

MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
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SAINT VINCENT AND THE GRENADINES

FINAL REPORT

(Adopted in the plenary session held on September 30, 2005)

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

**REPORT ON IMPLEMENTATION IN SAINT VINCENT AND THE GRENADINES
OF THE CONVENTION PROVISIONS SELECTED FOR REVIEW
IN THE FRAMEWORK OF THE FIRST ROUND¹**

INTRODUCTION

1. Legal-institutional framework ²

The archipelagic State of Saint Vincent and the Grenadines is an independent and sovereign parliamentary democracy within the British Commonwealth.

Executive authority is vested in Queen Elizabeth the Second, who is the Head of State. Her Majesty is represented by the Governor-General, whose duties are mainly of a ceremonial nature. The Prime Minister, who is the Head of Government, is appointed by the Governor-General and, together with the Cabinet, exercises governmental control.

Legislative power resides with Parliament, a unicameral entity composed of Her Majesty and the House of Assembly, which is composed of 15 Representatives who are elected, and six Senators who are appointed by the Governor-General: four on the advice of the Prime Minister and two on the recommendation of the Leader of the Opposition. The parliamentary term lasts five years, although the Prime Minister may call elections at any time. A Representative or Senator vacates his or her seat in the House at the dissolution of Parliament.

Saint Vincent and the Grenadines is divided into six parishes: *Charlotte, Grenadines, Saint Andrew, Saint David, Saint George, and Saint Patrick*, which are governed from the capital, Kingstown.

The Judiciary of Saint Vincent and the Grenadines is independent and separate from the other branches of government. This independence is based on the principle of separation of powers, which is rooted in the Constitution.

As in other English-speaking countries in the Caribbean, the judiciary is founded in the English common law. In Saint Vincent and the Grenadines the lower courts are the Magistrate's Courts that exercise both civil and criminal jurisdiction up to a certain limit. There are 11 courts in three Magisterial Districts, over each of which presides a magistrate, who is appointed by the Governor-General on the advice of the Judicial and Legal Service Commission. There is also a Family Court that deals exclusively with family-related matters.

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 September 30, 2005, at its eighth meeting, held at OAS Headquarters in Washington D.C., United States, September 26 to 30, 2005.

² Response of Saint Vincent and the Grenadines to the questionnaire, Introduction. p.1.

With the consent of Saint Vincent and the Grenadines, its response to the questionnaire is published on the following website: www.oas.org/juridico/spanish/corresp_vct.htm

The Eastern Caribbean Supreme Court is the highest judicial tribunal, whose jurisdiction covers not only Saint Vincent and the Grenadines, but also five other independent States (Antigua and Barbuda, Dominica, Grenada, Saint Kitts and Nevis, and Saint Lucia) and three British Overseas Territories (Anguilla, British Virgin Islands, and Montserrat). The Court came into operation in 1967, replacing the West Indies Associated States Supreme Court and is composed of 19 members presided over by the Chief Justice. Judicial appointments, except that of the Chief Justice, who is appointed by Her Majesty, are made by the Judicial and Legal Services Commission. The Eastern Caribbean Supreme Court has two divisions: the High Court of Justice and the Court of Appeal. The High Court of Justice has competence in all civil and criminal matters over which the Magistrate's Courts do not have jurisdiction. The court of last resort is the Judicial Committee of Her Majesty's Privy Council in London.

Finally, as mentioned, the legal system of Saint Vincent and the Grenadines is derived from the English common law and statutes; however, the 1979 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.

2. Ratification of the Convention and adherence to the Mechanism

According to the official register of the OAS General Secretariat, Saint Vincent and the Grenadines ratified the Inter-American Convention against Corruption on May 28, 2001, and deposited its instrument of ratification on June 5 of that year.

In addition, Saint Vincent and the Grenadines 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

Response of Saint Vincent and the Grenadines

The Committee wishes to acknowledge the cooperation of Saint Vincent and the Grenadines in the entire review process, which was evident, *inter alia*, in its response to the questionnaire and its willingness to clarify or complete the information contained in its response. Furthermore, together with its response, Saint Vincent and the Grenadines 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 Saint Vincent and the Grenadines up to January 31, 2005.

No documents or data were received from civil society in accordance with Article 33 (b) of the Committee's Rules of Procedure.

II. REVIEW OF THE IMPLEMENTATION BY SAINT VINCENT AND THE GRENADINES OF THE SELECTED PROVISIONS

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

Saint Vincent and the Grenadines has a set of standards of conduct, among which the following should be highlighted:

- Constitutional provisions, such as those found in Section 26(1), which provides, *inter alia*, that no person shall be qualified to be elected or appointed as a Representative or Senator if he: holds or is acting in the office of Judge of the Supreme Court;³ holds or is acting in any public office or is a paid member of any Defence Force of Saint Vincent;⁴ is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law,⁵ or; has any interest in any government contracts.⁶ Furthermore, Section 26 (2) provides that a person shall not be qualified to be elected or appointed as a member if he holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of any election of members or the compilation of any register of votes for the purpose of electing Representatives. Finally, Section 26 (4) says that a person shall not be qualified to be elected as a Representative if he is a Senator and a person shall not be qualified to be appointed as a Senator if he is a Representative or is nominated for election as a Representative.

- Constitutional provisions that disqualify from appointment as a member of certain bodies, such as, *inter alia*, the Constituency Boundaries Commission,⁷ Public Service Commission,⁸ Public Service Board of Appeal,⁹ or Police Service Commission,¹⁰ any person who is, or has been at any time during the period of five years immediately preceding their appointment, a Senator, Representative or is nominated for election as a Representative, Judge of the Supreme Court, member of a political organization, or a public officer.

- Statutory provisions, such as those contained in the House of Assembly (Privileges, Immunities and Powers) Act, Section 28(1) of which provides that a member of the House shall not take part in the discussion of any matter in which he has a direct pecuniary interest without disclosing the extent of that interest.

³ Section 26(1), c) of the Constitution.

⁴ Section 26(1), d) of the Constitution.

⁵ Section 26(1), e) of the Constitution.

⁶ Section 26(1), h) of the Constitution.

⁷ Section 32(2) of the Constitution.

⁸ Section 77(2) of the Constitution.

⁹ Section 86(2) of the Constitution. This organ examines appeals lodged against any decision of the Governor-General, acting in accordance with the advice of the Public Service Commission, to remove from office or exercise disciplinary control over a public officer.

¹⁰ Section 84(2) of the Constitution.

