

**QUESTIONNAIRE  
ON THE PROVISIONS OF THE INTER-AMERICAN CONVENTION AGAINST  
CORRUPTION SELECTED IN THE THIRD ROUND AND FOR FOLLOW-UP ON THE  
RECOMMENDATIONS FORMULATED IN THE PREVIOUS ROUNDS**

**Response by:**

**BELIZE**

## SECTION I

### QUESTIONS ON IMPLEMENTATION OF THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THE THIRD ROUND

#### CHAPTER ONE

#### DENIAL OR PREVENTION OF FAVORABLE TAX TREATMENT FOR EXPENDITURES MADE IN VIOLATION OF THE ANTICORRUPTION LAWS (ARTICLE III (7) OF THE CONVENTION)

- a) Describe the laws, rules and/or measures that expressly deny or prevent favorable tax treatment for any individual or corporation for expenditures made in violation of the anticorruption laws of your country. Please attach a copy of the relevant provisions and documents.

The imposition of income tax in Belize is regulated by the Income and Business Tax Act, Chapter 55 of the Laws of Belize, R.E. 2000 – 2003<sup>1</sup>. Section 3 of the Act provides for the appointment of a Commissioner of Income Tax for the due administration of the Act, a Chief Income Tax Collector and other officers as may be necessary to determine, collect, receive and account for the income tax, and an Income Tax Appeal Board to hear and determine objections against assessments made pursuant to the Act.

In a nutshell, since 2001, income from outside of Belize does not attract tax in Belize. The Income Tax Department, therefore, focuses on income earned inside Belize for the purposes of assessment and collection. Non-resident person operating in Belize are subject to taxation in Belize as long as their activities constitute trading in Belize as opposed to trading with Belize.

Below we analyze the Act in more detail:

Section 5 of the Act provides that income tax is payable on an annual basis at the rates specified in sections 21 and 22 of the Act on the chargeable income of any person<sup>2</sup> ***“accruing in or derived from Belize, whether received in Belize or not”***<sup>3</sup>, in respect of:

- (a) persons other than employed persons, the gains or profits from trade, business, profession or vocation for the period that it is carried out;

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1 Laws of Belize are available at [www.belizelaw.org](http://www.belizelaw.org).

2 Section 2 of the Act defines “*person*” as “a natural person or a legal person and includes a firm, a branch and any body of persons, whether corporate or incorporate.” This same section defines a “*body of persons*” as “any body politic, corporate or collegiate and any company, fraternity, fellowship, partnership or society of persons whether corporate or not corporate.” “*Company*” is defined by the said s. 2 of the Act as “any company incorporated or registered under any law in force in Belize, and any company which, though incorporated or registered outside Belize, carries on business, or has an office or place of business therein.”

3 Our emphasis.

- (b) employed persons, gains or profits from any employment, including the estimated annual value of any allowance granted in respect of whether in money or otherwise<sup>4</sup>.

Section 2 of the Act defines “chargeable income” as:

- (i) in the case of an employed person, the aggregate amount of the income from the applicable sources specified in section 5 remaining after allowing the appropriate deductions and exemptions under this Act, but does not include “receipts” as defined in Part III of this Act;*
- (ii) in the case of any person other than an employed person, the aggregate amount of the income from the applicable sources specified in section 5 remaining after allowing the appropriate deductions and exemptions under this Act;*

Gains and profits from any employment exercised in Belize will be considered as being derived from the country whether such gains or profits are received in Belize or not (see s. 5 (3) of the Act).

*Ascertaining Chargeable Income:*

In ascertaining the chargeable income of an employed individual resident in Belize, a basic deduction is made (s. 16 (1)). If, however, the total income of such person is less than the established ceiling amount, tax shall not be chargeable on such person. This does not apply to persons who are not resident in Belize (see s. 25 (2)).

To ascertain the chargeable income of a person other than an employed person, the Act (see s. 11(1)) allows the deduction of certain *bona fide* expenses incurred by such person in the production of his income. Some of these deductions include:

- (a) sums paid by such person as interest on capital used for acquiring income; or as interest on money borrowed for the acquisition of shares in a company that carries out business in Belize;
- (b) rent paid by any tenant of land or building occupied by him for the purpose of acquiring income;
- (c) sums paid for replacing obsolete plants or machinery used in the business (amount equivalent to the cost of the machinery replaced after deduction of depreciation and sums realised from sale thereof);
- (d) sums paid for reforestation of depleted timber land;
- (e) expenses for the repair of premises, plant and machinery or for the renewal, repair or alternation of implement, utensil or article used in acquiring income;

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<sup>4</sup> Exempted under (b) are (i) payment for passage to or from Belize for leave granted with respect to the employment for a maximum of one month’s basic salary; (ii) allowance granted for the purchase of uniform; (iii) any pension, charge or annuity.”

- (f) bad debts and doubtful debts proved to the satisfaction of the Commissioner;
- (g) for non-residents, head office expenditure not in excess of two and a half percent of its gross receipts;
- (h) expenses in establishing or developing an industry to the benefit of Belize or one that has the purpose of being for the welfare of the public or part thereof;
- (i) any other deductions as may be prescribed by the Act.

Deductions that are not allowed in ascertaining the chargeable income of any person are specified in s. 12 and include those in respect of:

- (a) domestic or private expenses;
- (b) moneys not spent exclusively in acquiring the income that is taxable;
- (c) capital withdrawn or moneys used (or intended to be used) as capital;
- (d) expenses for improvements, alterations or additions not covered by s. 11(1)(d) and (h);
- (e) sums recoverable under any insurance or contract of indemnity;
- (f) rent of or cost of repairing premises which are not used for the purpose of producing the income

Allowances for certain expenses are also permitted in assessing the amount of chargeable income tax (see sections 14, 15).

The rates for taxes chargeable on employed persons, on gross interest income on time deposits, and on gross winnings from lotteries and similar activities are established in s. 20. Section 21 defines the rate of taxes to be charged on any person other than an employed person.

Section 23 exempts from taxation any income of temporary residents in Belize. It provides as follows:

*“Tax shall not be payable in respect of any income arising out of Belize which accrues to any person who is in Belize for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in Belize at one or more times for a period equal in the whole to six months in the basis year.”*

#### ***Exemptions from Income Tax***

Section 8(1) of the Act lists the gains or profits exempted from income tax. Some of these are: emoluments received by the Governor General while on leave (b); income of local authorities provided such income is not from a trade or business carried out by the local authority (c); income of any statutory or registered building or friendly society (d); income of any public ecclesiastical, charitable or educational institution, provided such income is not from a trade

or business carried out by such public institution (e); interest paid on savings where the investment is not the ordinary business of the company or self-employed person (m); payments received as Social Security benefits (sickness, maternity, death, pension) (p); gratuities paid by the Government of Belize or a public statutory body to employees (contractual or non-contractual) for past services (t).

Also exempted from the payment of income tax are:

- “(f) the emoluments payable to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity;*
- (g) the emoluments payable from Imperial Funds to members of Her Majesty’s Forces and to persons in the permanent service of the Imperial Government in Belize in respect of their offices under the Imperial Government;*
- (r) any pension or annuity paid by any person or authority outside Belize to a retired person who is ordinarily resident in Belize and when such pension or annuity is received in Belize;*
- (s) payments received under any social security scheme or fund, whether made by a person resident in Belize or abroad, provided that such payments are proved to the satisfaction of the Commissioner to be social security payments”.*

Gains and profits of persons not resident in Belize who are engaged in the business of shipping<sup>5</sup> are exempted if the country of residency of the said person grants an equivalent income tax exemption to Belizean residents (s.9).

#### *Administration of the Act*

Every person who is chargeable to tax must file with the Commissioner, within a specified time-frame<sup>6</sup>, a return for the relevant year.

The Act gives the Commissioner general powers to enable the proper administration of the Act. For example, the Commissioner may require any person, by notice, to file a return of income and to furnish him with all relevant books and documents in that person’s possession to assist the Commissioner in ascertaining that person’s income. Such person must, within fifteen days of the Commissioner’s request, file the said return and provide the relevant

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<sup>5</sup> “Business of shipping” means business carried out by owners of ships or charterers who carry out carriage of passengers and/or freight, in the landing, shipping or warehousing of goods.

<sup>6</sup> See s. 31(1) of the Act. Time-frame is “on or before the last day of the third month following the end of the basis year. “Basis year” is defined by s. 2 of the Act as “the calendar year coinciding with the year of assessment except where another period is substituted by the Commissioner under section 7;

documents to the Commissioner<sup>7</sup>. Persons who fail to file as required by the Commissioner, shall be liable to the penalty imposed by sub-section 31(5).

