

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

FINAL REPORT

(Adopted at the March 31, 2006 plenary session)



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

**FINAL REPORT ON IMPLEMENTATION IN GRENADA OF THE CONVENTION
PROVISIONS SELECTED FOR REVIEW IN THE FRAMEWORK OF THE FIRST
ROUND¹**

INTRODUCTION

1. Legal-institutional framework²

Grenada is a Parliamentary democratic, independent and sovereign State within the Commonwealth of Nations. The tri-island State became an independent nation on February 7, 1974.

The legal system is derived from the English common law and statutes. However, the 1974 Independence Constitution is the supreme law of the land and any law that is inconsistent with this Constitution shall be void to the extent of the inconsistency:

Section 106- “The Constitution is the Supreme law of Grenada and subject to the provisions of this Constitution, if any other law is inconsistent with this Constitution, this Constitution shall prevail and any other law shall, to the extent of the inconsistency be void.”

There are three branches of Government namely the Executive, the Legislature and the Judiciary.

Under the Executive branch, Queen Elizabeth the Second is the Queen of Grenada and she is represented by the Governor General. Consequently, executive authority is vested in Her Majesty and is exercised by the Governor General: Section 57(2) of the Constitution.

The Prime Minister is the Head of Government and is appointed by the Governor General: Section 58(1) of the Constitution.

With regard to the Legislative branch, the parliament consists of Her Majesty, the Senate and the House of Representatives. Fifteen (15) elected members make up the House of Representatives and thirteen (13) Senators make up the Senate. Seven (7) Senators are appointed by the Governor General acting on the advice of the Prime Minister, three (3) are appointed by the Governor General acting in accordance with the advice of the Leader of the Opposition and three (3) by the Governor General acting in accordance with the advice of the Prime Minister after the Prime Minister has consulted organizations or interests which he/she considers the Senators should be selected to represent. The interests now consulted are labor and business. A Representative or Senator vacates his seat at the dissolution of Parliament.

¹ This report was adopted by the Committee in accordance with the provisions of Article 3(g) and 26 of its Rules of Procedure and Other Provisions, at the plenary session held on March 31, 2006, at its ninth meeting, held at OAS Headquarters in Washington D.C., United States, March 27 to March 31, 2006.

² Response of Grenada to the questionnaire, Introduction, (hereafter “Response”).

Parliament has the function of making laws for the peace, good order and good government of Grenada: Section 38 of the Constitution. According to Section 38(2), the Constitution may be amended by a Bill supported by two-thirds (2/3) of all the Representatives.

The Judiciary is rooted in the British common law and, based upon Constitutional separation of powers principles, is independent and separate from the other branches of government.

The lower courts are the Magisterial District courts and they exercise both civil and criminal jurisdiction, subject to the seriousness of the offence or the amount of money involved in a civil matter. The primary court of first instance is the High Court of Justice, where currently two puisne judges preside over civil and criminal matters. Appeals from the High Court are made to the Eastern Caribbean Court of Appeal and are heard by a panel of three Justices of Appeal presided over by the Chief Justice. The final Court of Appeal is Her Majesty's Judicial Committee of Privy Council in London, England.³

All lawyers in the Eastern Caribbean, including those in Grenada, are competent to practice freely in any Eastern Caribbean State, and in certain other Caribbean States including Jamaica, Barbados, Trinidad and Tobago, Guyana, and Belize.

2. Ratification of the Convention and adherence to the Mechanism

According to the official register of the OAS General Secretariat, Grenada ratified the Inter-American Convention against Corruption on November 15, 2001 and deposited the instrument of ratification on January 16, 2002.

In addition, Grenada signed the Declaration on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption on June 4, 2002.

I. SUMMARY OF INFORMATION RECEIVED

The Committee wishes to acknowledge Grenada's cooperation in the entire review process, and especially the assistance of the Office of the Attorney-General, which was evident in its response to the questionnaire and the effort put forth to collect and display all available data in that document in a succinct, systematic and orderly manner. With its response Grenada sent the relevant provisions and documents, listed in the appendix of this Report.

For its review the Committee took into consideration the information provided by Grenada up to August 20, 2005 and that which was requested by the Secretariat and the members of the subgroup for analysis, to carry out its functions in keeping with its Rules of Procedure and other Provisions.⁴

³ The Privy Council is the body which advises the Queen of Grenada, and the Judicial Committee is the section of the Privy Council which advises on appeals. The Queen continues to be the Head of State of Grenada, and technically, she is the final court of appeal. She always acts on the advice of the Judicial Committee, however, so that body is effectively the final court for Grenada.

⁴ As a part of the answers to questions from the subgroup, Grenada provided information on the Integrity in Public Life Bill, the Prevention of Corruption Act Bill, the Freedom of Information Bill and the Privacy Bill. These draft bills have not yet been submitted to Parliament and have not yet been enacted. While the subjects covered by these four texts are subjects under review in this round, the bills are not yet law and are therefore not a part of the analysis contained in this report.

No documents or data were received from civil society

II. REVIEW OF THE IMPLEMENTATION BY GRENADA OF THE PROVISIONS SELECTED

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

1.1. CONFLICTS OF INTEREST

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

As detailed in its response to the questionnaire, Grenada has a set of standards of conduct at the constitutional, statutory and regulatory levels, as well as mechanisms and other measures designed to prevent conflicts of interest that may occur within the public service.