- Other provisions, such as those contained in the Police Regulations, Sections 4, 5, 11 and 64 of which provide that all members of the Police Force shall pursue a firm and impartial line of conduct in the performance of their duties.

- Other discretionary provisions, such as those contained in the Civil Service Orders for the Public Service of Saint Vincent and the Grenadines, which the State under review intends to make a part of the law, Order 1.4 of which provides that provisions of this type apply to all public servants except as provided otherwise in regulations promulgated for specific classes of public officers. Orders 3.6 and 3.7 refer to conflicts of interest arising in the performance of public duties, and, in essence, state that a public officer should not engage in any activity, occupation or undertaking that may conflict with the interests of the Department or Ministry in which he is engaged. Order 3.6 provides that except in the case of part-time officers, an officer's whole time is at the disposal of the Government. Consequently, that order also provides that an officer may not at any time engage in any activity which would in any way tend to impair his usefulness as an officer, nor may he engage in any occupation or undertaking which might in any way conflict with the interests of his Ministry or Department or be inconsistent with his position as an officer. Furthermore, an officer shall not engage in any trade or any professional, commercial, agricultural or industrial undertaking or undertake private work for remuneration without the prior consent of the Service Commission, which, notwithstanding that prior consent may have been given, may at any time after notice to the officer and after holding an inquiry prohibit an officer from engaging in such activities. In this connection, the last paragraph of Order 1.7 provides that the term "Service Commission" refers, as appropriate, to the Public Service Commission, the Judicial and Legal Service Commission, the Police Service Commission, or any other Commission created under the terms of the Constitution.

Saint Vincent and the Grenadines also has mechanisms to enforce the above-mentioned standards of conduct, among which the following should be noted:

- The Public Service Commission, established under Section 77 of the Constitution. This Commission consists of a Chairman appointed by the Governor-General acting in accordance with the advice of the Prime Minister and one member appointed by the Governor-General acting in accordance with the advice of the Prime Minister following consultations with the Civil Service Association. There shall also be between one and three other members, all appointed by the Governor-General acting in accordance with the advice of the Prime Minister following consultation with the Leader of the Opposition. Under Section 78 of the Constitution, the Commission has the power to exercise disciplinary control over persons holding or acting in the public service. The Public Service Commission Regulations sets out at Part V the procedure to be followed in instituting disciplinary proceedings against public officers who breach the standards governing their conduct. Section 50 of the Regulations contains the following penalties: dismissal, reduction in rank, deferment or withholding of increment, fine, reprimand and severe reprimand.

- The Police Service Commission, created under Section 84 of the Constitution. This Commission consists of the Chairman of the Public Service Commission and the member(s) of the Public Service Commission appointed by the Governor-General on the advice of the Prime Minister after consultation with the Leader of the Opposition, as well as a person appointed by the Governor-General acting on the recommendation of the Prime Minister, following consultations with the Saint Vincent Police Welfare Association or, if that association ceases to exist, with such body representing the interests of police officers as the Prime Minister may determine. It should be mentioned that according to the aforementioned Order 1.7, the term "Service Commission" refers, as appropriate, to the Police Service Commission and, therefore, the standards governing conflicts of interest contained in the Civil Service Orders for the Public Service apply also to officers in this last category.

- The Judicial and Legal Service Commission, created in accordance with West Indies Associated States Supreme Court Order 223 of 1963, in connection with Section 105(3) (b) and paragraph 8 of the Second Schedule “Transitional Provisions” of the Constitution, the functions of which include, *inter alia*, appointing officers of the Judiciary and advising the Governor-General on the appointment, removal and imposition of disciplinary measures on any person who performs judicial functions. It is worth mentioning that in accordance with the aforementioned Order 1.7 the term “Service Commission” should also be understood to refer, as appropriate, to this Commission and, therefore, the standards of conduct governing conflicts of interest contained in the Civil Service Orders for the Public Service also apply to any person who performs judicial functions. While there is some uncertainty as to the scope of the section, it has been administratively interpreted as being applicable to any person who performs judicial functions.

- The Police Act, which at Section 17(1)(x) provides that any member of the Police Force of or below the rank of sergeant who has committed acts of corruption shall be liable to the following penalties: (i) fine not exceeding two hundred and fifty Eastern Caribbean dollars (EC\$250); (ii) dismissal; (iii) reduction in rank; (iv) forfeiture of good conduct pay and badges, or of any benefit arising from the whole or any part of his past or future service; (v) cells, not exceeding fourteen days, or; (vi) confinement to barracks not exceeding twenty eight days, and such confinement shall involve the performance of ordinary duty and parades as well as fatigue duties.

- The Criminal Code, which at Chapter V provides penalties for offences it recognizes in connection with certain types of behavior that could constitute conflicts of interest, such as official corruption (Section 85); extortion by public officers (Section 86), or abuse of office (Section 89).

- The Police Regulations, Section 219 of which provides that a breach of these Regulations by any non-commissioned or constable results in a fine of two hundred and fifty Eastern Caribbean dollars (EC\$250) or such other punishment prescribed by Section 17(1) of the Police Act as the Commissioner may prescribe.

- Civil Service Order 3.27, which stipulates that an officer will be liable to disciplinary action for any misconduct including general misconduct to the prejudice of discipline or the proper administration of Government business and contravention of specific rules and regulations.

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

The standards and mechanisms on conflicts of interest 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. However, the Committee considers it appropriate to make some observations regarding a number of aspects on which it formulates observations in the final Chapter of this report.

The Committee notes the existence of standards governing suitable conduct in the exercise of public service, which are designed to accomplish the purposes of the Convention. This body of laws, as described in the foregoing section, contains standards that seek to prevent conflicts of interest, in particular in the Constitution, the House of Assembly (Privileges, Immunities and Powers) Act, the Criminal Code, the Police Act and Regulations, and other laws.

It should also be mentioned that the discretionary Civil Service Orders are applicable to all public servants,¹¹ and Chapter III contains an important set of standards that govern the conduct of public servants, which provides a good basis for meeting the objects and purposes of the Convention.

