B) of this report).

[445] Fifth, the Committee notes that the Department of the Director of Audit carries out an important role in Antigua and Barbuda, by ensuring transparency and accountability through proper reporting and proper documentation. To further this role, the Committee considers that the country under review should establish a website for this oversight body. Such a website would ensure that it carries out its own work in a transparent manner, accountable to the general public. It should contain basic information, such as its mandate, contact information and reports issued by this oversight body, as well as the internal audit report provided in Section 14 of the Office of the Director of Audit Act 2014. It should also contain statistics on its work, as well as strategic plans, relevant legislation and job descriptions/specifications for posts. The Committee will formulate a recommendation in this regard (see recommendation 5.4.7 in section 5.4 of Chapter II (B) of this report).

¹⁸¹ See page 3 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

[446] In connection with the above, it is worth noting that, in its Strategic Plan 2013 - 2017, one of the five planned actions to fulfill its strategic objective of communicating their audit role and results clearly and directly to Parliament and the public is to “*Create an audit office website that is informative for users; update the website information frequently, including posting of audit reports.*”¹⁸²

[447] Sixth, the Committee also observes an absence of accountability mechanisms publicizing the work of the ODA, or informing the public of the results of its performance of its functions. In this regard, the Director of Audit noted during the on-site visit¹⁸³ that the last annual performance report the Office prepared communicating its roles, responsibilities and functions, as well as summarizing its activities was done for year 2012.¹⁸⁴ In this sense, the Committee notes that even though an annual report was prepared for 2012, there is no legal obligation for the ODA to prepare annual reports on its activities. In light of this circumstance as well as the importance of enhancing the accountability of the Office of the Director of Audit, the Committee will formulate the corresponding recommendations (see recommendations 5.4.8 and 5.4.9 in section 5.4 of Chapter II (B) of this report).

[448] In connection with the above, it is worth noting that, in its Strategic Plan 2013 - 2017, one of the five planned actions to fulfill its strategic objective of communicating their audit role and results clearly and directly to Parliament and the public is to “*Prepare an annual performance report for the audit office, including audited financial statements, and submit to the Public Accounts Committee.*”¹⁸⁵

[449] Seventh, the Committee further notes that the reports of the Director of Audit on the accounts of the government, which are to be presented to the Speaker to be laid before the House of Assembly without undue delay, as required under Section 97(6) of the Constitution, are not easily available to the general public. As noted earlier, there is no website for the Director of Audit wherefrom the public may become aware of the operations and functions of this oversight body.

[450] Likewise, despite the fact that Section 22(2) of the Office of the Director of Audit Act 2014 requires that the Director of Audit publish the audit reports on the website of the Government one month after referring it to the House of Representatives, these reports are not found either online, and a search on the government website yields no results. As the primary means of control of public finances and the mechanisms by which irregularities are brought to the attention of the House of Representatives, and subsequently, the general public, these reports should be made readily available online. Moreover, the publication of these reports serve to provide the public with a manner to monitor the use of public finances, and ensure that they are being used in an adequate manner. The Committee will formulate a recommendation in this regard (see recommendation 5.4.10 in section 5.4 of Chapter II (B) of this report).

[451] Eighth, during the on-site visit and in its Strategic Plan 2013 - 2017¹⁸⁶ the Director of Audit reported that the Accountant General and the bodies it audits do not submit their annual accounts in a timely manner and that the quality of the financial information submitted is lacking.

[452] In this regard, the Committee takes note with concern that some statutory bodies, state owned enterprises, corporations or agencies have refused to provide the Director of Audit with their audited

¹⁸² See page 11 of the document “Strategic Plan 2013 - 2017”, available at:

http://www.oas.org/juridico/PDFs/mesicic4_atg_str_pla_2013_2017.pdf

¹⁸³ See page 5 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at:

http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

¹⁸⁴ See page 11 of the document “Strategic Plan 2013 - 2017”, available at:

http://www.oas.org/juridico/PDFs/mesicic4_atg_str_pla_2013_2017.pdf

¹⁸⁵ *Ibid.*, page 11.