Employers and all persons required to collect or pay taxes, are required to keep in Belize all relevant books and records that will enable a determination of the amount of taxes payable. The Commissioner may mandate any person who fails to keep records in a manner that facilitates said assessment, to keep records in a manner specified by him. Such books and records must be kept for a minimum of six years or until the Commissioner grants written permission for their earlier disposal. Contravention of any of these provisions is tantamount to an offence.<sup>8</sup>

The Act also grants the Commissioner audit and ancillary powers<sup>9</sup> in respect of businesses. This includes the power to audit and examine books and records, examine property, require the assistance or presence of any manager or owner of property, and if it appears that a violation of the Act has occurred, the Commissioner may seize and retain any relevant books, records, and other documents. The Commissioner may also require (in writing) the appearance of a person to give evidence or to provide documents in his possession or control. Additionally, the Commissioner may authorize any of the senior officers in his Department to enter and search any building, container or place for material evidence to prove the violation of this Act or of a rule made thereunder. Such officer is authorized to seize any such material evidence. The authorization must be in writing and the authorized officer must be accompanied by a Police Officer during the material time (see s. 35(5)). Sub-section 7 provides further that: *“Any person who hinders, molests or in any way interferes with any person, in the exercise of this authority under this section is guilty of an offence.”*

The Commissioner is also empowered to require employees of the government, of municipalities and statutory bodies to provide him with any information which is in their possession, except those which such officers are under a statutory obligation to observe secrecy (s. 34).

Section 38 of the Act authorizes the Commissioner to assess taxes and to levy any applicable penalty. Sub-section 38 (4) outlines some instances or actions that would attract penalties:

(4) If the Commissioner -

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7 Section 31 (3) and (4).

8 Section 32.

9 Section 33.

(a) has refused to accept the return of income rendered and charged a person to income tax in respect of a sum in excess of the amount of income stated in the return by such person, or  
(b) discovers that a charge to income tax in respect of a sum in excess of such amount ought to be made, and an assessment is made at any time within the year of assessment or within six years after the expiration thereof, the Commissioner, if satisfied that the act of omission or commission amounts to fraud, art or contrivance, or gross and willful neglect on the part of the person assessed or to be assessed, may charge such person, in respect of such excess, additional income tax and surtaxes not exceeding double the amount of the income tax and surtax payable on the excess.

Where a person has been assessed on an amount that is less than the amount at which he should have been assessed, the Commissioner will charge an additional ten percent (s. 38 (5)).

The Commissioner is required to keep records of persons assessed (assessment records) which shall include relevant particulars of persons so assessed (names, addresses, income, tax payable, etc.).<sup>10</sup>

All taxes, penalties or other amounts payable under the Act are deemed debts to the Crown and are therefore recoverable in any court of competent jurisdiction or in any specific manner provided by the Act. This includes garnishment of debts<sup>11</sup>; warrants authorizing levy on goods of all defaulters<sup>12</sup>; application to a district magistrate for treating the sums owed as a judgment debt<sup>13</sup>. Where the Chief Collector is of the opinion that the taxes owed cannot or will not be recovered by using these means, he may put up for sale any land or houses in Belize which are beneficially owned by the defaulter.<sup>14</sup> Surplus sums, if any, from the sale of such property are payable to the owner thereof the defaulter).<sup>15</sup>

With respect to false statements on tax returns, s. 88 of the Income and Business Tax Act provides that:

88.-(1) Any person who, for the purpose of obtaining any deduction, rebate, reduction or repayment in respect of tax for himself or for any other person, or

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10 Section 40.

11 Section 58. By means of this process, the Commissioner would, in writing, require a person who is liable to make a payment to a person who has failed to pay his taxes, to make such payment to the Commissioner on account of the liability of the second-mentioned person.

12 Section 63.

13 Section 64. Failure to comply with summons issued by the Magistrate in accordance with this section or failure to pay sums owed may lead to imprisonment (see s. 66).

14 See s. 71 of the Income and Business Tax Act.

15 See s. 77 of the Act.

who in any return, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representations shall be liable on conviction to a fine not exceeding five hundred dollars and to forfeit treble the amount of the tax with which he ought to be charged under this Act, or to imprisonment for a term not exceeding six months.

(2) Any person who aids, abets, assists, counsels, incites or induces another person-

- (a) to make or deliver any false return or statement under this Act; or
- (b) to keep or prepare any false accounts or particulars concerning any income on which tax is payable under this Act,

is liable on summary conviction to a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months.”

### ***International Business Companies***

Another relevant piece of legislation is the International Business Companies Act, Chapter 270 of the Laws of Belize, R.E. 2000 – 2003. This piece of legislation, as amended in 1995, eliminates the opportunities for international business companies to evade taxes by imposing certain restrictions on them.

These restrictions, *inter alia*, prohibit international business companies from transacting with persons resident in Belize, from owning interest in real property in Belize (other than leased property), from owning stock in locally-registered companies, and from engaging in banking, insurance, trust formation, etc., without a license duly issued by the International Financial Services Commission established by the Act.<sup>16</sup>

- b) Describe the means or mechanisms to enforce the respective laws, rules and/or measures taken to prevent, investigate and/or sanction those who obtain favorable tax treatment for expenditures made in violation of the anticorruption laws of your country.

Mechanisms that are in place to enforce the relevant legislation, rules and measures to prevent, investigate and sanction those who obtain favorable tax treatment for expenditures made in violation of existing anti-corruption laws of Belize include:

- internal monitoring of returns and submissions within the Income Tax Department ;

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<sup>16</sup> See s. 5 of the International Business Companies Act.



- inter-agency participation and collaboration among key entities, including the Income Tax Department, General Sales Tax Department, Customs Department, the Lands Department and the Financial Intelligence Unit;
  - sharing of information with competent agencies that carry out relevant investigations;<sup>17</sup>
  - a Code of Conduct which has been drafted for the Income Tax Department.<sup>18</sup>
  - the existing judicial/court system.
- c) Briefly mention the objective results that have been obtained in applying the respective laws, rules and/or measures, providing any relevant statistical data available in your country, if possible for the last two years.

The records kept by the relevant entities, in particular, by the Income Tax Department, have focused on assessment, collection and audit of taxes and are therefore, not particularly tailored to show objective results that have been obtained in applying relevant laws, rules and measures.

## CHAPTER TWO

### PREVENTION OF BRIBERY OF DOMESTIC AND FOREIGN GOVERNMENT OFFICIALS (ARTICLE III (10) OF THE CONVENTION)

- a) Are there laws and/or other measures in your country to deter or impede bribery of domestic and foreign government officials, such as mechanisms to ensure that publicly held companies and other types of associations maintain books and records which, in reasonable detail, accurately reflect the acquisition and disposition of assets, and have sufficient internal accounting controls to enable their officers to detect corrupt acts? If so, please specify what they are, briefly describe them, and list and attach a copy of the related provisions and documents, referring in particular to the following aspects:
- i. Publicly held companies and other types of associations required to maintain accounting records of their operations in accordance with the accounting standards in force in your country.

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<sup>17</sup> As an example, the Income Tax Department informs that it referred the case of a non-resident taxpayer who was paying taxes in Belize but disavowing the existence of Belize-generated income. The suspicion was that the entity wanted Belize tax certification to avoid the payment of taxes in another jurisdiction.

<sup>18</sup> The Income Tax Department informs that this Draft Code of Conduct is awaiting Executive approval and that this Code of Conduct codifies and improves on existing practices.

- ii. Rules regarding how these accounting records are to be maintained, indicating what length of time they must be kept; if they must be kept in books of account or any other medium that affords suitable protection for their contents; if said records are required to state all cash or in-kind expenditure, payments, or contributions, as well as specify their reason or purpose, and precisely identify their recipients; and if they must be substantiated with supporting documents containing the necessary information to confirm their veracity.
- iii. Mechanisms to enforce the respective laws and/or other measures, such as the prohibitions against the establishment of accounts or operations without recording them on the books; registration of fictional expenditures or misstatement of the purpose thereof; adulteration of accounting records; use of false documents to support accounting records, and destruction of accounting documents before their prescribed custody period expires; as well as criminal, financial, or other penalties for those who infringe these prohibitions, and organs and agencies responsible for prevention and/or investigation of their violation and for imposing the appropriate punishment.

The Companies Act, Chapter 250 of the Laws of Belize, R.E. 2000 – 2003 is relevant in this section. The relevant provisions are outlined below:

Under the First Schedule of the Act, pursuant to ss. 2, 10, 11, 69 and 239, which establishes the regulations for accounts in the management of companies limited by shares – the following are the relevant regulations:

103. The directors shall cause true accounts to be kept with respect to-

- (a) all sums of money received and expended by the company and the matter in respect of which such receipts and expenditure takes place; and
- (b) the assets and liabilities of the company.

104. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

105. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company, except as conferred by law or authorised by the directors or by the company in general meeting.

106. Once at least in every year, the directors shall lay before the company in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

- Pertinent provisions under the Act

110. (1) The court may appoint one or more competent inspectors to

investigate the affairs of any company and to report thereon in such manner as the court directs-

- (a) in the case of a banking company having a share capital, on the application of members holding not less than one-third of the shares issued;
- (b) in the case of any other company having a share capital, on the application of members holding not less than one-tenth of the shares issued;
- (c) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members.

(2) The application shall be supported by such evidence as the court may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in requiring the investigation, and the court may, before appointing an inspector, require the applicants to give security for payment of the costs of the inquiry.

(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(5) If any officer or agent refuses to produce any book or document which, under this section, it is his duty to produce, or to answer any question relating to the affairs of the company, he shall be liable to a fine not exceeding twenty-five dollars in respect of each offence.

(6) On the conclusion of the investigation, the inspectors shall report their opinion to the court, and a copy of the report shall be forwarded by the Registrar of the court to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

(7) The report shall be written or printed, as the court may direct.

(8) All expenses of and incidental to the investigation shall be defrayed by the applicants, unless the court directs them to be paid by the company, which the court is hereby authorised to do.

