

MECHANISM FOR FOLLOW-UP ON THE  
IMPLEMENTATION OF THE INTER-AMERICAN  
CONVENTION AGAINST CORRUPTION  
Fourteenth Meeting of the Committee of Experts  
December 8-12, 2008  
Washington, DC.

OEA/Ser.L  
SG/MESICIC/doc.224/08 rev. 4  
12 December 2008  
Original: English

REPUBLIC OF SURINAME

FINAL REPORT

(Adopted at the December 12, 2008 plenary session)

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

**REPORT ON IMPLEMENTATION IN THE REPUBLIC OF SURINAME OF THE  
CONVENTION PROVISIONS SELECTED FOR REVIEW IN THE SECOND ROUND, AND  
ON FOLLOW-UP TO THE RECOMMENDATIONS FORMULATED TO THAT COUNTRY  
IN THE FIRST ROUND<sup>1</sup>**

**INTRODUCTION**

**1. Contents of the Report**

This Report presents, first, a review of implementation in The Republic of Suriname of the provisions of the Inter-American Convention against Corruption selected by the Committee of Experts of the Follow-up Mechanism (MESICIC) for review in the second round: Article III, paragraphs 5 and 8, and Article VI.

Second, the Report will examine follow-up to the recommendations that were formulated to the Republic of Suriname by the MESICIC Committee of Experts in the first round, which are contained in the Report on that country adopted by the Committee at its Seventh meeting, and published at the following web page: [http://www.oas.org/juridico/english/mec\\_rep\\_sur.pdf](http://www.oas.org/juridico/english/mec_rep_sur.pdf)

**2. Ratification of the Convention and adherence to the Mechanism**

According to the official register of the OAS General Secretariat, the Republic of Suriname signed the Inter-American Convention against Corruption and deposited the instrument of ratification on June 4, 2002.

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

**I. SUMMARY OF INFORMATION RECEIVED**

**1. Response of the Republic of Suriname**

The Committee wishes to acknowledge the cooperation that it received throughout the review process from the Republic of Suriname. For its review, the Committee took into account the information provided by the Republic of Suriname up to May 22, 2008, and that requested by the Secretariat and the members of the review subgroup, to carry out its functions in keeping with its Rules of Procedure and Other Provisions.

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<sup>1</sup> This report was adopted by the Committee in accordance with the provisions of Article 3(g) and 26 of its Rules of Procedure and Other Provisions, at the plenary session held on December 12, 2008, at its Fourteenth meeting, held at OAS Headquarters, December 8-12, 2008.

## **2. Document submitted by civil society**

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

## **II. REVIEW OF IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION PROVISIONS SELECTED FOR THE SECOND ROUND**

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

#### **1.1. SYSTEMS OF GOVERNMENT HIRING**

##### **1.1.1. Existence of provisions in the legal framework and/or other measures**

The Republic of Suriname has a set of provisions related to the above systems, among which the following provisions related to the principal systems should be noted:<sup>2</sup>

- Legal and other provisions, applicable to a majority of public servants, such as those contained in the following:

- Statutory provisions, such as the Staff Act (State Decree 1985, No. 41), whose article 3, paragraph 1, determines that the following persons are authorized to hire, promote, suspend and dismiss public servants:

- The president
- The ministers, each for the department of their concern.

Paragraph 2 of the aforementioned article 3 of the Act states that "*Public servants classified into, or in case of appointment or promotion classified into a rank associated with a fixed or minimum salary, amounting to more than half of the salary of the director of a department, shall, notwithstanding the provisions of the first paragraph, only by resolution of the President be appointed, promoted, suspended or dismissed.*"

Article 9, paragraph 1 of the Act, entrusts the Board of Personnel Matters with the task of providing the Government with general advice regarding personnel matters, while paragraph 2 determines that the composition, organization and work method of the Board shall be regulated by virtue of state decree.

