

MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
Fourteenth Meeting of the Committee of Experts
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**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**

INTRODUCTION

The Report of Buenos Aires and the Rules of Procedure and Other Provisions of the Committee of Experts on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (hereinafter, as applicable, *Report of Buenos Aires, Rules, Committee, Mechanism, and Convention*) provide that the Committee shall adopt a questionnaire on the selected provisions to be reviewed in each round.

At its thirteenth meeting, held from June 23 to 27, 2008, the Committee decided that during the third round it would review implementation by States Parties of the following provisions of the Convention: Article III, paragraphs 7 and 10; and Articles VIII, IX, X, and XIII.

Furthermore, the first paragraph of Article 29 of the Rules provides that “At the start of a new round, there shall be included within the questionnaire a section on “Follow-up on Recommendations” to enable the review of progress made in implementing the recommendations included in its country report adopted in previous rounds,’ and that ‘to that end, each State Party shall submit the appropriate information in the standard format that the Committee shall provide as an Annex to the Questionnaire.’ The aforesaid Article also provides in its second paragraph that “with respect to the implementation of recommendations, the State Party shall refer to any difficulties that may have arisen in the process,” and that, “should it deem it to be appropriate, the State Party may also identify the domestic agencies that have participated in implementing the recommendations, as well as identify specific technical assistance or other needs connected with the implementation of the recommendations.”

In light of the above, this document contains the questions that comprise the questionnaire adopted by the Committee.

The responses given to the questionnaire shall be reviewed in accordance with the methodology adopted by the Committee, which is annexed to this document and may also be consulted on the OAS Webpage at: http://www.oas.org/juridico/english/mesicic_method_IIIround.pdf

In accordance with Article 21 of the Rules, the State Party shall forward the response to the questionnaire through its Permanent Mission to the OAS, in an electronic format, along with the corresponding supporting documents, within the time period established by the Committee.

To this effect, the OAS General Secretariat's e-mail, to which the response to the questionnaire should be sent and to which queries may be addressed in order to clarify any doubts that arise, is the following: LegalCooperation@oas.org.

In completing this questionnaire, States Parties should keep in mind the deadlines set by the Committee in the schedule for the Third Round as well as the recommendation contained therein that responses to the questionnaire not exceed 35 pages.

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.

Jamaica has a comprehensive legal framework which regulates the tax obligations of individuals and corporations and which seeks to prevent corruption. Among those which seek to deny or prevent favourable tax treatment for expenditures made in violation of anti-corruption laws the following should be noted:

Section 4 of Parliament (Integrity of Members) Act ("PIMA") requires Parliamentarians - Members of the House of Representatives and Senators - to each submit to the Integrity Commission a statutory declaration of his assets, liabilities and income. Such statutory declarations must be furnished as at the date of his election or appointment, and thereafter as at the 31st December of each year during any part of which he remains a Parliamentarian and at the end of twelve months from the date on which he ceases to be a Parliamentarian.

Disclosure of information obtained pursuant to PIMA or obtained in connection with the collection of income tax, regardless of obligations as to secrecy imposed on Parliamentarians and persons employed in relation to income tax, is expressly permitted by subsection 5 of section 6 of PIMA where such disclosure is to one of either the Integrity Commission or the Commissioner of Income Tax by or under the authority of the other.

In determining the chargeable income or statutory income of a Parliamentarian, Section 13 (1) of the Income Tax Act outlines all allowable deductions.

Section 17 of the Parliament (Integrity of Members) Act further provides that:

"For the purposes of subsection (1) of section 13 of the Income Tax Act, disbursements and expenses incurred in a year of assessment by a Parliamentarian in connection with the preparation of a statutory declaration or other document required to be furnished by him for

the purposes of this Act shall be deemed to be incurred by him wholly and exclusively in acquiring his income for that year of assessment.”

Section 4 of the Corruption Prevention Act (CPA) provides that every public servant must furnish to the Commission for the Prevention of Corruption an annual statutory declaration in respect of the assets, liabilities and income. A “public servant” is defined in section 2 of the CPA as:

“any person

(a) employed-

(i) in the public, municipal or parochial service of Jamaica;

(ii) in the service of a statutory body or authority or a government company;

(b) who is an official of the State or any of its agencies;

(c) appointed, elected, selected or otherwise engaged to perform a public function.”

In determining the chargeable income or statutory income of a Public Servant, Section 13 (1) of the Income Tax Act outlines all allowable deductions.

Section 16 of the Corruption Prevention Act provides that:

“For the purposes of subsection (1) of section 13 of the Income Tax Act any disbursement made and expenses incurred in a year of assessment by a public servant in connection with the preparation of a statutory declaration or other document required to be furnished by him for the purposes of this Act shall be deemed to be made or incurred by him wholly and exclusively in acquiring his income for that year of assessment.”

The following statutory provisions under the Income Tax Act should also be noted:

Section 5 provides that income tax shall be payable by every person for each year of assessment upon their chargeable income for that year. “Person”, under the Act, means any individual or body of persons. Body of persons includes corporate or collegiate and any company, fellowship and society of persons, whether corporate or not corporate. “Body corporate subject to income tax” means any body corporate, wherever resident, unless exempted or relieved from income tax.

Jamaican resident companies are liable to income tax on all sources of non-exempt income wherever arising. A company is regarded as resident in Jamaica if its central management and control is located and exercised in Jamaica. A non-resident company is taxed on income of a branch carrying on trade or business in Jamaica.

Section 13 outlines the method by which chargeable income is to be ascertained. It makes provision for the deduction of disbursements and expenses in specified cases .

Section 15 outlines those deductions which are not allowable in ascertaining the chargeable income or statutory income of a person. These include domestic or private expenses, any capital employed in improvements and any loss not connected with or arising out of the trade, profession or vocation.

Section 17 (1) of the Act states that where the Commissioner is of the opinion that (a) any transaction carried out between connected persons was carried out for a consideration

substantially different from that obtainable at arms length or for no consideration; and (b) the effect of this would be to reduce the amount of tax payable by any person, the Commissioner may, for the purposes of that person's tax liability, treat the transaction as having been carried out for such consideration as would in his opinion have been obtainable at arm's length.

Other relevant pieces of legislation which regulate and seek to prevent favourable tax treatment for expenditures made in violation of anticorruption laws are:

The Transfer Tax Act, which while providing exemptions , allowances and abatements in certain instances, provides for strict penalties under sections 41 and 42 for false statements or false representations or accounts with a view to receiving a favorable tax treatment. The Tax Collection Act in particular sections 25 and 27 establish stringent penalties for the evasion of taxes by any means. Such evasion could include the receipt of favourable tax treatment for violation of anti-corruption laws.

Jamaica allows various tax incentives to qualifying foreign and local investors to facilitate industrial development exploit and develop local resources, improve competitiveness of Jamaican international trade, promote economic growth and provide employment. Among the applicable laws are the Industrial Incentives (Factory Construction) Act, Bauxite and Alumina Industries (Special Provisions) Act, Hotels (Incentives) Act. There are several controls to reduce or prevent to granting of favourable tax treatment for expenditures made in violation of anti-corruption laws. These controls include the need to satisfy the Commissioner of Customs and Excise in the case of the Industrial Incentives (Factory Construction) Act of the proper entitlement to concessions through the provision of accurate declarations¹ and the liability to fines and custodial sentences under the Industrial Incentives Act.² Sections 14-15 of the Hotels (Incentives) Act also outline strict controls to prevent abuse of favourable tax treatment by requiring strict compliance with the general laws relating to income tax and assigning a role to the Commissioner of Taxpayer Audit and Assessment to refuse to accept certain receipts where there is suspicion of illegal activity. Abuse of incentives and other favourable tax treatment is also generally controlled by virtue of the stringent requirements for verification satisfying the authorities of the entitlement in question.

