

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

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

SECTION I

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

I. BRIEF DESCRIPTION OF THE LEGAL-INSTITUTIONAL SYSTEM

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 the 1st November, 1981.

The Constitution¹ 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 consistency is concerned and the inconsistent part of the Act will be void.

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

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.

¹ The Antigua and Barbuda Constitution Order 1981 Statutory Instruments 1981, No. 1106

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 informed regularly concerning the conduct of government matters or where such a request is made by the Governor General.

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 unless otherwise stated in section 31(1) of the Constitution.

The House of Representative is made up of a number of the elected members and includes the Speaker of the House who will be 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.

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.

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 statute: **Magistrates Code of Procedure Cap 255 as amended.**

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).**

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 Organisation of Eastern Caribbean States (the OECS).

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

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

II. CONTENT OF THE QUESTIONNAIRE

CHAPTER ONE

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

1. General standards of conduct and mechanisms

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

The following legislation governs the correct, honorable and adequate fulfilment of public functions in Antigua and Barbuda:

The Civil Servant Act Cap 87
The Police Act Cap 330
The Integrity In Public Life Act 2004
Prevention Of Corruption Act 2004
Freedom of Information Act 2004

The Civil Servant Act Cap 87 governs among other things the terms of employment, termination and discipline of civil servants. Section 13 allows for civil servants to be summarily dismissed where he is absent from Antigua and Barbuda without permission, adjudged bankrupt, convicted by a court of a crime involving dishonesty or any other crime that is likely to bring the Civil Service into disrepute.

Section 28 empowers the Minister to make regulations to include such things as regulating the terms and conditions, the hours of civil servants and regulating duties and conduct.

The Police Act Cap 330 among other things makes provisions for the conduct of police officers from the Rank of Inspector down. Under section 33 of the Act the Commissioner of

Police has the power to dismiss or reduce the rank of any inspector or subordinate police officer convicted of a criminal offence or the breach of any disciplinary regulations made under the Act.

Section 35 of the Act empowers the Minister with the concurrence of the Police Service Commission to make regulations for offences against discipline, procedure for dealing with such offences, the punishment to be imposed, suspension pending hearing of the offence and the general maintenance of discipline in the police force.

The Police (Discipline) Regulations, dated 22nd August, 1967 made under section 34 of the Police Act – These regulations were enacted in accordance with Section 34 of the Police Act for the maintenance of discipline in the Police Force for the rank of Inspector and other subordinate police officers

A Trilogy of Legislation enacted to in the fight against Corruption

In 2004 the Government of Antigua and Barbuda enacted a trilogy of legislation in the fight against corruption, namely, **The Integrity In Public Life Act 2004**, **The Prevention of Corruption Act 2004** and **The Freedom of Information Act 2004**.

Prevention of Corruption Act 2004 was enacted to eliminate corruption and applies to public officials holding a public office in a public body. According to section 2 of this Act public body means:

- (a) *The Government or Barbuda Council;*
- (b) *A Ministry or Department of Government;*
- (c) *The House of Representative or the Senate;*
- (d) *A corporation established by an Act of Parliament for public purpose or any subsidiary company thereof registered under the Companies Act 1995;*
- (e) *A board, commission, authority, committee or other body, whether paid or unpaid, and whether or not established by or under any law to perform public functions on behalf of the Government.*

In accordance with the convention a person commits an offence of bribery under section 3(1) where he –

- (a) corruptly solicits, accepts, whether directly or indirectly, property or a benefit or advantage for himself or another person for doing an act or for omitting to do an act in the performance of his functions as a public official;*
- (b) in the performance of his duties as a public official performs or omits to perform any duties in a public body for the purpose of obtaining any property, a benefit or advantage for himself or any other person.*
- (c) offers or grants directly or indirectly to a public official any property or a benefit or advantage, for doing or omitting to do any act in the performance of his functions as a public official;*
- (d) fraudulently uses or conceals any property or other benefit derived by an act or omission to act under paragraphs (a), (b) or (c);*
- (e) 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;*
- (f) 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;*
- (g) communicates to another person any classified or confidential information obtained in the performance of his duties as a public official with a view to assisting that person to obtain any property, benefit or advantage; or*
- (h) improperly uses for his benefit or that of a third party, any property belonging to a public body to which he has access as a result of or in the course of the performance of his functions as a public official.*

A person commits an offence where without lawful excuse offers an advantage to a public official an inducement to or reward for giving assistance or using his influence in the award of a contract: section 4(1);

Section 4(2) - A public official commits an offence where without lawful authority or reasonable excuse, solicits or accepts any advantage to or reward for giving assistance or using influence in or having given assistance or used influence in the awarding of a contract:

Section 6(1) - also makes it an offence where a person in Antigua and Barbuda offers or grants directly or indirectly to a public official of another State any property, benefit or advantage in connection with any economic or commercial transaction, in exchange for any act or omission in the performance of the public functions or that public official.

Section 7 - It is also an offence where a public official who is in public office or has been in public office has unexplained property under

The Integrity In Public Life Act 2004 applies persons in public life carrying out a public function in a public: section 2 of the Act. Persons in public life are listed in the First Schedule of the Act and include the following:

1. Members of the House of Representative;
2. Members of the Senate;
3. Speaker of the House of Representative;
4. Members of the Barbuda Council;
5. Commissioner and Deputy Commissioner of the Police Force;
6. Police Officers of the rank of Inspector and above;
7. Solicitor General;
8. Clerk of Parliament;
9. Accountant General and Deputy Accountant General;
10. Magistrates;
11. Director of Public Prosecutions;
12. Comptroller of Customs;
13. Legal Officers employed with the Government of Antigua and Barbuda;
14. Comptroller of Customs;

The Act requires persons in public life to file a declaration in respect to their financial affairs with the Integrity Commission setting out among other things his income, assets and liabilities, his public and private office, the assets of his or her children below the age of 18 and any gifts received in the performance of his duty as a public officer: section 16 of the Integrity In Public Life Act.

Freedom of Information Act 2004 was enacted to promote maximum disclosure of information in the public interest, to guarantee and facilitate the right of access of information and to provide for effective mechanisms to ensure that such information is accessible to the public.

6. (1) Within the broad objectives of section 12 of the Constitution, every person has the right, and is free, to receive and to disseminate information and ideas without interference. The paramount purpose of this Act is to give maximum effect to, that right in respect of information held by public authorities (subject only to such exceptions as are reasonably justifiable in a democratic society or specifically prescribed by law) and to enhance good governance through knowledge, transparency and accountability.

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

Prevention of Corruption Act 2004 – pursuant to section 8, a person who commits an offence under this Act is liable upon conviction on indictment to a fine not exceeding one hundred thousand dollars and to imprisonment for a term not exceeding five years. Further the court may order the convicted person to pay an amount or benefit or advantage received by him, forfeit his right to any non-contributory pension, declare that any right under non-contributory pension scheme forfeited and declare the convicted person disqualified from holding any public office for a period not exceeding seven years.

Section 11 - upon application by the prosecutor the court in addition to any penalty imposed under section 8 may order the confiscation of any property connected with the offence or where an offence is committed under section 7 order the payment to the Crown the value of property the acquisition of which is unexplained by the offender.

Integrity In Public Life Act 2004 – Part II section 4 of the Act provides for the establishing of the Integrity Commission. The functions of the Commission are therefore listed under section 12 of the Act as follows:

12. (1) *The functions of the Commission shall be –*

- (a) *to receive and retain all declarations filed with it under this Act;*
- (b) *to receive and investigate complaints regarding non-compliance with or contravention of any provisions of this Act or the Prevention of Corruption Act, 2004;*
- (c) *to make inquiries as it considers necessary in order to verify or determine the accuracy of a declaration filed under this Act;*
- (d) *to conduct 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;*
- (e) *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.*
- (f) *to examine the practices and procedures of Statutory Corporations and Departments of Government to determine whether there are corrupt practices;*
- (g) *to advise Statutory Corporations and Departments of Government of any change in practice or procedure which may be necessary to eliminate corrupt practices;*
- (h) *to perform such other functions as is required by this Act.*

The Second Schedule of the Integrity In Public Life Act sets out a Code Of Conduct for persons in public life:

A person in public life shall not –

- (a) in return for anything done, or to be done, or omitted to be done in the execution of his duties, ask for or accept for himself or any person, any money, property, benefits or favours of any kind over and above that which he is lawfully entitled to receive for the performance of his duties;*
- (b) in the course of the performance of his official functions discriminate against any person with respect to terms, conditions and privileges of employment or other official matters because of that person's race, place of origin, political opinion, colour, creed or gender;*
- (c) for himself or for anyone else accept any gifts, benefit or advantage from any one, except personal gifts from his spouse, relatives or friends, or personal gifts given otherwise than as a motive or reward for doing or forbearing to do anything in the performance of his official functions or causing any other person from doing or forbearing to do anything; but this paragraph does not apply to gifts received on behalf of the State by a person in public life in the course of the performance of his official functions;*
- (d) allow private interests to conflict with his public duties or improperly influence his conduct in the performance of his public duties;*
- (e) allow 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 favour of his public duties;*
- (f) use 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;*
- (g) make use of, or communicate to anyone except in the performance of his official duties, the contents of any document, or any information, or matter acquired in the course of his official duties which are not available to the public;*
- (h) use or allow the use of public property (including money), equipment, supplies or services for any purpose other than for officially approved purposes;*
- (i) while he is a person in public life, acquire, or become 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 this Code applies makes a public disclosure of such partnership, shareholding or other interest;

- (j) *in the course of the performance of his official duties, aid, abet, counsel, procure or command any other person to commit a breach of this Code of Conduct.*

The Public Service Commission – section 100(1) of the Constitution of Antigua and Barbuda provides for the establishment of the Public Service Commission to among other things exercise disciplinary control over those persons holding or acting in a public office in the public service and for the removal of such persons: section 100(1) of the Constitution.