However, the Committee underscores that it would be advisable for the State under review to consider strengthening, complementing and updating the standards governing the conduct of public servants, taking into account its system of laws. To this end, it might include those provisions on conduct designed to prevent conflicts of interest, in order to ensure the correct, honorable and proper fulfillment of public functions. This is based on the benefits that would be afforded by having in place a comprehensive system of standards designed according to guidelines that ensure the consistency of those standards with the particular nature, hierarchy and requirements of each public service entity. Saint Vincent and the Grenadines might also consider broadening this system to include those officers expressly excluded in Section 78 of the Constitution, whose conduct, furthermore, is not governed by any specific set of rules, such as the Attorney General, Director of Public Prosecutions, Director of Audit, or those mentioned, *inter alia*, in Sections 79 and 83 of the Constitution. The foregoing is without prejudice to any existing special systems that govern the different public service entities and their officers. In view of the foregoing considerations, the Committee will make a recommendation in this connection. (See recommendation 1.1(a) of Chapter III of this report).

The Committee also notes the absence of preventive mechanisms applicable to all public servants that would permit detection of conflicts of interest in the exercise of public functions and, as applicable, the adoption of appropriate corrective measures. The foregoing highlights the importance of creating or strengthening such mechanisms, in order to make it easier for the appropriate bodies, such as the Service Commissions, to perform their preventive function and ensure that no appointments are made in breach of the rules in force on ineligibility and incompatibility in public service. The Committee will formulate a recommendation in that regard. (See recommendation 1.1(b) of Chapter III of this report).

By the same token, the Committee observes an absence of mechanisms to determine, in concrete cases, if a person who performs public functions is in a situation of conflict of interests, and, at the same time, to adopt timely measures necessary to protect public interests. In light of this circumstance, the Committee will formulate a recommendation. (See recommendation 1.1(c) of Chapter III of this report).

The Committee is concerned that there are no express provisions on the prevention of conflicts of interest after leaving public service, such as a prohibition preventing the involvement of former public servants in any official matters in which they might have engaged while in service, or with institutions with which they might have been recently connected, and, in general, any other situation that might lead to them to take improper advantage of their position as former public servants. The Committee will formulate a recommendation bearing in mind this observation. (See recommendation 1.1(d) of Chapter III of this report).

Nevertheless, in spite of the foregoing considerations, the Committee wishes to acknowledge the existence of the Integrity in Public Life Draft Bill and the Prevention of Corruption Draft Bill (both of 2005 and mentioned by the State in its response), inasmuch as both bills contain standards of conduct for the correct, honorable and proper fulfillment of public functions, which evinces the will of Saint Vincent and the Grenadines to implement the provisions contained in the Convention.

¹¹ Civil Service Orders for the Public Service, Order 1.4.

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

Saint Vincent and the Grenadines has not provided information on results in this area in its response, and therefore a full assessment in this regard is not possible. Consequently, the Committee will formulate the corresponding recommendations. (See recommendations 7.2 and 7.3. of Chapter III 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 legal framework and/or other measures and enforcement mechanisms

Saint Vincent and the Grenadines has a set of norms concerning the aforementioned standards of conduct, including the following:

- Constitutional provisions, such as those contained in Section 68, which provides that all revenues or other moneys raised or received by Saint Vincent and the Grenadines shall be paid into and form a Consolidated Fund. In that respect, Section 69 provides that no moneys shall be withdrawn from the Consolidated Fund except as authorized by a constitutional or legal provision, in accordance with an appropriation law or a law made in pursuance of section 71 of the Constitution.¹² In addition, Section 70 provides that the Minister for the time being responsible for finance shall cause to be prepared and laid before the House of Assembly before, or not later than thirty days after, the commencement of each financial year, estimates of the revenues and expenditure of Saint Vincent and the Grenadines for that financial year and, once it has been approved by the House, a bill, known as an appropriation bill, shall be introduced in the House, providing for the issue from the Consolidated Fund of the sums to the purposes specified therein.

- Other provisions, such as Civil Service Orders 9.13 - 9.16, which apply to public servants, provide that official stationery, telegrams and seals should not be used for private correspondence or by any private person, or by such persons acting in a private capacity.

Saint Vincent and the Grenadines also has enforcement mechanisms for these standards, among which the following should be noted:

- Section 75 of the Constitution, which provides for the existence of a Director of Audit who shall satisfy himself that all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes for which they were so appropriated. The Director also has the duty at least once in every year to audit and report on the public accounts of Saint Vincent, the accounts of all officers and authorities of the Government, the accounts of all courts of law in Saint Vincent (including any accounts of the Supreme Court), the accounts of every Commission established by the Constitution and the accounts of the Clerk of the House, and to submit reports on such audits to the Minister for the time being responsible for finance. Section 76 provides for the appointment of a Public Accounts Committee, the duties of which include reporting to the House of Assembly in the case of any excess or unauthorized expenditure of public funds, the reason for such expenditure, and any measures it considers necessary in order to ensure that public funds are properly spent.

¹² Constitution of Saint Vincent and the Grenadines, Section 69 (1).

- Civil Service Order 3.27 provides that an officer will be subject to disciplinary action for any misconduct including general misconduct to the prejudice of discipline or the proper administration of Government business and contravention of specific rules and regulations.

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.

However, bearing this information in mind, the Committee considers it pertinent to reiterate the observations expressed in section 1.1.2 of the instant report regarding the advisability that the State under review consider the possibility of strengthening, complementing and updating the standards governing the conduct of members of the civil service, taking into account its system of laws. To this end, it might include those provisions that concern the conservation and proper use of resources entrusted to public servants. The foregoing is based on the benefits that could accrue from having in place a system in the public service which provides for equal treatment in the regulation of the conduct of their members, enable them to precisely know their rights and duties, and afford legal security in the performance of public functions and the proper use of State assets. The Committee will formulate a recommendation bearing in mind the foregoing considerations. (See recommendation 1.2 of Chapter III of this report).

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

Saint Vincent and the Grenadines has not provided information on results in this area in its response, and therefore a full assessment in this regard is not possible. Consequently, the Committee will formulate the corresponding recommendations. (See recommendations 7.2 and 7.3. of Chapter III of this report).

1.3. 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

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

In its reply, Saint Vincent and the Grenadines states that “There are administrative standards in place requiring 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; the Attorney General.”¹³ Section 40 of the Public Service Commission Regulations also provides that the Head of Department or Permanent Secretary shall report allegations of misconduct or indiscipline to the Commission.

¹³ Response of Saint Vincent and the Grenadines to the questionnaire, p.17.

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

The administrative and legislative standards mentioned in the preceding section, according to the response of Saint Vincent and the Grenadines, help to accomplish the purposes of the Convention.

