

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

FINAL REPORT

(Adopted at the September 14, 2012 Plenary Session)

SUMMARY OF THE REPORT

This report contains the comprehensive review of the implementation in the Plurinational State of Bolivia of Article III, paragraph 9, of the Inter-American Convention against Corruption, covering “oversight bodies, with a view to implementing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts,” which was selected by the MESICIC Committee of Experts for the Fourth Round; of the best practices reported by those bodies; and of the follow-up of the implementation of the recommendations formulated to the Plurinational State of Bolivia during the First Round.

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

The review was carried out taking into account Bolivia’s response to the questionnaire, information provided by civil society organizations, information gathered by the Technical Secretariat, and, as a new and important source of information, the on-site visit conducted between March 26 and 29, 2012, by the members of the review subgroup for Bolivia, comprising Ecuador and the United States, with the support of the Technical Secretariat. During that visit, the information furnished by Bolivia was clarified and expanded and the opinions of civil society organizations, the private sector, professional associations, academics, and researchers on issues of relevance to the review were heard. This provided the Committee with objective and complete information on those topics, assisting with the gathering of information on practices, and providing Bolivia with the opportunity to offer and/or request technical assistance for the purposes of the Convention.

The review of the oversight bodies was intended, in accordance with the terms of the methodology for the Fourth Round, to determine whether they have a legal framework, whether that framework is suitable for the purposes of the Convention, and whether there are any objective results; then, taking those observations into account, the relevant recommendations were issued to the country under review.

The oversight bodies in Bolivia reviewed in this report are: the Ministry for Institutional Transparency and Fight against Corruption (MTILCC); the Public Ministry (*Ministerio Público*); the Judicial Branch; the Prosecutor General of the State (*Procuraduría General del Estado*) (PGE); the and the Financial Intelligence Unit (*Unidad de Investigaciones Financieras*) (UIF).

Some of the recommendations formulated to Bolivia for its consideration in relation to the foregoing oversight bodies address purposes such as the following::

Provide the oversight bodies (MTILCC, Public Ministry, Judicial Branch and the UIF), with the financial and human resources necessary for the adequate fulfillment of its functions and responsibilities; and make the necessary arrangements with other States and cooperation organizations in order to obtain the required technical cooperation.

With respect to the MTILCC, adopt the necessary provisions for the application, among others, of the provisions of Law No. 004 that require regulation; of the Integrated Anticorruption and Recovery of State Property Information System (SIIARBE); and of the System for the Protection of Whistleblowers and Witnesses.

With respect to the Public Ministry, adopt its new Organic Law; appoint the Attorney General and the District Prosecutors in accordance with the Political Constitution of the State; increase the number of specialized anticorruption prosecutors designated pursuant to Law No. 004; and strengthen the Public Ministry Internet portal.

With respect to the Judicial Branch, designate the anticorruption judges and create the specialized anticorruption courts required by Law No. 004; carry out a study on the low number of corruption cases that result in a judgment; and promote use of the IANUS system.

With respect to the PGE, establish the Departmental offices responsible for carrying out the functions and responsibilities of the PGE in the respective Departments; and contribute, together with the MTILCC and other competent bodies, in the drafting of legislation in the area of transparency and the fight against corruption.

With respect to the UIF, participate in the public accountability process, in which all public entities are required to take part; and maintain statistics on the activities of the UIF related, among others, to the detection and investigation of acts of corruption.

The best practices with respect to which Bolivia provided information refer, in summary, to the execution of performance guarantees/bonds, as a requirement to contract with the State; the creation of the National Council against Corruption, Illicit Enrichment, and Money-Laundering, for the purposes, among others, of defining State anticorruption policies in a coordinated manner; the creation of the Bolivian Institute for Studies in Transparency and Fight against Corruption (IBEC), which, among others, carries out studies in transparency, corruption and ethics; and the competition titled “The Worst Process of My Life”, created to improve the service provided to the public by public institutions.

With regard to follow-up on the recommendations formulated to Bolivia in the First Round and with respect to which, the Committee, in the Second and Third Round reports, found required additional attention, based on the methodology for the Fourth Round and bearing in mind the information provided by Bolivia in its response to the questionnaire and during the on-site visit, a determination was made as to which of those recommendations had been satisfactorily implemented, which required additional attention, and which required reformulation. A list of those still pending was also prepared, and has been included in Annex 1 of the report.

Among the process related to the implementation of those recommendations, the following is noted: the creation of the National Council against Corruption, Illicit Enrichment, and Money-Laundering; the public accountability process in which all public entities are required to participate; the strengthening of the verification of sworn statements of assets and liabilities; and the criminalization of illicit enrichment, among others.

Some of the recommendations formulated to Bolivia in the First Round that remain outstanding, or which were reformulated, address purposes such as, the adoption of the codes of ethics by public institutions, which address, among others, conflicts of interest, the preservation of public resources, and obligation to report acts of corruption; the implementation of the System for the Protection of Whistleblowers and Witnesses provided for by Law No. 004; continue strengthening the process of receipt, handling and verification of the sworn statements of assets and liabilities; resolve the possible contradiction between articles 172 (numeral 15) and 214 of the Political Constitution of the State, and proceed to formally designate the Comptroller General; and the adoption of the laws on access to information and social oversight.

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

**REPORT ON IMPLEMENTATION IN THE PLURINATIONAL STATE OF BOLIVIA OF
THE CONVENTION PROVISION SELECTED TO BE REVIEWED IN THE FOURTH
ROUND, AND ON THE FOLLOW-UP ON THE RECOMMENDATIONS FORMULATED
IN THE FIRST ROUND^{1/}**

INTRODUCTION

1. Contents of the Report

[1] This report presents, first, a comprehensive review of the Plurinational State of Bolivia's implementation of the provision of the Inter-American Convention against Corruption that was selected for review by the Committee of Experts of the Follow-up Mechanism (MESICIC) for the Fourth Round. That provision appears in Article III (9) of the Convention, pertaining to "Oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts."

[2] Second, the report will examine the best practices that Bolivia has voluntarily expressed its wish to share in regard to the oversight bodies under review in this report.

[3] Third, as agreed by the Committee of Experts of the MESICIC at its Eighteenth Meeting, in compliance with recommendation 9(a) of the Third Meeting of the Conference of States Parties to the MESICIC, this report will address the follow-up of implementation of the recommendations that the Committee of Experts of MESICIC formulated to Bolivia in the First Round and that it deemed required additional attention in the reports it adopted for that country in the Second and Third Rounds, which may be consulted at the following: <http://www.oas.org/juridico/english/blv.htm>

2. Ratification of the Convention and adherence to the Mechanism

[4] According to the official records of the OAS General Secretariat, the Plurinational State of Bolivia ratified the Inter-American Convention against Corruption on March 29, 1996 and deposited the respective instrument of ratification on February 4, 1997.

[5] In addition, Bolivia signed the Declaration on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption on June 4, 2001.

I. SUMMARY OF THE INFORMATION RECEIVED

1. Response of the Plurinational State of Bolivia

[6] The Committee wishes to acknowledge the cooperation that it received, throughout the review process, from the Plurinational State of Bolivia throughout the review process, and in particular from the Ministry for Institutional Transparency and Fight against Corruption, which was evidenced, *inter alia*, in the response to the Questionnaire and in the constant willingness to clarify or complete its

1. This Report was adopted by the Committee in accordance with the provisions of Article 3(g) and 25 of its Rules of Procedure and Other Provisions, at the plenary session held on September 14, 2012, at its Twentieth meeting, held at OAS Headquarters, September 10-14, 2012.

contents, and in the support for the on-site visit to which the following paragraph of this report refers. Together with its response, the Plurinational State of Bolivia sent the provisions and documents it considered pertinent. That response and the provisions and documents may be consulted at the following webpage: www.oas.org/juridico/spanish/mesicic4_blv_sp.htm.

[7] The Committee also notes that the country under review gave its consent for the on-site visit, in accordance with provision 5 of the *Methodology for Conducting On-Site Visits*.² As members of the preliminary review subgroup, the representatives of Ecuador and the United States conducted the on-site visit from March 26 through 29, 2012, with the support of the MESICIC Technical Secretariat. The information obtained during that visit is included in the appropriate sections of this report, and the agenda of meetings is attached thereto, in keeping with provision 34 of the *Methodology for Conducting On-Site Visits*.

[8] For its review, the Committee took into account the information provided by the Plurinational State of Bolivia up to March 29, 2012, as well as that furnished and requested by the Secretariat and the members of the review subgroup to carry out its functions, in keeping with the *Rules of Procedure and Other Provisions*; the *Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption Selected in the Fourth Round*; and the *Methodology for Conducting On-Site Visits*. This information may be consulted at the following webpage: http://www.oas.org/juridico/english/mesicic_rounds.htm.

2. Documents and opinions received from civil society organizations and/or, among others, private sector organizations, professional associations, academic or researchers

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

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

II. REVIEW, CONCLUSIONS, AND RECOMMENDATIONS ON THE IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION PROVISION SELECTED FOR THE FOURTH ROUND

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

[11] The Plurinational State of Bolivia has oversight bodies for the purpose of implementing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts. In particular, these include the Ministry for Institutional Transparency and Fight against Corruption (MTILCC); Public Ministry (*Ministerio Público*); the Judicial Branch through the Council of the Magistracy and

2. Document SG/MESICIC/doc.276/11 rev. 2, which may be consulted at the following webpage: http://www.oas.org/juridico/english/met_onsite.pdf

the Supreme Court of Justice; Prosecutor General of the State (*Procuraduría General del Estado*) (PGE); Financial Intelligence Unit (*Unidad de Investigaciones Financieras*) (UIF); the Office of the Comptroller General (CGE); and the National Council against Corruption, illicit Enrichment, and Money-Laundering (*Consejo Nacional de Lucha Contra la Corrupción, Enriquecimiento Ilícito y Legitimación de Ganancias Ilícitas*).

[12] The following is a brief description of the purposes and functions of the five bodies selected by the Plurinational State of Bolivia that are to be examined in this report:

[13] The Ministry for Institutional Transparency and Fight against Corruption, has the purpose of working for the construction of a reliable Plurinational State with zero tolerance for corruption and full transparency in the public administration, devising rules for the design and execution of public policies, programs, and projects prepared with the participation of social stakeholders, in order to live well.

[14] The Public Ministry, the purpose of which is to defend legality and the general interests of society and to pursue public prosecutions of offenses.

[15] The Financial Investigation Unit is an agency specialized in fighting money laundering, corruption, and predicate offenses, through criminal financial/equity analyses, the enactment of policies and rules, and the permanent oversight of their observance.

[16] The Judicial Branch, through the Supreme Court of Justice, contributes to social peace and legal security, guiding the work of the Plurinational State's courts toward the principles of free-of-charge and orally presented services, disclosure, transparency, swiftness, honesty, legality, probity, effectiveness, efficiency, accessibility, immediacy, material truth, due process, and equality among parties, through the representation and leadership it provides, the jurisprudence it establishes, and effective coordination with all the agencies of the judicial branch; and the Council of the Magistracy, as the entity responsible for the disciplinary regime of the ordinary, environmental and specialized jurisdiction, the oversight and control of administrative and financial management, and the formulation of management policies.

[17] The Prosecutor General of the State, which has the purpose of promoting, defending and protecting the interests of the State.

1. MINISTRY OF INSTITUTIONAL TRANSPARENCY AND FIGHT AGAINST CORRUPTION (MTILCC)

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

[18] The Ministry of Institutional Transparency and Fight against Corruption (MTILCC) has a set of provisions that make up its legal framework, as well as other measures that refer, *inter alia*, to the following:

[19] With regard to its purpose and functions, Executive Decree No. 29894³ of February 7, 2009 provides, at Article 26, that the functions of the MTILCC include, *inter alia*, formulating and implementing policies on the fight against corruption (paragraph a); proposing draft regulatory standards for eliminating corruption (paragraph b); promoting citizen education programs (paragraph

3. Available at: www.oas.org/juridico/spanish/mesicic4_blv_sp.htm

c); to supervise accountability (paragraph e); promoting the strengthening of social oversight mechanisms and instruments (paragraph h); structuring policies on strengthening citizen participation (paragraph i); structuring and executing policies and programs on access to information (paragraph j); promoting and coordinating measures for the investigation of wealth and money-laundering (paragraph k); to foster public ethics in all public-sector entities (paragraph m); to present charges for acts of corruption (paragraph q); coordinating the investigation, follow-up, and monitoring of acts of corruption and judicial proceedings against such acts (paragraph r); verifying and working towards the implementation of international agreements and conventions on the fight against corruption (paragraph s); and designing communications strategies to publicize the work of the MTILCC and inform the population about aspects within its sphere of authority, as well as implementing awareness raising campaigns about the fight against corruption (paragraph t).

[20] As regards its structure, the MTILCC is composed of two vice ministries: (1) The Vice Ministry for Prevention of Corruption, Promotion of Ethics, and Transparency (Ministry of Prevention), with responsibilities related, among others, to the promotion of ethics in the public administration, and the public accountability system; access to information, social oversight; and (2) the Vice Ministry for the Fight against Corruption, whose functions include, inter alia, carrying out investigations and following-up on judicial proceedings connected with acts of corruption and lack of transparency, as well as following-up on processes concerning the recovery of state assets diverted through acts of corruption. In addition, the MTILCC is responsible for the follow-up of draft laws, through the Legal Analysis Unit of the Legal Directorate.

[21] With respect to the manner in which decisions are adopted in the MTILCC, the response of the country under review to the questionnaire explains that *"the Ministry's decisions as regards presenting charges to the Public Ministry or other disciplinary bodies of different organs are adopted in accordance with the Constitution, the National Policy on Transparency, and the National Development Plan. Decisions are adopted under the Marcelo Quiroga Santa Cruz Law and other related laws (Criminal Code and others). Owing to the nature of the work of the MTILCC, there are several internal filters for reviewing decisions. If necessary, the maximum executive authority (Minister of Transparency) is consulted on decisions to be adopted."*⁴

[22] As regards the appointment of the highest ranked official in the MTILCC, pursuant to Article 172(22) of the Constitution of 2009 ("CPE"), the power to appoint government ministers and, therefore, the senior authority of the MTILCC, resides with the President.

[23] With respect to the responsibility of MTILCC officials, including its highest authority, for their actions, during the on-site visit, the MTILCC explained that under Law 1178 (Governmental Administration and Control, or "SAFCO," Law), all public servants shall be liable for the results of the performance of the functions and duties attaching to their position. (Article 28). In that connection, the SAFCO Law provides that that liability may be (1) administrative, *"when the act or omission infringes administrative legal provisions and standards governing the professional conduct of the public servant."* (Article 29); (2) executive, where the fault is one of lack of disclosure, negligence, or executive mismanagement, among others (Article 30); (3) civil, *"when the act or omission of the public servant...causes injuries to the State measurable in monetary terms."* (Article 31); or (4) criminal, *"when the act or omission of the public servant...is classified in the Criminal Code."* (Article 34).

4. See the response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 12, available at: www.oas.org/juridico/PDFs/mesicic4_blv_resp.pdf

[24] Coupled with the foregoing, and with respect to the executive liability of the highest authority of the MTILCC, Article 42(g) of the SAFCO Law allows the Comptroller General of the Republic, in the event of a finding of executive liability, to recommend the dismissal of the chief executive, without prejudice to civil or criminal proceedings, as appropriate.

[25] With regard to internal and external controls, Article 13 of the SAFCO Law provides that governmental oversight consists of (a) the internal control system which includes, *inter alia*, internal auditing; and, (2) the *ex post* control system, which is applied through external auditing of operations already carried out. In this regard, Article 23 provides that the Office of the Comptroller General (CGE) is the supervising organ of the governmental oversight system and that, therefore, its functions include the issuing of basic internal and external control standards, evaluation of the effectiveness of internal control systems, and application and supervision of external control of public-sector entities.

[26] Specifically regarding internal controls, Article 15 of the SAFCO Law provides that “*internal auditing shall be carried out by a specialized unit within the entity...*”⁵ That same provision also establishes that the above Unit’s reports shall be submitted to the highest authority of the institution as well as to the Office of the Comptroller General, among others.

[27] As regards hiring of MTILCC staff, Executive Decree No. 26115, which applies to all ministries in the executive branch, sets out, at Article 18, the staff recruitment and selection process, which is “*founded on the principles of merit, competence and transparency...*”⁶

[28] In that connection, and with respect to the determination of the resources necessary for the MTILCC’s operations, the response of the country under review to the questionnaire notes that “[*G*]iven that the functions and workload of the MTILCC have increased following the adoption of Executive Decree No. 29894, which provides for the transformation of the Vice Ministry of Transparency and Fight against Corruption into a ministry, it has become necessary to hire more staff, who have been recruited by means of merit-based competitions, in the case of consultants, and in accordance with the requirements set out in internal annual operating programs, in the case of employees paid with State Treasury funds. Thus, the hiring of new staff is determined by the workload and the budget assigned.”⁷

[29] MTILCC staff are governed by the provisions contained in Law No. 2027 (Statute of the Public Servant), the purpose of which is to ensure the dignity, transparency, efficiency and commitment to service in the exercise of public functions (Article 2) and, therefore, the rules on prohibitions (Article 9), conflict of interests (Articles 10) and incompatibilities (Article 11) contained therein, including a prohibition on the exercise of partisan political activities (only during working hours or in the course of the exercise of public functions, (Article 9(b)). The Law also contains provisions on public ethics (Articles 12 to 15).

[30] Furthermore, Article 26 of Law No. 004, “*Marcelo Quiroga Santa Cruz*” Law on Combating Corruption, Illicit Enrichment, and Investigation of Wealth, entitled “*Improper Use of Government Property and Services*” punishes public officials who misuse state property with imprisonment, while

5. In that regard, the Executive Summary of the Strategic Plan and the Annual Operations Program of the MTILCC Internal Auditing Unit is published on the Ministry’s website and may be consulted at: <http://www.transparencia.gob.bo/data/transparencia/UAI.pdf>

6. See Article 18 of Executive Decree No. 26115. See also the report on Bolivia for the Second Round (pp. 2-4) for more information on the recruitment process in the executive branch. This report is available at: http://www.oas.org/juridico/spanish/mesicic_II_inf_blv.pdf

7. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 15, *supra* note 4.

Article 34 of Law No. 004 modifies Article 154 of the Criminal Code, increasing the punishment for the crime of “Breach of Formal Duties,” and providing prison sentences for public officials that unlawfully omit, refuse to carry out, or delay an act that is part of their duties.

[31] With respect to mechanism for addressing complaints concerning the achievement of its goals and the performance of its staff, the response to the questionnaire for the fourth round explains, “*The MTILCC has a complaints platform on which members of the public can lodge complaints against the Ministry’s employees. There is also a toll-free number and the Ministry’s website has a specific section for filing complaints (www.transparencia.gob.bo)*”⁸

[32] As regards documents and manuals describing the functions of MTILCC employees, the Ministry has a Functions Manual that applies to its full-time staff, individual operating plans for part-time personnel, and terms of reference for consultants.⁹

[33] With regard to training provided by the MTILCC, Article 27 of Supreme Decree No. 29894, on the Organization of the Executive Branch, provides that the specific functions of the Vice Ministry of Prevention include, *inter alia*, to design and implement citizen education programs (paragraph e), carry out training activities on social oversight (paragraph f); and provide training to all public-sector entities on information safe-keeping, (paragraph “h”). Regarding the above, the Vice Ministry of Prevention website contains information on training given, including a summary of the number of workshops held and the number of persons trained on different subjects, such as social oversight, access to information, Law 004, and public ethics.¹⁰ The website also has a link to the monthly training schedule for MTILCC representatives.¹¹

[34] Regarding the existence of documented working procedures for the MTILCC, the response to the questionnaire explains that the institution’s work is based on implementation of the National Policy on Transparency and Fight against Corruption.¹² The MTILCC also has internal regulations “... *which set out guidelines for processing complaints presented to this entity so as to control the performance of duties by public servants who work therein.*”¹³

[35] With respect to institutional strengthening of the MTILCC, during the on-site visit, information was provided on the recent transformation of the Vice Ministry into a ministry and, in that connection, the fact that the institution’s highest authority now reports directly President of the State.

[36] Furthermore, with respect to the implementation and use of modern technologies to facilitate the work of the MTILCC, the Ministry has three computerized systems. The System for Registry and Follow-up to Complaints which permits follow-up on cases, and provides information on when cases were first received by the institution, their processing status, and the official responsible. The second is the Integrated Anticorruption and Recovery of State Property Information System (SIARBE), envisaged in Law 004, for “...*the consolidation and exchange of information among the entities involved in the fight against corruption, in order to design and implement prevention, suppression, and punitive strategies and policies, as well as for efficient follow-up and monitoring of proceedings in the context of the fight against corruption.*”¹⁴ The SIARBE, which is pending implementation,

8. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 21, *supra* note 4.

9. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 16, *supra* note 4.

10. Available at: www.transparencia.gob.bo

11. Available at: www.transparencia.gob.bo

12. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 18, *supra* note 4.

13. *Ibid.*

14. See Article 23(I) of Law 004, available at: www.oas.org/juridico/PDFs/mesicic4_blv_resp.pdf

will also be utilized for specific activities related to the ex officio verification of sworn declarations of assets and liabilities.¹⁵ During the on-site visit, the MTILCC also reported that the SIIARBE will be operational in the near future and that, to that end, an executive decree is being drafted to establish its scope, internal organization, functions, and procedures, as envisaged by Article 23(III) of Law 004. There is also the Computerized Correspondence System (SIACO), which records all correspondence received by the Ministry and its current location. The Ministry is likewise implementing technological tools to ensure the perimeter security of these systems.

[37] As regards mechanisms for providing information to the public, the MTILCC has its own Internet website (<http://www.transparencia.gob.bo>), which contains sections providing background information on the institution and its activities, the public accountability system, relevant laws, including draft laws, among others.

[38] The MTILCC also releases newsletters for mass circulation as well as comprehensive annual reports.¹⁶ In this regard, in the course of the on-site visit, the MTILCC supplied, *inter alia*, sample copies of the following newsletters: “Transparency Program,” “Public Accountability,” “Is Your Municipality Transparent?,” “Law No. 004,” “Participate, Propose, Monitor. That is Social Oversight,” “Public Ethics,” “Social Oversight,” “Fight against Corruption,” and “Access to Public Information”. In the context of the visit, the MTILCC also supplied copies of handbooks that it had produced and distributed with the specific purpose of raising child and youth awareness of the preceding issues.

[39] During the on site visit, the MTILCC also presented various videos, which are broadcast on local television stations, and which are intended to raise the awareness of citizens with regard to various topics related to anticorruption and transparency, including the those topics mentioned above. Similarly, the MTILCC provided audio compact discs containing similar audio messages that are broadcast on local radio stations for the same purpose.

[40] With respect to the manner of ensuring the necessary budgetary resources for the operations of the MTILCC, the response to the questionnaire notes that “*The National Budget provides a budget for all public entities, including the MTILCC. Likewise, the Ministry signs international cooperation agreements that ensure the necessary funds for it to perform its functions.*”¹⁷

[41] Regarding mechanisms for coordination with other state agencies and for securing the support of the citizenry in carrying out its functions, Article 26(l) of Executive Decree No. 29894 entrusts the MTILCC with the design of interagency coordination policies for activities between governmental agencies and social actors in the fight against corruption. Furthermore, Article 26(o) assigns the MTILCC the function of coordinating measures concerning prevention, control, investigation, and punishment of acts of corruption with all state entities. In the course of the on-site visit, the MTILCC described measures coordinated with the Office of the Comptroller General in connection with the system for the disclosure of assets and net worth.¹⁸

[42] Similarly, Article 6 of Law No. 004 creates the National Council against Corruption, Illicit Enrichment, and Money-Laundering, the functions of which are, *inter alia*, to propose, supervise, and monitor public policies for the prevention and punishment of acts of corruption (Article 7). Article

15. See Article 23(II) of Law 004. *Ibid.*

16. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 20, *supra* note 4.

17. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 22, *supra* note 4.

18. This subject is analyzed in great detail in section 2 of chapter IV of this report.

6(I) provides that the Council and shall be composed of the MTILCC, the Ministry of the Interior, the Public Ministry, the CGE, the UIF, the PGE, and representatives of organized civil society, in accordance with the Constitution. Article 6 (II) provides that the Council shall be chaired by the head of the MTILCC.

[43] With respect to mechanisms for public accountability, Article 235 (4) of the Constitution establishes the obligation of public servants regarding public accountability for economic, political, technical, and administrative duties in the exercise of public functions.

[44] During the on-site visit, the MTILCC presented an information guide that describes the process and timetable of the public accountability system, as one of the mechanisms of “social oversight”,¹⁹ as follows: (1) An “initial” public hearing, in which the Annual Operating Program (AOP) of the entity in question is presented for the consideration of social organizations and actors, with particular attention given to topics identified by the public; (2) a “partial” or “half-yearly” public hearing, in which a report is presented describing the management’s progress and difficulties, with the public offering suggestions in that regard; and, (3) a final public hearing to present reports and documents on priority topics, such as the results of the management's goals and budget.

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

[45] The MTILCC has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were briefly described in section 1.1 of this report. Nonetheless, the Committee considers it appropriate to formulate certain observations in relation thereto:

[46] First, the Committee notes that a sizable percentage (44%) of the MTILCC budget comes from external funds. In that connection, the document entitled “*Ejecución Presupuestaria – Consolidado 2011*” (Budget Execution - Consolidated 2011), which is available on the MTILCC website,²⁰ indicates that 55.84% of its budget is provided by the National Treasury (TGN), 41.14% by the Inter-American Development Bank (IDB), and 3.01% by the Swiss Agency for Development and Cooperation (COSUDE).

[47] Similarly, during the on-site visit, it was explained that only 30 members of the staff of the MTILCC were financed with funds provided by the National Treasury, that is, the State's own funds. In that connection, the MTILCC reported that it had insufficient human, material, and financial resources, and that the majority of its staff are financed with contributions from foreign donors. As of July, 2012, the number of public servants at the MTILCC financed with Treasury funds rose to 96, pursuant to Supreme Decree No. 1186 of April 9, 2012. Notwithstanding this recent increase in the number of personnel of the MTILCC financed with Treasury funds, the Committee believes that it is important for the country under review to adopt the measures that it considers necessary to ensure that the MTILCC has sufficient budgetary resources to be able to adequately perform its very long list of functions, particularly bearing in mind its important role in preventing and combating corruption. The Committee will formulate a recommendation in this regard. (See recommendation 1.4.1 in chapter II of this report).

19. Pursuant to the National Policy of Transparency and the Fight against Corruption, “social oversight” of public administration is understood as the mechanisms or means for all persons or groups to follow up to and actively participate in processes, actions, or results that are developed by the institutions of the Plurinational State of Bolivia in order to achieve their purposes.

20. Available at: www.transparencia.gob.bo/data/ejecucion_presupuestaria2011.pdf

[48] Second, the Committee notes, as was made apparent during the on-site visit, that Law No. 004 contains certain provisions that to some degree require some form of additional regulation or clarification, such as, for example, Article 26 on the improper use of government property and services. During the on-site visit, it was explained that this provision imposes a penalty of 1 to 4 years of imprisonment for any violation, without drawing a distinction between an omission, a misdemeanor or felony. In this regard, the representatives of the country under review explained that considering that a new Criminal Code is being drafted, the MTILCC will analyze the possibility of providing a clearer definition of this criminal offense. The Committee will formulate a recommendation in this regard. (See recommendation 1.4.2 in chapter II of this report).

[49] Third, a similar situation exists with the classification of breach of formal duties contained in Article 34 of Law No. 004, which modifies Article 154 of the Criminal Code, and which provides for a one to four year period of imprisonment. In this regard, it was explained that the new draft criminal code that is currently being prepared will, inter-alia, modify and/or clarify the scope of this provision. The Committee will formulate a recommendation in this regard. (See recommendation 1.4.3 in chapter II of this report).

[50] Fourth, with respect to the Integrated Anticorruption and Recovery of State Property Information System (SIARBE), also provided for by Law No. 004 and described in the preceding section, the Committee notes the benefits that would arise from its implementation, particularly as regards coordination among oversight bodies in the fight against corruption and for the system of sworn declarations of assets and liabilities. The Committee will offer a recommendation in light of the foregoing. (See recommendation 1.4.4 in chapter II of this report).

[51] Fifth, the Committee observes that Law No. 004 also establishes the Protection System for Whistleblowers and Witnesses. However, during the on-site visit, representatives of the MTILCC explained that certain basic elements and regulation of the system were still lacking. They also mentioned the serious difficulties posed by the absence of such a system and that it should also include protection for public officials in charge of processing complaints. In this regard, several representatives of the MTILCC related having been victims of serious assault and robberies as a result of carrying out their functions and duties in this area. The Committee will formulate a recommendation, taking into account the importance for Bolivia of having an adequate system in place, without prejudice to the recommendations that were made to the country under review in the First Round, and which will be examined in chapter III of this report. (See recommendation 1.4.5 in chapter II of this report).

[52] Related to the foregoing, during the on-site visit, representatives of a public sector association drew attention to the lack of a system of protection for whistleblowers and witnesses of acts of corruption, particularly in connection with the execution of public works that involve large sums of money since, in the opinion of the SIB, whistleblowers are very often persecuted.

[53] Sixth, with respect to technical cooperation needs, during the on-site visit, representatives of the MTILCC explained that these needs consist of the following: support for drafting the regulatory provisions for Law No. 004, including for the introduction of the protection system for whistleblowers and witnesses of acts of corruption envisaged in Article 6 of that law; support for drafting specific regulatory provisions with regard to the repatriation of corruption proceeds. Similarly, during the on-site visit, the MTILC identified mutual assistance needs, in terms of cooperation of other States for the extradition, deportation, or similar actions with respect to persons accused of corruption; and cooperation and coordination in the transmission of information on assets,

bank accounts, and other records, (financial and property-related), bearing in mind that Bolivia is not currently a member of the Egmont Group of Financial Intelligence Units. The Committee will formulate a recommendation taking into account the foregoing. (See recommendation 1.4.6 in chapter II of this report).

[54] Seventh, in its response to the questionnaire, the country under review identifies the following difficulties relating to the performance of its functions: *Constant turnover of anti-corruption prosecutors, which causes delays in reassigning cases, in addition to which the assigned prosecutor needs time to familiarize themselves with the case in order to continue the investigation. In the case of both the Public Ministry and the law courts, the workload of judicial operators precludes effective compliance with deadlines, which delays processing of cases. There is also an insufficient budget to establish more courts and prosecutors in the anti-corruption division, which could improve were there more anti-corruption judges.*²¹ Based on the foregoing, during the on site visit, the MTILCC noted that the delay in the creation of new anticorruption courts and in the appointment of additional anticorruption prosecutors was resulting in delays regarding the administration of justice in corruption cases. The Committee will formulate recommendations bearing in mind these situations. (See recommendations 2.4.9 and 3.4.7 in chapter II of this report).²²

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

[55] Based on the response to the questionnaire of the country under review and the on-site visit, information was gathered regarding the results obtained by the MTILCC with respect to the fulfillment of its functions, including the following:²³

[56] First, as regards measures relating to prevention of corrupt practices, in its response to the questionnaire, Bolivia noted the preparation, with extensive participation by civil society and social actors, of the National Policy on Transparency and Fight against Corruption and strategies for promotion of ethics and transparency, in addition to the design of the Public Administration Transparency Program, which is divided into three sub-programs: 1) Access to information, which includes monthly monitoring by the MTILCC of executive branch websites; 2) public accountability and social oversight; and, 3) public ethics, which encompasses, *inter alia*, the design of the so-called “strategy on decolonization of public ethics and revolution in the public servant conduct.” Based on this information, it is possible to conclude that the MTILCC has executed actions related to prevention.

[57] Second, the response to the questionnaire also notes that through the follow-up and monitoring of judicial processes regarding actions that cause serious economic harm to the State, the MTILCC has recovered more than U.S. \$51 million from 2006 to 2011.²⁴ Similarly, during the same time period and through the execution of performance bonds (“*boletas de garantia*”),²⁵ more than U.S. \$45 million has been recovered.

[58] Third, regarding the functions of the MTILCC with respect to the investigation and detection of acts of corruption, the response to the questionnaire contains information on the number of

21. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 40, *supra* note 4.

22. See also recommendations 2.4.4 and 2.4.7 corresponding to the Public Ministry and recommendations 3.4.7 and 3.4.9, corresponding to the judicial branch, in sections 2.4 and 3.4, respectively, of this report.

23. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 30, *supra* note 4.

24. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 31, *supra* note 4.

25. In this regard, see Chapter III of this report, corresponding to best practices.

complaints presented by the MTILCC as of 2011.²⁶ That information is updated in a table published on the MTILCC website, which indicates that as of March 2012, the Ministry has presented, pursuant to its responsibilities, 301 complaints have been presented to the Public Ministry, 7 to the Office of the Inspector General, 5 to the Council of the Magistracy, 9 to the Legislative Assembly, and 1 to the Police Internal Investigations Office,²⁷ in order for those institutions to carry out the corresponding investigations, and if appropriate, take actions to prosecute the case. The same table also shows the procedural status of each of the complaints filed.

[59] In this regard, and with respect to the implementation of measures for detection and investigation of acts of corruption, it is not clear what the average processing time is for complaints presented by the MTILCC to the various entities that determine responsibilities and penalties, as appropriate, without prejudice to the fact that in the on-site visit the MTILCC mentioned the existence of several factors that have been causing significant delays in the administration of justice in the country. Bearing in mind the foregoing, and so as to furnish the Committee with disaggregated information that would enable it to make a comprehensive assessment of the objective results of the MTILCC vis á vis its functions of prevention, detection and investigation of acts of corruption, the Committee believes that it would be useful for the country under review to develop mechanisms for monitoring the efficiency of the entities responsible for processing complaints concerning acts of corruption. The Committee will formulate a recommendation in this regard. (See recommendation 1.4.7 in chapter II of this report).

1.4. Conclusions and recommendations

[60] Based on the comprehensive review of the Ministry for Institutional Transparency and Fight against Corruption in the foregoing sections, the Committee formulates the following conclusions and recommendations:

[61] The Plurinational State of Bolivia has considered and adopted measures intended to maintain and strengthen the Ministry for Institutional Transparency and Fight against Corruption As an oversight body, as indicated in Chapter II, Section 1 of this report.

[62] In view of the comments made in that section, the Committee suggests that the country under review consider the following recommendations:

- 1.4.1. Provide the MTILCC with the budgetary and human resources necessary to adequately perform its functions, particularly those related to the prevention, detection, and investigation of acts of corruption, within available resources. (See Chapter II, Section 1.2 of this report).
- 1.4.2. Analyze the possibility of including a clearer definition of the criminal offense contained in Art. 26 of Law No. 004, improper use of government goods and services, in the new Criminal Code that is being drafted, and provide training and/or other guidance to public servants in order to deepen their understanding of their responsibilities under existing standards. (See Chapter II, Section 1.2 of this report).

26. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 30, supra note 4.

27. *Ibid.*

- 1.4.3. Consider adopting the provisions and measures considered necessary to clearly describe the scope and application of the offense of “breach of formal duties” contained in Article 154 of the Criminal Code, as modified by Article 34 of Law No. 004. (See Chapter II, Section 1.2 of this report).
- 1.4.4. Continue and conclude the drafting of the executive decree to implement the Integrated Anticorruption and Recovery of State Property Information System (SIARBE), including, among others, provisions on its scope, internal organization, attributions and procedures for its use and operation. (See Chapter II, Section 1.2 of this report).
- 1.4.5. Regulate, through the mechanisms deemed appropriate, the Protection System for Whistleblowers and Witnesses of acts of corruption provided for by Article 17 of Law No. 004, which should include, among other aspects, physical and workplace protection for government officials involved in the processing or investigation of complaints, and notwithstanding the recommendations issued in the Second Round. (See Chapter II, Section 1.2 of this report).
- 1.4.6. Where appropriate, seek the necessary technical cooperation from other states and cooperation agencies in order to enable the MTILCC to carry out its functions more effectively, taking into account the needs put forth and identified in section 1.2 of this report. (See Chapter II, Section 1.2 of this report).
- 1.4.7. Develop monitoring mechanisms which allow the MTILC to measure the efficiency of the entities responsible for processing complaints of acts of corruption, in order to design, implement, or recommend, as appropriate, the necessary measures to expedite and improve the efficiency of proceedings instituted on the basis of such complaints. (See Chapter II, Section 1.3 of this report.)

2. PUBLIC MINISTRY

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

[63] The Public Ministry has a set of provisions that make up its legal framework, as well as other measures that refer, *inter alia*, to the following:

[64] As regards its purpose and functions, Article 225 of the Constitution of 2009 provides that it shall protect the law and the overall interests of society and prosecute publicly actionable offenses. The same provision recognizes that the Public Ministry is operationally, administratively and financially autonomous.

[65] Furthermore, Law No. 2175, Organic Law of the Public Ministry (LOMP for the Spanish),²⁸ which regulates the organization and functions of the Public Ministry (Article 1), assigns the institution the following functions to fulfill its purposes: To protect the interests of the state and

28. During the Meeting of the Review Subgroup held at OAS Headquarters in Washington D.C., on September 6, 2012, the country under review noted that on July 11, 2012, the new Organic Law of the Public Ministry (Law No. 260) came into effect. Taking the foregoing into account, the analysis in the present section of the report is based on Law No. 2175, the Organic Law of the Public Ministry (LOMB) of 2001.

society; to prosecute publicly actionable offenses; to direct the operations of the police in the investigation of crime; to inform the victim of their rights in criminal proceedings and of the results of investigations; to advise the accused of their rights and guarantees; to assign the accused a public defender should they lack means; to ensure compliance with legal provisions on the enforcement of sentences as contained in the law or international agreements; to furnish international judicial cooperation; to preserve the rule of law and observance of human rights (Article 14).

[66] Article 20 of the LOMP of 2001 concerns coordination between the Public Ministry and the executive branch, and provides that the executive branch may, on the basis of a reasoned decision, request the Attorney General to issue instructions with respect to the prosecution of publicly actionable offenses, the establishment of criminal prosecution priorities, and observance of human rights in combating crime. Article 22 empowers the Public Ministry to challenge a decision before the Constitutional Court if it considers that it is unconstitutional or affects its independence. The same article allows the Attorney General, should he believe a decision to be inappropriate or illegal, to challenge its compliance before the authority that issued it.

[67] The Public Ministry also has the obligation to provide such cooperation as may be necessary to the authorities of native, indigenous, and peasant communities should they require it (LOMP, 2001, Article 17).

[68] With respect to functions shared with other bodies, Article 12 of the LOMP of 2001 envisages the establishment of legislative committees by the houses of the Plurinational Legislative Assembly, for the purposes of investigation and institution of criminal proceedings against Justices of the Supreme Court, the Attorney General of the State, Judges of the Constitutional Court, and Members of the Council of the Magistracy. In that regard, Article 13 of the LOMP of 2001 requires the prosecuting attorneys of the Public Ministry to assist in the investigation should they be requested to do so by legislative committees.

[69] In addition, during the on-site visit, the Public Ministry provided information on exceptions to its authority under Law No. 044 of 2010, on Trial of the President; Vice President; and high authorities of the Supreme Court, Agro-environmental Court, Council of the Magistracy, Plurinational Constitutional Court, and Public Ministry. It also provided information on the military jurisdiction, which has its own criminal code and military prosecutors, outside the scope the Public Ministry.²⁹

[70] With respect to decision-making within the Public Ministry, in its response to the questionnaire the country under review notes that *“the decisions adopted by each government prosecutor in the course of an investigation are based on the evidence that they collect in that investigation. They are not joined together as a group, but belong to an entity with a hierarchical structure in which the Attorney General is the superior authority . Prosecutors’ decisions are reviewed by their immediate superior.”*³⁰ During the on site visit, the committee was also informed that the Code of Criminal Procedure (*Código de Procedimiento Penal - CPP*) adopted by law 1970 of 25/03/1999, contains the grounds on which the decisions of government prosecutors may be subject to objection and challenge before their immediate superior in specific cases (CPP, articles 305 and 306).

29. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 12, supra note 4.

30. *Ibid.*, at p. 12.

[71] With respect to the highest authority in the Public Ministry, the CPE provides that the Attorney General is its superior hierarchical authority (Article 226), and that that authority shall be appointed by a vote of two thirds of the members of the Legislative Assembly in attendance at the time of vote (Article 227). The appointment shall require a prior public announcement and the assessment of professional capacity and merits, through public competition. The Attorney General shall hold office for six years (Constitution, Article 228) and may be removed from office based on a final decision issued by the Senate (Article 35 of the LOMP).

[72] Furthermore, Law 003, (Law on the Need for Transition to New Entities of the Judiciary and Public Ministry), at Article 5, extends the interim appointment of the Attorney General until his or her appointment pursuant to the Constitution and the new Public Ministry Law.

[73] With respect to District Prosecutors, Article 39 of the LOMP of 2001 provides that they are appointed by a two-thirds majority of the House of Deputies and that they shall hold office for five years.

[74] With respect to prosecutors, Article 87 of the LOMP of 2001 provides that the career system for prosecutors is founded on recognition of merit and accreditation and that internal or external calls for resumes shall arise from service needs and vacancies in the Public Ministry; while Article 88 provides that prosecutors may only be removed for the reasons envisaged by law. The LOMP also contains provisions that apply to prosecutors, concerning ineligibility (Article 26), conflict of interests (Article 27), and prohibitions (Article 28).

[75] In addition, Article 5 (II) of Law 003 provides, *“In the case of the office of district prosecutors in the transition period, it shall be incumbent upon the Attorney General to directly appoint on an interim basis the prosecutors that used to occupy those positions.”*

[76] Specifically in the area of anti-corruption, Law No. 004 (Marcelo Quiroga Santa Cruz Law on the Fight against Corruption, Illicit Enrichment, and Investigation of Fortunes), at Article 12, instructs the Attorney General to appoint specialized prosecutors devoted exclusively to the investigation and indictment of corruption offenses and related crimes in each department of the Office of the Public Ministry. With respect to these prosecutors, Article 14 of Law No. 004 provides that they shall be subject to a system of ongoing assessment, taking into account the guidelines established by the National Council against Corruption, Illicit Enrichment, and Money-Laundering, and that this system shall include social oversight.

[77] In addition, the Special Prosecution Unit for Corruption Crimes Concerning Officials and Former Officials of the Judiciary was created in January 2011 by Public Ministry decision 11/2011. Similarly, the Special Prosecution Unit for Corruption Crimes concerning Prosecutors and Former Prosecutors of the Public Ministry was established by Public Ministry decision 12/2011.

[78] As regards filling other positions in the Public Ministry, Article 36(16) of the LOMP provides that Attorney General is responsible for the appointment of administrative staff in accordance with the rules.

[79] As for documents and manuals that describe the functions of the staff of the Public Ministry, they include the Internal Regulations of the Public Ministry, the Planning and Entry Regulations of the Prosecutor's Career System, the Evaluation and Promotion Regulations of the Prosecutor's Career System, the Organizational and Operational Rules of the Office of the Inspector General and

Disciplinary Regime, and the Organizational and Operational Rules of the Forensic Investigations Institute. Furthermore, during the on-site visit, the Public Ministry presented its 2011 Activities Report, which mentions the preparation of a set of Internal Rules of the Personnel Management System, which will be updated and then used in the Public Ministry. This report also explains that the Public Ministry Operations Manual will be adjusted in line with the new Organic Law of the Public Ministry.

[80] As regards training, Article 36(34) of the LOMP recognizes the authority of the Attorney General to appoint the Director of the Public Ministry Training Institute, while Article 92 establishes the Public Ministry Training Subsystem for continuous training and updating of prosecutors, which “*encourages their specialization in the functions specific to their positions and, as applicable, in the prosecution of certain crimes.*”³¹ In that regard, in the course of the on-site visit, the Public Ministry reported that training workshops are held for specialized prosecutors appointed under Law 004. It was also mentioned that the Public Ministry and the MTILCC entered into a cooperation agreement for the development of a university diploma course specifically for anti-corruption prosecutors, which was also attended by police officers and officials from the Ministry of Institutional Transparency and Anticorruption and the Fight against Corruption and which concluded on July 31 of this year.

[81] As for documented procedures and manuals for implementing institutional strengthening measures and activities, during the visit, information was provided on the existence of the Criminal Prosecution Policy, Directive 341/2006, Directive 169/2010 on criminal prosecution improvement guidelines, Directive 871/2011 on optimization of the criminal prosecution policy, a procedures manual for prosecutorial police and experts, and the Five-Year Plan 2006-2009. It was also explained that the Public Ministry has manuals and protocols in the various divisions of the Forensic Investigations Institute and that protocols and critical road maps have been developed for the Victim and Witness Assistance Unit.

[82] With respect to implementation of modern technologies or systems, the Public Ministry has the I3P system, which is a software tool for tracking cases, and the use of which is mandatory for all government prosecutors. It can also be used to monitor criminal proceedings and serves as a tool in investigations.³²

[83] With respect to mechanisms for supplying information to the public, the Public Ministry informed that it has a website (www.fiscalia.gob.bo). The Public Ministry also produces information bulletins for widespread circulation, in addition to a comprehensive annual report.³³

[84] As regards internal control mechanisms, Article 84 the LOMP of 2001 provides that the Office of the Inspector General is the organ that supervises the correct functioning of the Public Ministry in order to ensure and encourage its efficiency and effectiveness in fulfilling its purposes. This article also provides that it shall enjoy operational autonomy in discharging its functions. As regards the functions of the Office of the Inspector General, Article 86 of the LOMP of 2001 provides that these include, *inter alia*, to receive complaints filed against government prosecutors (paragraph 1); to formulate and execute inspection programs (paragraph 4); to carry out investigations *ex officio* or in response to a complaint (paragraph 5); to bring charges against government prosecutors when there

31. See Article 92 of Law No. 2175, Organic Law of the Public Ministry, available at: www.oas.org/juridico/spanish/mesicic4_bly_sp.htm

32. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 18, *supra* note 4.

33. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 20, *supra* note 4.

are grounds to suspect that a crime has been committed (paragraph 7); and to implement ongoing prevention programs to deter acts of corruption (paragraph 8).

[85] In addition to the foregoing, in its response to the questionnaire, the country under review mentioned that “... *There are public assistance platforms that constitute the main gateway for users and are designed to provide guidance and information for accessing the criminal justice system; they are in charge of ensuring observance of the rights and guarantees of the parties, initial assistance to victims, and preliminary processing in the prosecution of publicly actionable offenses.*”³⁴

[86] As regards ensuring the necessary budgetary resources for its operations, Article 225 of the Constitution grants the Public Ministry financial autonomy, among other attributes. Furthermore, Article 124 of the LOMP provides that the Office of the Attorney General shall prepare the draft budget of the Public Ministry and administer it autonomously. In that connection, Article 36(25) of the LOMP recognizes that one of the powers of the Attorney General is to prepare the annual budget and to submit it to the Ministry of Finance for inclusion in the proposed national budget.