Police Service Commission – Section 104(1) of the Constitution of Antigua and Barbuda provides for the establishment of the Police Service Commission which inter alia shall have to power to appoint, promote and exercise disciplinary control over persons holding or acting in such offices of an officer over the rank of Sergeant.

The power to appoint persons to hold office, promote and exercise disciplinary control over of police officers below the rank of Sergeant is vested in the Commissioner of Police: section 105(5) –

The power to appoint persons to hold or act in offices in the Police Force below the rank of Sergeant (including the power to confirm appointments) and, subject to the provisions of section 107 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such person from office shall vest in the Commissioner of Police.

As mentioned above **The Police (Discipline) Regulations, dated 22nd August, 1967 made under section 34 of the Police Act** – These regulations were enacted in accordance with Section 34 of the Police Act for the maintenance of discipline in the Police Force for the rank of Inspector and other subordinate police officers. Section 3 states as follows:

DISCIPLINARY OFFENCES. A member of the Force commits an offence against discipline if he commits one or more of the offence set out in the Schedule of these Regulations.

Schedule offences include corrupt practices pursuant to subsection (g);

Corrupt practice, that is to say, if a member of the Force -

- i. receives any bribe;*
- ii. fails to account for or make a prompt and true return of any money or property seized or received by him in his official capacity; or*

- iii. *without the knowledge and permission of the Commission of Police accepts directly or indirectly any gratuity, present or reward in respect of anything done in the discharge of the duties of his office; or*
- iv. *places himself under pecuniary obligation to any person who holds a licence concerning the granting or renewal of which the police may have to report or give evidence; or*
- v. *improperly uses his character and position as a member of the Force for his private advantages.*

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

Results are not available

d. If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct for the correct, honorable and proper fulfillment of public functions, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.

Not applicable

2. Conflicts of interests

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

The Code of Conduct set out in the Second Schedule of The Integrity In Public Life Act 2004 deals with conflict of interest with respect to persons holding public office and in essence persons holding public office should not allow their private interest to interfere with the proper discharge of their duties and among other things should not acquire or become a partner or shareholder in a firm or company:

- a) ...
- b) ...

- c) ...
- d) *allow private interests to conflict with his public duties or improperly influence his conduct in the performance of his public duties;*
- e) *allow 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 favour of his public duties;*
- f) *use 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;*
- g) ...
- h) *use or allow the use of public property (including money), equipment, supplies or services for any purpose other than for officially approved purposes;*
- i) *while he is a person in public life, acquire, or become 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 this Code applies makes a public disclosure of such partnership, shareholding or other interest;*
- j) ...

The Act also requires that persons in public life to inter alia declare their assets and liability and public and private offices: section 16 of the Integrity In Public Life Act.

The Prevention of Corruption Act 2004 – it is an offence for public official to allow his private interest to conflict with his duties or to use for his or another's benefit classified or confidential information: Section 3(1)(e) and (f)

3(1) A person commits an offence if he –

(a) ...

(b) ...

(c) ...

(d) ...

- (e) *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;*
- (f) *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.*
- (g) ...

The Civil Service Regulations 1993, No.1 – Paragraphs 42 to 54 governs the conduct of Civil Servants, which regulates inter alia as to private work and investments are not to conflict with civil service duties:

Paragraph 42(1) No officer may work for a Public Board or Public Committee without prior approval of the Commission.

Paragraph 42(2) – Where the Commission approves in terms of paragraph (1), the Public Board or Public Committee may be required to pay a fee approved by the Commission.

Paragraph 42(3) – Where the work done by an officer in terms of this regulation is performed during the duty hours of the civil service, any fee paid under paragraph (2) shall be paid into the Government Revenue.

Paragraph 42(4)(a) – Where the work done by an officer in terms of this regulation is performed outside the duty hours of the civil service the fee may be paid to the office concerned.

Paragraph 43(2) – A public officer who seeks to carry out or carries out private work shall comply with the provisions or paragraphs (3) and (4).

Paragraph 43(3) – An officer who carries out private work shall ensure that –

Paragraph 43(3)(a) – the work is not carried on during hours of work stipulated in regulation 37;

Paragraph 43(3)(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;

Paragraph 43(3)(c) – the private work does not require the officer to use his official position to obtain a private benefit.

Paragraph 43(4) – Every officer shall, on appointment and at any time after appointment, inform the Commission of any private work he carries out and if the

Commission considers that such work is a contravention of this regulation, the Commission may –

Paragraph 43(4)(a) – direct the officer to discontinue the work;

Paragraph 43(4)(b) – impose such conditions on the officer as are necessary to ensure that the private work done by the officer is not in contravention of these regulations.

Paragraph 44 – Where the 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.

Paragraph 53(1) – No officer or member of his family may solicit or accept a gift or a bribe whether in the form of money or in kind where such gift or bribe is for the purpose of influencing the officer in the performance of his duties or in his omission to do any of his duties.

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

Part IV of the Integrity In Public Life Act 2004

Section 21 provides for compliance with the Code of Conduct. A person in public life who breaches the Code of Conduct commits a summary offence and is liable on conviction to a fine not exceeding fifty thousand dollars or a term of imprisonment not exceeding three years or to both-:

21(1) Every Person in public life shall observe the Code of Conduct specified in the Second Schedule.

(2) 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 dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

Section 20 – where a person in public life who is required to file a declaration fails to file their declaration the commission will publish this in the Gazette and send a report for the appropriate action:

20. (1) Where a person who is required to file a declaration under section 16 fails to file a declaration, the 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.*

Functions of the Integrity Commission include receiving and investigating complaints under the Prevention of Corruption Act 2004 and the conducting of investigations of offences committed under the Prevention of Corruption Act: section 12(1) (c), (d) and (e) of the Integrity In Public Life Act 2004.

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

No results or statistics are available

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

Not applicable

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

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

apply and whether there are exceptions, and list and attach a copy of the related provisions and documents.

Pursuant to section 97(1) of the Constitution of Antigua and Barbuda, the office of the Director of Audit is to satisfy himself that all monies appropriated and disbursed by Government has been applied for the purposes for which it has been appropriated and that the expenditure conforms with the authority that governs it. At least once a year the Director of Audit is to audit and report on all public accounts of inter alia all officers and authorities of the Government:

97. (1) There shall be a Director of Audit whose office shall be a public office.

(2) The Director of Audit shall-

- a) satisfy himself that all monies that have been appropriated by Parliament and disbursed have been applied to the purposes to which they were so appropriated and that the expenditure conforms to the authority that governs it; and*
- b) at least once every year audit and report 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 this Constitution and the accounts of the Clerk to the House and the Clerk to the Senate*

(3)...

(4) 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 referred to in subsection (2) and (3) of this sections.

In accordance with section 97 of the Constitution, The Officer of the Director of Audit Bill, 2014 which was passed by the government but is still to published in the Gazette to take effect, empowers the Director of Audit to inter alia examine and verify all public accounts: section 22 of the Officer of the Director of Audit Bill;

22(1) the Director of Audit shall –

- (a) audit and examine all public accounts or cause the public accounts to be audited and examined; and*
- (b) certify such public accounts, sign and submit an annual report on the examination and audit of all such accounts, together with copies of the*

certification of such accounts,

in accordance with section 97 of the Constitution; and

(c) provide an opinion on the public accounts referred to in paragraph (a).

Further the Paragraph (h) of the Code of Conduct of the Integrity In Public Life Act 2004 states as follows:

A person in public life shall not –

Use or allow the use of public property (including money), equipment, supplies or services for any purpose other than for officially approved purposes:

The Government Public Works Departments is responsible for all supplies to the various governmental ministries, departments and agencies. A written requisition is sent to Public Works which is submitted to the Treasury for payment and is drawn from the account that was disbursed to the department requisitioning the supplies.

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

A Public Accounts committee will consider the report to the Director of Audit and report to the House any excess or unauthorized expenditure and any measures necessary to ensure the proper spending of public funds: section 98 of the Constitution.