111. (1) A company may by special resolution appoint inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the court, except that, instead of reporting to the court, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) Officers and agents of the company shall incur the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the court.

114. (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

151. (1) Every liquidator of a company which is being wound-up by the court and not being the Official Receiver shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the Official Receiver, or as he directs, an account of his receipts and payments as liquidator.

152. Every liquidator of a company which is being wound-up by the court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the court, personally or by his agent inspect any such books.

160. The court may, at any time after making a winding-up order, require any contributory for the time being settled on the list of contributories, and any trustee, receiver, banker, agent or officer of the company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any money, property or books and papers in his hands to which the company is *prima facie* entitled.

207. If any director, officer, or contributory of any company being woundup destroys, mutilates, alters or falsifies any books, papers, or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account, or document belonging to the company with intent to defraud or deceive any person, he shall be guilty of a misdemeanour within the meaning of the Criminal Code, and be liable to imprisonment for any term not exceeding two years.

211. Where any company is being wound-up, all books and papers of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

212. After an order for a winding-up by or subject to the supervision of the court, the court may make such order for inspection by creditors and contributories of the company of its books and papers as the court thinks just, and any books and papers in

the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

213. (1) When a company has been wound-up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows (that is to say)-

(a) in the case of a winding-up by or subject to the supervision of the court, in such way as the court directs;

(b) in the case of a voluntary winding-up, in such way as the company by extraordinary resolution directs.

(2) After five years from the dissolution of the company, no responsibility shall rest on the company, or the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of the same not being forthcoming to any person claiming to be interested therein.

- Also relevant in this section is the Prevention of Corruption Act, 2007 which creates the offences of corruption and bribery and establish sanctions for breaches of the Act. Note also the Prevention of Corruption Act, Chapter 105 of the Laws of Belize, R.E. 2000 – 2003.
- Foreign Service:

Belize's Diplomatic and Foreign Service Officers, like other officers in the public service, are prohibited by the relevant domestic legislation from engaging in the criminal acts of corruption and bribery. Article 19 of the *Belize Honorary Consul Manual* requires that Belize's consuls and staff respect the laws and regulations of the receiving state. We have copied Article 19 below.

Article 19: Respect for the Laws and Regulations of the Receiving State

*“Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving state. They also have the duty not to interfere in the internal affairs of that state.*

*The consular premises shall not be used in any manner incompatible with the exercise of consular functions.*

*The provisions of paragraph 2 of this Article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present Convention be considered form part of the consular premises.”*

- Other relevant pieces of legislation include:

The Financial Intelligence Unit Act, the International Business Companies Act (described in Section 1), the Banks and Financial Institutions Act, the Cooperative Societies Act, the Credit Unions Act, the Insurance Act and Regulations; the Finance and Audit (Reform) Act and the Financial Orders and Stores Orders, which regulate the management of Government accounts.

### CHAPTER THREE

#### TRANSNATIONAL BRIBERY (ARTICLE VIII OF THE CONVENTION)

##### 1. Criminalization of transnational bribery

- a) Does your State prohibit and punish, subject to its Constitution and the fundamental principles of its legal system, the offering or granting, directly or indirectly, by its nationals, persons having their habitual residence in its territory, and businesses domiciled there, to a government official of another State, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage, in connection with any economic or commercial transaction in exchange for any act or omission in the performance of that official's public functions? If so, please indicate if in your country it is considered an act of corruption for the purposes of the Convention, and describe briefly the laws and/or other measures regarding them, indicating what penalties they provide, and attach a copy of them.

With respect to transnational bribery, the Prevention of Corruption Act, 2007 is the most relevant piece of legislation in this regard. Section 22 of the Act creates the offences of corruption and bribery, which are subsequently listed in the Third Schedule of the Act. Section 1 (e) of the Third Schedule of the Act can be said to be the relevant section which defines the offence of transnational bribery. That section provides as follows:

*"A person commits an act of corruption if:*

*1. (e) he being a natural person or a corporation, either aggregate or sole, club, society or other body of one or more persons, offers or grants, directly or indirectly to a person performing public function in a foreign State, any article or money or other benefit, being a gift, favour, promise or advantage in connection with any economic or commercial transaction for an act to be performed or omitted to be performed by that person in the performance of his public functions".*

- b) If your State has criminalized transnational bribery, briefly mention the objective results that have been obtained in that regard, such as judicial proceedings undertaken and their outcome. The above information should refer, as far as possible, to the last five years.

The POCA 2007, which criminalizes transnational bribery in Belize, is fairly recent. It came into effect in 2008. Thus, the period of time that has elapsed since then has been short and, in our view, insufficient to allow us to make an evaluation of objective results obtained in its implementation.

- c) If your State has not criminalized transnational bribery, briefly mention if your country has taken any steps to do so.

Not applicable.

**2. Assistance and cooperation in the case of States Parties that have not criminalized transnational bribery**

- a) If your State has not criminalized transnational bribery, does it, insofar as its laws permit, provide assistance and cooperation with respect to this offense as provided in the Convention.

Not applicable.

- b) If so, briefly mention the objective results that have been obtained in that regard. The above information should refer, as far as possible, to the last five years.

Not applicable.

## CHAPTER FOUR

### ILLICIT ENRICHMENT (ARTICLE IX OF THE CONVENTION)

**1. Criminalization of illicit enrichment**

- a) Has your State established as an offense, subject to its Constitution and the fundamental principles of its legal system, a significant increase in the assets of a government official that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions? If so, please indicate if in your country it is considered an act of corruption for the purposes of the Convention, and describe briefly the laws and/or other measures regarding them, indicating what sanctions they provide, and attach a copy of them.

In 2008, Belize adopted the Prevention of Corruption Act (POCA 2007) to, *inter alia*, strengthen measures to prevent and combat corruption and corrupt activities, to provide for the offence of corruption and offences relating to corrupt activities, to provide for investigative measures in respect of corruption and related corrupt activities, and to provide for the establishment of probity, integrity and accountability in public life.

At s. 22, the Act establishes the act of corruption – these acts are more specifically listed in the Third Schedule of the Act. The commission of an act

of corruption is presumed where it is proven that an advantage<sup>19</sup> was paid/given to/received by a public servant by or from a person who has a material interest in the performance of a function by such public servant. Such advantage will be deemed to have been given to the public servant as an inducement.

“Advantage” is defined by s. 2 of the POCA 2007 as including:

- “(a) money or donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, over a value of \$2,500.00;
- (b) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage;
- (c) any office, dignity, employment, contract of employment or services and any agreement to give employment or render services in any capacity;
- (d) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (e) any valuable consideration or benefit of any kind or any discount, commission, rebate, bonus, deduction or percentage over a value of \$2,500.00;
- (f) any forbearance to demand any money or money’s worth or valuable thing;
- (g) any other service or favour or advantage of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted and includes the exercise or the forbearance from the exercise of any right or any official power or duty;
- (h) any right or privilege;
- (i) any aid, vote, consent or influence or pretended aid, vote, consent or influence;

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19 “Advantage” is defined by s. 2 of the POCA 2007 as including: “(a) money or donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, over a value of \$2,500.00; (b) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage; (c) any office, dignity, employment, contract of employment or services and any agreement to give employment or render services in any capacity; (d) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part; (e) any valuable consideration or benefit of any kind or any discount, commission, rebate, bonus, deduction or percentage over a value of \$2,500.00; (f) any forbearance to demand any money or money’s worth or valuable thing; (g) any other service or favour or advantage of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted and includes the exercise or the forbearance from the exercise of any right or any official power or duty; (h) any right or privilege; (i) any aid, vote, consent or influence or pretended aid, vote, consent or influence; (j) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of paragraphs (a) to (i).”



- (j) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of paragraphs (a) to (i).”

Thus, a person exercising public functions who is offered or receives an advantage in circumstances which may amount to an act of corruption or an act of bribery under this Act are required by s. 30 thereof to disclose said the existence and nature of such advantage, as well as the name of the person who gave or offered or agreed to give same. Failure to disclose same is an offence and can attract a fine or imprisonment.

Any person who has reasonable grounds to believe that a person has breached the Act or committed an act of corruption may make a complaint in writing to the Commission (s. 34).

Section 33 of the POCA 2007 criminalizes illicit enrichment in Belize. That section provides that upon examination of a complaint made pursuant to s. 34, or otherwise, the Commission is of the view that a public servant or any other person on his behalf is in possession of property or pecuniary resource that is disproportionate to his legitimate source of income, the Commission shall conduct a separate enquiry into the matter to determine whether such person has breached the Act. The Commission shall submit a report of its investigations to the Director of Public Prosecutions (“the DPP”) and to the Governor General. If the DPP considers that the evidence supports that a person ought to be prosecuted for the offence of corruption or bribery, the DPP shall institute the necessary criminal proceedings against the person and shall inform the Commission and the Governor General, in writing, of the action taken pursuant to the report.

Sub-section 33(5) provides that:

*“(5) In imposing a fine on a person found guilty of an offence under this section, the court shall have regard to the value of the property or pecuniary resource in the possession of that person, which cannot be accounted for taking into account his or her legitimate source of income.”*

Note also that s. 1(j) of the Third Schedule of the Act, which lists the acts of corruption pursuant to s. 22 of the Act provides as follows:

"A person commits an act of corruption if:

1. (j) he or any other person, on his behalf, illegally acquires property or pecuniary resource disproportionate to his legitimate source of income."