[87] As regards coordination mechanisms for harmonizing its functions with those of other control organs or branches of government, in Title II (“Relations with Government Branches and Institutions”) of the Internal Regulations of the Public Ministry, Chapters I, II, III, IV, and V refer, respectively, to relations with the Legislative Branch, the Executive Branch, the Judiciary, the Ombudsman, and the Civil Service (*Administración Pública*).

[88] As to accountability, Article 37(1) of the LOMP of 2001 requires the Public Ministry to provide an account of its activities to the legislative branch at least once a year, while paragraph 2 of the same provision provides that the Attorney General shall inform the public about his activities, difficulties, and achievements in the exercise of his duties at least once every six months. Furthermore, Article 37(3) and (4) require the compilation and publication of regulations, general instructions, and ratified instructions and decisions, and the publication of an annual report, respectively.

[89] In keeping with the foregoing, the response of Bolivia to the questionnaire explains, “*The [annual] report covers the main activities carried out, results, difficulties, challenges and projections of the institution; activities on legal and administrative questions; coordination and relations with government organs, institutions, and district prosecutors of the entire country, as well as with the Public Ministry and Attorneys General of other countries, all of which ensures the transparency of our activities and public accountability.*”³⁵

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

[90] The Public Ministry has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were briefly described in section 1.1. Nonetheless, the Committee considers it appropriate to formulate certain observations in relation thereto:

[91] First, with respect to the appointment of the Attorney General, the Committee notes that Article 226 of the Constitution requires his or her appointment by the Plurinational Legislative Assembly. However, during the on-site visit, it was informed that the current Attorney General has been serving in an interim capacity since 2006. Furthermore, pursuant to Law 003 of 2010, this interim

34. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 21, supra note 4.

35. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 26, supra note 4.

appointment will continue until such time as the Legislative Assembly appoints the new Attorney General in accordance with the Constitution and the new Law of the Public Ministry, yet to be adopted.

[92] Based on the foregoing, the Committee is concerned that more than two years since the entry into force of Law 003, the new Law of the Public Ministry³⁶ has not yet come into effect and that, therefore, a new Attorney General has not been appointed in accordance with the Constitution. A similar situation exists with respect to the nine District Prosecutors, who have been serving on an interim basis through appointment for an extended period of time, despite the fact that the LOMP requires that they be appointed by the House of Deputies. In this sense, the Committee considers it very important for the country under review to adopt the measures it deems necessary to institutionalize the appointment of the Attorney General as provided in the Constitution, and of the District Prosecutors as provided in the LOMP. This would contribute to ensuring the independence of the Public Ministry and, therefore, the proper discharge of its functions and responsibilities. The Committee will formulate a recommendation in that regard. (See recommendation 2.4.1 in chapter II of this report).

[93] Second, the Committee observes that subsequent to 2001, the year that the Organic Law of the Public Ministry was adopted, there have been significant and substantial changes in Bolivia's legal framework, most notably the adoption of a new constitution in 2009 and the promulgation of Law No. 004 in 2010. With respect to the second of these norms, the Committee notes, as was mentioned above, that it assigns responsibility for the appointment of anticorruption prosecutors to the Public Ministry. However, the Committee recalls what the Public Ministry expressed during the on-site visit with respect to the call for resumes that was attempted with a view to appointing these prosecutors, which failed due to a lack of the necessary provisions in the LOMP. In this regard, the Committee considers it important for the country under review to adopt the measure that it considers necessary in order for the Public Ministry to have provisions that allow, inter-alia, compliance with the obligation contained in Law No. 004, regarding the designation of specialized prosecutors devoted exclusively to the investigation and indictment of corruption offenses. The Committee will offer a recommendation bearing in mind the foregoing. (See recommendation 2.4.2 in chapter II of this report).

[94] Third, in terms of difficulties in accomplishing the purposes of the Public Ministry, both the response of Bolivia to the questionnaire and the meeting held with the Office of the Attorney General during the on-site visit, made it clear that the main problem that the entity faces has to do with lack of financial resources, which, in turn, limits the possibility of hiring more staff, which could make investigations faster and more efficient.³⁷

[95] The Public Ministry elaborated on this situation during the on-site visit, noting that the lack of resources combined with a substantial increase in the workload in the Public Ministry has resulted in considerable delays the processing of cases by the institution. On this point, the representatives noted that, *"As far as the budget is concerned, it is crucial to mention that this is one of the most critical issues for the Public Ministry because the budget allocated by the Treasury (TGN) has never been*

36. See footnote 28, supra.

37. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 40, supra note 4.

*sufficient to cover the various areas of expenditure, such as human resources, equipment, infrastructure, investigation methods, investigation expenses, and expert investigations.*³⁸

[96] The Committee considers, based on the information available to it, that the shortage of financial and human resources is adversely affecting the ability of the Public Ministry to discharge its functions and duties in an efficient and effective manner and also, therefore, its responsibilities where the investigation of acts of corruption are concerned. By way of an example, and with respect to anticorruption prosecutors, the document submitted by the Public Ministry during the on-site visit notes that, *“There have been no specific items in the budget of the Public Ministry for implementing the specialized prosecution units, despite the fact that the Public Ministry has submitted a plan to officials at the Ministry of Economy and Finance, which has yet to elicit a favorable opinion.”*³⁹ In addition to the above, during the on-site visit, representatives of the Public Ministry expressed concern that the budgetary problems could affect the entity’s exercise of its constitutionally recognized autonomy. The Committee will make your recommendation taking into account the above considerations. (See recommendation 2.4.3 in chapter II of this report).

[97] During the on site visit, the representatives of the Public Ministry noted, as another difficulty for the fulfillment of the objectives of this oversight body, the considerable delay in the administration of justice, which, according to them, currently exists in the country under review. They also expressed that this situation could be considered a collapse of the judicial system in the country under review. (See recommendations 3.4.7 to 3.4.9 in chapter II of this report).

[98] Fourth, with respect to the delay in the processing of cases by the Public Ministry noted by the country under review in its response to the questionnaire and which was subsequently described during the on site visit, the Committee takes notes, based on the information available to it, as possible causes, the frequent changes in anticorruption prosecutors assigned to individual cases and the turnover in prosecutors designated as anticorruption prosecutors, which has resulted in further case-processing delays. Coupled with this is the absence of a system for randomly assigning cases to prosecutors as came to light during the on site visit, which would contribute to strengthening the work carried out by the Public Ministry. The Committee will formulate a recommendation taking the foregoing considerations into account. (See recommendation 2.4.4 in chapter II of this report).

[99] Fifth, with respect to internal control mechanisms within the Public Ministry, the Committee has taken note of what was mentioned by the representatives of the institution during the on-site visit, regarding the generalized lack of public awareness that exists with respect to the Office of the Inspector General. On this point, the representatives of the Public Ministry noted during the on site visit that its various entities received complaints about acts and alleged offenses committed by prosecutors, despite the fact that responsibility for investigating these acts and processing complaints of this nature belonged to the Office of the Inspector General. The Committee will formulate a recommendation bearing in mind the importance of the public being aware that there is an entity responsible for internal control and to which complaints regarding the Public Ministry can be submitted. (See recommendation 2.4.5 in chapter II of this report)

[100] Sixth, the Committee finds that since it received the response to the questionnaire to the present, the web portal of the Public Ministry, www.fiscalia.gob.bo, which, according to information supplied by the country under review, is supposed to serve as a useful platform for providing the

38. See the document presented by the Public Ministry during the on site visit, p. 9, available at:

www.oas.org/juridico/PDFs/mesicic4_blv_MP.pdf

39. *Ibid.*, p. 16.

public with information, *inter alia*, about: 1) the objectives and functions of the institution; 2) how to submit applications for processing cases and presenting complaints to it; and, 3) public accountability, only provides links to a number of press releases issued by the institution and certain documents. This situation makes it impossible for the public to consult important information, its organic law and relevant regulations, or its activity or accountability reports, among others. The Committee will formulate a recommendation bearing in mind the foregoing. (See recommendation 2.4.6 in chapter II of this report)

[101] Seventh, the Committee takes note of the technical cooperation needs noted by the Public Ministry during the on site visit, with regard to the need for technical and financial support in order to have access to experts in different areas and to employ specialized investigation techniques in corruption cases. The Committee will offer a recommendation on this point. (See recommendation 2.4.7 in chapter II of this report).

[102] Finally, and with respect to the specialized investigation techniques referred to above, the Committee observes that the country under review indicated that pursuant to law, techniques such as the use of undercover agents, wire tapping, etc., are only permitted for investigations related to trafficking in drugs and other controlled substances. In this regard, the Committee considers that it might be convenient for the country under review to consider expanding the use of specialized investigation techniques to corruption cases, and it will formulate a recommendation in this regard. (See recommendation 2.4.8 in chapter II of this report)

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

[103] Based on the response to the questionnaire of the country under review and the on-site visit, information was gathered regarding the results obtained by the Public Ministry with respect to the fulfillment of its functions, including the following:⁴⁰

[104] During the period 2005-2009, 5,186 corruption cases were processed by the Public Ministry. Of these, 1,626 cases were concluded and 3,560 remain open. Of the 1,626 cases that have concluded, in its response, the country under review informed that 1,0124 were rejected, 210 were dismissed, 223 resulted in alternative solutions, 140 were closed for other causes (article 27 of the CPP), and only 29 resulted in a judgment.⁴¹ With respect to 2010, the country under review noted in its response that there were 869 cases outstanding at the start of 2010, and that 1,360 new cases entered, for a total of 2,229 cases in 2010.⁴² In addition, the response notes that the Special Prosecution Unit for Corruption Crimes received a total of 1,954 new cases in 2011, and issued a total of 1,474 resolutions⁴³ and requirements in different stages of the process.⁴⁴

[105] Notwithstanding the foregoing information, which provides certain data on the status of corruption cases processed by the Public Ministry in the time periods referred to above, including information on those that remain open or in process, those that have concluded or been resolved and the manner in which they were resolved, the Committee notes that the information does not indicate

40. Additional information on results was presented by the country under review in the response to the questionnaire as well as during the on site visit. This information can be consulted at: www.oas.org/juridico/spanish/mesicic4_blv_sp.htm

41. Additional information on results was presented by the country under review in the response to the questionnaire as well as during the on site visit, p. 31, supra note 35.

42. *Ibid.*

43. The term “resolutions” as used here refers to formal decisions regarding investigations that are issued by the Public Ministry.

44. *Ibid.*

the number of cases that could not be pursued to a decision because they were not resolved in the established time periods, nor those that have been filed without a decision on the merits being adopted. Having those statistics becomes even more important considering the delay that exists in both the Public Ministry and the Judicial Branch with respect to the processing and resolution of cases, which was made evident during the on site visit and which is mentioned in sections 2.2 and 3.2 of this report, respectively. The Committee will formulate a recommendation taking this situation into account. (See recommendation 2.4.9 in Chapter II of this report).

[106] With respect to the Special Prosecution Unit for Corruption Crimes, the Annual Report corresponding to 2011, notes that “... in 2011, the Anticorruption Prosecution Unit registered a total of 1,954 new cases and issued a total of 1,474 decisions and requests at different procedural stages.” This same report notes that this Unit has 35 anticorruption prosecutors. Based on these figures, the Committee observes that on average, more than 100 cases are assigned to each one of the anticorruption prosecutors. Accordingly, the Committee considers it important for the country under review to increase the number of anticorruption prosecutors in order to, *inter-alia*, process corruption cases in a more efficient and expedited manner. In this regard, the Committee highlights what was noted by the representatives of the MTILCC during the on site visit, in the sense that the delay in the designation of additional anticorruption prosecutors is resulting in delays in the administration of justice. Additionally, it was explained that the physical space to archive files is insufficient, which causes logistical problems. Taking the foregoing into account, the Committee will formulate a recommendation. (See recommendation 2.4.10 in Chapter II of this report).

2.4. Conclusions and recommendations

[107] Based on the comprehensive review of the Public Ministry in the foregoing sections, the Committee formulates the following conclusions and recommendations:

[108] The Plurinational State of Bolivia has considered and adopted certain measures intended to establish, maintain, and strengthen Public Ministry, as indicated in Chapter II, Section 1 of this report.

[109] In view of the comments made in that section, the Committee suggests that the country under review consider the following recommendations:

- 2.4.1. Consider adopting the new Organic Law of the Public Ministry⁴⁵ and the other measure deemed necessary to institutionalize the appointment of the Attorney General by the Plurinational Legislative Assembly, pursuant to Article 227 of the Constitution, and of the District Prosecutors in the manner prescribed by law and thus, ensure the autonomy of the Public Ministry and the proper fulfillment of its functions and responsibilities. (See Chapter II, Section 2.2 of this report).
- 2.4.2. Adopt the measures necessary to have provisions in place which regulate the hiring, appointment, and functions of the anticorruption prosecutors envisaged in law 004, through either the adoption of a new law on the Public Ministry, the relevant amendments to the existing law, or such measures as may be deemed appropriate. (See Chapter II, Section 2.2 of this report).

45. See footnote 28, *supra*.

- 2.4.3. Promote the provision of the Public Ministry with the human and financial resources necessary to adequately carry out its functions, particularly where those related to the detection and investigation of acts of corruption, within available resources. (See Chapter II, Section 2.2 of this report).
- 2.4.4. Strengthen the procedure for the assignment of cases to prosecutors and to the specialized anticorruption prosecutors, avoiding the reassignment of cases except for the cases specified by law, and through the implementation of a system whereby cases are assigned at random. (See Chapter II, Section 2.2 of this report).
- 2.4.5. Carry out public awareness campaigns to increase knowledge of the existence of the Office of the Inspector General, its functions, and how to lodge complaints with it. (See Chapter II, Section 2.2 of this report).
- 2.4.6. Adopt the measures necessary for the Internet web portal of the Public Ministry (www.fiscalia.gob.bo) to serve as a useful tool for the dissemination, *inter alia*, of information about the entity, on how to process procedures before it, and on the public accountability process. (See Chapter II, Section 2.2 of this report).
- 2.4.7. Where appropriate, seek the necessary technical cooperation from other states and cooperation agencies in order to enable the Public Ministry to carry out its functions more effectively, particularly those related to obtaining more specialized experts and the development of those specialized investigation techniques that are legally available to be used in corruption cases. (see Chapter II, Section 1.2 of this report).
- 2.4.8. Consider expanding the use of the specialized investigation techniques that are currently only allowed for investigations related to trafficking in drugs and other controlled substances to corruption investigations. (see Chapter II, Section 1.2 of this report).
- 2.4.9. Break down the statistical information on activities related to the detection of the commission of acts of corruption, in order to have statistics on how many cases that could not be pursued to a decision because they were not concluded in the established time period, as well as the number of cases that have been filed without a decision being taken on their merits. (see Chapter II, Section 1.2 of this report).
- 2.4.10. Strengthen the Specialized Prosecution Unit for Corruption Cases, by increasing the number of anticorruption prosecutors, in order to have the number of prosecutors necessary for the adequate fulfillment of the functions of the Public Ministry, and so that cases regarding corruption can be processed in an efficient and expeditious manner.. (See section 2.3 in chapter II of this report).

3. JUDICIAL BRANCH

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

[110] The judicial branch has a set of provisions that make up its legal framework, as well as other measures that refer, *inter alia*, to the following:

[111] As regards its objectives and functions, the response to the questionnaire explains, “*Its function is jurisdictional; that is, to administer justice. The basic function of judges is to define the law, which consists of applying the laws in force in the State. Where such laws are insufficiently clear or do not exist, that application should be based on analogous laws, uses, and customs; on generally recognized principles of law; on the interpretation of the spirit of the legislator; and on the fundamental law, which is the Constitution.*”⁴⁶

[112] Regarding the existence of concurrent or shared functions with other entities, the response of the country under review explains that the judicial branch has neither concurrent nor shared functions.⁴⁷ In that regard, Article 179 of the Constitution and Article 4 of Law 025 (Judicial Branch Law) of June 24, 2010, provide that the judicial function is unique and exercised through different jurisdictions, including the ordinary jurisdiction, exercised by the Supreme Court of Justice, departmental courts of justice, trial courts (*tribunales de sentencia*), and courts of first instance (*juzgados*); the agri-environmental jurisdiction, exercised by the agri-environmental tribunal and agri-environmental courts of first instance; special jurisdictions recognized by law; and the indigenous peoples’ jurisdiction, exercised by their own authorities. In addition, Article 4 of Law 004 provides that constitutional justice is dispensed by the Plurinational Constitutional Court and that the ordinary courts and the indigenous peoples’ courts are of equal rank. Article 179 of the Constitution provides that the Council of the Magistracy is part of the judicial branch.

[113] With respect to the autonomy of the judicial branch, Article 178 of the Constitution provides that judicial independence is guaranteed by the fact that judges serve under the judicial career system and the budgetary autonomy of judicial organs. Article 2 of Law 025 provides that the judicial branch “... *has the same rank under the Constitution as the legislative, executive, and electoral branches, and its relations are based on the principles of independence, separation, coordination, and cooperation.*” Furthermore, Article 7 of Law 025 provides that the judicial branch shall have budgetary autonomy in its regular and agri-environmental jurisdictions [Article 7(I)] and that control and oversight of administrative and financial management is the responsibility of the Council of the Magistracy, without prejudice to the control of the Office of the Comptroller General.

[114] Specifically with respect to combating corruption, Law 004 provides, at Article 11(I), for the creation of anticorruption tribunals (*Tribunales Anticorrupción*) and courts of first instance (*Juzgados Anticorrupción*). In this context, paragraph II of the same provision states that the Council of the Magistracy shall appoint an appropriate number of anticorruption judges to hear and rule on cases.

[115] With respect to the existence of exceptions to the scope of the judicial branch’s functions, the Constitution provides that the regular courts shall not recognize special courts, privileges, or tribunals, and that the military courts shall try offenses of a military nature recognized by law [Article 180(III)].

[116] With respect to the adoption of decisions in the judicial branch and, as appropriate, appeals for review of those decisions, the response to the questionnaire explained that “*the decisions adopted by each judge in a judicial proceeding are supported by the law and by the evidence obtained therein. Only when an appeal is presented by one of the parties, who did not agree with the decision of the judge, may the decision adopted by the latter be changed by that of the superior judge. This right of appeal to a higher instance is guaranteed by the right to challenge decisions in judicial proceedings*

46. *Ibid.*, p. 10, supra note 4.

47. *Ibid.*, p. 13, supra note 4.

recognized in Article 180(II) of the CPE. In such cases, decisions are adopted by tribunals in a collegial way.⁴⁸

[117] Article 181 of the CPE provides that the Supreme Court of Justice is the highest tribunal in the regular jurisdiction. In this connection, the CPE provides that its judges shall be elected by universal suffrage [Article 182(I)] and that candidates shall be preselected by the Plurinational Legislative Assembly by a vote in favor of two thirds of the members present [Article 182(II)]. The term of each judge shall be six years and they may not be reelected [Article 183(I)].

[118] Article 182 of CPE also sets out the requirements for being a Supreme Court justice (paragraph VI) and stipulates that the rules on prohibitions and conflict of interests that apply to them are the same as those for public servants. For its part, Article 18 of Law 025 contains requirements for holding any position in the regular or agri-environmental jurisdiction, while Article 9 sets out prohibitions and grounds for ineligibility. Article 22 contains a list of situations that constitute conflict of interests in the performance of judicial functions.

[119] With respect to selection of the human resources necessary for judicial branch operations, Article 84(I) of Law 025 provides that judicial support employees are appointed by the Council of the Magistracy on the basis of merit and a competitive examination. In addition, paragraph II of the above provision empowers the Council of the Magistracy, in coordination with the Supreme Court and the departmental courts, to appoint more than one judicial support employee.

[120] As regards internal controls in the judicial branch, Article 193 of the Constitution provides that the Council of the Magistracy is in charge of the disciplinary regime in the regular, agri-environmental, and special jurisdictions. The same article states that the Council is also in charge of control and oversight of their administrative and financial management and of formulating their management policies.

[121] In that regard, Article 195 of the Constitution provides that the functions of the Council of the Magistracy include, *inter alia*, the following: To seek the removal of Supreme Court and Agri-Environmental Court justices who commit extremely serious faults in the exercise of their duties, as determined by the law (paragraph 1); to exercise disciplinary control over other judicial branch officials (paragraph 2); to control and monitor the financial and economic administration as well as all the assets of the judicial branch (paragraph 3); to assess the performance of judicial branch officials (paragraph 4); to conduct audits (paragraph 5); and to prepare technical and statistical studies (paragraph 6)

[122] As to the documents and manuals describing the functions of judicial branch staff, the response to the questionnaire mentions the existence of the *Reglamento de Administración y Control de Personal del Poder Judicial* (Judicial Branch Staff Rules), the *Reglamento de Administración de Multas por Faltas, Atrasos y Sanciones Disciplinarias en el Poder Judicial* (Rules on Fines for Faults, Delays, and Disciplinary Penalties in the Judicial Branch), the *Reglamento Específico del Subsistema de Evaluación y Permanencia Para el Personal Administrativo del Poder Judicial* (Rules on the Judicial Branch Administrative Staff Evaluation and Tenure System), and the *Reglamento de la Carrera Judicial* (Judicial Career System Rules)⁴⁹

48. *Ibid.*, p. 18, supra note 4.

49. *Ibid.*, p. 18, supra note 4.

[123] As for documented procedures and manuals for implementing institutional strengthening activities in the judicial branch, the response to the questionnaire noted the existence of the IANUS data system, “*the purpose of which is to have up-to-date statistics on proceedings registered in the capitals’ different courts, basically in connection with criminal matters.*”⁵⁰ In the course of the on-site visit, judicial branch representatives explained that the IANUS system also serves to follow up on judicial proceedings and to prevent delays in those proceedings.

[124] Also in the context of the on-site visit, judicial branch representatives said that in a bid to encourage and enhance transparency, transparency units⁵¹ have been set up in the Supreme Court of Justice and the entities that report to the latter.⁵² In addition, in the same context, the response to the questionnaire referred to the creation by the Council of the Magistracy of the *Dirección Nacional de Transparencia y Lucha Contra la Corrupción* (National Transparency and Anticorruption Office)⁵³ with the purpose of identifying activities for enhancing participation, social oversight, and consolidation of public accountability.

[125] As regards training, during the on-site visit it was explained that workshops have been held to raise awareness about Law 004 in the judicial branch; cross-cutting training has been provided in fighting corruption comprehensively in all areas; an ethics module has been included in the initial instruction course for judges; and efforts are underway in the area of specialized anticorruption training for judges⁵⁴

[126] With respect to mechanisms for supplying information to the public, the judicial branch informed that it has a website (<http://suprema.poderjudicial.gob.bo>). The information available on the Supreme Court webpage includes, *inter alia*, relevant laws; institutional information; links for offering suggestions, filing complaints, or reporting offenses; statistics; and case law. For its part, the Council of the Magistracy website offers, *inter alia*, the following information: institutional data; links for reporting offenses or offering suggestions; links for filing sworn declarations of assets and liabilities on line; information on internal audit reports; links to vacancy announcements and tenders for goods and services; and a link to the on-line version of the judicial branch institutional magazine. Printed copies of the institutional magazine were distributed during the on-site visit.

[127] During the on-site visit, judicial branch representatives explained that they disseminate information on its strategic areas through the disclosure of regulations and the release of newsletters to social organizations and civil society, as well as through the participation of those organizations in public accountability activities. Printed samples of the institutional newsletters published by the Supreme Court of Justice were also made available during the visit.

50. *Ibid.*, p. 19, supra note 4.