98. The House shall, at the commencement of each session, appoint a Public Accounts Committee from among its members, one of whom shall be a member for Barbuda in the House, whose duties shall be to consider the accounts referred to in section 97(2) of this Constitution in conjunction with the report of the Director of Audit and in particular to report to the House-

a) in the case of any excess or unauthorised expenditure of public funds the reasons for such expenditure; and

b) any measures it considers necessary in order to ensure that public funds are properly spent, and any other duties relating to public accounts as the House may from time to time direct.

The Director of Audit Act further legislates about the auditing of public accounts:

(1) the Director of Audit shall –

(a) audit and examine all public accounts or cause the public accounts to be audited and examined; and

(b) certify such public accounts, sign and submit an annual report on the examination and audit of all such accounts, together with copies of the certification of such accounts,

in accordance with section 97 of the Constitution; and

(c) provide an opinion on the public accounts referred to in paragraph (a).

(2) The Director of Audit shall publish the report referred to in subsection (1) on the website of the Government one month after referring it to the House of Representatives.

(3) Where 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 of other Governmental 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 office and send a copy of the notice to the Financial Secretary.

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

Not results available

d. If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct intended to ensure the proper conservation and use of resources entrusted to public officials in the performance of their functions, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.

Not applicable

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

a. Are there standards of conduct in your country that establish measures and systems governing the requirement that public officials report to appropriate authorities acts of corruption in public office of which they are aware? If yes, briefly describe

them, indicating aspects such as to whom they apply and if there are any exceptions, and list and attach a copy of the related provisions and documents.

Pursuant to **section 22 of the Integrity In Public Life Act 2004** anyone who has reasonable grounds to believe that a person in public life has breached any provision of the Code of Conduct may make a complaint in writing to the Integrity Commission:

22(1) 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 –

(a) The period within which the breach was committed;

(b) The names and addresses of persons involved in the commission of the breach.

(2) a person making a complaint under subsection (1) shall produce to the Commission –

(a) evidence to support the complaint including documentary evidence and sworn statements;

(b) such other particulars as may be prescribed by Regulations.

(3) 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.

As mentioned above the Integrity Commission's functions include the receiving of complaints from any person and to investigate complaints made under the **Prevent of Corruption Act 2004**.

Section 47 of the Freedom of Information Act 2004 any person may disclose to the Commission information of wrong doing by a public official:

47. (1) A person may disclose information to the Information Commissioner or to any other authority on the wrong-doing by a public authority concerning -

(a) a serious threat to the health or safety of an individual or a serious threat to the public or the environment;

(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;*

- (g) injustice to an individual;*

- (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

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

Integrity In Public Life Act 2004 - Upon receiving a complaint the Commission will investigate and if necessary pass a report to the Governor General of its findings. The Commission may also pass a copy of the report to the Director of Public Prosecutions if on the evidence it is of the opinion that the Director should take action: Sections 24 and 25 of the Act:

24(1) Where upon examination of a complaint made under section 22, the Commission is of the view that an investigation is necessary, it shall inquire into the matter.

(2) In conducting an inquiry under this section the Commission shall have the powers to summon witnesses as a commission of inquiry under the Commissions of Inquiry Act.

(3) ...

(4) ...

25 (1) On conclusion of an inquiry under section 24, the Commission shall forward the report to the Governor-General, and if it is of the opinion that the evidence before it may warrant that the Director of Public Prosecutions take action against the person the Commission shall forward a copy of the to him.

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

No Statistics are available

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

Not Applicable

CHAPTER TWO

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

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

The Integrity In Public Life Act 2004

The Integrity In Public Life Act applies persons in public life carrying out a public function (as per section 2 of the Act) in a public office. Persons in public life are listed in the First Schedule of the Act and include the following:

- Members of the House of Representative;
- Members of the Senate;
- Speaker of the House of Representative;
- Members of the Barbuda Council;
- Commissioner and Deputy Commissioner of the Police Force;
- Police Officers of the rank of Inspector and above;
- Solicitor General;
- Clerk of Parliament;
- Accountant General and Deputy Accountant General;
- Magistrates;
- Director of Public Prosecutions;
- Comptroller of Customs;
- Legal Officers employed with the Government of Antigua and Barbuda;
- Comptroller of Customs;

section 16 of the Act requires persons in public life to file a declaration in respect to their financial affairs with the Integrity Commission setting out among other things his income, assets and liabilities, his public and private office, the assets of his or her children below the age of 18 and any gifts received in the performance of his duty as a public officer:

16. (1) Every person in public life shall file a declaration in Form 2 in the Third Schedule with the Commission setting out –

(a) his income, assets and liabilities;

- (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 fully 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*
- (f) such other information required to be set out in Form 2 in the Third Schedule*

The Commission is empowered to examine the declarations and may request further information or if satisfied issue a certificate in Form 3 of the Third Schedule: Section 16(2), (3) and (4) of the Act.

(2) The Commission shall examine every declaration filed to ensure that it is in compliance with this Act.

(3) Where the Commission upon examination of a declaration filed pursuant to subsection (1) is of the opinion that it is necessary or expedient to request further information in order to determine the accuracy of a declaration, the Commission may request the person in public life to furnish any other documents or information as may be required within a specified period.

(4) Where upon an examination under subsection (2) the Commission is satisfied that a declaration has been fully made it shall issue a certificate in Form 3 in the Third Schedule

Persons in public life are required to file their declaration on or before the 31st March of each year: Section 17(1) of the Integrity in Public Life Act, failure to do so may result in a fine or imprisonment: section 20(3) of the Integrity in Public Life Act.

17. (1) A person who is a person in public life on the date of Filing of commencement of this Act shall within three months from the date of commencement file a declaration pursuant to section 16 and thereafter on or before the 31st day of March in each year during any part of which he remains a person in public life.

20. (3) Where a person in public life who, without reasonable cause, fails to make a declaration as required by section 16, shall by reason of that failure, commit an offence and is liable on summary conviction to a fine not exceeding \$10,000 EC or to a term of imprisonment not exceeding twelve months.

Declarations that are filed are secret and confidential and are not made public unless by order

of the court in respect to court proceedings under the Integrity In Public Life Act, the Prevention of Corruption Act or the Perjury Act: section 14 of the Integrity In Public Life Act;

The declarations filed with the Commission and the records of the Commission in respect of these declarations are secret and confidential and shall not be made public, except where a particular declaration or record is required to be produced by Order of Court for the purpose of, or in connection with any court proceedings or enquiry in respect of a declaration under this Act, the Prevention of Corruption Act, 2004 or the Perjury Act.

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; **section 15 of the Prevention of Corruption Act;**

If a judge in Chambers is satisfied on ex parte application made by the Director of Public Prosecutions and supported by evidence on affidavit that there is reasonable cause to believe that a person has committed an offence under this Act, the Judge may make an order directing the Chairman of the Integrity Commission or the Government, as the case may be, to release to the Director of Public Prosecutions for his examination the relevant documents filed by the accused pursuant to section 16 of the Integrity in Public Life Act, 2014.

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

Not available

c. If no such regulations exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the regulations that establish methods for registering the income, assets and liabilities of those who perform public functions in certain posts as specified by law and, where appropriate, for making such disclosures public, in accordance with Article III (4) of the Convention.

Not applicable

CHAPTER THREE

PARTICIPATION BY CIVIL SOCIETY (ARTICLE III, NUMBER 11)

1. General questions on the mechanisms for participation

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

There are no specific mechanisms to encourage participation by civil society or non-governmental organizations.

However, as mentioned above section 20 of the Integrity In Public Life Act allows for **any person** (my emphasis) to make a complaint to the Integrity Commission where there is reasonable ground to believe that a person in public life has breached the Code of Conduct:

22(1) 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 –

- (a) The period within which the breach was committed;*
(b) The names and addresses of persons involved in the commission of the breach.

Also **section 6 of the Freedom of Information Act 2004** allows for free access to information, the dissemination of information and ideas in respect to information held by public authorities;

6. (1) Within the broad objectives of section 12 of the Constitution, every person has the right, and is free, to receive and to disseminate information and ideas without interference. The paramount purpose of this Act is to give maximum effect to, that right in respect of information held by public authorities (subject only to such exceptions as are reasonably justifiable in a democratic society or specifically prescribed by law) and to enhance good governance through knowledge, transparency and accountability.

- b. **If no such mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption, in accordance with Article III (11) of the Convention.**

Not applicable

2. Mechanisms for access to information

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

As mentioned above the **Freedom of Information Act 2004** gives the public, which would include the civil society and non-governmental organizations the right to free access of information held by public authorities to enhance good governance through knowledge, transparency and accountability: section 6(1) of the Freedom of Information Act;

6. (1) Within the broad objectives of section 12 of the Constitution, every person has the right, and is free, to receive and to disseminate information and ideas without interference. The paramount purpose of this Act is to give maximum effect to that right in respect of information held by public authorities (subject only to such exceptions as are reasonably justifiable in a democratic society or specifically prescribed by law) and to enhance good governance through knowledge, transparency and accountability.