Article 12 of the Act, paragraphs 1 and 2 set out the eligibility requirements for entering public service<sup>3</sup>, while paragraph 3 states that appointments shall be either temporary or for an indefinite

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<sup>2</sup> Suriname informs that "Article 2 of the personnel act is stating that the act is not applicable to ministers, members of the *staatsraad* (Council of State) and the *rekenkamer*, (Audit Office) the prosecutor general (except for the provisions on leaves)." In addition, "For the legislative branch, that is formed by the government and the National Assembly we have to look at the articles 70, 90, 91, 116, 56, 57, 59 of the Constitution of Suriname. For the judiciary' the articles 138 and 141 of the Surinamese Constitution are important to look at." However, this information was submitted after May 22, 2008, which was the deadline set by the Committee of Experts to submit the response to the Questionnaire and, for that reason, it was not analyzed.

<sup>3</sup> Article 12, paragraph 1 states that: "*The appointment of a public servant, pursuant by regulations by state decree, notwithstanding the exceptions thereof, requires a medical examination in advance.*" Paragraph 2 states that: "*Persons shall*

period of time. Paragraph 5 states that an appointment shall not come into force until explicitly or tacitly agreed by the person in question.

Article 13 of the Act states that in case the copy issued to a public servant does not state that the appointment concerns temporary employment, the appointment shall be deemed to be permanent.

Article 14 of the Act, which states the following regarding temporary employment:

- Paragraph 1 states that appointment for temporary employment shall only be possible for persons based on the results of a medical examination referred to in article 12, paragraph 1, who do not immediately qualify for permanent employment; to meet the needs for staff for work activities of expiring nature; in case of preparation or implementation of the reorganization of the department of the state service in question; and as a probationary period.
- Paragraph 2 states that a temporary appointment shall be for a term up to one year. In case the appointment decree does not provide otherwise, the appointment shall be deemed to be for one year.
- Paragraph 3 states that the term of appointment in temporary service may each time be extended explicitly or tacitly, with the understanding that the temporary service in case of probation shall not be for a period exceeding two years, and in other cases no longer than three years in total. Tacit extension shall each time be deemed to be for a period of three months.

Article 15, paragraph 1 which states the following:

*“Labor agreements may only be entered into by the State:<sup>4</sup>*

- *With persons who have not yet attained the age of twenty-one;*
- *With persons who have not yet attained the age of fifty;*
- *With persons who at the time of entering into the agreement have their permanent place of residence in Suriname;*
- *With persons who have not shown any physical disability during the medical examination referred to in article 12, paragraph 1, for their appointment as public servant;*
- *For a substitution position*

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*only be eligible for appointment if: They are of the age of eighteen; in case during the medical examination referred to in paragraph 1, no physical disability was discovered; and in case legal requirements of eligibility are met with regard to the function in which they will perform.”*

<sup>4</sup> In regards to the apparent contradiction regarding the legal age for reaching labor agreements with the State, Suriname explains that: *“We should take into account that the personnel act is from 1962. In that period of time it was probably necessary to draw a line between minors and adults. According to civil law someone is an adult at the age of 21. So when a person doesn't have the age of 21 yet he can only work for the government on the basis of a labor agreement. At the moment the government of Suriname is working on a Public Sector Management Strengthening Program. On part of the program involves the formulation of a Definition of a new civil service human resources strategy and Revision of the Personnel act by order of the Minister of Home affairs.”*

- *For positions that do not yield full daily, weekly or yearly work;*
- *For other positions provided for by virtue of state decree.”*

Article 16, paragraph 1, which dictates that the place of work and the position of the public servant shall be stipulated in a decree for appointment and in a labor agreement concluded by the state; while paragraph 4 states that the rank of the public servant shall be stipulated in a decree for appointment.

### **1.1.2. Adequacy of the legal framework and/or other measures**

With respect to the legal provisions that refer to the systems of government hiring that the Committee has examined, based on the information available to it, they constitute a set of measures relevant to promoting the purposes of the Convention.

Notwithstanding, the Committee considers it appropriate to make a number of observations on the advisability of developing and complementing certain legal provisions that refer to those systems.