A foreign sales company (FSC) is exempted from Jamaican income tax on income from foreign trade transactions. However, if requested, an FSC is obliged to file an income tax return and any other information which may be called for under the Income Tax Act. It must also file an annual return as required by the Registrar of Companies. These requirements ensure proper controls in order to reduce prevent incidents of abuse of favourable tax treatment in violation of anticorruption laws. ,

- 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.

¹ Customs Act especially sections 207 and 209 which prescribe -

² Section 8(2)

Section 3 of the Corruption (Prevention) Act (CPA) establishes the Commission for the Prevention of Corruption. Section 5 (1) of the states that:

“The functions of the Commission shall be -

- a. to receive and keep on record statutory declarations furnished by public servants pursuant to this Act;**
- b. to examine such statutory declarations and to request from a public servant any information relevant to a statutory declaration made by him, which in its opinion would assist it in its examination;**
- c. to make such independent enquiries and investigations relating to a statutory declaration as it thinks necessary;**
- d. to receive and investigate any complaint regarding an act of corruption;**
- e. to conduct an investigation into an act of corruption on its own initiative, if it is satisfied that there are reasonable grounds for such investigation.”**

The powers supporting these functions are conferred upon the Commission for the Prevention of Corruption by section 5(2) of the CPA:

“The Commission shall have power to summon witnesses, require the production of documents and to do all such things as it considers necessary or expedient for the purpose of carrying out its functions.”

Analogous functions and powers (concerning Parliamentarians) are accorded to the Integrity Commission by section 5 of PIMA.

Where in respect of any aspect of a statutory declaration the Commission for the Prevention of Corruption is dissatisfied or arrives at a finding of corruption, s 12 of the CPA requires the said Commission to report the matter to the appropriate Service Commission, Board, Body or other Authority and the Director of Public Prosecutions (“DPP”). In turn, the DPP or other authority in receipt of such a report may take such action as appropriate in any particular case. S12 of PIMA requires the same of the Integrity Commission and imbues the DPP and other authorities with a similar discretion.

The Commission for the Prevention of Corruption is required, by paragraph 12 of the First Schedule to the CPA, to have its annual report tabled in and reviewed by Parliament. The Integrity Commission makes its annual report to “Parliamentary Leaders” - the Prime Minister, the Leader of the Opposition, the Speaker of the House, and the President of the Senate – as required by section 12(1) of PIMA. Any of those to whom the annual report is made may take such further action as thought appropriate, including but not limited to publishing the information supplying the information to the DPP, the police, or an officer of the court.

With respect to income tax , section 67 of the Income Tax Act (ITA) provides that every person liable to pay income tax is required to deliver a true and correct return of his whole income in the prescribed form. Section 70 of the Act provides, among other things, that a person is required to make and deliver a return of his income to the Commissioner of Inland Revenue within fifteen days after a notice is served requiring such return.

Persons committing defaults in filing return of income or making false claims are subjected to penalties and liable to prosecution under the Act. Section 72 of the ITA, for instance, grants

the Commissioner the power to make assessments and apply penalties for making fraudulent statements. For the purpose of the assessment of a taxpayer, the Commissioner under S. 75(5) of the ITA may by notice summon any person to give evidence respecting an assessment to attend before him and may examine such person under oath or otherwise.

Section 79 makes provision for the enforcement of payment of taxes which may also be recovered by suit under section 80.

The Commissioner has powers under section 91 of the ITA in connection with the filed tax return or for making the assessment. Under this section the Commissioner has same powers available to him under S. 75 (5) of the ITA discussed above. These powers are available to the Commissioner for the following purposes:

- to verify the correctness of any return, statement, declaration or particulars delivered under the ITA;**
- for obtaining information required for the issue of notice under s.66(3) – a notice issued for failure to declare estimated income tax; and**
- for making assessment under s.72(3) of the ITA**

Section 91(2) of the ITA empowers the Commissioner to authorize any person for the purpose of verifying the correctness of any return, statement, declaration or particulars delivered under the ITA to enter upon any premises and inspect and make copies of any books, documents, or other material relating to a return, statement or declaration.

Information may also be obtained by the Commissioner on the basis of the Revenue Administration Act (RAA). The procedure to obtain information from third parties such as banks and other financial institutions is provided under s. 17G of the RAA. Where a taxpayer does not cooperate, the Commissioner may apply to a judge in Chambers for a production order to compel the third party to produce the information. Such an order can be requested in relation to a person suspected of having possession or control of the information, document or record which is relevant to the duties of the Commissioner in relation to making an assessment in relation to a taxpayer, making an investigation into any case involving tax evasion or for the prevention of fraud on the revenue, determining the tax liability or collecting outstanding tax due.

The judge in Chambers may make an order after satisfaction that the Commissioner concerned has requested the information, document or record from the taxpayer without success and in all the circumstances of the case, there are reasonable grounds for making the order. A person registered under the Public Accountancy Act is required to furnish the information, documents or records which form a part of the taxpayer's accounting records only. The production order overrides the secrecy obligations imposed on the person relating to disclosure of information under any of the Acts³.

³ Secrecy provisions available under various Acts (such as relating to information held by banks) can be overridden under various circumstances, as in the case of the Banking Act and Financial Institutions Act. The information can be obtained by the Commissioner by obtaining a production order.

For the purpose of enforcement of tax collection, the Commissioner has powers to make enquiries, inspect documents and search premises s.171 of the RAA provides that the Commissioner or authorized person for the purpose of exercising any power under a relevant law may enter during office hours the business premises of a taxpayer for carrying out the audit or examination of any accounts, books, records or any other documents relating to that business or inspect any property or goods described in the inventory.

Further penalties are provided in sections 99-103 of the Income Tax Act. These include a fine and treble the amount of tax with which a person ought to be charged or to imprisonment in cases where a person knowingly makes any false statement or representation for the purpose of obtaining any allowance, reduction, rebate or repayment in respect of income tax. Penalties are also outlined for persons who aid, abet, assist, counsel, incite or induce any other person to make, deliver or prepare any false declarations, accounts or particulars under the Act.

Under section 100 of the Income Tax Act, any person guilty of an offence against the Act for which no specific penalty is provided shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding twelve months.

- 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.

No data is available at this time.

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.

Section 120 of the Constitution of Jamaica establishes the office of the Auditor General whose functions include the auditing of the accounts of all departments and offices of the Government of Jamaica at least once in every year. Under Section 122 (1) of the Constitution, the Auditor General shall at all times be entitled to have access to all books, records, returns and reports relating to such accounts.

The powers of the Auditor-general are extremely wide by virtue of Section 122 (5) which provides that:

“(5) Nothing in this section shall prevent the performance by the Auditor-General of-

- (a) such other functions in relation to the accounts of the Government of Jamaica and the accounts of other public authorities and other bodies administering public funds in Jamaica as may be prescribed by or under any law for the time being in force in Jamaica; or**
- (b) such other functions in relation to the supervision and control of expenditure from public funds in Jamaica as may be so prescribed.”**

The Auditor-General is required to be consulted by the auditor or examiner of a public body on any matter relating to his audit or special examination.

In the exercise of his functions, the Auditor-General is not subject to the direction or control of any other person or authority.

There are other provisions in several enactments expressly involving the duties and functions of the Auditor-General, including but not limited to:

- **The Executive Agencies Act, s14;**
- **The Public Bodies Management and Accountability Act, ss10, 11, 13, 14, and 16;**
- **The Parish Councils Act, ss 127, 129, and 132;**
- **The Municipalities Act, s12;**
- **The Corruption (Prevention) Act**
- **The Parliament (Integrity of Members) Act**

Section 144 of the Companies Act⁴ requires every company to keep proper books and documents of account with respect to all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place and must also keep a record of the assets and liabilities of the company. Section 144 (2) requires the keeping of books and documents as are necessary to give a true and fair view of the state of the company’s affairs and to explain its transactions.

- 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.