51. Pursuant to Supreme Decree No. 29894, the transparency units are a technical operational body within each ministry, with responsibility for the execution of actions to increase transparency in the public administration of the ministry; they coordinate with the MTILCC, the functions of which, include (a) ensuring access to public information from the respective ministry; (b) promoting ethics of public servants of the respective ministry; (c) develop mechanisms for the implementation of social oversight; and (d) ensure that authorities comply with the public accountability obligations, including the issuance of financial statements, activity and annual reports, and others

52. See judicial branch presentation given during the on-site visit, at : [http://www.oas.org/juridico/spanish/mesicic4_blv_TSJ.ppt#402.5.Áreas estratégicas](http://www.oas.org/juridico/spanish/mesicic4_blv_TSJ.ppt#402.5.Áreas%20estrat%C3%A9gicas)

53. See: www.organojudicial.gob.bo/Consejo/Transparencia.aspx

54. See judicial branch presentation, supra note 44.

[128] As to public accountability, it was explained during the on site visit that the judicial branch is part of the public accountability system and that, in that connection, the number of public accountability activities held annually in each of the entities that report to the Supreme Court of Justice is being increased from one to two.⁵⁵ The judicial branch annual reports for 2010 and 2011, prepared by the Supreme Court of Justice, were provided in the course of the on-site visit. Also made available were various public accountability reports for 2010 and 2011 prepared by the Council of the Judicature. Additionally, on June 29, 2012, the Council of the Magistracy gave an accountability report on the performance of its duties during the first half-year of its work, and that event was published on its web page and elsewhere. In this regard, the substance of the individual decisions made by judges are not subject to public accountability; they are only subject to judicial appeal.⁵⁶

[129] During the visit, judicial branch representatives explained that a transition period in the judiciary in accordance with the Constitution and Law 025 was reaching its conclusion. In that connection, they said that the transition process included the creation of the Council of the Magistracy (formerly the Council of the Judicature), and the creation of the Supreme Court of Justice.

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

[130] The judicial branch has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were described briefly in section 3.1 of this report. Nonetheless, the Committee considers it appropriate to formulate certain observations in relation thereto:

[131] First, the Committee notes that Law No. 004 requires the creation of anti-corruption courts and the appointment, by the Council of the Magistracy, of the necessary judges to hear and rule on criminal cases in the area of corruption. In this connection, during the on-site visit, the Supreme Court said that in March 2012 it had requested the Council of the Magistracy to announce a merit-based competition for the appointment of the anti-corruption judges required by Law 004.

[132] In this regard, during the on-site visit, representatives of the Council of the Magistracy explained the obstacles to the establishment of anti-corruption courts and the appointment of anti-corruption judges. Regarding the appointment of judges, they said that they would not be able to issue the relevant vacancy notice until the Plurinational Legislative Assembly had published the details of the selection procedure for these judges. With respect to the establishment of anti-corruption courts, they noted that the main problem was one of funds. In this connection they said that more than 150 anti-corruption courts needed to be created and that, as yet, no appropriation had been included in the judicial branch budget to cover the expense. The Committee will formulate recommendations taking the foregoing into account. (See recommendations 3.4.1, 3.4.2, and 3.4.3 in chapter II of this report).

[133] Second, with respect to the IANUS system, which serves to register, monitor, and track judicial processes, during the on-site visit it was mentioned that not all judges and courts are making use of the system. The Committee believes that increased use of the system could help boost efficiency in following-up to and processing cases and, therefore, would have result in greater efficiency with respect to the functions of the judicial branch related to sanctioning those who commit acts of

55. See judicial branch presentation, supra note 44.

56. This was explained by the representative from the Plurinational State of Bolivia at the September 6, 2012 meeting of the Review Subgroup.

corruption. The Committee will formulate a recommendation. (See recommendation 3.4.4 in chapter II of this report).

[134] Third, during the on-site visit, the representatives of the judicial branch indicated an existing concern on the part of judges that they had no information at sentencing about whether they were dealing with a recidivist so that they could take that information into consideration. The Committee will formulate a recommendation taking this situation into account. (See recommendation 3.4.5 in chapter II of this report.)

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

[135] In the response of the country under review and well as in the framework of the on site visit, information was gathered with respect to the results that have been achieved by the Judicial Branch with respect to the fulfillment of its functions, notably the following:⁵⁷

[136] First, according to the response of the country, *“In 2003, 2004, and 2005 there accumulated a total of 8,772 cases; as of December 22, 2010, 3,054 cases had been settled in all, breaking down as follows: Full Chamber, 197 cases; First Social and Administrative Chamber, 690 cases; Second Social and Administrative Chamber, 595 cases; Civil Chamber, 439 cases; First Criminal Chamber, 701 cases; Second Criminal Chamber, 433 cases.”*⁵⁸ According to the response, in 2011, the Court’s various chambers disposed of 2,236 cases.

[137] The Committee notes, with regard to the above figures, that they do not allow an assessment of the results of the prosecution of cases by the judicial branch in terms of punishment of acts of corruption that give rise to civil or criminal liability. Therefore, they also preclude a determination of the number of corruption-related cases that have resulted in: an accusation or a penalty; no accusation or an acquittal; prescription of action or extinction of liability for lack of a decision within statutory time limits. The Committee will formulate a recommendation in light of the foregoing. (See recommendation 3.4.6 in chapter II of this report).

[138] Second, the response of the country under review to the questionnaire also includes a synoptic table, which shows a total of 7,609 unresolved cases as of December 31, 2010, as well as 2,786 new cases between January 1, 2011, and December 20, 2011. The same table shows that 2,206 Supreme Court orders were issued between January and December 2011, leaving 8,880 unresolved cases as of January 1, 2012.

[139] In relation to the above figures, the Committee notes that at the close of 2011 the number of unresolved corruption cases (8,880) had increased significantly compared to position at the end of 2010 (7,609 cases), which suggests that the backlog is increasing rather than decreasing. In this context, representatives of the Public Ministry during the on-site visit, they expressed their opinion that there were serious problems with the judicial system. Finally, during the on-site visit, representatives of the Council of the Magistracy mentioned several factors that were contributing to the sluggishness of judicial proceedings and that this was having a negative effect on the judicial system. The reasons they cited for the foregoing included the fact that at some courts judges are dealing with between 1,000 and 2,000 cases a year.

57. The country under review provided additional information in its response to the questionnaire and in the context of the on-site visit. This information may be consulted in Spanish at: http://www.oas.org/juridico/spanish/mesicic4_blv_sp.htm

58. See the Response of the Plurinational State of Bolivia to the Questionnaire for the Fourth Round, p. 35, supra note 4.

[140] In relation to the above, the Committee notes the observations of representatives of the Supreme Court of Justice during the on-site visit to the effect that priority is given to assignment of corruption cases. However, the Committee also notes that judicial branch representatives said that that more courts were needed and that in more heavily populated towns and cities the courts were overburdened with cases. At the same time, they cited the example of one lightly populated zone where the court only dealt with one case a year. In light of the foregoing, the Committee believes that it would be useful for the country under review to adopt the necessary measures to ensure an efficient distribution of existing courts and judges, taking into account the limited budget available for that purpose. The Committee will formulate a recommendation. (See recommendation 3.4.7 in chapter II of this report).

[141] Third, the Committee underscores what the MTILCC said in the framework of the on-site visit, to the effect that the delay in the creation of new anticorruption courts as envisaged in Law No. 004 was causing a hold-up in justice. In this sense, the Committee considers that the designation of anti-corruption judges and the establishment and full operation of the anti-corruption courts envisaged in Law No. 004 are critically important for the country under review. The Committee will formulate a recommendation in this regard. (See recommendation 3.4.8 in chapter II of this report).

[142] Fourth, the Committee observes that the statistics supplied by the Public Ministry on cases processed in the 2005-2009 period, indicate that only 1,626 of 5,186 corruption cases have concluded.⁵⁹ Of the concluded cases, only 29 (around 1.8%) have resulted in a sentence, while 1,024 (approximately 65%) have ended in dismissal. The Committee finds that the above suggests that a serious problem exists in terms of effective legal processing of corruption cases, and it will formulate a recommendation in that regard. (See recommendation 3.4.9 in chapter II of this report).

3.4. Conclusions and recommendations

[143] Based on the comprehensive review of the Judicial Branch in the foregoing sections, the Committee formulates the following conclusions and recommendations:

[144] The Plurinational State of Bolivia has considered and adopted measures intended to maintain and strengthen the Judicial Branch as an oversight body, as indicated in Chapter II, Section 3 of this report.

[145] In view of the comments made in that section, the Committee suggests that the country under review consider the following recommendations:

- 3.4.1. Adopt the necessary measures in order to have in place provisions governing vacancy announcements for and the hiring, appointment, and functions of the anti-corruption judges envisaged in Law No. 004. (See section 3.2 in Chapter II of this report).
- 3.4.2. Provide the judicial branch with the financial resources necessary to establish the anti-corruption courts envisaged in Law No. 004, within available resources. (See Chapter II, Section 3.2 of this report).

59. See paragraphs 97-99 in section 2.3 of this report.

- 3.4.3. Provide the Council of the Magistracy with the financial resources necessary to designate the necessary number of anticorruption judges necessary in each Department of the state, pursuant to Law No. 004. (See Chapter II, Section 3.2 of this report).
- 3.4.4. Promote the effective use of the IANUS computer system for the follow-up to and processing of cases in all courts in the Judicial Branch. (See Chapter II, Section 3.2 of this report).
- 3.4.5. Adopt provisions or measures creating a system or mechanism which allows judges to access information about recidivism, in order for that information to be taken into account at sentencing. (See Chapter II, Section 3.2 of this report).
- 3.4.6. Maintain records on the results of the punishment of corrupt practices that give rise to criminal or civil liability so as to permit the determination of the number of cases that have resulted in: an accusation or a penalty; no accusation or an acquittal; and, prescription of action or extinction of liability for lack of a decision within statutory time limits. (See Chapter II, Section 3.3 of this report).
- 3.4.7. Adopt the necessary measures to ensure an efficient distribution of existing courts and judges, taking into account the limited budget available for that purpose. (See Chapter II, Section 3.3 of this report).
- 3.4.8. Create the anticorruption courts and designate the anticorruption judges required by Law No. 004, as soon as possible. (See Chapter II, Section 3.3 of this report).
- 3.4.9. Conduct a study to determine the reasons for the low percentage of corruption cases that have concluded in a judgment and, based on the findings of that study, implement the corrective measures deemed appropriate. (See Chapter II, Section 3.3 of this report).

4. PROSECUTOR GENERAL OF THE STATE [*PROCURADURÍA GENERAL DEL ESTADO*] (PGE)

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

[146] The Prosecutor General of the State (PGE for the Spanish) has a set of provisions that make up its legal framework, as well as other measures that refer, *inter alia*, to the following:

[147] As regards its purpose and functions, Article 229 of the Constitution provides that the PGE is the institution that represents the public interest in legal proceedings and vests in it the power to advance, protect and safeguard the interests of the State. Furthermore, Article 231 confers on it, *inter alia*, the following functions: to subpoena public servants and private individuals in order to obtain information that it needs (paragraph 4); to request the prosecution of public servants for acts of corruption or negligence (paragraph 5); to call on the Office of the Prosecutor General to file suit for crimes against public property (paragraph 7); and to introduce proposed laws on matters under its authority (paragraph 8).

[148] With regard to its structure, pursuant to Article 9 of Law No. 064⁶⁰ (Law of the Office of the Prosecutor General), the PGE is composed of three deputy prosecutor's offices: 1) The Office of the Deputy Prosecutor for State Defense and Representation; 2) the Office of the Deputy Prosecutor for Evaluation, Follow-up, and Formation of Public Administration Legal Units; and 3) the Office of the Deputy Prosecutor for Advisory Services, Investigation and Regulatory Production.

[149] Furthermore, Article 17 of Executive Decree No. 0788 provides that the PGE shall have a support structure composed of an administrative affairs department, a legal affairs department, a planning department, an internal audit unit, a transparency unit, and any other departments or units created. In the course of the on-site visit, representatives of the PGE explained that while the plan was to have nine departments, only four had been created thus far.

[150] The PGE also has two institutions: The State Law School, which supports the education and training of government jurists; and the Council of State Lawyers, which has the power, *inter alia*, to produce legal doctrine in legal defense matters concerning the State. Both institutions are fully operational.

[151] As regards internal control, Executive Decree No. 0788 provides, at Article 21, that the PGE's Internal Audit Unit is responsible for carrying out certain activities set out in the Governmental Administration and Control Standards. In addition, Article 22 assigns the PGE's Transparency Unit responsibility for, *inter alia*, ensuring access to public information, promoting ethics among public servants, and developing mechanisms for implementing social oversight.

[152] As to coordination with other state agencies and measures to secure the support of the citizenry in carrying out its functions, Article 8 of Law 064 establishes, *inter alia*, the following functions for the PGE: To coordinate joint activities with the Office of the Comptroller General, Attorney General, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Economy and Finance, and Central Bank of Bolivia. The PGE is also part of the National Council against Corruption, Illicit Enrichment, and Money-Laundering.

[153] With regard to the appointment of its highest authority, Article 230 of the Constitution provides that the Prosecutor General shall direct the PGE (paragraph I), that he or she shall be appointed by the President, and that the person appointed shall meet the requirements to serve as a Supreme Court of Justice (paragraph II). For its part, Article 12 of Law 064 (Law of the Office of the Prosecutor General) sets out the specific requirements that the Prosecutor General must fulfill.

[154] With respect to determining the human resources necessary for its operation, Article 29 of Law No. 064 provides that the Prosecutor General shall appoint all of the administrative staff of the PGE "*in keeping with the provisions contained in the basic standards on personnel administration and the laws in force*". During the on-site visit, the PGE explained with respect to the foregoing that there are Specific Rules on the PGE Staff Administration System (Specific Rules).

[155] Article 14 of the Specific Rules sets out the guidelines on recruitment of PGE staff, including by direct invitation, external call for résumés, or internal call for résumés, depending on the category and level of the vacancy to be filled. This article also contains the staff selection guidelines, based on a résumé evaluation, technical qualifications, and personal qualities.

60. See Article 9 of Law No. 064 in Spanish at: http://www.oas.org/juridico/spanish/mesicic4_blv_sp.htm

[156] With respect to determining the necessary resources for its operations, Article 10 of the Specific Rules, entitled "Staffing Needs Quantification Process," requires a determination, *inter alia*, of the quantity and denomination of necessary positions in the PGE for the preparation of the Annual Staff Plan.

[157] As regards mechanisms for providing information to the public on the functions and responsibilities of the PGE, during the on-site visit, PGE representatives provided a copy of the 2011 Management Report, which contains, *inter alia*, basic information on the PGE, reports on the activities of the different deputy prosecutor's offices, the Law School, and the various departments, together with information on institutional strengthening measures implemented in the course of the year. The PGE also has a website (www.procuraduria.gob.bo), which contains, *inter alia*, information on its legal framework and resolutions issued, an online complaints form, and information on programs and diploma courses offered by the Law School.

[158] Regarding the existence of manuals in the PGE and institutional strengthening measures, the 2011 Management Report mentions the preparation and approval of the following: PGE Organization and Functions Manual; Specific Rules on the PGE Staff Administration System; Specific Rules on the PGE Operations Programming System; Specific Rules on the PGE Administrative Organization System; Internal Staff Rules (Resolution No. 064/2011); General Rules of the State Law School; Internal Rules for Faculty Members of the State Law School; Internal Rules for Students of the State Law School; Internal Rules on Graduation and Titling of the State Law School.

[159] The 2011 management report also mentions the creation of the following technological systems: (1) Public Administration Legal Units Evaluation, Follow-up, and Formation System (SESFUJAP); (2) Investigation and Regulatory Production System (SIASPRON), which is in the process of implementation and will serve, *inter alia*, to follow up on analysis processes and evolution of the legality of national and foreign contracts of public administration entities; and, (3) Correspondence Information System (SISCO), the purpose of which is to provide a quick and easy environment for cataloging, storage, and accessing institutional correspondence.

[160] As regards training imparted by the PGE, the 2011 Management Report notes that in 2011 there were 11 awareness-raising and refresher workshops to disseminate the functions and powers of the PGE, including workshops targeting municipalities, students, lawyers, and members of the public.

[161] As to accountability, the 2011 Management Report mentions that in December 2011, the PGE organized a public accountability activity with civil society on the institution's economic, political, and administrative responsibilities, as well as its results and budget execution.

[162] Pursuant to Chapter II of Law No. 064, the PGE's budget is part of the national budget, and its preparation, administration, and execution are the responsibility of the Prosecutor General.

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

[163] The PGE has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were described briefly in section 3.1 of this report. Nonetheless, the Committee considers it appropriate to formulate certain observations in relation thereto:

[164] First, the Committee notes that the PGE was recently established. At the time of the on-site visit it had only been in operation for one year. In that connection and according to information supplied during the on-site visit and available on the PGE website, only five of the PGE's

departmental offices, needed for it to be fully functional throughout the country, are operational. The Committee will formulate a recommendation in this regard. (See recommendation 4.4.1 in chapter II of this report).

[165] Second, the Committee finds that the response to the questionnaire reveals that the PGE has carried out public sensitization and education activities, particularly on the functions of the PGE, in order to raise awareness about the country's laws. However, the Committee notes that neither the response to the questionnaire, nor the meetings held in the context of the on-site visit showed that PGE officials had received training on their responsibilities in relation to prevention of corruption. The Committee will make a recommendation in this regard. (See recommendation 4.4.2 in chapter II of this report).

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

[166] The response of the country under review to the questionnaire does not furnish the results of the performance by the Office of the Prosecutor General (PGE) of its functions and responsibilities as regards prevention of acts of corruption. In this regard, during the on site visit, representatives of the institution explained this was due to the PGE only began operating in January 2011.

[167] Despite the recent creation of the PGE, the Committee will formulate a recommendation in the sense that the PGE maintain statistics and/or undertake other measures which allow it to inform on the results of the performance of its functions, including figures, *inter alia*, on: the number of public servants or private citizens who have been required to provide information pursuant to Article 321(4) of the Constitution, the number of cases of compliance with the foregoing, and steps taken in the event of noncompliance; the number of times that the PGE has requested the prosecution of public servants for acts of corruption or negligence under Article 231(5) of the Constitution, the steps taken by the Public Ministry in response to those requests, and the end result thereof; and the number of times that the PGE has requested the Financial Intelligence Unit to carry out financial or property investigations pursuant to Article 18 of Law 004,⁶¹ and the results of those requests. (See recommendation 4.4.3 in chapter II of this report).

[168] With respect to the function of presenting draft legislation [Article 231 (8) of the Constitution], representatives of the PGE also mentioned in the course of the on-site visit that although the PGE has contributed to the preparation of a number of pieces of draft legislation, including the draft Public Ministry Law, it has not yet assisted in drafting anti-corruption legislation. In this regard, the Committee notes that the MTILCC is also authorized to draw up and present draft legislation and that cooperation and coordination between these two institutions in these efforts could be beneficial. The Committee will formulate a recommendation taking the foregoing into account. (See recommendation 4.4.4 in chapter II of this report.)

4.4. Conclusions and recommendations

[169] Based on the comprehensive review of the Office of the Prosecutor General of the State in the foregoing sections, the Committee formulates the following conclusions and recommendations:

61. See paragraph 180 in section 5.1 of this report.

[170] **The Plurinational State of Bolivia has considered and adopted measures intended to maintain and strengthen the Office of the Prosecutor General as an oversight body, as indicated in Chapter II, Section 4 of this report.**

[171] In view of the comments made in that section, the Committee suggests that the country under review consider the following recommendations:

- 4.4.1. Establish, in the manner that is possible, the four remaining Departmental Offices of the PGE responsible for carrying out the functions and attributions in the respective Departments. (See Chapter II, Section 4.2 of this report).
- 4.4.2. Promote the carrying out of training activities for PGE officials, particularly in connection with their functions with regard to prevention of acts of corruption. (See Chapter II, Section 4.2 of this report).
- 4.4.3. Promote measures which allow the PGE to measure and inform on the results of its performance, such as maintaining statistics and/or other data on the number of public servants or private citizens who have been required to provide information pursuant to Article 321(4) of the Constitution, the number of cases of compliance with the foregoing, and steps taken in the event of noncompliance; the number of times that the PGE has requested the prosecution of public servants for acts of corruption or negligence under Article 231(5) of the Constitution, the steps taken by the Public Ministry in response to those requests, and the end result thereof; and the number of times that the PGE has requested the Financial Intelligence Unit to carry out financial or property investigations pursuant to Article 18 of Law 004, and the results of those requests. (See Chapter II, Section 4.3 of this report).
- 4.4.4. Contribute, in coordination with the MTILCC and other competent institutions, in the preparation of draft laws in the area of transparency and the fight against corruption, such as those related to access to information and social oversight. (See Chapter II, Section 4.3 of this report).

5. FINANCIAL INVESTIGATION UNIT (UIF)

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

[172] The UIF has a set of provisions that make up its legal framework, as well as other measures that refer, *inter alia*, to the following:

[173] With respect to the functions of the UIF, the country under review explained in its response to the questionnaire that *"it is a specialized entity to combat money laundering, corruption, and predicate offenses through financial and wealth analysis, the adoption of policies and standards, and permanent monitoring of compliance with the latter. It applies the highest standards and best practices, supported by the capabilities of its human capital, spearheading the fight against money laundering and predicate offenses, and contributing to the eradication of corruption ..."*⁶²

62. See Response of the Plurinational State of Bolivia to the questionnaire in the fourth review round, p. 3, *supra* note 4.

[174] According to Article 2 of the Financial Investigation Unit Regulations, contained in Executive Decree No. 24771, the UIF is part of the organic structure of the Superintendency of Banks and Financial Entities [currently the Financial System Supervising Authority (ASFI for the Spanish)].⁶³ The same provision states that the UIF enjoys functional, administrative, and operational autonomy and that it is the entity charged with receiving, requesting, analyzing, and, where appropriate, transmitting to the competent authorities the necessary, suitably processed information connected with money laundering.

[175] Article 18 of the regulations describes the powers of the UIF, which include, inter alia: To issue instructions or recommendations to regulated persons (paragraph 2); to receive and request suspicious activity reports from regulated persons (paragraph 3); to request technical cooperation from any public-sector agency (paragraph 4); to collect public or confidential information from any public records agency, which has the obligation to collaborate (paragraph 5); to access any documentation in the possession of public-sector entities (paragraph 6); to transmit to the competent authorities substantiated evidence for criminal investigations and prosecution, should the UIF discover the existence of a suspicious operation (paragraph 8); to request external audits of regulated persons (paragraph 9); to organize money-laundering prevention training programs (paragraph 11); to present an annual report to the Superintendent of Banks and Financial Entities (paragraph 13).⁶⁴

[176] During the on site visit, UIF representatives explained that in pursuit of the functions set out in Article 18(2) of the Unit's regulations, that is, to issue instructions or recommendations to regulated persons, the UIF, by means of resolution No. 001/08, "Instructions for the Preparation of PEP Lists," and in keeping with the recommendations of the Financial Action Task Force (FATF) in the sense that more-thorough surveillance is required of the business transactions of so-called politically exposed persons (PEPs), instructed all regulated persons to prepare PEP lists. In that connection, the UIF has issued the following resolutions in relation to the preparation of PEP lists: Circular 178/2010, "PEP List Sending Instructions" and resolution 001/2010, "Instructions for the Preparation of Foreign PEP Lists."

[177] It was also explained in the course of the on-site visit that the UIF may, under Article 19 of its Regulations, oppose the execution of an operation for 48 hours when it is determined to be a suspicious operation.