- With respect to the system for hiring public servants under the central system, the Committee considers the following:

First, the Committee notes that the country under review states in its reply to the Questionnaire that in practice applicants to a post in the public service are called in for an interview with the Head of the Personnel Department and the relevant departmental Manager or the Assistant Manager of the hiring Ministry, and that some criteria such as education, skills, flexibility, testing as applicable, how suitable the person is, as well as his or her expectations, are taken into consideration for selection. In case the selection is positive, the Assistant Manager or the selection committee will make a recommendation to the Departmental Manager, who will forward this information to the minister. The country under review states that the definite decision lies with the minister.

The Republic of Suriname also states that: *“At the moment almost everyone is hired based on the labor agreement. After 2 years, upon request of the public servant an appraisal form is filled out by the Departmental Manager, who will send it via the Assistant Manager to the Manager. When the Manager positively assesses the function, the person is sent to the examination committee/medical committee, who will send the lab results to the relevant minister.*

*“Following this, the public servant, in case he is regarded fit for work, will come into permanent service and an order for permanent appointment or appointment resolution is made.”*

The Committee recognizes the practice of the Republic of Suriname in following certain selection criteria and procedures. However, the Committee notes these procedures are not regulated under the Staff Act (State Decree 1985, No. 41), that they are not mandatory, and that the legislation scheme in place does not state that entry into the public service is to be made through a competitive selection process and based on the principle of merit. In order to properly assure the openness, fairness, equality and efficiency of the government hiring system, the Committee believes that Suriname could consider having its the legislation explicitly state that selection is made on merit, based on a competitive selection process, and develop this system accordingly, ensuring that its application is made on the basis of equality and non-discrimination. In this regard, the Committee will formulate recommendations (see Recommendation 1.1 (a) and (b) in Section 1 of Chapter III of this Report).

Secondly, the Committee notes that there are no provisions for the advertising of positions in the public service, the content and form of these advertisements as well as the timeframe for their publication. Neither is there any provision regarding the need for a prior description of the requirements needed to occupy a position and access to such information by the general public, so as to guarantee the objectivity and equity that a process for selecting a public servant must have. In this regard, the Committee will formulate recommendations (see Recommendation 1.1 (a), (b) and (c) in Section 1 of Chapter III of this Report).

Thirdly, the Committee notes that the Staff Act states that temporary employment can be used as probationary employment. Nevertheless, it is noticed that probationary employment is not being consistently applied in the public service. Taking into account that a probationary period is part of the selection process, the Committee considers that in order to promote the principle of equity as set out in the Convention, it would be advantageous for the Republic of Suriname to consider making the necessary amendments so that probation is applied with uniform criteria throughout the public service. In this regard, the Committee will formulate recommendations (see Recommendation 1.1 (d) in Section 1 of Chapter III of this Report).

Fourth, the Committee notes that the current legislation is silent regarding administrative or judicial methods of review for challenges concerning appointments. Consequently, in order to ensure the observance of the principles of openness, equity, and efficiency enshrined in the Convention, the Committee suggests that the country under review considers taking the necessary steps, including the amendments of its legislation that it deems relevant in order to provide an administrative and/or legal method of redress regarding appointments. In this regard, the Committee will formulate recommendations<sup>5</sup> (see Recommendation 1.1 (e) in Section 1 of Chapter III of this Report).

Fifth, the Committee notes that while article 16 of the Act states that the rank of a public servant shall be stipulated in a decree for appointment, no mention is made of a classification system that would regulate how those ranks are determined. In this regard, the Committee will formulate a recommendation (see Recommendation 1.1 (f) in Section 1 of Chapter III of this Report).

Sixth, the Committee notes that it is not clearly defined whether the Staff Act (State Decree 1985, No. 41) is applicable to the public servants in the other branches of the Government, such as the legislative and judiciary. In this regard, the Committee will formulate a recommendation (see Recommendation 1.1 (g) in Section 1 of Chapter III of this Report).

Finally, the Committee considers it advisable that the country under review implement training programs for those responsible for managing the selection and staffing processes, as well as training and induction programs for those persons recently hired into public service. In this regard, the Committee will formulate a recommendation (see Recommendation 1.1 (h) in Section 1, and Recommendation 4.1, of Chapter III of this Report).

### **1.1.3. Results of the legal framework and/or other measures**

The Republic of Suriname, in its Response to the Questionnaire, did not refer to the results obtained from the application of the above provisions.