⁴ Under the Act, a company means a company formed and registered under the Act or an existing company. The Companies Act also governs public companies by virtue of section 2 of the Public Bodies Management and Accountability Act which defines a government company in Section 2 as “ a company registered under the Companies Act, being a company in which the Government or an agency of the Government, by the holding of shares, is in a position to direct the policy of the company.”

The Companies Act provides generally, and in particular, in sections 145-150, 152-153 and 157 appropriate details in respect of the content of records, the place at which records are to be kept, the manner in which records are to be kept, the timeframe for record keeping and reporting requirements, including the presentation of audited reports⁵.

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.

Jamaica has a number of provisions relating to the prevention of bribery of domestic and foreign government officials. The following should be noted:

Section 3 of the Public Bodies Management and Accountability Act provides that as soon as possible after the end of each Financial Year, but not more than four months thereafter, a copy of the annual report and audited financial statements of each public body shall be submitted to the responsible Minister who shall cause such reports and statements to be laid on the Table of the House of Representatives and the Senate.

A public body is defined in section 2 of the Act “a statutory body or authority or any government company”⁶

Section 8 of the Public Bodies Management and Accountability Act provides that:

- “8- (1) Subject to subsections (2) and (3), every public body that has four or more directors shall establish an audit committee consisting of not less than three directors.**
- (2) the board of a public body with three or less than three directors shall constitute the audit committee of that body.**
- (3) The majority of members of an audit committee shall not be officers or employees of the public body.**

Under section 9 (1) (a) of the Public Bodies Management and Accountability Act, the duties of the audit committee include advice to the board on the adequacy, efficiency and effectiveness of the accounting and internal control structure and systems of the public body.

⁵ The Seventh Schedule to the Act provides that accounts referred to in sections 146(2) and 157 of the Act shall, except as otherwise provided in Part II of the Schedule in relation to small companies or small groups be prepared in accordance with generally accepted accounting principles promulgated by the Institute of Chartered Accountants of Jamaica, from time to time, or such other body as the Minister may prescribe.

⁶ A government company is defined in Section 2 as “ a company registered under the Companies Act, being a company in which the Government or an agency of the Government, by the holding of shares, is in a position to direct the policy of the company.”

The audit committee of a public body is also required to:

9- (1)

- “(b) review and advise the board on the financial statements that are to be included in the annual report of the public body;**
- (c) oversee any internal audit of the public body;**
- (d) review and advise the board on the annual auditor’s report;**
- (e) in the case of a public body undergoing a special audit or examination, review and advise the board with respect to the report of that audit or examination; and**
- (f) Perform such other functions as are assigned to it by the board.”**

A number of enforcement provisions are outlined in section 25 of the Public Bodies Management and Accountability Act. Under the section, where any person has contravened stated provisions of the Act, the Court may under subsection (2), order the person concerned to pay to the Crown such pecuniary penalty not exceeding one million dollars, or grant an injunction restraining that person from engaging in the conduct prohibited under the Act.

Under sections 22 and 23, public bodies are required to prepare and submit annual, half-yearly and quarterly reports, the contents of which are clearly outlined in the Second schedule to the Act 7.

The quality of record keeping in respect of accounting and internal controls is protected under the Public Accountancy Act. The Public Accountancy Act establishes the Public Accountancy Board. The functions of the Board are generally to promote, in the public interest, acceptable standards of professional conduct among registered public accountants in Jamaica.

The Act also provides for the incorporation of the Institute of Chartered Accountants of Jamaica as a body corporate⁸. The objects of the Institute include promoting and increasing the knowledge, skill and proficiency of its members and students, regulating the discipline and professional conduct of its members and students, promoting and protecting the welfare and interest of the Institute and the accounting profession in Jamaica, making provision for the training, education and examination of persons engaging in or intending to engage in the profession⁹. The Institute is also empowered to make by-laws for, among other things, the exercise of disciplinary authority over members and students of the Institute¹⁰. The Institute has a code of ethics for its members¹¹.

The Financial Administration and Audit Act governs the management of government accounts by assigning specific roles to the Auditor General and the Financial Secretary. It also makes

⁷ Under section 10 of the Public Bodies Management and Accountability Act, the Financial Secretary shall, after consultation with public bodies, the Auditor-General, the Institute of Chartered Accountants of Jamaica and such other suitably qualified persons as may be expedient, prepare and keep under review, a code of audit practices prescribing the way in which auditors are to carry out their functions under the Act. The Code must conform with generally accepted auditing standards.

⁸ Section 16(1) Public Accountancy Act

⁹ Section 18.

¹⁰ Section 20.

¹¹ http://www.ica.j.org/index.php?option=com_content&task=view&id=22&Itemid=59

specific provision for the management of the accounts of public bodies¹² by providing, among other things for inspection of their accounts¹³. The Financial Secretary upon a report from the Auditor General, may surcharge a Public Officer, pursuant to section 20 of the Financial Administration and Audit Act.

There are also provisions in the Cooperative Societies Act, which regulate cooperative societies and credit unions. The Financial Institutions Act and the Financial Institutions Regulations regulate financial institutions. The Financial Services Commission Act supervises and regulates prescribed financial institutions. The Insurance Act and Regulations govern the operation of insurance companies. The Banking Act provides for the proper regulation and control of Banks. The Securities Act regulates the securities Market in Jamaica. The Building Societies Act regulates the conduct of building societies.

The aforementioned pieces of legislation outline appropriate criminal, financial, and other penalties for those who infringe their provisions and establish the organs and agencies responsible for prevention and/or investigation of their violation and for imposing the appropriate punishment.

Among the provisions establishing penalties is section 144 (5) of the Companies Act which states that if any person being a director of a company fails to take all reasonable steps to secure compliance by the company with the requirements for the maintenance of proper books and documents of accounts he shall in respect of each offence be liable on summary conviction before a Resident Magistrate to imprisonment with or without hard labour for a term not exceeding six months or to a fine not exceeding fifty thousand dollars. Similar penalties are provided in section 145-147. Sections 152-153 also provide specific penalties in cases of non compliance with the requirements for proper accounting records. Sections 384-386 also outline general penalties and fines and makes provision for the prosecution of offences under the Act.

The above provisions are important in deterring or impeding bribery of domestic and foreign government officials by establishing mechanisms to ensure that publicly held companies and other types of associations maintain books and records which facilitate proper accounting controls.

- b) In relation to question a), briefly mention the objective results that have been obtained in enforcing the respective laws and/or other measures to which it refers, such as steps taken to prevent or investigate their infringement and penalties imposed in that regard, providing any relevant statistical data available in your country, if possible for the last two years.

Pursuant to Section 4(1) of the Contractor General Act¹⁴, the Office of the Contractor General (OCG) has used the provisions of the Financial Administration and Audit Act, the Corruption

¹² Public bodies are defined in section 2 of the Act as a statutory body or authority or any government company.

¹³ Sections 41-52 of the Financial Administration and Audit Act.

¹⁴ Under the section, the Contractor General has the power, inter alia, to monitor the award of contracts by public bodies and have access to all books, records, documents etc relating to the granting of licences or contracts by public bodies. Public bodies is defined any company registered under the Companies Act in which the Government or any agency of the Government whether by holding of shares or by other financial input, is in a position to influence the policy of the company.

Prevention Act, and the Public Bodies Management and Accountability Act as guidelines for the conduct of public administration.

In this regard, the OCG has on several occasions referred breaches of the referenced statutes to the respective authorities, namely the Director of Public Prosecutions, the Auditor General and the Attorney General for any action as they deem appropriate, having regard to the breaches identified.

- c) If there are no laws and/or other measures such as those mentioned in question a), briefly indicate how your State has considered the applicability within your own institutional system of the provisions contained in Article III (10) of the Convention.

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.