- b) If your State has criminalized illicit enrichment, briefly mention the objective results that have been obtained in that regard, such as judicial proceedings undertaken and their outcome. The above information should refer, as far as possible, to the last five years.

The POCA 2007, which criminalizes illicit enrichment in Belize, is fairly recent. It came into effect in 2008. Thus, the period of time that has elapsed since then has been short and, in our view, insufficient to allow us to make an evaluation of objective results obtained in its implementation.

- c) If your State has not criminalized illicit enrichment, briefly mention if your country has taken any steps to do so.

Not applicable.

**2. Assistance and cooperation in the case of States Parties that have not criminalized illicit enrichment**

- a) If your State has not criminalized illicit enrichment, does it, insofar as its laws permit, provide assistance and cooperation with respect to this offense as provided in the Convention.

Not applicable.

- b) If so, briefly mention the objective results that have been obtained in that regard. The above information should refer, as far as possible, to the last five years.

Not applicable.

**CHAPTER FIVE**

**NOTIFICATION OF CRIMINALIZATION OF TRANSNATIONAL BRIBERY AND  
ILLICIT ENRICHMENT (ARTICLE X OF THE CONVENTION)**

If, subsequent to its ratification of the Convention, your State has criminalized transnational bribery and/or illicit enrichment, as provided at Articles VIII (1) and IX (1) of said Convention, please indicate if it has notified the Secretary General of the OAS.

Belize has not notified the Secretary General that it has criminalized illicit enrichment and transnational bribery, as provided for by the Convention.

**CHAPTER SIX**

**EXTRADITION (ARTICLE XIII OF THE CONVENTION)**

- a) Bearing in mind the provisions contained in Article XIII (1, 2, 3, and 4) of the Convention, under your country's legal framework, may this Convention be considered the legal basis for extradition in connection with the offenses it has criminalized in accordance therewith? If so, briefly describe any existing laws and/or other measures that allow as much, and attach a copy thereof.

The matter of extradition in Belize is regulated by the Extradition Act, Chapter 112 of the Laws of Belize, R.E. 2000-2003. This Act regulates extradition arrangements with Guatemala and with the United States of America and is the only legal basis in the country for extradition.

Article 2 of the Belize/USA Treaty defines what are extraditable offences.

*"Article 2: Extraditable Offenses -*

- 1. An offense shall be an extraditable offense if it falls within any of the descriptions listed in the Schedule annexed to this Treaty, which is an integral part of the Treaty, or any other offense, provided that in either case the offense is punishable under the laws in both Contracting States by deprivation of liberty for a period of more than one year or by a more severe penalty.*
- 2. An offense shall also be an extraditable offense if it consists of an attempt or a conspiracy to commit, aiding or abetting, counseling or procuring the commission of, or being an accessory before or after the fact to, any offense described in paragraph 1.*
- 3. For the purposes of this Article, an offense shall be an extraditable offense:*
  - (a) whether or not the laws in the Contracting States place the offense within the same category of offenses or describe the offense by the same terminology; or*
  - (b) whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court.*
- 4. If the offense was committed outside of the territory of the Requesting State, extradition shall be granted in accordance with this treaty if the laws in the Requested State provide for punishment of an offense committed outside of its territory in similar circumstances.*
- 5. If extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request even if the latter offense is punishable by one year's deprivation of liberty or less, provided that all other requirements for extradition are met."*

Among extraditable offences under the Belize/USA Treaty, are:

- “14. Offenses against the laws relating to corporations or companies, including false statements and other offenses committed by company directors, promoters, and other officers;*
- 19. Offenses against the law relating to bribery of persons, including the corrupt offering, paying, or making of inducements to any foreign official or foreign political party, official thereof, or candidate for foreign political office to assist such person in obtaining or retaining business for himself or in directing business to any other person; soliciting bribes, offering or accepting bribes;”*

For this Convention to be considered as a legal basis for extradition in connection with offences that it criminalizes, Belize would have had to have declared this intent at the time of deposit of the instrument of ratification – as it did upon accession to the United Nations Convention against Transnational Organized Crime, when it declared that:

*“[The Government of Belize] declares that it shall take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; [The Government of Belize] further declares that the central authority designated for the purpose of article 18, paragraph 13 of the aforesaid Convention is the Attorney-General's Office and the language acceptable to Belize for the purposes of article 18, paragraph 14 is English.”*

- b) If your State may refuse extradition for the above offenses solely on the basis of the nationality of the person sought, or because it deems that it has jurisdiction over the offense, please indicate, when this occurs, if it submits the case to the competent authorities for the purpose of prosecution and reports the final outcome to the requesting State in due course. If so, briefly describe the existing laws and/or other measures in that regard and attach a copy thereof.

Nationality is not a bar to extradition. Article 3 of the Treaty between Belize and the United States of America states that “Extradition shall not be refused on the ground that the person sought is a national of the requested state.”

If Belize were to refuse extradition because it deems that it has jurisdiction over the offence, it would submit the case to its competent authorities for prosecution and would report the final outcome to the requesting State. In any event, Article 18 of the Treaty provides for consultations between the Parties.

*"Article 18: Consultation –*

*The Department of Justice of the United States and the Attorney General of Belize may consult with each other directly in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty.”*

Note that Article 11 of the Belize/USA Treaty allows for temporary surrender:

"Article 11: Temporary and Deferred Surrender -

*1. If the extradition request is granted in the case of a person who is being proceeded against or is serving a sentence in the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement of the Contracting States.*

*2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed."*

- c) Please indicate if, subject to the provisions of its domestic law and its extradition treaties, your State, upon being satisfied that the circumstances so warrant and are urgent, and at the request of another State Party to the Convention, takes into custody the person whose extradition is sought and who is present in its territory, or takes other appropriate measures to ensure their presence at extradition proceedings. If so, briefly describe the existing laws and/or other measures in that regard and attach a copy thereof.

To ensure the presence of a person at extradition proceedings, the Belize/USA Treaty establishes two specific measures: temporary and deferred surrender (Article 11), and provisional arrest (Article 9).

"Article 9:Provisional Arrest -

*1. In case of urgency, a Contracting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the United States Department of Justice and the Attorney General in Belize. Such a request may also be transmitted through the facilities of the International Criminal Police Organization (INTERPOL), or through such other means as may be settled by arrangement between the Contracting States.*

*2. The application for provisional arrest shall contain:*

*(a) a description of the person sought;*

*(b) the location of the person sought, if known;*

*(c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;*

*(d) a description of the laws violated;*

*(e) a statement of the existence of a warrant of arrest or a finding of guilt or judgment of conviction against the person sought; and*

*(f) a statement that a request for extradition for the person sought will follow.*

*3. The Requesting State shall be notified without delay of the disposition of its application and the reasons for any denial.*

*4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the formal request for extradition and the supporting documents required in Article 6. The person arrested pursuant to this Article shall have the right of access to the courts for such remedies and recourses as are provided by the law of the Requested State.*

*5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date."*

- d) Briefly state the objective results that have been obtained in enforcing the existing rules and/or other measures on extradition for the aforementioned offenses, such as extradition requests made to other States Parties for the purpose of investigating or prosecuting those offenses and procedures initiated by your State to attend to requests received by it from other States Parties with the same purpose, as well as the results thereof. The above information should refer, as far as possible, to the last five years.

Records indicate that over the last five years there have been a number of requests from the United States of America for extradition, but none have been made by Belize. Of the cases within the last five years, only three remain pending before Belizean Courts.

## **SECTION II**

### **FOLLOW-UP ON THE RECOMMENDATIONS FORMULATED IN THE NATIONAL REPORTS IN PREVIOUS REVIEW ROUNDS**

#### **FIRST ROUND OF REVIEW**

##### **RECOMMENDATION 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**

##### **Recommendation 1.1:**

*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.*

Measures suggested by the Committee:

*(a) Establish a standard for addressing the conflicts that can occur between individual specific government matters in which those persons that perform public functions would be expected to act as part of their responsibilities and an official's or family member's financial interests or his outside activities or negotiations for future private employment arrangements. Such a standard could include recusal, request by the person that performs public functions for permission to continue to act, request by the official for a transfer of duties (if appropriate), or direction by an appropriate authority for divestiture/resignation when the conflict is pervasive.*

*(b) Establish suitable restrictions for persons who leave public service, such as prohibitions on participation as a representative of a private interest in ongoing specific matters in which they had participated in an official capacity, or for a reasonable time, restrictions on dealing with former government body in which they served.*

##### **A. Adopted Measures:**

In seeking to follow the recommendation of the Committee of Experts, and in particular, Measures (a) and (b), Belize adopted the ***Prevention of Corruption Act, 2007*** ("POCA 2007"), which came into force in February 2008. That piece of legislation repealed and replaced the Prevention of Corruption in Public Life Act and provides, *inter alia*, for strengthening measures to prevent and combat corruption and corrupt activities, for the offence of corruption and offences relating to corrupt activities, for investigative measures in respect of corruption and related corrupt activities, and for establishing probity, integrity and accountability in public life.