¹⁸⁶ See page 9 of the document “Strategic Plan 2013 - 2017”, available at:

http://www.oas.org/juridico/PDFs/mesicic4_atg_str_pla_2013_2017.pdf

financial statements (including the St John's Development Corporation, the Board of Education, the Central Housing and Planning Authority and the Development Control Authority).¹⁸⁷

[453] The Report of the Director of Audit on the Public Accounts of Antigua and Barbuda for the Financial Year ended 2010, provides as follows:¹⁸⁸ *"19.2 In May 2012, a written request was sent to all statutory bodies seeking their last three (3) years of audited financial statements. The results of my review indicated that while several statutory bodies have current audited financial statements and are to be commended, others do not. In fact, 12 statutory bodies were one to four years in arrears, and 5 were five or more years in arrears. Further, no response to my request and repeated follow-ups was received from five (5) statutory bodies.*

[454] *19.3 These results should be of concern to parliamentarians. Many of these statutory bodies receive sizable subventions from government and audited annual financial statements provide assurance that this funding was used as intended. As well, up-to-date financial statements are needed to inform the government of any contingent liabilities that statutory bodies have recognized and that may represent a potential liability to the government.*

[455] *19.4 All statutory bodies should bring their financial statements and audits up to date by December 31, 2013. Those statutory bodies that have not received unqualified audit opinions should develop an action plan to correct identified accounting and financial reporting deficiencies as quickly as possible.*

[456] *19.5 In conclusion, I would like to point out that it is imperative that the House of Representatives and the general public hold these bodies accountable for disclosing their financial positions and the presentation of audited accounts.*

[457] *19.6 The Government of Antigua and Barbuda is making every effort to bring the Public Accounts up to date and the statutory bodies are encouraged to do likewise.*

[458] *19.7 Finally, I must mention the outright refusal of four (4) statutory bodies to provide financial statements to this office even after discussion with the Attorney General's office to comply with the request."*

[459] Given the foregoing, the Committee believes the country under review should consider sanctions for those persons or agencies responsible for submitting these statements, in order to encourage compliance. The Committee will formulate a recommendation in this regard (see recommendation 5.4.11 in section 5.4 of Chapter II (B) of this report).

[460] In addition, with regard to the lack of quality of the financial information provided to the ODA, the Director of Audit states the following in the its Report on the Public Accounts of Antigua and Barbuda for the Financial Year ended 2009:¹⁸⁹ *"I am still particularly concerned that enough effort has not been placed on the preparation of the various statements and also the relevant source documents in question. I am also concerned that most of the statements submitted to audit for verification are not properly scrutinized before submission.*

[461] *It is indeed disheartening to the Audit staff, when they are placed in a position where year after year they encounter similar problems but in greater quantities while auditing the Financial Statements prepared by staff at the Treasury Department. A proper system of Internal Control should be prerequisite*

¹⁸⁷ See Appendix H of the "Report of the Director of Audit on the Public Accounts of Antigua and Barbuda for the Financial Year ended 2010", available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_rep_dir_aud_2010.pdf

¹⁸⁸ Ibid., page 51.

¹⁸⁹ See page 4 of the "Report of the Director of Audit on the Public Accounts of Antigua and Barbuda for the Financial Year ended 2009", available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_rep_dir_aud_2009.pdf

for the effective functioning of a department as it would enhance the quality of work being produced. Once this is in place, the system would allow for the detection of errors and thereby reducing the risk of any material misstatement.”

[462] The Committee takes note with concern of the on-going situation described above and suggests that the country under review consider establishing the appropriate internal control systems to ensure that the Director of Audit is provided with accurate, reliable and timely financial information. The Committee will formulate a recommendation in this regard (see recommendation 5.4.12 in section 5.4 of Chapter II (B) of this report).

[463] Finally, bearing in mind that, during the on-site visit, the Director of Audit pointed out the need for technical cooperation to train its staff to detect acts of corruption and to develop and implement strategies and procedures on how to get interested parties involved and report corrupt practices, the Committee will offer the country under review a recommendation that it consider taking appropriate steps to ask international organizations or other countries to provide the technical cooperation that the ODA needs in this regard (see recommendation 5.4.13 in section 5.4 of Chapter II (B) of this report).