Under section 3 of the Act Public Authority means:

3. *For the purposes of this Act, a public authority means - of "public authority" and "private" body.*

(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;

(e) such other body carrying out a public function as the Minister may, by Order published in the Gazette, designate.

According to Section 4 of the Act “records” means: -

4. (1) For purposes of this Act, a record includes any recorded information, regardless of its form, source, date of creation, or official status, whether or not it was created by the public authority that holds it and whether or not it is classified.

(2) A public authority holds a record if -

*(a) the public authority holds the record, other than on behalf of another person;
or*

(b) another person holds the record, on behalf of the public authority.

A public authority may refuse to indicate whether or not it holds a record, or refuse to communicate information:

Section 26(1)...where to do so would involve to do so would involve the unreasonable disclosure of personal information about a third party who is a natural person.

Section 27...where the information is privileged from production in legal proceeding, unless the person entitled to the privilege has waived it.

Section 28 - A public authority may refuse to communicate Commercial and information if the information is confidential information.

(a) the information was obtained from a third party and to communicate it would constitute an actionable breach of confidence;

(b) the information was obtained in confidence from a third party and -

i. it contains a trade secret; or

ii. (ii) to communicate it would, or would be likely to, seriously prejudice the commercial or financial interests of that third party; or

(c) the information was obtained in confidence from another State or an international organization, and to communicate it would, or would be likely to, seriously prejudice relations between Antigua and Barbuda and that State or international organization

Section 29 – A public authority may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would or would likely to endanger the life, health or safety of any person.

Section 30 A public authority may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to -

- (a) the prevention or detection of crime;*
- (b) the apprehension or prosecution of offenders;*
- (c) the administration of justice;*
- (d) the assessment or collection of any tax or duty;*
- (e) the operation of immigration controls; or*
- (f) the assessment by a public authority of whether civil or criminal proceedings, or regulatory action pursuant to any enactment, would be justified.*

Section 31 - A public authority may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to the defence or national security of Antigua and Barbuda.

Section 32(1) - A public authority may refuse to indicate whether or interests it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to the ability of the Government to manage the economy of Antigua and Barbuda.

(2) A public authority may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to the legitimate commercial or financial interests of the public authority or another public authority.

(3) Subsections (1) and (2) do not apply insofar as the request relates to the results of any product or environmental testing, and the information concerned reveals a serious public safety or environmental risk.

33. (1) A public authority may refuse to indicate whether or not it holds a record, or refuse to communicate information, and where to do so would, or would be likely to -

- (a) cause serious prejudice to the effective formulation or development of Government policy;*
- (b) seriously frustrate the success of a policy, by premature disclosure of that policy;*
- (c) significantly undermine the deliberative process in a public authority by inhibiting the free and frank provision of advice or exchange of views; or*

(d) significantly undermine the effectiveness of a testing or auditing procedure used by a public authority.

(2) A public authority may refuse to indicate whether or not it holds a record, or refuse to communicate information, which is -

(a) the official record of any deliberation or decision of Cabinet;

(b) a document that has been prepared by a Minister of Government or on his behalf or by a public authority for the purpose of submission for consideration by Cabinet or a document which has been considered by the Cabinet and which is related to issues that are or have been before Cabinet;

(c) a document prepared for the purpose of briefing a Minister of Government in relation to issues to be considered by Cabinet;

(d) a document that is a copy or draft of, or contains extracts from, a document referred to in paragraph (a), (b) or (c); or

(e) a document the disclosure of which would involve the disclosure of any deliberation or decision of Cabinet, other than a document by which a decision of Cabinet was officially published.

(3) Subsections (1) and (2) do not apply to facts, analyses of facts, technical or scientific data or statistical information unless the disclosure would involve the disclosure of any deliberation or decision of Cabinet.

Section 9(1) of the Act requires a public body to have a designated Information Officer and to ensure that members of have easy access to the information officer, including his or her name, function and contact details.

Section 17 - Anyone seeking information is to make an application in writing to the information officer of the public authority of which the information is required:

For the purposes of section 15, a request for information shall be made by the applicant in writing addressed to a senior official or the information officer of a public authority or private body and in sufficient detail to facilitate a determination, with reasonable effort, whether or not the authority holds a record containing that information.

A person can apply to the Commissioner where a public authority has failed to comply with a request for information and the Commissioner may upon investigating compel the public authority to comply with the request for information: sections 41 and 43 of the Act:

41. 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 including the following:

- (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 2 1.

43. (1) Where Commissioner decides that a public authority has failed to comply with an obligation pursuant to Part II, the Commissioner may require the public authority to take such steps as may be necessary to bring it into compliance with its obligations under Part 11, including the following -

- (a) appointing an information officer;
- (b) publishing the relevant information and categories of information;
- (c) making relevant changes to its practices in relation to the keeping, management and destruction of records, and the transfer of records to the Archives and Records Office;
- (d) enhancing the provision of training on the right to information for its officials;
- (e) providing the Commissioner with an annual report, in compliance with section 14.

(2) The Commissioner shall serve notice of the decision, to the public authority together with information regarding the right of the public authority to a review of the Commissioner's decision.

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

3. Mechanisms for consultation

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

There are no specific mechanisms; however, as mentioned above each public authority must appoint an information officer pursuant to section 9(1) of the Freedom of Information Act 2004 who among other things will receive request for information:

9. (1) Every public authority shall designate one of its officers as an information officer and ensure that members of the public have easy access to the information officer, including his or her name, function and contact details.

(2) The information officer shall, in addition to any obligations specifically provided for in other provisions of this Act, have the following responsibilities -

(a) to serve 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

(b) to promote within the public authority the best possible practices in relation to record maintenance, archiving and disposal;

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

The authority through the Information Officer has a duty to publish annually certain basic information pursuant to section 10 of the Act:-

10. (1) Every public authority shall, in the public interest, publish and disseminate in an accessible form, updated annually, basic information, clearly dated including -

(a) an accurate and sufficiently detailed description of its structure, functions, duties and finances;

(b) relevant details concerning any services it provides directly to members of the public;

(c) any direct request or complaints mechanisms available to members of the public regarding acts or a failure to act by that authority, together with a summary of any requests, complaints or other direct actions by members of the public and that authority's response;

- (d) a simple guide containing adequate information about its record-keeping systems, the types and forms of information it holds, the categories of information it publishes and the procedure to be followed in making a request for information;*
- (e) a description of the powers and duties of its senior officers, and the procedure it follows in making decisions;*
- (f) any regulations, policies, rules, guides or manuals regarding the discharge by that authority of its functions;*
- (g) the content of all decisions and policies it has adopted which affect the public, along with the reasons for them, any authoritative interpretations of them, and any important background material; and*
- (h) any mechanisms or procedures by which members of the public may make representations or otherwise influence the formulation of policy or the exercise of powers by that public authority.*

4. Mechanisms to encourage active participation in public administration

- a. Are there mechanisms in your country to facilitate, promote, and obtain the active participation of civil society and non-governmental organizations in the process of public policy making and decision making, in order to meet the purposes of preventing, detecting, punishing and eradicating acts of public corruption? If so, briefly describe them and list and attach the related provisions and documents.**
- b. Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

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

- a. Are there mechanisms in your country to facilitate, promote, and obtain the active participation of civil society and non-governmental organizations in the follow-up of public administration, in order to meet the purposes of preventing, detecting, punishing and eradicating acts of public corruption? If so, briefly describe them, and list and attach a copy of the related provisions and documents.**
- b. Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

CHAPTER FOUR

ASSISTANCE AND COOPERATION (ARTICLE XIV)

1. Mutual Assistance

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

The Mutual Assistance in Criminal Matters Act 1993 provides for mutual assistance in all criminal matters in between Commonwealth countries. Section 7 to 12 of the Act allows for assistance with respect to the following:

- (a) Assistance in obtaining evidence;
- (b) Assistance in locating or identifying persons;
- (c) Assistance in obtaining an article(s) or a thing(s) by search and seizure;
- (d) Attendance of arranging for the attendance of a person to give or provide evidence;
- (e) Assistance for the attendance of a prisoner in a commonwealth country who can give evidence to be transferred to another commonwealth country;
- (f) Assistance in serving documents;
- (g) Assistance in tracing property;
- (h) Assistance in relation to certain orders; and
- (i) Assistance in obtaining order in nature of restraining orders.

Countries other than a commonwealth country are dealt with under Part IV of the Act:

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 -*

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

(b) extend, as provided in section 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.

The Schedule of the Act sets out among other things the general requirements for the request for assistance:

1. A request for assistance under this Act made by a Commonwealth country shall-

(a) specify the assistance requested;

(b) identify the person, agency or authority that initiated the request;

(c) state any period within which the country wishes the request to be complied with;

(d) 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

(e) contain such information as is available to the central authority for the country as will facilitate compliance with the request.

The Mutual Legal Assistance in Criminal Matters (the Government of Antigua and Barbuda and the Government of the United States of America) Ratification Act 2000

provides for mutual assistance between the government of Antigua and Barbuda and the United States of America pursuant to Article 1 of the Act in the following areas;

1. The Contracting Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the investigation, prosecution, and prevention of criminal offenses, and in proceedings related to criminal matters.

