

MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
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REPUBLIC OF TRINIDAD AND TOBAGO

FINAL REPORT

(Adopted at the March 22, 2012 plenary session)

SUMMARY

This report contains the comprehensive review of the implementation in the Republic of Trinidad and Tobago 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; and of the follow-up of the implementation of the recommendations formulated to the Republic of Trinidad and Tobago 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 the Republic of Trinidad and Tobago’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 October 2 and 4, 2012, by the members of the review subgroup for the Republic of Trinidad and Tobago, comprising of Antigua and Barbuda and Brazil, with the support of the Technical Secretariat. During that visit, the information furnished by the Republic of Trinidad and Tobago was clarified and expanded and the opinions of civil society organizations were heard. This provided the Committee with objective and complete information on those topics, assisting with the gathering of information on best practices.

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 following oversight bodies in the Republic of Trinidad and Tobago are reviewed in this report: the Integrity Commission, the Office of the Auditor General, the Service Commissions, in particular the Public Service Commission and the Judicial and Legal Service Commission, the Ministry of the Attorney General, specifically the Office of the Director of Public Prosecutions (DPP) and the Anti-Investigation Corruption Bureau (ACIB), and the Office of the Ombudsman.

Some of the recommendations formulated to the Republic of Trinidad and Tobago for its consideration in connection with the aforementioned bodies are aimed toward objectives, such as the following:

Provide to the Integrity Commission, the Service Commissions, the Office of the Director of Public Prosecutions, the Anti-Corruption Investigation Bureau and the Office of the Ombudsman with the financial and human resources to fully perform their attributions and functions, within available resources.

With regard to the Integrity Commission, provide it with the competence to impose administrative sanctions; implement a legislative framework for the examination of public bodies in order to facilitate the discovery of corrupt practices; and carry out training programs for persons exercising public functions with respect to their responsibilities under the Code of Conduct of the Integrity in Public Life Act as well as the workplace protections in place for reporting acts of corruption.

Regarding the Office of the Auditor General, provide it with the competence to impose administrative sanctions on government agencies and statutory authorities that fail to submit their financial statements, as well as publicizing the statutory bodies that do not submit these financial statements in a year; as well as maintain statistics on the amount returned to the State in cases of thefts or losses detected.

Pertaining to the Service Commission, implement mechanisms to modernize the recruitment and selection process to make it operate in an efficient and timely manner, address the lengthy delays in the disciplinary process; as well as publicize all the annual reports of the Public Service Commission and the Judicial and Legal Service Commission on the Services Commission Department's website.

With respect to the Ministry of the Attorney General, in particular the Office of the DPP and the ACIB, consider establishing measures or mechanisms that assure the independence of the Office of the DPP on administrative matters, establish a mechanism whereby the Office of the DPP provides feedback to government bodies that refer wrongdoings to this Office; and address the low conviction rate of corruption offences as compared to the number of investigations carried out by the ACIB. With respect to the ACIB, establish a formal training program, and publicize its work on an annual basis that is easily and readily available to the public.

Regarding the Office of the Ombudsman, establish time frames with appropriate enforcement mechanisms for government departments or authorities to respond to the Ombudsman with respect to the implementation of recommendations, publicize a list of government institutions that have not complied with a recommendation of the Ombudsman and implement measures or mechanisms that establishes a budget for the Office that ensures some degree of financial autonomy.

With regard to follow-up on the recommendations formulated to the Republic of Trinidad and Tobago 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 the Republic of Trinidad and Tobago 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 I of the report.

Among the progress related to the implementation of those recommendations, the following are noted: establishment of a Register in the Integrity Commission and making the response of the Opinion Leaders Group available to the public.

Some of the recommendations formulated to the Republic of Trinidad and Tobago in the First Round that are still pending or have been reformulated address issues such as: establishing codes of conduct for judicial officers as well as for the judiciary; subject those employed by contract to the Code of Conduct of the Integrity in Public Life Act; require all public servants to report acts of corruption of which they become aware during the course of their public functions; expand the Schedule in the Integrity in Public Life Act to include other senior officials with high level responsibilities in implementing public policy; and ensure that public authorities are complying with their statutory duty to respond in 30 days to a Freedom of Information request.

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

**REPORT ON IMPLEMENTATION IN THE REPUBLIC OF TRINIDAD AND TOBAGO OF
THE CONVENTION PROVISION SELECTED FOR REVIEW IN THE FOURTH ROUND,
AND ON FOLLOW-UP TO THE RECOMMENDATIONS FORMULATED TO THAT
COUNTRY IN THE FIRST ROUND¹**

INTRODUCTION

1. Content of the Report

[1] This report presents, first, a comprehensive review of the Republic of Trinidad and Tobago'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

[2] Second, the report will examine the best practices that the Republic of Trinidad and Tobago 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 the Republic of Trinidad and Tobago in the First Round and that it deemed to require to require additional attention in the reports it adopted for that country in the Second and Third Rounds, which may be consulted at the following webpage: www.oas.org/juridico/english/tto.htm

2. Ratification of the Convention and adherence to the Mechanism

[4] According to the official records of the OAS General Secretariat, the Republic of Trinidad and Tobago deposited the instrument of ratification of the Inter-American Convention against Corruption on April 15, 1998.

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

1. This Report was adopted by the Committee in accordance with the provisions of Article 3(g) and 25 of its Rules of Procedure and Other Provisions, at the plenary session held on March 22, 2013, at its Twenty-First meeting, held at OAS Headquarters, March 18 – 22, 2013.

2. A summary of the legal and institutional framework of the Republic of Trinidad and Tobago is available at: www.oas.org/juridico/english/tto.htm

I. SUMMARY OF THE INFORMATION RECEIVED

1. Response of the Republic of Trinidad and Tobago

[6] The Committee wishes to acknowledge the cooperation that it received, throughout the review process from the Republic of Trinidad and Tobago and in particular from the Ministry of the Attorney General, which was evidenced, inter alia, in the Response to the Questionnaire and in the constant willingness to clarify or complete its contents, and in the support for the on-site visit to which the following paragraph of this report refers. Together with its response, the Republic of Trinidad and Tobago sent the provisions and documents it considered pertinent. The Response as well as the provisions and documents may be consulted at the following webpage: www.oas.org/juridico/english/mesicic4_tto.htm

[7] The Committee notes that the country under review gave its consent for the on-site visit, in accordance with provision 5 of the *Methodology for Conducting On-Site Visits*.³ As members of the preliminary review subgroup, the representatives of Antigua and Barbuda and the Federative Republic of Brazil conducted the on-site visit from October 2 – 4, 2012, with the support of the MESICIC Technical Secretariat. The information obtained on that visit is included in the appropriate sections of this report, and its agenda of meetings is appended 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 Republic of Trinidad and Tobago up to October 4, 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*.

2. Information received from civil society organizations and/or, *inter alia*, private sector organizations; professional associations; academics and 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 Republic of Trinidad and Tobago, information was gathered from civil society, 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.

3. 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

II. REVIEW, CONCLUSIONS AND RECOMMENDATIONS ON IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION PROVISIONS 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 Republic of Trinidad and Tobago has a set of oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts, among which the following are highlighted: the Integrity Commission, the Office of the Auditor General; the Director of Public Prosecutions; the Service Commissions; and the Office of the Ombudsman.

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

[13] The Integrity Commission is responsible for promoting integrity as a foundational element of Trinidad and Tobago society. The Commission is mandated under the Constitution to ensure that persons in public life and persons exercising a public function comply with the laws governing integrity in the fulfillment of their duties and responsibilities to the people they serve. The Commission also undertakes initiatives aimed at facilitating citizens to engage in the dynamic evolution of the system.

[14] The Office of the Auditor General is responsible for the audit of financial statements of Government Ministries, Departments, Statutory Boards and Similar Bodies.

[15] The Ministry of the Attorney General Office is responsible for ensuring that the legislative and administrative framework is in place in Trinidad and Tobago to control, combat and eradicate corruption. In this respect, it counts on the Office of the Director of Public Prosecutions, which is fully responsible for all criminal prosecutions in the country and the Anti-Corruption Investigation Bureau, which is responsible for investigating criminal acts of corruption.

[16] The Service Commissions, made up of the Public Service Commission, the Police Service Commission, the Teaching Service Commission and the Judicial and Legal Service Commission, are responsible for appointing, promoting, transferring, confirming and removing public officers that fall under their purview, as well as exercise disciplinary control over them.

[17] The Office of the Ombudsman, whose mission is to ensure the protection of citizens and non-citizens against bureaucratic injustice by efficiently and effectively investigating complaints in an impartial and expeditious manner, education the public about their rights and advocating for improving the quality and standards of public administration in Trinidad and Tobago.

1. INTEGRITY COMMISSION

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

[18] The Integrity Commission has a set of provisions in its legal framework and other measures concerning, among others, the following:

[19] With respect to its objectives and functions, Section 138 of the Constitution of the Republic of Trinidad and Tobago stipulates that the Integrity Commission is responsible for receiving, from time to time, declarations in writing of the assets, liabilities and income of Members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Senators, Judges, Magistrates, Permanent Secretaries, Chief Technical Officers, Members of the Tobago House of Assembly, Members of Municipalities, Members of Local Government Authorities and Members of the Boards of all Statutory Bodies, State Enterprises and the holders of such other offices as may be prescribed.⁴ It is also responsible for the supervision of all matters connected with these declarations, as well as the supervision and monitoring of standards of ethical conduct to be observed by aforementioned offices as well as Members of the Diplomatic Service, Advisers to the Government and any person appointed by a Service Commission or the Statutory Authorities' Service Commission. Moreover, it is responsible for the monitoring and investigating of conduct, practices and procedures which are dishonest or corrupt.

[20] In addition, Part II of the Integrity in Public Life Act, 2000 further establishes the powers and functions of the Integrity Commission.⁵ For example, section 5 of the Act states that the functions of this Commission include receiving, examining and retaining all declarations filed under the Act; receiving and investigating complaints regarding any breaches of the Act or the commission of any offence under the Prevention of Corruption Act; investigating the conduct of any person falling under its purview which may be considered dishonest or conducive to corruption; examining the practices of and procedures of public bodies, in order to facilitate the discovery of corrupt practices; instructing, advising and assisting the heads of public bodies of changes in practices or procedures which may be necessary to reduce the occurrence of corrupt practices; and carrying out programs of public education to foster and understanding of standard of integrity, among others.⁶

[21] Section 5 also sets out that in the exercise of its powers and performance of its functions, the Commission is not subject to the direction or control of any other person or authority. To that end it may make use of the services or draw upon the expertise of any law enforcement agency or the Public Service, and it has the power to authorize investigations, summon witnesses, require the production of any reports, documents and any other relevant information, and that it is empowered to do all such things as it considers necessary or expedient for carrying out its functions.⁷

[22] The Integrity Commission consists of a Chairman, Deputy Chairman and three other members, and the President appoints them after consultation with the Prime Minister and the Leader of the Opposition. At least one member is to be an attorney-of-law with ten years experience and one member at least a certified or chartered accountant. A person cannot be a member of the Commission if that person is a person in public life, a person exercising a public function, or is not a citizen of Trinidad and Tobago. A vacancy in the membership of the Commission occurs on the death, resignation or revocation of the appointment of a member; absence of a member from three consecutive meetings of the Commission; or on the expiration of the term specified in the member's instrument of appointment. The members may be removed from office by the President when the

4. Constitution of the Republic of Trinidad and Tobago, www.ag.gov.tt/LinkClick.aspx?fileticket=%2fhxUNqk9AMg%3d&tabid=163

5. Integrity in Public Life Act, 2000, www.integritycommission.org.tt/PDF/integrity_act/Integrity%20in%20Public%20Life%20Act%202000.pdf

6. See also Section 3 of the Integrity in Public Life (Amendment) Act, 2010, www.ttparliament.org/legislations/a2010-01.pdf

7. See Section 4 of the Integrity in Public Life (Amendment) Act, 2010, *ibid*, and also Part V of the Integrity in Public Life Act, 2000, *supra* note 5.

Commission member: is found to be of unsound mind and is incapable of carrying out his or her duties; becomes bankrupt or compounds with his creditors; is convicted of any offence which brings the office into disrepute; is guilty of misconduct in relation to his or her duties; misbehaves in office; fails to carry out any duties or functions; or is incapable of performing his or her duties and functions for whatever reason.⁸

[23] Section 9 of the Act further provides for the staff and remuneration of the Commission. According to this section, the Commission is to be provided with adequate staff for the prompt and efficient discharge of its functions. They are to be public officers and appointed in accordance with section 121 of the Constitution, which provides that the Public Service Commission is responsible for appointments, promotions, transfers and confirmation of appointments, as well as for the removal and exercise of disciplinary control over these public officers. The Commission is also further empowered to appoint or employ, on such terms and conditions as it thinks fit, any other officers or employees as it thinks necessary for the proper carrying out its functions.

[24] In the additional information provided to the Response to the Questionnaire, the country under review noted that the Commission is comprised of both contract employees and public service employees, numbering 21 and 10 respectively.⁹ The senior officers in the Commission are the Registrar and the Deputy Registrar, who are selected based on their seniority and performance in the public service, subject to the veto powers of the Prime Minister. These are pensionable positions and have security of tenure until they leave the public service through normal attrition or voluntarily. As they are public officers, these positions are governed by Public Service Regulations, which contain the penalties for misconduct of an officer in public service.

[25] The country under review also notes in the provided additional information with respect to the appointment of senior officers on contract employment, that it was carried out “*as a result of a transparent Recruitment and Selection process. All contracts of employment were finally approved by the Commissioners. Their contracts of employment are for three (3) years and these employees are guided by the CPO’s [Chief Personnel Officer] guidelines for contract employment which communicates that they can be discharged from their duties as a result of ‘neglect or refuse or for any cause (except ill health) become unable to perform any of his duties or to comply with any order, including any order given by the Permanent Secretary/HOD [Head of Departments]/Head of Statutory Authority or by any officer duly authorized by him, or shall in any manner misconduct himself, the Gov’t may dismiss him.*”¹⁰

[26] Moreover, the country under review notes that all positions in the Commission have matching job descriptions that summarize the expectations of each job as well as their duties and responsibilities. The employees are subject to an annual appraisal report so as to ensure they are meeting expectations. These appraisals are also utilized to identify gaps for improvements in the performance of their duties. The country under review also notes that the Commission has an annual training plan.¹¹

8. See section 8 of the Integrity in Public Life Act, *supra* note 5.

9. Additional Information Provided by the Country under Review to the Response to the Questionnaire, pgs. 5 – 6, www.oas.org/juridico/PDFs/mesicic4_tto_add.pdf

10. *Ibid.*, pg. 6.

11. *Ibid.*, pg. 8.

[27] With respect to its budget, section 9(4) of the Act states that all expenses incurred by the Commission for the purposes that of Act shall be a charge on the Consolidated Fund. As set out in its 2011 Annual Report, this means that:

[28] *“This provision in law brings the Commission under the operation of the exchequer and audit act, Chapter 69:01 and the Financial Regulations made thereunder. Within such a legal framework, the Commission receives its funding through direct charges on the Consolidated Fund as well as appropriations by Parliament through the annual appropriation act. The Commission has, during the Financial year 2011, complied with all the directives from the Ministry of Finance, the director of Budgets, the Comptroller of accounts and recommendations of the Auditor General. The Registrar of the Commission is the Accounting Officer, having been appointed by, and therefore responsible to, the Minister of Finance, and answerable to the Public accounts Committee of Parliament.”*¹²

[29] In addition, section 10 of the Act provides that the Commission is to make a report to Parliament no later than March 31 in each year of its activities in the preceding year and it shall be tabled in the Senate and the House of Representatives no later than May 31 of each year.¹³ This report, which is made available in the website of the Integrity Commission, provides information regarding the work carried out in 4 areas: compliance, investigations, public education and communications and corporate administration. Details are given regarding their work in these 4 areas, as well as a simple break down is given with respect to the allocation of expenditures for the year. Reference is also made with respect to the legal matters undertaken by the Integrity Commission, such as ex parte applications on individuals who have not complied with their declaration obligations under the Act.

[30] Finally, the Committee observes that the important institution of the Ombudsman receives complaints and provides assistance to persons who believe that they suffered administrative injustices at the hands of public officers employed by Government agencies and departments, such as the Integrity Commission, and makes recommendations to address these injustices.¹⁴

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

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

[32] The Integrity Commission is currently reviewing the manner it operates, which is reflected in the Strategic Plan 2012 – 2015 that is included in its 2011 Annual Report.¹⁵ The strategic objectives of this plan are the following: to enact regulations in support of all operations of the Integrity Commission; increased communication with all the public of the Commission; implementation of personnel policies and procedures and the full performance of performance management system for contract officers; a complete overhaul of the system for processing declarations, including recommendations for new declaration forms; the commencement of the examination of public bodies to facilitate the discovery of corrupt practices and a revision of the organizational structure of the

12, See 24th Annual Report to Parliament, 2011, pg. 18,

www.integritycommission.org.tt/documents/ANNUALREPORT.pdf

13. These Annual Reports are available at the following website: www.integritycommission.org.tt/reports.html

14. Office of the Ombudsman, www.ombudsman.gov.tt/

15. 2011 Annual Report of the Integrity Commission, *supra* note 12.

Commission for submission to Cabinet. The representatives from the Integrity Commission, during the on-site visit, also presented a significant list of proposed changes to the Integrity in Public Life Act, which it has been publicizing in their webpage.¹⁶

[33] In this respect, the team, during its on-site visit, became aware of certain problems that hinder the work of Integrity Commission in effectively executing its role in promoting integrity and preventing corruption. First, the Commission does not have the competence to impose administrative sanctions for breaches of the Integrity of Public Life Act on those persons exercising public functions or by persons in public life.¹⁷

[34] For example, with respect to violations of the Code of Conduct, section 31 of the Act provides that the Integrity Commission is to report any breach of the Code of Conduct to the appropriate House of Parliament, Service Commission, Board or other Authority and to the Director of Public Prosecutions, and it is up to these government bodies to take the disciplinary action as it thinks appropriate. As such, the Commission is limited to investigating breaches of the Code, and forwarding the results of those investigations to the appropriate authority, with no ability to impose sanctions.

[35] Similarly, a useful mechanism in place for preventing conflicts of interests is the use of blind trusts. Under section 22 of the Integrity in Public Life Act, where it appears to the Integrity Commission that a breach of the Act may have been committed or a conflict of interest may arise, it shall order the person in public life to place the assets in a blind trust on such terms and conditions as the Commission considers appropriate and file a copy of the trust deed with the Commission. Nevertheless, the Act does not provide for the imposition of administrative sanctions if a person in public life does not place assets in a blind trust to address a breach of the Act, or a conflict of interest.

[36] Finally, while there are criminal penalties in place for declarants who do not file their declarations, or fails to furnish particulars in their declaration or fails to file the statement of registrable interests, the Integrity Commission does not have the power to levy administrative fines and penalties for the same. Currently, the Act provides that where a person has not filed a declaration or fails to furnish particulars or fails to file the statement of registrable interests, the Commission is only empowered to publish such fact in the Gazette and at least one daily newspaper in circulation in Trinidad and Tobago, and may make an *ex parte* application to the High Court for an order directing such person to comply with the Act. The Committee notes that the publications of these names is first mentioned in the 2006 Annual Report of the Integrity Commission, where in the years 2003, 2004, 2005 and 2006, the number of persons published were 37, 27, 10 and 74 respectively.¹⁸ In the 2011 Annual Report, for the period 2002 – 2009, the Commission reports that it published the names of 255 persons and 41 names had been forwarded to the Integrity Commission's external legal counsel,

16. See for example, A Request for Review of the Role of the Integrity Commission September 2012, www.integritycommission.org.tt/documents/ArequestforreviewoftheRoleoftheIntegrityCommission-final.pdf

17. The Integrity in Public Life Act defines 'persons exercising public functions' as including all persons holding office under the Public Service, Judicial and Legal Service, Police Service, Teaching Service and Statutory Authorities' Service Commission, as well as members of the Diplomatic Service and Advisers to the Government. 'Persons in public life' are those offices listed in the Schedule to the Act, which are: Members of the House of Representatives; Ministers of Government; Parliamentary Secretaries; Members of the Tobago House of Assembly; Members of Municipalities; Members of Local Government Authorities; Senators; Judges and Magistrates appointed by the Judicial and Legal Service Commission; Members of the Boards of all Statutory Bodies and State Enterprises including those bodies in which the State has a controlling interest; and Permanent Secretaries and Chief Technical Officers.

18 2006 Annual Report of the Integrity Commission, pg. 11, www.integritycommission.org.tt/reports.html

for the processing of these ex-parte applications to the High Court.¹⁹ The Committee notes that it appears this form of persuasion has not been effective, as there are names on the list that are 9 years old.²⁰ The Committee believes that the use of administrative sanctions would prove to be a useful tool to assist in ensuring compliance by persons in public life and those exercising public functions with the Act. The Committee will formulate a recommendation in this regard. (see Recommendation 1.4.1 in Section 1.4 of Chapter II of this Report)

[37] The Committee also notes that the Integrity Commission's work may be strengthened if it implemented an electronic system for submitting and receiving declarations from persons in public life. In this respect, it could also enhance verification of these declarations. The Commission noted, during the on-site visit, that a significant number of declarations still require certification, which according to the 2011 Annual Report, total 3352 declarations.²¹ Currently, it takes 3 months internally to review and certify a declaration. Moreover, this situation is exacerbated by a significant increase in persons in public life that are required to file a declaration, therefore requiring more certifications. For example, in 2010, this number was 1289, while in 2011, this number is 1775, an increase of 38%.²² Notwithstanding that the topic of systems for registering income, assets and liabilities was reviewed in the First Round and recommendations were formulated, the country under review should consider implementing an electronic system for declarations so that submission is made easier and the process and review of the information provided is faster for certification. The Committee will formulate a recommendation in this regard.²³ (see Recommendation 1.4.2 in Section 1.4 of Chapter II of this Report)

[38] Another important function of the Commission is the power of investigation. The Commission, under section 33 of the Integrity in Public Life Act, may, on its own initiative or upon complaint of any member of the public, consider and enquire into any alleged breaches of the Act or any allegations of corrupt or dishonest conduct. Special powers of investigation are provided, such as requiring any person to produce within a specified time, all books, records, accounts, reports, data, stored electronically or otherwise, or any other documents relating to the functions of any public or private body, as well as require any person to provide information or answer any question that the Commission considers necessary. Nevertheless, the Commission, in the additional information provided by the country under review to the Questionnaire, indicated that though the Commission has these powers, it has been difficult to carry out investigations due to unwillingness of witnesses to cooperate, or difficulties by investigators to obtain documents and information, as well as the inability by investigators to search, seize and verify documents, to detain and interrogate persons suspected of being culpable, and difficulty in determining whether a witness is truthful or not. The Commission alleges that the inability of the investigators to conduct efficient and effective investigations results from inadequate legislation.

19. 2011 Annual Report, pg. 9, *supra* note 12.

20. The representatives from the Trinidad and Tobago Transparency Institute, in its meetings with the team during the on-site visit, stated that since the publication process was so slow, there are persons on the list who are no longer in public office.

21. 2011 Annual Report, pg. 7, *supra* note 12. Certification occurs when the Integrity Commission is satisfied that a declaration has been fully made, upon examination. Once satisfied, a person in public life receives a Certificate of Compliance, see section 13 of the Integrity in Public Life Act, *supra* note 5. During the on-site visit, the civil society organization, the Trinidad and Tobago Transparency Institute, stated that only a quarter of all declarations have been certified.

22. 2011 Annual Report, pg. 6, *supra* note 12.

23. In this respect, the country under review, in its observations to the draft preliminary report, noted there have been new developments since the Commission's last communication with MESICIC officials and that the Commission is in the process of implementing a system for the electronic processing of declarations of income, assets and liabilities.

[39] The Committee does observe that the legislation in place provides for penalties for persons and institutions for not complying with the investigation of the Commission, even though they are narrow in scope. The Committee believes that the country under review should review the penalties and mechanisms in place to consider whether they are sufficient to encourage compliance for a thorough investigation of allegations of corruption. The Committee will formulate a recommendation. (see Recommendation 1.4.3 in Section 1.4 of Chapter II of this Report)

[40] The Committee also notes that the Registrar of the Commission, as set out under section 1.1, is responsible for ensuring that the Integrity Commission complies with all the directives from the Ministry of Finance, the director of Budgets, the Comptroller of accounts and recommendations of the Auditor General. As the Registrar acts as the Accounting Officer, it is responsible to, the Minister of Finance, and answerable to the Public accounts Committee of Parliament. Assisting the Accounting Officer's work is the internal auditor, which provides objective analyses, appraisals, recommendations and pertinent comments activities, such as: appraising the soundness and application of accounting, financial and operating controls; ascertaining the reliability of accounting and other data developed within the organization; ascertaining the extent of compliance with establish policies and procedures; and appraising the quality of performance in carrying out assigned responsibilities.²⁴ Moreover, as set out in the Financial Regulations to the Exchequer and Audit Act, Chapter 69:01, section 13(4) of these Regulations set out that the internal auditor is to be part of an independent internal audit unit within the Accounting Unit of a government body.²⁵ The Committee notes that under the Strategic Plan 2012 – 2015, it appears that the Integrity Commission does not have an internal auditor working in the Commission, nor an internal audit unit or even an accounting unit in place. According to this Plan, it is contemplated that these units will be created in 2013 and 2014. The Commission should set an example for other government agencies in its conduct and operations, given the responsibilities it has in preventing corruption, and therefore the Committee considers that the establishment of these units for internal control should be carried out as soon as possible. The Committee will formulate a recommendation in this regard.²⁶ (see Recommendation 1.4.4 in Section 1.4 of Chapter II of this Report)

[41] One issue that the Integrity Commission noted in its Strategic Plan 2012 – 2015 and in the meetings during the on-site visit is the lack of regulations to the Integrity in Public Life Act. During these meetings, the representatives stated that regulations for the Act have never been enacted and it was expressed that a complete overhaul of Integrity in Public Life Act is needed before any such regulations should come into force. Nevertheless, the Committee notes that the Chairman of the Integrity Commission in a news conference in March of 2012 stated that one of the more urgent proposals for implementation of this year is the enactment of regulations:

[42] *“We have erred in not having done this before for these will spell out the rules which will guide the Commission in a format that will reduce the prospect of misunderstanding. There is no short cut for getting this right and the exercise will ultimately have to be approved by affirmative resolution of*

24. See Internal Audit Manual Prepared by the Financial Management Branch, Treasury Division, Ministry of Finance of Trinidad and Tobago, pg. iv, www.finance.gov.tt/content/pub104.pdf

25. Financial Regulations to the Exchequer and Audit Act, Chapter 69:01, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/69.01.pdf

26. In this respect, the country under review, in its observations to the draft preliminary report, noted that the Integrity Commission wished to clarify that while it does not have its own Accounting Unit due to its small size, the services of an accounting unit and internal audit are shared with the Office of the President. The Integrity Commission had sought in 2012 to have its own accounting unit established but after a review by the Treasury Division of the Ministry of Finance, the Commission was informed that the volume of transactions processed was still too small to justify a separate accounting unit.

Parliament. This exercise will be led by our In-house Counsel and is targeted to be completed by December 2012.”²⁷

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

[44] Another important aspect that the team noted during the on-site visit is the lack of coordination among the government agencies with the Integrity Commission. The Act, as previously stated, provides that any breaches of the Code of Conduct is to be forwarded to the appropriate House of Parliament, Service Commission, Board or other Authority and to the Director of Public Prosecutions, and it is up to these government bodies to take the disciplinary action as it thinks appropriate. During the visit, the Commission representatives stated that there is limited communication with these government bodies. For example, they stated that they have never received any feedback from the Public Service Commission and if there is a suggestion of criminal culpability, this is passed on to the Director of Public Prosecutions who then asks the police to investigate. Moreover, the representatives of the Commission indicated that they are constrained as well in sharing information with other important government bodies in law enforcement, such as the Board of Internal Revenue and the Financial Intelligence Unit. In this respect, the country under review further noted that section 35 of the Act provides that with respect to any investigation, the records of the Commission and any information revealed by a witness or by the production of documents cannot be disclosed other than that may be necessary for the purpose of proceedings in any Court related to a charge under the Act or any other written law. Given the importance of coordination among these bodies, in ensuring that the important provisions of the Integrity in Public Life Act are being observed and real consequences are taking place for non-compliance to the Act, the country under review should consider establishing a formal mechanism or arrangement that would facilitate the systematic exchange of information and feedback among these institutions involved in the fight against corruption. The Committee will formulate recommendations in this regard. (see Recommendation 1.4.6 in Section 1.4 of Chapter II of this Report)

[45] As previously noted, the Committee observes that in several instances, the Commission has not been able to carry out its work in a timely manner. For example, ensuring that all those required to declare their income assets and liabilities are doing so, in the verification of the content of those declarations, and in publishing the names of those that have not complied with the Act. In the meeting with the team of the on-site visit, the Commission indicated that it takes 3 months internally to review a declaration. Moreover, it has been noted that the publication the names of those that have not complied with the Act does not appear to be an effective tool for encouraging compliance. In addition, by the time this list is published, the civil society organization that met with the team, Transparency Institute of Trinidad and Tobago, indicated that there are persons on the list who are no longer public officials.