Of the constitutional provisions related to the above-mentioned standards of conduct, the following should be highlighted:

- Constitutional provisions, such as those found in Section 26, disqualifying a person from being appointed or serving as a Senator who has been adjudged or otherwise declared bankrupt under any law in force in Grenada; has an interest in any government contract; has been convicted for violating a law related to an election of a member of the House of Representatives; is a member of the House of Representatives; or holds or acts in an office or appointment, who is a member of the Grenada armed forces or is a member of the police force.
- Constitutional provisions, such as those found in Section 31, disqualifying a person from being elected or serving as a Member of the House of Representatives who has been adjudged or otherwise declared bankrupt under any law in force in Grenada; has an interest in any government contract; holds or acts in an office that is responsible for the conduct of any election or for the compilation and/or revision of any electoral register; has been convicted for violating a law related to elections; or holds or acts in an office or appointment as specified by that law, is a member of the Grenada armed forces or is a member of the police force.
- Constitutional provisions, such as those found in Section 27, prohibiting Senators and in Section 33, prohibiting Members of the House of Representatives, from remaining in office if, among other things, they acquire a prohibited interest in a government contract.
- Constitutional provisions prohibiting Senators, Members of the House of Representatives, judges of the Court of Appeal or the High Court, or a public officer from being appointed as a member of the Public Service Commission.⁵
- Constitutional provisions prohibiting a Senator or a member of the House of Representatives from being appointed to the Public Service Board of Appeal.⁶

⁵ Section 83(2).

⁶ Section 90(2).

Grenada has criminal statutes pertaining to offences against the Administration of Lawful Authority which address official corruption (Sections 389 to 418 of the Criminal Code Cap 1 of the Laws of Grenada Revised Edition 1994).

- Section 393, which addresses false attestations or certifications;
- Section 394, which addresses intentional destruction, falsification or concealment of official documents; and
- Sections 405 and 406, which address corruption and bribes.

Grenada also has conduct regulations addressing the conduct and conflicts of interest of “public officers”, notably:

- The Public Service Commission Rules, Statutory Rules and Orders, No. 27 of 1969 (hereinafter Public Service Commission Rules). Among the provisions are those:

- Stating that a public officer shall conduct himself at all times in such a manner as to not bring the public service into disrepute (Section 51).
- Prohibiting any full-time public officer from engaging in any activity which would in any way tend to impair the officer’s usefulness as an officer, or engaging in any occupation or undertaking which might conflict in any way with the interest of the officer’s Ministry or Department or the officer’s position (Section 56(a)).
- Prohibiting any full-time public officer from engaging in any trade, professional, commercial, agricultural or industrial undertaking or undertaking private work for remuneration, without prior approval of the Service Commission; approval may be subsequently withdrawn after notice and a hearing (Sections 56(b) and (c)).
- Providing the Commission with authority to require a public officer to dispose of shares, investments, or interests if it is of the opinion that the officer’s performance is likely to be influenced by them (Section 56(f)).
- Prohibiting a public officer on leave from accepting any paid employment or engaging in any trade or any professional, commercial, agricultural or industrial undertaking or regular private work for remuneration without the approval of the Commission (Section 56(g)).
- Prohibiting a public officer from soliciting intervention or influence of members of the House of Representatives or the Senate, Ministers or members of the Commission or members of the community to support or advance the officer’s claim in the service (Section 66).
- Prohibiting a public officer from accepting any gifts or rewards from any member of the public or from any organization for services rendered in the course of official duties, without the permission of the Public Service Commission or pursuant to a written exception in the rules (Sections 67 and 68).

- Requiring an officer who is offered a bribe to refer immediately to the Permanent Secretary or Head of a Department who shall report the matter to the Police and the Commission (Section 69).
- Prohibiting a public officer from holding any office whatsoever in any political organization or serving as a member of a Committee thereof or engaging in canvassing in support of or against any political candidate (Section 74(3)).

Grenada also has mechanisms to enforce the abovementioned standards of conduct, among which the following should be noted:

- A Member of Parliament whose conduct is alleged to be in contravention of the provisions of the Constitution will be brought before the High Court by the Attorney General for redress, which could include monetary damages and/or removal.

- The Public Service Commission, established under Section 83 of the Constitution, exercises disciplinary control over acts of misconduct of the Public Service Commission Rules, which are dealt with as soon as possible after the time of occurrence.⁷ The Commission has the power to appoint persons to hold or act in offices in the public service, order their removal as well as exercise disciplinary proceedings in accordance with Section 84 of the Constitution and Regulation 75 of the Public Service Commission Rules. The Constitution also, under Section 89, grants the Public Service Commission the power to appoint, remove and exercise disciplinary proceedings over members of the Police Force below the rank of Chief of Police but above the rank of Sergeant.⁸ Acts of misconduct are defined under Regulation 74(1), which includes contravention of any provisions of the Public Service Commission Regulations or of any provision of an enactment relating to an officer's official duties, conduct or obligations or acts which tend to bring the public service into disrepute. In addition, Regulation 74(2) also lists a number of acts of misconduct such as, among others, without consent, uses property or facilities not connected with official duties or engages in gainful occupation outside the public service. Under Regulation 85 of the Public Service Commission Rules, the following punishments may be ordered: dismissal, reduction in rank, reduction in salary, deferment of increment, stoppage of increment, fine and reprimand.

- The Judicial and Legal Services Commission, under Section 88(2) of the Constitution, has the power to appoint, remove and exercise disciplinary control over persons holding or acting in the offices of magistrate, registrar of the High Court and any public office in the department of Attorney-General, including the office itself and the department of the Director of Public Prosecutions (other than the Office of Director). The Commission can also exercise disciplinary control over judges and justices, but their removal is governed by the Constitution (similar to the procedure dealing with the Director of Public Prosecutions).