Jamaica has criminalized transnational bribery by virtue of section 14(4) of the Corruption (Prevention) Act. The section provides that “any citizen or resident of Jamaica or any corporation, either aggregate or sole, any club, society or other body of one or more persons, who offers or grants, directly or indirectly, to a person performing a 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 any act to be performed by or for the omitting to do any act by that person in the performance of that person’s public functions, commits an act of corruption.”

The Act also provides in section 14 (9) that “ where a citizen of Jamaica commits in another State, an act of corruption specified in subsection (1), (2), (3), (4), (5), (6), (7), or (8), he shall be liable to be prosecuted and tried for such act as if he had committed the act in Jamaica.”

Offences and penalties under the act are outlined in section 15. Section 15(1) provides that :

“any person who commits an act of corruption commits an offence and is liable-

(a) on summary conviction in a Resident Magistrate’s Court –

- (i) in the case of a first offence to a fine not exceeding one million dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment; and**

(ii) **in the case of a second or subsequent offence to a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment;**

(b) on conviction in a Circuit Court-

(i) **in the case of a first offence to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and**

(ii) **in the case of a second or subsequent offence to a fine not exceeding ten million dollars or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment**

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.

No data is available at this time.

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

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.

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.

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.

Jamaica has criminalized illicit enrichment by virtue of section 14(1) of the Corruption Prevention Act. By virtue of the section, a public servant commits an act of corruption if he -

...

(b) in the performance of his public functions does any act or omits to do any act for the purpose of obtaining any illicit benefit for himself or any other person;

Under section 14 (5) of the Act, “where a public servant-

- (a) owns assets disproportionate to his lawful earnings; and**
- (b) upon being requested by the Commission¹⁵ or any person duly authorized to investigate an allegation of corruption against him, to provide an explanation as to how he came by such assets, he-**
 - (i) fails to do so; or**
 - (ii) gives an explanation which is not considered to be satisfactory,**

he shall be liable to prosecution for the offence of illicit enrichment, and on conviction thereof, to the penalties specified in section 15(1)

Section 5A provides, however, that it shall be a defence to a person charged with an offence of illicit enrichment to show the court that he came by the assets by lawful means.

The Commission for the Prevention of Corruption is required to report acts of corruption (under s12(1) and (2) of the CPA) to the Director of Public Prosecutions and the appropriate Service Commission, Board, Body or other Authority. One found to be an offender may – by virtue of s12(3) of the CPA - be subject to such disciplinary action as the Service Commission, relevant board or other authority thinks fit.

Offences and penalties for illicit enrichment under the Act are outlined in section 15 (1). Section 15(1) provides that :

“any person who commits an act of corruption commits an offence and is liable-

- (c) on summary conviction in a Resident Magistrate’s Court –**
 - (iii) in the case of a first offence to a fine not exceeding one million dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment; and**
 - (iv) in the case of a second or subsequent offence to a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment;**
- (d) on conviction in a Circuit Court-**
 - (iii) in the case of a first offence to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and**

¹⁵ The Commission for the Prevention of Corruption established under section 3.

(iv) **in the case of a second or subsequent offence to a fine not exceeding ten million dollars or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment**

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.

No data is available at this time.

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

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.

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.

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.

Jamaica criminalized transnational bribery and illicit enrichment as provided in articles VIII and IX of the Inter-American Convention against Corruption after the date on which it ratified the Convention and notified the Secretary-General of this fact in a communication dated 28th July 2010.

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.

Jamaica has enacted the Extradition Act which governs extradition to and from approved States.

The following are the relevant sections of the Act:

5.-(1) For the purposes of this Act, any offence of which a person is accused or has been convicted in an approved State is an extradition offence, if-

(a) in the case of an offence against the law of a designated Commonwealth State-

(i) it is an offence which is punishable under that law with imprisonment for a term of two years or any greater punishment; and

(ii) the act or omission constituting the offence, or the equivalent act or omission, would constitute an offence against the law of Jamaica if it took place within Jamaica (or in the case of an extraterritorial offence, in corresponding circumstances outside Jamaica) and would be punishable under the law of Jamaica with imprisonment for a term of two years or any greater punishment;

(b) in the case of an offence against the law of a treaty State-

(i) it is an offence which is provided for by the extradition treaty with that State; and

(ii) the act or omission constituting the offence, or the equivalent act or omission, would constitute an offence against the law of Jamaica if it took place within Jamaica or, in the case of an extraterritorial offence, in corresponding circumstances outside Jamaica.

The Extradition Act defines "treaty State" as follows

(a) a foreign State in relation to which an order under section 4 is for the time being in force and includes -

(i) a colony, territory, protectorate or other dependency of such State,

(ii) a territory for the international relations of which such State is responsible; and

(iii) a ship or aircraft of, or registered in, such State;

(b) in so far as Article 8 of the Montreal Convention requires, a contracting party to that Convention; and

(c) in so far as Article 8 of the Hague Convention requires, a contracting party to that Convention.

Subject to the provisions of the Act, a person found in Jamaica who is accused of an extradition offence in any approved State or who is alleged to be unlawfully at large after conviction of such an offence in any such State, may after conviction of such an offence in any such State, be arrested and returned to that State as provided by this Act.

- 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.

Section 7 of the Extradition Act outlines general exemptions on extradition. Among those exemptions, subsection 5 of section 7 states that:

“ The Minister may, in his discretion, refuse to extradite a fugitive on the ground that the fugitive is a citizen of Jamaica, but he shall not refuse to extradite the fugitive on that ground if the fugitive is also a citizen of the approved State that has requested the extradition.”

The general principle of extradite or prosecute, while not specified in the Extradition Act, is found in extradition treaties entered into by Jamaica. Therefore, where nationality is used as a ground to refuse extradition Jamaica remains bound to submit the case if it has jurisdiction over the offence to its highest competent authorities for a decision as to prosecution in accordance with Jamaican law¹⁶. Jamaica has statutory provisions creating jurisdiction for specified crimes, thus enabling the Director of Public Prosecutions to prosecute. Under the London Scheme for Extradition within the Commonwealth, which is applicable to Jamaica, it is also provided that in order to ensure that a Commonwealth country cannot be used as a haven from justice, each country which reserves the right to refuse to extradite nationals or permanent residents will take, subject to its constitution, such legislative action and other steps as may be necessary or expedient in the circumstances to facilitate the trial or punishment of a person whose extradition is refused on that ground.

The legislative action necessary may include –

(a) providing that the case be submitted to the competent authorities of the requested country for prosecution;

(b) permitting:

(i) the temporary extradition of the person to stand trial in the requesting country on condition that, following trial and sentence, the person is returned to the requested country to serve his or her sentence; and

(ii) the transfer of convicted offenders; or

(c) enabling a request to be made to the relevant authorities in the requesting country for the provision to the requested country of such evidence and other information as would enable the authorities of the requested country to prosecute the person for the offence.

Jamaica is also party to a number of treaties which contain the obligation to extradite or prosecute¹⁷.

Jamaica does not have a practice, however, of refusing extradition solely on the grounds of nationality.

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

¹⁶ As provided for example in the Jamaica/USA Extradition Treaty.

¹⁷ Those treaties include the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption and a number of international conventions against terrorism,

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.

The extradition Act provides that the State may, upon being satisfied that the circumstances so warrant and are urgent, and at the request of an approved State take into custody the person whose extradition is sought. The following are the relevant sections:

8.--(1) Subject to the provisions of this Act relating to provisional warrants, a person shall not be dealt with under this Act except in pursuance of an order of the Minister (in this Act referred to as "authority to proceed") issued in pursuance of a request made to the Minister by or on behalf of an approved State in which the person to be extradited is accused or was convicted.