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

[464] Following the on-site visit,¹⁹⁰ the Director of Audit provided the following data on its outcomes:

[465] Year	# of Audit Completed	Submitted to Accounting Officers	Types of Audit
2009	18	Yes	Performance - 0 Compliance - 18 Financial - 0
2010	12	Yes	Performance - 0 Compliance - 11 Financial - 1
2011	14	Yes	Performance - 0 Compliance - 13 Financial - 1
2012	12	Yes	Performance - 2 Compliance - 9

¹⁹⁰ See pages 6 and 7 of the document “OAS - Meeting with Audit Dept. Oct 2014”. Available at: http://www.oas.org/juridico/PDFs/mesicic4_atg_oas_mee_aud_dep_2014.pdf

			Financial - 1
2013	13	Yes	Performance - 4 Compliance- 6 Financial - 3

[466] First, with respect to the above information, the Committee notes that while it demonstrates that the ODA has conducted audits, it does not clearly indicate whether, as a result of said audits, any actions were detected that might constitute acts of corruption. For that reason, the Committee will offer a recommendation in that regard (see recommendation 5.4.14 in section 5.4 of Chapter II (B) of this report).

[467] Second, the Committee further notes that no information is available on the extent to which their recommendations were actually followed. For that reason, the Committee considers that it would be useful if the ODA had a monitoring system to see how much attention is being paid to its recommendations, with a view to identifying challenges and recommending, where applicable, corrective measures (see recommendation 5.4.15 in section 5.4 of Chapter II (B) of this report).

[468] Third, the Committee deems it useful, in keeping with Recommendations 5.4.2 and 5.4.3 in Chapter II (B) of this report, for the ODA to have a system for monitoring those actions detected in the course of audits that might constitute acts of corruption, which were subsequently reported by the ODA to the competent bodies for investigation and appropriate action. Such a system would enable the ODA to know how those reports are processed and what their outcomes are, and thereby enable it to publicize them, when appropriate, so that citizens can appreciate the fact that its work can help detect corruption and give them a better basis for evaluating the ODA's performance. The Committee will formulate a recommendation in that regard (see recommendation 5.4.16 in section 5.4 of Chapter II (B) of this report).

[469] Fourth, the Committee believes it useful for the country under review to consider preparing information on repayments to the State ordered and actually credited to the public coffers, in order to identify challenges in the collection processes of such repayments and, if appropriate, to adopt corrective measures (see recommendation 5.4.17 in section 5.4 of Chapter II (B) of this report).

5.4. Conclusions and recommendations

[470] Based on the comprehensive review conducted with respect to the Office of the Director of Audit (ODA) in the foregoing sections, the Committee offers the following conclusions and recommendations:

[471] Antigua and Barbuda has considered and adopted measures intended to maintain and strengthen the Office of the Director of Audit (ODA) as an oversight body, as indicated in section 5 of Chapter II (B) of this report.

[472] In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

- 5.4.1 Consider providing the Office of the Director of Audit with the legal obligation to report an irregularity, such as fraudulent activity, to appropriate authorities, such as the Integrity Commission, the Royal Police Force of Antigua and Barbuda, the Director of Public Prosecutions, the Public Service Commission, the Office of the Attorney General (including its

future Anti-Corruption Unit) and/or the Office of National Drug and Money Laundering Control Policy (ONDCP) (see section 5.2 of Chapter II (B) of this report).