- The Chief of Police, under Section 89(3), has the power to appoint, remove and exercise disciplinary control over persons to hold or act in offices in the Police Force below the rank of Sergeant.

⁷ Public Service Commission Rule 77(1).

⁸ The Governor-General, acting in accordance with the advice of the Public Service Commission, can remove the Chief of Police.

-The Public Prosecutor may bring actions for violations of the Criminal Code where the provisions dealing with corruption, willful oppression and extortion carry penalties of two years' imprisonment.

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

The constitutional and legal provisions on standards of conduct aimed at preventing conflicts of interest and on enforcement mechanisms are relevant for promoting the purposes of the Convention.

The Committee notes that provision is made within the Grenada legal framework for a system of incompatibilities, disqualifications and prohibitions in the public service. The Constitution contains a number of general and specific provisions for the correct, honorable and proper fulfillment of public functions that encompass the principles established in the Convention.

For public officers, including the Director of Audit, the Public Service Commission Rules offer an important set of rules that address and help to prevent conflict of interests for the Public Service. However, the Committee notes that the Rules apply only to public officers, which does not include all personnel employed by or appointed to the Government. Further, there was no information provided regarding specific rules for those individuals that fall under the purview of the Judicial and Legal Services Commission, including the Attorney General and the Director of Public Prosecutions, who are not covered by the Public Service Commission Rules.⁹ Finally, there appears to be no statutory or regulatory system in place for the control of political offices, Senators or Members of the House of Representatives. This includes the criminal code provision on bribery, which applies only to a Minister and those who offer to or bribe Ministers. These apparent exceptions present a means to undermine the system in place to prevent conflicts of interest and corruption and standards should be put in place to monitor and regulate the actions of those offices. The Committee will formulate a recommendation. (See recommendation 1.1 a. in Chapter III of this Report).

The Committee is concerned that there is no mechanism or legal framework in place that addresses the action a public official should take when confronted in his or her daily duties with a matter that will affect the official's (or close family member's) financial interests or outside activities. These are interests and activities that are not prohibited nor need they necessarily be. This also would include the situation where the official might normally be responsible for acting on a matter that would affect a person or organization with whom he or she is seeking or has an employment arrangement following public service. Further, there are no explicit rules contemplated for preventing conflicts of interest subsequent to exiting public office, such as a ban on former public officers' intervention in official matters in which they participated during their time in office or dealing with institutions they were recently connected with, and, in general, other situations that might lead to improper exploitation of one's status as a former public officer. The Committee will formulate a recommendation. (See recommendations 1.1.b. and 1.1.c in Chapter III of this Report).

⁹ Grenada noted in additional information provided in response to subgroup questions that the Acts, which establish their terms of employment, covers all public officers who are not answerable to the Public Service Commission. However, the Committee has not received a copy of these Acts for review in order to consider this information appropriately.

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

Grenada states that during the past five years, two criminal cases were brought against public officers and that both matters are still in Court. No other enforcement actions either administrative or through the court system were reported. Considering that the Committee does not have additional information that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms referred to above, it will make recommendations in this regard. (See recommendations 7.1 – 7.3 of this Report).

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

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

Grenada has a set of norms concerning the standards of conduct in the conservation and proper use of resources entrusted to public officials in the performance of their functions, consisting of various legal provisions, including the following:

- The Constitution, Section 75, provides that all revenues and moneys raised or received by Grenada shall be paid into and from a Consolidated Fund. In that respect, Section 76 provides that no moneys shall be withdrawn from the Consolidated Fund except as authorized by a constitutional or legal provision or in accordance with an appropriation law or a law made in pursuance of Section 78 of the Constitution. In addition, Section 77 provides that the Minister responsible for finance shall cause to be prepared and laid before the House of Representatives in each financial year estimates of the revenues and expenditure of Grenada for the next following financial year. Once approved by the House, a bill, known as an appropriation bill is introduced, providing for the issue from the Consolidated Fund of the sums to the purposes specified therein.

- The Finance and Audit (Amendment) Act, 1998, incorporates the Financial and Store Rules of Grenada and provides the standards for the consideration and proper use of public monies, proper systems of accounts for public monies, negotiable instruments, stamps, securities and other public documents, and public expenditures by appropriately designated public officers. It also provides for accounting standards and audit oversight.

- Section 58(1) of the Public Service Commission Rules, provides that no public officer may make private copies of documents, papers or information in his/her possession, unless required by the duties of the public officer.

- Section 74(h) of the Public Service Commission Rules provides that a public officer may not use, without the personal consent of the Permanent Secretary or Head of Department, any property or facilities provided for the purposes of the public service for some purpose not connected to official duties.

Grenada also has enforcement mechanisms for these standards of conduct and for the proper conservation and use of resources, among which are the following:

- The Constitution, under Section 82, establishes a Director of Audit. The Director has the duty to audit and report on the public accounts of Grenada, the accounts of all offices and authorities of the Government, the accounts of all courts of law in Grenada (including any accounts of the Court of Appeal or the High Court), the accounts of every Commission established by the Constitution and the accounts of the Clerk to the Senate and the Clerk to the House of Representatives. The Director submits a report to the Minister responsible for finance who, no later than seven days after the House of Representatives first meets after receiving the report, lays it before the House.

- The Finance and Audit (Amendment) Act, 1998, provides for oversight of financial and accounting systems required by the Act as well as provides for personal liability on the part of those officers to whom allocations of public funds are made and who make an expenditure without appropriate authority and on the part of certifying officers who make an improper payment for a voucher.

- The Public Service Commission exercises disciplinary control over acts of misconduct under the Public Service Commission Rules, including Section 74(h).