With respect to the measures suggested by the Committee, this Act establishes standards to address possible cases of conflict of interest that can occur between a public official's performance of his duties with his outside activities or future negotiations. It also creates the offence of corruption and provides that a person commits an act of corruption if, *inter alia*:

- (h) *he acquires, or becomes a partner, associate or shareholder in, or a director of a firm or company which has a contract with the Government or with the public body of which such person is a member or employee unless the person makes a disclosure of such partnership, association, shareholding or other interest to the Commission;*
- (i) *he illegally uses official influence in support of any scheme, or in furtherance of any contract or proposed contract or other matter in regard to which he has an interest;*<sup>20</sup>

The Act contains a number of provisions that can be considered to address, *inter alia*, the issue of conflict of interest in the exercise of an officer's public functions. For example, s. 24 establishes offences in respect of corruption relating to contracts, which includes instances where any person accepts/agrees or offers to accept any advantage/benefit for himself or for the benefit of a third person in order to influence the procurement or execution of a contract with a public or private entity or any other organization. Additionally, s. 25 provides that every person who, subject to subsection (2)<sup>21</sup>, acquires or holds a private interest in any contract, agreement or investment emanating from or connected with the public body in which he or she is employed or which is made on account of that public body commits an offence of corrupt activities and is liable on conviction to a fine of not less than ten thousand dollars.

The POCA 2007 complements existing provisions on the required code of conduct of public officials, which is contained in the supreme law of Belize, the Belize Constitution Act<sup>22</sup> and in the Public Service Regulations<sup>23</sup>, as well as in other pieces of legislation such as the Prevention of Corruption Act, Chapter 105 of the Laws of Belize, R.E. 2000 – 2003, and the Criminal Code<sup>24</sup>.

## B. Difficulties in Implementation

One of the principal challenges faced in the implementation of the present recommendation is the limited knowledge of the POCA 2007 by public officials and the

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20 See s.22 of the Act and its corresponding s.1 of Part I of the Third Schedule.

21 Sub-section (2) refers to the exemptions to the application of sub-section (1): Subsection (1) does not apply to a person: (a) who acquires or holds such interest as a shareholder of a listed company; (b) whose conditions of employment do not prohibit him or her from acquiring or holding such interest; or (c) in the case of a tender process, a public officer who acquires a contract, agreement or investment through a tender process and whose conditions of employment do not prohibit him from acquiring or holding such interest through an independent tender process; or (d) unless the person makes a disclosure of such interest to the relevant public body within thirty days of acquiring or holding such interest.

22 Chapter 4 of the Substantive Laws of Belize, R.E. 2000 – 2003.

23 Chapter 4 of the Subsidiary Laws of Belize, R.E. 2000 – 2003.

24 See s. 281 to 312 of this Act, Chapter 101 of the Laws of Belize, R.E. 2000 – 2003.



general public. Wider dissemination of the provisions of the POCA 2007 and its relationship with other relevant pieces of legislation (as mentioned in “A” above), and with existing practices is necessary. Also, as the Committee of Experts observed, it is desirable to include specific provisions in the Act establishing standards to regulate the activities of former public servants after they leave government service.

### C. Participating Agencies/Particular Needs/Reference

The governmental agencies that must be involved in the implementation of the recommendations in this section include the Attorney General’s Ministry, the Ministry of the Public Service, the three Services Commissions. To address the specific recommendation of adopting legislation that conforms to the measures suggested by the Committee, an amendment of the POCA 2007 would be necessary.

#### **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**

##### Recommendation 1.2:

*Strengthen implementation of laws and regulatory systems on the proper conservation and use of public resources.*

This measure was considered as completed by the Committee. Note, that earlier this year, the Finance and Audit (Reform) (Amendment) Act, 2010, was passed to, *inter alia*, to restore the Financial Orders and Stores Orders to their original status of subsidiary legislation, thereby improving its present status.

##### RECOMMENDATION 2:

#### **SYSTEMS FOR REGISTRATION OF INCOME, ASSETS, AND LIABILITIES (ARTICLE III, PARAGRAPH 4, OF THE CONVENTION)**

##### Recommendation:

*Consider strengthening the systems for registering income, assets, and liabilities.*

##### Measures suggested by the Committee:

- a. *Consider taking necessary steps to enforce the current financial declaration requirements for those to whom the Prevention of Corruption in Public Life Act law currently applies, including implementing penalties for those who fail to file and establishing penalties for late filing.*
- b. *Identify positions not currently covered by the Act which have duties where the potential for conflict of interest is substantial and require the individuals holding those positions to file financial declarations.*
- c. *Use the financial declarations not only to detect actual violations of law and conflicts of interest,*

*but to also serve as a basis for providing counseling on the prevention of conflicts of interest.*

*d. Consider making the reports public, were appropriate.*

#### A. Adopted Measures

The Committee considered that Belize had satisfactorily addressed Measures (a) and (b), but that the country needed to give additional consideration to Measures (c) and (d).

With respect to Measure (c):

The POCA 2007 provides that the Integrity Commission may, in appropriate cases, make reports of its enquiries to the Director of Public Prosecutions (“the DPP”) and/or to the Attorney General. The DPP may, if satisfied that the evidence before him is sufficient to substantiate the commission of an offence, institute criminal proceedings against the person in public life, and where the person suspected of the commission of an offence is the DPP, the Attorney General may institute proceedings against him (s. 38). As such, presently, the financial declarations are used to detect actual violations of the law.

Thus, while the financial declarations are principally used to detect actual violations of the Act, the POCA 2007 also vests the Commission with wide investigative powers which can be used by the Commission to undertake proactive action such as the provision of counseling services to declarants on the prevention of conflicts of interest.

With respect to Measure (d):

While filed declarations are not themselves made public, the POCA requires the Commission to examine all financial declarations submitted by persons in public life and to publish Certificates of Declaration in the Gazette, if satisfied that the declarations have been fully made (s. 12).

We are of the considered opinion that the publication of Certificates of Declaration in the Gazette (as opposed to the publication of the actual financial declarations) should be preferred as we agree with the concern expressed by persons that sufficient safeguards must be put in place to guarantee the safety of declarants. Such guarantees should take into account the information to be published in the Gazette, as required by the POCA. The objective is to avoid that declarants become the target of criminal elements.

#### RECOMMENDATION 3:

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

Recommendation:

*Strengthen, and when appropriate create, oversight bodies in particular in the area of functions to enforce compliance with the matters covered by the provisions of Article III, paragraphs 1, 2, 4, and 11 of the Convention; provide them with the necessary resources to enable them to carry out their functions in full; and establish mechanisms necessary to permit effective institutional coordination, as well as periodic evaluation and monitoring, of the measures they adopt.*

A. Adopted Measures:

Existing legislation in Belize, particularly s. 12 of the Finance and Audit (Reform) Act, 2005, directs the Office of the Auditor General to audit all accounts of all persons entrusted with the collection, receipt, custody, issue or payment of public moneys, stamps, securities or stores or other Government property and to ensure that collection is duly done and that all expenditures have been properly and lawfully made.

Belize also adopted the POCA 2007, which contains provisions that also address, in part, the recommendation under consideration. For example, it advances the work of the Integrity Commission by giving it wider power than its predecessor Act. POCA 2007 authorizes the Commission to examine declarations, to conduct their own enquiries thereon or to request further information from persons in public life (the declarants); or where they deem it appropriate, it may advise the Governor General to appoint a Tribunal to carry out such enquiries.

The POCA also ensured that the independence (s. 5) and financial stability of the Commission are safeguarded by establishing a Secretariat (s. 7) for the Commission and requiring such Secretariat to submit the necessary yearly budget estimates of the Commission to be included in the budget for the relevant year (s. 52). Further, the Commission itself selects and appoints its own staff (s. 51).

RECOMMENDATION 4:

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

**4.1. General participation mechanisms**

Recommendation:

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

Adopted Measures:

Civil Society participation in Belize is etched in the supreme law of the land, the Belize Constitution, by guaranteeing their representation in the Senate. These constitutional provisions are complemented by other existing pieces of legislation and administrative practices. Within the period under consideration, Belize adopted legislation, which we consider advance the present Recommendation.

Belize amended its Constitution by virtue of the Belize Constitution (Sixth Amendment) Act, 2008<sup>25</sup>, inter alia, to enlarge the membership of the Senate to ensure that Senators nominated by the Opposition and non-governmental organizations together constitute the majority in the Upper House. The Amendment also sought to extend the powers and functions of the Senate to enable them to initiate and conduct public enquiries into mismanagement or corruption by persons in the central government of public statutory bodies, and provides for the expeditious submission of reports by the Auditor General to the National Assembly.

Additionally, s. 21 of the POCA 2007 requires that civil society organizations be consulted by the National Assembly before extending the application of this Act to any public servant of class of public servants who are not presently required to file sworn financial declarations.

These measures adopted by Belize complement existing administrative practice, including the three advisory bodies that were formed in 2006 to aid the Minister and the Ministry of the Public Service: the Human resource Development Committee, the Council on Good Governance and Public Sector Modernization, and the Joint Staff Relations Council. Each of these Committees has membership from other Government Ministries and from relevant Civil Society organizations.

Of note is that in 2008 – 2009, the Minister of the Public Service conducted country-wide consultations with public servants and civil society on matters affecting the entire public service and on how to improve existing mechanisms and issues.

#### **4.2. Mechanisms for access to information**

##### Recommendation:

*Strengthen the mechanisms on access to information.*

##### Measures suggested by the Committee:

- a. *Conduct a comprehensive review of the rules and regulations that provide exceptions to the right of access to public information, in order to ensure that they do not obstruct the exercise of the right to information as an effective mechanism in efforts against corruption, in accordance with the observations in section 4.2.2 of this report.*
- b. *Strengthen systems that ensure public access, as appropriate, to information on public*

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<sup>25</sup> Act No. 13 of 2008, which entered into force on April 12, 2010 by virtue of S.I. No 34 of 2010.