2. Assistance shall include:

(a) taking the testimony or statements of persons;

- (b) providing documents, records, and articles of evidence;*
- (c) locating or identifying persons;*
- (d) serving documents;*
- (e) transferring persons in custody for testimony or other purposes;*
- (f) executing requests for searches and seizures;*
- (g) assisting in proceedings related to immobilization and forfeiture of assets; restitution; collection of fines; and*
- (h) any other form of assistance not prohibited by the laws of the Requested State.*

Pursuant to Article 4 of the Act the form and contents of the request shall include the following:

- 1. A request for assistance shall be in writing except that the Central Authority of the Requested State may accept a request in another form in emergency situations. If the request is not in writing, the request shall be confirmed in writing within ten days thereafter unless the Central Authority of the Requested State agrees otherwise.*
- 2. The request shall include the following:*
 - (a) the name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;*
 - (b) a description of the subject matter and nature of the investigation, prosecution, or proceeding, including the specific criminal offenses which relate to the matter;*
 - (c) a description of the evidence, information, or other assistance sought; and*
 - (d) a statement of the purpose for which the evidence, information, or other assistance is sought.*
- 3. To the extent necessary and possible, a request shall also include:*
 - (a) information on the identity and location of any person from whom evidence is sought;*

- (b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;*
- (c) information on the identity and whereabouts of a person to be located;*
- (d) a precise description of the place or person to be searched and of the articles to be seized;*
- (e) a description of the manner in which any testimony or statement is to be taken and recorded;*
- (f) a list of questions to be asked of a witness;*
- (g) a description of any particular procedure to be followed in executing the request;*
- (h) information as to the allowances and expenses to which a person asked to appear in the Requesting State will be entitled; and*
- (i) any other information which may be brought to the attention of the Requested State to facilitate its execution of the request.*

Antigua and Barbuda also has a number of Memorandum of Understanding with other countries for the informal sharing of information.

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

Antigua and Barbuda has received 6 request in respect to corruption. The requests received from the United States are made under the **Mutual Legal Assistance in Criminal Matters (the Government of Antigua and Barbuda and the Government of the United States of America) Ratification Act 2000** and do not specifically mention the Convention. Request received from other countries are based on reciprocity and are treated as being under the United Nations Convention Against Corruption.

- c. If no such mechanisms exist, briefly indicate how your State has implemented the obligation, in accordance with Article XIV (1) of the Convention.

Not Applicable

2. Mutual technical cooperation

- a. Does your country have mechanisms to permit the widest measure of mutual technical cooperation with other States Parties regarding the most effective ways and means of preventing, detecting, investigating, and punishing acts of public corruption, including the exchange of experiences by way of agreements and meetings between competent bodies and institutions, and the sharing of knowledge on methods and procedures for citizen participation in the fight against corruption? If so, describe them briefly.**

The 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.

- b. Has your government made requests to other States Parties or received requests from them for mutual technical cooperation under the Convention? If so, briefly describe the results.**

No request for technical assistance has been under the Convention, however.

- c. If no such mechanisms exist, briefly indicate how your State has implemented the obligation, in accordance with Article XIV (2) of the Convention.**

Not Applicable

- d. Has your county developed technical cooperation programs or projects on aspects that are referred to in the Convention, in conjunction with international agencies or organizations? If so, briefly describe, including, for example, the subject matter of the program or project and the results obtained.**

Antigua and Barbuda as a State Party to the United Nations Against Corruption has received technical training in respect to completing the Self-Assessment Checklist.

CHAPTER FIVE

CENTRAL AUTHORITIES (ARTICLE XVIII)

1. Designation of Central Authorities

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

The designated central authority for Antigua and Barbuda is the Attorney General, the Minister of Legal Affairs and as such deals with all mutual assistance requests from other countries including request dealing with corruption:

"central authority" means -

- (a) in relation to Antigua and Barbuda the person or authority designated pursuant to section 4;*
- (b) in relation to any Commonwealth country, the person or authority designated by that country for the purpose of transmitting and receiving requests under the Scheme;*

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

See above

c. If your country has designated a central authority or central authorities please provide the necessary contact data, including the name of the agency(ies) and the responsible official(s), the position that he or she occupies, telephone and fax numbers, and e-mail address(es).

The Attorney General

**Ministry of Legal Affairs
Parliament Drive
St John's
Antigua and Barbuda**

**Telephone number: 1 268 462 8867
Fax number: 1 268 462 2465
Email: legalaffairs@antigua.gov.ag**

d. If no central authority or authorities have been designated, briefly indicate how your State will implement the obligation, in accordance with Article XIV (2) of the Convention.

Not applicable

2. Operation of Central Authorities

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

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 (ONDCP) to be fulfilled and the ONDCP also prepares Letters of Request for the approval of the Central Authority.

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

The Central Authority has received six (6) requests with respect to Corruption but these were not specifically stated as being under the Convention. All six (6) requests have been fulfilled.

SECTION II

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

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

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

The Integrity Commission is established pursuant to section 4 of the Integrity in Public Life Act 2004 among other things, to receive and retain declaration forms and to make inquiries to verify or determine the accuracy of declaration forms filed pursuant to the Act and to investigate complaints in contravention of the **Prevention of Corruption Act**; section 12 of the Act.

The Commission can among other things bring charges against persons in public life for not filing their declarations and a person who breaches the Code of Conduct is liable on summary conviction to a fine not exceeding fifty thousand dollars or term of imprisonment not exceeding three years or both: sections 20 and 21 respectively of the Act. Further the Commission can refer matters to the Director of Public Prosecutions for the appropriate action.

The Information Commissioner is appointed under section 35(1) of the Freedom of

Information Act 2004 to inter alia monitor and report on compliance by public authorities of their obligations and to refer to the appropriate authorities cases which reasonably disclose evidence of criminal offences: section 37 of the Act.

The Public Service Commission - As mentioned above the Public Service Commission among other things exercises disciplinary control over those persons holding or acting as public officers and the removal of such persons: section 100(1) of the Constitution. Part VI of the Civil Service Regulations regulates on conduct of officers and prohibits the acceptance of gifts and bribes: Paragraph 53(1)

No officer or member of his family may solicit for or accept a gift or a bribe whether in the form of money or in kind where such gift or bribe is for the purpose of influencing the officer in the performance of his duties or in his omission to do any of his duties.

The Police Service Commission – As mentioned above section 104(1) of the Constitution of Antigua and Barbuda provides for the establishment of the Police Service Commission which inter alia has the powers to appoint, promote and exercise disciplinary control over persons holding or acting in such offices as an officer over the rank of Sergeant.

The power to appoint persons to hold office, promote and exercise disciplinary control over of police officers below the rank of Sergeant is vested in the Commissioner of Police: section 105(5) –

The Police Regulations made pursuant to section 71 of the Police Act specifically creates the offence of corruption under section 6(g) of the Regulations:

Corrupt practice, that is to say, if a member of the Force -

- iii. receives any bribe;*
- iv. fails to account for or make a prompt and true return of any money or property seized or received by him in his official capacity; or*
- v. without the knowledge and permission of the Commission of Police accepts directly or indirectly any gratuity, present or reward in respect of anything done in the discharge of the duties of his office; or*
- vi. places himself under pecuniary obligation to any person who holds a licence concerning the granting or renewal of which the police may have to report or give evidence; or*
- vii. improperly uses his character and position as a member of the Force for his private advantages.*

B) Then select 4 or 5 of these oversight bodies, bearing in mind their institutional importance and that the functions they are assigned should cover one or more of the

objectives of preventing, detecting, punishing, and eradicating corrupt acts that trigger disciplinary; administrative; financial or civil; and criminal responsibility.

The Integrity Commission
The Public Service Commission
The Information Commissioner
Director of Audit office
Director of Public Prosecutions
Attorney General

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

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

The Integrity Commission – According to the long title of the Integrity In Public Life Act 2004 the establishment of the Integrity Commission is to receive declarations of persons in public life for the purpose of establishing probity, integrity and accountability in public life or for related matters;

AN ACT to provide for the establishment of an Integrity Commission for the purpose of receiving declarations of the affairs of persons holding specific positions in public life, for the purpose of establishing probity, integrity and accountability.

Section 12(2) of the Act further states that the Commission and the staff of the Commission shall not be subject to the control or direction of any person or authority:

(2) In the performance of its functions the Commission and the staff of the Commission shall not be subject to the control or direction of any other person or authority

Section 4 of the Integrity In Public Life Act 2004 provides for the establishment of the Integrity Commission and the members of the Commission are to be appointed by the Governor General at his **own** discretion (my emphasis): section 3(a) of the Act.

Members of the Commission carry out their functions with autonomy and hold office for a period of three years and can be re-elected. A member can only be removed on certain grounds by the Governor General on the recommendation from a tribunal selected by the Governor General: sections 6 and 9 of the Act;

6. A member of the Commission shall hold office for a period not exceeding three years

and shall be eligible for re-appointment.