However, the Committee considers that it would be advisable for the State under review to consider the adoption of mechanisms and systems requiring all public servants to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware. Such standards might include provisions that facilitate the lodging of complaints and afford effective protection from any reprisals or other negative consequences that a public servant might incur as a result of performing that duty. The Committee will make recommendations in that regard. (See recommendations 1.3(a) and 1.3(b) of Chapter III of this report).

Notwithstanding the foregoing, the Committee wishes to acknowledge the will of the State under review further promote the purposes of the Convention, as evinced in its response, which notes that “Section 14 of the Prevention of Corruption Draft Bill 2005 states: (1) A person who has reasonable grounds to believe that a person in public life has committed an act of corruption may complain in writing to the Integrity Commission stating: (a) the particulars of the breach; (b) the nature of the evidence that the person proposes to produce in support of the complaint; (c) other particulars as may be prescribed in regulations by the Minister.(2) A complaint to the Integrity Commission under this section may be presented in person or may be sent by registered post to the Chairman of the Integrity Commission.”¹⁴

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

Saint Vincent and the Grenadines has not provided information on results in this area in its response, and therefore a full assessment in this regard is not possible. Consequently, the Committee will make the corresponding recommendations. (See recommendations 7.2 and 7.3. of Chapter III of this report).

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

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

Saint Vincent and the Grenadines does not currently have any provisions in force which require the filing of statutory declarations of income, assets and liabilities.] In its reply on this point, Saint Vincent and the Grenadines referred to the draft Integrity in Public Life Bill, 2005 noting that “The Integrity in Public Life Draft Bill 2005, Sections 13 (1) – (4) provides: (1) ‘Subject to subsection (2) every person, who, on or after the commencement of this Act, is a person in public life shall furnish to the Commission in the form set out in Schedule 3 a declaration of: (a) His income, assets and liabilities; (b) The assets of the spouse and dependent children; (c) Gifts made to him of value exceeding one thousand [Eastern Caribbean] dollars [EC\$1’000.00]. (2) In the case of a judicial officer, the Director of Public Prosecutions and Assistant Director of Public Prosecutions the declaration shall be furnished to the Judicial and Legal Services Commission to take action, as it considers necessary. (3) Notwithstanding subsection (1), regulations may provide for a public officer who occupies a specific

¹⁴ Ibid, p.18.

post to furnish a declaration pursuant to that subsection. (4) A declaration pursuant to subsection (1) shall be filed by the person in public life within three months after: (a) the commencement date of this Act; (b) the date of appointment as a person in public life, and thereafter on or before the 31st March in each year during any part of which that person remains a person in public life”¹⁵.

The Committee observes that Saint Vincent and the Grenadines attached to its reply a document containing the “Integrity in Public Life Draft Bill 2005”, which could be regarded as progress in implementation of the Convention, and could be evaluated once it passes into law.

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

In light of the considerations in the foregoing section, it would not be appropriate for the Committee to express an opinion in this connection. Accordingly, the Committee will formulate such recommendations as it deems necessary in order for Saint Vincent and the Grenadines might adopt, pursuant to Article III, paragraph 4 of the Convention, systems for registering the income, assets and liabilities of persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public. (See recommendations 2(a) and 2(b) of Chapter III of this report).

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

Saint Vincent and the Grenadines has not provided information on results in this area in its response, and therefore a full assessment in this regard is not possible. Accordingly, the Committee will formulate a recommendation. (See recommendations 7.2 and 7.3. of Chapter III of this report).

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

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

Saint Vincent and the Grenadines has in place oversight bodies for enforcement of the measures covered in paragraphs 1 and 2 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 77 of the Constitution. This Commission consists of a Chairman appointed by the Governor-General acting in accordance with the advice of the Prime Minister and one member appointed by the Governor-General acting in accordance with the advice of the Prime Minister following consultations with the Civil Service Association. There shall also be between one and three other members, all appointed by the Governor-General acting in accordance with the advice of the Prime Minister following consultation with the Leader of the Opposition. Under Section 78 of the Constitution, the Commission has the power to exercise disciplinary control over those who exercise public functions. The Public Service Commission Regulations sets out at Part V the procedure to be followed in instituting disciplinary proceedings against public officers who breach the standards governing their conduct.

¹⁵ Ibid, p.19.

- The Police Service Commission, created under Section 84 of the Constitution. This Commission consists of the Chairman of the Public Service Commission and the member(s) of the Public Service Commission appointed by the Governor-General on the advice of the Prime Minister after consultation with the Leader of the Opposition, as well as a person appointed by the Governor-General acting on the recommendation of the Prime Minister, following consultations with the Saint Vincent Police Welfare Association or, if that association ceases to exist, with such body representing the interests of police officers as the Prime Minister may determine. It should be mentioned that according to the aforementioned Civil Service Order 1.7, the term "Service Commission" refers, as appropriate, to the Police Service Commission and, therefore, the standards governing conflicts of interest contained in the Civil Service Orders for the Public Service apply also to officers in this last category.

- The Judicial and Legal Service Commission, created in accordance with West Indies Associated States Supreme Court Order 223 of 1963, in connection with Section 105(3) (b) and paragraph 8 of the Second Schedule "Transitional Provisions" of the Constitution, the functions of which include, *inter alia*, appointing officers of the Judiciary and advising the Governor-General on the appointment, removal and imposition of disciplinary measures on any person who performs judicial functions. It is worth mentioning that in accordance with the aforementioned Civil Service Order 1.7, the term "Service Commission" should also be understood to refer, as appropriate, to this Commission and, therefore, the standards of conduct mentioned in this section also apply to any person who performs such functions.

- The Director of Audit and the Public Accounts Committee. Section 75 of the Constitution, which provides for the existence of a Director of Audit who shall satisfy himself that all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes for which they were so appropriated. The Director also has the duty at least once in every year to audit and report on the public accounts of Saint Vincent, the accounts of all officers and authorities of the Government, the accounts of all courts of law in Saint Vincent (including any accounts of the Supreme Court), the accounts of every Commission established by the Constitution and the accounts of the Clerk of the House, and to submit reports on such audits to the Minister for the time being responsible for finance. Section 76 provides for the appointment of a Public Accounts Committee, the duties of which include reporting to the House of Assembly in the case of any excess or unauthorized expenditure of public funds, the reason for such expenditure, and any measures it considers necessary in order to ensure that public funds are properly spent.

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

The standards in place in Saint Vincent and the Grenadines with respect to oversight bodies charged with responsibility for ensuring compliance with the provisions stated in paragraphs 1 and 2 of Article III of the Convention satisfy those provisions, given the existence of bodies with general or specific competence to ensure compliance, which constitutes progress in implementation of the Convention.