*administration bodies and their program-related and financial activities, in particular as regards those bodies concerned with the issues covered in this report; and improve, where possible, the use of modern technologies to that effect.*

- c. *Carry out a comprehensive evaluation of the use and effectiveness of mechanisms for access to information, and, based on the results of that evaluation, consider the adoption of measures to promote, facilitate, and consolidate the effectiveness of these mechanisms.*

#### Adopted Measures:

In that regard, Belize amended the Freedom of Information Act<sup>26</sup> through the Freedom of Information (Amendment) Act<sup>27</sup> which, *inter alia*, invalidates secrecy provisions in public contracts, reduces the categories of exempt documents, and penalizes unreasonable refusal or failure to provide access to public documents.

The above-referenced amendment complements existing measures in Belize, which advance the suggested measures of the Committee. These include the Government of Belize's website ([www.governmentofbelize.gov.bz](http://www.governmentofbelize.gov.bz)), which is constantly updated with, *inter alia*, initiatives by the various Government Ministries (fiscal and otherwise), Budget Reports, Bills introduced into the House of Representatives, and Cabinet decisions.

#### B. Difficulties in Implementation

The implementation of the suggested measures represents a challenge for small, thriving countries like Belize – conducting comprehensive review of rules and regulations, while strengthening existing systems and carrying out comprehensive evaluations of the use and effectiveness of existing mechanisms on access to information.

#### **4.3. Mechanisms for consultation**

##### Recommendation:

*Strengthen existing mechanisms and consider creating other ones as part of their efforts to combat corruption.*

##### Measures suggested by the Committee:

- a. *Strengthen 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.*
- b. *Design and implement programs to publicize consultation mechanisms and, as appropriate, provide training and instruments to officials necessary for effective implementation of those mechanisms.*

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<sup>26</sup> Chapter 13 of the Laws of Belize, R.E. 2000 – 2003.

<sup>27</sup> Act No. 7 of 2008, which entered into force on July 5, 2008.

Adopted Measures:

The Government's website was reviewed and enhanced within the period under consideration to make it more user-friendly. It continues to be constantly updated with relevant information of the work undertaken by the Government as well as with relevant country and public service information, including how, where and who to contact with respect to particular government ministries, departments, missions, etc.

Note also that annually, the Public Service of Belize celebrates Public Service Week, which provides the general public and civil society yet another opportunity for approach, communication and dialogue with the Public Service.

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

Recommendation:

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

Measures suggested by the Committee:

- a. *Develop standards and procedures to establish, maintain and strengthen mechanisms to encourage participation by civil society and nongovernmental organizations in public administration as part of the efforts to prevent corruption*
- b. *Promote public awareness of available corruption prevention mechanisms.*

Adopted Measures:

The three Advisory bodies formed in 2006 to aid the Minister and Ministry of the Public Service in the general decisions affecting the administration of the Public Service in Belize continue to be operational. Representatives in these bodies include the Chief Executive Officers from key government Ministries, the Financial Secretary and members of civil society organizations.

Moreover, the process followed in consulting with the public and private sectors in 2009 – 2010 on the adoption of a ***Plan of Action for the Implementation of the Recommendations formulated by the MESICIC for Belize*** provided a good measure and methodology for consultations with them. It also provided an excellent basis and established a network of contacts for future consultations. The Plan of Action is published in the Attorney General's Ministry's website ([www.belize-law.org](http://www.belize-law.org)).

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

Recommendation:

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

Measures suggested by the Committee:

- a. *Promote, where appropriate, methods to facilitate civil society and non-governmental organizations' efforts to engage in activities in the follow up of public administration and prevention of corruption.*
- b. *Design and implement specific programs to publicize mechanisms to encourage participation in follow-up on public administration and, as appropriate, provide the necessary training and tools to public officials for the effective implementation of those mechanisms.*

Adopted Measures:

The three Advisory bodies formed in 2006 to aid the Minister and Ministry of the Public Service in the general decisions affecting the administration of the Public Service in Belize continue to be operational. Representatives in these bodies include the Chief Executive Officers from key government Ministries, the Financial Secretary and members of civil society organizations.

Moreover, the process followed in consulting with the public and private sectors in 2009 – 2010 on the adoption of a ***Plan of Action for the Implementation of the Recommendations formulated by the MESICIC for Belize*** provided a good measure and methodology for consultations with them. It also provided an excellent basis and established a network of contacts for future consultations. The Plan of Action is published in the Attorney General's Ministry's website ([www.belizelaw.org](http://www.belizelaw.org)).

RECOMMENDATION 5:

**ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)**

Recommendation 5.1:

*Design and implement a comprehensive program of dissemination and training specifically geared to the competent authorities and officials, to ensure they are familiar with and can apply the provisions in force on mutual legal assistance for investigation and prosecution of acts of corruption in the Convention and in other treaties signed by Belize.*

Recommendation 5.2:

*Identify and ascribe priority to specific areas in which it deems it could need or it could be useful for it to receive technical cooperation from other States Parties in order to further strengthen its capacity to prevent, detect, investigate and punish corruption.*

Recommendation 5.3:

*Strengthen efforts to exchange technical cooperation with other States Parties on the most effective*

*ways and means to prevent, detect, investigate, and punish corruption.*

**A. Adopted Measures:**

Mechanisms exist in Belize which address, in part, the three Recommendations made by the Committee under this section. This includes the fact that Belize has bilateral mutual legal assistance treaties with the United States of America<sup>28</sup> and with the Caribbean Community<sup>29</sup>, and is currently pursuing negotiations of a similar treaty with its northernmost neighbor, the United Mexican States. Belize is also Party to relevant international conventions which make wide provisions for mutual legal assistance among Member States. These include the present Convention, the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the United Nations Convention against Transnational Organized Crime.

Belize has not developed any specific training course on the subject-matter for its competent authorities and officials. However, such officials have continued to benefit from relevant training sessions organized by relevant international organizations such as the United Nations Office on Drugs and Crime. Of particular note is the fact that, with its existing resources, Belize has been able to assist its counterparts by respond to their requests for legal assistance, which in itself, has been a learning experience.

**A. SECOND ROUND OF REVIEW**

**RECOMMENDATION 1:**

**SYSTEMS OF GOVERNMENT HIRING AND PROCUREMENT OF GOODS AND SERVICES (ARTICLE III (5) OF THE CONVENTION)**

**1.1. Systems of Government Hiring**

**Recommendation:**

*Consider strengthening the systems of government hiring.*

**Measures Suggested by the Committee:**

- a) *Develop, through the relevant legislative and/or administrative procedures, the different stages that comprise the process of selecting and appointing candidates to posts in the Public Service, by adopting provisions and clearly defined criteria that ensure entry to the public service, always taking into account the principles of openness, equity and efficiency as provided in the Convention.*

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28 The Mutual Legal Assistance in Criminal Matters (Belize/USA) Act, No. 10 of 2005.

29 The Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters Act, No. 45 of 2005.



- b) *Examine the existing job descriptions and classifications, in order to determine whether it would be useful to have a single Job Description or Job Classification Manual containing all generic public sector posts.*
- c) *Adopt, through the appropriate legislative and/or administrative procedures, provisions and mechanisms that contain clearly defined criteria for the advertisement of hiring opportunities or vacancies in the public service, as well as the time frame in which they should be advertised, and which take into account the use of the mass media, such as newspapers with national circulation and/or websites, among others.*
- d) *Adopt, through the appropriate legislative and/or administrative procedures and in keeping with the principle of due process, provisions for the establishment of administrative challenge mechanisms to clarify, modify or revoke substantial acts that are part of the recruitment and selection procedures in the Public Service, ensuring a timely, objective, impartial, and effective procedure.*
- e) *Strengthen the legal provisions regarding the Service Commissions, so that these authorities have the competence to revoke or take other corrective measures when it is found that an appointment process was, among other things, irregular, improper, or made through a fraudulent competition.*
- f) *Develop, through the appropriate legislative and/or administrative procedures, the different stages that comprise the process of selecting and appointing workers governed by the Belize Constitution (Government Open Vote Workers) Regulations, by adopting provisions and clearly defined criteria that ensure access to this category of service, and establishing a time limit for the duration of their employment, always taking into account the principles of openness, equity and efficiency as provided in the Convention.*
- g) *Develop, through the appropriate legislative and/or administrative procedures, the different stages that comprise the process of selecting and appointing National Assembly staff, by adopting provisions and clearly defined criteria that ensure access to those positions, always taking into account the principles of openness, equity and efficiency as provided in the Convention.*
- h) *Adopt, through the appropriate legislative and/or administrative procedures, provisions which provide that the selection and recruitment process for staff of the National Assembly is to be based on merit.*
- i) *Adopt, through the appropriate legislative and/or administrative procedures, provisions which require the publication of staff vacancies that arise in the National Assembly.*
- j) *Adopt, through the appropriate legislative and/or administrative procedures and in keeping with the principle of due process, provisions for the establishment of administrative challenge mechanisms to clarify, modify or revoke substantial acts that are part of the recruitment and selection procedures for the National Assembly, ensuring a timely, objective, impartial, and effective procedure.*

- k) *Consider disaggregating the results provided by the Ombudsman on complaints received and their resolution, in order to indicate how many of those complaints were based on challenges to the government hiring and selection process.*

#### A. Adopted Measures:

Mechanisms established in Belize prior to the period under consideration, in large part, address the above measures suggested by the Committee. These include the three different Services Commissions – the Public Service Commission, the Security Services Commission and the Judicial and Legal Services Commission<sup>30</sup> – established by the Constitution of Belize. Their duties and functions are established by the Services Commissions Regulations. The Constitution mandates that each of these three Commissions must be totally independent, thus not subject to the control of any other person or authority (sections 105 (12) and 110E (12) of the Constitution). Each of these Commissions has the power of appointment, promotion, transfer and confirmation of appointment.