9. (1) A member of the Commission may be removed from office only for inability to exercise the functions of his office whether arising from infirmity of body or mind or any other cause or for misbehaviour and shall not be so removed except in accordance with 'the provisions of this section.

(2) A member of the Commission shall be removed from office by the Governor-General if the question of his removal has been referred to a tribunal appointed under subsection (3) and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehavior.

Pursuant to Chapter VII Part 1 of the Constitution the Public Service Commission carries out its functions with autonomy and the members of the Public Service Commission are also appointed by the Governor General on the advice of the Prime Minister after consulting with the Leader of the Opposition. The following person cannot be qualified to be appointed as a member of the commission: section 99(2) of the Constitution;

99. (1) There shall be a Public Service Commission of Commission. for Antigua and Barbuda (hereinafter in this section referred to as the Commission) which shall consist of a chairman and not less than two or more than six other members who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister: Provided that the Prime Minister shall consult the Leader of the Opposition before tendering any advice to the Governor-General for the purposes of this subsection.

(2) A person shall 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

Members serve for a term of 2 years and can only be removed from office on the grounds of inability to carry out their duties or misbehavior on the recommendation of a tribunal appointed by the Governor General: Section 99(4) of the Constitution.

As mentioned above the Public Service Commission is established to deal with such matters of appointment, removal and discipline of public servants.

The Police Service Commission – is established under **Chapter VII Part 2 of the Constitution** and the members are appointed by the Governor General on the advice of the

Prime Minister after consultation with the Leader of the Opposition. The same provisions of the Public Service Commission apply to the Police Service Commission: section 104(2) of the Constitution;

The provisions of subsections (2) to (15) inclusive of section 99 of this Constitution shall apply in relation to the Police Service Commission as they apply in relation to the Public Service Commission.

The functions of the Police Service Commission are also stated above.

Office of the Director of Public Prosecutions – Pursuant to section 87 of the Constitution the Director of Public Prosecutions (DPP) is appointed by the Judicial and Legal Services Commission and is responsible for all criminal prosecutions. The DPP can institute, take over and continue or discontinue any criminal proceeding: section 88 of the Constitution.

The DPP's carries out his functions based on the principle of Separation of Powers and can only be removed from office on the ground of inability to carry out his functions or misbehavior: section 87(8).

Upon the Judicial and Legal Services making a representation to the Governor General that the DPP ought to be removed, Governor General will appoint to appoint a tribunal to enquire into the matter and report back to him as to whether or not the DPP should be removed: section 87(9) of the Constitution.

The Public Service Commission

The Public Service Commission is established pursuant to: section 99(11) of the Antigua and Barbuda Constitution Order 1981 (the Constitution);

1. There shall be a Public Service Commission for Antigua and Barbuda (hereinafter in this section referred to as the Commission) which shall consist of a chairman and not less than two nor more than six other members who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister;

Provided that the Prime Minister shall consult the leader of the Opposition before tendering any advice to the Governor-General for the purposes of this subsection.

The Commission is an autonomous body and the exercise of its functions is not subject to the direction or control of any person or authority: section 99(11) of the Constitution;

(11) 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.

The functions of the Public Service Commission includes the power to appoint persons to the public service, to exercise disciplinary control over and to remove person holding

or acting in such offices pursuant to section 100(1) of the Constitution:

1. Subject to the provisions of this Constitution, the power to appoint persons to hold or act in offices in the public service (including the power to make appointments on promotion and transfer and to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission.

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;

Section 4 of the Public Service Directions:

CHIEF ESTABLISHMENT OFFICER TO ATTEND MEETINGS OF PUBLIC SERVICE COMMISSION. The Chief Establishment Officer shall be asked to attend meetings of the Commission regularly to advise the Commission. He shall be the principal liaison officer between the Permanent Secretaries and the Commission and also between the Government and the Commission. Request for filling posts shall be made through the Chief Establishment Officer.

Section 5 of the Public Service Commission Regulations:

5. Duties of the Chief Establishment Officer. It shall be the duty of the Chief Establishment Officer –

(a) To keep the Secretary of the Commission fully informed of all the requirements of the Public Service which concern the Commission: and

(b) To attend any meeting of the Commission when required so to do.

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

The Integrity Commission as mentioned above and among other things receive and retain declaration forms and make inquires to verify or determine the accuracy of declaration forms filed under pursuant to the Act and investigate complaints in contravention of the Prevention of Corruption Act: section 12 of the Act. The Commission's functions apply to those persons holding public office and there are no exceptions to the carrying out of the commission's functions, furthermore section 17 of the Act states as follows:

A person shall not be exempted from liability under this Act by reason of the invalidity of his appointment or election of himself or another person to public office.

The Freedom of Information Act 2004 applies to all public authorities and officials and all information is accessible. However the following information may not be accessible to the public: sections 24 to 34 of the Act;

- (a) The harm that may result would outweighs the public interest;*
- (b) To do so would involve the unreasonable disclosure of personal information of third party who is a natural person;*
- (c) The information attracts legal privilege;*
- (d) Breach of commercial and confidential information;*
- (e) To release the records or information would or would be likely to, endanger the life, health or safety of any person;*
- (f) The records are held by a law enforcement and to release the records would among other things prevent the detection of a crime or apprehension or prosecution of offenders;*
- (g) Would cause serious prejudice to the defence or national security of Antigua and Barbuda;*
- (h) Where to do so would or would be likely to cause serious prejudice to the ability of the Government to manage the economy of Antigua and Barbuda; and*
- (i) Where to do so would or would be likely to cause serious prejudice to policy making and operations of public authorities.*

The Public Service Commission - As mentioned above the Public Service Commission to among other things exercise disciplinary control over those persons holding or acting in public offices and to remove such persons: section 100(1) of the Constitution.

According to section 100(3) of the Constitution section 100(1) does not apply following:

This provision of this section shall not apply in relation to the following offices, that is to say-

- (a) any office to which section 101 of this Constitution applies;*
- (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 this Constitution applies;*
- (g) *any office in the Police Force.*

These offices fall under the Integrity Commission.

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

The Integrity Commission

The Commission is an independent and autonomous body which may only work in conjunction with the Government's Audit Department which is responsible for auditing the Integrity Commission.

The Office of the Director of Audit

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

The issue of appointment and removal was addressed in the answer to question C(i) above.

Office of the Director of Audit

The Director is the executive head of the Audit Department and is appointed by the Governor General on the advice of the Public Service Commission after consultation with the Prime Minister: section 4 of the Office of the Director of Audit Act 2014:

Section 4

(1) The Director of Audit shall be appointed by the Governor-General, acting in accordance with the advice of the Public Service Commission, tendered after the Public Service Commission has consulted the Prime Minister and has obtained the agreement of the Prime Minister to such appointment.

(2) If the Officer of the Director of Audit is vacant or if the holder of the office is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the Public Service Commission tendered after the Public Service Commission has consulted the Prime Minister and has obtained the agreement of the Prime Minister to such appointment, may appoint a person to act as the Director of Audit.

(3) A person who is appointed to hold the office of the Director of Audit under subsection (2) shall cease to hold that office when the person whose place he is acting resumes the functions of the office and that person shall, while holding office be paid the salary and other allowances that may be determined by the Governor-General.

The Director can only be removed from office by the Governor General on the grounds of inability to perform the functions of his office or for misbehavior after the Governor General has been advised to do so by tribunal appointed by him, when the issue of removal of the Director of Audit arises: section 7(1) and (2) of the Act:

(1) The person holding the office of the Director of Audit may be removed from office only for inability to exercise the functions of the office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall not be so removed, except in accordance with the provisions of this section.

(2) The Director of Audit may be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed by the Governor-General, in accordance with section 87(9) of the Constitution, and the tribunal has recommended such removal on the grounds specified in subsection (1).

(3) If the question of removing the Director of Audit has been referred to a tribunal under this section, the Governor-General may, acting in accordance with the advice of the Public Service Commission, suspend the Director of Audit from the exercise of the functions of his office.

(4) The Governor-General may, acting on the advice of the Public Service Commission, revoke such suspension at any time.

The senior officers of the Audit Department are subject to the Integrity In Public Life Act 2004 and are subject to the provisions of the Act and the Code of Conduct of the Second Schedule of the Act.

Integrity Commission

The members of the Commission are appointed by the Governor General and 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: section 9 of the Integrity In Public Life Act 2004;

9. (1) A member of the Commission may be removed from office only for inability to exercise the functions of his office whether arising from infirmity of body or mind or any other cause or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

(2) A member of the Commission shall be removed from office by the Governor-General if the question of his removal has been referred to a tribunal appointed under subsection (3) and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehavior.

(3) If the Governor-General considers that the question of removing a member of the Commission ought to be investigated -

(a) the Governor-Generals shall appoint a tribunal which shall consist of one person being a Judge of the High Court, a Senior Counsel or a Chief Magistrate, to enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member of the Commission ought to be removed under this section; and

(b) a tribunal appointed under paragraph (a), shall give the member of the Commission an opportunity to show cause why he should not be removed from office.