[46] Another important part of the Commission’s work that is not being carried out as desired is its power to examine the practices and procedures of the public bodies, in order to facilitate the discovery of corrupt practices, and to instruct, advise and assist the heads of public bodies of changes

27. Statement by Mr. Kenneth Gordon, Commission Chairman, News Conference of March 16, 2012, www.integritycommission.org.tt/documents/StatementbyChairmanatNewsConferenceMarch162012.pdf

in practices or procedures which may be necessary to reduce the occurrence of corrupt practices.²⁸ In this respect the representatives of the Commission, during the on-site visit, stated that these examinations were initiated in 2012 for one public body. The Committee commends the Commission for beginning this important work. However, the representatives did note certain limitations in their work in this regard. For example, there is a need for more personnel to carry out these examinations, especially those with accounting backgrounds or procurement experts, which appears to indicate the need for more human financial resources.

[47] In this respect, the representatives of the Integrity Commission indicated that financial resources are more than adequate, as it receives 25 million Trinidad and Tobago dollars. Nevertheless, in terms of human resources, they stated that they have a temporary organizational structure and most of the public officers employed are officers in contract, and that consultant will be brought in to undertake a study and make proposals for a permanent organizational structure. The representatives also stated that their accommodations are not adequate, and are in the process of being removed from their current premises.²⁹ The Committee notes that although, during the on-site visit, the representatives indicated that the budget may be adequate, in its 2011 Annual Report, the Integrity Commission noted:

[48] *“The provision of 1.2 million dollars to service existing maintenance contracts and the engagement of forensic investigative services proved to be inadequate. The Commission’s work in respect of the carrying out of investigations was therefore severely stymied. The Commission initially sought to suppress expenditure in other areas so as to channel financial resources to this critical area. Representations were made to the Ministry of Finance to address this issue explaining the effect on the Commission’s ability to engage foreign forensic services. Eventually, the Commission’s allocation under this item was augmented during the course of fiscal year 2011 by \$4,500,000; however, the funding was only released in July 2011. Given the time-lapse, there was inadequate time for the full engagement of forensic services required and the completion of contracts in order for payments to be effected before the end of the fiscal year September 30, 2011.”*³⁰

[49] Given the foregoing, the Committee believes that the country under review should consider reviewing the budget allocated to the Integrity Commission, ensuring it has the necessary human and financial resources to carry out its important work. The Committee will formulate a recommendation in this regard. (see Recommendation 1.4.7 in Section 1.4 of Chapter II of this Report)

[50] As aforementioned, the Integrity Commission is beginning to examine the practices and procedures of the public bodies, in order to facilitate the discovery of corrupt practices, and to instruct, advise and assist the heads of public bodies of changes in practices or procedures, which may be necessary to reduce the occurrence of corrupt practices. In this regard, during the on-site visit,

28. See sections 5(g) and (h) of the Integrity in Public Life Act, *supra* note 5.

29. In the 2011 Annual Report, the Integrity Commission notes the following: *“The Commission continues to be severely challenged in respect of the accommodation of its staff and to facilitate its expansion. In September 2010, the Commission was informed of the intention of the landlord, Unit Trust Corporation, to renew the lease of only one (1) of the two (2) floors which the Commission occupied. All staff are now accommodated on one floor. The Commission has also conducted some refurbishment and redesign work on the floor to improve the effectiveness of its operations and to enhance the physical environment. The Integrity Commission has approached the Ministry of Public Administration and subsequently the Ministry of Housing and the Environment under whose portfolio the government’s Property Management Division now falls to secure alternative accommodation. This accommodation is urgently needed,”* *supra* note 12, pg. 21.

30 2011 Annual Report, pg. 19, *supra* note 12. Moreover, as stated in the meeting with the team during the on-site visit, it was the belief of the civil society organization, the Trinidad and Tobago Transparency Institute that the Integrity Commission does not have sufficient resources to carry out its work.

the representatives of the Commission noted that there are no specific provisions in the Act that focus on these examinations of public bodies. As a result, there are no legal provisions in place that give details on the intent of the Act, which could come in the form of an organizational ethics audit or a good governance review.³¹

[51] In addition, in the additional information provided by the country under review to its Questionnaire, Trinidad and Tobago notes:

[52] *“The current law does not mandate public bodies to facilitate the Integrity Commission in the examination of their procedures or are they legally bound to accept and recommendations made. Any examination of public bodies is accomplished due to the good will of the relevant public body. Should a public body refuse to facilitate the Integrity Commission, this refusal does not constitute a breach of any law.”*³²

[53] Given the foregoing, the Committee believes that the country under review should consider, where appropriate, to provide the sufficient resources to carry out these examinations and that a legislative framework be put in place for carrying out these important examinations and that it be made mandatory that public bodies participate in these examinations. The Committee will formulate recommendations in this regard. (see Recommendations 1.4.8 and 1.4.9 in Section 1.4 of Chapter II of this Report)

[54] During its visit, the Commission also presented information regarding the outreach programs to the public of their work, especially with respect to building awareness with school children and the training being provided to persons in public life with respect to their obligation to submit declaration.³³ These initiatives were undertaken in fulfillment of the Commission’s mandate to carry out programs of public education to foster an understanding of the standards of integrity in place. Nevertheless, the Commission indicated that while it does carry out these types of programs of awareness, it only conducts seminars with respect to the requirements in the Act for submitting declarations, but does not carry out training for public servants in general regarding their responsibilities in observing the Code of Conduct in the Act, nor the workplace protections afforded to public servants when they do report acts of corruption. In addition, the representatives of the Commission also requested technical cooperation assistance in reaching out to the public in general about its work, making inquiries as to the programs in place in other countries. The Committee will formulate recommendations in this regard.³⁴ (see Recommendations 1.4.10 and 1.4.11 in Section 1.4 of Chapter II of this Report)

[55] In this respect, the Trinidad and Tobago Transparency Institute, in its meeting with the team during the on-site visit, stated that the Integrity Commission has been robust recently in outreach and awareness building. Nevertheless, it believes the Commission has not been making people aware of the workplace protections in place from reprisals, as enacted in the Integrity in Public Life

31. See for example, A Request for Review of the Role of the Integrity Commission September 2012, *supra* note 16.

32. Additional Information to the Response, pg. 14, *supra* note 9.

33. 2011 Annual Report, pgs. 14 – 17, *supra* note 12.

34. In this respect, the country under review, in its observations to the draft preliminary report, noted that effective 2012 declarant education seminars conducted by the Commission include a presentation on the code of conduct as outlined in the Integrity in Public Life Act. These presentations are made to persons in public life as well as persons exercising public functions.

(Amendment) Act, 2010.³⁵ As such, public officers, unaware of these provisions, do not feel safe reporting acts of corruption.

[56] Related to public outreach, the Committee takes note that the Commission has a website in place, containing the programs it has carried out, as well as relevant publications, such as its Annual Reports.³⁶ It also allows for the public to submit a complaint if a person in public life or a person exercising a public function has contravened the Integrity in Public Life Act; or that in relation to the Register of Interests, the person has a conflict of interest or that the person is committing or has committed an offence under the Prevention of Corruption Act or any other law. Nevertheless, the Committee notes that the Commission does not make all its Annual Report available, with a notable gap for the years 2008 – 2009, which is not explained, given that all the other Annual Reports are available for the years the Commission has been in operation. Given the important role the Commission undertakes in promoting integrity and transparency as well as preventing corruption, the Committee will formulate a recommendation. (see Recommendation 1.4.12 in Section 1.4 of Chapter II of this Report)

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

[57] In the additional information provided by the country under review to the Response to the Questionnaire, the Integrity Commission provided the following tables with respect to investigations of the conduct of persons which, in the opinion of the Commission, may be considered dishonest or conducive to corruption:

Table 1:³⁷

Year	Investigations started	Investigations on-going	Investigations suspended
2007	17	Nil	Nil
2008	18	One	Nil
2009	23	Nil	Nil
2010	37	8	Nil
2011	49	10	Nil

Table 2:

Year	Investigations shelved due to being statute barred	Investigations shelved without decision due to merits	How many are open	How many referred to competent authority
2007	Nil	Nil	Nil	Nil
2008	Nil	Nil	Nil	Nil
2009	Nil	Nil	Nil	Nil
2010	Nil	Nil	8	4
2011	Nil	Nil	10	1

35. Integrity in Public Life (Amendment) Act, 2010, *supra* note 5.

36. The Integrity Commission of Trinidad and Tobago, www.integritycommission.org.tt/index.html

37. The country under review noted that it would be a challenge to provide this information at this time with respect to the number of investigations that have been completed in a given year, as well as the number of investigations that have been carried over.

[58] More information regarding these investigations is also found in the Annual Reports of the Integrity Commission. For example, the 2011 Annual Report provides, with respect to the status of complaints, the following: 24 are backlogged from prior years; 43 were received that year from members of the public; and 6 were initiated by the Commission for the year 2011. The Commission also noted that during the course of the year, it conducted over 150 interviews, obtained and recorded 220 statements and obtained and examined volumes of documents. In addition, 42 investigations were completed, while 31 are incomplete as of the end of 2011.

[59] The Committee notes that in the table provided, and in the information provided in the Annual Reports, the Integrity Commission, there is a significant backlog with respect to the investigations to be conducted. The Integrity Commission does note that it has strengthened its investigative capacity with the recruitment of a Director of Investigations, two Financial Investigators, two Criminal Investigators, an Investigative Researcher and an Administrative Secretary, and that it has helped expedite a number of investigations. However, the Committee reiterates its recommendation made under section 1.2 with respect to providing the Commission with the adequate human and financial resources to effectively carry out its mandate.³⁸

[60] In addition, the Integrity in Public Life Act provides numerous instances whereby the Commission is to refer findings of wrongdoing to other government bodies so that they can take appropriate action. For instance, if the Commission finds that a person in public life has breached the Act by not providing a full disclosure in its declaration, or if after an investigation, the Commission finds that an offence has been committed, it is to refer the matter to the Director of Public Prosecutions. Similarly the Integrity Commission is to report any breach of the Code of Conduct to the appropriate House of Parliament, Service Commission, Board or other Authority and to the Director of Public Prosecutions, so that these government bodies take the disciplinary action as it thinks appropriate. The Committee notes, however, that the Commission does not maintain results on how many referrals they have made nor on their outcome once they are passed on to other government bodies. The Committee believes that the Integrity Commission should maintain results on how many referrals it has made and that the country under review should consider implementing a mechanism whereby the Commission receives feedback from the government bodies regarding the outcome of these referrals, for example, in the case of the Director of Public Prosecutions whether the findings of the investigations were deemed to have merit to warrant further action. This information should also be made publicly available, in their Annual Reports as well as on the website of the Integrity Commission. The Committee will formulate recommendations in this regard. (see Recommendations 1.4.13 and 1.4.14 in Section 1.4 of Chapter II of this Report)

[61] The Committee also notes, under section 1.2, that there is a requirement for persons in public life who file their declarations are to also file a statement of registerable interests. In the Annual Reports available to the Committee, unlike number of declarations filed in a year, there appears to be no statistics on the number of these statements received. The Committee will formulate a recommendation in this regard. (see Recommendation 1.4.15 in Section 1.4 of Chapter II of this Report)

38 In this respect, the country under review, in its observations to the draft preliminary report, noted that all complaints received and investigations initiated by the Integrity Commission are receiving attention. A number of investigations have not however been completed due to factors beyond the control of the Commission e.g. the non-receipt or untimely receipt of responses to requests for information.

1.4. Conclusions and recommendations

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

[63] The Republic of Trinidad and Tobago has considered and adopted measures intended to maintain and strengthen the Integrity Commission as an oversight body, as described in Chapter II, Section 1 of this Report.

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

- 1.4.1. Subject to its Constitution and the fundamental principles of its legal system, consider providing the Integrity Commission with the competence to impose administrative sanctions for breaches of the Integrity in Public Life Act, and maintain records on those sanctions that allow for a comprehensive evaluation of their effectiveness. (See section 1.2. of Chapter II of this Report)
- 1.4.2. Implement an electronic system for the submission, reception and certification of declarations from persons in public life. (See section 1.2 of Chapter II of this Report)
- 1.4.3. Consider reviewing the adequacy of the sanctions in place for failure to comply with an investigation carried out by the Integrity Commission, and if necessary take appropriate action to remedy any inadequacies. (See section 1.2 of Chapter II of this Report)
- 1.4.4. Establish the internal audit unit within the Integrity Commission, as set out in its Strategic Plan for 2012 – 2015. (See section 1.2 of Chapter II of this Report)
- 1.4.5. Consider enacting regulations for the Integrity in Public Life Act, as set out in the Strategic Plan for 2012 – 2015 of the Integrity Commission. (See section 1.2 of Chapter II of this Report)
- 1.4.6. Establish, as appropriate, a formal information exchange and coordination mechanism or arrangement between the Integrity Commission and other relevant government bodies. (See section 1.2 of Chapter II of this Report)
- 1.4.7. Provide the Integrity Commission with the budgetary and human resources needed for the proper performance of its function, within available resources. (See section 1.2 of Chapter II of this Report)
- 1.4.8. Consider implementing a legislative framework to consolidate the examinations of public bodies of their practices and procedures in order to facilitate the discovery of corrupt practices. (See section 1.2 of Chapter II of this Report)
- 1.4.9. Take steps to strengthen the participation of public bodies in the examinations of their practices and procedures in order to facilitate the discovery of corrupt practices. (See section 1.2 of Chapter II of this Report)

- 1.4.10. Where appropriate, seek the necessary technical cooperation from other states and cooperation agencies in order to enable the Integrity Commission to carry out its functions more effectively in reaching out to the public regarding its work. (See section 1.2 of Chapter II of this Report)
- 1.4.11. Carry out training programs for persons exercising public functions regarding their responsibilities under the Code of Conduct in the Integrity in Public Life Act as well as the workplace protections in place for reporting acts of corruption. (See section 1.2 of Chapter II of this Report)
- 1.4.12. Ensure that all Annual Reports with respect to the work of the Integrity Commission is easily and readily available to the public on its website. (See section 1.2 of Chapter II of this Report)
- 1.4.13. Maintain results on how many referrals it has made to government bodies when there is a finding of a wrongdoing, in order to identify challenges and recommend corrective measures. (See section 1.3 of Chapter II of this Report)
- 1.4.14. Implement a mechanism whereby the Commission receives feedback from the government bodies regarding the outcome of the referrals of wrongdoing. (See section 1.3 of Chapter II of this Report)
- 1.4.15. Maintain results on the number of statements of registerable interests are received in a given year, in order to identify challenges and recommend corrective measures. (See section 1.3 of Chapter II of this Report)

2. OFFICE OF THE AUDITOR GENERAL

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

[65] The Office of the Auditor General has a set of provisions in its legal framework and other measures concerning, among others, the following:

[66] With respect to its objectives and functions, section 116 of the Constitution of the Republic of Trinidad and Tobago establishes that the Auditor General shall audit and report annually on the public accounts of Trinidad and Tobago and of all officers, Courts and authorities of the country under review. It is also empowered to carry out audits of the accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State.³⁹

[67] The Exchequer and Audit Act, Chapter 69:01 further provides, under section 9, that the Auditor General shall examine, inquire into and audit the accounts of all accounting officers⁴⁰ and receivers of revenue⁴¹ and all persons entrusted with the assessment of, collection, receipt, custody, issue or payment of public moneys, or with the receipt, custody, issue, sale, transfer or delivery of any

39. Constitution of the Republic of Trinidad and Tobago, *supra* note 4.

40. The Exchequer and Audit Act, Chapter 69:01, defines an 'accounting officer' as, "any person appointed by the Treasury and charged with the duty of accounting for any service in respect of which moneys have been appropriated by the Constitution or by Parliament, or any person to whom issues are made from the Exchequer Account," rdg.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/69.01.pdf.

41. The Act defines 'receivers of revenue' as, "an officer appointed by the Treasury for the collection of, and for the accounting for, such items of revenue as the Treasury may specify."

stamps, securities, stores or other State property.⁴² In this regard, the Auditor General is to be satisfied that all reasonable precautions have been taken to safeguard the collection of public moneys and that the laws, directions and instructions relating thereto have been duly observed. Moreover, it is to be satisfied that all issues and payments were made in accordance with proper authority and that all payments were properly chargeable and is supported by sufficient vouchers or proof of payment. The Auditor General shall also ensure that all money expended has been applied to the purpose or purposes for which it was granted by Parliament, and that the expenditure conforms to the authority which governs it and has been incurred with due regard to the avoidance of waste and extravagance. It is also to ensure that essential records are maintained and the rules and procedures framed and applied are sufficient to safeguard the control of stores and other State property.

[68] Pursuant to section 116(6) of the Constitution, the Auditor General, in the exercise of his or her functions, is not subject to the direction or control of any person or authority.

[69] The country under review, in its Response to the Questionnaire, stated that the Auditor General is responsible for making decisions affecting the Department, though in some instances, Cabinet approval is required, for example, overseas travel.⁴³

[70] Section 116 further provides that in carrying out its work, the Auditor General shall have access to all books, records, returns and other documents relating to the accounts. Section 10 of the Exchequer and Audit Act, Chapter 69:01 further expands on the powers of the Auditor General in this respect. For example, in the exercise of its duties, the Auditor General is entitled to call upon any officer for any explanations and information; authorize any officer on his or her behalf to conduct any inquiry, examination or audit; send for and have custody to any books, accounts, vouchers or papers under the control of any officer relating to the public accounts. Section 10(2) reiterates that the Auditor General shall have access to all records, books, vouchers, documents, cash, stamps, securities, stores or other State property in the possession of any officer.

[71] Section 41 of the Exchequer and Audit Act, Chapter 69:01 provides the accounts of the Department of the Auditor General are to be audited and reported on by the Treasury.

[72] Section 117 provides that the Auditor General is to be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.⁴⁴ Section 136(7) of the Constitution further provides that the Auditor General may only be removed from office only inability to discharge the functions of the office whether arising from infirmity of mind, body or any other cause, or for misbehavior. Section 8(2) of the Exchequer and Audit Act, Chapter 69:10 provides that if an Auditor General is removed, the Minister of Finance is to make a full statement of the reasons at the first opportunity to Parliament. The laws and regulations in force relating to the public service are also applicable to the Auditor General.⁴⁵

42. Exchequer and Audit Act, Chapter 69:01, *supra* note 40.

43. Response of Trinidad and Tobago to the Questionnaire of the Fourth Round, pg. 3, www.oas.org/juridico/PDFs/mesicic4_tto_resp.pdf

44. This section further provides that the Auditor General shall hold office in accordance with section 136 of the Constitution, which provides upon attaining the age of sixty-five, the Auditor General is to vacate the office. In addition, section 7 of the Exchequer and Audit Act, Chapter 69:01 provides that the Auditor General cannot hold any other office or emolument in the service of the State.

45. Section 8(1) of the Exchequer and Audit Act, Chapter 69:01, *supra* note 40.

[73] With respect to the staff of the Auditor General, section 117(5) of the Constitution provides that the he or she shall be provided with a staff adequate for the sufficient discharge of the office.⁴⁶ Furthermore, the staff are to be public officers and appointed in accordance with section 121 of the Constitution, which provides that the Public Service Commission is responsible for appointments, promotions, transfers and confirmation of appointments, as well as for the removal and exercise of disciplinary control over these public officers. Section 121(8) further provides that before the Public Service Commission makes an appointment to or transfers a member of the staff of the Auditor General, it shall first consult with the Auditor General. In addition, the Chief Personnel Officer is responsible for setting the terms and conditions of employment.⁴⁷

[74] In the Response to the Questionnaire, the country under review further provided details on the recruitment of staff:⁴⁸

[75] *“Auditing personnel at the initial recruitment level have been selected by a process which involves the advertisement of the post; the sorting of applications based on pre-set criteria; the holding of a written test and interviews. Auditing personnel at the Audit Senior level are selected based on having attained a full professional qualification and through interviews. Clerical/Administrative and Human Resources Staff are selected through responses to advertisements by the Public Service Commission and interviews...Each position, whether unique to the Auditor General’s Department or in the wider Public Service would have certain qualification requirements. Persons would be appointed based on their fulfilling the necessary qualification requirements.”*

[76] With respect to the existence of documented procedures for performing their tasks, the country under review, in its Response to the Questionnaire, states that the auditing staff use approved programs of work to perform their tasks.⁴⁹ Other staff is guided by manuals and/or guides produced by the Personnel Department and the Public Service Commission as well as various Circulars, Financial Instructions, Financial Regulations and other documented procedures prepared by the Ministry of Finance. During the on-site visit, the representatives also stated that they ensure that their audit manuals are compatible with international standards, such as those promoted by the Caribbean Organization of Supreme Audit Institutions and the International Organization of Supreme Audit Institutions, and that these standards must be complied.

[77] With respect to the manner in which budgetary resources are needed for their operations, the country under review, in its Response to the Questionnaire, states that: *“Provision is made in the Estimates of Expenditure for funds to be utilized by the Department for the carrying out of the Department’s operations. The Department is subject to the financial regulations and other financial directives for accessing funds and reporting on expenditure.”*⁵⁰

[78] Finally, the Committee observes that the important institution of the Ombudsman receives complaints and provides assistance to persons who believe that they suffered administrative injustices

46. See also section 11 of the Exchequer and Audit Act, Chapter 69:01, *ibid.*, which states that there shall be appointed from time to time, for the office of the Auditor General, such numbers of officers and servants as may be necessary for the purposes of the Act.

47. Response to the Questionnaire, pg. 4, *supra* note 43. On pages 5 – 6 of the Response, the country under review further elaborates on the manner in which human resources for their operation are determined.

48. *Ibid.*, pgs. 5 – 6.

49. *Ibid.*, pg. 7.

50. *Ibid.*, pg. 8. See also pages 1 – 5 of the Accounting Manual Prepared by the Financial Management Branch, Treasury Division, Ministry of Finance of Trinidad and Tobago, www.finance.gov.tt/content/Accounting%20Manual%202011.pdf

at the hands of public officers employed by Government agencies and departments, such as the Office of the Auditor General, and makes recommendations to address these injustices.⁵¹

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

[79] The Office of the Auditor General has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were succinctly described in section 2.1. Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures.

[80] During the on-site visit, the representatives of the Office of the Auditor General stated that they do not have independence with respect to the hiring of staff, as they depend on the Public Service Commission for recruitment, though no one can be hired to the Office without first consulting the Auditor General. In addition, the representatives stated that they find that the Public Service Commission takes a long time with their recruitment process, which takes approximately 2 – 4 years. This situation was found to be frustrating to the Office, as by the time a post is ready to be offered, that person has found alternative employment. As a result, they find themselves understaffed, which affects their work, in particular the conducting of performance audits. For example, it was cited that there are 180 persons working, though there are 299 positions. As a consequence, as they are understaffed, in order to comply with the performance of auditing of accounts, personnel are pulled from performing performance audits.

[81] The Committee notes that the issue of hiring is a constitutional matter, as the Public Service Commission is given the constitutional responsibility for hiring in the public service, of which the Office of the Auditor General is part. The Committee also notes that the country under review has considered in the past to establish a national audit office, responsible for its own recruitment, in order to make the Office independent and properly functioning, two elements identified by the country under review as being essential for good governance.⁵² In addition, the Public Service Commission has been examining the possibility of delegating the function of advertisement, short listing and interviews for positions in offices that are peculiar to a Ministry or Department, provided that such functions are conducted within clear guidelines and that a representative of the Commission or Service Commissions Department sits on the interviewing panel.⁵³ Given the foregoing, the country under review should consider allowing the Office of the Auditor General to carry out its own recruitment, with the participation by the Public Service Commission, in order to better fulfill the human resource needs of this Office. The Committee will formulate a recommendation in this regard. (see Recommendation 2.4.1 in Section 2.4 of Chapter II of this Report)

[82] With respect to training, during the on-site visit, the representatives expressed that in general, the training program in place is good, and that the Office relies on local accounting bodies, such as the Institute of Chartered Accountants of Trinidad and Tobago and the Association of Chartered Certified Accountants to provide this training. Auditors also receive in-house training and by the Audit Office of the United Kingdom, such as the value for money audits. An annual training program

51. Office of the Ombudsman, *supra* note 14.

52. National Audit Office of Trinidad and Tobago Bill, 2006, preamble, www.oas.org/juridico/pdfs/mesicic4_tto_office_2006.pdf

53. 2008 Annual Report of the Public Service Commission, pg. 24, www.oas.org/juridico/pdfs/mesicic4_tto_psc_2008.pdf, and 2009 Annual Report of the Public Service Commission, pg. 23, www.oas.org/juridico/pdfs/mesicic4_tto_psc_2009.pdf, and 2010 Annual Report of the Public Service Commission, pg. 12, www.scd.org.tt/attachments/article/112/Public%20SC%20Annual%20Report%202010.pdf

is in place, based on an annual evaluation. However, the representatives stated that for the past two years, this has not operated as it should, and there is a training gap with respect to the skills and competencies required for carrying out the duties in the Office. As such, training has been ad hoc, rather than planned as in the past. The country under review should consider strengthening the training program in place for the Office of the Auditor General, ensuring that they are carried out so that not only is there staff development, but that the staff also has the competencies to carry out the important duties of the Office. This should also include induction training for new staff members, as the representatives also indicated that training for new staff is difficult and can be rudimentary, as the staff in place do not have the time to carry out this important training due to work responsibilities.⁵⁴ The Committee will formulate a recommendation. (see Recommendation 2.4.2 in Section 2.4 of Chapter II of this Report)

[83] The Committee notes that sections 26 – 30 of the Exchequer and Audit Act, Chapter 69:01, set out the procedure for the notification of irregularities by the Auditor General, the levy of surcharges for the recovery of payments not collected, or the deficiency or loss or the value of the property destroyed, and the procedure for recovery of this surcharge by suit of the Attorney General or by approval by the appropriate Service Commission, deductions from the salary of the officer of the amount of the surcharge. In addition, Regulation 131(3) of the Financial Regulations provides that when an accounting officer or receiver of revenue has reasonable grounds for suspecting that a shortage or loss of public money is the result of any irregularity, this is to be reported to the police. In this respect, the representatives, during the on-site visit, indicated that they do not receive feedback from the Director of Public Prosecutions on the recovery of funds and it would be beneficial to receive feedback from the police on irregularities detected. If any recovery is to be made, it will depend on the police; however no follow-up is ever made, only if a matter goes to the courts, and only out of courtesy they may become informed of the outcome. The country under review should consider establishing a mechanism for the Office of the Auditor General so that they receive formal feedback on the outcome of the reports made to the Attorney General, a Service Commission or the police for the recovery of a surcharge or when an irregularity is detected. The Committee will formulate a recommendation. (see Recommendation 2.4.3 in Section 2.4 of Chapter II of this Report)

[84] The Committee notes that during the on-site visit, the representatives indicated the need for an ‘in-house’ legal advisor to undertake routine legal work. In this respect, it would assist in achieving the functions of the Office of the Auditor General. The Committee will formulate a recommendation in this regard. (see Recommendation 2.4.4 in Section 2.4 of Chapter II of this Report)

[85] The Committee also observes that, as set out under section 1.2 in discussion of the Integrity Commission, an internal auditor is to be part of an independent internal audit unit within the Accounting Unit of a government body.⁵⁵ The importance and function of the internal audit in the public service was examined in the 2011 Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago, and observations were made in order to improve their performance.⁵⁶ However, the Committee cannot find the existence of an internal audit unit within the Office of the Auditor General. When looking at the website of this Office and its organizational chart available online, there is no indication of an internal auditor working within the Office, nor an

54. The representatives of the Office of the Auditor General also stated that it is difficult to train new personnel as they arrive throughout a year, rather than in one group.