The subsidiary legislation of the Constitution establishes the Public Service Regulations (“the PSR”), which applies to all<sup>31</sup> permanent appointments made by each of the three Services Commissions, and the Open Vote Workers Regulations, which applies for the Government’s Open Vote Workers<sup>32</sup>.

The National Assembly Staff Act<sup>33</sup> establishes the National Assembly Staff Committee (s.3), which is given the power of appointment, confirmation of appointment and authority to exercise disciplinary control over National Assembly Staff. Appeals against their decisions can be made to the Belize Advisory Council (s. 6).

Regulation 6 of the PSR makes provisions for accessing the public service through a merit-based system and establishes that the educational or professional qualifications and other requirements for appointment to permanent posts in the Public Service shall be determined by the Chief Executive Officer (“CEO”), Ministry of the Public

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30 Sections 105, 110C and 110E of the Belize Constitution Act, Chapter 4 of the Substantive Laws of Belize, R.E. 2000 – 2003.

31 Exceptions are specified in sub-regulation 2 (2) and include the offices of the Prime Minister and other Ministers, Ministers of State; Speaker, Deputy Speaker and Members of the House of Representatives; President and Vice President of the Senate and Senators; Members of the Belize Advisory Council or any Commission established under the Constitution; the Clerk, Deputy Clerk and Staff of the National Assembly; the Ombudsman and the Contractor General. Other exceptions are created by Regulation 3 of the Constitution and include the office of a Justice of Appeal ; Section 110B posts (Prisons); Open Vote Workers; Ambassadors and High Commissioners; Sections 107, 108 and 109 posts (Chief Executive Officers, Director of Public Prosecutions, and Auditor General, respectively); Office of a Justice of the Supreme Court.

32 The Open Vote Workers’ Regulations defines an open vote worker as “*an employee of any Government Department whose post is not provided for under any Personal Emoluments item of any Head of Expenditure in the Estimates.*”

33 Chapter 14 of the Laws of Belize, R.E. 2000 – 2003.

Service, after consultation with the appropriate Ministry. Regulation 11(2) provides that the promotion of officers to fill vacancies shall be approved by the relevant Commission, and that the Commission shall base its decision on the following three factors, in descending order of importance: (a) Performance/Merit; (b) Integrity/Professionalism; and (c) Experience/Employment History. Similar provisions created by the National Assembly Staff (Conditions of Service) Regulations apply to National Assembly Staff.

When a vacancy arises in the public service, the CEO of the Ministry must report it to the CEO of the Ministry of the Public Service and state his recommendations for filling the post (Regulation 7 of the PSR). There is no specific requirement for advertisement of vacancies that arise within the public service, but it is done as a matter of practice, especially for technical positions.

No officer shall be appointed to a post for which he is not qualified (Regulation 11(1) of the PSR). There is no specific appeals mechanism established for challenging a decision made in the selection process. Thus, in those instances, recourse would need to be made to the local courts or through complaints to the Ombudsman.

The Government adopted a number of measures which, in one way or another, affected some of the above-mentioned measures suggested by the Committee:

1. Circular Memorandum No. 7 of 2008, an administrative decision, established a new procedure for the creation of new posts and for the filling of vacant posts in the Public Service. All requests to fill vacant posts shall be submitted to the Ministry of the Public Service, and must be accompanied by a detailed justification for the filling of the vacancy, including date vacancy occurred, cause of vacancy and proposed date for filling of the post (Paragraph 2).
2. Suspension of Delegation of Powers – on February 15, 2008, the authority of the Public Service Commission to delegate their powers in accordance with s. 106 (5) of the Constitution, and of the Judicial and Legal Services Commissions to delegate its powers to the Chief Justice and the Solicitor General were suspended indefinitely.
3. Services Commissions (Amendment) Regulation, 2009 – restores in part the delegation of powers by the Services Commissions and provides that “*the power to transfer Public Officers within the clerical, secretarial, administrative and accounting grades is delegated to the Chief Executive Officer of the Ministry of the Public Service.*” Further, with respect to “*the administrative and accounting grades, the Chief Executive Officer of the Ministry of the Public Service shall exercise the said power to transfer after consultation with the Administrative and Accounts Post Panel.*”

4. Public Service (Amendment) Regulations, 2009 – establishes a new procedure for filling vacancies. It requires that the CEO of the Ministry where the vacancy occurs shall report it to the Chief Executive Officer of the Ministry of the Public Service and state his recommendations for filling the post. It also vests the decisions regarding travel arrangements for overseas appointments, applications for secondment, and applications for grant of leave (vacation leave, extended sick leave, special leave, leave without pay) to be determined by the Chief Executive Officer of the Ministry of the Public Service.

## **1.2. Government Systems for the Procurement of Goods and Services**

### Recommendation:

*Consider strengthening the government systems for the procurement of goods and services.*

### Measures suggested by the Committee:

- a) *Adopt provisions which define the different stages that constitute the procurement process, and which include selection criteria, time frames, and which identify the entity responsible for making contract award decisions.*
- b) *Adopt provisions which establish objective selection criteria in the evaluation of bids.*
- c) *Review Section 20 of the Finance and Audit (Reform) Act of 2005, in order to ensure that in those instances where limited tendering is used, that the government sees to it that there are an adequate number of potential suppliers to ensure competition, as required by Section 20(1) thereof.*
- d) *Examine the need to adopt provisions which either: require a justification of the decision to resort to limited tendering based on extreme urgency or public interest, as provided for by Sections 21(1)(d) of the Finance and Audit (Reform) Act of 2005, or national emergency, as provided for by Section (21)(1)(h)(i) of the same law; or which define those terms.*
- e) *Adopt provisions which provide clear selection procedures where the limited tendering procedure is used, and which also require a written justification for the use of this procurement method.*
- f) *Adopt provisions which clarify what is meant by day-to-day operations of government, as used in Section 21(1)(h)(ii) of the Finance and Audit (Reform) Act of 2005, in order to ensure that goods and services related to recurring expenses are procured competitively, where appropriate.*
- g) *Adopt provisions which require publication of tender opportunities, including the conditions for participation therein, and the time, method and place for the submission of bids.*

- h) *Examine the possibility of publishing, when appropriate, pre-bidding terms and conditions so that interested parties can find out about them and submit comments thereon.*
- i) *Consider the introduction of electronic procurement systems, on an incremental basis, so that goods and services may be acquired through those means.*
- j) *Strengthen and increase the scope of use of electronic forms of communication, such as the internet, for publicizing the tender and consulting opportunities, status of bids and awards and the progress in the execution of major projects.*
- k) *Establish a national registry of contractors of goods and services, of mandatory use by all State bodies, which contemplates the possibility of ensuring that the registry also include a list of sanctioned contractors, in order to foster the principles of openness, equity and efficiency provided for in the Convention.*
- l) *Implement provisions that require prior planning sufficiently in advance of the launch of large-scale or specialized procurement process, such as the preparation of studies, designs and technical evaluations.*
- m) *Adopt provisions that facilitate and encourage the participation of citizen oversight mechanisms in monitoring the execution of contracts where their nature, importance, or magnitude so warrants.*
- n) *Adopt provisions which regulate, in keeping with the principle of due process, administrative challenge mechanisms relating to the substantive acts of the tendering process, such as the basis for the tender or bid, the rejection of bidders, and the designation of the winner, which are designed to clarify, modify, or revoke such acts.*

#### A. Adopted Measures:

The Government's system for the procurement of goods and services were historically guided by an outdated Finance and Audit Act<sup>34</sup>, which were aided by practices developed under equally historic Financial Orders and Stores Orders. In 2005, that system was strengthened by a new and improved Finance and Audit (Reform) Act<sup>35</sup> which sought, *inter alia*, to make new and better provisions regulating public revenue, expenditure and contracts and which repealed the old Finance and Audit Act. Section 17(1) thereof authorizes the Government, *inter alia*, to acquire property of any kind. It provides in material part: “[] the Government shall have power to acquire, hold and dispose of, by sale or otherwise, property of any kind, and all property owned by the Government shall be held in the name of the Government of Belize.”

The Act, which is substantive legislation, makes wide and general provisions that address most of the measures suggested by the Committee. The flaw in the process is

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34 Chapter 15 of the Substantive Laws of Belize, R.E. 2000.

35 Act No. 12 of 2005.

that subsidiary legislation, which spell out in detail the substantive elements created by the Act, were never developed.