(2) There shall be furnished with any request made for the purposes of this section by or on behalf of any approved State-

**(a) in the case of a person accused of an offence, a warrant for his arrest issued in that State; or
(b) in the case of a person unlawfully at large after conviction of an offence, a certificate of the conviction and sentence in that State and a statement of the part, if any, of that sentence which has been served, together with, in each case, the particulars of the person whose extradition is requested, and of the facts upon which and the law under which he is accused or was convicted, and evidence sufficient to justify the issue of a warrant for his arrest under section 9.**

(3) On receipt of such a request the Minister may issue an authority to proceed , unless it appears to him that an order for the extradition of the person concerned could not lawfully be made, or would not in fact be made, in accordance with the provisions of this Act.

9-(1) A warrant for the arrest of a person accused of an extradition offence, or alleged to be unlawfully at large after conviction of such an offence, may be issued-

(a) on receipt of an authority to proceed, by a magistrate within the jurisdiction of whom such person is or is believed to be; or

(b) without such an authority, by a magistrate upon information that such person is in Jamaica or is believed to be on his way to Jamaica; so, however, that the warrant, if issued under this paragraph, shall be provisional only.

(2) A warrant of arrest under this section may be issued upon such information as would, in the opinion of the magistrate, authorize the issue of a warrant for the arrest of a person accused of committing a corresponding offence or, as the case may be, of a person alleged to be unlawfully at large after conviction of an offence, within the jurisdiction of the magistrate.

(3) A warrant of arrest issued under this section (whether or not it is a provisional order) may, without an endorsement to that effect, be executed in any part of Jamaica, whether such part is within or outside the jurisdiction of the magistrate by whom it is so issued, and may be so executed by any person to whom it is directed or by any constable.

(4) Where a provisional warrant is issued, the magistrate by whom it is issued shall forthwith give notice of the issue to the Minister, and transmit to him the information and evidence, or a certified copy of the information and evidence, upon which it was issued, and the Minister may in any case, and shall, if he decides not to issue an authority to proceed in respect of the person to whom the warrant relates, by order cancel the warrant and, if that person has been arrested thereunder, discharge him from custody.

10 (1) A person arrested in pursuance of a warrant issued under section 9 shall, unless previously discharged under subsection (4) of that section, be brought as soon as practicable before a magistrate (in this Act referred to as "the court of committal") who shall hear the case in the same manner, as nearly as may be, as if he were sitting as an examining justice and as if that person were brought before him charged with an indictable offence committed within his jurisdiction.

(2) For the purposes of proceedings under this section, a court of committal shall have, as nearly as may be, the like jurisdiction and powers (including power to remand in custody or to release *on bail*) as it would have if it were sitting as an examining justice and the person arrested were charged with an indictable offence committed within its jurisdiction.

(3) Where the person arrested is in custody under a provisional warrant and no authority to proceed has been received in respect of him, the court of committal may, subject to subsection (4), fix a reasonable period (of which the court shall give notice to the Minister) after which he shall be discharged from custody unless an authority to proceed has been received.

(4) Where an extradition treaty applicable to any request for extradition specifies a period (hereinafter referred to as the treaty period) for the production of documents relevant to an application for extradition, any period fixed pursuant to subsection (3) shall be such as to terminate at the end of the treaty period.

(5) Where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied, after hearing any evidence tendered in support of the request for the extradition of that person or on behalf of that person, that the offence to which the authority relates is an extradition offence and is further satisfied-

(a) where the person is accused of the offence, that the evidence would be sufficient to warrant his trial for that offence if the offence had been committed in Jamaica; or

(b) where the person is alleged to be unlawfully at large after conviction for the offence, that he has been so convicted and appears to be so at large, the court of committal shall, unless his committal is prohibited by any other provision of this Act, commit him to custody to await his extradition under this Act; but if the court of committal is not so satisfied or if the committal of that person is so prohibited, the court of committal shall discharge him from custody.

11 (1) Where a person is committed to custody under section 10 (5), the court of committal shall inform him in ordinary language of his right to make an application for *habeas corpus* and shall forthwith give notice of the committal to the Minister.

(2) A person committed to custody under section 10 (5) shall not be extradited under this Act-

(a) in any case, until the expiration of the period of fifteen days commencing on the day on which the order for his committal is made; and

(b) if an application for *habeas corpus* is made in his case, so long as proceedings on the application are pending.

(3) On any such application the Supreme Court may, without prejudice to any other power of the Court, order the person committed to be discharged from custody if it appears to the Court that-

(a) by reason of the trivial nature of the offence of which he is accused or was convicted; or

(b) by reason of the passage of time since he is alleged to have committed the offence or to have become unlawfully at large, as the case may be; or

(c) because the accusation against him is not made in good faith in the interest of justice, it would, having regard to all the circumstances, be unjust or oppressive to extradite him.

(4) On any such application the Supreme Court may receive additional evidence relevant to the exercise of its jurisdiction under section 7 or under subsection (3) of this section.

(5) The provisions of subsection (3) shall *mutatis mutandis* apply in relation to any appeal against the Supreme Court's refusal to grant a writ of habeas corpus.

(6) For the purposes of this section, proceedings on an application for habeas corpus shall be treated as pending until any appeal in those proceedings is disposed of; and an appeal shall be treated as disposed of at the expiration of the time within which the appeal may be brought if the appeal is not brought within that time.

13.-(1) If any person committed to await his extradition is in custody in Jamaica under this Act after the expiration of the following period, that is to say-

(a) in any case, the period of two months commencing with the first day on which, having regard to subsection (2) of section 11, he could have been extradited; or

(b) where a warrant for his extradition has been issued under section 12, a period of one month commencing with the day on which that warrant was issued, he may apply to the Supreme Court for his discharge.

(2) If upon any such application the Supreme Court is satisfied that reasonable notice of the proposed application has been given to the Minister, the Supreme Court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged from custody and, if a warrant for his extradition has been issued under section 12, quash that warrant.

15(1) Any person remanded or committed to custody under section 10 shall be committed to the like institution as a person charged with an offence before the court of committal.

(2) If any person who is in custody by virtue of a warrant under this Act escapes from custody, he may be apprehended in any part of Jamaica in like manner as a person escaping from custody under a warrant for his arrest issued in that part in respect of an offence committed therein.

(3) Where a person being in custody in any part of Jamaica whether under this Act or otherwise, is required to be removed in custody under this Act to another part of Jamaica and is so removed, he shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed.

(4) A warrant issued under section 12 for the extradition of any person to any approved State shall be sufficient authority for all persons to whom it is directed and for all police or prison officers to receive that person and keep him in custody and convey him into the jurisdiction of that State.

(5) Any warrant or order required to be issued or made by the Minister under the provisions of this Act shall be in such form (if any) as may be prescribed and shall be given under the hand of the Minister.

- c) 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.

No data is available at this time.

SECTION II

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

1. First Round

In accordance with Article 29 of the *Rules*, please provide information, in the standard format attached to this questionnaire (Annex I), on progress on each of the recommendations made to your State in the First Round, on which your country did not supply information with regard to progress in their implementation in its response to Section II of the Questionnaire for the Second Round, or on those that it supplied information but which the Committee considered in Section IV of your country's report for that round that they needed additional attention.

2. Second Round

In accordance with Article 29 of the *Rules*, please provide information, in the standard format attached to this questionnaire (Annex II), on progress in implementation of the recommendations formulated in the report adopted by the Committee with respect to your country in the framework of the Second Review Round.