[178] Law No. 004, at Article 18, also gives powers to the UIF: At the request of the MTILCC, the Office of the Prosecutor General, or anticorruption prosecutors, or *ex officio*, to analyze and undertake financial intelligence activities, in order to identify suspected or actual acts of corruption (paragraph 1); and to forward the findings to the MTILCC, Prosecutor General of the State, Public Ministry, and competent judicial authority (paragraph 2).

[179] With respect to the scope of the UIF's functions, the response to the questionnaire explains that *"the sphere in which the UIF carries out its functions is essentially financial since the information that has to be processed concerns data generated by the financial system in general; in other words, information connected loan, debt, contingent, and off-balance-sheet operations of financial*

63. Executive Decree No. 29894, provides, at article 137, that "... *The Superintendency of Banks and Financial Entities shall be termed the Financial System Supervising Authority of Bolivia and shall, in addition, assume control and supervision functions and powers in relation to economic activities involving securities and insurance...*"

64. Now ASFI, *ibid*.

intermediation entities, as well as securities-related and insurance information. It also has information by which to analyze changes in net worth."⁶⁵

[180] As regards the adoption of decisions in the UIF and mechanisms for reviewing those decisions, during the on-site visit representatives of the entity explained that if an investigation reveals indicia of a criminal offense a reasoned opinion is forwarded to the Public Ministry for the appropriate processing. Article 40 of the UIF regulations provides that, in order to be valid, the opinion must bear the signatures of three members of the team of experts. Therefore, UIF representatives explained that the fact that all decisions are of a purely technical nature precludes the need for any internal or external review process.

[181] Article 5 of the regulations provides that the Director of the UIF is its highest authority. Article 6 states that the Director is appointed by the Superintendency of Banks from a shortlist submitted by an evaluating committee composed of one representative of the Superintendency of Banks and Financial Entities, one representative of the Superintendency of Securities, and one representative of the Superintendency of Insurance and Reinsurance. Articles 8, 9, and 10, respectively, set out the requirements, conflicts of interests, and prohibitions for the Director of the UIF

[182] With respect to the aforementioned evaluation committee, the response to the questionnaire states that in addition to the change to the Superintendency of Banks and Financial Entities as the Financial System Supervising Authority (ASFI), the Superintendency of Pensions, Securities, and Insurance, is now the Pensions and Insurance Oversight and Control Authority (APS for the Spanish), and that supervision of the securities market is the responsibility of the ASFI. In this connection, the response explains that "*it should be assumed, then, that the persons who currently appoint the Maximum Executive Authority (MAE for the Spanish) of the UIF would be one representative from the ASFI and one from the APS.*"⁶⁶ Furthermore, the ASFI appoints the director of the UIF from the shortlist presented.

[183] Article 7 provides that the director shall hold office for five years and maybe reelected only once; Article 12 determines that the director may be removed for the commission of a gross fault, a deliberate offense that gives rise to imprisonment, or a crime against the public administration. In addition, Article 13 provides that the director may be suspended under the provisions of Law 1178.

[184] With respect to UIF staff, Article 15 of the Regulations provides that the UIF team of technical experts shall be composed, *inter alia*, of auditors, lawyers, accountants, and professionals in computer systems who meet the requirements of suitability and experience in their fields. Article 16 provides that they shall be appointed by the director of the UIF based on a public call for resumes.

[185] The response to the questionnaire also explains that, as part of the ASFI, which belongs to the public sector, the UIF complies with the provisions of the SAFCO Law.⁶⁷

[186] With regard to documents and manuals that describe the functions of the UIF staff, there is a Staff Functions Manual, which, according to the response to the questionnaire, is principally concerned with job descriptions.⁶⁸

65. See Response of the Plurinational State of Bolivia to the questionnaire in the fourth review round, p. 1, *supra* note 4.

66. *Ibid.*, p. 14.

67. Regarding the responsibilities of civil servants, see also paragraphs 19 to 22 of chapter 1.1 of this report.

68. See Response of the Plurinational State of Bolivia to the questionnaire in the fourth review round, p. 17, *supra* note 4.

[187] As regards training provided, the response also mentions that staff attend ongoing training and updating courses and that each employee must undergo at least 40 hours of training a year.⁶⁹

[188] As to the existence of documented working procedures for the UIF, the response to the questionnaire explains that manuals and instructions have been prepared and updated in order to organize and apply information sharing guidelines in the domestic financial system, which include the Manual on Money Laundering Prevention, Detection, Control, and Reporting; the Specific Instructions for Financial Intermediation Entities, the Specific Instructions for Securities Entities, and the Specific Instructions for Insurance Entities. During the on-site visit, the UIF also provided an explanation about the list of politically exposed persons.

[189] With respect to institutional strengthening of the UIF and implementation of modern technologies to facilitate its activities, the following three computer systems have been set up at the agency:⁷⁰ Electronic Data Exchange Portal (PIED), which provides a faster connection to financial entities requesting information and enables the receipt of suspicious transaction reports; Financial Investigation Information Management System (SAIIF), which allows the management and processing of information requested from financial entities as well as the preparation of preliminary reports, among other functions; and LOTUS Notes, a document management system that allows correct and orderly management and follow-up of incoming and outgoing documents.

[190] With respect to mechanisms for supplying information to the public, the questionnaire explains that *"given that it refers to the functions of the UID [sic] and bearing in mind the confidentiality rules in force, it is not possible publicly to disclose information on investigation processes. When any of them indicate the existence of suspicious operations suggestive of money laundering, it is brought to the attention of the appropriate authorities."*⁷¹

[191] The UIF also has a website (<http://uif.asfi.gob.bo>), which contains, *inter alia*, general information about the institution; rules and regulations connected with it, including resolutions it has issued; statistics on financial investigations; and an up-to-date list of regulated persons/entities with a license to operate as a result of having fulfilled the requirements prescribed by law.

[192] As to internal control, the response to the questionnaire mentions that, although the ASFI has a Customer Complaints Service (SARC for the Spanish), *"...the UIF does not have such a mechanism as the functions it performs do not involve a service in which there is direct contact with individuals."*⁷² Notwithstanding, the UIF does have an internal audit department.

[193] According to Article 17 of its Regulations, the UIF's funding comprises an annual appropriation from the National Treasury, appropriations from sectoral superintendencies, a 30% share of revenue provided by assets confiscated in money-laundering cases, and financial and technical assistance from international agencies and foreign governments.

[194] In this connection, according to the response to the questionnaire, *"with respect to the appropriations from the Treasury and sectoral superintendencies, ... the Financial Investigation Unit receives funds through the Financial System Supervising Authority to which it annually submits a*

69. *Ibid.*

70. *Ibid.*, p. 19.

71. *Ibid.*, p. 20.

72. *Ibid.*, p. 21.

budget for the year, which is approved by that entity and the Ministry of Economy and Finance for its subsequent execution.”⁷³

[195] Regarding coordination mechanisms, according to Article 6 of Law No. 004, the UIF is part of the National Council against Corruption, Illicit Enrichment, and Money-laundering, which meets at least four times a year. The response to the questionnaire also mentions that UIF has established coordination mechanisms with financial entities in order to obtain information for financial analysis.⁷⁴

[196] In this context, Article 21 of Law No. 004 contains a list of different categories of entities and persons required to provide information requested by the UIF and to inform it when they discover the possible commission of acts of corruption or other offenses.

[197] As regards accountability, the response to the questionnaire indicates that the UIF is part of the ASFI and that the latter entity is responsible for public accountability disclosures. The response also states that the UIF presents its annual results to the ASFI every year.

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

[198] The FIU has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were described briefly in section 3.1 of this report. Nonetheless, the Committee considers it appropriate to formulate certain observations in relation thereto:

[199] First, as was mentioned, the UIF does not participate in the accountability process mandatory for public-sector entities in the country under review. In this regard, the Committee takes note of what representatives of the Unit mentioned during the on-site visit, in the sense that the UIF does not take part in the public accountability process, due chiefly to the confidential nature of its functions as well as its obligations with respect to the confidentiality of the information set forth in Article 20 of the UIF Regulations. Accordingly, during the on-site visit it was explained that the UIF does not prepare public reports on its activities.

[200] However, the Committee also finds that Article 18(13) of the UIF Regulations requires the presentation of an annual report on its activities to the ASFI. In this connection, the UIF also explained during the on-site visit that, due to the above reasons of confidentiality, that report does not contain information about individual cases. The Committee believes that the Unit could participate in the ASFI’s public accountability process without including confidential information or mentioning specific cases. The Committee will formulate a recommendation in this regard. (See recommendation 5.4.1 in chapter II of this report.)

[201] Second, the Committee notes that the response to the questionnaire mentions that the UIF has too small a budget to overcome its difficulties in responding to requests received.⁷⁵ The response also explains with respect to the broadening of the powers of the UIF that “... *the continual increase in suspicious transaction reports from the financial system and requests from the Public Ministry, the Ministry for Transparency and Fight against Corruption, and others, give rise to the need for a higher number of staff.*”⁷⁶ In this context, during the on-site visit it was explained that the UIF has a

73. *Ibid.*, p. 23.

74. *Ibid.*, p. 25.

75. *Ibid.*, p. 40.

76. *Ibid.*, p. 15-16.

staff of approximately 35, which is not enough to carry out properly the important task that the institution performs. The Committee will offer a recommendation on this point. (See recommendation 5.4.2 in chapter II of this report.)

[202] Third, during the on-site visit, UIF representatives described the Unit's technical cooperation needs, which include the need for more software and specialized training from entities that perform functions similar to those of the UIF. The Committee will offer a recommendation in this regard. (See recommendation 5.4.3 in chapter II of this report.)

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

[203] The response to the questionnaire contains no results regarding the functions of the UIF as regards detection and investigation of acts of corruption that give rise to disciplinary, administrative, criminal, or civil liability. Furthermore, no information on results was supplied in the course of the on-site visit. In this connection, as with the issue of public accountability, the UIF explained that owing to the confidential nature of the work it was not possible to disclose detailed results of its activities.

[204] However, the UIF website has a link to a statistical document that contains several tables, which reflect, *inter alia*, the following:⁷⁷ The UIF has conducted 561 financial investigations, which originated from: 113 written complaints, 1 court order, 170 prosecutors' requests, 261 suspicious transaction reports, and 16 international cooperation requests. Another table showed that there had been 319 investigations of cases connected with crimes, 157 of which concerned corruption.

[205] The Committee notes, with respect to the above figures, that they preclude a determination of the period in which the 561 investigations were carried out or the number of investigations that resulted in referral of the case to the Public Ministry, MTILCC, or Office of the Prosecutor General, because evidence was found of a criminal offense, links to money laundering, all some other violation, respectively. The Committee will offer a recommendation. (See recommendation 5.4.4 in chapter II of this report.)

[206] Regarding the foregoing, during the on-site visit, UIF representatives explained that the institution's legal department follows up on legal proceedings instituted on the strength of information supplied to the Public Ministry to do with suspected money-laundering. However, they also said that a record is not kept of proceedings of this nature that result in a criminal conviction. The Committee will offer a recommendation in this regard. (See recommendation 5.4.5 in chapter II of this report.)

5.4. Conclusions and recommendations

[207] Based on the comprehensive review of the Financial Investigation Unit (FIU) in the foregoing sections, the Committee formulates the following conclusions and recommendations:

77. This statistical document is available at: <http://uif.asfi.gob.bo/LinkClick.aspx?fileticket=PTYWqDScvlA%3d&tabid=65>

[208] **The Plurinational State of Bolivia has considered and adopted measures intended to maintain and strengthen the UIF as an oversight body, as indicated in Chapter II, Section 5 of this report.**

[209] In view of the comments made in that section, the Committee suggests that the country under review consider the following recommendations:

- 5.4.1. Promote the adoption of the necessary measures to participate, through the ASFI, in the public accountability process mandatory for public-sector entities, without violating its confidentiality obligations. (See Chapter II, Section 5.2 of this report.)
- 5.4.2. Provide the Financial Investigation Unit with sufficient human and financial resources to carry out its functions properly, particularly where detection of acts of corruption is concerned, within available resources. (See Chapter II, Section 5.2 of this report.)
- 5.4.3. Seek the necessary technical cooperation from other states and cooperation agencies, as appropriate, in order to enable the UIF to carry out its functions more effectively, taking into account the needs mentioned and identified in section 5.2 of this report. (See Chapter II, Section 5.2 of this report.)
- 5.4.4. Strengthen the maintenance of statistical records of detection and investigation activities in connection with acts of corruption, so as to have available information on the number of investigations carried out per year, as well as figures to show how many investigations led to a decision to refer the case to another entity for the appropriate processing, in order to identify problems, if any, and undertake or recommend measures to address them. (See Chapter II, Section 5.3 of this report.)
- 5.4.5. Strengthen the maintenance of statistical record by which determine how many criminal proceedings instituted as a result of information supplied by the UIF to the Public Ministry resulted in a criminal penalty, in order to identify problems, if any, and undertake or recommend measures to address them. (See Chapter II, Section 5.3 of this report.)

III. BEST PRACTICES

[210] In keeping with section V of the *Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption Selected in the Fourth Round* and the *Format* for country reports adopted by the Committee for that round, the following describes the good practices identified by the country under review that it has wished to share with the other member countries of the MESICIC in the belief that they could be of benefit to them:

[211] **Regarding the MTILCC:**

[212] Performance Guarantee Bonds (*Boletas de Garantía*) for contracting with the state: All individuals and corporations that enter upon a government contract are obligated to purchase bonds as a mandatory requirement. The purpose is to protect the State from possible non-performance of contracts by contractors. By enforcing these tickets, the MTILCC has recovered more than US\$45 million between 2006 and 2011.

[213] Creation of the National Council against Corruption, Illicit Enrichment, and Money-Laundering. The creation, functions and operation of the Council pursuant to Article 6 of Law No. 004, as the highest government authority, assists in setting, supervising, and monitoring public policy on prevention and punishment of corruption. The Council is composed of the MTILCC, the Ministry of the Interior, the Public Ministry, the Office of the Comptroller General, the UIF, the Prosecutor General, and civil society representatives.

[214] “Bolivian Institute for Studies in Transparency and the Fight against Corruption (IBEC)”: In addition to being an institution that carries out studies on transparency, corruption and ethics for the formulation of public policies, offers training courses and diplomas (classroom and online) in the area of anticorruption both for public servants and other interested persons.

[215] The Competition titled “The Worst Process of my Life”: This competition, created, designed and coordinated by the MTILC, allowed “...verification of the innumerable complaints of the public with regard to the public services offered by the Plurinational State of Bolivia at the various levels of government, and the handling of the procedure relating to those services. The perception of the participants in the competition is that 157 public entities are bureaucratic, and they emphasize that the public services are not efficient, and that they are deficient and require major and immediate change.”⁷⁸

IV. FOLLOW-UP ON NEW AND RELEVANT INFORMATION AND DEVELOPMENTS WITH REGARD TO THE IMPLEMENTATION OF RECOMMENDATIONS SUGGESTED IN THE COUNTRY REPORT IN THE FIRST REVIEW ROUND⁷⁹

[216] This section of the report refers to progress, information, and new developments in Bolivia in connection with the recommendations and measures suggested by the Committee in the reports of the First Round that were deemed to require additional attention in the reports of the Second and Third Rounds,⁸⁰ and it will proceed to take note of those that have been satisfactorily considered and those that require additional attention from the country under review. In addition, where appropriate, it will address the continued validity of those recommendations and measures and, as applicable, restate or reformulate them, in accordance with provisions contained in section VI of the methodology adopted by the Committee for the Fourth Round.

[217] This section also takes note of any difficulties in implementing the above recommendations and measures to which the country under review may have drawn attention, as well as of technical cooperation it may have requested to that end.

78 See the standard format attached to the response of Bolivia to the questionnaire for the Fourth Round, *supra* note 4.

79 The list of recommendations that still require additional attention or which have been reformulated following this analysis, have been included as Annex 1 to this report

80 Available at: <http://www.oas.org/juridico/english/blv.htm>

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

1.1. Standards of conduct to prevent conflict of interest and mechanisms to enforce them

Recommendation:

Strengthen the implementation of laws and regulations governing conflicts of interest.

Measure a), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Complement the existing rules, regulating, as appropriate, certain eventualities that could constitute conflicts of interest and which, in view of their importance, should receive more detailed and specific treatment. (The rationale for this measure may be found in section 1.1.2 of chapter II of the report from the First Round.)*

[218] In its response to the questionnaire,⁸¹ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[219] – The hiring by the MTILCC of an external consultant to draft regulatory standards, including a proposed law on nepotism and conflict of interests, as well as raising awareness of those standards among four state organs and representatives of civil society organizations in three of the country's departments.

[220] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure a) of the recommendation contained in section 1.1 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that the above law referred to above has yet to be adopted.

Measure b), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Subject to compatibility with the constitutional right of the individual to freedom of work, to examine the improvement and strengthening of appropriate and relevant restrictions for those who leave public sector employment and of measures to enforce them. (The rationale for this measure may be found in section 1.1.2 of chapter II of the report from the First Round.)*

[221] In its response to the questionnaire,⁸² the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[222] – Drafting of, and awareness-raising on, the above proposed law on nepotism and conflict of interests.⁸³

81. See response of the Plurinational State of Bolivia to the questionnaire in the fourth review round, p. 42, *supra* note 4.

82. Ibid, p. 43, *supra* note 4.

[223] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure b) of the recommendation contained in section 1.1 of Chapter IV of this report to the extent that conflicts of interest may also address post-public service activities and of the need for the latter to continue to give attention thereto, bearing in mind that the law referred to above has yet to be adopted and its potential scope is not as yet known.

Measure c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Through the competent authority, set a time period for public entities, pursuant to the law, to adopt their Codes of Ethics and implement mechanisms that guarantee a practical evaluation of the provisions of those Codes, including those related to preventing conflicts of interest, such that the results contribute to their development, strengthening and effective application. (The rationale for this measure may be found in section 1.1.2 of chapter II of the report from the First Round.)*

[224] In its response to the questionnaire,⁸⁴ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[225] – The Transparency Units Summit held to discuss the issue of public ethics, which included civil society participation.

[226] – The “Manifesto on Decolonialization of Public Ethics and the Public Servant Revolution” that came out of the above summit and is founded on the philosophy “serve well to live well.” This Manifesto “... promotes time-honored ethical and moral principles and declares outright war on corruption, with public ethics adopted by public servants as a philosophy for life.

[227] – The discussion forums held with 795 representatives of community-based organizations on the content of the Manifesto “... to define an appropriate profile for the new public servant,” as well as with 9,173 public servants to share the new vision of the public servant.

[228] – The survey of 15,000 public servants on the ethical climate in the institutions where they serve.

[229] – Adhesion to the process of decolonization of public ethics by public servants and 221 municipalities.

[230] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure c) of the recommendation contained in section 1.1 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that not all public entities that are required by law to have codes of conduct yet have them and there is no deadline for those entities to adopt those codes. In addition, no evaluation mechanisms have been identified for the provisions contained in the codes of conduct that have been adopted.

83. During the Meeting of the Review Subgroup held at OAS Headquarters in Washington D.C., on September 6, 2012, the country under review explained that the draft legislation referred to includes references to post-employment conflict of interests.

84. Ibid, p. 44, *supra* note 4.

[231] Furthermore, the Committee notes the importance for all public entities to have the codes of ethics prescribed by law and for those codes to cover conflict of interests, among other aspects. In addition, given the fact that the country under review has explained that the codes of ethics have not achieved the desired results⁸⁵ and has therefore decided on a new approach as outlined in paragraphs 220 to 224 above, the Committee believes it appropriate to reformulate measure c) in section 1.1 of chapter IV of this report, which referred more to establishing deadlines for implementing those codes than to their adoption.

[232] Consequently, measure c) suggested by the Committee to the country under review in connection with the recommendation contained in section 1.1 of chapter IV of this report is hereby reformulated as follows:

[233] c) Ensure that all public entities subject to the provisions of Law No. 2027 – Statute of the Public Servant, adopt the codes of ethics referred to in Article 13 of that law and/or any other instruments that establish basic principles of ethics, as soon as possible and implement mechanisms that ensure the practical evaluation of the provisions contained in those codes or instruments, among others, those related to the prevention of conflicts of interests, in order for their results to contribute to their development, strengthening and effective application.

Measure d), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Adopt, through the appropriate statutory or administrative act, minimum content standards or requirements for the Codes of Ethics that make it possible to adequately develop the aspects essential for attaining their objectives, which include those related to preventing conflicts of interest. (The rationale for this measure may be found in section 1.1.2 of chapter II of the report from the First Round.)*

[234] In its response to the questionnaire,⁸⁶ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[235] - The promulgation of Executive Decree No. 014 adopting the National Policy on Transparency and Fight against Corruption, which establishes as one of the measures to adopt, among others, promotion of probity and ethics in public affairs, consisting of the development of a Public Ethics and Probity Training Plan for public servants; implementation of prevention strategies through formal education; reward of good practices in public management; identification of good practices in intercultural public management; and implementation of a citizen observatory on good practices.

[236] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure d) of the recommendation contained in section 1.1 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that the basic requirements or parameters of the contents of the codes of ethics with regard to prevention of conflicts of interests have yet to be adopted.

85. In this connection, in its comments on the draft preliminary report, the country *included* under review stated, inter-alia, that “*The Plurinational State believes that the codes of ethics that were as an obligation in Law 2027 “Statute of the Public Servant” have not truly served to promote the values, principles, and standards of conduct for public servants, and so continuing with those elements is unnecessary...*”

86. Ibid, p. 47, *supra* note 4.

[237] Notwithstanding, in light of the new approach being taken by the country under review with respect to public ethics, as outlined in paragraphs 220 to 224 and 230, above, measure d) suggested by the Committee to the country under review in connection with the recommendation contained in section 1.1 of chapter IV of this report is hereby reformulated as follows:

[238] d) Consider adopting, through the appropriate statutory or administrative act, minimum content standards or requirements for the Codes of Ethics and/or any other instruments that establish basic principles of ethics that are adopted, that make it possible to adequately develop the aspects essential for attaining their objectives, which include those related to preventing conflicts of interest

Measure e), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Adopt, through the appropriate statutory or administrative act, guidelines to give direction to the public entities in carrying out the obligation to establish mechanisms that ensure a practical evaluation of the Codes of Ethics provisions, including those related to preventing conflicts of interest, such that their results contribute to their development, strengthening and effective application. (The rationale for this measure may be found in section 1.1.2 of chapter II of the report from the First Round.)*

[239] In its response to the questionnaire,⁸⁷ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[240] – The survey of 15,000 public servants, which contained questions, *inter alia*, on public ethics, whether or not breaches of ethics should be punished, principles and values that should be observed by public servants, and the work ethic.

[241] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure e) of the recommendation contained in section 1.1 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that there are no guidelines yet in place to orient entities in the manner envisaged in the recommended measure.

[242] Notwithstanding, in light of the new approach being taken by the country under review with respect to public ethics, as outlined in paragraphs 220 to 224 and 230, above, measure d) suggested by the Committee to the country under review in connection with the recommendation contained in section 1.1 of chapter IV of this report is hereby reformulated as follows:

[243] e) Consider adopting, through the appropriate statutory or administrative act, guidelines to give direction to the public entities in establishing mechanisms that ensure a practical evaluation of the Codes of Ethics provisions and/or any instruments that establish basic principles of ethics that are adopted, including those related to preventing conflicts of interest, such that their results contribute to their development, strengthening and effective application.

