

### **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 The Bahamas of the provisions of Article III, paragraphs 1 and 2 (standards of conduct and mechanisms to enforce them); III.4 (systems for registering income, assets, and liabilities); 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**

**The Bahamas has reviewed the applicability of, and adopted, measures to establish, maintain, and strengthen standards of conduct aimed at preventing 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 The Bahamas consider the following recommendation:

- Ensure that the laws concerning conflicts of interest are fully in effect, that they support recommendation 7.1 when appropriate, and that they are applicable to all public officials and employees, so as to permit practical and effective application of a public ethics system.

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

- a. Establish or adapt and then implement standards of conduct for those offices that currently do not fall under the purview of any controls, including adequate sanctions for violations of those standards.
- b. Implement a code of ethics for Senators and Members of the House of Assembly, including sanction mechanisms for violations.
- c. Apply conflict of interest restrictions for an appropriate period following government service.
- d. Ensure that there are mechanisms in place that provide transparency in the cases where the Prime Minister decides to allow a Minister to hold any contractual relationships with, to hold directorships of, or to hold equities in, companies that have contractual relationships with the Government.

The incoming Government of the Commonwealth of The Bahamas, following elections in May of 2007, committed itself, in the Speech from the Throne delivered at the Opening of Parliament on the 23<sup>rd</sup> May 2007, to ensure:

- appropriate standards of conduct of Ministers and other Members of Parliament
- accountability to the people through regular public reports on the state of our country
- media access to information
- disclosure in the House of Assembly of all agreements with international investors
- Public Service responsiveness to the concerns of citizens.

In support of these principles, legislation is to be placed before the Legislature for the enactment of a Code of Ethics for Ministers. That legislation is currently being drafted and is being designed so that there are stated acceptable standards of conduct with enforceable sanctions. Legislation is also being drafted for the creation of the Office of Ombudsman, which is intended to provide oversight for injustices caused by improper, unreasonable or inadequate administrative conduct in the public sector.

**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**

**The Bahamas has reviewed the applicability of 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 The Bahamas consider the following recommendation:

- Strengthen control systems within the public administration by developing enforceable written standards applicable to all public officials and employees to create a duty to conserve and properly use of the resources entrusted to them.

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

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

In light of the comments made in that section, the Committee suggests that The Bahamas consider the following recommendation:

- Develop and strengthen mechanisms requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

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

- a. Establish reporting requirements for those public officials and employees who are currently not required to report to appropriate authorities acts of corruption in the performance of public functions.
- b. Establish mechanisms that protect from official reprisal a person who, in good faith, reports acts of corruption.
- c. Provide appropriate training to officials and employees concerning the requirement to report acts of corruption and the protections for those who report.

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

**The Bahamas has considered and adopted, measures intended to establish, maintain, and strengthen systems for registration of 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, as noted in section 2 of Chapter II of this report.**

In light of the comments made in that section, the Committee suggests that The Bahamas consider the following recommendation:

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

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

- a. Establish a method whereby, within a specific time period before or immediately after being appointed as a Senator or to a senior post listed under the Public Disclosure Act (Application to Public Appointees and Public Officers) Notice, a person be required to make a declaration of their assets, liabilities and income as well as those of their spouse and children. Such declarations should then be used to help identify potential conflicts of interest and suggest measures to be taken by the person to avoid those conflicts as well as help identify other violations of law.
- b. Consider making declarations made by those appointed to senior posts accessible to the public, when appropriate.

[These recommendations are under review within the context of the draft legislation on the Code of Ethics.](#)

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

**The Bahamas has considered and adopted measures to establish, maintain, and strengthen oversight bodies for effective compliance with three of the four provisions selected for analysis in the first round (Article III, paragraphs 1, 2 and 4 of the Convention), as noted in section 3 of Chapter II of this report. The Bahamas provided no information in its response to the questionnaire regarding oversight bodies addressing the requirements of paragraph 11.**

In view of the comments made in that section, the Committee suggests that The Bahamas consider the following recommendations:

- 3.1 Strengthen the system for monitoring implementation of the provisions of Article III, paragraphs 1, 2, and 4.

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

- a. Establish oversight bodies for those offices that currently do not fall under the purview of any controls.
- b. Consider establishing an oversight body in the Code of Ethics for Ministers and Parliamentary Secretaries to oversee their conduct.

- 3.2 Establish a body, or provide additional authority to an existing body or bodies, in order to ensure appropriate monitoring of the mechanisms recommended in section 4, below (Article III, paragraph 11).