55. Financial Regulations to the Exchequer and Audit Act, Chapter 69:01, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/69.01.pdf

56. 2011 Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago, pg. 169, www.auditorgeneral.gov.tt/documentlibrary/downloads/9/Vol%20%204%20-%20AG%20REPORT%202011.pdf

internal audit unit in place.⁵⁷ Given that the Office of the Auditor General should set an example for other government agencies in its conduct and operations, given the responsibilities it has in preventing corruption, the Committee considers that the establishment of these units for internal control should be carried out as soon as possible. The Committee will formulate a recommendation in this regard. (see Recommendation 2.4.5 in Section 2.4 of Chapter II of this Report)

[86] As set out in section 2.1, one of the most important functions carried out by the Office of the Auditor General is the auditing of the financial statements of the public accounts of Trinidad and Tobago. The Committee notes, however, that not all government agencies provide the financial statements for audit, as set out in the 2011 Report of the Auditor General.⁵⁸ For example, 13 receivers of revenue, who are required to prepare and transmit to the Auditor General statements of their receipts and disbursements, did not provide these statements.⁵⁹ In addition, 8 Administering Officers, those that administer a fund and are required to sign and transmit to the Auditor General a financial statement of those funds, did not do so.⁶⁰ The list of government agencies that did not submit financial statements include the Permanent Secretary of the Ministry of the Attorney General; the Permanent Secretary of the Ministry of Foreign Affairs; the Permanent Secretary of the Ministry of Public Administration and the Permanent Secretary of the Office of the Prime Minister, among others.⁶¹ With respect to the administrators of funds, the following did not submit a complete financial statement, among others: the Unemployment Fund; the CARICOM Petroleum Fund and the Infrastructure Development Fund.⁶²

[87] In this respect, during the on-site visit, the representatives of the Office of the Auditor General stated that there is a high level of compliance by Ministries and Departments in submitting their financial statements, however, in the case of statutory bodies, there are more than 150 years worth of financial statements outstanding, from some 60 entities, with some cases dating back to 1999. In one case, a statutory body did not submit a financial statement from 1983 – 2005. The representatives cited a lack of resources or competency in the statutory bodies themselves as reasons for non compliance. The representatives also stated that currently, a non-submission report is registered and the head of the agencies that do not submit these statements are called into Parliament to explain themselves in front of a standing committee, but there are no other consequences.

[88] The Committee notes that the sanction in place of being called into Parliament does not seem to encourage compliance with submitting a financial statement. The country under review should consider stronger sanctions that can be levied by the Office of the Auditor General on those persons or agencies responsible for submitting these statements, in order to encourage compliance. In addition, the Committee observes that the annual reports prepared by the Auditor General do not list the statutory bodies that have not submitted their financial statements, as currently found for Ministries and Departments. The Committee considers that making public the statutory bodies that are in non-compliance may encourage action on their part. The Committee will formulate recommendations in this regard. (see Recommendations 2.4.6 and 2.4.7 in Section 2.4 of Chapter II of this Report)

57. Organizational Chart of the Office of the Auditor General, www.auditorgeneral.gov.tt/documentlibrary/downloads/6/OrgChart.pdf

58. 2011 Report of the Auditor General, pg. 4, *supra* note 56.

59. *Ibid.* See also section 24(1)(c) of the Exchequer and Audit Act, Chapter 69:01, *supra* note 40.

60. *Ibid.* See also sections 24(2)(a) and (b) of the Exchequer and Audit Act, Chapter 69:01, *supra* note 40.

61. See Appendix 3 of the 2011 Annual Report of the Auditor General for a complete list, pg. 182, *supra* note 56.

62. See Appendix 4 of the 2011 Annual Report of the Auditor General for a detailed list, pg. 186, *ibid.*

[89] In this respect, the civil society organization, the Trinidad and Tobago Transparency Institute, observed during its meeting with the on-site team that there are issues with the work of the Auditor General, as the Office is only as effective as Parliament permits. Reports can be made on how monies are spent, however any action lies with Parliament to determine what steps are to be taken.

[90] In terms of transparency and accountability, the Committee notes that while the Office of the Auditor General submits an annual report on the public accounts of the country under review, it does not submit an annual report on the functions of the Office itself. For example, there are no publicly available details on the budget allocation and expenditures of the Office of the Auditor General, and the training carried out for their activities. The country under review should consider making annual reports on the activities of the Office easily available on its website, containing information that provides significant detail on its budget allocation and expenditures, for example, as well as the training activities carried out. The Committee will formulate a recommendation. (see Recommendation 2.4.8 in Section 2.4 of Chapter II of this Report)

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

[91] The Committee notes that the outcome of the audits of the Office of the Auditor General is provided in their annual reports. In addition, the Appropriation Accounts and Statements of Receipts are made available as well as Treasury Statements.⁶³ These documents provide detailed information on the public accounts of the country under review.

[92] In the annual reports, the Committee observes that the Auditor General provides information statistics on the unauthorized payment of a salary, pension, allowance, wage or other moneys. In this respect, the 2011 Annual Report provides the following:

[93] *“Certified Appropriation Accounts received for the financial year 2011 revealed that 5,280 cases of overpayment were discovered during the financial year, an increase of 643 from the previous year. The value of cases totalled \$20,370,970.62, an increase of \$2,156,607.63 or 11.84% over the previous years figure of \$18,214,362.99 (excluding an overpayment of \$75,250,000.00 by the Ministry of Tobago Development to the Tobago House of Assembly which was recovered). Appendix 8/1 to this Report refers. Of the amount overpaid, amounts totalling \$8,492,896.04 or 41.69% were recovered within the year.”*⁶⁴

[94] Appendix 8 of the 2011 Annual Report breaks down these statistics by Ministry/Department, number of cases of overpayment, the amount overpaid and the amount recovered.

[95] Moreover, these reports also maintain statistics on cases of thefts and losses reported. In this respect, the 2011 Annual Report provides the following:

[96] *“In accordance with Part XIX of the Financial Regulations, Chapter 69:01, Accounting Officers are required to investigate and report all losses of state assets to the Comptroller of Accounts and the Auditor General. According to reports received in the Auditor Generals Department, for the financial year 2011 there were 44 cases of thefts and losses of state property*

63. See www.auditorgeneral.gov.tt/applicationloader.asp?app=documentlibrary&pid=0&category=8

64. 2011 Annual Report, pg. 143, *supra* note 56.

*totalling \$1,322,269.83. The figure comprised 20 cases each under \$5,000.00 in value totalling \$35,277.75 and 24 cases totalling \$1,286,992.08, each in excess of \$5,000.00 in value.*⁶⁵

[97] Appendix 9 of the 2011 Annual Report breaks down these statistics by Ministry/Department, number of cases and the amount.

[98] The Committee takes note of the valuable information provided in these annual reports with respect to overpayments and on the report of thefts and losses. Nevertheless, the committee observes that the annual reports do not maintain statistics on the amount recovered from those responsible for thefts and losses, unlike the case of overpayments, a fact confirmed by the representatives of the Office of the Auditor General during the on-site visit. The country under review should consider maintaining statistics on the amounts ordered to be paid back to the State in cases of thefts or losses, and amount actually received, as is currently done for overpayments. The Committee will formulate a recommendation. (see Recommendation 2.4.9 in Section 2.4 of Chapter II of this Report)

2.4. Conclusions and recommendations

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

[100] The Republic of Trinidad and Tobago has considered and adopted measures intended to maintain and strengthen the Office of the Auditor General as an oversight body, as described in Chapter II, Section 1 of this Report.

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

- 2.4.1 Take appropriate measure to accelerate the hiring of personnel, such as considering delegating the function of advertisement, short listing and interviews for positions to the Office of the Auditor General, with participation by the Public Service Commission. (See section 2.2. of Chapter II of this Report)
- 2.4.2 Ensure that the training program for the staff of the Office of the Auditor General is carried out in a planned, coordinated manner, including orientation training for new staff members. (See section 2.2. of Chapter II of this Report)
- 2.4.3 Establish, as appropriate, an exchange of information mechanism for the Office of the Auditor General so that it receives formal feedback on the outcome of reported irregularities and recovery of surcharges from the Attorney General, the Service Commissions and the police. (See section 2.2 of Chapter II of this Report)
- 2.4.4 Appoint a legal advisor within the Office of the Auditor General to undertake routine legal work to assist in achieving the functions of this Office. (See section 2.2 of Chapter II of this Report)
- 2.4.5 Establish an internal audit unit within the Office of the Auditor General. (See section 2.2 of Chapter II of this Report)

65. *Ibid.*

- 2.4.6 Publicize the list of statutory bodies that do not submit their financial statements for the financial year. (See section 2.2 of Chapter II of this Report)
- 2.4.7 Provide the Auditor General with the competence to impose administrative sanctions on those government agencies and statutory bodies that fail to submit their financial statements for the financial year, as well as on those persons within those agencies and bodies that are responsible for preparing and submitting them on their behalf. (See section 1.2. of Chapter II of this Report)
- 2.4.8 Publish an annual report on the activities of the Office of the Auditor General that includes information such as its budget allocation, expenditures and training provided. (See section 3.2 of Chapter II of this Report)
- 2.4.9 Maintain statistics on the amount ordered to be paid back to the State in cases of thefts or losses and the amounts actually received, as is currently carried out for overpayments, in order to identify challenges and recommend corrective measures. (See section 3.2 of Chapter II of this Report)

3. SERVICE COMMISSIONS

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

[102] The Service Commissions has a set of provisions in its legal framework and other measures concerning, among others, the following:

[103] The Constitution of Trinidad and Tobago establishes various Service Commissions, which are vested with the power to appoint persons that fall under their purview to hold or to act in relevant offices, as well as exercising disciplinary control over them. In particular, the Constitution establishes the Judicial and Legal Service Commission, which is responsible for appointing and exercising disciplinary control over judicial and legal officers, such as magistrates and state counsel, in accordance with Section 111(4) of the Constitution, and the Public Service Commission, which is responsible for appointment and exercising disciplinary control over public officers, in accordance with section 121(7) of the Constitution⁶⁶ Moreover, the Public Service Commission has the power to enforce standards of conduct on the public officers that fall under its purview.⁶⁷

[104] With respect to the Judicial and Legal Service Commission section 110 of the Constitution provides that this Commission is to be made up of the Chief Justice, who shall be the Chairman, the Chairman of the Public Service Commission and three other members, who are to be appointed by the President after consultation with the Prime Minister and the Leader of the opposition.⁶⁸ The Constitution further provides that these members may only be removed from office for inability to

66. The exception being those public offices that fall under the purview of the Judicial and Legal Services Commission, the Police Service or the Teaching Service or offices to which the appointments are made by the President.

67 Constitution of the Republic of Trinidad and Tobago, section 121(1), *supra* note 4. In addition, the Public Service Commission has jurisdiction over the Civil, Fire and Prison Services.

68 One member is to be appointed from person who hold or have held offices as a judge of a court having unlimited jurisdiction in civil and criminal matters or a court having jurisdiction in appeal from any such court, and two from among persons with legal qualifications, one of whom is not in active practice.

discharge the functions of the office whether arising from infirmity of mind, body or any other cause, for misbehavior, or when the office becomes vacant.⁶⁹

[105] The Public Service Commission is to consist of a Chairman, a Deputy Chairman and not less than two nor more than four other members. The President appoints the members of this Commission, after consultation with the Prime Minister and the Leader of the Opposition. As with the Judicial and Legal Service Commission, these members may only be removed from office for inability to discharge the functions of the office whether arising from infirmity of mind, body or any other cause, for misbehavior, or when the office becomes vacant.⁷⁰ In addition, no member of the House of Representatives or the Senate, or anyone holding or acting in any public office or has held any public office within the period of three years preceding an appointment, is qualified to hold an office in the Service Commission. Conversely, a person who has held office or acted as a member of a Service Commission shall not, within three years commencing on the date on which the person last held or acted in such office, be eligible for appointment to any public office.⁷¹

[106] Decisions taken by the Judicial and Legal Service Commission and the Public Service Commission are to be made by a minimum of 3 members, which constitute a quorum, through majority vote.⁷² If there is an equality of votes, the Chairman has a second or casting vote. Decisions made by these Commissions with respect to disciplinary proceedings may be appealed to the Public Service Appeal Board. The Appeal Board may affirm or set aside the decision appealed against or may substitute any other decision that the Service Commission or the person from whom the appeal lies could have made.⁷³ The decisions of the Appeal Board may be judicially reviewed, in accordance with the Judicial Review Act. This Act provides that the High Court of the Supreme Court of the Judicature may, on an application for judicial review, grant relief to any person whose interests were adversely affected by a decision made by a public body, public authority or a person acting in the exercise of a public duty, among others.⁷⁴ Grounds for review reflect the common law principles of judicial review and include that the decision was in any way unauthorized or contrary to law; acting in excess of jurisdiction; an exercise of power in a manner that is so unreasonable that no reasonable person could have so exercised the power; deprivation of a legitimate expectation; and breach of the principles of natural justice.⁷⁵

[107] The Service Commissions operate autonomously and independent from political influence, which has been upheld in case law. For example, in the case of *Thomas v. Attorney General of Trinidad and Tobago*, the Privy Council, in referring to the Constitution of 1962, stated the following with respect to the constitutional purpose of these Commissions:

69. Sections 126(3) and 136(7) of the Constitution, *supra* note 2. A vacancy occurs upon the expiration of five years from the date the appointment, or shorter period not less than 3 years, or, the member is nominated for election to the House of Representatives or appointed a Senator.

70. Section 126(4) of the Constitution, *ibid*.

71. Sections 126(1) and 126(2), *ibid*.

72. Public Service Commission Regulations, section 5, scd.org.tt/attachments/article/118/Public%20Service%20Commission%20Regulations.pdf. Pending the promulgation of its own Regulations, the Judicial and Legal Service Commission, with the consent of the Prime Minister, has adopted, *mutatis mutandis* the Public Service Commission Regulations, see Judicial and Legal Service Commission Role, Responsibilities and Composition, scd.org.tt/index.php/en/the-service-commissions/104-judicial-a-legal-service-commission/89-jlsc-roles-responsibilities-a-composition

73. See sections 130 and 132 of the Constitution, *supra* note 4.

74. Judicial Review Act, Section 5, <http://rgd.legalaffairs.gov.tt/Laws/Chs.%207-8/7.08/7.08%20aos.htm>

75. *Ibid*. Section 5(3). In addition, the Constitution, under Section 4(d) provides that one of the fundamental human rights and freedoms a person has is to the right of the individual to equality of treatment from any public authority in the exercise of any functions.

[108] “*The whole purpose of Chapter VIII of the Constitution which bears the rubric ‘The Public Service’ is to insulate members of the civil service, the teaching service and the police service in Trinidad and Tobago from political influence exercised directly upon them by the government of the day. The means adopted for doing this was to vest in autonomous commissions, to the exclusion of any other person or authority, power to make appointments to the relevant service, promotions and transfers within the service and power to remove and exercise disciplinary control over members of the service. These autonomous commissions, although public authorities, are excluded by section 105(4)(c) from forming part of the service of the Crown.*”⁷⁶

[109] The Service Commissions Department serves as secretariat for all Service Commissions, including the Public Service Commission and the Judicial and Legal Service Commission. This Department provides these Commissions with the administrative and advisory services to enable them to carry out their constitutional functions.⁷⁷ The Department contains eight further sections responsible for various matters, such as examinations and assessments, freedom of information, promotions and appointments, and a Public Service Investigations Unit.⁷⁸ The role of the Public Service Investigations Unit is to facilitate the timely investigation into allegations of misconduct and indiscipline by public officers.⁷⁹

[110] With respect to conducting a one person disciplinary tribunal, as allowed under the Public Service Regulations, investigation, or note taking of a tribunal hearing, guidelines are made available on the website of the Service Commissions Department.⁸⁰ In addition, training on the role and functions of the various Service Commissions and the conduct of a one person disciplinary tribunal is done by the Legal Unit, Service Commissions Department on the request of Ministries and Departments.⁸¹

[111] The Public Service Commission has also established a Monitoring, Auditing and Oversight Unit, which is responsible for ensuring that the functions delegated to the Permanent

76. *Thomas v. Attorney General of Trinidad and Tobago*, www.oas.org/juridico/PDFs/mesicic4_tto_thomas_ag.pdf. Section 3(4)(b)(iii) of the current Constitution of the Republic of Trinidad and Tobago is the counterpart to Section 105(4)(c) of the Constitution of 1962, which provides: “4. For the purposes of this Constitution a person shall not be considered to hold an office in the public service by reason only that...b. he holds the office of...iii. Ombudsman or member of the Integrity Commission or member of any other Commission established by this Constitution.” The judgment further provided that: “*In respect of each of these autonomous commissions the Constitution contains provisions to secure its independence from both the executive and the legislature. No member of the legislature may serve on the commission; all members must be appointed for a fixed term of years which must not be less than three or more than five, during which a member may only be removed for inability to discharge his function or for misbehaviour. The quarantine period imposed by making it a requirement of eligibility that a member shall not have served in any public office within the last three years and also making him ineligible for appointment to any public office for three years after ceasing to serve as a member of the commission is clearly intended to avoid any risk of his being influenced in favour of the executive by considerations of advancement in his own career.*”

77. See History of the Service Commissions Department and the Service Commissions, scd.org.tt/index.php/en/about-scd/88-history?layout=blog. In addition, the 2010 Annual Report of the Public Service Commission provides the following with respect to the Secretariat, “*The Secretariat provides support services to enable the Public Service Commission to discharge its constitutional responsibilities in relation to those aspects of the human resource management function which fall under its mandate with respect to public officers,*” pg. 8, *supra* note 53.

78. See Subcategories, scd.org.tt/index.php/en/about-scd/92-role-of-sections?layout=blog

79. See also Legal Notice No. 41, the Public Service Commission (Amendment) Regulations, 2008, www.news.gov.tt/E-Gazette/Gazette%202008/Legal%20Notice%20No.%2041%20of%202008.pdf

80. See Discipline Guides, scd.org.tt/index.php/en/reports-a-regulations/106-discipline-guide?layout=blog

81. In this respect, the country under review, in its observations to the draft preliminary report, noted that in 2012, seven training sessions were conducted.

Secretaries/Heads of Departments and other senior public officers are properly exercised. The Unit also provides training and consultancy services to the persons so delegated.⁸²

[112] With respect to the manner in which the general public is provided with information about their objectives and functions, section 66D of the Constitution of the Republic of Trinidad and Tobago provides that the Service Commissions, among others, are required to submit to the President before July 1 of each year a report on the exercise of its functions and powers for the previous year, which is subsequently to be laid before each House of Parliament within sixty days thereafter. In addition to submission of the yearly report to the President, each Service Commission attends a hearing before a Joint Select Committee of Parliament and is questioned on the exercise of their powers and functions (Section 66A of the Constitution).

[113] Finally, the Committee observes that the important institution of the Ombudsman receives complaints and provides assistance to persons who believe that they suffered administrative injustices at the hands of public officers employed by Government agencies and departments, such as the Service Commissions, and makes recommendations to address these injustices.⁸³

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

[114] The Service Commissions, in particular the Public Service Commission and the Judicial and Legal Service Commission, have a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were succinctly described in section 3.1. Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures.

[115] During the on-site visit, various oversight bodies expressed their concern over the lengthy delays in which the Public Service Commission was carrying out the appointment process. For example, as a result of these delays, representatives from the Office of the Auditor General commented on the inability for this important oversight body in carrying out their work because they lacked the proper human resources to do so. The representatives noted that since the recruitment process through the Public Service Commission takes a long time, by the time a post is ready to be offered, that person is working somewhere else. The representatives from the Office of the Auditor General also indicated that the recruitment process may take 2 – 4 years and that there are 180 persons working, though there are 299 positions. As such, they are understaffed. This also affects the performance audits that the Office is mandated to carry out, with staff being pulled from performance audits to conduct auditing of accounts, further affecting the work of the Office.

[116] The Committee also notes that the Integrity Commission, in 2010, rather than going through the recruitment process of the Public Service Commission, went to Cabinet to approve 33 positions to be employed on contract. This was done to bring the Commission's staffing to full strength. Positions were advertised in October and November 2010 and interviews commenced in December 2010 and continued in 2011, with the majority of these positions filled. The Committee notes that this process bypassed the Public Service Commission and did not take into account section 9 of the Integrity in Public Life Act, which provides that Integrity Commission is to be provided with adequate staff for the prompt and efficient discharge of its functions, appointed through the Public Service Commission.

82. 2010 Annual Report of the Public Service Commission, pg. 9, *supra* note 53.

83. Office of the Ombudsman, *supra* note 14.

[117] Given that the process for appointment is affecting negatively the work of oversight bodies, where in one case, it appears employment on contract is preferred for recruitment than through the Service Commissions, the Committee believes that the country under review should consider modernizing its recruitment and selection practice so that it may continue providing to the public service a professional and capable workforce, but in a more efficient and timely manner, something that the Public Service Commission has acknowledged is needed in its Annual Reports.⁸⁴ For example, the country under review should consider further the proposal to delegate the function of advertisement, short listing and interviews for positions in offices that are particular to a Ministry or Department, provided that such functions are conducted within clear guidelines and that a representative of the Commission or Service Commissions Department sits on the interviewing panel.⁸⁵ This proposal has been made in the past, and given the importance of the Integrity Commission and the Office of the Auditor General in preventing and combating corruption, the country under review could consider delegating these functions to these oversight bodies. The Committee will formulate recommendations in this regard. (see Recommendations 3.4.1 and 3.4.2 in Section 3.4 of Chapter II of this Report)

[118] To this end, the Public Service Commission has commented, in its annual reports, that the management of human resources in Trinidad and Tobago is fragmented. The 2008 Annual Report of the Public Service Commission sets out the responsibilities for the various government agencies as follows:

[119] *“Position management and system wide training activities are handled departmentally by the Ministry of Public Administration; terms and conditions of service, code of conduct for Public Officers, classification and compensation, job description, job specification and assessment of qualification are under the purview of the Personnel Department; performance management, staff training and succession planning are handled by Permanent Secretaries and Heads of Departments; the Service Commissions Department under the direction of the Department of Personnel Administration serves as the Secretariat to the Public Service Commission in the discharge of its Constitutional functions to make appointments on promotion, transfer, confirm appointments and to exercise disciplinary control over persons holding or acting in such offices.”*⁸⁶

84. See, for example, the 2007 Annual Report of the Public Service Commission, p. 3, www.oas.org/juridico/pdfs/mesicic4_tto_psc_2007.pdf. Tellingly, the Public Service Commission, in annual reports prior to 2009, would set annual goals for its work, such as making, at a minimum, one thousand permanent appointments, two thousand confirmations, and one thousand five hundred promotions. However, it appears that beginning with the 2009 Annual Report, these goals are no longer provided, as it appears that this Commission has not been able to meet them, see pg. 33 of the 2007 Annual Report and pg. 26 of the 2008 Annual Report, *supra* note 53.

85. 2008 Annual Report of the Public Service Commission, pg. 24, *supra* note 53; 2009 Annual Report of the Public Service Commission, pg. 20, *supra* note 53; and 2010 Annual Report of the Public Service Commission, pg. 12, *supra* note 53. The Public Service Commission and the Judicial and Legal Service Commission can delegate their authority for subsequent temporary appointments and acting appointments to Permanent Secretaries and Heads of Departments. This delegation has resulted in a considerable number of appointments, which is evidenced in the information provided in the 2010 Annual Report of the Public Service Commission. For example, in 2010, the Commission made 1257 temporary appointments, as opposed to the 11403 made under delegation by Ministries and Departments, 2010 Annual Report, pg. 15. See the Public Service Commission (Delegation of Powers) (Amendment) Order, 2006, webopac.ttlawcourts.org/LN/LN2006/LN105_06.pdf

86. 2007 Annual Report of the Public Service Commission, pg. 8, *supra* note 84; 2008 Annual Report of the Public Service Commission, pg. 4, *supra* note 53; 2010 Annual Report of the Public Service Commission, pgs. 34 -35, *supra* note 53; and 2011 Annual Report of the Public Service Commission, pg. 27, www.scd.org.tt/attachments/article/112/PSC%20Annual%20Report%202011.pdf. The Service Commissions Department also acts as the Secretariat for the Judicial and Legal Service Commission.

[120] As a result, according to the Public Service Commission, since this shared responsibility of human resource functions lacks synergy, it negatively affects the operation of the Commission and contributes to significant inefficiencies in carrying out its mandate, in important areas such as the selection of candidates for appointment and in timely recommendations from the Permanent Secretaries and Heads of Departments for the filling of vacancies, which result in delays in decisions on appointments and promotions. The Public Service Commission also notes that requests to make appointments where requirements are not fully met are affecting its credibility. Consequently, the Public Service Commission believes it is constrained in its capability to meet its responsibilities under the Constitution, and that there is a need for an effective coordinating authority to ensure accountability on the part of all the related agencies that are involved in providing human resources in Trinidad and Tobago.⁸⁷ The Committee believes that the country under review should consider looking into the current human resource management in the public service, ensuring that the work of these various bodies are being carried out in a timely and efficient manner, and thus assisting in the important work of the Public Service and Judicial and Legal Service Commission as well. The Committee will formulate a recommendation in this regard. (see Recommendation 3.4.3 in Section 3.4 of Chapter II of this Report)

[121] The Committee observes that throughout the Annual Reports of the Public Service Commission, mention is made of the need for an electronic document management system, a computer generated system used to track and store electronic documents and images of paper documents. The current system is viewed as being archaic, as reliance on manual systems for document storage retrieval and management undermines the productivity and efficiency of the Commission. As stated in the 2008 Annual Report, the benefits of an electronic system:

[122] “[W]ould give users faster and more efficient access to documents without having to retrieve and search paper files. Documents can be simultaneously accessed by various users which can significantly reduce the decision making timeframe resulting in a more efficient and effective process.”⁸⁸

[123] As such, the Commission believes that an electronic system would help streamline operations and share information.⁸⁹ Given the foregoing, the Committee considers that the country under review should begin implementing this electronic document system, a need that has been identified for several years, which could assist in the work of the Service Commissions Department, and thus that of the Public Service Commission and the Judicial and Legal Service Commission, in its important work. The Committee will formulate a recommendation in this regard. (see Recommendation 3.4.4 in Section 3.4 of Chapter II of this Report)

[124] The Committee does note that in the 2011 Annual Report of the Public Service Commission, there has been some progress in the proposed implementation of an electronic data management system. The Services Commission Department has secured funds through the Ministry of Public Administration, under the Inter-American Development Bank, for implementing this document system, which has a five year time-frame.⁹⁰ The Committee looks forward to receiving updates on the progress in the implementation of this system.

87. 2008 Annual Report, *ibid.*

88. 2008 Annual Report of the Public Service, pg. 26, *supra* note 53.

89. 2011 Annual Report of the Public Service Commission, pg. 9, *supra* note 86.

90. *Ibid.*, pgs. 9 -10.

[125] One of the important roles that both the Public and Judicial Service Commission undertake is in the exercise of disciplinary control over the public servants that fall under their purview. By way of a brief background, the Public Service Regulations provides two avenues for this disciplinary process. For acts of misconduct which are minor in nature, the Commissions have delegated to the Permanent Secretaries and Heads of Departments the authority to discipline officers, whereby senior officers are appointed as one-man tribunals to hear and determine matters. However, if it is a matter that could lead to the dismissal or reduction in rank of a public officer, an investigating officer is appointed and he or she shall take no longer than 30 days from the date of appointment to forward to the Commission all relevant documents, from which the Commission decides whether the officer is to be charged with an offence. A standing disciplinary tribunal then hears evidence and finds facts and determines whether to exonerate or find the officer guilty.⁹¹

[126] During the on-site visit, the Services Commission Department discussed the disciplinary process and acknowledged that there were lengthy backlogs, and that it was difficult to conduct an investigation in 30 days for the submission of a report to a Commission.⁹² The Committee notes that a Public Service Investigations Unit, staffed by legally trained professionals, was created within the Service Commissions Department to ensure that investigations into any allegation of misconduct or indiscipline against public officers are dealt within the time frames established in the Public Service Regulations and in a professional manner.⁹³ Nevertheless, during the on-site visit, one of the reasons that the representatives of the Department cited for the lengthy process for investigations into disciplinary matters is that they are understaffed and that investigating officers are not trained on legal matters. One proposal to address the lengthy delays is to introduce a case management system to help speed up this process and to prevent delays in hearings and completion of matters. Another proposal that the Public Service Commission is working on is the possibility of introducing alternative dispute resolution as part of this process.⁹⁴ The Committee also notes with concern that though the purpose of introducing the delegated powers of discipline was to make the process quicker and with less formality in 2006, the Commission has found that some senior officers in Ministries and Departments see the process as too protracted and time consuming in 2009 and as a result, there is a lack of interest in and little support for the exercising of these on-man tribunals. In addition, there is an unwillingness to appoint these one-man tribunals by the Permanent Secretaries and Heads of Department.⁹⁵ And once established, the Commission itself has noted with concern that in several instances, the findings of these tribunals have had to be overturned by the Chairman of the Public

91. Public Service Commission Regulations, Chapter VIII, *supra* note 72.

92. The civil society organization, the Trinidad and Tobago Transparency Institute, in its meetings with the on-site visit team, alleged that in some cases, it is taking approximately 10 years for certain investigation processes.