- 5.4.2 Adopt coordination and cooperation mechanisms to enable the Office of the Director of Audit (ODA) to send to the Integrity Commission, the Royal Police Force of Antigua and Barbuda, the Director of Public Prosecutions, the Public Service Commission, the Office of the Attorney General (including its future Anti-Corruption Unit), the Office of the Accountant General and/or the Office of National Drug and Money Laundering Control Policy (ONDCP), as appropriate, timely notification of such evidence of corrupt acts that the ODA detects in the audits that it carries out (see section 5.2 of Chapter II (B) of this report).
- 5.4.3 Take the necessary steps to ensure that the Public Accounts Committee (PAC) meets on a periodic basis and consider reviewing the Parliamentary Standing Orders and the PAC Regulations in order to ensure ODA's reports presented to Parliament are addressed promptly so as to permit swift corrective actions (see section 5.2 of Chapter II (B) of this report).
- 5.4.4 Establish mechanisms to ensure that those authorities and bodies subject to the DOA's oversight effectively comply with the recommendations issued in its audit reports (see section 5.2 of Chapter II (B) of this report).
- 5.4.5 Take appropriate measures to ensure that Section 13 of the Office of the Director of Audit Act 2014 is complied with, in order to guarantee the Office's budgetary independence from the Ministry of Finance (see section 5.2 of Chapter II (B) of this report).
- 5.4.6 Provide the Office of the Director of Audit with the budgetary, human and technological resources needed for the proper performance of its functions, within available resources (see section 5.2 of Chapter II (B) of this report).
- 5.4.7 Create and maintain an updated institutional website for the Office of the Director of Audit, in order to allow easy access by the public to information about its objectives and functions, the procedures established for carrying out those functions, and how to contact the Office. Ensure that the website contains, among others, the reports issued by this oversight body, the internal audit report provided in Section 14 of the Office of the Director of Audit Act 2014, as well as statistics on its work, strategic plans, relevant legislation and job descriptions/specifications for posts (see section 5.2 of Chapter II (B) of this report).
- 5.4.8 Consider establishing the legal obligation for the Office of the Director of Audit to account for the budget allocated and to publish annual reports, disclosing its activities and the results achieved, as well as the institution's in-house performance, goals, challenges and achievements (see section 5.2 of Chapter II (B) of this report).
- 5.4.9 Ensure that the annual report of the activities of the Office of the Director of Audit contains relevant content that informs the public of the work undertaken by this oversight body, such as its human resources, organizational chart, budget allocation, expenditures, training provided, as well as statistics on their work (see section 5.2 of Chapter II (B) of this report).
- 5.4.10 Publicize all the reports prepared by the Office of the Director of Audit online so that they are easily accessible by the general public (see section 5.2 of Chapter II (B) of this report).
- 5.4.11 Provide the Director of Audit with the authority to impose administrative sanctions on those government agencies and other bodies (including state-owned enterprises and corporations) that

fail to submit their statements of accounts for the financial year within established deadlines, as well as on those persons within those agencies and bodies that are responsible for preparing and submitting them on their behalf (see section 5.2 of Chapter II (B) of this report).

- 5.4.12 Establish the appropriate internal control systems for the Government to ensure that the Director of Audit is provided with accurate, reliable and timely financial information (see section 5.2 of Chapter II (B) of this report).
- 5.4.13 Take appropriate steps to request the technical cooperation required by the Office of the Director of Audit from international organizations and other countries, in order to train its staff to detect corrupt practices and to help develop and implement strategies and procedures on how to get interested parties involved and to report corrupt practices (see section 5.2 of Chapter II (B) of this report).
- 5.4.14 Compile and publish statistics that clearly show whether, as a result of the audits performed, deeds have been detected that might constitute acts of corruption, with a view to identifying challenges and recommending corrective measures (see section 5.3 of Chapter II (B) of this report).
- 5.4.15 Adopt a monitoring system that enables the Office of the Director of Audit to see how much each audited body is complying with its recommendations, with a view to identifying challenges and, where applicable, recommending corrective measures (see section 5.3 of Chapter II (B) of this report).
- 5.4.16 Adopt a system for monitoring acts detected during audits by the Office of the Director of Audit that might constitute acts of corruption, which have been referred to the competent authorities for investigation and appropriate action, that will enable the Office to see how its findings are being processed and the outcomes thereof, as well as to publicize that information when appropriate, so that citizens can appreciate that the work of the Office of the Director of Audit can help detect corruption and give them a better basis for evaluating its performance (see section 5.3 of Chapter II (B) of this report).
- 5.4.17 Prepare information on repayments to the State ordered and actually credited to the public coffers, in order to identify challenges in the collection processes of such repayments and, if appropriate, to adopt corrective measures (see section 5.3 of Chapter II (B) of this report).