[These recommendations are under review within the context of the draft legislation on the Code of Ethics.](#)

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

**The Bahamas 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 section 4 of Chapter II of this report.**

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

##### **4.1 General participation mechanisms**

Develop additional systems of transparent procedures that allow nongovernmental organizations and civil society to participate more effectively in efforts to prevent corruption.

##### **4.2 Mechanisms to ensure access to information:**

4.2.1 Establish an enforceable freedom of information or access to government information system.

In meeting this recommendation, The Bahamas 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 request information or to consult or obtain copies of documents in the possession, or under the control of public institutions concerning official actions, except for legally protected cases.

4.2.2 Establish a requirement that all government entities, to the extent practicable publicize their procedures and other relevant information through the use of such communication methods as publications, dissemination centers, mass media and Internet web sites.

[The incoming Government of the Commonwealth of The Bahamas, also committed itself, in the Speech from the Throne delivered at the Opening of Parliament on the 23<sup>rd</sup> May 2007, to enact a Freedom of Information Act, which is presently being drafted and will address the recommendations made in this section.](#)

##### **4.3 Consultative mechanisms**

4.3.1 Establish consultation mechanisms to enable civil society and non-governmental organizations to provide opinions and proposals to be taken into account in preventing, detecting, investigating and punishing corruption.

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4.3.2 Design and implement programs to publicize the consultation mechanisms and, when appropriate, to train and to provide the necessary tools to effectively implement such mechanisms.

##### **4.4 Mechanisms to encourage participation in public administration**

Establish mechanisms to encourage civil society and nongovernmental organizations to participate in public administration.

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

a. Establish mechanisms to encourage civil society and nongovernmental organizations to participate in efforts to prevent corruption.

b. Promote public awareness of available corruption prevention mechanisms.

#### **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, The Bahamas may wish to take into account the following measures:

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

The Government of The Commonwealth of The Bahamas has committed itself and the civil service to a programme of transparency and accountability, by which the Executive will account to Parliament and the people its stewardship of the annual Budget at the half budget year point, accounting for the expenditure of public money and resources.

### **5. ASSISTANCE AND COOPERATION (ARTICLE XIV)**

**The Bahamas has adopted measures dealing with mutual assistance, but not mutual technical cooperation, in accordance with the provisions of Article XIV of the Convention, as noted and reviewed in section 5 of Chapter II of this report.**

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

#### **5.1. Mutual Assistance**

5.1.1 Design and implement a comprehensive program for informing and training competent authorities and public servants on provisions related to mutual legal assistance provided for in the Inter-American Convention Against Corruption and in other treaties signed by The Bahamas.

5.1.2 Disseminate to the competent authorities of those countries with which The Bahamas maintains close or ongoing mutual cooperation relations, the requirements which must be fulfilled in preparing petitions, as well as the documentation that should be attached.

The process for making mutual legal assistance and international legal cooperation assistance requests (as well as extradition applications to The Bahamas) is posted on the OAS website for mutual legal assistance and extradition.

#### **5.2 Mutual Technical Cooperation**

5.2.1 Review comprehensively the specific areas in which The Bahamas might need or could usefully receive mutual technical cooperation to prevent, detect, investigate, and punish acts of corruption; and that based on this review, a comprehensive strategy be designed and implemented that would permit The Bahamas to approach other States Parties and non-parties to the Convention and institutions or financial agencies engaged in international cooperation to seek the technical cooperation it needs.

5.2.2 Promote the efforts of technical cooperation exchange with other State Parties on the effective ways and methods to prevent, detect, investigate and punish acts of corruption.

The Bahamas has recently communicated its interest in receiving technical assistance in implementing the provisions of the OAS Corruption Convention.

## **6. CENTRAL AUTHORITIES (ARTICLE XVIII)**

**The Bahamas has adopted certain measures relative to the designation of the central authority referred to in Article XVIII of the Convention, discussed in section 6, Chapter II of this report.**

In light of the comments made, the Committee suggests that The Bahamas 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 review and the contributions made throughout this report, the Committee suggests that The Bahamas consider the following recommendations:

- 7.1 Encourage ongoing review and enhancement of provisions regulating public officials and employees, and adapt them, as appropriate, to prevent and punish improper conduct of public officials and employees, at all levels, as well as to establish clear obligations in the performance of their duties.
- 7.2 Develop procedures to ensure that public officials and employees receive the training they need to effectively carry out their duties.
- 7.3 Select, develop, and report to the Technical Secretariat of the Committee, procedures and indicators that make it possible to monitor the recommendations established in this report.