87. Ibid, p. 47, *supra* note 4.

1.2. Standards of conduct and mechanisms to ensure the proper conservation and use of resources entrusted to government officials

Recommendation:

Strengthen the implementation of laws and regulations for controlling public resources.

Measure a), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Set, by means of the competent authority, a period for the public entities, in complying with the law, to adopt their Codes of Ethics and implement mechanisms that assure the practical evaluation of the provisions in those Codes, including those related to the preservation of public resources, such that their results contribute to their development, strengthening and effective application. (The rationale for this measure may be found in section 1.2.2 of chapter II of the report from the First Round.)*

[244] In its response to the questionnaire,⁸⁸ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[245] – Executive Decree No. 181 (Basic Rules of the System for the Administration of Goods and Services), which, *inter alia*, establishes the measures that all public servants are required to observe in order to preserve, safeguard, and ensure the best use of public property and resources.

[246] – Criminalization of “misuse of goods and services,” as recognized by Law 004; and sensitization of 549 public servants with respect to the preservation of public resources in their keeping.

[247] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure a) of the recommendation contained in section 1.1 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that, as mentioned above in relation to measure c) in section 1.1 of this report, not all public entities that are required by law to have codes of conduct yet have them, there is no deadline for those entities to adopt those codes, and there are no mechanisms for evaluating the provisions contained in the codes that have been adopted.

[248] Notwithstanding, in light of the new approach being taken by the country under review with respect to public ethics, as outlined in paragraphs 220 to 224 and 230, above, as well as the importance for all public entities to have the codes of ethics prescribed by law and that those codes cover the preservation and proper use of resources, among other aspects, the Committee believes it appropriate to reformulate measure c) in section 1.2 of chapter IV of this report, as follows:

[249] a) Ensure that all public entities subject to the provisions of Law No. 2027 – Public Official Statute, adopt the codes of ethics referred to in Article 13 of that law and/or other instruments that establish basic principles of ethics, as soon as possible and implement mechanisms that ensure the practical evaluation of the provisions contained in those codes or instruments, among others, the

88. Ibid, p. 48, *supra* note 4.

preservation and proper use of resources entrusted to government officials, in order for their results to contribute to their development, strengthening and effective application.

Measure b), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Adopt, through the appropriate statutory or administrative act, minimum content standards or requirements for the Codes of Ethics that make it possible to achieve adequate development of the aspects essential to the attainment of their objectives, including those related to the preservation of public resources. (The rationale for this measure may be found in section 1.2.2 of chapter II of the report from the First Round.)*

[250] In its response to the questionnaire,⁸⁹ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[251] – Ministerial Resolution No. 040/11, which approves the Political Manifesto on Decolonialization of Public Ethics.

[252] – The public ethics guidelines prepared by the MTILCC, which serve as a standard for public servants to model their conduct by.

[253] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure b) of the recommendation contained in section 1.2 of Chapter IV of this report and of the need for the latter to continue to give attention thereto. Furthermore, given the importance that all public entities have the codes of ethics prescribed by law and that those codes cover, *inter alia*, the preservation and proper use of resources entrusted to government officials, bearing in mind that the country under review has said that it will take these factors into consideration in the new ethics policy to be drawn up,⁹⁰ and in light of the new approach being taken by the country under review with respect to public ethics, as outlined in paragraphs 220 to 224 and 230, above, measure b) suggested by the Committee to the country under review in connection with the recommendation contained in section 1.2 of chapter IV of this report is hereby reformulated as follows:

[254] b) Consider adopting, through the appropriate statutory or administrative act, minimum content standards or requirements for the Codes of Ethics and/or any other instruments that establish basic principles of ethics that are adopted, that make it possible to achieve adequate development of the aspects essential to the attainment of their objectives, including those related to the preservation of public resources.

Measure c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Adopt, through the appropriate statutory or administrative act, guidelines that give direction to the public entities in complying with the obligation to implement mechanisms that ensure the practical evaluation of the Codes of Ethics provisions, among them those related to the preservation of public resources, such that their results contribute to their development,*

89. *Ibid*, p. 48, *supra* note 4.

90. *Ibid*

strengthening and effective application. (The rationale for this measure may be found in section 1.2.2 of chapter II of the report from the First Round.)

[255] In its response to the questionnaire,⁹¹ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[256] – The public ethics guidelines prepared by the MTILCC, which serve as a standard for public servants to model their conduct by.

[257] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure c) of the recommendation contained in section 1.2 of Chapter IV of this report and of the need for it to continue to give attention thereto, bearing in mind that there are no guidelines yet in place to orient entities in the manner envisaged in the recommended measure.

[258] c) Notwithstanding, in light of the new approach being taken by the country under review with respect to public ethics, as outlined in paragraphs 220 to 224 and 230, above, measure c) suggested by the Committee to the country under review in connection with the recommendation contained in section 1.1 of chapter IV of this report is hereby reformulated as follows:

[259] Adopt, through the appropriate statutory or administrative act, guidelines that give direction to the public entities in complying with the obligation to implement mechanisms that ensure the practical evaluation of the Codes of Ethics provisions and/or those contained in any instruments that establish basic principles of ethics that are adopted, among them those related to the preservation of public resources, such that their results contribute to their development, strengthening and effective application.

Measure d), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Perform an evaluation of the use and effectiveness of the standards of conduct for ensuring the preservation and adequate use of public resources and of the mechanisms for compliance with them in Bolivia, as instruments for preventing corruption, and as a result of that evaluation, consider adopting measures to promote, facilitate and consolidate or ensure their effectiveness for that purpose.* (The rationale for this measure may be found in section 1.2.2 of chapter II of the report from the First Round.)

[260] In its response to the questionnaire,⁹² the country under review provides the following information on the foregoing measure:

[261] *“The standards in place on the responsibility of each public servant with respect to the preservation and proper use of public resources provide that each maximum authority is responsible for ensuring that all such standards are met, on pain of being held administratively liable for any misuse by subordinate public servants. Following the entry into force of Law 004 and the criminalization of misuse of goods and services, in all the training activities carried out in the country there has been a visible increase in the awareness of public servants of how they should use state property and the care that they should take so as not to make subordinates perform work that*

91. *Ibid.*, p. 49.

92. *Ibid.*

they ought not to. The training also served to determine how familiar public servants were with the standards and to gauge their awareness of the new way in which they should approach this responsibility."⁹³

[262] The Committee takes note of the need for the country under review to continue to give attention to implementing measure d) of the recommendation contained in section 1.2 of Chapter IV of this report, bearing in mind that as yet no evaluation has been reported of the use and effectiveness of the standards in place for ensuring the preservation and adequate use of public resources.

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

Recommendation:

Strengthen Bolivia's mechanisms for requiring public officials to report to the competent authorities any acts of corruption in government service that come to their attention.

Measure a), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Include among the duties established in Law 2027 of 1999, the Statute on Public Officials, or in the Codes of Ethics adopted by the public entities in compliance with Article 13 of that law, the obligation to report any violation of its provisions and those of the Codes. (The rationale for this measure may be found in section 1.3.2 of chapter II of the report from the First Round.)*

[263] In its response to the questionnaire,⁹⁴ the country under review presents new information and developments with respect to the foregoing measure, among which, the Committee considers, as a steps that lead to a determination that the measure has been satisfactorily considered, the following:

[264] – The Constitutional obligation (Article 108(8)) of all Bolivians to report acts of corruption.

[265] In light of the foregoing, the Committee takes note of the satisfactory consideration of measure (a), above.

Measure b), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Facilitate compliance with the duty to report acts of corruption, through such steps as are considered appropriate; and adopt and implement protection measures for whistleblowers, so that they receive guarantees vis-à-vis threats or retaliation to which they may be subjected as a result of compliance with this obligation. (The rationale for this measure may be found in section 1.3.2 of chapter II of the report from the First Round.)*

93. *Ibid.*

94 *Ibid*, p. 50, *supra* note 4.

[266] In its response to the questionnaire,⁹⁵ the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[267] – Law No. 004, Article 17 of which establishes the Whistleblower and Witness Protection System.

[268] – The hiring of a consultant to draw up the general guidelines to support the protection system.

[269] – The MTILCC computer system, which allows complaints to be reported while protecting anonymity as it has the security levels necessary to prevent access to the complainant's data.

[270] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure b) of the recommendation contained in section 1.3 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that the system is not yet operational and the implementing regulations and guidelines for it are lacking.

[271] The Committee also considers that the country under review has implemented the aspect of the measure regarding facilitation of compliance with the duty to report acts of corruption through its creation of a complaint mechanism that protects anonymity.

[272] In view of the foregoing, the Committee believes it appropriate to reformulate measure b) in section 1.3 of chapter IV of this report as follows:

[273] a) Adopt and implement the provisions and measure necessary to implement the Whistleblower and Witness Protection System created by Article 17 of Law No. 004; and ensure that the provisions or mechanisms that are adopted include, among others, protection from threats or retaliation to which they may be subjected as a result of compliance with this obligation.

Measure c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Train public officials as to the existence and purpose of the responsibility to report to the competent authorities acts of corruption in the public administration that come to their attention. (The rationale for this measure may be found in section 1.3.2 of chapter II of the report from the First Round.)*

[274] In its response to the questionnaire,⁹⁶ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[275] – The training provided by the MTILCC to: 549 public servants in order to raise awareness about Law No. 004, and educate them about the obligation to report acts of corruption; to 415 students in order to encourage them to spread the news about this obligation among their families; and to public servants, public-sector entities, and residents in the country's 339 municipalities.

⁹⁵ *Ibid*, p. 49, *supra* note 4.

⁹⁶ *Ibid*, p. 49, *supra* note 4.

[276] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure c) of the recommendation contained in section 1.3 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that after the new standards for government officials have been adopted the need will still exist to provide training on those new standards.

[277] Accordingly, the Committee finds it appropriate to reformulate measure c) above as follows:

[278] b) Once the new standards for government officials have been adopted and implemented, train them about their responsibility to report to the competent authorities any acts of corruption in the performance of public duties of which they may become aware.

Measure d), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Implement a system of protection that includes protection of identity, for public officials, who in good faith report acts of corruption.* (The rationale for this measure may be found in section 1.3.2 of chapter II of the report from the First Round.).

[279] In its response to the questionnaire,⁹⁷ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[280] – Law No. 004, Article 17 of which establishes the Whistleblower and Witness Protection System.

[281] During the on-site visit, representatives of the MTILCC explained that several officials from that ministry have been the victims of threats, attacks, and robberies as a result of performing their duties in relation to processing reported acts of corruption.

[282] In that regard, the response to the questionnaire explains that the Protection System “... will offer protection against any threat, attack, reprisal, or intimidation against anyone who might in some way find themselves at risk as a result of the investigation of an act of corruption; accordingly, it encompasses whistleblowers and witnesses, experts, technical advisors, public servants, and other persons directly or indirectly involved in the investigation, processing, indictment, and trial process.”⁹⁸

[283] The response also notes with respect to the implementation of this measure that *“one limitation in designing and implementing the system has been the issue of funding. It has been determined that Bolivia will implement the system in line with its economic possibilities and will gradually improve and strengthen the system with time. Bolivia needs technical assistance for the design and implementation of the system, particularly bearing in mind that each of the entities that form part of the system will require technical strengthening with new capabilities and a larger budget for ensuring an efficient system.”*⁹⁹

97. *Ibid*, p. 49, *supra* note 4.

98. *Ibid*, *supra* note 4.

99. *Ibid*, *supra* note 4.

[284] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure d) of the recommendation contained in section 1.3 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that the Whistleblower and Witness Protection System created by Law No. 004 is not yet operational.

[285] Furthermore, given the importance that all public entities have the necessary financial resources for the system to function properly, as well as the difficulties and technical cooperation needs mentioned by the country under review, the Committee believes it appropriate to amend measure d) in section 1.3 of chapter IV of this report as follows:

[286] c) Ensure that the provisions and measures that implement the Whistleblower and Witness Protection System include, among other aspects, physical and workplace protection for government officials involved in the processing or investigating of complaints, in particular, those related to acts of corruption.

[287] d) Ensure that the institutions that will be responsible for implementing the above system have the necessary financial and human resources to carry out in full their responsibilities with regard to its operations; and make the necessary arrangements with other states and cooperation agencies to furnish these institutions with the necessary technical cooperation to enable them to carry out their functions effectively, taking into account the needs mentioned in this report.

Measure e), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Implement adequate procedures to foster the reporting of such acts.* (The rationale for this measure may be found in section 1.3.2 of chapter II of the report from the First Round.)

[288] In its response to the questionnaire,¹⁰⁰ the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that lead to a determination that it has been satisfactorily considered:

[289] – Law No. 004, Article 35 of which provides that a person who has taken part in an act of corruption and voluntarily reports it and cooperates in the investigation and trial of the crime will benefit from a two-thirds reduction of the respective sentence.

[290] – The MTILCC computer system, which allows complaints to be reported while protecting anonymity as it has the security levels necessary to prevent access to the complainant's data.

[291] – The design of the National Anticorruption Plan by the Anticorruption Council, which establishes mechanisms for encouraging citizens to report acts of corruption.

[292] – Executive Decree No. 29894, Article 25 of which requires the creation of transparency units in all executive branch entities. In coordination with the MTILCC, these units follow up and monitor reports of corruption.

[293] – The information bulletins, banners, and other relevant materials distributed by the MTILCC, which include information on where and how to lodge complaints.¹⁰¹

100. *Ibid*, p. 49, *supra* note 4.

[294] In light of the foregoing, the Committee takes note of the satisfactory consideration of measure e) above.

Measure f), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Consider the possibility, once the necessary procedures have been carried out, of the adoption by the competent authority, of the Proposed Law to Protect Persons who Report acts of Corruption in the performance of Public Functions. (The rationale for this measure may be found in section 1.3.2 of chapter II of the report from the First Round.)*

[295] In its response to the questionnaire,¹⁰² the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[296] – The compilation of information for with drawing up the regulatory guidelines for the corruption whistleblower and witness protection system.

[297] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure f) of the recommendation contained in section 1.3 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that the Whistleblower and Witness Protection System created by Law No. 004 is not yet operational.

[298] At the same time, the Committee also finds that, in essence, this measure is covered by measures (a), (b), (c) and (d) in section 1.3 of chapter IV of this report and, therefore, it will eliminate it.

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

Recommendation:

Strengthen the systems for registration of income, assets and liabilities.

Measure a), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Strengthen the provisions with respect to verifying the content of the Sworn Declarations on Assets and Income by the Office of the Comptroller-General of the Republic, established in Supreme Decree No. 27349 of 2004, such that there can be systems that make it possible to give impetus to and timely carry out such verification. (The rationale for this measure may be found in section 2.2 of chapter II of the report from the First Round.)*

[299] In its response to the questionnaire,¹⁰³ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

101. See also paragraphs 32-34 in section 1.1 of this report

102. *Ibid*, p. 49, *supra* note 4.

103. See response of the Plurinational State of Bolivia to the questionnaire in the fourth review round, p. 49, *supra* note 4.

[300] – Law No. 004, which establishes that the MTILCC will conduct *ex officio* verification of sworn declarations of assets and income.¹⁰⁴

[301] – The Integrated Anticorruption and Recovery of State Property Information System (SIARBE), which serves for the consolidation and exchange of information among the entities involved.¹⁰⁵

[302] - The Pilot Plan for Verification of Sworn Declarations of Assets and Income, which was designed and implemented by the MTILCC. According to information collected during the on-site visit, the plan lasted eight months and consisted of the verification of the sworn declarations of 150 government officials.¹⁰⁶ The participants selected included elected, designated, and freely appointed officials, as well as the top-ranked executives in public-sector institutions or companies with a high budget appropriation.¹⁰⁷ The attempt was also designed to include officials charged with serious harm to the State or evidence of responsibility according to the Office of the Comptroller General (CGE); those with a net worth increase of more than 60% in one year; those who did not file a sworn declaration; random selections; those who took part in tenders with a value in excess of US\$1 million; and those with a net worth of more than US\$450,000.¹⁰⁸

[303] – The interagency agreements to carry out the verification work between the MTILCC and other institutions, including, *inter alia*, the CGE, the Real Property Registry, Fundempresa, Financial System Supervising Authority (ASFI), and the Personal Identification Service (SEGIP).¹⁰⁹

[304] – The working model designed for the verification process, which included everything from “...*the request for the identity card number to obtain sworn declarations from the [CGE], the wealth analysis, the request for information from public and private records offices, and the preparation of a findings report by the [MTILCC].*”¹¹⁰

[305] – The workshops held with the officials responsible at the institutions to present the working model for verification of sworn declarations of assets and income in order, *inter alia*, to expedite the work as well as ensure compliance with deadlines and results.

[306] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure a) of the recommendation contained in section 2 of Chapter IV of this report. In this regard, the Committee notes that although the CGE is legally empowered to receive sworn declarations and to verify them upon request, in the course of the on-site visit, CGE representatives explained that there had only been one such request in the previous 20 years and that, therefore, the CGE had not performed any other verifications.

104. *Ibid.*, p. 56.

105. See presentation on the Pilot Plan provided by the MTILCC during the on-site visit. Available in Spanish at: [http://www.oas.org/juridico/spanish/mesicic4_blv_panel10.ppt#485.2.PLAN PILOTO VERIFICACIÓN DE DECLARACIONES JURADAS DE BIENES Y RENTAS](http://www.oas.org/juridico/spanish/mesicic4_blv_panel10.ppt#485.2.PLAN%20PILOTO%20VERIFICACI%C3%93N%20DE%20DECLARACIONES%20JURADAS%20DE%20BIENES%20Y%20RENTAS)

106. *Ibid.*

107. *Ibid.*

108. *Ibid.*

109. *Ibid.* In its comments to the draft preliminary report, the country under review noted the existence of a July 30, 2011 inter-institutional agreement between the MTILCC, the CGR, and the UIF, in order to make more viable and comply with Law No. 004 in terms of the submission of sworn declarations for their verification. The country under review further indicated that by means of Supreme Decree No. 1233, this commitment was consolidated.

110. See response of the Plurinational State of Bolivia to the questionnaire in the fourth review round, p. 57, *supra* note 4.

[307] The Committee also notes that the MTILCC is now responsible for *ex officio* verification of sworn declarations and of the pilot plan implemented by the Ministry to that end.

[308] The Committee also takes note of the shortcomings described during the on-site visit with respect to the Pilot Plan, including, *inter alia*, delays in obtaining information to consolidate the list of persons to be verified; delay in the delivery of sworn declarations; the need to improve control of sworn declarations in order to have appropriate information; the absence of a consolidated database on real property, which hampered prompt delivery of information and made it difficult to have criteria for determining the reasonableness of assets; delay in the delivery of information on identity cards owing to changes in the police; and the lack of a clarity in the differences between investigation and verification of sworn declarations, and whether or not the Pilot Plan included family assets.¹¹¹ Similarly, during the on-site visit, CGE representatives described difficulties associated with the delay by public records offices in providing information requested and the absence of a real property register.

[309] Consequently, the Committee believes it appropriate to reformulate measure a) in section 2 of chapter IV of this report as follows:

[310] a) Strengthen the process of receipt by the CGE of sworn declarations of assets and income by adopting the measures deemed necessary to speed up and facilitate their submission; eliminate the delay by public records offices in supplying the necessary information; systematize sworn declarations received; and create a consolidated real property database, among others.

Measure b), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Examine the advisability of the Office of the Comptroller-General of the Republic, as the agency responsible for verifying Sworn Statements on Assets and Income, carrying out a periodic review of those Statements, even though this may not include all of them. For example, acting on its own initiative, it could select a random number of declarations to be reviewed each year, in order to exercise effective control as its mandate provides. (The rationale for this measure may be found in section 2.2 of chapter II of the report from the First Round.)*

[311] In its response to the questionnaire,¹¹² the country under review presents information and new developments as regards implementation of measure b) in section 2 of this report, including Law No. 004, which establishes that the MTILCC will conduct *ex officio* verification of sworn declarations of assets and income, as well as the Pilot Plan developed by the MTILCC, as mentioned in paragraphs 296 to 304 of this report.

[312] Accordingly and bearing in mind that there is now an institution in place specifically charged with *ex officio* verification of the contents of sworn declarations and that a pilot phase for that verification has concluded, the Committee considers it appropriate to reformulate measure (c) in section 2 of chapter IV of this report as follows:

[313] b) Issue provisions establishing objective criteria to be used in selecting those public servants whose sworn declarations will be verified *ex officio* by the MTILCC.

111. *Ibid.*, p. 58.

112. *Ibid.*, p. 49, *supra* note 4.

Measure c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Classify illicit enrichment as a crime, given that it is closely related to this issue. (The rationale for this measure may be found in section 2.2 of chapter II of the report from the First Round.)*

[314] In its response to the questionnaire,¹¹³ the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that lead to a determination that it has been satisfactorily considered:

[315] – Law No. 004, Article 27 criminalizes illicit enrichment as follows: *“Any public servant whose wealth increases disproportionately to their legitimate income and is unable to justify said increase shall be liable to five to ten years of imprisonment, disqualification from employment in public service or holding elected office, a fine of between two hundred and five hundred day’s pay, and confiscation of the unlawfully obtained assets.”*

[316] In light of the foregoing, the Committee takes note of the satisfactory consideration of measure c) above, without prejudice to the recommendations of a similar nature offered during the third round, whose implementation will be examined in greater detail in the follow-up on that round.

Measure d), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Adopt the pertinent measures to ensure that public servants who, according to the Law on External Control called “Procedure for Notification of Incorporations and Resignations of Public Servants for the Control of the DJBR” (CE/17) are under an obligation to do so, to provide the information requested by the control mechanism in that law, in the time periods established therein. (The rationale for this measure may be found in section 2.2 of chapter II of the report from the First Round.)*

[317] In its response to the questionnaire,¹¹⁴ the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that lead to a determination that it has been satisfactorily considered:

[318] – Article 225 of the Constitution, which requires all public servants to submit a sworn declaration of assets and income before, during, and after their employment in public service.

[319] – Article 149 of Law No. 004, which classifies failure to disclose assets and income as a criminal offense.

[320] As regards implementation of this recommendation, the response to the questionnaire explains that *“the provisions of the “Procedure for Notification of Incorporations and Resignations of Public Servants for the Control of the DJBR” are clear and are met by public entities that notify the Office of the Comptroller General on a quarterly basis of all those individuals who left and entered the institution in that period.”*¹¹⁵

113. *Ibid*, p. 59, *supra* note 4.

114. *Ibid*, p. 49, *supra* note 4.

115. *Ibid*.

[321] The Committee finds from the explanation offered by the country under review that the established procedure is being observed and that public entities are notifying the CGE of all hiring and termination of services. The Committee also notes that the obligation to submit sworn declarations is now set down in the Constitution. In light of these considerations, the Committee takes note of the satisfactory consideration of measure d) above.

Measure e), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Optimize the systems for analyzing the content of the Sworn Declarations of Assets and Income, and adopt the appropriate measures, such that those declarations can be a useful tool for detecting and preventing conflicts of interest, as well as for detecting possible cases of illicit enrichment, once it has been classified as a crime.* (The rationale for this measure may be found in section 2.2 of chapter II of the report from the First Round.)

[322] In its response to the questionnaire,¹¹⁶ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[323] - The Pilot Plan for Verification of Sworn Declarations of Assets and Income designed and implemented by the MTILCC, which "...consists of an examination of the wealth of former and current public servants by means of a comprehensive search and analysis of information on assets, even those not disclosed."¹¹⁷

[324] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure e) of the recommendation contained in section 2 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that the country is still immersed in the process of developing the necessary systems and mechanisms for effective verification of the contents of sworn declarations of goods and services.