93. See Service Commissions Department: Allegations of Misconduct FAQs, scd.org.tt/index.php/en/frequently-asked-questions/125-allegations-of-misconduct-faqs/106-allegations-of-misconduct-faqs. The Committee notes that there are legal implications to the Service Commissions if the allegations are not dealt with in accordance with the timeframes laid out in the Public Service Regulations. For example, in the 2005 High Court of Justice case of *Anthony Leach v. the Public Service Commission*, the court found that there was an unreasonable delay by the Public Service Commission in making a decision as to whether Mr. Leach should be charged with an offence pursuant to the Public Service Regulations and that it would be an abuse of process and unfair to charge him further given that four years had elapsed because of the inaction of the Public Service Commission, webopac.ttlawcourts.org/LibraryJud/Judgments/HC/j_jones/2005/HCA_1002_2004.rtf

94. In this respect, the country under review, in its observations to the draft preliminary report, noted that the Public Service Commission has retained a legal consultant to undertake a holistic review and redrafting of the Public Service Commission regulations to include case management of disciplinary matters and the use of alternative dispute resolution as part of the disciplinary process.

95. See Public Service Commission Speaks Out, volume 2, pg. 4, scd.org.tt/attachments/article/95/PSCSpeaks%20Vol2Oct%202011.pdf

Service Appeal Board due to the function not being effectively discharged by the Permanent Secretary or the Head of Department.⁹⁶

[127] The Committee believes that the country under review should begin addressing the backlog and apparent inefficiencies in place for the disciplinary process in place as well as apparent lack of confidence in the operation of one-man tribunals in the disciplinary process. Additional training should also be provided for the staff in place, especially those that work in the Public Service Investigations Unit as well as additional training for those that conduct one-man tribunals so that they carry out this important function in accordance with the Public Service Regulations. The Committee will formulate recommendations in this regard. (see Recommendations 3.4.5, 3.4.6, 3.4.7 and 3.4.8 in Section 3.4 of Chapter II of this Report)

[128] As previously noted, the Committee observes that in several instances, the Service Commission Departments have not been able to carry out their work in service of the Public and Judicial and Legal Service Commissions in an efficient and timely manner due to limitations in their human resources. For example, lack of staffing has been cited in the lengthy delays in carrying out appointments and in carrying out disciplinary processes. Moreover, the Service Commissions Departments find that their heavy workload is increasing due to the following factors, among others: vast increase in the number of offices in the civil service; numerous requests for information through the Freedom of Information Act; increase in disciplinary matters; and the growth in High Court challenges by public officers against the Commissions.⁹⁷ The Service Commissions Department considers that an increase in legal staff, for example, is needed.⁹⁸ Moreover, in the 2010 Annual Report of the Public Service Commission, mention is made of the unsanitary and unhealthy conditions in the workplace that plagues the Service Commissions Department that have had an adverse effect on the work due to high levels of absenteeism and work stoppages. This was cited as a reason as to why there was a decrease in permanent appointments made in 2009 and 2010, as compared to 2008, as the environmental and health issues being experienced by staff resulted in a reduction in productivity.⁹⁹ Given the foregoing, the Committee believes that the country under review should consider reviewing the budget allocated to the Services Commission Department, ensuring it has the necessary human and financial resources to carry out the important work of the Service Commissions, as well as ensure it has a working environment that is conducive for efficient and timely work. The Committee will formulate a recommendation in this regard. (see Recommendation 3.4.9 in Section 3.4 of Chapter II of this Report)

[129] With respect to public outreach and accountability, the Committee takes note that the Service Commissions Department has a website in place, containing the programs it has carried out in support of the work of the Service Commissions, as well as relevant publications, such as the Annual Reports of the Service Commissions and the production of the newsletter, the Public Service Commission Speaks Out, which provides updated information for the public on the work of this Commission.¹⁰⁰ The Committee, however, notes that the Public Service Commission and the Judicial and Legal Service Commission do not make all their annual reports publicly available on the website,

96. 2009 Annual Report of the Public Service Commission, pg. 15, *supra* note 53.

97. The Republic of Trinidad and Tobago: The Service Commissions, pg. 6, www.oas.org/juridico/PDFs/mesicic4_tto_serv_comm.pdf

98. *Ibid.*, pg. 7.

99. 2010 Annual Report of the Public Service Commission, pg. 15, *supra* note 53. See also the 2009 Annual Report, where mention is made of the continued frustration by the Commission because it continues to rely on an archaic manual database for decision making, pg. 20, *supra* note 53, as well as 2010 Annual Report, pg. 35, *supra* note 53.

100. Service Commissions Department, scd.org.tt

nor are they found on any other government website. For example, for the Public Service Commission, only the 2006, 2010 and 2011 reports are available, while for the Judicial and Legal Service Commission, only 2005 and 2006 reports are available. The representatives of the Service Commissions Department, during the visit, did confirm that these reports are submitted every year to Parliament. The Committee did have access to the annual reports of the Public Service Commission for the years 2007 – 2009, however, these were provided upon request to the MESICIC Technical Secretariat, not because they are accessible online. In addition, unlike the annual reports provided by the Integrity Commission, the annual reports provided by the Public Service Commission and the Judicial and Legal Service Commission do not provide details on the budget allocation and expenditures of the Service Commission Departments and training carried out for their activities. Given that these Commissions are to carry out their functions in an independent, fair, unbiased and transparent manner, the country under review should consider making all annual reports easily available on the website of the Service Commissions Department, along with information that provides significant detail on the budget allocation and expenditures of this Department, as well as any training provided. The Committee will formulate recommendations. (see Recommendations 3.4.10 and 3.4.11 in Section 3.4 of Chapter II of this Report)

[130] The Committee also considers that the Judicial and Legal Service Commission should consider publishing a similar information newsletter as the one the Public Service Commission provides on their activities. Given that there is little information in the website of the Service Commissions Department that provides information on the current activities of this important Service Commission, the Committee considers that this could be a useful tool to inform and reach the public. This is especially relevant given that the annual reports of the Judicial and Legal Service Commission that are publicly available online are particularly outdated. The Committee will formulate a recommendation. (see Recommendation 3.4.12 in Section 3.4 of Chapter II of this Report)

[131] Another important aspect that the team noted during the on-site visit is the lack of coordination among the government agencies with the Service Commissions. For example, during the visit to the Integrity Commission, the representatives of this oversight body stated that they never received any feedback when they forwarded any breaches of the Code of Conduct contained in the Integrity in Public Life Act to the Service Commission. Given the importance of coordination among these bodies, in ensuring that penalties are being imposed on public officers for violations of the Code of Conduct of the Integrity in Public Life Act, the country under review should consider establishing a formal mechanism or arrangement that would facilitate the systematic exchange of information and feedback among these institutions involved in the fight against corruption. The Committee will formulate a recommendation in this regard. (see Recommendation 3.4.13 in Section 3.4 of Chapter II of this Report)

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

[132] The Committee notes that results on the work of the Public Service Commission and the Judicial and Legal Service Commission with respect to exercising disciplinary proceedings against the public officers that fall under their purview are found in their annual reports. For example, in the 2011 Annual Report of the Public Service Commission, the following information is provided on page 18 of that report.¹⁰¹

101. 2011 Annual Report of the Public Service Commission, pg. 18, *supra* note 86.

Table 1:

	Civil Service	Fire Service	Prison Service	Total
Number of officers suspended	0	0	0	0
Number of officers on interdiction/re-interdicted	5	3	8	16
Number of disciplinary tribunals appointed to hear matters	10	1	4	15
Number of matters completed by tribunals during the year of review	6	1	2	9
Number of officers on disciplinary charge	10	2	5	17
Number of officers found guilty of disciplinary charge	5	2	0	7
Number of withdrawals of disciplinary charge	4	0	1	5
Number of persons found guilty in court	2	1	1	4
Number of officers found not guilty in court due to non appearance of police officers	1	2		3
Number of matters discontinued	13	2	1	16
Number of one man tribunals	30			30

Table 2:

	Civil Service	Fire Service	Prison Service	Total
Dismissal	1	0	2	3
Reprimanded	2	1	1	4
Fined	0	1	0	1
Reduction in Rank	0	0	0	1

[133] The Committee notes that these figures, while noteworthy, are ambiguous with respect to the exercise of disciplinary control by the Public Service Commission. For example, it is unclear how many disciplinary proceedings are underway, how many are still pending and how many were carried over from previous years. This information would assist in determining the backlog that does exist in the exercise of disciplinary proceedings. It would also be useful if further explanations of certain figures are provided, such as the reasons as to why a disciplinary charge was withdrawn, if, for example, for violation of timeframes in the Public Service Regulations. Moreover, there is no information provided as to the reasons why disciplinary proceedings were instituted, such as if they were undertaken because of a violation of the Code of Conduct found in the Civil Service Regulations, and if so, for what provision, etc. It is also unclear why references are made to court

cases, when the disciplinary matters carried out by the Public Service Commission are administrative in nature.

[134] The Committee also notes that in the 2009 Annual Report, as mentioned in section 3.2, reference is made to the fact that in many cases the decisions of one-man tribunals had to be overturned by the Chairman of the Public Service Appeal Board because the tribunal had not been effectively discharged by the Permanent Secretary or Head of Department. Though mention is made of the number of these tribunals were established, no figures are provided on their outcome or how many of their decisions were overturned.

[135] As for the Judicial and Legal Service Commission, the Committee notes that the information provided with respect to the disciplinary process for legal and judicial officers are basic, at best, and outdated. The last available information is from the 2006 Annual Report, wherein out of 12 complaints received, 6 were concluded because the matters or issues raised were outside of the jurisdiction of the Commission, 4 concluded as they did not merit action; 1 was suspended as there had been subsequent compliance; and 1 merited an investigation as set out in the Public Service Regulations.¹⁰² The Committee is concerned, in the first place, with the basic and vague information provided by the Judicial and Legal Service Commission, and secondly, with the outdated information, as any results publicly available date more than 6 years. Moreover, an important issue that is a topic of review from the First Round of Review and will be addressed in the follow-up section of this Report is the lack of a standard of conduct, such as a code of conduct that is applicable to judicial and legal officers that fall under the purview of this Commission. The Committee notes that the absence of a code of conduct may also explain the basic information provided in the annual reports of this Commission.

[136] Considering that the Committee does not have additional information other than that referred above that might enable it to make a comprehensive evaluation of the results of this topic, the Committee will formulate a recommendation to the country under review to consider maintaining statistics as set out in the Questionnaire for the Fourth Round of Review. This type of information would assist the Committee in enabling it to make a comprehensive evaluation with respect to the objective results obtained in the application of the legal framework and other measures in place for the Public Service Commission and the Judicial and Legal Service Commission, as it corresponds to the implementation of Article III, paragraph 9 of the Convention. The Committee will formulate a recommendation in this regard. (see Recommendation 3.4.14 in Section 3.4 of Chapter II of this Report)

[137] Finally, the Committee observes that many government bodies, such as the Integrity Commission and the Office of the Auditor General, are to refer matters to the Service Commissions if there is a finding of a wrongdoing by a public officer. Instances include reporting breaches of the Code of Conduct contained in the Integrity in Public Life Act to the appropriate Service Commission or seeking approval by a Service Commission for the deduction from the salary of a public officer for the recovery of payments not collected or deficiency or loss of a property destroyed, when discovered by the Office of the Auditor General, and when authorized by the Minister. The Committee notes that the annual reports of the Service Commissions do not maintain results on how many referrals have been made by the Integrity Commission and their outcome nor how many requests it has received from the Office of the Auditor General to deduct a public officer's salary for the recovery of

102. 2006 Annual Report of the Judicial and Legal Service Commission, pg. 11, www.oas.org/juridico/pdfs/mesicic4_tto_psc_2006.pdf

payments. The Committee believes that this information should be made publicly available, in the annual reports of the Service Commissions. The Committee will formulate a recommendation in this regard. (see Recommendation 3.4.15 in Section 3.4 of Chapter II of this Report)

3.4. Conclusions and recommendations.

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

[139] The Republic of Trinidad and Tobago has considered and adopted measures intended to maintain and strengthen the Service Commission as oversight bodies, as described in Chapter II, Section 1 of this Report.

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

- 3.4.1 Implement mechanisms to modernize the recruitment and selection process by the Service Commissions so that it may operate in an efficient and timely manner. (See section 3.2. of Chapter II of this Report)
- 3.4.2 Include the offices of the Integrity Commission and the Auditor General, and any other oversight body, as appropriate, in the proposal to delegate the function of advertisement, short listing and interviews for positions. (See section 3.2. of Chapter II of this Report)
- 3.4.3 Implement a mechanism that can better coordinate the various government bodies involved in the human resource management of Trinidad and Tobago, as appropriate. (See section 3.2. of Chapter II of this Report)
- 3.4.4 Implement an electronic document management system for the Service Commissions Department. (See section 3.2 of Chapter II of this Report)
- 3.4.5 Address the lengthy delays in the disciplinary process in the Service Commissions by considering mechanisms such as a case management system or alternative dispute resolutions. (See section 3.2. of Chapter II of this Report)
- 3.4.6 Review the one-man tribunal system to address the lack of confidence in this process. (See section 3.2. of Chapter II of this Report)
- 3.4.7 Ensure that investigating officers have sufficient legal training to carry out an investigation in an expeditious manner. (See section 3.2 of Chapter II of this Report)
- 3.4.8 Provide training for those that conduct one-man tribunal system to ensure they are being carried out in accordance with the Public Service Commission Regulations. (See section 3.2. of Chapter II of this Report)
- 3.4.9 Provide the Service Commissions Department with the budgetary and human resources needed for the proper performance of its function, within available

resources, as well as ensuring it has a working environment conducive for efficient and timely work. (See section 3.2 of Chapter II of this Report)

- 3.4.10 Ensure that all annual reports with respect to the work of the Public Service Commission and the Judicial and Legal Service Commission are easily and readily available to the public on its website. (See section 3.2 of Chapter II of this Report)
- 3.4.11 Publish an annual report on the activities of the Service Commissions Department, in its capacity as Secretariat for the Service Commissions that includes information such as its budget allocation, expenditures and training provided. (See section 3.2 of Chapter II of this Report)
- 3.4.12 Publish an informative newsletter that is periodically updated on the current activities of the Judicial and Legal Service Commission. (See section 3.2 of Chapter II of this Report)
- 3.4.13 Establish, as appropriate, a formal information exchange and coordination mechanism or arrangement between Service Commissions and the Integrity Commission, as well as other oversight bodies. (See section 3.2 of Chapter II of this Report)
- 3.4.14 Provide statistics that provide greater clarity on the origin and outcome of all types of disciplinary process carried out by Service Commissions, such as information on the reasons for instituting a proceeding, their outcome, the sanction imposed, and the reasons for withdrawal, in order to identify challenges and recommend corrective measures (See section 3.3. of Chapter II of this Report)
- 3.4.15 Maintain results on how many referrals the Service Commissions has received from other government bodies, such as the Integrity Commission, the Office of the Auditor General and the Office of the Ombudsman, with respect to alleged wrongdoings by public officers, in order to identify challenges and recommend corrective measures. (See section 1.3 of Chapter II of this Report)

4. MINISTRY OF THE ATTORNEY GENERAL

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

[141] The Ministry of the Attorney General has a set of provisions in its legal framework and other measures concerning, among others, the following:

[142] The Ministry of the Attorney General is responsible for providing legal services to the Government and its various agencies. Section 76(2) of the Constitution provides that the Attorney General is responsible for the administration of legal affairs in Trinidad and Tobago, and that legal proceedings for and against the State must be taken, in the case of criminal proceedings, including those involving acts of corruption, in the name of the State. In this respect, the Director of Public Prosecutions, which is the head of the Criminal Law Department of the Ministry of the Attorney

General, is solely responsible for the prosecution of criminal acts, while the Anti-Corruption Investigation Bureau of the Ministry is responsible for the investigation of acts of corruption.¹⁰³

[143] With respect to the objectives and functions of the Director of Public Prosecution (DPP), section 90(3) of the Constitution of the Republic stipulates that it corresponds to the DPP to institute and undertake criminal proceedings against any person before any court in respect of any offence; to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority. Section 90(5) further provides that criminal proceedings include an appeal from the determination of any court in criminal proceedings or a case, while section 90(6) states that the function of the DPP may be exercised through other persons acting under an in accordance with his general or specific instructions. As such, the Office of the DPP is fully responsible for all criminal prosecutions in the country.¹⁰⁴

[144] Pursuant to section 90(4) of the Constitution provides that the DPP exercises his powers to the exclusion of the person or authority that instituted or under took the criminal proceedings. The country under review, in its Response to the Questionnaire, also states the following:

[145] *“The post is established by the Constitution and it is almost free from control. The exercise of the powers of the DPP is subject to the responsibility of the Attorney General, which is a political office, for the “administration of legal affairs”. This refers not to the conduct of prosecutions but administrative matters, such as staffing.”*¹⁰⁵

[146] In addition, in the website of the DPP, it states that the position was established stemming from the need for a constitutional post that would always be independent of political influence in the prosecution of criminal matters and that the independence of the post is constitutionally guaranteed, a position confirmed in Trinidad and Tobago case law.¹⁰⁶ In the case of the *State v. Seeromanie Maraj-Naraynsingh et al* (Crim. App. No. 5 of 2006), the court confirmed that the DPP is under no obligation to obey any instruction or direction from the Attorney General.¹⁰⁷

[147] In the Response to the Questionnaire, the country under review states that decisions to prosecute are made in accordance with law and whether the prosecution is in the public interest.

103. See Assignment of Responsibilities to Ministers, Trinidad and Tobago Gazette, Vol. 50, No. 89, July 13, 2011, www.news.gov.tt/E-Gazette/Gazette%202011/Gazette/Gazette%20No.%2089%20of%202011.pdf, and Roles and Functions of the Ministry of the Attorney General, <http://www.ag.gov.tt/AGCorner/RolesandFunctions/tabid/68/Default.aspx>

104. See pg. 3, Response to the Questionnaire, *supra* note 43.

105. *Ibid.*, pg. 4. See also the Presentation by the Office of the Director of Public Prosecutions for the On-Site Visit, which states the administration by the Attorney General would include: 1. Financial matters including the approval and submission of budgets and Parliament; 2. the provision of adequate accommodation and facilities and other administrative matters necessary for the efficient running of the office of the DPP; and 3. accounting to Parliament for the affairs of the DPP's office, for which purpose the DPP would have a duty to keep the Attorney General informed of major and important matters of public interest or which affect the public interest, www.oas.org/juridico/PDFs/mesicic4_tto_DPP.pdf

106. Director of Public Prosecutions, www.ag.gov.tt/AboutUs/Departments/DirectorofPublicProsecutions/tabid/100/Default.aspx

107. See Presentation of the Director of Public Prosecutions, *supra* note 105.

Judicial review proceedings can be initiated by the aggrieved who wish to challenge decisions of the DPP in the exercise of his powers.¹⁰⁸

[148] As for the manner in which he is selected, the Judicial and Legal Service Commission appoints the Director of Public Prosecutions, in consultation with the Prime Minister.¹⁰⁹ The Constitution provides that the DPP is to vacate his office for reaching the age of sixty-five or if appointed as a Senator or elected to the House of Representatives.¹¹⁰ Moreover, section 11 of the Judicial and Legal Service Act, which establishes the classification, remuneration and entitlement of officers of the Judicial and Legal Service, provides, that legal or judicial officers, such as the DPP, may also be removed for further reasons such as: as a consequence of disciplinary proceedings; on compulsory retirement; on voluntary retirement; on retirement for medical reasons; and on resignation.¹¹¹

[149] With respect to the staff of the Office of the Director of Public Prosecutions, in accordance with section 111 of the Constitution, the Judicial and Legal Service Commission is responsible for appointments, promotions, transfers and confirmation of appointments, as well as for the removal and exercise of disciplinary control over judicial and legal officers.¹¹² The country under review also states, in its Response to the Questionnaire, the following:

[150] *“The Judicial and Legal Services Commission advertises the vacancies; applications are invited; persons apply and are selected based on qualifications, training, experience, overall suitability. It is a merit-based appointment and while seniority is considered it is the overriding factor. Some legal officers are appointed on the basis of three-year contracts, which are usually renewable. The DPP has some involvement, since he interviews shortlisted applicants and must submit remarks on legal officers applying for higher posts. Office holders can be removed for failing to fulfill their functions and misbehaviour in public office, including breaches of the Legal Profession Act.”*¹¹³

[151] As with the DPP, the Judicial and Legal Service Commission may terminate the appointment of a legal or judicial officer as a consequence of disciplinary proceedings; on compulsory retirement; on voluntary retirement; on retirement for medical reasons; and on resignation.¹¹⁴

[152] In its Response to the Questionnaire, the country under review notes the following with respect to the DPP and the existence of manuals that describe their functions and training provided:

108. Response to the Questionnaire, pg. 4, *supra* note 39. The DPP has also adopted the Code for Prosecutors, which states, on pg. 1, that a decision to prosecute should only be taken after the evidence and the surrounding circumstances have been fully considered, www.oas.org/juridico/PDFs/mesicic4_tto_code.pdf

109. Section 111 of the Constitution, *supra* note 4.

110. Section 136(14).

111. Judicial and Legal Services Act, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/6.01.pdf

112. The Judicial and Legal Service Act defines what is a judicial and legal officer. A judicial officer is a holder of a judicial office or a person who is appointed in such an office. The Second Schedule to the Act provides a list of judicial offices. A legal officer is a holder of a legal office or a person who is appointed to act in such an office. The First Schedule of the Act provides a list of legal offices, *ibid*.

113. Response to the Questionnaire, pg. 5, *supra* note 43. Non-professional staff is recruited through the Public Service Commission. The legal staff comprises of approximately 40 attorneys-at-law. To join the Office, an applicant must have: 1) completed a bachelor of laws degree; 2) attained a legal education certificate; 3) admitted to the Bar to practice as an Attorney at Law; and 4) pass background and security checks, which are conducted by the Trinidad and Tobago Police Service Special Branch. See Presentation of the Director of Public Prosecutions, *supra* note 105.

114. Judicial and Legal Services Act, section 11, *supra* note 111.

[153] *“The Code for Prosecutors which obtains in the UK is an important guide. A special Code for Magistrate’s Court prosecutors has been drafted in-house and is in operation. An overall local Code for Prosecutors is being drafted but will resemble the UK code. Every post has a job description. Training is not on a regular basis but in-house training workshops are held and legal officers are nominated to attend overseas conferences and workshops.”*¹¹⁵

[154] The country under review further observes that the website of the Ministry of the Attorney General (www.ag.gov.tt), which briefly states the function of the Office of the DPP, is the manner in which the DPP informs citizens of its objectives and functions.¹¹⁶

[155] With regard to mechanisms of internal control, the Ministry of the Attorney General, which is responsible for administrative matters within the Office of the DPP and the Anti-Corruption Investigation Bureau, counts on a General Administration Department. Within this Department are the Internal Audit Unit and the internal auditor, which assists the Accounting Officer in accomplishing the objectives of the Ministry by evaluating the effectiveness of the internal controls and accounting systems based on the existing Government Finance Regulations.¹¹⁷ As stated under section 1.2, the internal auditor provides objective analyses, appraisals, recommendations and pertinent comments activities, such as: appraising the soundness and application of accounting, financial and operating controls; ascertaining the reliability of accounting and other data developed within the organization; ascertaining the extent of compliance with established policies and procedures; and appraising the quality of performance in carrying out assigned responsibilities.¹¹⁸ In addition, legal officers are grouped under a senior prosecutor who monitors their progress and responds to specific issues and ultimately reports to the DPP.¹¹⁹

[156] The country under review notes that the budgetary resources of the Office of the DPP are controlled by the Ministry of the Attorney General.¹²⁰

[157] In its Response to the Questionnaire, the country under review notes that, *“Annual reports are submitted and the Chief Justice in his annual address at the opening of the Law Term summarises the achievements and challenges of the criminal justice system. The annual reports with greater details are published electronically (www.tlwcourts.org) and include such data as number of indictments filed, matters prosecuted; manner of disposal.”*¹²¹

[158] With respect to the mandate of the Anti-Corruption Investigation Bureau, which was established through Cabinet Minute No. 20 of January 11, 2002, it is to investigate all reports and allegations of corruption against government officials, public officers, police officers and public and statutory bodies.¹²²

[159] Though falling under the competence of the Attorney General, the members of the Bureau are drawn from the Trinidad and Tobago Police Service. In accordance with section 123A of the

115. Response to the Questionnaire, pg. 6, *supra* note 43.

116. *Ibid.*, pg. 7.

117. See General Administration Department, www.ag.gov.tt/AboutUs/Departments/GeneralAdministration/tabid/108/Default.aspx

118. See Internal Audit Manual Prepared by the Financial Management Branch, *supra* note 24.

119. Response to the Questionnaire, pg. 8, *supra* note 43.

120. *Ibid.*

121. *Ibid.*, pg. 9.

122. *Ibid.*

Constitution, as amended by the Constitution (Amendment) Act, 2006 and the Constitution (Amendment) Act, 2007,¹²³ the Commissioner of Police is responsible for appointments, promotions, and confirmation of appointments, as well as for the removal and exercise of disciplinary control over police officers. A police officer may be removed as a consequence of disciplinary proceedings; for abandonment of post; for inefficiency; on compulsory retirement; on voluntary retirements; on retirement for medical reasons; and on resignation.¹²⁴ Minimum requirements for entering the police service as a trainee are found on the Trinidad and Tobago Police Service website, which includes written and psychological examinations as well as minimum physical requirements.¹²⁵

[160] Finally, the Committee observes that the country under review has in place the important institution of the Ombudsman, which receives complaints and provides assistance to persons who believe that they suffered administrative injustices at the hands of public officers employed by Government agencies and departments, and makes recommendations to address these injustices.¹²⁶ Moreover, the country under review has established a Police Complaints Authority, whereby this institution receives and investigates serious police misconduct, police corruption and criminal offences involving police officers. It is an independent corporate body that carries out its work independent of the police.¹²⁷

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

[161] The Ministry of the Attorney General has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were succinctly described in section 4.1. Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures.

[162] The Committee notes that the Attorney General, under the Constitution, is a member of government with two separate roles in the country under review. In the first place, there is a government role, whereby this position is a member of Cabinet, which is responsible for the general direction and control of the government, and is appointed in the same manner as other Ministers of government.¹²⁸ In addition, the person to be named to this position has to be chosen from the members of the House of Representatives or Senate, and the Attorney General may also attend any sitting of the House of Representatives or Senate, and take part in debates and other proceedings and speaking on any motion before any such House, and move amendments to any such motions even in cases when matter falls within the portfolio of some other Minister.¹²⁹ The Attorney General, however, is also a guardian of the public interest, responsible for the administration of legal affairs in Trinidad and Tobago as well as legal proceedings for and against the State. In this role, the Attorney General undertakes civil proceedings in his name, and criminal proceedings in the name of the State.

123. Constitution (Amendment) Act, 2006, www.ttparliament.org/legislations/a2006-06.pdf and Constitution (Amendment) Act, 2007, www.ttparliament.org/legislations/a2007-12.pdf

124. See Regulations 28 – 34 of the Police Service Regulations, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/15.01.pdf

125. Careers and Recruitment, www.ttps.gov.tt/Recruitment/tabid/195/Default.aspx

126. Office of the Ombudsman, www.ombudsman.gov.tt/

127. See section 21 of the Police Complaints Authority Act, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/15.05.pdf, and the website of the Police Complaints Authority, www.moj.gov.tt/content/police-complaints-authority-2

128. Section 75 of the Constitution, *supra* note 4. See also Roles and Functions of the Attorney General, *supra* note 103.