(4) If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-General may suspend the member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General acting as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the member of the Commission should not be removed.

(5) In this section "misbehavior" includes communicating confidential information to any unauthorized person

The 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: section 4(3) and (4) of the Integrity In Public Life Act 2004.

Members of the Commission holds office for three years and the members are eligible for reappointment: section 6 of the Act.

The Public Service Commission

Members of the Commission are appointed by the Governor General consisting of a Chairman and not less than two or more than six other members after consultation with the Prime Minister and the Leader of the Opposition: section 99(1) of the Constitution;

99. (1) There shall be a Public Service Commission for Antigua and Barbuda (hereinafter in this section referred to as the Commission) which shall consist of a chairman and not less than two or more than six other members who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister:

Provided that the Prime Minister shall consult the Leader of the Opposition before tendering any advice to the Governor-General for the purposes of this subsection.

Members of the Commission can only be removed from office on the grounds of inability to carry out his functions or for misbehavior which is not defined and may be interpreted widely: section 99(4) of the Constitution. 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 advice on removal by the commission when the question of removal arise: section 99(5) and (6) of the Constitution;

4. A member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

5. A member of the Commission shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

6. If the Prime Minister represents to the Governor-General that the question of removing a member of the Commission under this section ought to be investigated then-

(a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

(b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section

All the decisions of the Commission require a majority of its members and dissenting decisions are to be recorded: section 9(1) and (2) of the Public Service Commission Regulations No. 13 of 1956;

9. Decision of Commission. (1) All decisions of the Commission shall require the concurrence of a majority of all the members.

(2) It shall be competent to any member of the Commission who is present at any meeting when a decision is made and who dissents from such decision to require that there be recorded in the minutes his dissent and his reasons therefor.

The Members of the Commission are also listed as Persons in Public Life pursuant to the First Schedule of the Integrity In Public Life Act 2004 and are therefore subject to the provisions of the Act and the Code of Conduct of the Second Schedule of the Act.

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

Office of the Director of Audit

The Audit Department is lacking human resources such as other auditors and middle management. The appointment of personnel to the Audit Department used to be at the behest of the Public Service Commission prior to the enactment of the Office of the Director of Audit Act, 2014. The Directors recommendations will now go to the Public Service Commission as to appointments and promotions.

The Office of the Director of Audit Act 2014 makes provisions for the appointment of the Director of Audit and his officers under sections 3 and 4 of the Act. Prior to the enactment of the Act appointments and promotions were at the behest of the Permanent Secretary. The Act the Public Service Commission has to consult with the Director of Audit before any appointments are made selected: section 3(2) of the Office of the Director of Audit Act 2014. The Act has changed the way in which officer are selected and removed.

Section 3

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

(1) The Director of Audit shall be the executive head of his department and shall be assisted by such other officers appointed under this section in performing his duties and functions under this Act.

(2) The Public Service Commission shall, after consultation with the Director of Audit, appoint the officers referred to in subsection (1)

In respect to performance by the staff of the Director of Audit, the Director of Audit or an officer authorized by him may delegate such functions to the staff: section 3(3) of the Act;

(3) Directions to the staff of the Director of Audit relating to the performance of the Director of Audits functions may only be given by-

(a) the Director of Audit; or

(b) an officer of the Director of Audit, authorized by the Director of Audit to give such directions;

(4) The Director of Audit may delegate any of his functions to an officer appointed under this section, save and except for certifying and reporting on accounts.

The integrity Commission is empowered to receive complaints, investigate³ and refer acts of corruption or breach of the Code of Conduct⁴ to the Governor-General and or the Director of Public Prosecution in respect to the Director of Audit or the Deputy Director of Audit.

Other persons and officers of the Audit Department will be subject to discipline by the Public Service Commission as mentioned above. However, persons carrying out their functions in good faith will not be subject to any criminal or civil proceedings: section 26 of the Act;

(1) No criminal or civil proceedings shall be taken against the Director of Audit, or against any person acting on behalf or under the direction of the Director of Audit, for anything done, reported or said in good faith in the course of the performance or purported performance of his powers, duties or functions under this or any other Act.

(2) Any person who is, or has been-

1. the Director of Audit, or

2. an officer employed in the Office of the Director of Audit, acting on behalf

3. The Integrity In Public Life Act 2004

4. Sections 12(b) and (d) (see page 7) and 21, 24 and 25 of the Integrity In Public Life Act 2004

of the Director or Audit,

shall be indemnified against any liability incurred for an act or omission of the person in the performance or purported performance of a function carried out in good faith.

The Integrity Commission

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.

As mentioned above member of the Commission can only be removed by the Governor General after referral by a tribunal appointed by the Governor General. Removal of a member of the Commission is on the grounds of inability to exercise his functions or for misbehavior: section 9 of the Integrity In Public Life Act 2004.

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.

Administrative staff members of the Commission are appointed by the Public Service Commission and come through the Civil Service.

Public Service Commission

In respect to personnel within the civil service the Chief Establishment Officer (Establishment Officer) is the principal liaison between the Permanent Secretaries and the Commission and is to communicate the requirements of promotion, discipline and removal of public officers to the Commission. If it is a requirement for discipline, a hearing will be held by the Commission and their decision will be communicated to the Permanent Secretary through the Establishment Officer, who will act on the decision. Or if there is a requirement to promote and individual the Commission will consult with the Establishment Officer with respect to such recommendations and the work history of the public officer.

The appointment of personnel for the Public Service is regulated by sections 5, 6 and 7 of the Public Service Directions No. 12 of 1956;

5. PRINCIPLES RELATING TO SLECTION FOR FIRST APPOINTMENTS AND PROMOTIONS. (1) In making recommendations for first appointments to

the public service, the Commission shall be guided by the principle that prior consideration shall be given to the claims of suitable qualified local candidates.

(2) In making recommendations for promotions within the public service the Commission shall be guided by the principle that prior consideration shall be given to the claims of suitable qualified public officers serving in Antigua and Barbuda.

(3) Subject to the provisions of paragraph (1) and (2) the Commission shall consider, inter alia, the following matters in respect to each candidate-

(a) his qualifications (if any);

(b) his general suitability for appointment;

(c) any previous employment of the candidate in the public service or private practice (if any).

6. ADVERTISEMENT FOR VACANCIES. When the Commission considers it necessary that the existence of a vacancy in the public service should be advertised, the requirements of the vacant post and qualifications necessary for it shall be settled by the Commission and the advertisement shall be published accordingly.

7. INTERVIEWS. The Commission may interview candidates who are qualified for appointment to such offices

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

The Office of the Director of Audit

The Audit Department carries out internal training and has its own manuals and documents in terms of functionality such as the Caribbean Centre for Development Administration – Harmonized Audit Manual (CARICAD). This manual deals with procedures and functions which follow international standards. It also deals with training, audit compliance and performance. 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 INTOSAI standards. Additionally, at least once a year regional training courses usually take place in the region on these standards.

The Integrity Commission

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.

The functions of the commission are embodied in section 12 of the Integrity In Public Life Act 2004;

12. (1) The functions of the Commission shall be –

- (a) to receive and retain all declarations filed with it under this Act;
- (b) receive and investigate complaints regarding non-compliance with or contravention of any provisions of this Act or the Prevention of Corruption Act, 2004;
- (c) to make inquiries as it considers necessary in order to verify or determine the accuracy of a declaration filed under this Act;
- (d) to conduct 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;
- (e) 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.
- (f) to examine the practices and procedures of Statutory Corporations and Departments of Government to determine whether there are corrupt practices;
- (g) to advise Statutory Corporations and Departments of Government of any change in practice or procedure which may be necessary to eliminate corrupt practices;
- (h) to perform such other functions as is required by this Act

The Public Service Commission

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.

- vii. The existence of documented procedures for performing their tasks, or of manuals or guides dealing with those duties; institutional strengthening or

quality improvement actions implemented; and the implementation of systems or modern technologies to facilitate their work.

The Office of the Director of Audit

As mentioned above the CARICAD manuals has initiated the modernizing of the Audit Department but this is not yet completed. In 2009, the World Bank sponsored a programme which tried to harmonize the Audit Act, Standing Orders and regulation for Public Accounts Committees across the region. However, there has only been harmonizing of the Audit Acts and this has resulted in the passing of the Office of the Director of Audit Act 2014 in Antigua and Barbuda this year.

In 2012, an assessment was conducted by the U.K National Audit Office, recommending that the Audit Department be modernized by among other things updating the servers and adopting new audit procedures. However, due to financial constraints many of these recommendations have not been implemented.

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 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.

The Integrity Commission

The Integrity Commission is not functioning fully due to lack of financing.

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

The Office of the Director of Audit

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>).

Functions of the Audit Department can be found in the Act itself. However, the National Audit Department of London and the International Monetary Fund (IMF) has recommended that the Audit Department present a news package to the media houses in an effort to sensitise the public about the functions of the Audit Department

The Integrity Commission

There are no ongoing campaigns to sensitise the public about the functions of the Commission, except for responding to persons who call for clarification when completing and filing declarations. However 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.