[325] However, given that the country has criminalized illicit enrichment, the Committee believes it appropriate to reformulate the measure by removing the reference to the prospective classification of the crime:

[326] c) Optimize the systems for analyzing the content of the Sworn Declarations of Assets and Income, and adopt the appropriate measures, such that those declarations can be a useful tool for detecting and preventing conflicts of interest, as well as for detecting possible cases of illicit enrichment.

Measure f), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Increase the number of officials whose declaration must be made public, bearing in mind the category and/or the nature of their functions.* (The rationale for this measure may be found in section 2.2 of chapter II of the report from the First Round.)

116. *Ibid.*, p. 60. See also paragraph 293 of this report.

117. *Ibid.*

[327] In its response to the questionnaire,¹¹⁸ the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as a step that leads to a determination that it has been satisfactorily considered:

[328] – Article 33 of the Regulations on Sworn Declarations of Assets and Income, which provides that *“the sworn declarations of assets and income--and the respective updates--of all elected, designated, and freely appointed public officials; the National Police, the Armed Forces, and other public servants, with the exception of those that perform "health functions" and "support and service functions in the public administration," shall be made public . Their publication shall be done on the sworn declarations of assets and income website, and include the given and last names, identity cards, date of the declaration, and total assets, total debts, and total income in the last declaration or update made. Furthermore, when an official leaves public service, after making the disclosure at termination of employment, the last declaration or update shall be excluded from publication on the website. The same shall apply to those who do not become public servants because their appointment and assumption of public office did not effectively occur.*

[329] In light of the fact that the country under review has considerably broadened the category and number of public servants where consolidated total values of assets, of income and of debts from their declarations must be published, the Committee takes note of the satisfactory consideration of measure f) above.

Measure g), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Examine the possibility of declarations of assets and income covering not only the public official, but also his or her spouse, close relatives and third persons related to him or her. (The rationale for this measure may be found in section 2.2 of chapter II of the report from the First Round.)*

[330] In its response to the questionnaire,¹¹⁹ the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that lead to a determination that it has been satisfactorily considered:

[331] – The sworn declaration of assets and income form, which requires the inclusion of information on the government official’s closest family members. In this connection, the response to the questionnaire explains, *“The Constitution only makes it mandatory for public servants to make sworn declarations; however, if in the verification of declarations it is found that funds have been diverted to close family members, as an exception, investigations shall be conducted in that respect.”*

[332] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure g) of the recommendation contained in section 2 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that although the form for declaring assets and income requires information on the declarant’s family members, there is no requirement to provide financial information relating to those family members.

[333] As a result, the Committee believes it appropriate to reformulate measure g) of the recommendation contained in section 2 of Chapter IV of this report, as follows:

118. *Ibid.*, p. 60. See also paragraph 293 of this report.

119 See response of the Plurinational State of Bolivia to the questionnaire in the fourth review round, p. 59, *supra* note 4.

[334] d) Consider modifying, through the measures deemed necessary, the sworn declaration of assets and income form, so that it requires not only financial information of the respective public servant, but also, at a minimum, that of their spouse.

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

Recommendation:

“Strengthen the high-level oversight organs, as regards the functions they carry out in relation to controlling effective compliance with the provisions in sections 1, 2, 4 and 11 of the Convention, to ensure the efficacy of such oversight, endowing them with the resources needed for the proper performance of their functions; seeking to ensure that they have greater political and social support to this end; and establishing mechanisms that make possible the institutional coordination of their actions and an ongoing evaluation and monitoring of them. (The rationale for this measure may be found in section 3 of chapter II of the report from the First Round.)

[335] In its response to the questionnaire,¹²⁰ the country under review presents information and new developments with respect to the above measures. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[336] – The creation of the National Council for Combating Corruption, Illicit Enrichment, and Laundering of Illicit Earnings, by Article 6 of Law No. 004, with functions including proposing, supervising, and overseeing public policies intended to prevent and punish acts of corruption, and comprising the MTILCC, the Interior Ministry, the Public Prosecution Service (MP), the Comptroller General’s Office, the Financial Investigations Unit, the Office of the Attorney General (PGE), and representatives of organized civil society, chaired by the head of the MTILCC.

[337] – Adoption of new Internal Rules of Procedure for Sworn Declarations on February 18, 2011, for the Office of the Comptroller General.

[338] – Promulgation of the Law of the Office of the Prosecutor General and creation of the institution.

[339] The Committee takes note of the steps taken by the country under review to advance in its implementation of the recommendation contained in section 3 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that, with the exception of the PGE, all of the institutions with which meetings were held in the context of the on-site visit mentioned the fact that budgetary constraints were impairing their ability to properly perform their respective functions as regards prevention, detection, investigation, and punishment of acts of corruption.

[340] Furthermore, during the on-site visit, representatives of business confederation mentioned their concern at what they called the weakening of the Office of the Comptroller General (CGE) in recent years. By way of an example, they mentioned that whereas Article 214 of the Constitution requires the appointment of the comptroller by the Plurinational Assembly, for a considerable time this position has been held by someone appointed by the executive branch.

120. *Ibid.*, p. 60.

[341] The interim appointment of the comptroller and the difficulties surrounding his appointment were confirmed at the meeting at the CGE during the on-site visit, where it was explained that there is a contradiction between the above-noted Article 214 of the Constitution and Article 172(15) thereof, which grants the president of the state the power to appoint the comptroller from a shortlist presented by the Plurinational Assembly.

[342] Bearing in mind the important functions performed by the CGE as regards prevention, detection, and investigation of acts of corruption, including, *inter alia*, external oversight of public-sector entities and the functions with regard to the receipt and management of sworn declarations of assets and income, the Committee believes that it would be advisable for the country under review to resolve the contradiction between articles 172 and 214 of the Constitution and proceed to appoint the Comptroller under the terms envisaged therein; that is, either through their election by the Legislative Assembly, or through their appointment by the president from a shortlist submitted by the Legislative Assembly.

[343] Therefore, bearing in mind that recommendations have already been offered for strengthening the other oversight organs in chapter II of this report,¹²¹ the Committee believes it appropriate to reformulate the recommendation in section 3 of chapter IV of this report as follows:

[344] 3.1. Review, for the purpose of appointing the Comptroller of the State as soon as possible, the possible contradiction between Articles 172(15) and 214 of the Constitution.

[345] Furthermore, during the on-site visit, representatives of the CGE revealed other difficulties that were adversely affecting the institution, including the freezing of the CGE's budget for the last 10 years and its insufficient budgetary and human resources to fulfill its objectives. In this connection, they explained that in 2011, 28 CGE officials were responsible for the receipt and management of more than 161,000 sworn declarations of assets and income.

[346] Bearing in mind the importance of overcoming the above difficulties, the Committee offers the following recommendation:

[347] 3.2. Provide the CGE with the necessary human and financial resources to perform its functions properly, particularly with regard to the receipt and management of sworn declarations of assets and income.

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

4.1. General participation mechanisms

The Committee did not offer any recommendations in this section.

4.2. Mechanisms for access to information

Recommendation:

Strengthen the mechanisms for ensuring access to public information.

121. See sections 1.4, 2.4, 3.4, 4.4, and 5.4, respectively, of chapter II of this report.

Measure a), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Develop and regulate processes for receiving applications, for responding to them in timely fashion and for appeals in the event that the requests are denied, and that establish sanctions in case of failure to provide information. In this regard, it is suggested that the country consider the possibility, once the necessary procedures have been carried out, of the adoption by the competent authority, of the bill on access to information mentioned in Chapter II, section 4.2.2, of this Report*

[348] In its response to the questionnaire,¹²² the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[349] – Article 21(6) of the Constitution (CPE), which enshrines the right of every Bolivian to access information.

[350] – The preliminary draft of a law on access to information and its dissemination throughout the country.

[351] – The new version of the draft access to information bill, modified based on the observations of the National Press Association (ANP) and La Paz Journalists' Union (*Sindicato de la Prensa de La Paz*) submitted to the Plurinational Legislative Assembly.

[352] – The basic guidelines on access to information prepared by the MTILCC, which are being used until the above proposed law is passed.

[353] With respect to the preliminary draft law, during the on-site visit, representatives of the ANP expressed their concern that they had had no information on its status since 2011, when they submitted their observations and were informed that the preliminary draft had to be updated.

[354] Furthermore, the ANP said that the 19 responses to a survey sent out to 32 institutions enclosed in "letters of consultation" demonstrated, *inter alia*, a lack of awareness of the obligation to provide information; a sense of ownership of information on the part of government officials; scant training in this area; a high turnover of public servants responsible for providing information; and a sense of inability on the part of society to request information.

[355] Similarly, during the on site visit representatives of a press federation mentioned the limitations that, in their opinion, exist with respect to the exercise of the right to information, including, *inter alia*, delay on the part of institutions in replying to requests for information; a need for greater and better dissemination of this right and of the obligation of the state to provide information; and the obligation of the state to create permanent and efficient channels of communication among public institutions, particularly at the departmental level. Representatives of the press federation also drew attention to the fact that the law ultimately approved regulating access to information should contain provisions that punish anyone violating the right of access to information and the obligation to provide it.

122. See response of the Plurinational State of Bolivia to the questionnaire in the fourth review round, p. 65.

[356] Furthermore, in the course of the on-site visit, representatives of civil society organization mentioned the existence of a standard form for requesting information, which is available on the websites of government institutions.

[357] As regards refusal of information requests, during the on-site visit, representatives of the MTILCC explained that the MTILCC is legally authorized, *inter alia*, to present, at the request of any individual or public servant who is aware of a refusal of access to information, complaints of such acts to the competent authorities, for which purpose the MTILCC collects, assesses, and systematizes the information presented, based on a number of cases investigated the by Bolivian Institute of Transparency and Anticorruption Studies (IBEC). If the MTILCC considers that it has enough information, it proceeds to file a complaint with the Public Ministry or the appropriate disciplinary body and follows up on it thereafter. However, if the MTILCC considers that there is insufficient information, it will not file a complaint, without prejudice to the right of the individual or public servant concerned to file a complaint themselves before the appropriate authorities.

[358] In view of the need for a law on such matters, a fact noted by representatives of the country under review and by a grassroots women's organization during the on-site visit, the Committee believes it appropriate to reformulate measure a) of the recommendation in section 4.2 of chapter IV of this report as follows:

[359] a) Consider adopting a specific law on access to information, which contains provisions which develop and regulate, among other aspects, procedures for processing applications, in order to respond to them in a timely manner; for appeals, in the event of refusal of said applications; and penalties for failure to comply with the obligation to provide information.

Measure b), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Implement training and dissemination programs on the mechanisms for access to information, for the purpose of facilitating their understanding by public officials and citizens, and optimizing the use of available technology to that end.*

[360] In its response to the questionnaire,¹²³ the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[361] – The design of a training program for public servants and civil society organizations on transparency and combating corruption, which has resulted, *inter alia*, in the training of 415 students in ethical values and prevention measures; the holding of six transparency and anticorruption fairs; training for 29,549 public servants in matters relating to transparency, including access to information; training for 267 civil society organizations, and production of 7 educational games that promote the practice of ethical values and educate players in the laws on prevention and combating corruption. The aim of the sixth such game, called “Information Access Roulette” (*La Ruleta de Acceso a la Información*), is to “*promote the full and effective exercise by every person of their right of access to public information as an essential tool to fight corruption.*”¹²⁴

123. *Ibid.*, p. 65.

124. *Ibid.*, p. 68.

[362] – The training provided to public-sector institutions by the MTILCC on the need for all such institutions to have websites, in order to increase public access to the necessary information and increase the transparency of their activities. To that end, the response to the questionnaire notes that the MTILCC prepared a government website standardization guide and, starting in 2012, a pilot website standardization plan will be implemented involving the MTILCC and the Ministry of Communication.

[363] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure b) of the recommendation contained in section 4.2 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that after the new law in this area is adopted there will be a need to provide training in said law. The Committee also takes note of the limitations on the exercise of the right of access to information described by the press association and union during the on-site visit.¹²⁵

Measure c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Measure, analyze, and evaluate the operation of the procedure for gaining access to public information, so as to ensure that the procedure is actually operational.*

[364] In its response to the questionnaire,¹²⁶ the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[365] – The above-described process of strengthening the websites of public entities.

[366] – The website content-control and updating system, which consists, *inter alia*, of monthly control of the websites of executive branch entities and the form developed by the MTILCC for that purpose.

[367] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure c) of the recommendation contained in section 4.2 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind that the information supplied by the country under review does not refer to an analysis or evaluation of the effectiveness or operation of the procedures by which members of the public may request and receive public information, as the measure suggests.

4.3. Mechanisms for consultation

The recommendation in this section was satisfactorily considered.

4.4. Mechanisms to encourage participation in public administration

Recommendation:

Strengthen and continue implementing mechanisms that encourage civil society and nongovernmental organizations to participate in the conduct of public affairs.

125. See paragraphs 347 and 348 of this report.

126. See response of the Plurinational State of Bolivia to the questionnaire in the fourth review round, p. 71.

Measure a), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Establish mechanisms, additional to the existing ones, to strengthen civil society and nongovernmental organizations in their efforts to prevent corruption and develop public awareness as to the problem; and promote awareness of the mechanisms of participation established and how to use them.*

[368] In its response to the questionnaire,¹²⁷ the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[369] – The civil society participation and society oversight envisaged in articles 241 and 242 of the Constitution.

[370] – Law No. 004, Article 10 of which provides that the rights and powers of society oversight include to identify and report acts of corruption and lack of transparency to the appropriate authorities, as well as contributing to administrative and judicial proceedings concerning acts of corruption.

[371] – The inclusion of civil society representatives in the National Council against Corruption, Illicit Enrichment, and Money-Laundering, pursuant to Article 6 of Law No. 004.

[372] – The active participation in the above Council of 394 civil society organizations in society control forums around the country.

[373] – The proposed social oversight law currently discussion in the Plurinational Legislative Assembly.

[374] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure a) of the recommendation contained in section 4.4 of Chapter IV of this report and of the need for the latter to continue to give attention thereto, bearing in mind, as emerged during the on-site visit, that a law or some other provision is need to govern the society oversight envisaged in articles 241 and 242 of the Constitution.

[375] Given that the country has established additional mechanisms to strengthen civil society participation in the conduct of public affairs, the Committee believes it appropriate to amend measure a) of the recommendation in section 4.2 of chapter IV of this report as follows:

[376] a) Consider adopting the social oversight law required by Article 241 of the Constitution, thus establishing the general framework for this mechanism's operation.

Measure b), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Regulate the functioning of the Citizen Legislative Initiative mechanism provided for in the Constitution, through the appropriate legal act, for the purposes of the citizenry being able to make effective use of it.*

¹²⁷ *Ibid.*, p. 70.

[377] In its response to the questionnaire,¹²⁸ the country under review provides the following information on the foregoing measure: “*A number of efforts have been made to introduce legislation on this aspect. However, they have not yet prospered and a legislative vacuum remains in this regard.*”

[378] In view of the foregoing, the Committee takes note of the need for the country under review to continue to give attention to the implementation of measure b) of the recommendation contained in section 4.4 of Chapter IV of this report.

Measure c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Consider the possibility, as appropriate and in accordance with its body of domestic laws, of abolishing so-called “desacato laws.”*

[379] In its response to the questionnaire,¹²⁹ the country under review provides the following information on the foregoing measure “*Work is underway on the drafting of a new Criminal Code, for which the inclusion or elimination of various offenses is being considered; however, this work has not yet concluded.*”

[380] In view of the foregoing, the Committee takes note of the need for the country under review to continue to give attention to the implementation of measure c) of the recommendation contained in section 4.4 of Chapter IV of this report.

Measure d), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Periodically evaluate the development of the powers that have been accorded to the Citizen Anticorruption Networks mentioned in section 4.1.1. of this Report.*

[381] In its response to the questionnaire,¹³⁰ the country under review presents information and new developments with respect to the above measure, among which the Committee notes::

[382] – Articles 241 and 242 of the Constitution, which recognize and regulate civil society participation and society oversight, providing society with functions to be able to exercise that control throughout the State and with broad participation by organized civil society.

[383] – The national level consultations made by the MTILCC on the points that should be included in the Law on Social Oversight, pursuant to Article 241 of the CPE.

[384] Similarly, during the on site visit, the representatives of the MTILCC reported that these “Citizen Networks” are no longer in existence due to the new governmental policies on civil society participation.

[385] In light of the foregoing, and in view of the new approach to civil society participation enshrined in the Constitution, the Committee considers that measure (d), above, is no longer applicable, and will eliminate it.

128. *Ibid.*, p. 74.

129. *Ibid.*

130. *Ibid.*, p. 70.

4.5. Mechanisms for participation in the follow-up of public administration

Recommendation:

Strengthen and continue implementing mechanisms that encourage civil society and nongovernmental organizations to participate in the monitoring of the conduct of public affairs.

Measure a), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Promote ways, when appropriate, for those who carry out public functions to allow, facilitate or help civil society and nongovernmental organizations to develop activities to monitor their public performance*

[386] In its response to the questionnaire,¹³¹ the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as a step that lead to a determination that it has been satisfactorily considered:

[387] – The accountability process and the increased participation therein by public-sector entities. In this regard, the response to the questionnaire reveals that in 2007, five entities took part in the process, whereas in 2011, the participation of 366 public-sector entities was anticipated in the accountability process.

[388] The Committee takes note of the satisfactory consideration of measure a) above, bearing in mind that the system of public accountability in the country under review, in which participation by all public-sector entities is mandatory, is a useful mechanism to facilitate monitoring of the conduct of public affairs by civil society organizations. The Committee also considers that the inclusion of civil society representatives in the National Council against Corruption, Illicit Enrichment, and Money-Laundering also serves that purpose.

Measure b), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Design and start up programs for disseminating the mechanisms of participation for monitoring the conduct of public affairs, and, when appropriate, train in and facilitate the tools needed by civil society and nongovernmental organizations to make adequate use of such mechanisms.*

[389] In its response to the questionnaire,¹³² the country under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that lead to a determination that it has been satisfactorily considered:

[390] – The training plan developed by the MTILCC for civil society organizations in order to enable them to engage in society oversight and participate efficiently in public accountability processes. Under this plan training has been provided to 24,742 representatives of civil society organizations.

131. *Ibid.*, p. 78.

132. *Ibid.*, p. 79.

[391] – The newsletters issued by the MTILCC, as well as its annual report, which serve to create awareness of citizen participation mechanisms.

[392] The Committee takes note of the satisfactory consideration of measure b) above, bearing in mind that the country under review has designed and implemented programs to raise awareness of existing citizen participation mechanisms and provided training to civil society organizations on those mechanisms.

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

Recommendation 5.1:

Determine and prioritize specific areas in which Bolivia considers that it needs the technical cooperation of other state parties to strengthen its capacity to prevent, detect, investigate and punish acts of corruption.

In addition, Bolivia should determine and prioritize the requests for mutual assistance for investigating or judging cases of corruption. (The rationale for this measure may be found in section 5.2 of chapter II of the report from the First Round.)

[393] In its response to the questionnaire,¹³³ the country under review presents information and new developments with respect to the above recommendation. In this regard, the Committee notes the following as steps that lead to a determination that it has been satisfactorily considered:

[394] – The determination that the country under review requires technical assistance in the following areas: (1) Recovery of state assets; (2) exchange of information for the SIARBE; (3) verification of sworn declarations of assets and income; (4) transfer of methodologies and experiences in matters relating to prevention; (5) development of prevention policies; (6) strengthening and consolidation of implementation and enforcement of the transparency program; and (7) strengthening of the MTILCC team with investigation skills to enable them to generate expertise.¹³⁴

[395] The response to the questionnaire also demonstrates that the country under review is prepared to offer technical assistance and share positive experiences with other states parties in terms of society oversight, public accountability, and public ethics mechanisms.

[396] Bearing in mind that the country under review has identified and prioritized areas where it needs technical cooperation and that recommendations have already been put forward with regard to the needs described in the relevant sections of this report, the Committee takes note of the satisfactory consideration of recommendation 5.1 above.

Recommendation 5.2:

Continue the efforts to exchange technical cooperation with other state parties as to the most effective ways and means of preventing, detecting, investigating and punishing acts of corruption. (The rationale for this measure may be found in section 3 of chapter II of the report from the First Round.)

133. See response of the Plurinational State of Bolivia to the questionnaire in the fourth review round, p. 79, *supra* note 4.

134. *Ibid.*, p. 80.

[397] In its response to the questionnaire,¹³⁵ the country under review presents information and new developments with respect to the above recommendation. In this regard, the Committee notes the following as steps that lead to a determination that it has been satisfactorily considered:

[398] – The international events and seminars held, which “...are opportunities for sharing information and presenting working processes and act, therefore, as a mechanism for knowledge transfer among representatives of the various agencies and countries that take part. Another instance of this is Bolivia's attendance at international events that offer the possibility of knowledge exchange.”¹³⁶

[399] – Participation by the country under review in anti-corruption conferences organized by the OAS, and in Open Government Partnership (OGP) events, among others.

[400] Bearing in mind that the country under review has continued its technical cooperation exchange efforts with other states parties, the Committee takes note of the satisfactory consideration of recommendation 5.2 above.

Recommendation 5.3:

Design and implement a comprehensive program for dissemination and training for competent authorities and officials, for the purpose of them learning and being able to apply the mutual assistance provisions for investigating or prosecuting acts of corruption provided for in the Convention and in other treaties signed by Bolivia. (The rationale for this measure may be found in section 3 of chapter II of the report from the First Round.)

It is also recommended that the competent officials be trained to attain broader mutual technical and legal cooperation to prevent, detect, investigate and punish acts of corruption.

[401] In its response to the questionnaire,¹³⁷ the country under review presents information and new developments with respect to the above recommendation. In this regard, the Committee notes the following as steps that contribute to progress in implementation of the recommendation:

[402] – The events organized by the MTILCC for public servants and civil society organizations, such as: International seminars on transparency and combating corruption, access to information and journalism, and citizen assistance; a good practices fair, through the Andean Community; and an international seminar on OAS and UN conventions and their implementation in Bolivia.¹³⁸

[403] – The creation by the MTILCC of the Bolivian Institute of Transparency Studies (IBEC) in June 2011. *Inter alia*, the purposes of the IBEC are to promote and carry out strategic research on transparency, corruption, and ethics in order to contribute to the formation of and discussions on public policies; broaden understanding and knowledge of the issue of corruption in Bolivia; influence public policies through coordination with civil society and grassroots movements; contribute to the fight against corruption in Bolivia through training and education in transparency and combating

135. *Ibid.*

136. *Ibid.*

137. *Ibid.*, p. 81.

138. *Ibid.*

corruption; and reduce tolerance of corruption in the population through public information and awareness raising.¹³⁹

[404] – The joint creation by the IBEC and *Universidad Andina Simon Bolívar* of a diploma course for anticorruption prosecutors, anticorruption police, and UIF and MTILCC staff, in order to comply with the specialization required by Law No. 004 and strengthen investigation of corruption cases and asset recovery.

[405] The Committee takes note of the steps taken by the country under review to proceed with the implementation of recommendation 5.3 in section 5 of chapter IV of this report, and of the need for it to continue to give attention thereto, taking into account that although ~~observes that~~ the country under review has developed and implemented a comprehensive program of awareness-raising and training through the activities carried out in this area by the MTILCC and IBEC, respectively, there is no indication that there is a comprehensive training and awareness-raising program with respect to mutual assistance, as suggested by the recommendation. Therefore, the Committee takes note of the need for additional attention to be given thereto.