129. See sections 62 and 76 of the Constitution, *supra* note 4.

[163] In this respect, as set out in section 4.1., criminal proceedings fall under the criminal law department of the Ministry of the Attorney General, which is headed by the Director of Public Prosecutions. This Director carries out criminal prosecutions independently, as confirmed through case law, which states that the DPP is under no obligation to obey or receive any instruction or direction from the Attorney General. Nevertheless, the Committee observes that the Attorney General may still exercise some control over the Office of the DPP. For example, the DPP is still dependent on the Attorney General for important administrative matters, such as the approval and submission of a budget to Parliament and the provision of adequate accommodation and facilities, as this falls under the Attorney General's constitutional responsibility for the administration of legal affairs. Moreover, the Attorney General would also be responsible to account to Parliament for the affairs of the DPP's office, for which the DPP would have a duty to keep the Attorney General informed of major and important matters of public interest or which affect the public interest.¹³⁰ As noted in the Response to the Questionnaire, the country under review stated that:

[164] *“The post is established by the Constitution and it is almost free from control. The exercise of the powers of the DPP is subject to the responsibility of the Attorney General, which is a political office, for the “administration of legal affairs”. This refers not to the conduct of prosecutions but administrative matters, such as staffing.”*¹³¹

[165] Though the DPP acts independently with respect to criminal prosecutions, the Committee believes that the country under review should consider establishing mechanisms that ensure independence on its administrative matters as well, subject to its Constitution and the fundamental principles of its legal system. The Committee will formulate recommendation in this regard. (see Recommendation 4.4.1 in Section 4.4 of Chapter II of this Report)

[166] Similarly, as stated in section 4.1, the Anti-Corruption Investigation Bureau falls under the responsibility of the Ministry of the Attorney General. However, unlike the Office of the DPP, there is no case law or constitutional provisions setting out its independence from the Attorney General. The country under review should consider establishing mechanisms or measures that assure the independence of the Anti-Corruption Investigation Bureau in conducting its work. The Committee will formulate a recommendation. (see Recommendation 4.4.2 in Section 4.4 of Chapter II of this Report)

[167] The Committee observes that in the Response to the Questionnaire, mention is made that there is a lack of modern technology and systems to assist in the performance of the duties of the Office of the DPP, and that restructuring and retooling exercise is under way. In addition, during the on-site visit, the representatives from the Office of the DPP mentioned that since they do not have their own budget, they do not have training programs in place. The country under review should consider ensuring that the Office of the DPP have in place modern technology and systems for their work, as well as establishing regular training for the staff, by providing sufficient budgetary and technological resources to these ends. The Committee will formulate a recommendation. (see Recommendation 4.4.3 in Section 4.4 of Chapter II of this Report)

[168] Likewise, during the on-site visit, the representatives from the Anti-Corruption Investigation Bureau presented information on the lack of current human and budgetary resources. For example, the Bureau is to have 25 constables, however only one is in place.¹³² The Bureau does not also have a

130. Presentation by the Office of the Director of Public Prosecutions, *supra* note 105.

131. Response to the Questionnaire, pg. 4, *supra* note 43.

132. Presentation by the Anti-Corruption Investigation Bureau, [www.oas.org/juridico/ppt/mesicic4_tto ACIB.ppt](http://www.oas.org/juridico/ppt/mesicic4_tto_ACIB.ppt)

senior or assistant superintendent either, even though these two positions are assigned to the Bureau as well. In addition, the representatives of the Bureau also expressed concern that the accommodations in place are not adequate for the work to be carried out. The Committee will formulate a recommendation. (see Recommendation 4.4.4 in Section 4.4 of Chapter II of this Report)

[169] The Committee notes that one of the functions of the Bureau is to provide training to police officers with respect to corruption and related offences, as well as identifying and implementing training needs for staff development by obtaining in investigative techniques for all members of its staff. Nevertheless, the representatives stated that there is a lack of training in investigative techniques for its staff, for example, in areas such as forensic investigation, intelligence gathering and analysis, information technology, financial crime investigations and cyber-crime. Another area that the Bureau could receive training and education is on the legal tools for conducting investigations. During the meeting, the members of the Bureau stated that the tools they had in place were limited, giving as an example a recently enacted Interception of Communications Act that prohibited the Bureau from conducting wiretaps.¹³³ However, in the meeting with the Office of the DPP, the representatives stated that this Act provides exceptions on the prohibition of using wiretaps, for certain ends, and can be used as an investigative tool. The country under review should consider establishing a formal training program that ensures that the staff of the Bureau receives ongoing training on investigative techniques and the legal tools in place for conducting its work. The Committee will formulate a recommendation in this regard. (see Recommendation 4.4.5 in Section 4.4 of Chapter II of this Report)

[170] The Committee was also informed, during the on-site visit, of problems by the Anti-Corruption Investigation Bureau in receiving cooperation from government agencies and state enterprises during their investigations. In particular, there are issues with obtaining information or documents in a timely manner from these institutions. The representatives of the Bureau stated the principal reason they have problems in receiving cooperation from these institutions is that people working in these institutions do not want to be considered a witness. Moreover, the Bureau stated that there is unwillingness by individuals to further support investigations after making a report of corruption, for fear of reprisals. The Committee highlights that the issue of protection for those who report acts of corruption was considered in the Second Round of Review, and the country under review received pertinent recommendations in this respect. Nevertheless, the Committee considers that the country under review should examine the legal framework in place on cooperation from government agencies and state enterprises, in order to facilitate cooperation by these institutions in the investigations by the Bureau in a timely manner. The Committee will formulate a recommendation in this regard. (see Recommendation 4.4.6 in Section 4.4 of Chapter II of this Report)

[171] The Committee further observes that during the on-site visit, the representatives from the Office of the DPP note that there is a lack of coordination, assistance and information sharing between investigative agencies. The relationship between investigative agencies such as the Trinidad and Tobago Police Service, the Customs and Excise Division, the Financial Intelligence Unit, the Board of Inland Revenue and the Town and Country Planning are often characterized by a degree of competition, suspicion and antagonism, and the representatives also stated that there is a degree of myopia by each agency.¹³⁴ The Office of the DPP state that this leads to a fragmented approach to investigations and in the laying of charges, which can affect a prosecution. As the country under review noted in discussion of best practices:

133. Interception of Communications Act, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/15.08.pdf

134. Presentation by the Office of the DPP, *supra* note 105.

[172] *“Individual departments conduct own investigation and lay charges. But such may not be wide ranging enough to capture all offenders, particularly highly placed officials. Offences pertaining to Value Added Tax, for example, are summary offences and such charges would not reflect the gravity of the situation when the facts may indicate a wider money-laundering operation. Also, when drug-trafficking “mules” or couriers are held at the Airport, both Customs and police can charge but there is often disagreement about who should actually charge or prosecute the offence. The wider picture, which may involve corruption and persons of interest, may be lost.”*¹³⁵

[173] As a result, the Office of the DPP consider that investigations are not being conducted on a holistic manner, which embrace police, prosecution services and other stakeholders, and that *“charging practice should be with a view to selecting the charge that best reflects the seriousness of the offence; that best practice indicates a reasonable prospect of obtaining a conviction.”*¹³⁶

[174] The Committee believes that the country under review should establish formal coordination mechanisms between the pertinent investigative agencies, to not only exchange information on investigations and determine the best possible charges, as appropriate, but to also build trust among them, which may make their work more effective and lead to more effective prosecutions. The Committee will formulate a recommendation in this regard. (see Recommendation 4.4.7 in Section 4.4 of Chapter II of this Report)

[175] The representatives from the Office of the DPP stressed, during the on-visit, that they do not have investigative powers and that prosecutors do not detect crime nor control the police.¹³⁷ As a result, they are dependent on the investigative agencies to be informed on matters, and at times these investigative agencies are not receiving timely advice and assistance at early stages of an investigation. For example, legal advice could be given during the course of an investigation with respect to drafting a charge, obtaining wiretaps or search warrants, and other pre-charge issues. Currently, the representatives stated that there are no settled procedures or guidelines to direct investigative agencies, though Memoranda of Understandings are being developed to this end. The country under review should consider the implementation of measures, such as the aforementioned Memoranda, to establish settled procedures or guidelines for directing investigations, so earlier collaboration can be carried out between the Office and the DPP and with the investigative agencies. The Committee will formulate a recommendation in this regard. (see Recommendation 4.4.8 in Section 4.4 of Chapter II of this Report)

[176] The Committee also believes, in this respect, that the Office of the DPP should also communicate to the investigative agencies and any other government agency that refers matters to the Office, on the outcome of their investigations, such as if it led to a prosecution. Throughout the legislative framework in place for the country under review, there are many instances in which the DPP is informed when misconduct is discovered, especially in the public service. For example, the Integrity in Public Life Act provides that the Integrity Commission is to inform the DPP when it

135. Response to the Questionnaire, pg. 63, *supra* note 43.

136. *Ibid.*

137. They cited for the on-site team the classic position of the role of a prosecutor: *“It cannot be overemphasized that the purpose of a criminal prosecution is not to obtain a conviction; it is to lay before a jury what the Crown considers to be credible evidence relevant to what is alleged to be a crime. Counsel have a duty to see that all available legal proof of the facts is presented: it should be done firmly and pressed to its legitimate strength, but it must also be done fairly. The role of prosecutor eludes any notion of winning or losing; his function is a matter of public duty than which in civil life there can be none charged with greater personal responsibility. It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of judicial proceedings.”* See *Boucher v. R.* [1955] S.C.R. 16 at 23 (SCC), and Presentation by the Office of the DPP, *supra* note 105.

comes across a breach of the Act. However, as noted in section 1.2, the Integrity Commission does not receive feedback from the DPP regarding matters they forward to this Office. The country under review should consider establishing a formal mechanism for the Office of the DPP so that it may coordinate and provide feedback on the outcome of the reports made to this Office by investigative agencies, such as the Anti-Corruption Investigation Bureau, and other government agencies, such as the Integrity Commission. The Committee will formulate a recommendation in this regard. (see Recommendation 4.4.9 in Section 4.4 of Chapter II of this Report)

[177] Another issue identified by the Committee is the lack of information publicly available with respect to the work of the Office of the DPP and the Anti-Corruption Bureau. Just in terms of a website, the Office of the DPP has one that is not easily accessible through the website of the Ministry of the Attorney General. It is only found if a search is made for the Office. The Committee observes that in the Code for Prosecutors, in its introduction, the following is stated:

[178] *“There is a need to maintain public confidence in the administration of criminal justice, and the community has a legitimate interest in the work of its prosecution service. The purpose of the Code for Prosecutors is therefore not only to provide a of conduct for prosecutors to promote consistent decision making at all stages of the prosecution process, but also to make the community aware of the way in which the system of public prosecutions operate. Principled criteria are applicable at all times, and the people of Trinidad and Tobago need to be able to see for themselves what exactly these are. Transparency is essential for the modern prosecutor for a fair and effective criminal justice system.”*¹³⁸

[179] The Committee agrees with this statement. Transparency is essential for a fair and effective criminal justice system and that the public should be made aware of the way in which public prosecutions operate. The Committee believes that the Office of the DPP should make the outcome of their work available to the public, including details on the budget allocation and expenditures of the Department and training carried out for their activities. An accountability mechanism, such as an annual report containing this information, including pertinent statistics on the DPP’s prosecution of acts of corruption, would prove and invaluable tool to demonstrate to the public the work being carried out by the DPP, how it is using its resources and budget. The Committee will formulate a recommendation in this regard. (see Recommendation 4.4.10 in Section 4.4 of Chapter II of this Report)

[180] Similarly, a report on the activities of the Anti-Corruption Investigation Bureau should also be prepared and made easily available to the public on an annual basis. The Committee notes that during the team’s visit to the Bureau, and subsequent thereto, it did receive extensive statistics on their investigations, which provide a valuable source of information on their work. Nevertheless, these are not available to the public, nor does this Bureau have a website to publicize this work. As with the DPP, a report of this kind setting out its resources, budgets and statistics would serve as an invaluable accountability tool. The Committee will formulate a recommendation in this regard. (see Recommendation 4.4.11 in Section 4.4 of Chapter II of this Report)

138. Code for Prosecutors, *supra* note 108.

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

[181] The Committee notes that the country under review provided results with respect of the work of the Office of the DPP on corruption cases:¹³⁹ In 2010, 7 public officials were charged: 1) a policeman for perverting the course of public justice and corruptly giving money to police to forbear prosecutions; 2) a policeman charged for corruptly soliciting over \$50,000TTs; 3) three policemen for misbehavior and robbery; and 4) two policemen for robbery. In 2011, the following information is provided: 1) perverting the course of justice; 2) corruptly receiving and soliciting; 3) misbehavior in public office, for which a policeman was charged; 4) offering a bribe to two policemen; and 5) in Customs and Excise, for fraudulent evasion of custom duties. In 2012, the following is reported: 1) conspiracy to defraud a company of \$2.8 million TTs; 2) corruptly paying \$5000TTs to police officers for a court matters; 3) misbehavior in public office, for which four police officers were charged; 4) receiving stolen property and corruptly taking a reward for approximately 10,000TTs; and 5) conspiracy to defraud an investment corporation of \$1.5 million TTs. Finally, in 2013, the following is reported: 1) embezzlement, falsification of records, for which a police officer was charged; 2) misbehavior in public office and robbery, for which a policeman was charged; and 3) money laundering.

[182] The Committee also observes that during the on-site visit, the Office of the DPP indicated that they currently do not have a corruption case before court, and last year, there were zero convictions. This is borne by the statistics provided in the annual reports provided by the Judiciary, whereby in 2008 -2009, one corruption proceeding was disposed by the High Court, in 2009 - 2010, two, and in 2011, none.¹⁴⁰

[183] The Committee observes that while the results provided give an overview of the manner corruption cases are being carried out, further information should also be provided and broken down, in order to identify challenges and recommend corrective measures: total number of cases investigated that were ready for a decision to be adopted in each of the past five years; the number of decisions adopted in connection with them; the number of those decisions in which responsibilities were established or penalties were imposed; the number of those decisions in which no responsibilities were found or acquittals were given; and the number of those decisions involving the extinction of the punishment or responsibility because of the triggering of the statute of limitations, on types of corruption offences. The Committee will formulate a recommendation in this regard. (see Recommendation 4.4.12 in Section 4.4 of Chapter II of this Report)

[184] The Committee also notes that during the on-site visit, the Anti-Corruption Investigation Bureau provided results of its work.¹⁴¹

139. Information provided by Trinidad and Tobago to the plenary of the Committee of Experts, during the course of its review.

140. 2008 – 2009 Annual Report of the Judiciary, pg. 107, www.ttlawcourts.org/images/annualreports/ar20082009.pdf; 2009 – 2010 Annual Report of the Judiciary, pg. 89, www.ttlawcourts.org/images/annualreports/ar20082009.pdf; and 2010 – 2011 Annual Report of the Judiciary, pg. 84, www.ttlawcourts.org/images/annualreports/ar20102011.pdf

141. Statistics of the Anti-Corruption Investigation Bureau, www.oas.org/juridico/PDFs/mesicic4_tto_stats.pdf

ANTI CORRUPTION STATISTICS												
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
No. of Reports	43	35	48	47	95	77	94	66	53	49	21	628
No. of Reports against Police	10	7	9	28	38	45	62	50	26	30	11	316
No. of Reports against Public Officials/Civilians	33	28	39	19	57	32	32	16	27	19	10	312
No. of Reports Detected	17	8	9	4	11	9	5	2	2	1	0	68
No. of N.F.P.As ¹⁴²	25	22	26	25	36	28	38	22	21	8	0	251
Matters Unsolved/Open	1	5	13	18	48	40	51	42	30	40	21	309
No. of Offences	51	8	21	25	29	13	24	10	2	4	2	189
No. of Persons/Companies charged (*)	29 (26)*	17	40(16)*	12	16	6	9	7	2	2	3	143 (42)*
No. of Persons Convicted	0	3	2	0	1	1	1	1	0	1	1	11
No. of Persons Discharged	2	1	0	1	2	0	0	0	0	0	0	6
No. of Persons matters Dismissed	4	0	18	1	0	0	0	0	0	0	0	23
No. of Persons with Matters Pending	23	13	20	10	13	5	8	6	2	1	2	103

[185] As can be seen, the Bureau maintains detailed results on its work. Of particular note, though, is the high number of matters that remain unsolved or open, the high number of persons with matters pending, and the low conviction rate as compared with the number of charges filed. In ten years, 143 charges were brought against persons and/or companies, of which there have been only 11 convictions.

[186] The Committee observes that the country under review may consider examining the reasons for the low conviction rates as compared to the number of investigations being carried out, looking at, for example, if it is a matter of resource, legal constraints, or that corruption cases are not given a priority. The Committee will formulate a recommendation in this regard. (see Recommendation 4.4.13 in Section 4.4 of Chapter II of this Report)

[187] In addition, the Committee reiterates its observation under section 4.2 that these statistics on the work of the Office of the DPP and the Anti-Corruption Investigation Bureau should be made public. The numbers in this report were provided to the Technical Secretariat, as part of the review process. However, they are not publicly available.

142. No Further Police Action

4.4. Conclusions and recommendations

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

[189] The Republic of Trinidad and Tobago has considered and adopted measures intended to maintain and strengthen the Ministry of the Attorney General, as an oversight body, as described in Chapter II, Section 1 of this Report.

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

- 4.4.1 Subject to its Constitution and the fundamental principles of its legal system, establish measures or mechanisms that assure the independence of the Office of the Director of Public Prosecutions on administrative matters. (See section 4.2. of Chapter II of this Report)
- 4.4.2 Establish measures or mechanisms that provide independence of the Anti-Corruption Investigation Bureau in conducting its work. (See section 4.2 of Chapter II of this Report)
- 4.4.3 Provide the Office of the Director of Public Prosecutions with the budgetary and technological resources needed for the implementation of modern technology and systems, as well as for the establishment of regular training for the personnel, within available resources. (See section 4.2 of Chapter II of this Report)
- 4.4.4 Provide the Anti-Corruption Investigation Bureau with the budgetary and human resources needed for the proper performance of its function, within available resources, including the provision of adequate facilities. (See section 4.2 of Chapter II of this Report)
- 4.4.5 Establish a formal training program for the Anti-Corruption Investigation Bureau that ensures that staff receives ongoing training on investigative techniques and the legal tools in place. (See section 4.2 of Chapter II of this Report)
- 4.4.6 Examine the legal framework in place in order to address the difficulties encountered by the Anti-Corruption Investigation Bureau in receiving cooperation from government agencies and state enterprises with respect to investigations. (See section 4.2 of Chapter II of this Report)
- 4.4.7 Establish, as appropriate, a formal information exchange and coordination mechanism among the pertinent investigative agencies. (See section 4.2 of Chapter II of this Report)
- 4.4.8 Implement procedures or guidelines to assist the Office of the Director of Public Prosecutions in the direction of investigations by investigative agencies. (See section 4.2 of Chapter II of this Report)

- 4.4.9 Implement a mechanism whereby the Office of the Director of Public Prosecutions provides feedback to government bodies regarding the outcome of the referrals of wrongdoing received by this Office. (See section 4.2 of Chapter II of this Report)
- 4.4.10 Publish an annual report on the activities of the Office of the Director of Public Prosecutions that includes information such as its budget allocation, expenditures, and training provided as well as statistics on their work that is easily and readily available to the public. (See section 4.2 of Chapter II of this Report)
- 4.4.11 Publish an annual report on the activities of the Anti-Investigation Corruption Bureau that includes information such as its budget allocation, expenditures, and training provided as well as statistics on their work that is easily and readily available to the public. (See section 4.2 of Chapter II of this Report)
- 4.4.12 Maintain results indicating the total number of cases investigated that were ready for a decision to be adopted in each of the past five years; the number of decisions adopted in connection with them; the number of those decisions in which responsibilities were established or penalties were imposed; the number of those decisions in which no responsibilities were found or acquittals were given; and the number of those decisions involving the extinction of the punishment or responsibility because of the triggering of the statute of limitations, in order to identify challenges and recommend corrective measures for the Office of the Director of Public Prosecutions. (See section 4.2 of Chapter II of this Report)
- 4.4.13 Address the low conviction rate of corruption offences as compared to the number of investigations carried out, looking at issues such as resources, legal impediments, or allocation of priorities, in order to identify challenges and recommend corrective measures. (See section 4.2 of Chapter II of this Report)

5. OFFICE OF THE OMBUDSMAN

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

[191] The Office of the Ombudsman has a set of provisions in its legal framework and other measures concerning, among others, the following:

[192] The principal function of the Ombudsman, under section 93 of the Constitution, is to investigate any decision or recommendation made, including any advice given or recommendations made to a Minister, or any act done or omitted by any department of Government or any other authority, being action taken in exercise of the administrative functions of that department or authority.¹⁴³ It may also investigate a complaint by a person alleging an injustice as a result of a fault in administration; where a member of the House of Representatives requests the Ombudsman to investigate a matter; or in any circumstance the Ombudsman considers that should be investigated on the ground that some person or body of persons has or may have sustained an injustice. Section 94

143. Section 93(3) of the Constitution provides that the authorities other than departments of Government are: a) local authorities or other bodies established for purposes of the public service or of local Government; b) authorities or bodies the majority of whose members are appointed by the President or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds; c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of Government; d) such other authorities as may be prescribed.

further provides that the Ombudsman shall have the power to investigate complaints that raise the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage corruption in the public service.¹⁴⁴

[193] Thus, the Ombudsman may investigate administrative acts which appear to be contrary to law or regulation; unreasonable, unjust arbitrary, offensive, discriminatory; based on an error of fact or on improper and irrelevant reasons; not accompanied by an adequate statement of fact when the law or regulation so requires; executed inefficiently or erroneously.¹⁴⁵

[194] The Ombudsman, under the Freedom of Information Act, may also receive complaints in writing from persons who were refused access to an official document by a public authority. The Ombudsman is to examine the document, if it exists, and make recommendations with respect to the granting of access to the document as the Ombudsman thinks fit within thirty days or as soon as practicable.¹⁴⁶

[195] In investigating any matter connected with the decision of a Minister, the Ombudsman may not inquire into or question the policy of the Minister in accordance with which the decision was made. In addition, the Ombudsman is not to undertake any investigations into specific charges of corruption against individuals. This section further provides that where the Ombudsman finds evidence of any corrupt act by a public officer or by any person in connection with the public service, the matter is to be reported to the appropriate authority with a recommendation as to any further investigation the Ombudsman may consider proper. It is also not to investigate any action in respect a complainant has: a remedy by way of proceeding or court; a right of appeal, reference or review to or before an independent and impartial tribunal other than a court; or any action taken with response to any matter contained in the Third Schedule of the Constitution, such as action taken with respect to relations between the Government of Trinidad and Tobago and any other government or international organization, action taken under any law relating to extradition or fugitive offenders, action taken for the purposes of investigating crime or protecting the security of the State, or action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service in any office or employment in the public service or under any authority.

[196] In carrying out its functions, the Ombudsman has the power of the High Court to summon witnesses and to compel them to give evidence on oath and to produce documents relevant to the proceedings. The Ombudsman also has the power to enter and inspect the premises of any department of government or any authority, to call for, examine, and where necessary to retain any document kept on such premises.¹⁴⁷

[197] Upon the completion of an investigation the Ombudsman shall inform the department of government or the authority concerned of the results of the investigation, and inform and the opinion

144. As described succinctly on the web page of the Office of the Ombudsman: “*The Ombudsman's Office was established solely for the purpose of giving assistance to persons who believe that they suffered injustices at the hands of public officers employed by Government agencies and departments. In short, the Ombudsman can best be described as a 'grievance person' to whom a citizen can make a complaint with a view to redressing the mistakes, delays, rigidity and carelessness of the government bureaucracy. The role of the Ombudsman is both investigatory and advisory. In consequence of her investigations, she can make recommendations to Government departments and authorities. On failure to comply with her recommendations, she can report the matter to Parliament.*” Office of the Ombudsman, *supra* note 14.

145. See Presentation by the Office of the Ombudsman, www.oas.org/juridico/PDFs/mesicic4_tto_omb.pdf

146. Section 38(A) of the Freedom of Information Act, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/22.02.pdf

147. Section 97 of the Constitution of Trinidad and Tobago, *supra* note 4.

of the complainant has sustained an injustice, and inform the reasons for this opinion and make recommendations. The Ombudsman may specify the time within the injustice should be remedied. If the matter is of sufficient public importance, and no action has been taken to remedy the injustice, the Ombudsman can lay a special report on the case before Parliament.¹⁴⁸

[198] The Ombudsman is subject to judicial review in accordance with the Judicial Review Act, which was confirmed during the on-site visit. This Act provides that the High Court of the Supreme Court of the Judicature may, on an application for judicial review, grant relief to any person whose interests were adversely affected by a decision made by a public body, public authority or a person acting in the exercise of a public duty, among others.¹⁴⁹ Grounds for review reflect the common law principles of judicial review and include that the decision was in any way unauthorized or contrary to law; acting in excess of jurisdiction; an exercise of power in a manner that is so unreasonable that no reasonable person could have so exercised the power; deprivation of a legitimate expectation; and breach of the principles of natural justice.

[199] The President appoints the Ombudsman after consultation with the Prime Minister and the Leader of the Opposition. The Ombudsman is an officer of Parliament and cannot hold any other office or emolument whether in the public service or otherwise engage in any occupation for reward other than the duties of the office, and hold office for a term not exceeding five years with eligibility for re-appointment.

[200] The Ombudsman holds office in accordance with section 136 of the Constitution, which provides that upon attaining the age of sixty-five, the Ombudsman is to vacate the office. In addition, section 136(7) of the Constitution further provides that the Ombudsman may only be removed from office only inability to discharge the functions of the office whether arising from infirmity of mind, body or any other cause, or for misbehavior.

[201] The Ombudsman, in accordance with section 92 of the Constitution, is to be provided with a staff of public officers adequate for the efficient discharge of his or her functions. They are to be appointed in accordance with section 121(8), which provides that before the Public Service Commission makes an appointment to or transfers a member of the staff of the Ombudsman, it shall first consult with the Ombudsman. As public officers, the Public Service Commission is responsible for appointing staff.

[202] With respect to training, a training plan for the period 2011 – 2014 was approved in accordance with the Training Policy for the Public Service of Trinidad and Tobago and the Training Policy Guidelines.¹⁵⁰ As stated in the 34th Annual Report of the Ombudsman, 2011:

[203] “*The plan focuses on the development needs of all employees and aims to achieve continuous improvement in all areas of the operations of the Office by linking performances to the realization of the Office’s strategic goals.*”¹⁵¹

[204] During the on-site visit, the Office of the Ombudsman informed that office operations are spread across three locations; Port of Spain, San Fernando and Scarborough, Tobago. The office

148. Section 96, *ibid.*

149. Judicial Review Act, *supra* note 74.

150. 34th Annual Report of the Ombudsman, 2011, pg. 15,

<http://www.ombudsman.gov.tt/downloads/DownloadItem.aspx?id=39>

151. *Ibid.*

operations are divided into three areas: complaint handling – investigations; freedom of information compliance auditing; and central corporate services, which is divided into units such as Human Resources; Information Technology, Accounting Services and Record Management, among others. All key members of staff are provided with job descriptions and the work processes of the investigative team are guided by a manual and policies approved by the Ombudsman. In addition, a computer automated data-base system assists investigators and the Ombudsman in the effective management of complaints.¹⁵²

[205] The Ombudsman has a website that provides the general public with information about their objectives and functions.¹⁵³ The site has pages for submitting a complaint online, a page on frequently asked questions that provides information on the functions of the Ombudsman, the steps for making a complaint, definition on maladministration to guide a complainant, how they are handled, and jurisdiction on the ombudsman. The website provides documents, such as the legal framework for the Ombudsman, its annual reports, a newsletter and case studies. The Ombudsman also schedules visits to communities to facilitate individuals with complaints against state agencies, and provides on its web site the location, date and time when they will be in those communities.

[206] With respect to the manner in which the general public is provided with information about their objectives and functions, section 96(5) provides that the Ombudsman shall make an annual report on the performance of his or her functions to Parliament, which shall include statistics in such form and in such detail as may be prescribed of the complaints received and the results of the investigations.

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

[207] The Office of the Ombudsman has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were succinctly described in section 5.1. Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures.