SECTION III

INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

Please provide the following information:

- (a) State Party: JAMAICA
- (b) The official to be consulted regarding the responses to the questionnaire is:
- () Mr.: O'Neil Francis
- () Ms.: _____
- Title/position: Assistant Crown Counsel
- Agency/office: Attorney General's Chambers
- Address: NCB (North) Tower, 2 Oxford Road, Kingston 5
- Telephone number: (876) 906-2414
- Fax number: (876) 754-5158
- E-mail address: ofrancis@agc.gov.jm

INSTRUCTIONS FOR PRESENTATION OF INFORMATION ON PROGRESS IN IMPLEMENTING RECOMMENDATIONS MADE AT THE FIRST AND SECOND ROUNDS OF REVIEW

- A. Under each measure suggested by the Committee briefly describe the concrete steps that have been taken to implement said measure. If an alternative measure was taken please give details. As appropriate, please indicate the Internet web site where information in greater detail may be obtained on the measures adopted and steps taken to implement the respective recommendation, precisely identifying the information in reference on that site:
- B. Briefly mention any difficulties observed in the process of implementing the respective recommendation. If you consider it appropriate, please also mention the Internet web site where information in greater detail may be obtained in that regard, precisely identifying the information in reference on that site:
- C. If appropriate, please mention which domestic agencies have participated in implementing the recommendations and identify concrete technical assistance and other needs that you may have in connection with the implementation of the recommendation. Furthermore, as appropriate, also mention the Internet web site that describes in greater detail the aspects mentioned herein, precisely identifying the information in reference on that site:

RECOMMENDATIONS TO JAMAICA BY THE COMMITTEE OF EXPERTS DURING THE FIRST ROUND OF REVIEW

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:

Strengthen the implementation of laws and regulatory systems related to conflicts of interest, ensuring that they are applicable to all public officials and employees, so as to permit practical and effective application of a public ethics system.

Measures suggested by the Committee:

a. Establish or adapt and then implement standards of conduct for those offices that currently do not fall under the purview of any controls, including adequate sanctions for violations of those standards.

While no express provision has yet been made in the Judicial Service regulations, the following administrative procedures have been implemented by the Judicial Service Commission:

In order to fill vacancies for Resident Magistrates, Masters in Chambers, Puisne judges and Judges of Appeal all posts have been advertised and application forms developed. Advertisements have been posted in leading newspapers, in the electronic media, at Jamaica's overseas diplomatic missions and on the internet. Short listed applicants are duly interviewed by the Judicial Service Commission.

b. Establish written guidelines within the public service that require hiring on the basis of merit.

The Public Service Commission is currently in the process of completely revising the Public Service Regulations. The changes proposed include:

- **express provisions that recruitment and appointment in the public service shall be based on merit.**
- **provisions requiring that where a vacancy exists, the Public service Commission is required to consider the eligibility of all officers for filling such vacancy and take such other steps including advertisement for the filling of the vacancy.**
- **that unsuccessful applicants should have the right of appeal and that an appeal should be considered in light of the requirements outlined in the Public Service Regulations, including merit.**

c. Develop, where appropriate, provisions that limit participation by former public servants in situations that could involve taking undue advantage of one's status as a former public servant for an appropriate period of time.

d. Encourage the implementation of a code of ethics for Senators and Members of the House of Representatives, including sanction mechanisms for violations.

e. Ensure that there are mechanisms in place that provide transparency and eliminate risks of conflict of interest in the cases where the Prime Minister allows a Minister to keep any relevant interest the latter is unable or unwilling to dispose.

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 1.2.1:

Strengthen control systems within the public administration by improving written standards applicable to all public officials and employees establishing a duty to conserve and properly use of the resources entrusted or assigned to them.

Recommendation 1.2.2:

Adopt measures to ensure the timely delivery by government agencies of appropriation accounts to the Auditor General and encourage greater accountability in instances where some agencies exceed expenditures approved by Parliament.

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

Recommendation 1.3:

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

Measures suggested by the Committee:

a. Establish reporting obligations for those public officials and employees who are currently not required to report to appropriate authorities, acts of corruption in the performance of public functions of which they are aware.

A Protected Disclosure Bill (whistleblower legislation) has been drafted and is currently being debated by a Joint Select Committee of Parliament. The Act, when passed, will facilitate and encourage the making of disclosures of improper conduct, in the public interest. The Act is also expected to provide that any provision of an agreement will be void and of no effect if the provision precludes an employee from making a protected disclosure.

b. Adopt and implement measures of protection for public officials who report acts of corruption in good faith in order to protect them from the threats or reprisals that they may be subject as a result of carrying out this obligation.

A Protected Disclosure Bill (whistleblower legislation) has been drafted and is currently being debated by a Joint Select Committee of Parliament. The object of the Bill is to encourage and facilitate the making by employees of specified disclosures of improper conduct, in the public interest; to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct; to protect employees who make specified disclosures from being subject to occupational detriment; and for related matters.

c. Provide appropriate training to officials and employees concerning the requirement and the processes to report acts of corruption and the protection mechanisms in favor of those who report.

The Office of the Contractor General (OCG) on its website, (www.ocg.gov.jm), has a “*Report Impropriety*” link, which allows the public to report to the OCG any acts of impropriety or irregularity in the procurement, award or termination of a Government contract, permit or licence.

Through this link the OCG has received several complaints and allegations of impropriety in public contracting. The link has assisted the OCG to conduct effective enquiries into the matters which have been reported.

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

Recommendation:

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

Measures suggested by the Committee:

a. Maximize the use of the systems for analyzing the contents of the declarations, and adopt the appropriate measures so that they can also be used to help detect and prevent conflicts of interest and detect cases of illicit enrichment, using modern technologies, when possible, to expedite the filing of declarations and also as a means of improving systems, analysis and case investigations.

The Commission for the Prevention of Corruption updates on an annual basis the database of Public Servants required to submit a Statutory Declaration of Assets, Liabilities and Income. This database is used as a tool in tracking and making enquiries of delinquent Public Servants. The Second Schedule to the Corruption (Prevention) Act prescribes the Form on which Public Servants are required to make their Declarations. The Law specifies that the Declaration must be accompanied by bank statement(s) or letter(s) from banks confirming the balance(s) reported. The Commission has advised all Government Agencies and Departments that it is prepared to accept photo-copies of bank pass books, Automated Transaction Machine Slips and Electronic Banking (e-banking) statements with a view to expediting the filing of declarations.

The Commission for the Prevention of Corruption has proposed certain amendments to the Corruption Prevention Act which have been forwarded to a Joint Select Committee of the Houses of Parliament. These include the recommendation that the Act prohibit Public Sector Officers and employees from situations that create conflicts of interest in Public Duties. The Commission has further recommended that an appropriate code of conduct be developed to guide Public Sector Officers and employees.

b. Regulate the conditions, procedures, and other aspects relating to the public disclosure, as appropriate, of declarations of income, assets and liabilities, subject

to the Constitution and fundamental principles of Law.

The Corruption Prevention Act treats with this issue with a view to securing maximum compliance in accordance with the Constitution and fundamental principles of Law.

c. Intensify awareness campaigns and provide training for public officials on their legal and ethical duty to furnish their declarations of income, assets and liabilities, as well as for officials in charge of enforcing the obligation to file declarations.

Section 5 (f) of the Financial Investigations Division Act 2010 includes among the functions of the Financial Investigations Division promoting public awareness and understanding of financial crimes (defined as any offence involving money or other benefits and includes any offence involving fraud, dishonesty, money laundering or the financing of terrorist activities) and the importance of their elimination from the society.

d. Strengthen the bodies responsible for overseeing the compliance of public officials to furnish their declarations of income, assets and liabilities, as well as consider strengthening the Office of the Director of Public Prosecutions, as necessary, to ensure that these bodies have the material and human resources needed to enforce the law and prosecute those who fail to submit their declarations, those who provide a statement with false information, or those who commit the offence of illicit enrichment.

Sections 4 and 5 of the Financial Investigations Division Act 2010 create the Financial Investigations Division with responsibility for, *inter alia*, investigating financial crimes at the request of the Director of Public Prosecutions, the Commissioner of Police or any other public body, or on the initiative of the Chief Technical Director of the FID. Where the Chief Technical Director of the FID considers it necessary it may disseminate information and reports on financial crimes and related matters to, *inter alia*, the Attorney-General, the Commissioner of Police, any of the Revenue Commissioners under the Revenue Administration Act, the Commission for the Prevention of Corruption (Prevention) Act or the Director of Public Prosecutions.