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<sup>5</sup> Suriname states that article 78 and the following articles of the Personnel act mention the procedure of complaint regarding appointments. However, this information was submitted after May 22, 2008, which was the deadline set by the Committee of Experts to submit the response to the Questionnaire and, for that reason, it was not analyzed.

The Committee points out the importance that the country under review completes the Questionnaire, including the Results section, in order to be able to make a comprehensive assessment of any progress made and the areas that need to be strengthened for the implementation the Convention.

This Committee considers that, given the lack of information from the Republic of Suriname, it cannot assess the matter and will therefore formulate recommendations in this regard. (General Recommendations 4.2 and 4.3 in Section 3, Chapter III, of this Report.)

## **1.2. GOVERNMENT SYSTEMS FOR THE PROCUREMENT OF GOODS AND SERVICES**

### **1.2.1. Existence of provisions in the legal framework and/or other measures**

The Republic of Suriname has a set of provisions related to the above-mentioned systems, among which the following should be noted:

- Statutory provisions such as:

- The Compatibility Act (December 2, 1952, last amended by State Decree 1959, No. 58):

Article 18 of the Act states that *“Performing work and conducting deliveries and transports for the benefit of the country, put out to contract by public tender.*

*“This regulation may not be departed other than by Presidential decision in case this is in the national interest.*

*“In that case the motivation shall be made know in the decree, in which the work or deliveries and transport shall be recommended, of which a copy of the decree shall be sent to the Parliament.”*

Article 19 of the Act states that *“The conditions of the public tender shall state the securities, required for the admittance of competitors.*

*“The provisions to be complied with at registration and the performance of the work, deliveries and transports shall be laid down by state decree.*

*“No undertakings of interests with regard to potential delays in the settlement of their claims shall be given to contractors during agreements because of work, deliveries and transports”*

- The Compatibility Decree (State Decree 1953, No. 100, last amended by SB 2004, 116):<sup>6</sup>

Article 18 of the Decree states that: *“Tenders for the benefit of the national services, deliveries or transports shall be held in public by or on behalf of the relevant Minister, unless the President in cooperation with the relevant Minister and the Minister of Financial Affairs, decides to deviate from this regulation, of which the decision shall state the grounds on which it is based.*

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<sup>6</sup> The Republic of Suriname notes that: “The government of Suriname as a part of the public sector reform program is also in the process of improving the systems of procurement of goods and services. A term of references has already been formulated. A contract with a consultant, that is already been identified, has to be signed.”

*“The tenders concerning various departments, and those of general nature, not directly under a certain department of general administration, shall be held by or on behalf of the Minister of Financial Affairs, unless the President in cooperation with the relevant Minister and the Minister of Financial Affairs decide otherwise.*

*“In case the conditions of the tender are not yet stipulated in the general provisions for the execution of work, deliveries or transports, such tender shall only be held after approval of the conditions.*

*“The contracts shall be entered into by the Ministers concerned. No undertakings of interests with regard to potential delays in the settlement of their claims shall be given to contractors during agreements because of work, deliveries and transports*

*“The rule of public tender may be deviated from:*

*“1. for the ordering of goods from other countries that cannot be bought in Suriname, or only with significant disadvantage for national services or national treasury;*

*“2 for deliveries, work and transports up to the amount of SRD 30,000.”*

- The General Provisions for the Execution of the Tender of Work in Suriname (ABS) of 1968:<sup>7</sup>

Article 2 (*Open Contracting Procedure*) of the General Provisions establishes the following procedures:

○ Section 76 (*General provisions*) states:

*“1. The specifications shall be drawn up by the Minister; the contracting shall be done publicly.*

*“2. The invitation to bid shall be announced at least 14 days in advance through publication in the Government Advertiser [Gouvernements Advertentieblad] and, if necessary, also in a manner specified by the Minister.*

*“3. The specifications shall be made available for inspection at the places indicated in the announcement; they shall be offered for sale and the names of the buyers are recorded.”*

○ Section 77 (*Registration, information*), states that:

*“1. The announcement of the invitation to bid shall state where and when the registration will be held and information will be provided to applicants.*

*“2. Anyone who wishes to enter a bid must be present at the registration, in person or by way of an agent.*

*The agent must present a sealed power of attorney to the contracting authority at the registration.*

*He must be present for the entire registration and to that end sign an attendance list.*

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<sup>7</sup> The Republic of Suriname states in its reply to the Questionnaire that the ABS dates from 1968 and applies to all government tender services.