[208] During the on-site visit, the representatives of the Office of the Ombudsman expressed concern over the human resources at their disposal as well as their facilities. It was stated that they do not have sufficient human resources to carry out their investigations of integrity or corruption of any department in the public service. In addition, given the number of investigations they need to carry out, they do not have proper facilities to make a full scale investigation. Given the foregoing, and the constitutional requirement that the Ombudsman be provided with a staff adequate for the efficient discharge of his or her functions, the Committee believes that the country under review should consider reviewing the budget allocated to the Office of the Ombudsman, ensuring it has the necessary human and financial resources as well as the facilities to carry out its important work. The Committee will formulate a recommendation in this regard. (see Recommendation 5.4.1 in Section 5.4 of Chapter II of this Report)

[209] In this respect, during the on-site visit, the representatives of the Office of the Ombudsman stated that they do not have independence with respect to its budget, as it has to make an annual submission to the Minister of Finance for approval, which has to be in line with budget priorities. The team was told, during the on-site visit, that last year the Office did not receive the requested budget allocation. The Committee notes that it could not find in the Constitution or in the Ombudsman Act any reference to how the budget for the Office of the Ombudsman is allocated. The Committee

152. Presentation by the Office of the Ombudsman, *supra* note 145.

153. Office of the Ombudsman, *supra* note 14.

believes that the country under review could consider implementing measures or mechanisms that ensure that the Office has a budget that ensures some degree of financial autonomy, subject to its Constitution and the fundamental principles of its legal system. Being dependent on the Ministry of Finance for financial resources may give the impression that the Ombudsman may be controlled indirectly, which might undermine confidence in this institution. In addition, the situation may arise where the Ombudsman is to investigate the Ministry, for which it depends upon for its resources. The Committee will formulate a recommendation. (see Recommendation 5.4.2 in Section 5.4 of Chapter II of this Report)

[210] The Committee was also informed during the on-site visit that although the Ombudsman has the power to issue recommendations, which can range from rectifying the effects of wrong decision or action; improving or implementing new administrative procedures or practices; or legislative changes, the Ombudsman does not have the authority to compel a government department or authority to comply with the recommendations. The failure to by departments and authorities to take appropriate action to close investigations is an area of concern identified by the Ombudsman.¹⁵⁴ Given that these recommendations are to promote good governance and a fair and capable public administration that is sensitive and responsive to the public, the country under review should consider implementing measures or mechanisms that ensure that the recommendations are being taken into consideration. Such measures include setting a time frame, with appropriate enforcement mechanisms, for government departments or authorities to respond to the Ombudsman indicating what steps are being taken to implement the recommendation, and that periodic updating be carried out until the alleged administrative injustice is addressed. The Committee will formulate a recommendation in this regard. (see Recommendation 5.4.3 in Section 5.4 of Chapter II of this Report)

[211] Another matter that was raised to the Committee during the on-site visit was the lack of timeframes for government departments or authorities to provide information or documents for an investigation. As stated under section 5.1, the Ombudsman has the power to compel individuals or institutions to produce documents for an investigation, both under the Constitution and the Ombudsman Act.¹⁵⁵ However, during the on-site visit, the Committee was informed that there are problems persuading departments or authorities to produce documents relevant to proceedings before the Ombudsman. Although this Office has the power to compel compliance, the Ombudsman informed the team during the on-site visit that it does not like to use this power, given the relatively small community in Trinidad and Tobago, and would rather use moral persuasion and reasoning, in order to foster more cooperation with departments and authorities. Indeed, this is reflected as well in the 34th Annual Report of the Ombudsman, where she states:

[212] *“I reiterate my concern that, notwithstanding the thirty-four years that the Office of the Ombudsman has been in existence in Trinidad and Tobago, many public officers and Local Government officials appear not to be aware of the role and functions of the Ombudsman and the Office. There have, in fact, been numerous occasions when my requests for information pertinent to an investigation have met with a lack of cooperation and promptness, forcing me to use my formal powers of coercion to ensure action.*

[213] *It is my view that the Office’s formal powers of coercion should rarely be used. For this reason, it disturbs me that I am now frequently given cause to invoke the use of my Powers of*

154. See 34th Annual Report of the Office of the Ombudsman, pg. 17, *supra* note 150.

155. See section 4 of the Ombudsman Act, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/2.52.pdf

Summons under Section 97 of the Constitution to obtain documents and other critical information relevant to an investigation. To reduce the need for use of these powers, I am actively promoting the role of the Office, particularly with key senior public officials, to produce a new climate of cooperation."¹⁵⁶

[214] Given the foregoing, the Committee believes that the country under review should consider implementing timelines for government departments or authorities to comply with requests for relevant information and documents by the Ombudsman. This would provide the Ombudsman with an additional tool to require compliance, without resorting to the Office's formal powers of coercion which might undermine the climate of cooperation essential for the overall work of this important institution. The Committee will formulate a recommendation in this regard. (see Recommendation 5.4.4 in Section 5.4 of Chapter II of this Report)

[215] An important function that the Ombudsman carries out is to receive complaints in writing from persons who were refused access to an official document by a public authority. The Ombudsman is to examine the document, if it exists, and make recommendations with respect to the granting of access to the document as the Ombudsman thinks fit within thirty days or as soon as practicable.¹⁵⁷ The Committee observes that the Freedom of Information Act states that a person aggrieved by a refusal by a public authority to grant access to an official document, must have received a written response from that authority, within 30 days a request is made.¹⁵⁸ However, as noted by the Ombudsman in its 2011 Annual Report, of 24 requests received for review, a third of them were made as a result of non-response by the relevant public authority. In this respect, the Ombudsman states:

[216] *"I wish to reiterate that public authorities are under a statutory obligation to address these requests under the FOI Act within the thirty day time limit, and have an obligation to assist members of the public, where necessary. Public officers must recognize and appreciate the importance of their role under the FOI Act when treating with requests made by the public. The FOI Act was enacted to afford members of the public a right of access to information. Anything done to derogate from this right is in contravention of the provisions of the FOI Act, and is a breach."*¹⁵⁹

[217] In this respect, the Committee observes that although the Freedom of Information Act provides an applicant the right to apply to the High Court for judicial review as well if a public authority does not comply with the 30 day time frame, this might prove to be a financial obstacle to an applicant go through the courts, and may also be time consuming. Given the foregoing, the country under review may consider amending the Act to provide an applicant the right to complain to the Ombudsman in cases a public authority does not provide a written response within thirty days. The Committee will formulate a recommendation in this regard. (see Recommendation 5.4.5 in Section 5.4 of Chapter II of this Report)

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

[218] The Office of the Ombudsman provides comprehensive results with respect to its work and functions, as found in its annual reports. For example, there Office, in its 34th Annual Report, presents eleven tables on the following topics: complaints received during the period January – December 2011, new complaints received during 2011 and those brought forward from previous

156. 34th Annual Report of the Ombudsman, pgs. 5 – 6, *supra* note 150.

157. Section 38(A) of the Freedom of Information Act, *supra* note 146.

158. See sections 15 and 23 of the Freedom of Information Act, *ibid*.

159. 34th Annual Report of the Ombudsman, pg. 14, *supra* note 150.

years, distribution of new complaints against Ministries/Department/Agencies in 2011, new complaints received at the Port of Spain office during the period January – December 2011, distribution of new complaints received at the Port of Spain office in 2011, new complaints received at the San Fernando office during the period January – December 2011, new complaints received at the Tobago office during the period January – December 2011, complaints received at the Tobago office during 2011 and those brought forward from previous years, distribution of complaints received at the Tobago office in 2011, and summary of the number of persons who visited the Regional Office in 2011.¹⁶⁰

[219] The results are broken down in a comprehensive manner. For example, on the number of complaints received during 2011, the Office received 1775. Of these, 425 were dismissed as the matter involved a private matter, rather than a government decision, 24 were requests under the Freedom of Information Act, 575 were inquiries/referrals, and of those, 751 were investigated and 231 of them concluded. Overall, including complaints from previous years, there were 3378 complaints, 2354 were investigated, 1127 concluded, and 1227 still under investigation.

[220] These complaints are also broken down by the Ministry/Authority/Agency involved, the total number of complaints in those government institutions, the number that were advised or referred, the number that were not sustained, the number that were sustained or rectified, the number still under investigation and the number withdrawn or discontinued. For example, in the Service Commissions Department, 6 complaints were received, 2 were advised or referred and 4 are under investigation. In the Judiciary, 8 complaints were received and 8 advised or referred.

[221] Though the Committee notes the comprehensive nature of these statistics, it does believe that the Ombudsman may also provide results with the outcome of the appraisals of a complaint. The Ombudsman Act provides that during or after any investigation the Ombudsman is of the opinion that there is evidence of any breach of duty, misconduct or criminal offence on the part of any officer or employee, the Ombudsman may refer the matter to the appropriate authority to take disciplinary or other proceedings.¹⁶¹ Upon review of the statistics provided in the annual report, it is difficult to ascertain what is meant when a complaint was advised or referred. For example, as stated in the previous paragraph, in the Judiciary, of 8 complaints received, 8 were advised or referred. If they were referred, there is no information as to which authority received the referral, and for what reason. If it was referred for disciplinary issues, this should be set out as well.¹⁶²

160. 34th Annual Report of the Office of the Ombudsman, pg. 35, *ibid*.

161. Ombudsman Act, section 3(4), *supra* note 155.

162. In this respect, the country under review, in its observations to the draft preliminary report, noted that certain types of complaints raise issues which should be handled by those bodies which were specially created and equipped to address these issues, for example, the Regulated Industries Commission was established to handle complaints which arise from citizens' dissatisfaction with the standards of services provided by public utilities. The Commission employs engineers and other technical staff who possess the capacity and technical knowledge to effectively investigate matters related to problems with the provisions of electricity services and water distribution malfunctions. Where specialist agencies are established to perform certain functions, complaints, which fall within the remit of these bodies, are referred by the Ombudsman for their necessary resolution and action. The complainants are informed in writing of the referral and advised to liaise with the agency concerned for the eventual resolution of their matters. At the close of investigations the results of complaint assessment are classified as follows: 1) Rectified - pertains to matters which have been resolved; 2) Referred - pertains to matters which have been forwarded to an appropriate authority for resolution; 3) Not sustained - pertains to matters in which it is determined that the complainants have not suffered an injustice in consequence of a fault in administration; 4) Sustained - pertains to matters in which it is determined that the Complainant has suffered an injustice due to a fault in administration; and 5) Advised - pertains to matters in which advice and comprehensive explanations are provided

[222] In addition, the Ombudsman may also consider providing information on the outcome of their investigations, specifically, on whether government institutions are complying with its recommendations. By making public the institutions that have not remedied an administrative injustice, as recommended by the Ombudsman, it may act as an incentive for these institutions to take appropriate action, and not appear on a list of noncompliance.

[223] Finally, the Committee notes that the annual reports provide information on the number of Freedom of Information Act requests received in a year for review, which numbered 24 in 2011. Of these, a third were requests seeking intervention under the Act as a result of a non-response by the relevant public authority to the applicant's request. However, no further information is provided on the outcome of these requests, and the Ombudsman may consider providing information on the outcome of these complaints, broken down in the same manner as the complaints received under their Constitutional competence. The Committee will formulate recommendations in this regard. (see Recommendation 5.4.6, 5.4.7 and 5.4.8 in Section 5.4 of Chapter II of this Report)

5.4. Conclusions and recommendations

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

[225] The Republic of Trinidad and Tobago has considered and adopted measures intended to maintain and strengthen the Office of the Ombudsman, as an oversight body, as described in Chapter II, Section 1 of this Report.

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

- 5.4.1 Provide the Office of the Ombudsman with the budgetary and human resources needed for the proper performance of its function, within available resources, including the provision of adequate facilities. (See section 5.2 of Chapter II of this Report)
- 5.4.2 Subject to its Constitution and the fundamental principles of its legal system, implement measures or mechanisms that establish a budget for the Office of the Ombudsman that ensures some degree of financial autonomy. (See section 5.2 of Chapter II of this Report)
- 5.4.3 Establish time frames, with appropriate enforcement mechanisms, for government departments or authorities to respond to the Ombudsman indicating the steps taken to implement a recommendation, including periodic updates until the administrative injustice is addressed. (See section 5.2 of Chapter II of this Report)
- 5.4.4 Implement time frames for government departments or authorities to comply with requests for relevant information and documents by the Ombudsman, with respect to an investigation. (See section 5.2 of Chapter II of this Report)

- 5.4.5 Consider amending the Freedom of Information Act to provide applicants with the right to complain to the Ombudsman if a public authority does not comply with the legislative timeline for providing a written response to a Freedom of Information Act request. (See section 5.2 of Chapter II of this Report)
- 5.4.6 Maintain comprehensive results on the referrals sent to other authorities for disciplinary proceedings, such as the identity of the authority and the reasons for the referral, in order to identify challenges and recommend corrective measures. (See section 5.2 of Chapter II of this Report)
- 5.4.7 Publicize the government institutions that have not complied with the recommendations of the Ombudsman to remedy an administrative injustice. (See section 5.2 of Chapter II of this Report)
- 5.4.8 Maintain results on the outcome of requests under the Freedom of Information Act, broken down in the same manner as the complaints received under their Constitutional competence, in order to identify challenges and recommend corrective measures. (See section 5.2 of Chapter II of this Report)

III. BEST PRACTICES

[227] In accordance with Section IV 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* adopted by the Committee for the Reports of said Round, reference is made to a best practice the country under review is planning to execute, regarding coordination among investigative agencies on money laundering issues. It is also expected to result in more prosecutions for this offence.¹⁶³

IV. FOLLOW-UP ON PROGRESS AND NEW AND RELEVANT INFORMATION AND DEVELOPMENTS WITH REGARD TO THE IMPLEMENTATION OF RECOMMENDATIONS SUGGESTED IN THE COUNTRY REPORT IN THE FIRST ROUND OF REVIEW¹⁶⁴

[228] The Committee will refer below to the progress, information, and new developments made by the Republic of Trinidad and Tobago in relation to the recommendations and measures suggested by the Committee for implementation in the Report of the First Round, and with respect to which the Committee deemed that additional attention was required in the Reports from the Second and Third Rounds,¹⁶⁵ and shall, as appropriate, 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 pursuant to section VI of the Methodology adopted by the Committee for the Fourth Round of Review.

163. Response to the Questionnaire, pgs. 63 – 65, *supra* note 43.

164. 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.

165. These Reports are available at: www.oas.org/juridico/english/tto.htm

[229] The Committee will also take note in this section of the Report of the difficulties in implementing the aforementioned recommendations and the measures to which the country under review has drawn attention, as well as of its technical cooperation needs to that end.

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:

Consider strengthening the implementation of laws and regulatory systems related to conflicts of interest.

Measures a(i), (ii), and (iii) suggested by the Committee that require additional attention within the Framework of the Second and Third Rounds:

Strengthen the measures related to conflicts of interest with respect to members of the judiciary, as well as those who perform judicial functions, subject to its constitution and the fundamental principles of its legal system, taking into account the following:

- i. Consider the usefulness of defining in a code of conduct for judicial officers what actions or omissions would constitute 'misbehaviour'. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)*
- ii. Review relevant provisions with an aim towards removing any conflicts that cause the provisions of the Integrity in Public Life Act not to be applied to judges. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)*
- iii. Create specific codes of conduct for judicial officers that would promote measures to create, maintain, and strengthen standards of conduct for the correct, honorable, and proper fulfillment of public functions, in addition to mechanisms to enforce these standards of conduct. (The basis for these measure are found in section 1.1.2 of Chapter II of the First Round Report)*

[230] In its Response, the country under review noted that the Integrity Commission is currently reviewing the matter with respect to these three measures.¹⁶⁶ In this regard, the Committee notes that codes of conduct exists for the public service, such as for the civil, police, prison, fire and teaching service. These are found in the regulations of the legislation that provide a legal framework for each of these services. However, the Judicial and Legal Services Act, which establishes officers in the judicial and legal service, does not have regulations that contain a code of conduct for these officers, which fall under the purview of the Judicial and Legal Service Commission. As far as the Committee can tell, these are the only public officers in the public service of Trinidad and Tobago that do not have one in place. It appears there is nothing prohibiting the enactment of such a code, given that the Act, under section 16 does provide that Regulations may be enacted for regulating the duties and conduct of these officers.

166. Response to the Questionnaire, pg. 15, *supra* note 43.

[231] The First and Second Schedule of the Judicial and Legal Service Act provide a list of the numerous judicial and legal offices subject to the Act, and as such Judicial and Legal Service Commission. These include legal offices such as state counsels, state solicitors, parliamentary counsels, as well as judicial offices such as magistrates, coroners, court executive administrators and registrars. Other legal and judicial offices, which fall under the Judicial and Legal Service Commission, include the Chairman and Vice-Chairman of the Tax Appeal Board and the Masters of the High Court.¹⁶⁷ The total number of legal and judicial offices that fall under the Commission's purview is approximately 300.¹⁶⁸ The Committee notes that there is a Code of Ethics applicable to legal officers under the Legal Profession Act, breach of which is addressed by a disciplinary committee.¹⁶⁹ The Committee also notes that specific codes of conduct are being adopted, such as the Code for Prosecutors that work in the Office of the Director of Public Prosecutions.¹⁷⁰

[232] In addition, the Committee observes that the country under review, in the Progress Report presented at the Fifteenth Meeting of the Committee of Experts,¹⁷¹ stated:

[233] *“By High Court Action 1735 of 2005 the Integrity Commission asked the Court to rule as to the applicability of the reporting requirements of the Integrity in Public Life Act 2000 to Judges and Magistrates. On the 15th October 2007 the Court ruled that to require Judges to report to the Integrity Commission would constitute a breach of their terms and conditions and as such they should not be required to report. The Court further ruled that Judges and Magistrates in Trinidad and Tobago were not subject to the Integrity in Public Life Act 2000.”*¹⁷²

[234] Though the Court found that the Integrity in Public Life Act was unconstitutional as applied to judges and magistrates, the Committee notes that there does not appear to be a constitutional impediment for the judiciary to establish its own code of conduct for judges. Similar codes that could serve as guidance include the Ethical Principles for Judges by the Canadian Judicial Council,¹⁷³ the Guide to Judicial Conduct by the Judge's Council of England and Wales,¹⁷⁴ the Guide to Judicial Conduct by the Council of Chief Justices of Australia,¹⁷⁵ and the Bangalore Principles of Judicial Conduct.¹⁷⁶ Principles such as judicial independence, integrity, diligence, equality and impartiality may be addressed in such a code, as well as examples provided for what constitutes 'misbehaviour' as set out under section 137(1) of the Constitution for judges, which sets out the procedure for the removal of judges. Moreover, a declaration of interests for the judiciary may also be considered.¹⁷⁷

167. See section 4(2) of the Tax Appeal Board Act, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/4.50.pdf and section 65A of the Supreme Court Judicature Act, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/4.01.pdf

168. See Judicial and Legal Service Commission Role, Responsibilities and Composition, scd.org.tt/index.php/en/the-service-commissions/104-judicial-a-legal-service-commission/89-jlsc-roles-responsibilities-a-composition

169. See Schedules Three and Four of the Legal Profession Act, rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/90.03.pdf

170. See Code for Prosecutors, *supra* note 108.

171. Progress Report presented at the Fifteenth Meeting of the Committee of Experts, pgs, 1 – 2, www.oas.org/juridico/english/mec_avance_ttoXV.pdf

172. High Court Action 1735 of 2005, webopac.tlawcourts.org/LibraryJud/Judgments/HC/jones/2007/HCA_1735_05DD15Oct07.rtf

173. Ethical Principles for Judges, Canadian Judicial Council, www.cjc-cm.gc.ca/emslib/general/news_pub_judicialconduct_Principles_en.pdf

174. Guide to Judicial Conduct, Judge's Council of England and Wales, www.judiciary.gov.uk/Resources/JCO/Documents/Guidance/guide-judicial-conduct-aug2011.pdf

175. Guide to Judicial Conduct, Council of Chief Justices of Australia, www.ajja.org.au/online/GuidetoJudicialConduct.pdf

176. Bangalore Principles of Judicial Conduct, www.unodc.org/pdf/corruption/corruption_judicial_res_e.pdf

177. For example, Canada, which shares the same legal tradition as Trinidad and Tobago, requires its judges, such as its Supreme Court Justices, to submit a confidential disclosure of a justice's assets and liabilities. See section 22 of the Conflict of Interest Act, laws-lois.justice.gc.ca/PDF/C-36.65.pdf

To that end, the Judicial Education Institute, whose mission is to “*promote excellence in the administration of justice in the Republic of Trinidad and Tobago through continuous training and development of Judges, other judicial officers and non-judicial staff attached the Judiciary,*” may play an important role.¹⁷⁸

[235] Given the foregoing, the Committee considers the reformulation of measures a)(i), (ii) and (iii) of the recommendation of section 1.1 of Chapter IV of this Report, as follows:

[236] Establish a code of conduct for judicial officers that would promote measures to create, maintain, and strengthen standards of conduct for the correct, honorable, and proper fulfillment of public functions. (see measure a)(i) of section 1.1 of Annex 1 to this Report)

[237] Establish a code of conduct for judges that would promote measures to create, maintain, and strengthen standards of conduct for the correct, honorable, and proper fulfillment of public functions, including consideration of submission of a declaration of interests. (see measure a)(ii) of section 1.1 of Annex 1 to this Report)

Measure b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Create a mechanism that would allow the Service Commissions to hold administrative hearings and dismiss public servants based on a finding of involvement in corrupt activity independent of whether proceedings are taken against the public servant in any Court. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)

[238] In its Response, the country under review states that the Code of Conduct (Civil Service Regulations) and the Public Service Commission Regulations provide for disciplinary action to be taken against public servants, whereby dismissal is provided for in Regulation 110 of the Public Service Regulations.¹⁷⁹ The Committee notes that the issue identified in the First Round, that led to measure b), was the prohibition under Regulation 111(1) of the Public Service Regulations from taking administrative proceedings against an officer where criminal proceedings have been brought against him.¹⁸⁰ However, Regulation 111 was revoked in 1991, and therefore the reasons for the measure being recommended are no longer valid as this prohibition no longer exists.

[239] Given the foregoing, the Committee considers it appropriate to eliminate measure b) of the aforementioned recommendation of section 1.1 of Chapter IV of this Report.

Measure c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Review and amend Service Commission regulations as appropriate to ensure that investigative and disciplinary processes will not entail lengthy delays. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)

178. Judicial Education Institute, www.ttlawcourts.org/index.php?option=com_content&view=article&id=157&Itemid=114

179. Response to the Questionnaire, pgs. 16 – 17, *supra* note 43.

180. Report on Implementation in Trinidad and Tobago of the Inter-American Convention against Corruption Provisions selected for Review in the Framework of the First Round, pg. 12, www.oas.org/juridico/english/mec_rep_tto.pdf

[240] With respect to the aforementioned measure, in its Response, the country under review presents information.¹⁸¹ In this respect, the country under review notes that Regulation 90(5) of the Public Service Regulations provides for an investigating officer to complete a report no later than 30 days from the date of appointment. In addition, these Regulations are being currently amended to allow for case management to be introduced to the disciplinary tribunals to prevent delays in hearing and completion of matters, as well as a draft amendment has been prepared to allow for tribunals to make minor amendments to disciplinary charges. This will reduce delay because the matters will not have to go back to the Public Service Commission for amendment.

[241] The Committee notes that during the on-site visit, the civil society organization, Trinidad and Tobago Transparency Institute expressed concern over the lengthy delays in proceedings, where at times a person is no longer a public servant by the time the proceedings are concluded. In addition, the representatives stated that investigations are not timely, and imposing a disciplinary sanction can take 10 years.

[242] During the visit, the team brought up this issue with the Services Commission Department, and as set out under section 3.2 of this Report, acknowledged that there were lengthy backlogs, and that it was difficult to conduct an investigation in 30 days for the submission of a report to a Commission. Reasons given included that the Department is understaffed and that investigating officers are not trained on legal matters. The Committee also noted that many of the decisions of one-man tribunals are being overturned since they are not being effectively discharged by the Permanent Secretary or the Head of the Department.

[243] Given that in section 3.2 of this Report, the issues of the lengthy delays in the investigating and disciplinary process are reviewed in a more comprehensive manner, the Committee considers it appropriate to eliminate measure c) of the aforementioned recommendation of section 1.1 of Chapter IV of this Report, and refer to Recommendations 3.4.5, 3.4.6, 3.4.7, and 3.4.8 in section 3.4 of Chapter II of this Report.

Measure d)(i) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Strengthen the provisions within the Integrity in Public Life Act taking into account the following:

- i. *Set up a system to ensure that the Integrity Commission has enough resources to perform its functions.* (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)

[244] With respect to the aforementioned measure, in its Response, the country under review presents information and new developments.¹⁸² In this regard, the Committee notes that though it has adequate financial resources, it is constrained with respect to its human resource and accommodation. To address this, the Integrity Commission intends to hire a human resource consultant to advise on an appropriate structure for the Commission.

[245] The Committee notes that during the on-site visit, the civil society organization, Trinidad and Tobago Transparency Institute expressed concern over the resources available to the Integrity Commission, stating that it does not have sufficient resources to carry out its work.

181. Response to the Questionnaire, pgs. 17 – 18, *supra* note 43.

182. Response to the Questionnaire, pg. 19, *supra* note 43.

[246] Given that in section 1.2 of this Report, the issues of resources in the Integrity Commission is reviewed in a more comprehensive manner, the Committee considers it appropriate to eliminate measure d)(i) of the aforementioned recommendation of section 1.1 of Chapter IV of this Report, and refer to Recommendation 1.4.7 in section 1.4 of Chapter II of this Report.

Measure d)(ii) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Strengthen the provisions within the Integrity in Public Life Act taking into account the following:

- ii. *Undertake a review of existing regulations and amend them where appropriate to ensure that the Integrity Commission has a system to train, inform and respond to requests for advice and consultation by public servants, in compliance with its mandate. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)*

[247] With respect to the aforementioned measure, in its Response Questionnaire, the country under review presents information and new developments.¹⁸³ Several training seminars in the recent past have been carried out for persons in public life and it intends to conduct public education program in the future targeting public servants or persons exercising public functions regarding the code of conduct. Moreover, in April 2012, it has commenced a system of audits of public bodies, as mandated by the Integrity in Public Life Act.

[248] Given that in section 1.2 of this Report, the issues of training and is reviewed in a more comprehensive manner, the Committee considers it appropriate to eliminate measure d)(ii) of the aforementioned recommendation of section 1.1 of Chapter IV of this Report, and refer to Recommendations 1.4.11 in section 1.4 of Chapter II of this Report.

Measure d)(iii) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Strengthen the provisions within the Integrity in Public Life Act taking into account the following:

- iii. *Ensure that the competent oversight agencies have a system to see that public servants comply with the provisions of the Code of Conduct in the Integrity in Public Life Act, including having public servants sign a written agreement to abide by the Code of Conduct in the Integrity in Public Life Act. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)*

[249] In its Response, the country under review did not report any developments with respect to measure d)(iii) of the foregoing recommendation. Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure b(i) of section 1.1 of Annex 1 to this Report)

Measure d)(iv) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Strengthen the provisions within the Integrity in Public Life Act taking into account the following:

183 *Ibid.*

- iv. *Enact specific measures, where appropriate, to ensure that conflicts of interest that may arise in all branches of government are covered.* (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)

[250] In its Response, the country under review did not report any developments with respect to measure d(iv) of the foregoing recommendation. The Committee notes that the rationale behind this measure was to ensure that the provisions of the Act cover conflicts of interests in all areas of government, such as customs, tax collection, public accounting, purchases and hiring. Looking at the definition of ‘persons exercising public functions’ in the Act, it includes all persons holding office under the Public Service, Judicial and Legal Service, Police Service, Teaching Service and Statutory Authorities’ Service Commission, as well as members of the Diplomatic Service and Advisers to the Government. It would appear that the legislation in place already covers all areas of government with respect to conflicts of interest, setting aside the constitutional issues that have arisen with respect to judges, as examined earlier.

[251] However, the Committee would like to highlight that throughout the public service in Trinidad and Tobago, more and more contract employees are being hired to work in the public service, yet are not considered part of the public service.¹⁸⁴ As an example, in the additional information provided to the Response to the Questionnaire, the country under review noted that the Integrity Commission is comprised of both contract employees and public service employees, numbering 21 and 10 respectively.¹⁸⁵ As such, there are more contract employees rather than public service employees that work in the Commission, meaning that the majority of persons employed by the Commission do not fall under the purview of the Act, and therefore, are not bound to follow the Code of Conduct either. One of the recommendations being considered by the Integrity Commission, as expressed during the on-site visit, is to amend the Act is to make the Code applicable to those who handle public money, just not those who exercise public functions. To this end, the country under review should also consider including those hired as contract employees, given the important responsibilities these persons are undertaking in the public service, while not forming part of the public service. The Committee will formulate a recommendation in this regard.