The resources of the Commission for the Prevention of Corruption were supplemented following a review of the Organisational Structure which provides for a new Staff Structure inclusive of investigators.

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

Recommendation 3.1:

Establish bodies, or provide additional authority to an existing body, in charge of overseeing those offices that currently do not fall under the purview of any controls.

Recommendation 3.2:

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

Recommendation 3.3:

Have the oversight bodies keep and systematize information for the purpose of performing an objective evaluation of the results of the legal framework and other measures.

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

No recommendations were made to Jamaica in this section.

4.2 Mechanisms for access to information

Recommendation 4.2:

Strengthen the mechanisms for ensuring public access to information.

Measures suggested by the Committee:

a. Review and if necessary modify the provisions under the Access to Information Act which allows the Minister of Information to exclude any statutory body or authority from the application of the Act.

All provisions of the Access to Information Act (2002) are currently being reviewed by a Joint Select Committee of Parliament.

b. Continue developing training and dissemination programs dealing with the mechanisms for public access to information, in order to help civil servants and citizens understand them and to optimize the use of available technology to that end.

The Access to Information Unit implements public education programmes targeted at various stakeholder groups and interests, ranging from senior citizens to young people in rural and urban communities. The Unit also develops and implements training programmes for public servants. These programmes are reviewed and updated on an ongoing basis. These activities include:

a) The Schools Access to Information Education Programme (S.A.T.I.E.P) in Urban and Rural Communities;

b) Right to Know Week activities (annually)

c) The continuous utilization of the Access to Information Unit's website and online social networking sites such as Facebook, Youtube and Twitter to promote access to information. Continuous improvements are being made in the dissemination of information to all target groups online;

d) The use of Public Authority websites to promote mechanisms for public access to information and proactive disclosure of information.

e) Television advertisements on the Public Broadcasting Channel (PBCJTV)

f) Ongoing targeted training sessions are held in collaboration with the Central Government, Local Authorities, Government companies and other statutory bodies annually. For example, the Access to Information Unit and the Ministry of Education recently targeted new principals from public schools across the island. These training sessions involved principals from all six school regions – with over one hundred and fifty principals and school representatives in attendance. This allowed the Unit to address issues specific to the operation of public schools and their administration of the Access to Information Act (2002) including records and information management practices.

g) Ongoing guidance provided to individual access officers with regard to best practices and responding to requests in the timeframe requested;

h) Implementation of a support programme designed to assist new Access Officers in carrying out their duties under the Act;

i) The continuous review and update of core training programmes for public authority personnel. The Unit is currently developing new core modules for access officers on processing requests, the duty to assist and the public interest for implementation in September.

c. Continue the preparation of quarterly reports on the access to information requests presented to public authorities, including more detailed information on the status of

such requests (e.g., average time taken for completion).

Steps are being taken to enhance the current reporting system (including Quarterly Reports). A comprehensive review of reporting standards is being completed and new standards are being developed. Training and implementation will begin within the current fiscal year 2010/2011

d. Take the appropriate measures to ensure that requests to access to information are responded to within the time-frame established by the Access to Information Act.

Ongoing training in this area will continue and the Access to Information Unit has increased monitoring of response and processing times for access to information requests including those from the media based on complaints received;

Grant funding for real-time electronic tracking systems to monitor how requests are being treated is necessary.

The Joint Select Committee reviewing the Act is also examining this issue.

4.3 Mechanisms for consultation

Recommendation 4.3:

Strengthen the existing mechanisms of consultation.

Measure suggested by the Committee:

Continue implementing consultation mechanisms with interested sectors of civil society and nongovernmental organizations regarding the design of public policies and the legislative process in efforts to prevent corruption.

4.4 Mechanisms to encourage participation in public administration

Recommendation 4.4:

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

Measures suggested by the Committee:

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

b. Promote public awareness of available corruption prevention mechanisms.

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

Recommendation 4.5:

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

Measures suggested by the Committee:

a. Promote additional methods, where appropriate, to allow, facilitate, and assist civil society and nongovernmental organizations in developing activities in the follow up of public administration and the prevention of corruption.

b. Design and implement specific programs to publicize the mechanisms for encouraging participation in the follow up of public administration.

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

Recommendation 5.1:

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

Recommendation 5.2:

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

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

Recommendation:

Jamaica has complied with Article XVIII of the Convention, by designating the Minister responsible for Justice and the Director of Public Prosecutions as the central authority for the purposes of international assistance and cooperation under the Convention, as indicated in Chapter II, Section 6, of this report.

In light of the comments made in this section, the Committee suggests that Jamaica ensure that the aforementioned central authority has the necessary human and technical resources to ensure adequate performance of its functions.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1:

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

Recommendation 7.2:

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

Recommendation 7.3:

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

RECOMMENDATIONS TO JAMAICA BY THE COMMITTEE OF EXPERTS DURING THE SECOND ROUND OF REVIEW

1.1. Systems of Government Hiring

Recommendation:

Establish, maintain and strengthen the systems of government hiring of public servants, when applicable, that assure the openness, equity and efficiency of such systems.

Measures suggested by the Committee:

- a) *Adopt, through the appropriate legislative and/or administrative procedures provisions that explicitly provide that government hiring into the Public Service is to be based on the principle of merit.*

The Public Service Commission is currently in the process of completely revising the Public Service Regulations. The changes proposed include:

- **express provisions that recruitment and appointment in the public service shall be based on merit.**
- **provisions requiring that where a vacancy exists, the Public service Commission is required to consider the eligibility of all officers for filling such vacancy and take such other steps including advertisement for the filling of the vacancy.**
- **that unsuccessful applicants should have the right of appeal and that an appeal should be considered in light of the requirements outlined in the Public Service Regulations, including merit.**

b) Adopt, through the appropriate legislative and/or administrative procedures, mechanisms that provide clearly defined criteria for the advertisement of hiring opportunities, and to ensure that when a Civil Public Service position is open to the public, the Public Service Commission is required to advertise it.

The Public Service Commission is currently in the process of completely revising the Public Service Regulations. The changes proposed include requiring the advertisement of posts in the filling of vacancies.

c) Make the necessary changes so that probationary employment system, as part of the selection process, is applied with uniform criteria throughout the public administration, in order to promote the principles of equity and efficiency as set out in the Convention.

Among changes currently being proposed for amendment to the Public Service Regulations are provisions that probationary employment or temporary employment systems, as part of the selection process, is applied with uniform criteria throughout the public administration.

d) Strengthen the legal provisions regarding the Service Commissions to ensure 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.

e) Adopt, through the appropriate legislative and/or administrative procedures, provisions concerning those positions in the Judicial Service that are not governed by the Constitution, that explicitly provides that government hiring into the Judicial Service is to be based on the principle of merit.

f) Take the necessary steps, including the amendments of its legislation that it deems relevant, in order to ensure that when a position is open to the general public in the Judicial Service it is advertised to the general public, and that use is made of mass media.

While no express provision has yet been made in the Judicial Service regulations, the following administrative procedures have been implemented by the Judicial Service Commission:

In order to fill vacancies for Resident Magistrates, Masters in Chambers, Puisne judges and Judges of Appeal all posts have been advertised and application forms developed. Advertisements have been posted in leading newspapers, in the electronic media, at Jamaica's overseas diplomatic missions and on the internet. Short listed applicants are duly interviewed by the Judicial Service Commission.

g) Adopt, through the appropriate legislative and/or administrative procedures, mechanisms that provide clearly defined criteria for the advertisement of hiring opportunities for all vacancies within the Judicial Service.

The Judicial Service Commission has recently outlined a procedures mentioned in 1.1 (f) above for the advertisement of posts in the Judicial service.

1.2. Government Systems for the Procurement of Goods and Services

Recommendation:

Strengthen systems for the procurement of goods and services by the government.