“3. Applicants shall be notified that the awarding will be made dependent in part on attendance of the required registration.

“4. The information provided to applicants is binding on both parties insofar as such information is included in the information memorandum drawn up and signed by the principal.

“5. The information memorandum shall be available for inspection at the Ministry as of the second Saturday subsequent and shall be sent at no charge to the registered buyers of the specifications.

“6. Applicants shall be given the opportunity, to the greatest extent possible, to familiarize themselves with samples indicating the general character of delivery and with the details of the main structures and important components. If this opportunity is afforded, then that shall be noted in the information memorandum.

“Applicants are free to affix their seals or signature on such samples and details.

“7. The principal shall give the applicants the opportunity to affix their signature on the information memorandum or on certified copies thereof.”

- Section 78 (Requirements for bidding, contractor), states:

“1. Bidders are presumed to have duly examined the object and terms of bidding in advance, to have ascertained that the representations in the specifications are accurate, to have duly inspected the area where the activities are to be carried out, and to be adequately familiar with what constitutes good execution and with the nature of the work.

“2. Each bidder must be a registered holder of the specifications, must have a valid contractor license, and must also be registered in the Commercial Register of the Chamber of Commerce and Industry in Suriname for performing the activities to which the bid relates. Bidders not domiciled in Suriname must be listed in a Register in their country of establishment that is equivalent to the aforementioned Commercial Register.

“A copy of the contractor license and an extract from the respective Register must be enclosed with the bid form as attachments.

“If a copy of the contractor license and an extract from the respective Register have been submitted to the Department of Public Works and Transportation for a previous bid in the same calendar year, for subsequent bids the bidder may simply make reference to that previous bid (date and project bid on) to which said copy and extract were attached. If those documents were not received by the Department with the indicated previous bid, however, it will be found that said copy and extract were not submitted for the bid in question.

“3. The principal shall judge the extent to which the nature of the activities to be carried out matches the registration with the Chamber of Commerce and Industry in Suriname or with an equivalent body in the bidder’s country of establishment, with regard to performing the respective activities.

*“4. Acceptance as contractor is limited to individuals and legal entities that are domiciled in or have chosen domicile in Suriname and whose suitability to carry out the work is beyond doubt.*

*“In assessing suitability, attention shall be paid to whether the bidder can dispose of adequate financial resources to carry out the work properly.*

*“5. Members of a general partnership are accepted as contractor for a project that is in the partnership’s line of business only if the articles of the partnership stipulate that they may act as contractor for their own account.*

*By signing the bid form, the bidder declares that he is not subject to the terms of exclusion.*

*“6. If two or more persons bid jointly, they shall each be jointly and severally liable for all obligations arising from the contracting agreement, and a written power of attorney must be attached to the bid form in which one of them is designated as the authorized representative of all of them in all regards and for all matters concerned with the project.”*

- Section 79 (Bidding) states:

*“1. The contracting procedure is conducted through bidding. The bid forms must be submitted in duplicate, in sealed envelope, and postage paid to the address indicated in the specifications, where they are put in a closed and sealed box placed there for that purpose.*

*“The forms can be inserted into the box until the announced time of the opening of the bids.*

*“2. If the project is divided into sections, the applicant is free to bid on each of the sections separately unless stipulated otherwise in the specifications; the same applies to combining sections and to bidding on all sections.*

*“3. The bid forms are subject to provisions of law pertaining to stamped documents.*

*“4. The project to which the bid pertains must be clearly indicated on the outside of the envelope containing the form.*

*“5. Each form must be laid out in accordance with the model in Annex 1 (appended to these General Provisions).*

*“6. If the bidding relates to a project of unspecified size in accordance with an established amount, the specifications shall state how the declaration by the bidder in the form is to be worded.*

*“7. If the bidder lives abroad, the bid form must indicate the residence to be chosen within Suriname.*

*“8. Unless stipulated otherwise in the specifications, attaching conditions to the bid is prohibited.*

“9. As an attachment to his bid form, the bidder must enclose proof that he has lodged a bid bond with a bank in the amount of at least 1% of his bid price.