[252] Given the foregoing, the Committee considers the reformulation of measure d(iv) of the recommendation of section 1.1 of Chapter IV of this Report, as follows:

[253] Require those employed by contract to be subject to the Code of Conduct of the Integrity in Public Life Act, as well as all persons that handle public money. (see measure b)(ii) of section 1.1 of Annex 1 to this Report)

Measure e) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Incorporate into the Civil Service Regulations and the Civil Service (Amendment) Regulations, as appropriate, provisions dealing specifically with the detection and/or prevention of conflicts of interest. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)

184. See for example the table provided on page 7 of the Response to the Questionnaire for the Second Round of Review by Trinidad and Tobago, which demonstrates a significant increase in the use of these types of contracts. For example, in 2001, 809 individuals were registered as being hired on contract, while in 2006, this total increased to 5289, www.oas.org/juridico/spanish/mesicic2_tto_resp_en.doc

185. Additional Information to the Questionnaire, pgs. 5 – 6, *supra* note 9.

[254] In its Response, the country under review did not report any developments with respect to measure e) of the foregoing recommendation. Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure c) of section 1.1 of Annex 1 to this Report)

Measure f) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Review and amend where appropriate existing regulations to ensure that the disciplinary process of the Police Service Commission is efficient and effective, and ensure that the Commission has resources to operate accordingly. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)

[255] In its Response, the country under review did not report any developments with respect to measure f) of the foregoing recommendation. Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure d) of section 1.1 of Annex 1 to this Report)¹⁸⁶

Measure g) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Encourage the updating of a more comprehensive version of the proposed Code of Ethics for Parliamentarians including Ministers than the one previously in force, incorporating into the new version provisions similar to those contained in the Code of Conduct in the Integrity in Public Life Act, and enforcement provisions. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)

[256] In its Response, the country under review did not report any developments with respect to measure g) of the foregoing recommendation. Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure e) of section 1.1 of Annex 1 to this Report)

[257] The Committee notes that during the on-site visit, the civil society organization Trinidad and Tobago Transparency Institute stated that with respect to the proposed Code of Ethics for Parliamentarians including Ministers, there have been no changes.

Measure h) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Establish as a mandatory Committee of the Parliament the Standing Ethics Committee of the Houses of Parliament, and ensure that the Code of Ethics be contained in the Rules of the House of Parliament and the Senate. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)

[258] In its Response, the country under review did not report any developments with respect to measure h) of the foregoing recommendation. Given the foregoing, the Committee takes note of the

186. The country under review notes that with the enactment of the Constitution (Amendment) Act, 2006, the Police Service Commission has the power to remove from office and exercise disciplinary control solely over the Commissioner of Police and the three Deputy Commissioner of Police, *supra* note 123.

need for the country under review to give additional attention to implementation thereto. (see measure f) of section 1.1 of Annex 1 to this Report)

[259] The Committee notes that during the on-site visit, the civil society organization Trinidad and Tobago Transparency Institute stated that the Standing Ethics Committee has never been called into order.

Measure j) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Subject to compatibility with the constitutional right of the individual to freedom of work, incorporate into the legal system relevant and appropriate restrictions for those who leave public sector employment, within a reasonable period of time after leaving their position, regarding activities that could involve them taking undue advantage of their status as a former public servant. (The basis for this measure is found in section 1.1.2 of Chapter II of the First Round Report)

[260] In its Response, the country under review did not report any developments with respect to measure j) of the foregoing recommendation. Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure g) of section 1.1 of Annex 1 to this Report)

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

Recommendation:

Consider strengthening the system of control of public resources.

Measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Conduct an analysis of the use and effectiveness of standards of conduct for ensuring the conservation and proper use of public resources and of the mechanisms existing in the Republic of Trinidad and Tobago to enforce these standards, as instruments for preventing corruption. As an outcome of said analysis, consider the adoption of measures to promote, facilitate, and consolidate or ensure the effectiveness of these instruments for this purpose. (The basis for this measure is found in section 1.2.3 of Chapter II of the First Round Report)

[261] In its Response, the country under review noted that the Integrity Commission has not taken any action in this regard.¹⁸⁷ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see the only measure of section 1.2 of Annex 1 to this Report)

187. Response to the Questionnaire, pg. 25, *supra* note 43.

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 1.3:

Consider creating measures requiring public officials to report to the appropriate authorities acts of corruption in the performance of public functions of which they are aware.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Incorporate into existing legislation a requirement that all public servants must report acts of corruption of which they become aware during the course of their public functions, and make the corresponding Commission responsible for training. (The basis for this measure is found in section 1.3.2 of Chapter II of the First Round Report)

[262] In its Response, the country under review noted that the matter is currently engaging the attention of the Integrity Commission.¹⁸⁸ In addition, the Public Service Commission noted that training should be carried out by the Personnel Department, as training on reporting acts of corruption does not relate to the constitutional functions of the Public Service Commission.

[263] The Committee notes that in the First Round of Review, the country under review stated that public officials are not required under any standards of conduct to report acts of corruption in public office to appropriate authorities. Moreover, the Integrity in Public Life Act makes reporting such acts voluntary rather than obligatory for any member of the public to report acts of corruption.¹⁸⁹ The recommendation was formulated to address the absence of a requirement by public servants to report acts of corruption, and reference was made to the Integrity in Public Life Act, with training to be provided by the corresponding Commission, which is the Integrity Commission. The Committee notes, however, that the Act does not apply to judges and magistrates, due to a decision of the High Court, leaving out an important number of public officials that would be excluded from receiving training if the country under review complied with this recommendation, focused solely on the role of the Integrity Commission. Training by the Personnel Department maybe considered, but the Committee observes that the responsibility of this Department is to determine and advise on pay and other terms and conditions of service, not necessarily for determining standards of conduct for public officers and the training to be provided.

[264] Given the foregoing, the Committee considers the reformulation of measure a) of the recommendation for section 1.3 of Chapter IV of this Report, as follows:

[265] Incorporate into existing legislation a requirement that all public servants must report acts of corruption of which they become aware during the course of their public functions, with training provided by the appropriate authorities. (see measure a) of section 1.3 of Annex 1 to this Report)

188. *Ibid.*, pg. 27.

189. Report of the First Round, pg. 18, *supra* note 180.

Measure c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Review the results of the investigations carried out by the Commissions of Enquiry in order to analyze the effectiveness of any legislation already in place. (The basis for this measure is found in section 1.3.3 of Chapter II of the First Round Report)

[266] In its Response, the country under review did not report any developments with respect to measure c) of the foregoing recommendation.¹⁹⁰ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure b) of section 1.3 of Annex 1 to this Report)

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

Recommendation:

Consider strengthening systems for the disclosure of income, assets and liabilities.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Amend the Integrity in Public Life Act at 41(2) so that approval of its form of declaration and regulations will be subject only to a negative resolution of Parliament or to no resolution at all. (The basis for this measure is found in section 2.2 of Chapter II of the First Round Report)

[267] In its Response, the country under review noted that the matter is currently engaging the attention of the Integrity Commission.¹⁹¹

[268] The Committee observes that in the Report of the First Round, the Committee found that the requirement of receiving an affirmative resolution of Parliament for future amendments to their form of declaration and regulations served as an impediment to the work of the Integrity Commission, an observation shared by the Integrity Commission itself.¹⁹² During the on-site visit, the representatives mentioned various proposed amendments to the Integrity in Public Life Act, including amendments to the declaration forms that would make them more effective at uncovering corruption and conflicts of interest, which is also being proposed in its Strategic Plan for 2012 – 2015.¹⁹³ Additional information to be captured in a new declaration forms include financial or other contributions to political parties; financial or other favors granted to public officials; financial or other favors received by public officials; all associated businesses; all instances of supply of goods and services to the State; all instances of tenancy arrangements between the State and the declarant; as well as more information on conflicts as it relates to private companies; and other business relationships.¹⁹⁴ In addition, as discussed under section 1.2, there are proposals by the Integrity Commission to enact regulations for the Integrity in Public Life Act.¹⁹⁵

190. Response to the Questionnaire, pg. 28, *supra* note 43.

191. *Ibid.*, pg. 29.

192. Report of the First Round, pg. 22, *supra* note 180.

193. See the 24th Annual Report of the Integrity Commission, 2011, pg. 36, *supra* note 12.

194. Request for Review of the Role of the Integrity Commission, *supra* note 16.

195. See Recommendation 1.4.5, in Section 1.4 of Chapter II of this Report.

[269] These important initiatives demonstrate the ongoing willingness by the Integrity Commission to better address corruption in the public service, and the Committee reiterates its observation from the First Round of Review, that the requirement to receive an affirmative resolution for amending the declaration form or enacting regulations may serve as an impediment to the work of the Commission.

[270] Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure a) of section 2 of Annex 1 to this Report)

Measure b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Give more enforcement powers to the Integrity Commission so that it can impose penalties directly on a person in public life who is in violation of sections 11, 13 or 14, of the Integrity in Public Life Act. (The basis for this measure is found in section 2.2 of Chapter II of the First Round Report)

[271] In its Response, the country under review noted that the matter is currently engaging the attention of the Integrity Commission.¹⁹⁶

[272] The Committee notes that the issue of enforcement was examined in detail in section 1.2 of Chapter II of this Report. Not only are there issues of enforcement with respect to the declaration of income, assets and liabilities, as set out in sections 11, 13 and 14 of the Integrity in Public Life Act, but also there are issues of enforcement with respect to the Code of Conduct contained in the Act.

[273] Given that in section 1.2 of this Report, the issues of enforcement was reviewed in a more comprehensive manner with respect to the function of the Integrity Commission as an oversight body, the Committee considers it appropriate to eliminate measure b) of the aforementioned recommendation of section 1.1 of Chapter IV of this Report, and refer to Recommendations 1.4.1 in section 1.4 of Chapter II of this Report.

Measure c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Review the possibility of making public the proceedings of a tribunal under 16(2) of the Integrity in Public Life Act. (The basis for this measure is found in section 2.2 of Chapter II of the First Round Report)

[274] In its Response, the country under review noted that the matter is currently engaging the attention of the Integrity Commission.¹⁹⁷ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure b) of section 2 of Annex 1 to this Report)

Measure d) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Ensure that provisions have been made by the Service Commissions to receive declarations of interests from Commission members. (The basis for this measure is found in section 2.2 of Chapter II of the First Round Report)

196. Response to the Questionnaire, pg. 30, *supra* note 43.

197. *Ibid.*, pg. 31

[275] In its Response, the country under review did not report any developments with respect to measure d) of the foregoing recommendation.¹⁹⁸ The Public Service Commission does observe that the recommendation is erroneous, as it should be the Integrity Commission that receives declarations of interest from Public Service Commission members, and the Public Service Commission should not receive declarations from its own Commission members.¹⁹⁹

[276] The Committee observes that section 30 of the Integrity in Public Life Act, which was the basis for the recommendation, provides that a person holding office under the various Service Commissions in Trinidad and Tobago are, upon appointment, and from time to time as required, to declare to the appropriate Commission, all business, commercial and financial interests and activities in which the person is engaged; and all personal property, assets and liabilities in respect of the person, the person's spouse and dependent children. The term 'appropriate Commission' appears to indicate that these declarations are to be submitted to the Service Commission from which the person was appointed. The marginal or side note seems to support this interpretation, given that it states 'Disclosure to Service Commission.' Therefore there is a duty upon the Service Commissions to receive declarations from those persons appointed by them to a public office. Moreover, the Committee notes that the Schedule to the Integrity in Public Life Act, which identifies the persons in public life required to submit a declaration to the Integrity Commission, does not include the members that compose the Service Commission themselves. The Committee observes that if it were the intention of Parliament to require members of the Service Commissions to submit their declarations to the Integrity Commission, it would have included them in the Schedule to the Act. The Committee further notes that one of the proposals of the Integrity Commission, in updating the Integrity in Public Life Act, is to include the Chairman and members of all Service Commissions, as well as those of the Integrity Commission itself, among others, in the Schedule to the Act.²⁰⁰

[277] Given the foregoing, the Committee considers the reformulation of measure d) of the recommendation of section 2 of Chapter IV of this Report, as follows:

[278] Ensure that measures have been put in place by the Service Commissions to receive declarations of interests from those persons appointed by them and the members of these Commissions as well. (see measure c) of section 2 of Annex 1 to this Report)²⁰¹

Measure e) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Review the provisions on declarations of interest to ensure that all public employees in appropriate positions are required to file declarations, including members of the Diplomatic Service and Advisers to the Government. (The basis for this measure is found in section 2.2 of Chapter II of the First Round Report)

[279] With respect to the aforementioned measure, in its Response, the country under review noted that the matter is currently engaging the attention of the Integrity Commission.²⁰²

198. *Ibid.*, pg. 32

199. *Ibid.*

200. Request for Review of the Role of the Integrity Commission, *supra* note 16.

201. In this respect, the country under review, in its observations to the draft preliminary report, noted that the Integrity Commission proposes to make mandatory the submission of declarations of income assets and liabilities by members of the various Commissions including the Integrity Commission. The proposal is for the declarations of the members of the other Commissions to be submitted to the Service Commission and those of the Integrity Commissioners possibly to the President.

[280] As stated under the review of measure d) of this section, the Integrity Commission is proposing to enlarge the list of officials required to submit a declaration of interests contained in the Schedule to the Integrity in Public Life Act. In addition to the Chairman and members of the Integrity Commission and the Service Commissions, it is proposed to include important positions in the public service, such as the Transport Commissioner, Commissioner of Police, Chief Immigration Officer, Chairman of the Board of Internal Revenue, Comptroller of Customs and Special and Technical Advisers to Ministers.²⁰³ To this list may include members of the diplomatic service as well. Given the high level of responsibilities and impact these senior positions may have in implementing public policy, the Committee considers that the country under review should consider expanding the Schedule in the Integrity in Public Life Act.

[281] Given the foregoing, the Committee considers the reformulation of measure e) of the recommendation of section 2 of Chapter IV of this Report, as follows:

[282] Expand the Schedule to the Integrity in Public Life Act to include other senior officials with high-level responsibilities in implementing public policy. (see measure d) of section 2 of Annex 1 to this Report)

Measure f) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Regulate the conditions, procedures and other aspects related to publicizing the declarations of income, assets, and liabilities, and registrable interests, as appropriate. (The basis for this measure is found in section 2.2 of Chapter II of the First Round Report)

[283] With respect to the aforementioned measure, in its Response, the country under review noted that the matter is currently engaging the attention of the Integrity Commission.²⁰⁴

[284] The Committee observes that section 20 of the Integrity in Public Life Act provides that all declarations of income assets and liabilities are secret and confidential and shall not be made public except where a particular declaration or record is required to be produced for the purpose of or in connection with any court proceedings against or inquiry in respect of a declarant under the Act and other legislation. In addition, in its observations to the draft preliminary report, the Integrity Commission noted that there is no proposal to have this section amended.

[285] Given the foregoing, the Committee considers that measure f) of Recommendation 2 is no longer valid.

Measure g) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Utilize the declarations of income, assets and liabilities and registrable interests in order to detect and prevent conflicts of interests and illicit enrichment.

202. Response to the Questionnaire, pg. 33, *supra* note 43.

203. Request for Review of the Role of the Integrity Commission, *supra* note 16.

204. Response to the Questionnaire, pg. 34, *supra* note 43.

[286] With respect to the aforementioned measure, in its Response, the country under review noted that the declaration of income, assets and liabilities is scrutinized and analyzed, where the annual increase in net worth is compared to annual declared income, in order to detect illicit enrichment.²⁰⁵

[287] The Committee observes that the Integrity in Public Life Act does not provide for the review by the Integrity Commission of the statement of interests of a person in public life that files a declaration of income, assets and liabilities. Important information provided in the statement, such as particulars in a directorship, contracts made with the State, investments in partnerships or companies, among others, as well as any interest that may appear to raise a material conflict between a person's private interests and public duty are not being utilized to detect or prevent conflicts of interest. In addition, unlike the requirement to submit a declaration of assets, income and liabilities, there is no requirement for the spouse or dependent children to file such a statement.

[288] In addition, the Committee observes that even if the Integrity Commission comes across a case of illicit enrichment, the offense of illicit enrichment has not been criminalized in the country under review, which was reviewed in the Report on Implementation in the Republic of Trinidad and Tobago of the Convention Provisions Selected for Review in the Third Round, and in that respect, recommendations were formulated in that report.²⁰⁶

[289] Given the foregoing, the Committee considers the reformulation of measure g) of the recommendation of section 2 of Chapter IV of this Report, as follows:

[290] Utilize the statement of registrable interests submitted by persons in public life in order to detect and prevent conflicts of interests. (see measure e) of section 2 of Annex 1 to this Report)

[291] Consider amending the Integrity in Public Life Act to require the interests of spouses and dependent children to be registered in the statement of registrable interests of the person in public life. (see measure f) of section 2 of Annex 1 to this Report)

Measure h) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Create mechanisms, or implement those that already exist, such as mass media campaigns, information in educational establishments and public institutions, aimed at citizens in general and those who are interested in performing public functions, that help ensure broad knowledge about the purpose and scope of the provisions regarding the registration of income, assets, and liabilities and the public registry of interests. (The basis for this measure is found in section 2.2 of Chapter II of the First Round Report)

[292] With respect to the aforementioned measure, in its Response, the country under review noted that the Commission has take steps to expand media coverage of its activities and will enhance them.²⁰⁷ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure e) of section 2 of Annex 1 to this Report)

205. Response to the Questionnaire, pg. 35, *supra* note 43.

206. Report on Implementation in the Republic of Trinidad and Tobago of the Convention Provisions Selected for Review in the Third Round, pg. 14, www.oas.org/juridico/english/mesicic_III_inf_tto.pdf.

207. Response to the Questionnaire, pg. 36, *supra* note 43.

[293] Given that in section 1.2 of this Report, the issues of public outreach with respect to the function of the Integrity Commission as an oversight body was reviewed in a more comprehensive manner, the Committee considers it appropriate to eliminate measure g) of the aforementioned recommendation of section 2 of Chapter IV of this Report, and refer to Recommendation 1.4.10 in section 1.4 of Chapter II of this Report.

Measure i) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Ensure that a public register of interests has been established in accordance with the Integrity in Public Life Act, section 14. (The basis for this measure is found in section 2.2 of Chapter II of the First Round Report)

[294] With respect to the aforementioned measure, in its Response, the country under review presents information and new developments.²⁰⁸ In this regard, the Committee notes the following as a step that leads it to conclude said measure has been satisfactorily considered:

[295] – “*A manual Register of Interests is currently available to the public. The Commission is currently in the process of preparing a computerized Register.*”

[296] This Committee notes that this Register was established in 2004 and a procedure was prepared and approved for members of the public to inspect it.²⁰⁹

[297] The Committee takes note of the satisfactory consideration by the country under review of the measure of the foregoing recommendation.

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

Recommendation:

Strengthen oversight bodies in their functions related to enforcement of Articles 1, 2, 4 and 11 of the Convention, in order to ensure that such control is effective; give them greater support and the resources necessary to carry out their functions; and establish mechanisms for coordinating their activities, as appropriate, and for their continuous evaluation and monitoring.

Measure i) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Clarify the role of the Permanent Secretary or Head of Department under the Civil Service (Amendment) Regulations. (The basis for this measure is found in section 3.2 of Chapter II of the First Round Report)

[298] With respect to the aforementioned measure, in its Response, the country under review notes that this relates to the Civil Service Regulations so it is a matter for the Personnel Department.²¹⁰

208. *Ibid.*, pg. 37.

209. 17h Annual Report to Parliament, 2004, pg. 11, www.integritycommission.org.tt/reports.html

210. Response to the Questionnaire, pg. 38, *supra* note 43.

[299] The Committee notes that this recommendation was formulated because of an apparent conclusion that the Permanent Secretary or Head of Department, under the Code of Conduct contained in the Civil Service (Amendment) Regulations, has more leeway to determine what action to take against a public officer who has been found to have committed a misconduct, as compared to the disciplinary process undertaken by the Public Service Commission. The Committee observes, however, upon a further reading of the Code of Conduct, the Permanent Secretary or Head of Department has leeway with determining how to resolve a public officer's outside interests that could compromise, or reasonably be said to compromise that officer's job performance or office. The Permanent Secretary or Head of Department determines the nature and degree of compromise, decide upon an appropriate course to resolve it which may include assigning the officer to other duties, and advise the officer accordingly. This does not, however, involve misconduct.

[300] Given the foregoing, the Committee considers it appropriate to eliminate measure i) of the aforementioned recommendation of section 3 of Chapter IV of this Report.

Measure ii) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Amend the Public Service Commission Regulations to specifically provide that Permanent Secretaries and Heads of Department must report acts of misconduct that are not minor in nature to the Public Service Commission. (The basis for this measure is found in section 3.2 of Chapter II of the First Round Report)

[301] With respect to the aforementioned measure, in its Response, the country under review presents information and new developments.²¹¹ In this regard, the Committee notes the following as a step that leads it to conclude said measure has been satisfactorily considered:

[302] – *“The Public Service Commission Regulations at Regulation 90 already provides that Permanent Secretaries and Heads of Department must report acts of misconduct that are not minor in nature to the Public Service Commission.*

[303] *Regulation 90(1) states:*

[304] *90 (1) Where a report or allegation of indiscipline or misconduct is received other than a report or allegation of indiscipline or misconduct to which regulation 85 applies, the Permanent Secretary or Head of Department shall report the matter to the Director for the information of the Commission and concurrently warn the officer in writing of the allegation of indiscipline or misconduct and shall forthwith refer the matter to an investigating officer appointed by him. (Regulation 85 relates to minor acts).”*

[305] The Committee takes note of the satisfactory consideration by the country under review of the measure of the foregoing recommendation.

²¹¹ *Ibid.*, pgs. 39 – 40.

Measure iii) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Have all oversight agencies keep and systematize statistical information for the purpose of performing an objective evaluation of the results of the legal framework and other measures. (The basis for this measure is found in section 3.3 of Chapter II of the First Round Report)

[306] With respect to the aforementioned measure, in its Response, the country under review notes that with respect to the Office of the Auditor General, no statistical information for the purpose of performing an objective evaluation of the results of the legal framework and other measures is maintained by this Office. In addition, the Integrity Commission notes that it maintains statistical data on declarants and investigations.²¹²

[307] Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see the only measure of section 3 of Annex 1 to this Report)

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

4.1. General participation mechanisms

Recommendation suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Continue working on the implementation of formal mechanisms or statutory provisions expressly designed to stimulate the participation of civil society and of non-governmental organizations in efforts intended to prevent corruption. (The basis for this measure is found in section 4.1.3 of Chapter II of the First Round Report)

[308] The Committee notes that it does not have information with respect to the aforementioned recommendation. Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see recommendation 4.1 of section 3 of Annex 1 to this Report)

4.2. Mechanisms for access to information

Recommendation:

Strengthen the mechanisms for ensuring public access to information.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Include under the reach of the Freedom of Information Act, reports of Commissions of Enquiry issued by the President once they have completed their investigations, and public authorities or functions of public authorities designated by the President, after review by the House of

212. *Ibid.*, pg. 40.

Representatives. (The basis for this measure is found in section 4.2.2 of Chapter II of the First Round Report)

[309] In its Response, the country under review did not report any developments with respect to measure a) of the foregoing recommendation.²¹³

[310] The Committee observes that the Freedom of Information Act, under section 5, provides that the Act does not apply to the President; a commission of inquiry issued by the President, or any public authority or function of a public authority as the President may determine, by Order subject to negative resolution of Parliament.²¹⁴

[311] With respect to commissions of inquiries, the Committee observes that the Freedom of Information Act does not apply to the work of a commission of inquiry, but not necessarily the reports of these commissions.

[312] Given the foregoing, the Committee considers the reformulation of measure a) of the recommendation for section 4.2 of Chapter IV of this Report, as follows:

[313] Include under the reach of the Freedom of Information Act, the exempted public authorities or functions of public authorities designated by the President, after review by the House of Representatives. (see measure a) of section 4.2 of Annex 1 to this Report)

Measure b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Establish objective criteria that the President may take into account in exempting from the scope of the Freedom of Information Act certain documents of public authorities and Commissions of Enquiry. (The basis for this measure is found in section 4.2.2 of Chapter II of the First Round Report)

[314] In its Response, the country under review did not report any developments with respect to measure a) of the foregoing recommendation.²¹⁵

[315] Regarding the non-application of the Act to public authorities or their functions, ten have received exemption orders: First Citizens Bank Group; the Trinidad and Tobago Unit Trust Corporation; the Export-Import Bank; the Agricultural Development Bank; the Trinidad and Tobago Mortgage Finance Company Limited; the Taurus Services Limited; the Business Development Company Limited; the National Entrepreneurship Development Company Limited; the National Enterprises Limited; the Central Bank of Trinidad and Tobago; and the Integrity Commission of Trinidad and Tobago.²¹⁶

[316] In the review during the First Round, the Committee noted that it would be useful to set out the criteria that the President takes into account in exempting a public authority from the Act, which the Committee observes now includes important government institutions such as the Central Bank of Trinidad and Tobago and the Integrity Commission, which were not included when the Act was first promulgated.

213. *Ibid.*, pg. 42.

214. Freedom of Information Act, *supra* note 146.

215. Response to the Questionnaire, pg. 42, *supra* note 43.

216. Government of the Republic of Trinidad and Tobago, Freedom of Information Unit, Exemptions, www.foia.gov.tt/node/37

[317] Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure b) of section 4.2 of Annex 1 to this Report).

Measure c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Consider reviewing the scope of the exemption on Cabinet documents. (The basis for this measure is found in section 4.2.2 of Chapter II of the First Round Report)

[318] In its Response, the country under review did not report any developments with respect to measure a) of the foregoing recommendation.²¹⁷

[319] The Committee observes that Cabinet documents in general involve sensitive subjects of far reaching importance. Nevertheless, there are some documents that may not be considered exempt, though prepared for Cabinet, such as documents of a purely factual nature appended to a Cabinet document, such as reports, studies, tests or surveys of a scientific or technical nature.²¹⁸

[320] Moreover, the Committee observes that a review of the scope of exemption should be broader, and not be limited to Cabinet documents. In this respect the Committee believes that the country under review should consider reviewing the scope of all exempt documents, not just Cabinet documents, in order to ensure they do not obstruct the exercise of the right to information as an effective mechanism in efforts against corruption.

[321] Given the foregoing, the Committee considers the reformulation of measure c) of the recommendation for section 4.2 of Chapter IV of this Report, as follows:

[322] Consider reviewing the scope of all exempt documents in the Freedom of Information Act, in order to ensure that they do not obstruct the exercise of the right to information as an effective mechanism in efforts against corruption. (see measure c) of section 4.2 of Annex 1 to this Report)

[323] In addition, the Committee notes that under the discussion of the Office of the Ombudsman, under section 5.2 of Chapter II of this Report, mention is made of the observation by the Ombudsman that in complaints received by applicants with respect to Freedom of Information Act requests, approximately a third of 24 received in 2011 were for non compliance with the established timeframe of 30 days, as provided for in the Act. In this respect, the Ombudsman noted:

[324] *“I wish to reiterate that public authorities are under a statutory obligation to address these requests under the FOI Act within the thirty day time limit, and have an obligation to assist members of the public, where necessary. Public officers must recognize and appreciate the importance of their role under the FOI Act when treating with requests made by the public. The FOI Act was enacted to afford members of the public a right of access to information. Anything done to derogate from this right is in contravention of the provisions of the FOI Act, and is a breach.”*²¹⁹

[325] As it appears that public authorities are not complying with their statutory duty under the Act to respond in writing within 30 days of a request, the Committee considers that it would be

217 Response to the Questionnaire, pg. 44, *supra* note 43.

218 See for example section 15(2) of the Jamaica Access to Information Act, www.jis.gov.jm/special_sections/ATI/ATIACT.pdf

219 34th Annual Report of the Ombudsman, pg. 14, *supra* note 150.

appropriate to formulate the following measure to ensure that the country under review is meeting the recommendation to strengthen the mechanisms for ensuring public access to information.

[326] Ensure that public authorities are complying with their statutory duty to respond in writing within 30 days of a Freedom of Information request and consider establishing enforcement mechanisms to that end. (see measure d) of section 4.2 of Annex 1 to this Report)

4.3. Mechanisms for consultation

Recommendation:

Supplement existing consultative mechanisms, establishing, as appropriate, procedures that will offer greater opportunities to hold public consultations before designing public policies and approving legal provisions.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Consider encouraging the House of Representatives to include in their Standing Orders, pending legislation as one of the matters into which the Joint Select Committees may seek input from civil society organizations. (The basis for this measure is found in section 4.3.2 of Chapter II of the First Round Report)

[327] In its Response, the country under review did not report any developments with respect to measure a) of the foregoing recommendation.²²⁰ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure a) of section 4.3 of Annex 1 to this Report).