Recommendation 5.4:

Measure, analyze and evaluate the results of the technical cooperation that Bolivia has obtained, so as to guarantee its effectiveness and efficiency, and to continue securing technical assistance from international organizations and cooperation agencies to fight corruption. (The rationale for this measure may be found in section 3 of chapter II of the report from the First Round.)

[406] In its response to the questionnaire,¹⁴⁰ the country under review presents information and new developments with respect to the above recommendation. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[407] The evaluations performed by donors of the various programs and projects financed with external funds, such as the assessment by the UNDP of “*the results of each of its technical programs, identifying good practices and case studies.*”¹⁴¹

[408] The Committee takes note of the steps taken by the country under review to advance in its implementation of recommendation 5.4 above, and of the need for the latter to continue to give attention thereto, bearing in mind that the state does not mention having itself carried out any measurement, analysis, or evaluation activities in keeping with the recommendation.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

The Committee did not formulate recommendations in this section.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1 was satisfactorily considered.

139. *Ibid.*

140. *Ibid.*

141. *Ibid.*, p. 83.

Recommendation 7.2:

Select and develop procedures and indicators, when appropriate, that make it possible to verify follow-up on the recommendations made in this report and to communicate to the Committee, through the Technical Secretariat, in this regard. For the purposes indicated, it may take into account the list of the most widely used indicators, applicable in the inter-American system, which were available for the selection indicated by Bolivia, which has been published by the Technical Secretariat of the Committee at the website of the OAS, as well as information derived from the analysis of the mechanisms developed in keeping with recommendation 7.3, which follow. (The rationale for this measure may be found in section 3 of chapter II of the report from the First Round.)

Recommendation 7.3:

Develop, when appropriate and when they do not yet exist, procedures for analyzing the mechanisms mentioned in this report, as well as the recommendations contained herein. (The rationale for this measure may be found in section 3 of chapter II of the report from the First Round.)

[409] In its response the country under review did not refer to recommendations 7.2 and 7.3 above. Therefore, the Committee notes the need for the Plurinational State of Bolivia to give further attention to implementation thereof.

ANNEX I

OUTSTANDING AND REFORMULATED RECOMMENDATIONS REGARDING THE TOPICS REVIEWED IN THE FIRST ROUND

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

1.1. Standards of conduct to prevent conflicts of interest and mechanisms to enforce them

Recommendation:

Strengthen the implementation of laws and regulations governing conflicts of interest.

Suggested Measures:

- a) Complement the existing rules, regulating, as appropriate, certain eventualities that could constitute conflicts of interest and which, in view of their importance, should receive more detailed and specific treatment.
- b) Subject to compatibility with the constitutional right of the individual to freedom of work, to examine the improvement and strengthening of appropriate and relevant restrictions for those who leave public sector employment and of measures to enforce them.
- c) Ensure that all public entities subject to the provisions of Law No. 2027 – Statute of the Public Servant, adopt the codes of ethics referred to in Article 13 of that law and/or any other instruments that establish basic principles of ethics, as soon as possible and implement mechanisms that ensure the practical evaluation of the provisions contained in those codes or instruments, among others, those related to the prevention of conflicts of interests, in order for their results to contribute to their development, strengthening and effective application.
- d) Adopt, through the appropriate statutory or administrative act, minimum content standards or requirements for the Codes of Ethics and/or any other instruments that establish basic principles of ethics that are adopted, that make it possible to adequately develop the aspects essential for attaining their objectives, which include those related to preventing conflicts of interest
- e) Adopt, through the appropriate statutory or administrative act, guidelines to give direction to the public entities in establishing mechanisms that ensure a practical evaluation of the Codes of Ethics provisions and/or any instruments that establish basic principles of ethics that are adopted, including those related to preventing conflicts of interest, such that their results contribute to their development, strengthening and effective application.

1.2. Standards of conduct and mechanisms to ensure the proper conservation and use of resources entrusted to government officials

Recommendation:

Strengthen the implementation of laws and regulations for controlling public resources.

Suggested Measures:

- a) Ensure that all public entities subject to the provisions of Law No. 2027 – Public Official Statute, adopt the codes of ethics referred to in Article 13 of that law and/or other instruments that establish basic principles of ethics, as soon as possible and implement mechanisms that ensure the practical evaluation of the provisions contained in those codes or instruments, among others, the preservation and proper use of resources entrusted to government officials, in order for their results to contribute to their development, strengthening and effective application.
- b) Adopt, through the appropriate statutory or administrative act, minimum content standards or requirements for the Codes of Ethics and/or any other instruments that establish basic principles of ethics that are adopted, that make it possible to achieve adequate development of the aspects essential to the attainment of their objectives, including those related to the preservation of public resources.
- c) Adopt, through the appropriate statutory or administrative act, guidelines that give direction to the public entities in complying with the obligation to implement mechanisms that ensure the practical evaluation of the Codes of Ethics provisions and/or those contained in any basic instruments that establish principles of ethics that are adopted, among them those related to the preservation of public resources, such that their results contribute to their development, strengthening and effective application.
- d) Perform an evaluation of the use and effectiveness of the standards of conduct for ensuring the preservation and adequate use of public resources and of the mechanisms for compliance with them in Bolivia, as instruments for preventing corruption, and as a result of that evaluation, consider adopting measures to promote, facilitate and consolidate or ensure their effectiveness for that purpose.

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

Recommendation:

Strengthen the Plurinational State of Bolivia's mechanisms for requiring public officials to report to the competent authorities any acts of corruption in government service that come to their attention.

Suggested Measures:

- a) Adopt and implement the provisions and measure necessary to implement the Whistleblower and Witness Protection System created by Article 17 of Law No. 004; and ensure that the provisions or mechanisms that are adopted include, among others, protection from threats or retaliation to which they may be subjected as a result of compliance with this obligation.
- b) Once the new standards for government officials have been adopted and implemented, train them about their responsibility to report to the competent authorities any acts of corruption in the performance of public duties of which they may become aware.

- c) Ensure that the provisions and measures that implement the Whistleblower and Witness Protection System include, among other aspects, physical and workplace protection for government officials involved in the processing or investigating of complaints, in particular, those related to acts of corruption.
- d) Ensure that the institutions that will be responsible for implementing the above system have the necessary financial and human resources to carry out in full their responsibilities with regard to its operations; and make the necessary arrangements with other states and cooperation agencies to furnish these institutions with the necessary technical cooperation to enable them to carry out their functions effectively, taking into account the needs mentioned in this report.

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

Recommendation:

Strengthen the systems for registration of income, assets and liabilities.

Suggested Measures:

- a) Strengthen the process of receipt by the CGE of sworn declarations of assets and income by adopting the measures deemed necessary to speed up and facilitate their submission; eliminate the delay by public records offices in supplying the necessary information; systematize sworn declarations received; and create a consolidated real property database, among others.
- b) Issue provisions establishing objective criteria to be used in selecting those public servants whose sworn declarations will be verified *ex officio* by the MTILCC.
- c) Optimize the systems for analyzing the content of the Sworn Declarations of Assets and Income, and adopt the appropriate measures, such that those declarations can be a useful tool for detecting and preventing conflicts of interest, as well as for detecting possible cases of illicit enrichment.
- d) Consider modifying, through the measures deemed necessary, the sworn declaration of assets and income form, so that it requires not only financial information of the respective public servant, but also, at a minimum, that of their spouse.

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

Recommendation 3.1.

Review, for the purpose of appointing the Comptroller of the State as soon as possible, the possible contradiction between Articles 172(15) and 214 of the Constitution.

Recommendation 3.2.

Provide the CGE with the necessary human and financial resources to perform its functions properly, particularly with regard to the receipt and management of sworn declarations of assets and income.

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

4.1. General participation mechanisms

The Committee did not offer recommendations in this section.

4.2 Mechanisms for access to information

Recommendation:

Strengthen the mechanisms for ensuring access to public information.

Suggested Measures:

- a) Consider adopting a specific law on access to information, which contains provisions which develop and regulate, among other aspects, procedures for processing applications, in order to respond to them in a timely manner; for appeals, in the event of refusal of said applications; and penalties for failure to comply with the obligation to provide information.
- b) Implement training and dissemination programs on the mechanisms for access to information, for the purpose of facilitating their understanding by public officials and citizens, and optimizing the use of available technology to that end.
- c) Measure, analyze, and evaluate the operation of the procedure for gaining access to public information, so as to ensure that the procedure is actually operational.

4.3. Consultation mechanisms

The recommendation in this section was satisfactorily considered.

4.4. Mechanisms to encourage participation in public administration

Recommendation:

Strengthen and continue implementing mechanisms that encourage civil society and nongovernmental organizations to participate in the conduct of public affairs.

Suggested Measures:

- a) Consider adopting the social oversight law required by Article 241 of the Constitution, thus establishing the general framework for this mechanism's operation.

- b) Regulate the functioning of the Citizen Legislative Initiative mechanism provided for in the Constitution, through the appropriate legal act, for the purposes of the citizenry being able to make effective use of it.
- c) Consider the possibility, as appropriate and in accordance with its body of domestic laws, of abolishing so-called “*desacato* laws.”

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

The recommendation formulated in this section was satisfactorily considered.

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

Recommendation 5.1:

Design and implement a comprehensive program for dissemination and training for competent authorities and officials, for the purpose of them learning and being able to apply the mutual assistance provisions for investigating or prosecuting acts of corruption provided for in the Convention and in other treaties signed by Bolivia.

It is also recommended that the competent officials be trained to attain broader mutual technical and legal cooperation to prevent, detect, investigate and punish acts of corruption.

Recommendation 5.2:

Measure, analyze and evaluate the results of the technical cooperation that Bolivia has obtained, so as to guarantee its effectiveness and efficiency, and to continue securing technical assistance from international organizations and cooperation agencies to fight corruption.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

The Committee did not offer recommendations in this section.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1:

Select and develop procedures and indicators, when appropriate, that make it possible to verify follow-up on the recommendations made in this report and to communicate to the Committee, through the Technical Secretariat, in this regard. For the purposes indicated, it may take into account the list of the most widely used indicators, applicable in the inter-American system, which were available for the selection indicated by Bolivia, which has been published by the Technical Secretariat of the Committee at the website of the OAS, as well as information derived from the analysis of the mechanisms developed in keeping with recommendation 7.3, which follow.

Recommendation 7.2:

Develop, when appropriate and when they do not yet exist, procedures for analyzing the mechanisms mentioned in this report, as well as the recommendations contained herein.

ANNEX 2

**AGENDA FOR THE ON-SITE VISIT TO
THE PLURINATIONAL STATE OF BOLIVIA**

<u>Sunday, March 25, 2012</u>	
18:00 hrs. – 19:30 hrs. <i>Radisson Hotel</i>	Coordination meeting between the representatives of the Member States of the Subgroup and the Technical Secretariat.
19:30 hrs. <i>Radisson Hotel</i>	Coordination meeting between the representatives of the country under review, the Member States of the Subgroup and the Technical Secretariat.
<u>Monday, March 26, 2012</u>	
07:30 hrs. – 08:15 hrs. <i>Hotel Radisson</i>	Greeting by the Minister for Institutional Transparency and Fight against Corruption, Nardi Suño Iturry.
08:30 hrs – 09:40 hrs. <i>Radisson Hotel</i>	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional organizations, academics or researchers.
	Topic:
	<ul style="list-style-type: none"> • Cooperation between the private sector and oversight bodies in efforts aimed at preventing and combating corruption.
	<p><u>Suggested Participants:</u></p> <p><i>Society of Engineers of Bolivia (SIB)</i> Ivar Fernando Zabaleta, General Manager</p> <p><i>Federation of Private Businesses of Bolivia (CEPB)</i> Rodrigo Agreda, Executive Secretary</p> <p><i>Bolivian Collage of Accountants</i> Jaime J. Pacheco, Secretary General of the Technical Council of the Accounting Department</p>
09:50 hrs. – 11:15 hrs. <i>Radisson Hotel</i>	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional organizations, academics or researchers. (continuation)
	Topic:
	<ul style="list-style-type: none"> • Citizen participation mechanisms.

	<p><u>Participants:</u> <i>Doctor Héctor E. Arce Zaconeta</i> Academic, Universidad of San Andrés <i>Federation of Neighborhood Boards (FEJUVE)</i> Efraín Chambi, President <i>Confederation (Syndicate) of Intercultural Communities of Bolivia (CSCIB)</i> Rodrigo Agreda, Secretary for Earth, Territory and Ecology <i>Central Workers of Bolivia (COB)</i> Juan Luis Delgado, Secretary for Integration and Regional Development</p>
11:20 hrs. – 12:30 hrs. <i>Radisson Hotel</i>	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional organizations, academics or researchers. (continuation)
	<p>Topic:</p> <ul style="list-style-type: none"> • Access to Information.
	<p><u>Participants:</u> <i>National Press Association (ANP)</i> Franz Reynaldo Chávez, Coordinator <i>Federation of Press Workers of La Paz (FTPLP)</i> Boris Quisberth, Executive Secretary <i>Confederation of Women of Bolivia “Juana Azurduy de Padilla”</i> Máxima Apaza Millares, Executive Secretary</p>
12:30 hrs. – 14:00 hrs.	Lunch
14:00 hrs. – 18:00 hrs. <i>Radisson Hotel</i>	Ministry of Institutional Transparency and Fight against Corruption (MTILCC)
14:00 hrs. – 15:20 hrs.	<p>Panel 1:</p> <ul style="list-style-type: none"> • Institutional coordination mechanisms and regime of competencies. • Adoption of decisions. • Legal and administrative human resources regime. • Internal rules/norms for the fulfillment of its responsibilities. • Internal control mechanisms.
	<u>Participants:</u>

	<p>Nardi Suxo, Minister of Institutional Transparency and Fight against Corruption</p> <p>Carlos Camargo, Vice-Minister of Prevention, Promotion of Ethics and Transparency</p> <p>Gabriela Veizaga, Vice-Minister of Fight against Corruption</p>
15:30 hrs. – 16:40 hrs.	<p>Panel 2:</p> <ul style="list-style-type: none"> • Results in relation to the fulfillment of its responsibilities. • Accountability mechanisms. • Dissemination of its objectives and functions. <p><u>Participants:</u></p> <p>Carlos Camargo, Vice-Minister of Prevention, Promotion of Ethics and Transparency</p> <p>Gabriela Veizaga, Vice-Minister of Fight against Corruption</p> <p>Roxana Duarte, Director General of Legal Affairs</p> <p>Jessica Saravia, Director General of Corruption Investigations</p> <p>Ricardo Céspedes, Director General of Asset Recovery</p>
16:50 hrs. – 18:00 hrs.	<p>Panel 3:</p> <ul style="list-style-type: none"> • Difficulties with respect to the fulfillment of its responsibilities. • Information on best practices with respect to its functions. • Technical cooperation needs. <p><u>Participants:</u></p> <p>Carlos Camargo, Vice-Minister of Prevention, Promotion of Ethics and Transparency</p> <p>Gabriela Veizaga, Vice-Minister of Fight against Corruption</p> <p>Roxana Duarte, Director General of Legal Affairs</p> <p>Jessica Saravia, Director General of Corruption Investigations</p> <p>Ricardo Céspedes, Director General of Asset Recovery</p>
18:30 hrs. – 19:00 hrs. <i>Radisson Hotel</i>	<p>Informal meeting^{142/} between the representatives of the Member States of the Subgroup and the Technical Secretariat.</p>
<p><u>Tuesday, March 27, 2012</u></p>	

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

<p>09:00 hrs. – 10:50 hrs. <i>Radisson Hotel</i></p>	<p>Prosecutor General of the State (<i>Procuraduría General del Estado</i>) (PGE)</p>
<p>09:00 hrs. – 09:45 hrs.</p>	<p>Panel 4:</p> <ul style="list-style-type: none"> • Institutional coordination mechanisms and regime of competencies. • Adoption of decisions. • Internal rules/norms for the fulfillment of its responsibilities. • Legal and administrative human resources regime. • Internal control mechanisms. • Budgetary regime. <hr/> <p><u>Participants:</u> Hugo Montero, Prosecutor General of the State César Romano, Deputy Prosecutor for Evaluation, Follow-up and Creation of Legal Units of the Public Administration Danny López, Director General for Legislative Drafting</p>
<p>09:50 hrs. – 10:50 hrs.</p>	<p>Panel 5:</p> <ul style="list-style-type: none"> • Dissemination of its objectives and functions. • Accountability mechanisms. • Results in relation to the fulfillment of its responsibilities. <hr/> <p><u>Participants:</u> Hugo Montero, Prosecutor General of the State César Romano, Deputy Prosecutor for Evaluation, Follow-up and Creation of Legal Units of the Public Administration Danny López, Director General for Legislative Drafting</p>
<p>11:00 hrs. – 12:30 hrs. <i>Radisson Hotel</i></p>	<p>Financial Investigation Unit (UIF)¹⁴³</p>
<p>11:00 hrs. – 11:45 hrs.</p>	<p>Panel 6:</p> <ul style="list-style-type: none"> • Adoption of decisions. • Legal and administrative human resources regime. • Internal control mechanisms.

143. With the agreement of the review subgroup, before beginning the meetings scheduled for the fourth day of the on site visit, there was a brief meeting with the Director of the UIF to discuss panels 6 and 7.

	<p><u>Participants:</u> Mariela Sánchez, Director of the UIF Marco López, Legal Advisor Aldo Salinas, Legal Advisor</p>
11:45 hrs. – 12:30 hrs.	<p>Panel 7:</p> <ul style="list-style-type: none"> • Results in relation to the fulfillment of its responsibilities. • Dissemination of its objectives and functions. • Accountability mechanisms.
	<p><u>Participants:</u> Mariela Sánchez, Director of the UIF Marco López, Legal Advisor Aldo Salinas, Legal Advisor</p>
12:30 hrs. – 14:00 hrs.	Lunch
14:00 hrs. – 17:00 hrs. <i>Radisson Hotel</i>	Public Ministry/ Office of the Attorney General
	<p>Panel 8:</p> <ul style="list-style-type: none"> • Institutional coordination mechanisms and regime of competencies. • Adoption of decisions. • Legal and administrative human resources regime. • Internal rules/norms for the fulfillment of its responsibilities. • Results in relation to the fulfillment of its responsibilities. • Difficulties with respect to the fulfillment of its responsibilities.
	<p><u>Participants:</u> Weimar Guzmán, Attorney General (Interim) Víctor Hugo Cuellar, Secretary General José Gutiérrez, Director of Finance Norma Olmos, National Anticorruption Coordinator, Delegate from the Technical Corruption Coordination Team</p>
17:30 hrs. – 18:00 hrs. <i>Radisson Hotel</i>	Informal meeting between the representatives of the Member States of the Subgroup and the Technical Secretariat.

<u>Wednesday, March 28th, 2012</u>	
09:00 hrs. – 12:30 hrs. <i>Radisson Hotel</i>	Comptroller General of the State
09:00 hrs – 10:45 hrs.	<p>Panel 9:</p> <ul style="list-style-type: none"> • Functions of the Comptroller. • Difficulties with respect to the fulfillment of its responsibilities. • Inter-institutional coordination mechanisms. • Technical cooperation needs.
	<p><u>Participants:</u> Gabriel Hervas, Comptroller General of the State Henry Ara Pérez, Deputy Comptroller of the State Edino Clavijo, Director of Legal Services</p>
11:00 hrs. – 12:30 hrs.	<p>Panel 10:</p> <ul style="list-style-type: none"> • Prevention of conflicts of interest. • Sworn declarations of assets and liabilities.
	<p><u>Participants:</u> Gabriel Hervas, Comptroller General of the State Henry Ara Pérez, Deputy Comptroller of the State Edino Clavijo, Director of Legal Services Carlos Camargo, Vice-Minister of Prevention, Promotion of Ethics and Transparency Gabriela Veizaga, Vice-Minister of Fight against Corruption Ricardo Céspedes, Director General of Asset Recovery for the MTILCC</p>
12:30 hrs. – 14:00 hrs.	Lunch
14:00 hrs. – 15:50 hrs. <i>Radisson Hotel</i>	Judicial Branch: Council of the Judiciary
	<p>Panel 11:</p> <ul style="list-style-type: none"> • Legal and administrative human resources regime. • Internal rules/norms for the fulfillment of its responsibilities. • Internal control mechanisms. • Dissemination of its objectives and functions.

	<ul style="list-style-type: none"> • Accountability mechanisms.
	<p><u>Participants:</u> Cristina Mamani, President of the Council of the Judiciary Ernesto Aranibar, Deacon of the Council of the Judiciary Limbert Rojas, Secretary of the Plenary of the Council of the Judiciary</p>
16:00 hrs. – 17:50 hrs. <i>Radisson Hotel</i>	Judicial Branch: Supreme Court of Justice
	<p>Panel 12:</p> <ul style="list-style-type: none"> • Adoption of decisions. • Results in relation to the fulfillment of its functions. • Dissemination of its objectives and functions. • Accountability mechanisms.
	<p><u>Participants:</u> José Miguel Hurtado, President of the Supreme Court of Justice María del Rosario Bazagoytia, Assistance Attorney</p>
17:30 hrs. – 18:00 hrs. <i>Radisson Hotel</i>	Informal meeting between the representatives of the Member States of the Subgroup and the Technical Secretariat.
<u>Thursday, March 29, 2012</u>	
08:30 hrs. – 12:30 hrs. <i>Radisson Hotel</i>	Follow-up to Recommendations from the First Round
08:30 hrs. – 10:20 hrs.	<p>Panel 13:</p> <ul style="list-style-type: none"> • Conservation of public resources. • Obligation to report acts of corruption. • Prevention of conflicts of interest. • Assistance and Cooperation.
	<p><u>Participants:</u> Carlos Camargo, Vice-Minister of Prevention, Promotion of Ethics and Transparency of the MTILC Gabriela Veizaga, Vice-Minister of Fight against Corruption of the MTILCC Roxana Duarte, Director General of Legal Affairs of the MTILCC Jessica Saravia, Director General of Corruption Investigations of the</p>

	<p>MTILCC</p> <p>Ricardo Céspedes, Director General for Asset Recovery of the MTILCC</p>
10:30 hrs. – 12:30 hrs.	<p>Panel 14:</p> <ul style="list-style-type: none"> • Access to Information and civil society participation. <p><u>Participants:</u></p> <p>Galo Silvestre Bonifaz, Deputy, Plurinational Legislative Assembly.</p> <p>Carlos Camargo, Vice-Minister of Prevention, Promotion of Ethics and Transparency</p> <p>Gabriela Veizaga, Vice-Minister of Fight against Corruption</p> <p>Roxana Duarte, Director General of Legal Affairs of the MTILC</p> <p>Jessica Saravia, Director General of Corruption Investigations of the MTILCC</p> <p>Ricardo Céspedes, Director General for Asset Recovery of the MTILCC</p>
12:30 hrs. – 12:45 hrs. <i>Radisson Hotel</i>	<p>Informal meeting between the representatives of the Member States of the Subgroup and the Technical Secretariat.</p>
12:45 hrs. – 13:00 hrs. <i>Radisson Hotel</i>	<p>Final meeting^{144/} between the representatives of the country under review, the Member States of the Subgroup and the Technical Secretariat.</p>

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

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

COUNTRY UNDER REVIEW:

PLURINATIONAL STATE OF BOLIVIA

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Minister of Institutional Transparency and Fight against Corruption

Alexandra Miranda

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Mónica Banegas

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Fabián Jaramillo

Superintendent of Telecommunications

Pablo Valdivieso

Secretary General of the Superintendency of Telecommunications

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Ombudsman (*Defensoria del Pueblo*)

Irina Echeverria
Institutional Advisor of the National Institute for Public Procurement

Rubén Montoya Vega
Advisor the Superintendent of Companies

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