ANNEX I
AGENDA OF THE ON-SITE VISIT TO
ANTIGUA AND BARBUDA

<u>Monday, October 6, 2014</u>	
04:00 pm – 05:00 pm <i>City View Hotel</i> <i>Newgate St, St John's</i>	Coordination meeting between the representatives of the member states of the subgroup and the Technical Secretariat.
05:00 pm – 06:00 pm <i>City View Hotel</i>	Coordination meeting between the representatives of the country under review, the member states of the subgroup and the Technical Secretariat.
<u>Tuesday, October 7, 2014</u>	
09:00 am – 12:30 pm <i>City View Hotel</i>	Meeting with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional organizations, academics or researchers.
	<u>Topics:</u> Oversight bodies <ul style="list-style-type: none">• Civil society perspectives on government oversight bodies that prevent, detect, punish and eradicate corrupt acts Topics of the First Round of Review <ul style="list-style-type: none">• Conflicts of Interest.• Systems for Declaring Income, Assets, and Liabilities.• Access to Public Information.
	<u>Participants:</u> <i>The Antigua and Barbuda Bar Association</i> <i>Mr. Arthur G B Thomas, President</i> <i>Ms. Marian Hesse, Member</i> <i>The Antigua & Barbuda Chamber of Commerce & Industry</i> <i>Mrs. Bernadette David, Vice-President</i> <i>Mr. Everett Christian, Acting Executive Director</i> <i>The Antigua Trades and Labour Union</i> <i>Mr. Wigley George, President</i> <i>Mr. Alrick Daniel, General Secretary</i> <i>Antigua and Barbuda Media Congress</i> <i>Ms. Martina Johnson, Chair</i> <i>The Antigua and Barbuda Bankers Association</i> <i>Mr. Gordon Julien, Member</i>

12:30 pm – 2:00 pm	Lunch
2:00 pm. – 5:30 pm <i>City View Hotel</i>	Integrity Commission
2:00 pm – 3:45 pm	<p><u>Panel 1:</u></p> <ul style="list-style-type: none"> • Brief presentation on the institution’s objectives, functions and structure (10 minutes). • Rules governing spheres of competence and inter-institutional coordination mechanisms. • Adoption of decisions. • Legal and administrative human resources regime and training activities. • In-house rules regarding fulfillment of responsibilities and institutional strengthening. • Dissemination of its objectives and functions. <p><u>Participants:</u> <i>Mr. Radford Hill, Chairman</i> <i>Pastor Ivor Davis, Member</i> <i>Ms. Roslyn Yearwood, Secretary</i></p>
4:00 pm – 5:30 pm	<p><u>Panel 2:</u></p> <ul style="list-style-type: none"> • Internal control and accountability mechanisms. • Budgetary regime. • Results in relation to the fulfillment of its responsibilities and the dissemination of those findings. • Difficulties with fulfilling obligations and needs for technical cooperation. <p><u>Participants:</u> <i>Mr. Radford Hill, Chairman</i> <i>Pastor Ivor Davis, Member</i> <i>Ms. Roslyn Yearwood, Secretary</i></p>
5:30 pm – 6:00 pm <i>City View Hotel</i>	Informal meeting^{191/} between the representatives of the member states of the subgroup and the Technical Secretariat.
<u>Wednesday, October 8, 2014</u>	
8:30 am – 10:30 am <i>City View Hotel</i>	Office of the Attorney General
08:30 am – 09:30 am	<u>Panel 3:</u>

¹⁹¹. The second paragraphs of the provision 20 of the *Methodology for Conducting On-Site Visits* states: “At the conclusion of the meetings on each day of the on-site visit, the Technical Secretariat shall organize an informal meeting with the members of the Subgroup, to exchange preliminary points of view on the topics addressed at those meetings.”