“10. Said bond shall be released at the end of the period during which the bidder must maintain his bid.

“11. The bidder must submit with his bid an overall time schedule in duplicate, indicating the manner of execution, the order and duration of the individual project elements, and a summary of the materials to be used in accordance with Annex 5 (appended to these General Provisions).

“12. The bid form (in duplicate) including the declaration of commitment named in sec. 21 (1) must be accompanied by the following attachments:

“1. proof of the “lodged bid bond”

(1% of the bid price); (sec. 78 (1))

“2. the schedules of standard prices and rates for incidental work; (sec. 28 (1))

“3. the categories of employees with standard wages and social security costs and any increases, with effective dates, factored into the bid as referred to in sec. 34 (10).

“4. information on the wage component as referred to in sec. 34 (11).

“5. the overall time schedule; (sec. 79 (11)).

“6. the copy of the contractor license (sec. 78 (2)) (in the case of a second bid in the same calendar year, the references indicated in sec. 78 (2) can be substituted for this)

“7. the extract from the Commercial Register of the Chamber of Commerce or an equivalent register; (in the case of a second bid in the same calendar year, the references indicated in sec. 78 (2) can be substituted for this)

“8. information on any subcontractors;

“9. any power of attorney (sec. 78 (5)) must be submitted in duplicate.

“13. The bidder is obligated to maintain his bid for 60 days following the date of the opening of the bids, unless another period is named in the specifications.”

○ Section 80 (Opening of the bids) states:

“1. The opening of the bids shall be carried out by the principal at the time and place indicated in the announcement of the contracting procedure.

“2. At the time and place specified in the announcement, the box and the bid forms shall be opened publicly.

*“The names of the bidders and the amounts indicated in the forms for which they offer to carry out the work or the volume of work that they are willing to do for an established amount shall be read aloud clearly.*

*“3. A written record shall be kept of the opening of the bids.*

*“This written record shall be prepared on the basis of a model prescribed by the Minister. It shall be signed by the principal.*

*“4. Forms that do not fully satisfy the requirements of sec. 79 are invalid unless, in the estimation of the principal, they provide absolute certainty concerning the person and the intention of the bidder.”*

Article 13 (*Regulations Pertaining to the Awarding of Contracts*) states the following:

○ Section 81 (*Evaluation of bidders*) states:

*“1. The principal shall evaluate the bidders. In so doing he can obtain the advice of third parties.*

*“2. The principal shall send a letter to the bidder whose bid is most acceptable to him in which he informs him that he qualifies for the awarding of the contract.*

*“3. If two or more bidders simultaneously qualify for awarding, they shall also be notified thereof in writing.*

○ Section 82 (*Obligations of the bidder who qualifies for awarding*) states:

*“1. Within two weeks of service of the letter referred to in sec. 81 (2), said bidder(s) must submit the following signed documents to the principal:*

*“a. cost budget, namely a “breakdown of the contract price.”*

*Information must be furnished by mail concerning the wage costs and social security costs, specified by category of employee as referred to in sec. 34 (12).*

*This breakdown of the contract price must be based on the project elements named in the specifications (cost items and estimates) with the quantities indicated there.*

*The total of the breakdown of the contract price laid out in this way must be equal to the bid price less the amount of the provisional sums.*

*“b. a work plan in triplicate in accordance with Annexes 6, 7, and 8 P.M. (appended to these General Provisions), laid out on the basis of the breakdown of the contract price.*

*“c. a list of the persons who are to act as authorized representative, as builder’s manager, and as supervisors on the project, accompanied by information concerning their experience, previous jobs, etc.*

*“d. a list of any subcontractors to be presented by the bidder for approval, including an indication of which project elements will be carried out by them, accompanied by a statement from such subcontractors that they and the bidder have reached an agreement pertaining thereto.*