With respect to the mentioned bodies (charged with enforcement of the provisions contained in Article III, paragraphs 1 and 2 of the Convention), the Committee urges the State under review to continue to strengthen those bodies by providing them with the necessary support and resources to enable them fully to carry out their functions with respect to the aforementioned provisions; and with mechanisms to permit effective coordination, as well as continuous evaluation and monitoring, of the measures they adopt. The Committee observes that the provisions at Article III (4) and (11) of the Convention are not covered by the oversight exercised by the aforementioned bodies. Bearing in mind

the foregoing, the Committee will formulate a recommendation. (See recommendation in section 3 of Chapter III of this report).

Furthermore, the Committee notes that in its reply to the questionnaire,¹⁶ Saint Vincent and the Grenadines states that the Integrity in Public Life Draft Bill 2005 provides for the creation of an Integrity Commission for the State. Once the Commission is legally established, its functions would include receipt, verification and filing of the declarations mentioned in the draft bill,¹⁷ which could be considered progress in promoting the purposes of the Convention, as it could be considered an oversight body for implementation of the provisions of Article III, paragraph 4 of the Convention.

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

Saint Vincent and the Grenadines has not provided information on results in this area in its response, and therefore a full assessment in this regard is not possible. Consequently, the Committee will formulate the corresponding recommendations. (See recommendations 7.2 and 7.3. of 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

Saint Vincent and the Grenadines 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 prerogatives to encourage such participation.

The Committee also wishes to acknowledge the will of the State under review to move forward with the implementation of mechanisms to encourage participation by civil society and nongovernmental organizations in accordance with Article III, paragraph 11 of the Convention, as evinced by the inclusion in Appendix 5 of its response of the 2005 Civil Society Organizations Draft Bill, which, is expected to go to Parliament later this year [2005]”.¹⁸

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

Based on the information at its disposal, the Committee observes that Saint Vincent and the Grenadines has constitutional provisions to protect and promote fundamental liberties and rights of persons, which constitutes an important basis for civil society and non-governmental organizations to operate freely and independently and thereby facilitate the prevention of corruption.

¹⁶ Ibid, p.21.

¹⁷ Sections 3 and 12 of the Integrity in Public Life Draft Bill 2005.

¹⁸ Response of Saint Vincent and the Grenadines to the questionnaire. p. 24.

The Committee also considers it important to highlight and commend the efforts of the State under review to adopt modern rules and regulations in this area, as reflected in the 2005 Civil Society Organizations Draft Bill mentioned in the foregoing section.

Furthermore, bearing in mind the classification contained in the methodology for the review of the implementation of Article III, paragraph 11 of the Convention,¹⁹ in the Chapter III of this report the Committee will formulate the appropriate specific recommendations on each section.

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

The State under review has not provided information on results in this area, and therefore a full assessment in this regard is not possible.

4.2 MECHANISMS FOR ACCESS TO INFORMATION

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

Saint Vincent and the Grenadines has certain provisions and measures related to the aforementioned mechanisms.

In this regard, the provisions of the Freedom of Information Act (Act No. 27) of 2003 should be noted. According to Section 3 of this Act, which is pending official promulgation by publication in the Gazette²⁰, its purpose is to extend the right of members of the public to access information in the possession of public authorities by: (a) making available to the public information about the operations of public authorities and in particular, ensuring that the rules and practices affecting members of the public in their dealings with public authorities are readily available; (b) creating a general right of access to information in documentary form in the possession of public authorities limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by public authorities; and, (c) creating a right to bring about the amendment of records containing personal information that is incomplete, incorrect or misleading.

For its part, Section 4 provides that the term "public authority" includes: (a) Parliament, or any committee of Parliament; (b) the Cabinet as constituted under the Constitution; (c) a Ministry or a department or division of a Ministry; (d) a local authority; (e) a public statutory corporation or body; (f) a body corporate or an incorporated body established for a public purpose, which is owned or controlled by the State; (g) an embassy, consulate or mission of the State or any office of the State situated outside of Saint Vincent and the Grenadines whose functions include the provision of diplomatic or consular services for or on behalf of Saint Vincent and the Grenadines; (h) any other body designated by the Minister by regulation made under this Act, to be a public authority for the purposes of this Act. Furthermore, "document" means information recorded in any form, whether printed or on tape or film or by electronic means or otherwise and includes any map, diagram, photograph, film, microfilm, videotape, sound recording, or machine-readable record or any record which is capable of being produced from a machine-readable record by means of equipment or a programme (or a combination of both) which is used for that purpose by the public authority which holds the record.

¹⁹ Methodology for the review of the implementation of the provisions of the Convention selected within the framework of the first round, Chapter V, D, (SG/MESICIC/doc.21/02).

²⁰ Freedom of Information Act (Act No. 27) of 2003, Section 2.

Section 7 provides that all public authorities shall cause to be published a statement setting out their functions and indicating the categories of documents that are maintained in their possession.

Part IV of the Act lists certain documents which are exempt from the provisions therein, including Cabinet documents; documents affecting national security, personal privacy, documents that have an adverse effect on the national economy, enforcement or administration of the law and/or legal proceedings, or subject to legal professional privilege; documents to which secrecy provisions or relating to trade secrets apply; documents containing material obtained in confidence, and documents disclosure of which would constitute contempt of court or infringe Parliamentary Privilege.

The Act states that a person who wishes to obtain access to a document of a public authority shall make a request in writing to the public authority for access to the document,²¹ which shall take reasonable steps to assist the applicant.²² Furthermore, an authority is required to notify the applicant of the decision on his request not later than 30 days from the date on which the request is duly made and,²³ should the request be denied, give notice in writing stating the reasons for the decision.²⁴ Notwithstanding, a person may apply to the High Court for judicial review of the decision of the authority to deny him access to the information requested.²⁵

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

The entry into force of the Freedom of Information Act (Act No. 27) of 2003 mentioned in the foregoing section would constitute an important stride in promoting the purposes of Article III, paragraph 11 of the Convention. Nevertheless, the Committee wishes to make some observations in that respect.