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

The Office of the Director of Audit

Complaints or breaches of the Code of Ethics for the Audit Department in respect to employees go to the Director and the Public Service Commission. The Director or Deputy Director of the Audit Department are bound by the Integrity In Public Life Act 2014 and like all other employees of the Department are bound by the Employee Annual Declaration and Confidential Report. Breaches and complaints in respect to corrupt acts are to be referred to the Integrity Commission. However, as mentioned the Director of Audit can only be removed from office by the Governor General on the grounds of inability and misbehaviour.

All Supreme Audit Institution are required to follow the International Organization of Supreme Audit Institution Standards (ISSAI's). The ISSAI's falls under five categories namely, Founding Principles, Prerequisites for the Functioning of Supreme Audit Institutions, Fundamental Auditing Principles, Auditing Guidelines and INTOSAI Guidance for Good Governance (INTOSAI GOV). Audit Department is required to follow these standards, and two important standards are ISSAI 10 - Independence and 30 - Code of Ethics.

A Code of Ethics is signed internally by all employees as mentioned above and the Director and Deputy Director must also abide by the Code of Conduct pursuant to the Second Schedule of the Integrity in Public Life Act 2004.

Public Service Commission

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.

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

The Office of the Director of Audit

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.

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:

Section 12

The funds of the Office of the Director of Audit shall consist of moneys-

- (a) appropriated by the Parliament for the purpose of the Office of the Director of Audit;
- (b) earned in connection with the performance of duties authorized by this Act or any other relevant law;
- (c) accruing to the Office of the Director of Audit from any other source;
- (d) which are donations or bequest, the terms of which are acceptable to the Director of Audit.

Section 13

(1) The financial affairs of the Office of the Director of Audit shall be conducted in accordance with a budget and business plan prepared by the Director of Audit for each financial year which shall include-

- (a) Estimates of expenditure for the year to which it relates;
- (b) Projected expenditure for the two financial years following the year to which the budget and business plan relates; and
- (c) The basis of any audit fees, for the year to which the budget relates and the following two years, are to be calculated.

(2) The Director of Audit shall, before the start of a financial year, submit the budget and business plan referred to in subsection (1) to the Minister responsible for

Finance for inclusion in the national budget.

- (3) The budget and business plan in subsection (1) and any other information required under the Finance Administration Act shall be submitted in accordance with any comments and recommendations made by the Minister responsible for Finance.
- (4) The Minister responsible for Finance shall consider the budget and business plan submitted to him under subsection (2), 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 in the estimates of expenditure to be submitted to the Parliament for approval under the relevant appropriation Act.
- (5) The full amount of any moneys appropriated by the Parliament for the purposes of administration and operation of the Office of the Director of Audit shall be paid out of a separate fund.
- (6) The Director of Audit shall prepare or cause to be prepared, the annual accounts of the Office of the Director of Audit, in respect of its finances using internationally recognized accounting standards and relevant laws applicable to their preparation.

The Public Service Commission

A budget is prepared by the Commission and sent to the Minister of Finance to be presented to Parliament for approval and appropriation.

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

The Office of the Director of Audit

The Audit Department due to its functions generally works on its own but has the powers under the Act to audit any governmental departments, ministries and statutory bodies: section 11 of the Act;

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 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 have to 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.

The Integrity Commission

As an autonomous body the Commission only works along with the Government Audit Department as the Commission does not have a budget to hire independent Auditors to audit their accounts and to verify the accuracy of declarations filed under the Act or to investigate financial irregularities in the filed declarations: section 12(1)(e) of the Integrity In Public Life Act 2014:

(e) 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.

Public Service Commission

Although the Public Service Commission is an autonomous body, as discussed above but does liaise with the Chief Establishment Officer who is required to attend the meetings of the Commission.

- xii. Accountability mechanisms applicable to the performance of their duties; the way in which the information needed for that is gathered and processed; and the information issued for that purpose,^{5/} and the way in which it is made public and how members of the public may access it.

The Office of the Director of Audit

Annual Reports are prepared from records and the Audit Reports which are prepared by the Department become public documents once they are present to parliament.

Integrity Commission

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.

The Public Service Commission

Reports are prepared annually which are public once they are presented to Parliament.

5. If the information relevant to this paragraph is contained in a document, please provide copies of it or indicate the internet address where it may be accessed. If it is in several reports or if they are issued periodically, please provide copies of those issued over the past five years, or indicate the internet address where they may be accessed.

- D) For each of the oversight bodies selected in the response to question B), summarize the results obtained in the performance of their duties, providing the relevant information available to your country^{6/} and making reference, to the extent that is possible, to issues such as the following:
- i. If the oversight body in question is tasked with the prevention of corrupt acts, list the actions taken in the past five years to prevent those acts, such as: campaigns to publicize their consequences; probity programs or awareness-raising on the duty of respecting and protecting public property and general interests; production of manuals or guides to orient public servants and private citizens regarding ethical behavior in their dealings with the State; alerts about corruption risks in specific areas of the State's operations and proposals for preventing them; attention to inquiries, issuing of opinions, or advisory actions or preventive auditing related to the State's actions; attention paid to corruption prevention studies in the areas of their jurisdiction and to related suggestions made by civil society.

The Integrity Commission

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. The Government Information Services is utilized for notifications to those persons who are required to file declarations and to remind such persons of the date that the declarations are due to be filed.

The Code of Ethics and a link to the Integrity In Public Life Act 2004 are published on the Commission's website, which is www.integritycommission.gov.ag. Also published on the website are Forms for the Declaration of Income, Assets and Liabilities and Report of Gift Received are.

- ii. If the oversight body in question is tasked with detecting corrupt acts that trigger disciplinary; administrative; financial or civil; or criminal responsibility for persons involved therein, indicate, as appropriate, the total number of investigations begun in each of the past five years 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.

6. If possible, covering the past five years.

The Integrity Commission

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.

- iii. If the oversight body in question is tasked with punishing corrupt acts that trigger disciplinary; administrative, financial or civil; or criminal responsibility for persons involved therein, indicate the total number of cases investigated that were ready for a decision to be adopted in each of the past five years; the number of decisions adopted in connection with them; the number of those decisions in which responsibilities were established or penalties were imposed; the number of those decisions in which no responsibilities were found or acquittals were given; and the number of those decisions involving the extinction of the punishment or responsibility because of the triggering of the statute of limitations.

The Integrity Commission

No statistics are available as there have been no investigation or charges against anyone.

- iv. If the oversight body in question is tasked with punishing corrupt acts that trigger civil or financial responsibility for persons involved therein, indicate the monetary sanctions imposed, or of the amounts ordered paid to the State, that have entered the public treasury in each of the past five years.

The Integrity Commission

No statistics are available as there have been no investigation or charges against anyone.

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

The Integrity Commission

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 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.

The Integrity In Public Life Act 2004 needs to be amended to among other things to allow the Commission to impose a fine on those persons who file their declarations after the deadline for filing declarations. The Commission can only impose a fine where someone does not file their declaration.

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

SECTION III

INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

Please provide the following information:

(a) State Party: Antigua and Barbuda

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

Mrs.: Annette Mark

Title/position: Legal Officer

Agency/office: Office of National Drug and Money Laundering Control Policy (ONDCP)

Address: _Camp Blizard, P O Box W827, Coolidge, Antigua and Barbuda

E-mail: annette.mark45@gmail.com

Tel.: _1 268 562 3255

Fax: _1 268 460 8818

ANNEX I

STANDARD FORMAT SUGGESTED AS A GUIDELINE FOR PRESENTATION OF INFORMATION ON BEST PRACTICES^{7/}

1. The name of the institution that is implementing the best practice:

2. Title: The name of the best practice or the action it entails and the topic it covers (i.e., prevention of conflicts of interests):

3. Best practice description: A short description and summary of the best practice should be provided and explanation and as to why it should be considered a best practice:

4. Reasons/Importance: Reasons for the development of the best practice should be given. A description should be made of the situation in place before the adoption of the best practice and identification of the problem or problems it is to address:

5. Approach: What was the proposed design and methodology for applying the best practice? What was considered in its design and methodology? Were other countries experience taken into account:

7. The questions set out on this form are intended to guide the States regarding the information they may furnish on best practices, if they so wish, and to be responded as deemed appropriate.

6. Implementation: How is the best practice being implemented?

7. Challenges: What are the challenges in implementing the best practice? Were civil society organizations involved in its implementation?

8. Outcome: What is the end result or expected end result of implementing the best practice? Have benefits and/or success stories been identified? Have they addressed the problems originally identified as necessitating a best practice to be implemented? What has its impact on civil society been?

9. Follow-Up: Who or what groups will monitor the practice's implementation? How will its implementation be monitored? Will there be progress reports?

10. Lessons: What are some lessons in implementing the Best Practice?

11. Documentation: Where to find more information on the Best Practice (i.e., internet links)

12. Contact: Who to contact to receive further information.