*“2. The information referred to in par. 1 of this section must be verifiable by the principal.*

*“The awarding of the contract will be dependent in part on whether or not this information is approved.*

*“The principal’s approval of the breakdown of the contract price and the work plan, as well as any changes stipulated by the principal, do not absolve the contractor of his responsibility for good and prompt execution in accordance with the established requirements and within the prescribed time.*

*“3. If the principal or his authorized agent does not approve the breakdown of the contract price and the work plan, then those documents shall be modified in consultation with him and resubmitted within a period to be specified by the principal.*

*“The provision of par. 2 of this section applies accordingly.*

*“4. If the contractor wishes to make a change in the breakdown of the contract price and the work plan after any awarding of contract, then he must subject that in writing and in a timely manner to approval by the directorate. The directorate is entitled, even after approval of the breakdown of the contract price and the work plan, to order changes therein or deviations therefrom.*

*“If the contractor can show that he has incurred higher costs in executing the project as a result of these changes or deviations, then such costs shall be compensated pursuant to sec. 32 of these General Provisions.*

*“The directorate and the contractor shall consult regularly over the elements of the work plan during execution of the project.”*

- Section 83 (Default by a bidder who qualifies for awarding) states:

*“1. If the bidder who qualifies for awarding is in default in submitting the documents prescribed in the specifications to the principal within the prescribed period(s), an amount of 10% can be withheld from the bid bond for each day of default.*

*“2. If because of the default of the bidder the principal decides to declare another bidder qualified for awarding, then the entire amount of the bond reverts to the Country without prejudice to the bidder’s obligation to compensate for the loss that his default may have caused for the Country, which is to be assessed exclusively by the principal.”*

- Section 84 (Awarding of contract), states:

*“1. The principal reserves the right, with no obligation to account for his actions:*

*“a. not to award the contract;*

*“b. in awarding the contract, to consider factors apart from the bid price and the unit prices, including attendance of registration, and to award the contract to the contractor whose bid he finds the most acceptable.”*

*“2. The bidder to whom the contract has been awarded shall be notified of this by the principal by registered letter.”*

○ Section 85 (*Contractor agreement*), states:

*“1. The contractor agreement shall be formed through the awarding of the contract based on the bid form.*

*“2. The contractor must sign the agreement on execution of the project, the Description and Technical Terms, the drawings, and the other documents comprising the specifications no later than two weeks after he has received notification of the awarding. The signed documents shall be held at the address indicated in the specifications.*

*“A certified copy shall be provided to the contractor.”*

- The Decree No. 116 of 2004, which increases to SRD 40,000 the maximum amount applicable for deviation from the rule of open contracting.

- The missive of the Board of Ministers of October 14, 2005, which provides that the Board for Tenders and Licensees (ORAG), will be chaired by the Vice President, and will be comprised by the Ministers of Financial Affairs (acting as coordinating Minister); Justice and Police; Public Works; Natural Resources; Education and Community Development; as well as Transport, Communication and Tourism.

The aforementioned missive of the Board of Ministers also states that during a public tender, a Board proposal will be made and submitted to the ORAG, who will assess the result of the tender held by the government agencies, and will decide by missive which applicant will qualify for the job.

### **1.2.2. Adequacy of the legal framework and/or other measures**

With respect to the legal provisions governing public procurement systems, the Committee notes that, on the basis of the information available to it, they may be said to constitute a set of measures that are relevant for promoting the purposes of the Convention.

The Committee nevertheless deems it appropriate to express some comments for the country under review to consider in supplementing, developing or adapting the legal framework and the government procurement measures now in force, in light of the following:

First, the Committee notes that although Article 18 of the Compatibility Act states that the President can depart from the rule of awarding contracts for performing work and conducting deliveries and transport of goods by public tender, if this is in the national interest. Nevertheless, the rule does not provide any criteria of what would constitute national interest. The Committee believes that, in order to guarantee the principles of openness, fairness and efficiency, the country under review would

benefit from considering some parameters in this regard, and will formulate a recommendation. (see Recommendation 1.2 (a) in Section 1 of Chapter III of this Report).