	<ul style="list-style-type: none"> • Brief presentation on the institution’s objectives, functions and structure (10 minutes). • Rules governing spheres of competence and inter-institutional coordination mechanisms. • Legal and administrative human resources regime and training activities. • In-house rules regarding fulfillment of responsibilities and institutional strengthening. • Dissemination of its objectives and functions. <p><u>Participants:</u> <i>Hon. Steadroy Benjamin, Attorney General and Minister of Legal Affairs and Justice;</i> <i>Mr. Lebrecht Hesse, Solicitor General</i> <i>Mr. Martin Camacho, Deputy Solicitor General</i> <i>Mr. Colin Hodge, Legal Draftsman</i> <i>Ms. Vanessa Moe, Crown Counsel II</i> <i>Ms. Rose-Anne Kim, Crown Counsel II</i> <i>Ms. Carla Brookes-Harris, Crown Solicitor</i></p>
<p>09:40 am – 10:30 am</p>	<p><u>Panel 4:</u></p> <ul style="list-style-type: none"> • Internal control and accountability mechanisms. • Budgetary regime. • Results in relation to the fulfillment of its responsibilities and the dissemination of those findings. • Difficulties with fulfilling obligations and needs for technical cooperation. <p>Topics of the First Round of Review</p> <ul style="list-style-type: none"> • Assistance and cooperation • Central authorities <p><u>Participants:</u> <i>Hon. Steadroy Benjamin, Attorney General and Minister of Legal Affairs and Justice;</i> <i>Mr. Lebrecht Hesse, Solicitor General</i> <i>Mr. Martin Camacho, Deputy Solicitor General</i> <i>Mr. Colin Hodge, Legal Draftsman</i> <i>Ms. Vanessa Moe, Crown Counsel II</i> <i>Ms. Rose-Anne Kim, Crown Counsel II</i> <i>Ms. Carla Brookes-Harris, Crown Solicitor</i></p>
<p>10:40 am – 1:00 pm <i>City View Hotel</i></p>	<p>Office of the Director of Public Prosecutions</p>

<p>10:40 am – 11:45 am</p>	<p><u>Panel 5:</u></p> <ul style="list-style-type: none"> • Brief presentation on the institution’s objectives, functions and structure (10 minutes). • Rules governing spheres of competence and inter-institutional coordination mechanisms. • Legal and administrative human resources regime and training activities. • In-house rules regarding fulfillment of responsibilities and institutional strengthening. • Dissemination of its objectives and functions.
	<p><u>Participant:</u> <i>Mr. Anthony Armstrong, Director of Public Prosecutions</i></p>
<p>11:50 am – 1:00 pm</p>	<p><u>Panel 6:</u></p> <ul style="list-style-type: none"> • Internal control and accountability mechanisms. • Budgetary regime. • Results in relation to the fulfillment of its responsibilities and the dissemination of those findings. • Difficulties with fulfilling obligations and needs for technical cooperation.
	<p><u>Participant:</u> <i>Mr. Anthony Armstrong, Director of Public Prosecutions</i></p>
<p>1:00 pm – 2:00 pm</p>	<p>Lunch</p>
<p>2:00 pm – 5:30 pm <i>City View Hotel</i></p>	<p>Office of the Director of Audit</p>
<p>2:00 pm – 3:30 pm</p>	<p><u>Panel 7:</u></p> <ul style="list-style-type: none"> • Brief presentation on the institution’s objectives, functions and structure(10 minutes). • Rules governing spheres of competence and inter-institutional coordination mechanisms. • Legal and administrative human resources regime and training activities. • In-house rules regarding fulfillment of responsibilities and institutional strengthening. • Dissemination of its objectives and functions. <p><u>Participants:</u> <i>Mr. Dean Evanson, Director of the Office of the Director of Audit</i> <i>Ms. Denise Hunte, Deputy Director of Audit</i></p>
<p>3:40 pm – 5:30 pm</p>	<p><u>Panel 8:</u></p>