The Committee notes an absence of mechanisms for enforcement of the obligations of public authorities under the Act to guarantee, except in cases where secrecy provisions apply, the right of all persons to seek information, or to consult and obtain a copy of documents on official activities in the possession of those authorities as mentioned, *inter alia*, in Sections 7, 8(2), 14(1), and 16. Accordingly, the Committee deems it advisable for the State under review to consider creating these mechanisms, including a system of penalties for public servants who breach these obligations. The foregoing would further strengthen access for civil society and nongovernmental organizations to information in the possession of public authorities, bearing in mind that the possibility to obtain that information is an essential condition to enable them to participate in efforts to prevent corruption. The Committee will formulate a recommendation in this connection. (See recommendation in Chapter III Section 4.2 (b) of this report).

The Committee further notes that the Freedom of Information Act (Act No. 27) of 2003 would provide only for judicial review and not for an appeal from the decision itself. In this regard the Committee will formulate a recommendation. (See recommendation in Chapter III Section 4.2 (d) of this report).

²¹ Ibid, Section 13(1).

²² Ibid, Section 14(1).

²³ Ibid, Section 16.

²⁴ Ibid, Section 24(1).

²⁵ Ibid, Section 39.

Finally, the Committee wishes to draw attention to St. Vincent and the Grenadines' efforts in the area of access to information and the possibility that the Freedom of Information Act (Act No. 27) of 2003, pending official promulgation, could provide in the use of new information technologies to facilitate the supply of information. This circumstance reflects the desire of the State under review to modernize in this area, and makes it advisable for Saint Vincent and the Grenadines to implement training and awareness-raising programs to facilitate their comprehension by public servants and members of the public, as well as to improve the use of available technology. Based on the foregoing, The Committee will make a recommendation. (See recommendation in Chapter III Section 4.2 (e) of this report).

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

The State under review has not provided information on results in this area, and therefore a full assessment in this regard is not possible. Consequently, the Committee will make the appropriate recommendations. (See recommendations in Chapter III, sections 7.2 and 7.3 of this report).

4.3. MECHANISMS FOR CONSULTATION

Saint Vincent and the Grenadines has not provided information on such mechanisms,²⁶ and therefore the Committee will make recommendations in that regard. (See recommendations in Chapter III, sections 4.3.1 and 4.3.2 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

The Constitution of Saint Vincent and the Grenadines guarantees freedom of expression (Section 1(b)); protection of the right to life (Section 2(2)); and, protection of personal liberty (Section 3(1)), which constitutes a solid basis to encourage participation by civil society and nongovernmental organizations in public administration and efforts to combat corruption.

Furthermore, in its response, the State under review cites as mechanisms for participation the collection of opinions by civil society held by the government before the passage of all bills, which are published in the papers and available at the Ministry of Legal Affairs for public viewing before passage.²⁷

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

The measures adopted by the State under review in relation to mechanisms to encourage participation by civil society and nongovernmental organizations in public administration, noted in the foregoing section constitute progress in accomplishing the purposes of the Convention.

Nevertheless, the Committee urges the State to consider developing -taking into account its system of laws- standards and procedures to establish, maintain and strengthen those mechanisms that allow for the active participation of civil society and nongovernmental organizations in public policy and decision making processes as part of the efforts to prevent corruption. The State could also design and

²⁶ Response of Saint Vincent and the Grenadines to the questionnaire, p.28.

²⁷ Ibid., p. 29.

implement programs to publicize those mechanisms and, as appropriate, provide the necessary training and tools to civil society and nongovernmental organizations, as well as public servants, for their correct implementation. The Committee will make recommendations in that regard. (See recommendations in Chapter III, sections 4.4.1 and 4.4.2 of this report).

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

The State under review has not provided information on results in this area, and therefore a full assessment in this regard is not possible. Consequently, the Committee will make the appropriate recommendations. (See recommendations in Chapter III, sections 7.2 and 7.3 of this report).

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

Saint Vincent and the Grenadines has not supplied information in this regard and notes that, “There are no legislative provisions to date that promote or facilitate such participation by Civil Societies and nongovernmental organizations...”²⁸ Bearing this circumstance in mind, the Committee will formulate the appropriate recommendations. (See recommendations in Chapter III, Sections 4.5(a) and (b) 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

The Mutual Assistance (in Criminal Matters) Act (Act No. 46) of 1993, provides for such assistance within the Commonwealth and treaty States, and tends to facilitate its application and encourage observance of provisions in this area between the State under review and non-Commonwealth countries.²⁹ This law 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; v) securing transfer of prisoners; vi) serving documents; vii) immunities and privileges; viii) in relation to certain orders; x) obtaining restraining orders.

Saint Vincent and the Grenadines states that it has negotiated Mutual Legal Assistance Treaties, which generally allow for the exchange of evidence and information in criminal and ancillary matters, and that in money laundering cases, they can be extremely useful as a means of obtaining banking and other financial records from treaty partners.³⁰

- The Exchange of Information Act (Act No. 29) of 2002 provides for assisting *foreign regulatory* authorities in obtaining information from within Saint Vincent and the Grenadines and other related matters. Section 2 defines “foreign regulatory authority”, as a statutory authority which, in a country or territory outside Saint Vincent and the Grenadines, exercises functions of a regulatory authority. In its schedule, the Act mentions the following as regulatory authorities: 1. Attorney General; 2. Registrar of Companies; 3. Registrar of International Business Companies; 4. Offshore Finance

²⁸ Ibid, p.30.

²⁹ Mutual Assistance in Criminal Matters Act (Act No. 46) of 1993, Sections 29 and 30.

³⁰ Response of Saint Vincent and the Grenadines to the questionnaire, p.34.

Authority; 5. Ministry of Finance; 6. Commissioner of International Insurance; 7. Registrar of Insurance; 8. Registrar of International Trusts; 9. Registrar of Mutual Funds; and, 10. The Eastern Caribbean Central Bank. Section 3 sets out the matters to be considered in relation to requests for assistance, including refusal of assistance unless the foreign regulatory authority shows that the assistance is to enable the exercise of its functions, and whether the relevant country or territory has enacted similar laws with relation to the exchange of information.

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

The provisions mentioned by Saint Vincent and the Grenadines in its response may assist in accomplishing the purposes of the Convention with respect to promoting and facilitating mutual assistance among the States Parties, and, if used for that purpose, could serve the specific aims of the Convention in relation to the investigation and prosecution of acts of corruption.

Furthermore, the State under review notes that, “From 2001 to date there have been Sixty-two (62) international requests and forty (40) requests for assistance. It is not certain whether these requests were made or received by Saint Vincent and the Grenadines.”³¹

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 the State under review as well as the Convention to specific cases of corruption. Therefore, based on the foregoing, the Committee will formulate recommendations. (See recommendations in Chapter III, Sections 5.1.1 and 5.1.2 of this report).