Measure b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Adopt standards that provide for the possibility of having members of civil society and nongovernmental organizations become part of advisory councils or committees responsible for advising on the use of public resources. (The basis for this measure is found in section 4.3.2 of Chapter II of the First Round Report)

[328] In its Response, the country under review did not report any developments with respect to measure a) of the foregoing recommendation.²²¹ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure b) of section 4.3 of Annex 1 to this Report).

4.4. Mechanisms to encourage participation in public administration

Recommendation:

Strengthen and continue to implement mechanisms that encourage civil society and nongovernmental organizations to participate in public administration.

220. Response to the Questionnaire, pg. 46, *supra* note 43.

221. *Ibid.*, pg. 46.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Continue to make comments from the media available to any area of government which may stand to benefit from them. (The basis for this measure is found in section 4.4.2 of Chapter II of the First Round Report)

[329] In its Response, the country under review did not report any developments with respect to measure a) of the foregoing recommendation.²²²

[330] The Committee observes that during the review of the First Round, the country under review stated that it used public opinion in the formulation of policy through the media.²²³ At the time, a recommendation was formulated, encouraging comments from the media to be used by all areas of government, in addition to the Parliament. However, given that the media is not a mechanism of government; the Committee observes that this recommendation should be eliminated.

[331] Given the foregoing, the Committee considers it appropriate to eliminate measure a) of the aforementioned recommendation of section 4.4 of Chapter IV of this Report.

Measure b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Develop and promote mechanisms and laws to encourage participation in public administration, and consider the advisability of creating new mechanisms to make it possible to monitor public administration for the purposes of the Convention. (The basis for this measure is found in section 4.4.2 of Chapter II of the First Round Report)

[332] In its Response, the country under review did not report any developments with respect to measure b) of the foregoing recommendation.²²⁴ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure a) of section 4.4 of Annex 1 to this Report)

Measure c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Make the response of the Opinion Leaders Group available to the public. (The basis for this measure is found in section 4.4.2 of Chapter II of the First Round Report)

[333] In its Response, the country under review did not report any developments with respect to measure c) of the foregoing recommendation.²²⁵

[334] The Committee notes, however that the reports of the Opinion Leaders Group are available publicly in the website of the Ministry of Public Administration:
www.mpa.gov.tt/home/component/content/article/116.html

222. *Ibid.*, pg. 47.

223. See pg. 32 of the Updated Response to the Questionnaire of the First Round of Review, www.oas.org/juridico/spanish/tto_res1.pdf

224. Response to the Questionnaire, pg. 48, *supra* note 43.

225. *Ibid.*, pg. 49.

[335] The Committee takes note of the satisfactory consideration by the country under review of the measure of the foregoing recommendation.

Measure d) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Examine the advisability of an increase in the number of town meetings by holding them at regularly scheduled times and allow civil society to convene such meetings. (The basis for this measure is found in section 4.4.2 of Chapter II of the First Round Report)

[336] In its Response, the country under review did not report any developments with respect to measure d) of the foregoing recommendation.²²⁶ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure b) of section 4.4 of Annex 1 to this Report)

Measure e) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Modify existing libel law in order to ensure that it cannot be used to silence public reporting on corruption and integrity issues. (The basis for this measure is found in section 4.4.2 of Chapter II of the First Round Report)

[337] With respect to the aforementioned measure, in its Response, the country under review notes that the Department of Director of Public Prosecution has been contacted by the Vienna based International Press Institute for a meeting in June 2012 to discuss reform of libel laws and media freedom. In addition, this Department reports that a Defamation Bill was drafted in 2001, but it died, citing possible difficulties in generating sufficient public and political support for reform.²²⁷

[338] In addition, the Committee notes, that during the on-site visit, the representatives from the Director of Public Prosecutions stated that the libel law is a relic of the past, which has never been used for a prosecution.²²⁸ Nevertheless, the Committee continues with its observation raised in the First Round of Review is that the Libel and Defamation Act allows any person mentioned by the press in a corruption or integrity related matter to file for an injunction, and thereby prohibiting further publication by the media.

[339] Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure c) of section 4.4 of Annex 1 to this Report)

4.5. Mechanisms to encourage 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 follow-up of public administration.

226. *Ibid.*

227. *Ibid.*, pg. 50.

228. The Libel and Defamation Act dates from 1846 and was last amended in 1950, rd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/11.16.pdf

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Adopt the measures necessary to ensure that new rules and standards on participation in the follow-up of public administration can be monitored and, as appropriate, enforced through the application of sanctions. (The basis for this measure is found in section 4.5.2 of Chapter II of the First Round Report)

[340] In its Response, the country under review did not report any developments with respect to measure a) of the foregoing recommendation.²²⁹ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure a) of section 4.5 of Annex 1 to this Report)

Measure b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Design and implement programs that publicize participatory mechanisms concerning the monitoring of public administration and, where appropriate, that train and provide the necessary tools to civil-society and nongovernmental organizations in order to use such mechanisms.(The basis for this measure is found in section 4.5.2 of Chapter II of the First Round Report)

[341] In its Response, the country under review did not report any developments with respect to measure b) of the foregoing recommendation.²³⁰ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure b) of section 4.5 of Annex 1 to this Report)

Measure c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Adopt methods that allow civil society and nongovernmental organizations to assist in the development of new participation mechanisms in the follow-up of public administration. (The basis for this measure is found in section 4.5.2 of Chapter II of the First Round Report)

[342] In its Response, the country under review did not report any developments with respect to measure c) of the foregoing recommendation.²³¹ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see measure c) of section 4.5 of Annex 1 to this Report)

Measure d) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Review whether the fine for knowingly and mischievously making a false complaint to the Integrity Commission is an impediment to civil society participation. (The basis for this measure is found in section 4.5.2 of Chapter II of the First Round Report)

229. Response to the Questionnaire, pg. 52, *supra* note 43.

230. *Ibid.*

231. *Ibid.*, pg. 53.

[343] With respect to the aforementioned measure, in its Response, the country under review notes that the Integrity Commission has not reviewed the matter but may do so in the future.²³²

[344] The Committee notes that the focus of the recommendation was to ensure that the fine in place for knowingly and mischievously filing a false report to the Integrity Commission, or misleading the Commission by giving false information or by making false statements or accusations, is not a deterrent for persons to file a reasonable complaint that may be improbable and difficult to prove. In this case, the concern is that a person may be accused of violating the Integrity in Public Life Act.

[345] Given the foregoing, the Committee considers the reformulation of measure d) of the recommendation for section 4.5 of Chapter IV of this Report, as follows:

[346] Review whether the fine for knowingly and mischievously making a false complaint to the Integrity Commission acts as a deterrent for a person filing a complaint in good faith. (see measure d) of section 4.5 of Annex 1 to this Report)

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

Recommendation 5(a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

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

[347] With respect to the aforementioned measure, in its Response, the country under review notes that the Office of the Director of Public Prosecutions has held training workshops with the OAS on the effective use of the Proceeds of Crime Act, with a specific focus on persons of interest and highly placed officials in various areas of life.²³³ Moreover, this Office planned two weeks of training in August 2012, and stated that the experience of the United States is far ahead of local experience in determining and prioritizing specific areas that need technical cooperation. As a result, the Office states that the country under review is not able to implement ideas and techniques.

[348] Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see recommendation a) of section 5 of Annex 1 to this Report)

Recommendation 5(b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Continue efforts to exchange technical cooperation with other State Parties on the most effective methods and means for preventing, detecting, investigating and punishing acts of corruption through the use of the OAS Convention against Corruption.

[349] With respect to the aforementioned measure, in its Response, the country under review notes that the observations of the Office of the Director of Public Prosecutions with respect to Recommendation 5(a) are applicable for this recommendation as well.²³⁴ Moreover, the Office states

232. *Ibid.*, pg. 54.

233. *Ibid.*, pg. 55.

234 *Ibid.*, pg. 56.

that implementing ideas from the United States and taking pattern from their experience is frustrating because of the different levels of readiness.

[350] Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see recommendation b) of section 5 of Annex 1 to this Report)

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

Recommendation suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Inform the General Secretariat of the OAS of the designation of the central authority or authorities for purposes of the international assistance and cooperation provided for in the Convention. (The basis for this measure is found in section 6.2 of Chapter II of the First Round Report)

[351] In its Response, the country under review did not report any developments with respect to the foregoing recommendation.²³⁵ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see the sole recommendation of section 6 of Annex 1 to this Report)

7. GENERAL RECOMMENDATIONS

Recommendation 7.1 suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

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

[352] In its Response, the country under review did not report any developments with respect to the foregoing recommendation.²³⁶ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see recommendation 7.1 of section 7 of Annex 1 to this Report)

Recommendation 7.2 suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Select and develop procedures and indicators, as appropriate, which enable verification of the follow-up to the recommendations contained in this report, and communicate the results of this follow-up to the Committee through the Technical Secretariat. With this in mind, consider taking into account the list of more general indicators applicable within the Inter-American system that were available for the selection indicated by the State under review and posted on the OAS website by the Technical Secretariat of the Committee; as well, consider information derived from the review of the mechanisms developed in accordance with recommendation 7.3 below.

235. *Ibid.*, pg. 57.

236. *Ibid.*, pg. 58.

[353] In its Response, the country under review did not report any developments with respect to the foregoing recommendation.²³⁷ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see recommendation 7.2 of section 7 of Annex 1 to this Report)

Recommendation 7.3 suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

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

[354] In its Response, the country under review did not report any developments with respect to the foregoing recommendation.²³⁸ Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see recommendation 7.3 of section 7 of Annex 1 to this Report)

Recommendation 7.4 suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Systematize statistical records generated by the competent oversight agencies in order to make it possible to conduct an objective analysis of the results of the legal framework and other measures adopted.

[355] With respect to the aforementioned measure, in its Response, the country under review presents information and new developments.²³⁹ In this regard, the Committee notes that the Office of the Director of Public Prosecutions is in the process of restructuring and persons will be recruited whose sole responsibility is to collate and analyze data, and that information technology will be improved. In this respect, a Cabinet Note has been prepared and the Office has submitted its proposals and recommendations. However, the Office of the Director of Public Prosecutions note that success largely depends on whether adequate resources are available, as in a slow economy, there is competition for limited resources.

[356] Given the foregoing, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (see recommendation 7.4 of section 7 of Annex 1 to this Report)

237. *Ibid.*, pg. 59.

238. *Ibid.*, pg. 60.

239. *Ibid.*, pg. 61.

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:

Consider strengthening the implementation of the laws and regulatory systems related to conflicts of interest.

Suggested measures:

- a) Strengthen the measures related to conflicts of interest with respect to members of the judiciary, as well as those who perform judicial functions, subject to its constitution and the fundamental principles of its legal system, taking into account the following:
 - i. Establish a code of conduct for judicial officers that would promote measures to create, maintain, and strengthen standards of conduct for the correct, honorable, and proper fulfillment of public functions.
 - ii. Establish a code of conduct for judges that would promote measures to create, maintain, and strengthen standards of conduct for the correct, honorable, and proper fulfillment of public functions, including consideration of submission of a declaration of interests.
- b) Strengthen the provisions within the Integrity in Public Life Act, taking into account the following:
 - i. Ensure that the competent oversight agencies have a system to see that public servants comply with the provisions of the Code of Conduct in the Integrity in Public Life Act, including having public servants sign a written agreement to abide by the Code of Conduct in the Integrity in Public Life Act.
 - ii. Require those employed by contract to be subject to the Code of Conduct of the Integrity in Public Life Act, as well as all persons that handle public money.
- c) Incorporate into the Civil Service Regulations and the Civil Service (Amendment) Regulations, as appropriate, provisions dealing specifically with the detection and/or prevention of conflicts of interest.
- d) Review and amend where appropriate existing regulations to ensure that the disciplinary process of the Police Service Commission is efficient and effective, and ensure that the Commission has resources to operate accordingly.
- e) Encourage the updating of a more comprehensive version of the proposed Code of Ethics for Parliamentarians including Ministers than the one previously in force, incorporating into the

new version provisions similar to those contained in the Code of Conduct in the Integrity in Public Life Act, and enforcement provisions.

- f) Establish as a mandatory Committee of the Parliament the Standing Ethics Committee of the Houses of Parliament, and ensure that the Code of Ethics be contained in the Rules of the House of Parliament and the Senate.
- g) Subject to compatibility with the constitutional right of the individual to freedom of work, incorporate into the legal system relevant and appropriate restrictions for those who leave public sector employment, within a reasonable period of time after leaving their position, regarding activities that could involve them taking undue advantage of their status as a former public servant.

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

Recommendation:

Consider strengthening the system of control of public resources.

Suggested measure:

- Conduct an analysis of the use and effectiveness of standards of conduct for ensuring the conservation and proper use of public resources and of the mechanisms existing in the Republic of Trinidad and Tobago to enforce these standards, as instruments for preventing corruption. As an outcome of said analysis, consider the adoption of measures to promote, facilitate, and consolidate or ensure the effectiveness of these instruments for this 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:

Consider creating measures requiring public officials to report to the appropriate authorities acts of corruption in the performance of public functions of which they are aware.

Suggested measures:

- a) Incorporate into existing legislation a requirement that all public servants must report acts of corruption of which they become aware during the course of their public functions, with training provided by the appropriate authorities.
- b) Review the results of the investigations carried out by the Commissions of Enquiry in order to analyze the effectiveness of any legislation already in place.

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

Recommendation:

Consider strengthening systems for the disclosure of income, assets and liabilities.

Suggested measures:

- a) Amend the Integrity in Public Life Act at 41(2) so that approval of its form of declaration and regulations will be subject only to a negative resolution of Parliament or to no resolution at all.
- b) Review the possibility of making public the proceedings of a tribunal under 16(2) of the Integrity in Public Life Act.
- c) Ensure that measures have been put in place by the Service Commissions to receive declarations of interests from those persons appointed by them and the members of these Commissions as well.
- d) Expand the Schedule to the Integrity in Public Life Act to include other senior officials with high-level responsibilities in implementing public policy.
- e) Utilize the statement of registrable interests submitted by persons in public life in order to detect and prevent conflicts of interests.
- f) Consider amending the Integrity in Public Life Act to require the interests of spouses and dependent children to be registered in the statement of registrable interests of the person in public life.

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

Recommendation:

Strengthen oversight bodies in their functions related to enforcement of Articles 1, 2, 4 and 11 of the Convention, in order to ensure that such control is effective; give them greater support and the resources necessary to carry out their functions; and establish mechanisms for coordinating their activities, as appropriate, and for their continuous evaluation and monitoring.

Suggested measure:

- Have all oversight agencies keep and systematize statistical information for the purpose of performing an objective evaluation of the results of the legal framework and other measures

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

4.1. General participation mechanisms

Recommendation:

Continue working on the implementation of formal mechanisms or statutory provisions expressly designed to stimulate the participation of civil society and of non-governmental organizations in efforts intended to prevent corruption.

4.2 Mechanisms for access to information

Recommendation:

Strengthen the mechanisms for ensuring public access to information.

Suggested measures:

- a) Include under the reach of the Freedom of Information Act, the exempted public authorities or functions of public authorities designated by the President, after review by the House of Representatives.
- b) Establish objective criteria that the President may take into account in exempting from the scope of the Freedom of Information Act certain documents of public authorities and Commissions of Enquiry.
- c) Consider reviewing the scope of all exempt documents in the Freedom of Information Act, in order to ensure that they do not obstruct the exercise of the right to information as an effective mechanism in efforts against corruption.
- d) Ensure that public authorities are complying with their statutory duty to respond in writing within 30 days of a Freedom of Information request and consider establishing enforcement mechanisms to that end.

4.3 Mechanisms for consultation

Recommendation:

Supplement existing consultative mechanisms, establishing, as appropriate, procedures that will offer greater opportunities to hold public consultations before designing public policies and approving legal provisions.

Suggested measures:

- a) Consider encouraging the House of Representatives to include in their Standing Orders, pending legislation as one of the matters into which the Joint Select Committees may seek input from civil society organizations.
- b) Adopt standards that provide for the possibility of having members of civil society and nongovernmental organizations become part of advisory councils or committees responsible for advising on the use of public resources.

4.4 Mechanisms to encourage participation in public administration

Recommendation:

Strengthen and continue to implement mechanisms that encourage civil society and nongovernmental organizations to participate in public administration.

Suggested measures:

- a) Develop and promote mechanisms and laws to encourage participation in public administration, and consider the advisability of creating new mechanisms to make it possible to monitor public administration for the purposes of the Convention.
- b) Examine the advisability of an increase in the number of town meetings by holding them at regularly scheduled times and allow civil society to convene such meetings.
- c) Modify existing libel law in order to ensure that it cannot be used to silence public reporting on corruption and integrity issues.

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 follow-up of public administration.

Suggested measures:

- a) Adopt the measures necessary to ensure that new rules and standards on participation in the follow-up of public administration can be monitored and, as appropriate, enforced through the application of sanctions.
- b) Design and implement programs that publicize participatory mechanisms concerning the monitoring of public administration and, where appropriate, that train and provide the necessary tools to civil-society and nongovernmental organizations in order to use such mechanisms.
- c) Adopt methods that allow civil society and nongovernmental organizations to assist in the development of new participation mechanisms in the follow-up of public administration.
- d) Review whether the fine for knowingly and mischievously making a false complaint to the Integrity Commission acts as a deterrent for a person filing a complaint in good faith.

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

Recommendations:

- a) Determine and prioritize specific areas in which the Republic of Trinidad and Tobago considers that it needs the technical cooperation of other state parties to strengthen its capacity to prevent, direct, investigate and punish acts of corruption.
- b) Continue efforts to exchange technical cooperation with other State Parties on the most effective methods and means for preventing, detecting, investigating and punishing acts of corruption through the use of the OAS Convention against Corruption.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

Recommendation:

Inform the General Secretariat of the OAS of the designation of the central authority or authorities for purposes of the international assistance and cooperation provided for in the Convention.

7. GENERAL RECOMMENDATIONS

Recommendations:

- 7.1 Design and implement, as appropriate, training programs for public servants in charge of applying the systems, standards, measures and mechanisms considered in this report, with the objective of guaranteeing adequate knowledge, handling and implementation of the above.
- 7.2 Select and develop procedures and indicators, as appropriate, which enable verification of the follow-up to the recommendations contained in this report, and communicate the results of this follow-up to the Committee through the Technical Secretariat. With this in mind, consider taking into account the list of more general indicators applicable within the Inter-American system that were available for the selection indicated by the State under review and posted on the OAS website by the Technical Secretariat of the Committee; as well, consider information derived from the review of the mechanisms developed in accordance with recommendation 7.3 below.
- 7.3 Develop, as appropriate and where they do not yet exist, procedures designed to analyze the mechanisms mentioned in this report, as well as the recommendations in this report.
- 7.4 Systematize statistical records generated by the competent oversight agencies in order to make it possible to conduct an objective analysis of the results of the legal framework and other measures adopted.

ANNEX II

**AGENDA OF THE ON-SITE VISIT TO THE
REPUBLIC OF TRINIDAD AND TOBAGO**

<u>Monday, October 1, 2012</u>	
16:00 hrs. – 17:00 hrs. <i>TBD</i>	Coordination meeting between the representatives of the member states of the subgroup and the Technical Secretariat.
17:00 hrs. – 18:00 hrs. <i>Offices of the Ministry of the Attorney General</i>	Coordination meeting between the representatives of the country under review, the member states of the subgroup and the Technical Secretariat. <u>Participant:</u> Ms. Joan Furlonge, Legal Advisor, Ministry of the Attorney General
<u>Tuesday, October 2, 2012</u>	
10:00 hrs. – 12:30 hrs. <i>Courtyard by Marriott Hotel in Port of Spain</i>	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional organizations, academics or researchers.
	Topics: <ul style="list-style-type: none">• Civil society perspectives on government oversight bodies that prevent, detect, punish and eradicate corrupt acts.• Efforts to address Follow-Up Recommendations.
	<u>Participants:</u> <i>Trinidad and Tobago Transparency Institute</i> Mr. Deryck Murray, Chair Mr. Josh Drayton, Director Ms. Lorraine Rostant, Director Ms. Susan Gordon, Director
12:30 hrs. – 14:00 hrs.	Lunch
14:00 hrs. – 18:30 hrs.	Integrity Commission

14:00 hrs. – 15:00 hrs.	<p>Panel 1:</p> <ul style="list-style-type: none">• Brief presentation on the institution’s objectives, functions and structure (10 minutes)• Discussion of Strategic Plan 2012 – 2015. <p><u>Participants:</u> Ms. Lisa Ann Phillips, Deputy Registrar Ms. Leigh Ann Campbell, Director, Compliance Mr. Richard Frederick, Director, Investigations Mr. Mervyn Crichlow, Communications Officer Ms. Fayola Denoon, Communications Officer</p>
15:00 hrs. – 16:00 hrs.	<p>Panel 2:</p> <ul style="list-style-type: none">• Budgetary and Human Resources.• Coordination with other Government bodies. <p><u>Participants:</u> Ms. Lisa Ann Phillips, Deputy Registrar Ms. Leigh Ann Campbell, Director, Compliance Mr. Richard Frederick, Director, Investigations Mr. Mervyn Crichlow, Communications Officer Ms. Fayola Denoon, Communications Officer.</p>
16:00 hrs. – 17:30 hrs.	<p>Panel 3:</p> <ul style="list-style-type: none">• Follow-Up to the Recommendations of the First Round.<ul style="list-style-type: none">- Conflicts of Interest- Systems for the declaration of income, assets and liabilities <p><u>Participants:</u> Ms. Lisa Ann Phillips, Deputy Registrar Ms. Leigh Ann Campbell, Director, Compliance Mr. Richard Frederick, Director, Investigations Mr. Mervyn Crichlow, Communications Officer Ms. Fayola Denoon, Communications Officer</p>

17:30 hrs. – 18:30 hrs.	Panel 4: <ul style="list-style-type: none">• Inadequate Legislation.• Outcome of Investigations. <p><u>Participants:</u> Ms. Lisa Ann Phillips, Deputy Registrar Ms. Leigh Ann Campbell, Director, Compliance Mr. Richard Frederick, Director, Investigations Mr. Mervyn Crichlow, Communications Officer Ms. Fayola Denoon, Communications Officer</p>
18:30 hrs.	Informal meeting between the representatives of the member states of the subgroup and the Technical Secretariat.
<u>Wednesday, October 3, 2012</u>	
08:30 hrs. – 12:30 hrs.	Office of the Auditor General
08:30 hrs. – 10:00 hrs.	Panel 5: <ul style="list-style-type: none">• Brief presentation on the institution’s objectives, functions and structure (10 minutes)• Coordination with other Government bodies.• Recovery of public property. <p><u>Participants:</u> Mr. Ali Majeeda, Acting Auditor General Ms. Lorelly Pujadas, Assistant Auditor General Ms. Gaitrie Maharaj, Assistant Auditor General Ms. Jaiwantie Ramdass, Assistant Auditor General Ms. Elizabeth Mofford-Benjamin, Assistant Auditor General</p>
10:00 hrs. – 11:00 hrs.	Panel 6: <ul style="list-style-type: none">• Manuals and other documents.• Training.

	<p><u>Participants:</u> Mr. Ali Majeeda, Acting Auditor General Ms. Lorelly Pujadas, Assistant Auditor General Ms. Gaitrie Maharaj, Assistant Auditor General Ms. Jaiwantie Ramdass, Assistant Auditor General Ms. Elizabeth Mofford-Benjamin, Assistant Auditor General.</p>
11:00 hrs. – 12:30 hrs.	<p>Panel 7:</p> <ul style="list-style-type: none"> • Accountability Mechanisms in handling Citizen Complaints.
	<p><u>Participants:</u> Mr. Ali Majeeda, Acting Auditor General Ms. Lorelly Pujadas, Assistant Auditor General Ms. Gaitrie Maharaj, Assistant Auditor General Ms. Jaiwantie Ramdass, Assistant Auditor General Ms. Elizabeth Mofford-Benjamin, Assistant Auditor General</p>
12:30 hrs. – 14:00 hrs.	Lunch
14:00 hrs. – 15:00 hrs.	Anti-Corruption Bureau
	<p>Panel 8:</p> <ul style="list-style-type: none"> • Brief presentation on the institution’s objectives, functions and structure (10 minutes) • Results.
	<p><u>Participants:</u> Mr. Solomon Koon Koon, Assistant Commissioner Mr. Peter Dominique, Inspector Mr. Augustus Cato, Inspector Mr. Kenneth Morgan, Sergeant Mr. Ravie K. Nanan, Sergeant</p>
15:00 hrs. – 19:00 hrs.	Office of the Director of Public Prosecutions

15:00 hrs. – 16:00 hrs.	Panel 9: <ul style="list-style-type: none">• Brief presentation on the institution’s objectives, functions and structure (10 minutes)• Coordination with other Government bodies in compliance with its mandates.
	<u>Participants:</u> Ms. Kathy Latchoo, Deputy Director of Prosecutions Mr. Randall Hector, State Counsel
16:00 hrs. – 17:00 hrs.	Panel 10: <ul style="list-style-type: none">• Accountability Mechanisms.
	<u>Participants:</u> Ms. Kathy Latchoo, Deputy Director of Prosecutions Mr. Randall Hector, State Counsel
17:00 hrs. – 18:00 hrs.	Panel 11: <ul style="list-style-type: none">• Follow-Up to the Recommendations of the First Round.<ul style="list-style-type: none">- Mechanisms to encourage participation in public administration- Assistance and Cooperation
	<u>Participants:</u> Ms. Kathy Latchoo, Deputy Director of Prosecutions Mr. Randall Hector, State Counsel
18:00 hrs. – 19:00 hrs.	Panel 12: <ul style="list-style-type: none">• Results and systematization of data
	<u>Participants:</u> Ms. Kathy Latchoo, Deputy Director of Prosecutions Mr. Randall Hector, State Counsel
19:00 hrs.	Informal meeting between the representatives of the member states of the subgroup and the Technical Secretariat.
<u>Thursday, October 4, 2012</u>	
08:30 hrs. – 11:00 hrs.	Service Commissions Department

08:30 hrs. – 09:30 hrs.	<p>Panel 13:</p> <ul style="list-style-type: none">• Brief presentation on the institution’s objectives, functions and structure (10 minutes)• Follow-Up Recommendations of the First Round.<ul style="list-style-type: none">- Conflicts of interest- Systems requiring government officials to report acts of corruption- Oversight bodies <p><u>Participants:</u> Ms. Gloria Edwards-Joseph, Director of Personnel Administration Ms. Natasha Seecharan, Legal Adviser Ms. Allison Douglas, Senior State Counsel</p>
09:30 hrs. – 10:30 hrs.	<p>Panel 14:</p> <ul style="list-style-type: none">• Coordination with other Government bodies.• Disciplinary Proceedings. <p><u>Participants:</u> Ms. Gloria Edwards-Joseph, Director of Personnel Administration Ms. Natasha Seecharan, Legal Adviser Ms. Allison Douglas, Senior State Counsel</p>
10:30 hrs. – 11:00 hrs.	<p>Panel 15:</p> <ul style="list-style-type: none">• Accountability. <p><u>Participants:</u> Ms. Gloria Edwards-Joseph, Director of Personnel Administration Ms. Natasha Seecharan, Legal Adviser Ms. Allison Douglas, Senior State Counsel</p>
11:00 hrs. – 12:30 hrs.	<p>Office of the Ombudsman</p>
.	<p>Panel 16:</p> <ul style="list-style-type: none">• Brief presentation on the institution’s objectives, functions and structure (10 minutes)• Receiving Citizens Complaints.• Results.

	<p><u>Participants:</u> Ms. Lynette Stephenson, Ombudsman Ms. Jeanine Boodhai, Head, Legal Ms. Yvette Hall, Executive Officer Ms. Claire Davidson-Williams, Senior Investigator Ms. Sita Deochand, Network Administrator</p>
12:30 hrs. – 14:00 hrs.	<p>Informal meeting between the representatives of the member states of the subgroup and the Technical Secretariat.</p>
14:00 hrs	<p>Final meeting between the representatives of the country under review, the member states of the subgroup and the Technical Secretariat.</p>

**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:

REPUBLIC OF TRINIDAD AND TOBAGO

Joan Furlonge

Lead Expert to the Committee of Experts of the MESICIC
Legal Advisor to the Attorney General
Ministry of the Attorney General

MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP:

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TECHNICAL SECRETARIAT OF THE MESICIC

Rodrigo Silva

Legal Officer, Department of Legal Cooperation
Secretariat for Legal Affairs of the OAS