	<ul style="list-style-type: none"> • Internal control and accountability mechanisms. • Budgetary regime. • Results in relation to the fulfillment of its responsibilities and the dissemination of those findings. • Difficulties with fulfilling obligations and needs for technical cooperation. <p><u>Participants:</u> <i>Mr. Dean Evanson, Director of the Office of the Director of Audit</i> <i>Ms. Denise Hunte, Deputy Director of Audit</i></p>
<p>5:30 pm – 6:00 pm <i>City View Hotel</i></p>	<p>Informal meeting between the representatives of the member states of the subgroup and the Technical Secretariat.</p>
<p><u>Thursday, October 9, 2014</u></p>	
<p>9:00 am – 12:30 pm <i>City View Hotel</i></p>	<p>Public Service Commission</p>
<p>9:00 am – 10:30 pm</p>	<p><u>Panel 9:</u></p> <ul style="list-style-type: none"> • Brief presentation on the institution’s objectives, functions and structure (10 minutes). • Rules governing spheres of competence and inter-institutional coordination mechanisms. • Adoption of decisions. • Legal and administrative human resources regime and training activities. • In-house rules regarding fulfillment of responsibilities and institutional strengthening. • Dissemination of its objectives and functions. <p><u>Participants:</u> <i>Ms. Ineta Wallace, Acting Chairman</i> <i>Ms. Luann De Costa-Eduardo, Member</i> <i>Mr. Alec Tomlinson, Member</i> <i>Ms. Annetta Harris, Secretary</i></p>
<p>10:45 am – 12:30 pm</p>	<p><u>Panel 10:</u></p> <ul style="list-style-type: none"> • Internal control and accountability mechanisms. • Budgetary regime. • Results in relation to the fulfillment of its responsibilities and the dissemination of those findings. • Difficulties with fulfilling obligations and needs for technical cooperation. <p><u>Participants:</u> <i>Ms. Ineta Wallace, Acting Chairman</i></p>

	<p><i>Ms. Luann De Costa-Eduardo, Member</i></p> <p><i>Mr. Alec Tomlinson, Member</i></p> <p><i>Ms. Annetta Harris, Secretary</i></p>
12:30 pm – 2:00 pm	Lunch
2:00 pm – 4:00 pm <i>City View Hotel</i>	Office of the Commissioner of Information
	<p><u>Panel 11:</u></p> <p>Topic of the First Round of Review</p> <ul style="list-style-type: none"> • Access to Public Information
	<p><u>Participant:</u></p> <p><i>Mr. Alister Thomas, Commissioner</i></p>
4:15 pm – 4:45 pm <i>City View Hotel</i>	Informal meeting between the representatives of the member states of the subgroup and the Technical Secretariat.
4:45 pm – 5:15 pm <i>City View Hotel</i>	Final meeting ^{192/} between the representatives of the country under review, the member states of the subgroup and the Technical Secretariat.

¹⁹². The third paragraph of provision 20 of the *Methodology for Conducting On-Site Visits* states: “At the end of the on-site visit, a meeting shall be held, to be attended by the Subgroup experts, the Technical Secretariat, and the Lead Expert of the country under review and/or the official appointed in his place in accordance with provision 10, second paragraph, of this Methodology. That meeting shall identify, if necessary, the information that, exceptionally, the country under review is still to submit through the Technical Secretariat and the deadline within which it is to do so, and it shall also coordinate any other pending matters arising from the on-site visit.”

**OFFICIALS WHO SERVED AS CONTACTS IN THE STATE UNDER REVIEW FOR
COORDINATION OF THE ON-SITE VISIT, AND REPRESENTATIVES OF THE MEMBER
STATES OF THE PRELIMINARY REVIEW SUBGROUP AND OF THE MESICIC
TECHNICAL SECRETARIAT WHO PARTICIPATED IN THE ON-SITE VISIT**

STATE UNDER REVIEW:

ANTIGUA AND BARBUDA

Hon. Steadroy Benjamin

Lead Expert with the Committee of Experts of the MESICIC
Attorney General and Minister of Legal Affairs

Annette Mark

Alternate Expert with the Committee of Experts of the MESICIC
Legal Officer, Office of National Drug and Money Laundering Control Policy (ONDCP)

MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP:

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