Measures suggested by the Committee:

a) Set up appropriate deadlines, where possible, in which the steps of the procurement process will take place.

b) Adopt appropriate legislative and/or administrative procedures that establish clear criteria for determining when procurement is of a “sensitive” nature, when an unsolicited proposal is meritorious, what circumstances justify an unusual and compelling urgency, and what the criteria will be when there is more than one source that could provide highly specialized services.

The Government of Jamaica Procurement Guidelines is currently being revised by the Ministry of Finance and the Public Service. These issues will be addressed in the revised guidelines.

c) Strengthen the legal provisions regarding the National Contracts Commission, so that contractors who have been denied registration, or have been disqualified, suspended or stricken from the NCC registers of approved contractors, have access to the dispute resolution mechanisms of Section 2.12 of the Handbook of Public Sector Procurement Services.

d) Strengthen and increase the scope of use of electronic communications, 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, and consider the possibility of making it mandatory.

The Office of the Contractor General has made available to the Public Sector its website for advertising tenders. The Office of the Contractor General also currently publishes its Quarterly Contracts Awards (QCA) Report on its website. The QCA Report details the particulars of contracts which are awarded by Public Bodies annually since May 2006. The QCA details the particulars for contracts which are of a value of between J\$275,001 and J\$10,000,000 as at November 2008 and a value of between J\$250,000 to J\$4 Million prior to November 2008.

The OCG also publishes a list of contracts which are endorsed by the National Contracts Commission (NCC) on its website. Pursuant to the requirements of circular #36, which was issued by the Ministry of Finance and the Public Service on September 22, 2008, recommendations for the award of all Government contracts that are above J\$10 Million, must be independently reviewed, scrutinized and endorsed by the NCC before the contract can be awarded by the recommending Public Body or Government Agency.

e) Strengthen the electronic procurement system, to continue to facilitate the acquisition of goods and services through those means.

In 2007, the Ministry of Finance and the Public Service initiated a process for the launch of E-Procurement.

f) Publicize to bidders that they are able to request from the contracting agency an explanation in those cases where their bid is unsuccessful.

g) Implement provisions to strengthen citizen oversight mechanisms to monitor the execution of contracts where the nature, importance or magnitude so warrants, in particular public works contracts.

The OCG currently publishes a list of all contracts which are (a) approved by the NCC and (b) awarded by Public Bodies below the NCC contract value threshold. The publication of this information promotes transparency in the Government's procurement process and allows the public to scrutinize information with regard to the award of government contracts.

The Public Administration and Appropriations Committee (PAAC), of the Parliament of Jamaica, is mandated to monitor Government expenditures and to make recommendations to the Government for improvements in public administration, with a view to ensuring that there is transparency, accountability and efficiency in public administration. The members of the PAAC, who are elected representatives of the people, provide a critical role in citizen oversight of Government contracts.

h) Expand sanctions for breaches of the Contractor General Act, taking into account the recommendations of the Office of the Contractor General in its annual reports to the Parliament.

On December 12, 2008, the Public Sector Procurement Regulations came into effect pursuant to Section 31 of the Contractor General Act. Pursuant to the regulations, penal sanctions were applied to breaches of Government of Jamaica Procurement Guidelines.

Section 40 of the Public Sector Procurement Regulations provides that:

"A person who- (a) contravenes these regulations; or (b) Aids, abets or otherwise knowingly facilitates or is an accessory to the contravention of these Regulations, commits an offence and is liable, on summary conviction in a Resident Magistrate's Court, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment."

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 public servants and private citizens who in good faith report acts of corruption, which may be subject to investigation in administrative or judicial proceedings.

The Protected Disclosures (whistleblower) Bill which is currently being debated in the Joint Select Committee of Parliament aims to provide that persons who make protected disclosures or investigate or otherwise deal with a protected disclosure shall not be liable in any civil or criminal proceedings or to any disciplinary proceeding by reason of having made, investigated or otherwise dealt with the disclosure.

Section 14 of the Financial Investigations Division Act 2010 which provides for the investigation of any ‘financial crime’ defined as “any offence involving money or other benefits and includes any offence involving fraud dishonesty, money laundering or the financing of terrorist activities” provides that no civil or criminal action, suit or other proceedings for breach of confidentiality (including confidentiality arising from legal professional privilege) may be brought, nor any professional sanction for such breach may be taken, against any person, who in good faith (under this Act or any other enactment) provides or transmit information requested by the Division or submits a report to the Division.

b) Measures to protect not only the physical integrity of whistleblowers and their families, but also to provide protection in the workplace, especially when the person is a public official and the acts of corruption involve his superior or co-workers.

When passed, it will also provide that employees, which includes public official, shall not be subjected to any occupational detriment on the basis that he seeks to make, has made, or intends to make a protected disclosure. Occupational detriment includes disciplinary action, dismissal, suspension, demotion, harassment, intimidation, refusal of promotion, denial of appointment and threat. Persons making disclosures who are subsequently dismissed can be treated under the Act, when passed, as being unjustifiably dismissed and provided appropriate remedies.

Section 11 (4) of the Financial Investigations Division Act 2010 prohibits the disclosure in reports of any information that would directly or indirectly identify any person who provided a report to the Division.

c) 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.

When the Bill is passed it will provide for secrecy and confidentiality of, among other things, the identity of the employee making the disclosure. The Act will also establish a long list of prescribed persons to whom a disclosure may be made thus allowing a person to choose the person who he deems would be best able to preserve confidentiality and his identity.

The Financial Investigations Division Act 2010 makes provision for the Financial Investigations Division (FID) to, *inter alia*, receive information relating to the commission of a financial crime. In accordance with section 10 of the said Act, any person to whom information is communicated shall regard and deal with such information as secret and confidential

d) Mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it.

When the Bill is passed, a person who having made a protected disclosure believes that he has suffered occupational detriment may apply to the Supreme Court for redress. Intimidating or threatening a person who makes a disclosure will be deemed a criminal offence and may be reported through the normal procedures for the report of criminal acts.

e) Stronger witness protection mechanisms that provide the same guarantees to both public servants and private citizens;

f) Stronger mechanisms that 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.

Section 12 of the Financial Investigations Division Act 2010 contemplates cooperation through contracts, memorandum of understanding or other agreements or arrangements with agencies including a foreign financial intelligence department or association of such departments regarding the exchange of information relevant to the investigation or prosecution of a financial crime

g) A simple whistleblower protection application process.

The Bill will provide the Minister with the power to make regulations for the proper implementation of the purposes of the Act. Such application processes would normally be addressed in regulations to be adopted.

h) Provisions which sanction the failure to observe the rules and/or duties relating to protection, stating the appropriate authorities to process protection requests and the bodies responsible for providing it.

The Bill when passed will include sanctions for the failure to observe the rules and/or duties related to protection.

Section 10(4) of the Financial Investigations Division Act 2010 makes it an offence for any person having possession of or control over any information, book, record or other document to communicate or attempt to communicate any such information or anything contained in such book, record or document to any person other than pursuant to the provisions of the Act

i) The respective competence of judicial and administrative authorities with respect to whistleblower protection, clearly distinguishing one from the other.

The Bill makes a clear distinction between the competence of judicial and administrative authorities with respect to whistleblower protection.

3 ACTS OF CORRUPTION (ARTICLE VI (1) OF THE CONVENTION)

Recommendation:

Provide those bodies charged with preventing, detecting, punishing and eradicating corruption with the necessary resources in order to ensure that said bodies can carry out their work in the most effective and timely manner.

4. GENERAL RECOMMENDATIONS

4.1 Design and implement, when appropriate, training programs for public servants responsible for implementing the systems, standards, measures and mechanisms considered in this Report, for the purpose of guaranteeing that they are adequately understood, 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, standards, measures and mechanisms considered in this Report, and to verify follow-up on the recommendations made herein.