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

The standards and mechanisms for conservation and proper use of public resources that have been reviewed by the Committee, based on the information at its disposal, are relevant for the promotion of the purposes of the Convention.

No statutes implementing the Constitutional requirements were cited by Grenada, so the Committee is unable to assess their adequacy or the adequacy of mechanisms that might be available to enforce those provisions. The Committee does note the existence under the Finance and Audit (Amendment) Act, 1998, of standards of conduct and mechanisms to ensure the proper conservation and use of financial resources entrusted to certain government officials. Further, while the Public Service Commission Rules apply to public officers, that term does not encompass all individuals who carry out public functions. None of the restrictions of which the Committee is aware applied to the use, for non-official purposes, of services paid for by the government. The Committee will formulate a recommendation. (See recommendation 1.2 in Chapter III of this Report).

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

Grenada states that results are not available.¹⁰ Considering that the Committee does not have additional information that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms referred to above, it will make recommendations in this regard. (See recommendations 7.1 - 7.3 in Chapter III of this Report).

1.3. MEASURES AND SYSTEMS REQUIRING GOVERNMENT OFFICIALS TO

¹⁰ Response, *supra* note 2 at 9.

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

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

Grenada has a set of provisions concerning these standards of conduct and mechanisms, among which the following should be noted:

- Section 69 of the Public Service Commission Rules provides that a public officer who is offered a bribe must report that offer immediately to the Permanent Secretary or Head of a Department, who shall report the matter to the Police and the Commission.

- Rule 98 of the Financial Rules in the Finance and Audit (Amendment) Act, 1998, provides that losses of Government money or stamps in which theft or fraud has occurred, or is suspected, will be reported immediately to the Accountant General, Permanent Secretary, Finance, and the Director of Audit.

Moreover, in its Response, Grenada states that the Public Service Commission Rules require “supervisors or persons in charge and who are aware of inappropriate acts including corruption, to report to the Head of Department who would then report to the Chief Personnel Officer (CPO). It is the responsibility of the CPO to refer the matter to the appropriate officer i.e. the Commissioner of Police; the Director of Public Prosecutions (DPP); the Director General/ Finance and Planning; the Director of Audit; or the Attorney General.”¹¹ From these reports, the Public Service Commission, under Section 76, shall deal with disciplinary proceedings against officers in light of reports from Permanent Secretaries and Heads of Departments, or otherwise. However, there are no reports required of individuals who observe others, including their supervisors or those in charge, engaging in inappropriate acts. Such acts, however, can be reported to law enforcement authorities.

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

Grenada has certain standards and mechanisms that require public servants to report acts of corruption in the public service of which they are aware. These standards and mechanisms are relevant for the promotion of the purposes of the Convention. Nevertheless, The Committee will formulate recommendations. (See recommendations 1.3 in Chapter III of this Report).

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

Grenada states that results are not available.¹² Considering the Committee does not have additional information that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms referred to above, it will make recommendations in this regard. (See recommendations 7.1 - 7.3 in Chapter III of this Report).

2. SYSTEMS FOR REGISTERING INCOME, ASSETS AND LIABILITIES (ARTICLE III,

¹¹ *Ibid.*

¹² *Ibid.* at 10.

PARAGRAPH 4 OF THE CONVENTION)

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

Grenada has a set of provisions concerning these systems, of which the following should be noted:

- Section 56(d) of the Public Service Commission Rules provides that within a period of 30 days after appointment to the public service, a public officer shall disclose in writing to the Commission particulars of any investment or shareholding in any company and also of any direct interest in any professional, commercial, agricultural or industrial undertaking in or outside of Grenada.

- Section 56(e) of the Public Service Commission Rules provides that a public officer who acquires shares in any company or who acquires any interest in any professional, commercial, agricultural or industrial undertaking in or outside of Grenada shall within a period of thirty days thereafter inform the Commission.

- Section 56(f) of the Public Service Commission Rules provide that when the Commission is of the opinion that a public officer's performance in carrying out duties is likely to be influenced by the fact of ownership of shares or investments in any company or of a direct interest in any professional, commercial, agricultural or industrial undertaking, the Commission may require the officer to dispose of such shares, investments or interest within a period specified by the Commission or transfer the officer. If the officer fails to dispose of the shares, investment or interest within the specified time period, the officer is guilty of misconduct.

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

Grenada has in place some provisions requiring that a public officer must submit a declaration of certain interests, which is relevant for the promotion of the purposes of the Convention.

However, Grenada does not have a general system for registering the assets, income and liabilities of public officers, particularly those at a senior level. The Committee will formulate recommendations. (See recommendations 2 a., b. and c. in Chapter III of this Report).

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

Grenada did not provide any information on the written disclosures required by law, or the review of those disclosures.¹³ Considering that the Committee does not have additional information that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms referred to above, it will make recommendations in this regard. (See recommendations 7.1 - 7.3 in Chapter III of this Report).

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III,

¹³ *Ibid.* at 11.

PARAGRAPHS 1, 2, 4, AND 11 OF THE CONVENTION)

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

Grenada has in place oversight bodies for enforcement of the measures covered in paragraphs 1, 2 and 4 of Article III of the Convention. For the sake of clarity, parts of the descriptions of the functions of these bodies are taken from Section 1.1.1 of this Report:

- The Public Service Commission, established under Section 83 of the Constitution, exercises disciplinary control over acts of misconduct under the Public Service Commission Rules, which are dealt with as soon as possible after the time of occurrence.¹⁴ The Commission has the power to appoint, discipline, and remove persons in the public service, in accordance with Section 84 of the Constitution and Section 75 of the Public Service Commission Rules. The Constitution also, under Section 89, grants the Public Service Commission the power to appoint, remove and exercise disciplinary proceedings over members of the Police Force below the rank of Chief of Police but above the rank of Sergeant. Similarly, under Section 87, the Constitution provides for similar provisions with respect to the Director of Audit. The Commission is also responsible for receiving the declarations of certain investments as set out in Section 2.1 of this Report.