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

The State under review has not provided information on results in this area, and therefore a full assessment in this regard is not possible. Consequently, the Committee will make the appropriate recommendations. (See recommendations in Chapter III, sections 7.2 and 7.3 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 the State under review notes, “It is not sure whether the technical mutual cooperation received or requested by this country are in relation to preventing and detecting etc, acts of corruption. However, mutual cooperation were either requested or received from the following countries or nations: Republic of China (Taiwan), Cuba, France, Venezuela, Japan, Korea, Mexico, Argentina, and Barbados.”³² The State under review also mentions that it has developed technical cooperation programs and projects with the Organization of American States (OAS) and United Nations (UN).³³

³¹ Response of Saint Vincent and the Grenadines to the questionnaire, p.33.

³² Ibid.

³³ Ibid, p.35.

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

Based on the information available, the Committee recommends that the State under review, as a useful step to strengthen further its capacity to prevent, detect, investigate and punish acts of corruption, consider identifying and ascribing priority to specific areas in which it deems it could receive technical cooperation from other States and from financial agencies and institutions committed to international cooperation, and to redouble efforts to exchange technical cooperation with other states parties on more effective ways and means to fulfill the purposes of the Convention. The Committee will make recommendations in this regard. (See recommendations in Chapter III, sections 5.2.1 and 5.2.2 of this report).

By the same token, the Committee considers it positive that, according to its response, the State under review has developed technical cooperation programs and projects related to the fight against corruption, which it considers advisable for the achievement of the purposes of the Convention in this area.

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

In keeping with its observations in section 5.2.2 above, the Committee regards in positive light the fact that the State under review has developed cooperation programs against corruption, and it considers it advisable to continue with the efforts that entails.

However, the State under review 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 in Chapter III, sections 7.2 and 7.3 of this report).

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

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

Saint Vincent and the Grenadines notes in its response that the Director of Public Prosecutions (DPP) is the Central authority for requests for mutual assistance in Saint Vincent and the Grenadines provided in the Convention, having been designated as such by the Governor-General in accordance with Sections 3 and 4 of the Mutual Assistance in Criminal Matters Act (Act No. 46) 1993. The State also mentions that requests for assistance are also channeled through the Attorney General. Furthermore, the State under review notes that the Ministry of Foreign Affairs Central Planning Unit is the Central authority designated to channel technical cooperation also provided for in the framework of the Convention.³⁴

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

The Committee notes that the Director of Public Prosecutions and the Ministry of Foreign Affairs Central Planning Unit noted by the State under review in its response could serve to meet the purposes of the Convention with regard to mutual assistance and mutual technical cooperation, respectively. However, the Committee will formulate a recommendation to the effect that a central authority or authorities be expressly appointed for those purposes, and that the General Secretariat of

³⁴ Ibid, p.36.

the OAS be formally notified of such appointments, so as to facilitate communication and coordination with the central authorities of other states parties for these purposes. (See recommendations in Chapter III, sections 6.1 and 6.2 of this report).

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

The State under review has not provided information on results in this area, and therefore a full assessment in this regard is not possible. Consequently, the Committee will formulate the appropriate recommendations. (See recommendations in Chapter III, sections 7.2 and 7.3 of this report).

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 Saint Vincent and the Grenadines 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

Saint Vincent and the Grenadines 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 recommends that the State under review consider strengthening the implementation of the provisions on conflicts of interest, and ensure that the laws on this matter are applicable to all public officials and employees, so as to permit the practical and effective application of a public ethics system. To comply with this recommendation, Saint Vincent and the Grenadines could take into account the following measures:

- (a) Strengthen, complement and update the standards governing the conduct of public servants in general, including those provisions designed to prevent conflicts of interest, without prejudice to systems intended for specific sectors, whose particular nature might require specialized treatment. (See section 1.2 of Chapter II of this report).
- (b) Create or strengthen mechanisms to ensure that no appointments are made in breach of the rules in force on ineligibility and incompatibility in public service.
- (c) Create and implement mechanisms to determine, in concrete cases, if a person who performs public functions is in a situation of conflict of interests, and, at the same time, adopt measures necessary to protect public interests, such as dissociation from the exercise of their functions, withdrawal from official involvement in the matter, relinquishment of the private interests in conflict, or nullity of any decisions adopted by a person in such a position.

- (d) Establish suitable restrictions for persons leaving public service, such as a prohibition preventing their involvement for a reasonable period in any official matters in which they might have engaged by virtue of their office, or with institutions with which they might have been recently connected in the performance of their official duties.

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 enforcement mechanisms

Saint Vincent and the Grenadines has considered and adopted certain measures to establish, maintain, and strengthen standards of conduct designed to ensure the proper conservation and use of resources entrusted to government officials in the performance of their functions, in keeping with the considerations mentioned in Chapter II, section 1.2 of this report.

In light of the comments made in that section, the Committee recommends that the State under review consider strengthening and updating systems of control and use of resources within the public administration, by developing enforceable standards applicable to all public officials and employees that make it a duty to conserve and make proper use of the resources 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

Saint Vincent and the Grenadines has considered certain measures to establish, maintain, and strengthen standards of conduct and mechanisms concerning mechanisms and systems requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware, as noted in Chapter II, section 1.3 of this report.

In light of the comments made in that section, the Committee suggests that the State under review consider developing and strengthening mechanisms requiring public servants to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware. To implement this recommendation, Saint Vincent and the Grenadines could adopt the following measures:

- (a) Establish further mechanisms and systems that require public servants to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.
- (b) Adopt and implement protection measures for public servants who report acts of corruption in good faith, so as to provide them with assurances against any threats or reprisals that they might incur as a result of performing their duty in that regard.

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

Saint Vincent and the Grenadines has considered and is in the process of adopting certain measures to establish, maintain, and strengthen systems for registering income, assets, and liabilities 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 Saint Vincent and the Grenadines consider adopting standards to strengthen the systems for registering income, assets, and liabilities and, where appropriate, for making such registrations public. To comply with this recommendation, Saint Vincent and the Grenadines may wish to take into account the following measures:

- (a) Implement specific standards, taking into account the existing legal initiative, including reasonable time limits and circumstances for periodic filing of up-to-date disclosures of income, assets, and liabilities by persons who perform public functions in certain posts as specified by law, including sanctions for those that do not comply with the requirement to furnish such declarations. These systems for registering income, assets and liabilities by persons who perform public functions would constitute an instrument for preventing and detecting conflicts of interest and illicit acts or activities.
- (b) Regulate the conditions, procedures and other relevant aspects as regards making disclosures of income, assets, and liabilities public, as appropriate, in accordance with the laws in force.