Between 2009 and 2010, at the request of the Government of Belize, the Inter-American Development Bank hired a consultancy to conduct an evaluation of the country's public procurement system using the methodology of the Organization for Economic Cooperation and Development/Development Assistance Committee (OECD/DAC). This methodology uses four pillars to analyze and assess the quality of the National Procurement Systems of Belize against international standards.<sup>36</sup> Information was gathered through the review of documentation as well as through interviews with a number of relevant ministries and departments of government, statutory bodies, municipal bodies, non-state actors, including representatives of private sector organizations, as well as with some of the larger private sector businesses which had supplied goods and services to the Government of Belize in the past.

The findings and recommendations were strikingly along the same lines as the measures suggested by the Committee in this section. In general, the findings were that procurement legislation and enforcement were weak; procurement functions were decentralized and often performed by ad-hoc Committees established in individual Government Ministries; criteria for evaluation of tenders or quotations were not standardized; there were no standardized procurement guidelines which has caused a wide range of procurement practices and deeply entrenched informal procedures.

It was thus recommended that legislation be reformed, fleshed out and regulations therefor be developed; that the Act applies not only to public officials but to all persons who are entrusted with public property; and the Act should require procurement planning and national publishing of tenders. It was further recommended that the Financial Orders and Stores Orders should be comprehensively updated into Regulations that meet international standards; that e-procurement should be gradually adopted; that procurement records must be kept; that personnel be trained on the revised and improved legislation; that mechanisms for reporting fraudulent, corrupt or unethical behavior should be strengthened.

At its regular meeting held on November 30, 2010, the Cabinet of Belize accepted the Report and the recommendations contained therein in full and pledged to undertake the necessary steps to continue to improve the Government's procurement system.

Along those lines, a Bill, the Finance and Audit (Reform) (Amendment) Act, 2010, is presently before the Legislature for approval. That Bill seeks, *inter alia*, to enhance

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<sup>36</sup> These four pillars are: Pillar I: Legislative and Regulatory Framework (the existing legal framework); Pillar II: Institutional Framework and Management Capacity (the institutional architecture); Pillar III: Procurement Operations and Market Practices (the operation of the system and the competitiveness of the national market); and Pillar IV: Integrity and Transparency of the Public Procurement System.

transparency in the tendering process for the Government procurement and sale contracts, and to restore the Financial Orders and Stores Orders to their original status of subsidiary legislation, all of which address some of the measures suggested by the Committee in this area.

## RECOMMENDATION 2:

### **SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO IN GOOD FAITH REPORT ACTS OF CORRUPTION (ARTICLE III (8) OF THE CONVENTION)**

#### Recommendation:

*Adopt a comprehensive legal and regulatory framework that provides protection for public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with its Constitution and the basic principles of its domestic legal system.*

#### Measures suggested by the Committee:

- a) *Protection for persons who report acts of corruption subject to investigation in administrative or judicial proceedings;*
- b) *Protection of whistleblowers and their families, not only in relation to their physical integrity but also as it concerns the workplace, especially when the person is a public official and the acts of corruption involve superiors or co-workers;*
- c) *Expand the existing mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who, in good faith, report acts of corruption;*
- d) *The creation of mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it;*
- e) *Witness protection mechanisms that offer witnesses the same guarantees as public servants and private citizens;*
- f) *Mechanisms to facilitate international cooperation on the foregoing matters, when appropriate, including the technical assistance and cooperation provided for by the Convention, as well as the exchanges of experiences, training, and mutual assistance.*
- g) *A simple whistleblower protection application process.*

- h) *Provisions which provide for administrative and criminal sanctions for the failure to observe the rules and/or duties relating to protection.*
- i) *Provisions that clearly delineate the respective competence of judicial and administrative authorities with respect to this area.*

#### A. Adopted Measures:

As has been pointed out elsewhere in the present Report, during the period under consideration, the Government of Belize adopted<sup>37</sup> the Prevention of Corruption Act, 2007 (“the POCA 2007”). That piece of legislation, *inter alia*, makes provisions for strengthening measures to prevent and combat corruption and corrupt activities, creates the offence of corruption and offences relating to corrupt activities, establishes investigative measures in respect of corruption and related corrupt activities, and creates measures for establishing probity, integrity and accountability in public life.

With respect to the particular measures suggested by the Committee under this section, the POCA 2007 requires that any person who, in the exercise of his public functions, is offered or receives an advantage in circumstances which may constitute an act of corruption or bribery, discloses same as soon as possible (s. 30(1)). It also requires persons exercising public functions who know or ought to have known or who suspect or ought to have suspected that a person has committed, is committing or is about to commit an act of corruption or bribery, are required to report same (s.30(2)).<sup>38</sup>

To protect persons who, in good faith report acts of corruption, and to equally facilitate compliance with the requirement for disclosure and/or reporting, the Act establishes a number of reporting and protection mechanisms:

- (1) it facilitates the avenues for reporting – reports can be made to the Police, the Integrity Commission established by this Act, or using any internal process established by the employer for that purpose (s. 30 (3));
- (2) it creates an exception to the general rule requiring disclosure and provides that it is a defence for a person who is charged with the offence of failure to disclose, if he can prove that he reasonably believed that he or another person or his property would suffer physical harm if he made the disclosure (s. 31(2));
- (3) it establishes protection mechanism for those persons who, in good faith, report acts of corruption:

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<sup>37</sup> February 2008.

<sup>38</sup> Only exception to requirements established by s. 30 is where the person required to make the report can prove that he reasonably believed that if he made the disclosure he or another person or his property would suffer physical harm (s. 31 (2)).



- prohibition from interfering with a person (threats or actions against the person or his lawful employment or occupation on the ground that such person made or may make a disclosure pursuant to s.30 (s. 32(1)).
  - immunity from civil or criminal liability - persons making complaints to the Commission, in good faith and reasonably believing that the facts are true, are immune from civil or criminal liability (s. 35(1)).
- (4) protects witnesses from self-incrimination - persons giving evidence before the Integrity Commission shall not be compelled to incriminate themselves and shall, in respect of evidence given to the Commission, be entitled to all the privileges that persons giving evidence before the Supreme Court are entitled to (s. 45).

### RECOMMENDATION 3:

#### **ACTS OF CORRUPTION (ARTICLE VI(1) OF THE CONVENTION)**

##### Recommendations:

- 3.1. *Review Section 26(b) and 27(b) of the Prevention of Corruption Act, 2007, so as to make it more fully consistent with Article VI(1)(a) of the Convention, by incorporating therein, the words “directly or indirectly”.*
- 3.2. *Review Section 26(a) and 27(a) of the Prevention of Corruption Act, 2007, so as to make it more fully consistent with Article VI(1)(b) of the Convention, by incorporating therein, the words “directly or indirectly”.*
- 3.3. *Review the definition of “public servant” contained in the Prevention of Corruption Act, 2007, by covering “a person who performs public functions”.*
- 3.4. *Consider the convenience of harmonizing the provisions of the Prevention of Corruption Act, Chapter 105 of the Substantive Laws of Belize, Re 2003, with those of the Prevention of Corruption Act, 2007.*

##### A. Adopted Measures:

During the period under evaluation, the country did not adopt any specific measure to address the measures suggested by the Committee under this section.

##### B. Difficulties in Implementation

One of the greatest technical difficulties in following recommendations or adopting suggested measures arises when such recommendations or suggested measures involve the adoption of new legislation or the amendment of existing legislation.

This, of course, is due to the processes involved with such undertakings. As expected, it is even more challenging to seek to amend legislation when the recommendation is to add specific wording (“*directly or indirectly*”) when the country is satisfied that the specific provisions (“for himself or another person”) already make provisions for “directly or indirectly”, albeit without using that specific terminology. This, in our view, sufficiently keeps with the intent of the Convention.

#### RECOMMENDATION 4:

##### **GENERAL RECOMMENDATIONS**

###### Recommendations:

- 4.1 *Design and implement, when appropriate, training programs for public servants responsible for implementing the systems, provisions, measures, and mechanisms considered in this report, for the purpose of ensuring that they are adequately known, managed, and implemented.*
- 4.2 *Select and develop procedures and indicators, when appropriate and where they do not yet exist, to analyze the results of the systems, provisions, measures, and mechanisms considered in this report, and to verify follow-up on the recommendations made herein.*

###### A. Adopted Measures:

It is important to note that one of the findings of the consultancy undertaken under the auspices of the Inter-American Development Bank in 2009 – 2010 with respect to the Government’s procurement system was specifically that proper training of officials is necessary. A related recommendation was made thereon in the Report, which has been sanctioned by the Cabinet.

##### **General Observation on DIFFICULTIES IN THE IMPLEMENTATION OF THE RECOMMENDATIONS**

In general, the particular realities of each country play a crucial role in determining that country’s ability to adopt certain recommendations or suggested measures made thereto by important international mechanisms such as the Committee of Experts of the MESICIC. Small countries like Belize are often faced with extremely limited resources (human, financial and technical), and, in many instances, have to prioritize between complying with our obligations under international conventions and satisfying the immediate needs of our people arising from a major hurricane or other *force majeure*.

Another general difficulty observed during these first two Rounds of Review was the time-frame for the adoption of recommendations and suggested measures. The time-frame was especially difficult after revision in the Second Round (December 2008) since during the material time (2009 – 2010) Belize was more involved with the development and adoption of the Plan of Action.

**SECTION III**

**INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE**

Please provide the following information:

(a) State Party: **BELIZE**

(b) The official to be consulted regarding the responses to the questionnaire is:

Mr.: \_\_\_\_\_

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