- The Judicial and Legal Services Commission, under Section 88(2) of the Constitution, has the power to appoint, remove and exercise disciplinary control over persons holding or acting in the offices of magistrate, registrar of the High Court and any public office in the department of Attorney-General, including the office itself and the department of the Director of Public Prosecutions (other than the Office of Director). The Commission can also exercise disciplinary control over judges and justices, but their removal is governed by the Constitution (similar to the procedure regarding the Director of Public Prosecutions).

- Under the Finance and Audit (Amendment) Act, 1998, the Accountant General is responsible for the supervision of the establishment and maintenance of accounts within the Government as well as the receipts, expenditures and other disbursements of public funds. The Director of Audit is responsible for audit and inspection of public accounts.

- The Commission of Inquiry Act, which provides that the Governor-General can establish a Commission to inquire into the conduct or management of any department of the public service, or of any public or local institution or the conduct of any public or local officers.¹⁵ The members are appointed by the Governor-General and are to report their findings on the subject of inquiry.¹⁶ The Commission sets the manner and rules under which a Commission of Inquiry conducts an investigation¹⁷ and they have powers to summon and compel the attendance of witnesses, call for the production of documents or things including the power to retain and examine them and examine persons appearing before them.¹⁸

¹⁴ Public Service Commission Rules, 77(1).

¹⁵ Commission of Inquiry Act, Section 2.

¹⁶ *Ibid.*

¹⁷ *Ibid.*, Section 9.

¹⁸ *Ibid.*, Section 10.

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

The standards in place in Grenada with respect to oversight bodies charged with responsibility for ensuring compliance with the provisions stated in paragraphs 1, 2 and 4 of Article III of the Convention satisfy in part those provisions, given the existence of bodies with general or specific competence to ensure compliance by most persons carrying out public functions, which constitutes progress in implementation of the Convention. However there are no oversight bodies with competence for oversight of the most senior political officials. Further, the Committee observes that the provisions at Article III (11) of the Convention are not covered by any oversight body or bodies. Bearing this in mind, the Committee will formulate a recommendation. (See recommendation 3 in Chapter III of this Report.

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

Grenada states that “various Commissions of Inquiry are set up over time to investigate acts of corruption by public officials.”¹⁹ Considering that the Committee does not have additional information that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms referred to above, it will make recommendations in this regard. (See recommendations 7.2 and 7.3 in Chapter III of this Report).

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

4.1. GENERAL PARTICIPATION MECHANISMS

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

Grenada has in place a set of constitutional provisions that enshrine individual principles, rights and guarantees that permit, facilitate and protect participation by civil society and nongovernmental organizations in efforts aimed to combat corruption, such as the right to life, liberty, security of the person and the protection of the law (Section 1(a)), as well as freedom of conscience, of expressions and of assembly and association (Section 1(b)). It should be mentioned that Sections 10 and 11 of the Constitution expressly protect freedom of expression and of assembly and association, respectively, which constitute fundamental prerequisites for encouraging such participation. However, Grenada states in its Response that no mechanisms are in place to encourage participation as provided in Article III (11).

The Committee will make the appropriate comments in each of the respective sections, and in the final chapter will formulate recommendations with respect to this area.

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

Based on the information at its disposal, and notwithstanding the constitutional rights cited, the Committee must conclude that Grenada does not have adequate measures to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption. (See recommendation 4.1 in Chapter III of this Report).

¹⁹ Response, *supra* note 2 at 12.

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

Grenada has not provided information on results in this area, and therefore an assessment of such results is not possible.

4.2. MECHANISMS FOR ACCESS TO INFORMATION

Grenada states that there are no mechanisms for access to information.²⁰ The Committee will formulate recommendations. (See recommendations 4.2 a., b. and c. in Chapter III of this Report).

4.3. MECHANISMS FOR CONSULTATION

Grenada states that there are no mechanisms for consultation.²¹ The Committee will formulate recommendations. (See Recommendations 4.3 a. and b. in Chapter III of this Report).

4.4. MECHANISMS TO ENCOURAGE PARTICIPATION IN PUBLIC ADMINISTRATION

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

There appear to be no provisions in law or regulation indicating that the government formally seeks public participation as contemplated by Article III (11) of the Convention. In its Response, Grenada states that “the media is used by the Government in highlighting and discussing policies where public views are held.”²² In addition, “these public views are expressed over the many radio stations, television stations and weekly newspapers.”²³ However, the Response does not indicate any formal policy or practice on the part of the government to consider such views.

Grenada also states that “there are wide consultations on Bills before passage. Further all Bills drafted in Grenada are published in the Gazette and available at the Ministry of Legal Affairs for public viewing before passage of the Bill.”²⁴ Various Commissions of Inquiry are also set up from time to time to deal with acts of corruption. The public can participate in these Commissions.

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

While there are some constitutional rights for the public, set forth above, Grenada has no formal mechanisms to encourage participation by civil society and nongovernmental organizations in public administration.

The Committee will formulate recommendations in this regard. (See recommendations 4.4 a. and b. in Chapter III of this Report).

²⁰ *Ibid.* at 12.

²¹ *Ibid.* at 13.

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

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

Grenada has not provided information on results in this area, and therefore an assessment is not possible. The Committee will formulate a recommendation. (See recommendations 7.2 and 7.3 in Chapter III of this Report).