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

As mentioned in Chapter II, section 3 of this report, Saint Vincent and the Grenadines has considered and adopted certain measures to establish, maintain, and strengthen oversight bodies in accordance with Article III of the Convention.

In light of the comments made in that section, the Committee suggests that Saint Vincent and the Grenadines 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 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)

Saint Vincent and the Grenadines has considered and adopted certain measures to establish, maintain, and strengthen mechanisms to promote the participation of civil society and nongovernmental organizations in efforts to prevent corruption, as noted in Chapter II, section 4 of this report.

In light of the comments made in that section, the Committee suggests that Saint Vincent and the Grenadines consider the following recommendations:

4.1. General participation mechanisms

- Establish a body with specific competence in the efforts destined to prevent corruption that includes civil society and nongovernmental organizations, taking into account the existing legal initiative (Civil Society Organizations Draft Bill).

4.2. Mechanisms to ensure access to information

- Strengthen the mechanisms to ensure access to information.

In complying with this recommendation, Saint Vincent and the Grenadines might consider the following measures:

- (a) Adopt, as soon as possible, the necessary measures for the promulgation and full entry into force of the Freedom of Information Act (Act No. 27) of 2003.
- (b) Establish mechanisms to enforce obligations of public authorities under the Freedom of Information Act (Act No. 27) of 2003, including a system of penalties for public servants who breach those obligations.
- (c) Consider the establishment of administrative procedures by which decisions of public authorities made under the Freedom of Information Act (Act No. 27) of 2003 may be appealed.
- (d) Implement training and awareness-raising programs on mechanisms for access to public information, in order to facilitate their comprehension by public servants and members of the public, as well as to improve the use of the technology available for that purpose.

4.3. Mechanisms for consultation

- 4.3.1. Create consultation mechanisms to enable civil society and nongovernmental organizations to generate opinions and proposals to be taken into account in preventing, detecting, investigating, and punishing corruption.
- 4.3.2. Design and implement programs to publicize consultation mechanisms and, as appropriate, provide training and instruments necessary for effective implementation of those mechanisms.

4.4. Mechanisms to encourage participation in public administration

- 4.4.1. Develop -taking into account its system of laws- standards and procedures to establish, maintain and strengthen mechanisms to encourage participation by civil society and nongovernmental organizations in public policy and decision making processes as part of the efforts to prevent corruption.

- 4.4.2. Design and implement specific programs to publicize mechanisms to encourage participation in public administration and, as appropriate, provide the necessary training and tools for the effective implementation of those mechanisms.

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

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

To comply with this recommendation, the Saint Vincent and the Grenadines could consider the following measures:

- (a) Promote, where appropriate, methods to allow, facilitate and assist civil society and nongovernmental organizations to engage in activities in the follow-up of public administration and prevention of corruption.
- (b) Design and implement specific programs to disseminate mechanisms to encourage participation in follow-up on public administration and, as appropriate, provide the necessary training and tools for the effective implementation of those mechanisms.

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

Saint Vincent and the Grenadines 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 the State under review 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 other treaties signed by Saint Vincent and the Grenadines.
- 5.1.2. Design and implement an information program that enables the authorities of Saint Vincent and the Grenadines 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 Saint Vincent and the Grenadines considers it needs technical cooperation from other States Parties to strengthen its capacities to prevent, detect, investigate and punish acts of corruption. The State under review 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)

Saint Vincent and the Grenadines 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 the State under review consider the following recommendations:

- 6.1. Designate, in accordance with the prescribed procedures, the central authority or authorities for the purposes of international assistance and cooperation provided in the Convention.
- 6.2. Notify the OAS General Secretariat, in accordance with the prescribed formalities, of the designation of the central authority or authorities mentioned in the foregoing point.

7. GENERAL RECOMMENDATIONS

Based on the observations contained in this report, the Committee suggests that Saint Vincent and the Grenadines 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 their proper acquaintance, management, and application.
- 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, Saint Vincent and the Grenadines could take into account the list of broader indicators applicable to the inter-American system that were available for selection, as necessary, by the State under review, and which have been published by the Technical Secretariat of the Committee on the OAS Internet web site. The State under review 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 Saint Vincent and the Grenadines 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.

Furthermore, the Committee will review the progress made in implementing the recommendations contained in this report, as provided in Articles 31 and, when appropriate Article 32 of the Rules of Procedure.

ANNEX
TO THE REPORT ON IMPLEMENTATION IN SAINT VINCENT AND THE
GRENADINES OF THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THE
FRAMEWORK OF THE FIRST ROUND

Saint Vincent and the Grenadines attached the following documents to its response:

1. Constitution of Saint Vincent and the Grenadines, Chapter 2 of the Laws of Saint Vincent and the Grenadines, revised edition, 1990.
2. Sections 85 to 93 of the Criminal Code, Chapter 124 of the Laws of Saint Vincent and the Grenadines, revised edition, 1990.
3. Financial Intelligence Unit Act (Act No. 38) of 2001.
4. The House of Assembly (Privileges Immunities and Powers) Act, Chapter 3 of the Laws of Saint Vincent and the Grenadines, revised edition, 1990.
5. Saint Vincent and the Grenadines Offshore Finance Authority Act (Act No. 16) of 1996.
6. Mutual Assistance in Criminal Matters Act (Act No. 46) of 1993.
7. Police Act, Chapter 280 of the Laws of Saint Vincent and the Grenadines, revised edition, 1990.
8. Proceeds of Crime and Money Laundering (Prevention) Act of 2001.
9. Exchange of Information Act (Act No. 29) of 2002.
10. Freedom of Information Act (Act No. 27) of 2003
11. Police Regulations, Chapter 280 –Booklet 1- of the Laws of Saint Vincent and the Grenadines, revised edition, 1990.
12. Public Service Commission Regulations, Chapter 2 –Booklet 4- of the Laws of Saint Vincent and the Grenadines, revised edition, 1990.
13. Civil Service Orders for the Public Service of Saint Vincent and the Grenadines.
14. Prevention of Corruption Draft Bill of 2005.
15. Integrity in Public Life Draft Bill of 2005.
16. Civil Society Organizations Draft Bill (Civil Society Organizations Act) of 2005.