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

Grenada, in its Response, noted that there are no legislative provisions to date that promote or facilitate such participation by civil society and other said organizations. Informal administrative mechanisms exist to assist in good governance practices.²⁵ The Committee will formulate a recommendation. (See recommendations 4.5 a. and b. in Chapter III of this Report).

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

5.1. MUTUAL ASSISTANCE

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

Grenada has a set of provisions and measures related to the above-referenced mechanisms, notably the Mutual Assistance (in Criminal Matters) Act No. 14 of 2001. This Act provides “for mutual assistance in criminal matters within the Commonwealth and to facilitate its operation in Grenada and to make provisions concerning mutual assistance in criminal matters between this country and other countries other than commonwealth countries.”²⁶ This Act provides for assistance in: i) obtaining evidence; ii) locating or identifying persons; iii) obtaining article or thing, by search and seizure if necessary; iv) arranging attendance of persons as witness; v) securing transfer of prisoners; vi) serving documents; vii) immunities and privileges; viii) assistance in tracing property derived from a crime; and (ix) assistance in seizing and confiscating proceeds or instrumentalities of crime.

Grenada also has in place a mutual legal assistance treaty with the United States, which is incorporated into the domestic law of Grenada via the Mutual Legal Assistance in Criminal Matters Treaty (Government of Grenada and Government of the United States of America) Act, 2001. This Act provides for mutual assistance in connection with the investigation, prosecution and prevention and criminal offenses and in proceedings related to criminal matters.

The Exchange of Information Act, 2003 provides for assistance to overseas regulatory authorities to obtain information from within Grenada and other related matters. For assistance to be provided by a regulatory authority²⁷ of Grenada, Section 3 states the following must be satisfied: (i) assistance must be necessary to enable or assist a foreign regulatory authority in the exercise of its functions; (ii) assistance may be granted under any agreement to which Grenada and the foreign state requesting authority are parties; (iii) written undertaking has been given by the foreign regulatory authority to provide corresponding assistance to an authority exercising regulatory functions in Grenada; (iv) the nature and seriousness of the matter warrant disclosure of the information; (v) assistance cannot be

²⁵ *Ibid.* at 14.

²⁶ *Ibid.* at 16.

²⁷ The following agencies are ‘regulatory authorities’ for purposes of the Act: the Attorney General, the Registrar of Companies; the Grenada International Financial Services Authority; the Supervisor of Insurances; the Department of Co-operatives; the Eastern Caribbean Central Bank; and the Supervisory Authority.

obtained by other means; and (vi) the relevant country or territory has enacted similar laws with relation to the exchange of information.

Finally, a Financial Intelligence Unit has been established, pursuant to the Financial Intelligence Unit Act, 2003. The functions include: (i) receipt and analysis of suspicious transactions reports and the investigation of money laundering and other serious financial crimes as required under the Proceeds of Crime and Money Laundering (Prevention) Act No. 39 of 2001; (ii) collection of information from financial institutions and other relevant bodies for the purpose of investigating relevant offences; (iii) investigation of relevant offences; (iv) dissemination of information; (v) international cooperation in the exchange of financial information; (vi) awareness raising and educating of financial and business institutions on their obligations to detect, prevent and deter money laundering and associated offences.²⁸

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

The provisions related to mutual assistance that have been examined by the Committee, based on the information made available to it, are pertinent for promoting the purposes of the Convention. Furthermore, Grenada states in its Response that it does not have information available on whether requests for mutual legal assistance have been made to or from Grenada under the Convention.²⁹

The Committee underscores the importance of the appropriate government authorities and officials using the Convention in appropriate cases. The Committee also notes the importance of applying the mutual assistance treaties signed by Grenada as well as the Convention to specific cases of corruption. Based on the foregoing, the Committee will formulate recommendations. (See recommendations 5.1.1 and 5.1.2 in Chapter III of this Report).

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

Grenada states that results are not available.³⁰ Considering that the Committee does not have additional information that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms referred to above, it will make recommendations in this regard. (See recommendations 7.2 and 7.3 in Chapter III of this Report).

5.2. MUTUAL TECHNICAL COOPERATION

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

In its response Grenada notes that it “has negotiated Mutual Legal Assistance Treaties. These Treaties allow generally for the exchange of evidence and information in criminal and ancillary matters. In money laundering cases, they can be extremely useful as a means of obtaining banking and other financial records form[s] from treaty partners.”³¹ Grenada stated that it has developed technical cooperation programs and projects with the Organization of American States and the United Nations.³²

²⁸ Response, *supra* note 2 at 5.

²⁹ *Ibid.* at 17.

³⁰ *Ibid.* at 17.

³¹ *Ibid.* at 18.

³² *Ibid.*

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

The Committee will make recommendations in this regard. (See recommendations 5.2.1 and 5.2.2 in Chapter III of this Report).

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

Grenada has provided no further information on results in this field, and therefore a full assessment in this regard is not possible. Consequently, the Committee will formulate the appropriate recommendations. (See recommendations 7.2 and 7.3 in Chapter III of this Report).

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

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

In its Response, Grenada notes that it is using the Attorney-General and the Director of Public Prosecutions as the Central Authority for requests for mutual assistance, in accordance with Sections 3 and 4 of the Mutual Assistance (in Criminal Matters) Act No. 14 of 2001.³³

Grenada also states that it is using the Ministry of Foreign Affairs' Central Planning Unit and the Director of Public Prosecutions as the Central Authority for technical cooperation.

However, the OAS General Secretariat has not received formal notification of the designation, so as to facilitate communication and coordination with the central authorities of other states parties. Bearing this in mind, the Committee will make recommendations. (See recommendations 6.1 and 6.2 in Chapter III of this Report).

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

The provisions and other measures adopted by Grenada in relation to Central Authorities that the Committee has examined, based on the information made available to it, are pertinent for promoting the purposes of the Convention.

Grenada does note that the Financial Intelligence Unit has "sufficient human resources to properly make and receive requests for assistance and cooperation under the convention. The fact is Grenada is a small island with limited financial resources but with a strong political will to honour commitments made under the treaties negotiated, it strives to make and process requests made in a timely manner."³⁴

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

Grenada in its Response, states that no information is available on whether it has received any requests for mutual legal assistance and mutual technical cooperation under the Convention.

³³ *Ibid.* at 19.

³⁴ *Ibid.*

III. CONCLUSIONS AND RECOMMENDATIONS

Based on the review in Chapter II of this Report, the Committee offers the following conclusions and recommendations regarding implementation by Grenada of the provisions of Article III, paragraphs 1 and 2 (standards of conduct and mechanisms to enforce them); Article III (4) (systems for registering income, assets, and liabilities); Article III (9) (oversight bodies, solely with respect to the exercise by such bodies of functions related to compliance with the provisions contained in Article III (1), (2), (4), and (11) of the Convention); III (11) (mechanisms to encourage participation by civil society and nongovernmental organizations in efforts to prevent corruption); Article XIV (Assistance and Cooperation) and Article XVIII (Central Authorities) of the Convention, which were selected in the context of the first round.

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

1.1. Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms

Grenada has considered and adopted certain measures to establish, maintain, and strengthen standards of conduct designed to prevent conflicts of interest and mechanisms to enforce them, as noted in Section 1.1 of Chapter II of this Report.

In light of the comments made in that section, the Committee suggests that Grenada consider strengthening the implementation of the provisions on conflicts of interest, and ensure that the laws on this matter are applicable to all persons performing public functions. To comply with this recommendation, Grenada could take into account the following measures:

- a. Establish and then implement standards of conduct for those persons that perform public functions that currently do not fall under the purview of any controls, including adequate sanctions and enforcement mechanisms for violations of those standards.
- b. Establish a standard for addressing the conflicts that can occur between individual specific government matters in which those persons that perform public functions would normally be expected to act as a part of their responsibilities and an official's or family member's financial interests or his outside activities or negotiations for future private employment arrangements. Such a standard could include recusal, request by the person that perform public functions for permission to continue to act, request by the official for a transfer of duties (if appropriate), or direction by an appropriate authority for divestiture/resignation when the conflict is pervasive.
- c. Establish suitable restrictions for persons who leave public service, such as prohibitions on participation as a representative of a private interest in ongoing, specific matters in which they had participated in an official capacity, or for a reasonable time, restrictions on dealing with former government body in which they served.

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

Grenada has considered and adopted certain measures intended to establish, maintain, and strengthen standards of conduct to ensure the conservation and proper use of resources entrusted to public officials in the performance of their functions, as indicated in Section 1.2 of Chapter II of this Report.

In light of the comments made in that section, the Committee suggests that Grenada consider strengthening control systems within the public administration by developing enforceable written standards applicable to all persons performing public functions to create a duty to conserve and properly use the resources (including government paid for services) entrusted to them in the performance of their functions.

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

Grenada has certain measures requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware, as noted in Chapter II, Section 1.3 of this Report.

In light of the comments made in that section, the Committee suggests that Grenada consider developing and strengthening mechanisms that require all public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware, complemented by the necessary measures that protect them, in particular when these acts involve a manager or supervisor.

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

Grenada has considered and adopted certain measures to establish, maintain, and strengthen systems for reporting certain assets of persons who perform public functions in certain posts that the law specifies, as noted in Section 2 of Chapter II of this Report.

In light of the comments made in that section, the Committee suggests that Grenada consider adopting an integrated system for registering income, assets, and liabilities. In meeting this recommendation, Grenada may wish to take into account the following measures:

- a. Require by law or regulation those in high level political and civil servant positions (and others identified as holding high risk positions) to file such reports upon entry into government service, thereafter on an annual basis, and when leaving government service.
- b. Review the filed reports for potential conflicts of interest and other possible violations of law or regulation.
- c. Consider making the reports public, where appropriate.

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

Grenada has considered and adopted certain measures to establish oversight bodies in accordance with Article III, paragraph 9 of the Convention.

In light of the comments made in that section, the Committee suggests that Grenada consider strengthening the functions of, and where appropriate, create oversight bodies that enforce compliance with the matters covered by the provisions of Article III, paragraphs 1, 2, 4 and 11 of the Convention; provide them with the necessary resources to enable them to carry out their functions in full; and establish mechanisms necessary to permit effective institutional coordination, as well as periodic evaluation and monitoring, of the measures they adopt.

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

Grenada has constitutional rights that permit, facilitate and protect the participation of civil society and nongovernmental organizations in efforts to prevent corruption, as noted in Chapter II, Section 4 of this Report, but it has established no mechanisms to promote such participation.

In light of the comments made in that section, the Committee suggests that Grenada consider the following recommendations:

4.1. General participation mechanisms

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

4.2. Mechanisms to ensure access to information

- Establish an enforceable system to assure access to government information.

In meeting this recommendation, Grenada may wish to take into account the following measures:

- a. Establish clear written standards as to the types of information that will be provided under the system.
- b. Establish standards recognizing the right of all persons to obtain information or copies of documents concerning official actions, except where exempt by law, which are in the possession, or under the control of public institutions.,
- c. Establish a requirement that all government entities, to the extent practicable, publicize their procedures, results and other relevant information through the use of such communication methods as publications, dissemination centers, mass media and Internet web sites.
- d. Establish mechanisms to enforce compliance with the measures adopted.

4.3. Mechanisms for consultation

- Establish consultation mechanisms to enable civil society and non-governmental organizations to provide opinions and proposals.

In meeting this recommendation, Grenada may wish to take into account the following measures:

- a. Include in the mechanism clear systems for government consideration of those opinions and proposals that will help prevent corruption.
- b. Implement a program to assist in receiving such opinions and proposals and to help publicize the consultation programs, which includes and utilizes to the extent possible, electronic means for announcing opportunities to consult, accepting responses to those announcements, and publicizing the availability of the opportunities.

4.4. Mechanisms to encourage participation in public administration

- Develop standards and procedures to establish, maintain and strengthen mechanisms to encourage participation by civil society and nongovernmental organizations in public policy.

In meeting this recommendation, Grenada may wish to take into account the following measures:

- a. Include in the mechanism a clear system for considering the advice and recommendations made by civil society, nongovernmental organizations and individual citizens.
- b. Implement a program that publicizes in a wide fashion, including electronic means, opportunities to participate in policy discussions and **in advisory bodies.**

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

- Establish mechanisms to encourage civil society and nongovernmental organizations to participate in the follow up of public administration and generate opinions and proposals to be taken into account in preventing, detecting, investigating and punishing corruption.

In meeting this recommendation, Grenada may wish to take into account the following measures:

- a. Design and implement specific programs to publicize the mechanisms for encouraging participation in the follow up of public administration.
- b. Promote methods, where appropriate, to allow, facilitate, and assist civil society and nongovernmental organizations in the follow up of public administration, in order to address corruption.

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

Grenada has adopted certain measures in the area of mutual assistance and mutual technical cooperation, in accordance with the provisions of Article XIV of the Convention, as noted and reviewed in Chapter II, Section 5 of this Report.

In light of the comments made in that section, the Committee suggests that Grenada consider the following recommendations:

5.1. Mutual assistance

- 5.1.1. Design and implement a comprehensive information and training program for appropriate government authorities and officials, to ensure that they are familiar with and able to apply mutual assistance provisions regarding investigation or prosecution of acts of corruption contained in the Convention and treaties signed by Grenada with a number of countries.
- 5.1.2. Design and implement an information program that enables the authorities of Grenada to keep permanent track of mutual assistance requests in relation to acts of corruption, in particular those provided for in the Convention.

5.2. Mutual technical cooperation

- 5.2.1. Identify specific areas in which Grenada considers it needs technical cooperation from other States Parties to strengthen its capacities to prevent, detect, investigate and punish acts of corruption. Grenada should also identify and ascribe priority to requests for mutual technical cooperation.
- 5.2.2. Continue efforts to exchange technical cooperation with other States Parties on the most effective ways and means to prevent, detect, investigate, and punish corruption.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

Grenada has adopted certain measures relative to the designation of the central authorities referred to in Article XVIII of the Convention, as discussed in Chapter II, Section 6 of this Report.

In light of the comments made in that section, the Committee suggests that Grenada consider the following recommendations:

- 6.1. Notify the OAS General Secretariat formally of the designation of the central authority, pursuant to the prescribed formalities.
- 6.2. Implement a mechanism for channeling requests for cooperation on mutual legal assistance, as provided under the Convention.

7. GENERAL RECOMMENDATIONS

Based on the observations contained in this Report, the Committee suggests that Grenada consider the following recommendations:

- 7.1. Design and implement, where appropriate, training programs for public servants responsible for application of the systems, standards, measures, and mechanisms included in this Report, in order to ensure that they are thoroughly understood and properly applied.
- 7.2. Select and develop procedures and indicators, as appropriate, for verifying follow-up of the recommendations contained in this Report, and notify the Committee accordingly through the Technical Secretariat. For said purposes, Grenada could take into account the list of broader indicators applicable to the inter-American system that were available for selection, as necessary, by Grenada, and which have been published by the Technical Secretariat of the Committee on the OAS Internet web site. Grenada could also take into account any information arising from the review of mechanisms developed pursuant to recommendation 7.3 below.
- 7.3. Implement the recommendations contained in this Report and develop, as appropriate and where none exist, procedures to review the mechanisms mentioned herein.

8. FOLLOW-UP

The Committee will consider the periodic reports from Grenada on its progress in implementing the above recommendations in the framework of the Committee's plenary meetings, as prescribed in Article 30 of the Rules of Procedure.

ANNEX
TO THE FINAL REPORT ON IMPLEMENTATION IN GRENADA OF THE
CONVENTION PROVISIONS SELECTED FOR REVIEW IN THE FRAMEWORK OF THE
FIRST ROUND

Together with its response, Grenada sent attachments on the following provisions and documents:

1. The Grenada Constitution 1973.
2. The Criminal Code.
3. The Exchange of Information Act, 2003.
4. The Financial Intelligence Unit Act, 2003.
5. The Mutual Legal Assistance in Criminal Matters Act, 2001.
6. Mutual Legal Assistance in Criminal Matters Treaty (Government of Grenada and the Government of the United States of America) Act, 2001.
7. Proceeds of Crime (Anti-Money Laundering) Regulations, 2003.
8. The Public Service Commission Rules, Statutory Rules and Orders.
9. Integrity in Public Life Bill
10. Prevention of Corruption Bill
11. Finance and Audit (Amendment) Act, 1998
12. Commission of Inquiry Act