Second, Article 18 of the Compatibility Decree indicates that in some cases the President, in collaboration with the corresponding minister and the Minister of Financial Affairs, may decide to forego the rule of putting the invitation to tender out publicly, indicating the basis for this; however, there are no precise standards addressing the use of this power and thus the State might consider it appropriate to provide regulation on this subject

The indicated article also states that “In the event that the conditions for the tender are not already stipulated in the general provisions for the performance of the works, deliveries, or transport, that tender may only be carried out after approval of its conditions.” The Committee of Experts finds that the conditions for moving ahead with a tender must be provided for in the rules governing the subject, so that a recommendation will be formulated (see Recommendation 1.2 (b) in Section 1 of Chapter III of this Report).

Third, the aforementioned article 18 of the Compatibility Decree states that “*The rule on public tendering may be disregarded in the following cases: “2. For deliveries, works, and transport in amounts up to SRD 30,000.”*” The Committee notes that regarding this point it would also be useful for the country to consider having a contractor selection procedure that would ensure the principles of equity, disclosure, and efficiency provided in the Convention.

With respect to the criteria to be used in the evaluation of bidders, the Committee takes note of the absence of such norms in the legislative regime in place. There appears to be no evaluation guidelines that provide objective evaluation factors or criteria. Section 81, paragraph 1, of the General Provisions, which deals with evaluation of bidders, only states that the principal shall evaluate the bidders for which he can obtain the advice of third parties. And although the missive of the Board of Ministers of October 14, 2005 states that during a public tender, a Board proposal will be made and submitted to the Board of Tenders and Licenses (ORAG), who will assess the result of the tender held by the government agencies, and will decide by missive which applicant will qualify for the job, no guidelines are provided on what will be the criteria utilized by the ORAG to make such assessment.

A similar situation is found in regards to the awarding of contracts, where guidelines on selection criteria seem to be insufficient. Section 84 of the General Provisions states that the principal reserves the right, with no obligation to account for his actions, to either not award the contract, or in awarding the contract to consider factors apart from the bid price and unit prices, including attendance of registration, and to award the contract to the contractor whose bid he finds more acceptable. Nevertheless, there are no guidelines or definition on what is considered an acceptable bid, and there seems to be a high degree of discretion involved and no accountability in the part of the principal when it comes to awarding contracts.

Given these circumstances, the Committee believes this does not provide the necessary guarantees that decisions are made that are not discretionary, arbitrary and subjective. Therefore, to preserve impartiality, transparency and equality of opportunity, the Committee believes that the Republic of Suriname should consider adopting objective criteria for the evaluation of bids and the awarding of contracts that are reflected in legislation or formulated in an administrative document. In that regard, the Committee will formulate a recommendation (see Recommendation 1.2 (c) in Section 1 of Chapter III of this Report).

Fourth, the Committee observes that there are no guidelines or criteria within the legislative regime in place that allow for an analysis as to whether the launch of procurement process requires prior planning sufficiently in advance of the launch of procurement process, such as preparing studies, designs and technical evaluations, and to assess the appropriateness and timeliness of the purchase. The Committee believes that adopting measures that provide guidelines or criteria that allow for an analysis as to when prior planning is required would assure the openness, equity and efficiency of the system in place for the procurement of goods and services. In that regard, the Committee will formulate a recommendation (see Recommendation 1.2 (d) in Section 1 of Chapter III of this Report).

Fifth, the Committee suggest to the Republic of Suriname to consider the possibility of establishing general or standard specifications containing uniformly applied terms and conditions for the various contracting modalities, whereby it would be possible to establish the rules for evaluation based on more objective and clearer selection criteria. In this regard, the Committee will formulate a recommendation (see Recommendation 1.2(e) in Section 1 of Chapter III of this Report).

Sixth, the Committee observes that, although Section 78 of the General Provisions requires for bidders in open tenders to have a valid contractor's license and to register in the Commercial Register of the Chamber of Commerce and Industry in Suriname for performing the activities to which the bid relates, there is no centralized Government registry of contractors of works, goods or services, mandatory to all state agencies. The Committee feels that the country under review should consider the advisability of amending the existing legislation in order to create a centralized registry of contractors of works, goods and services, which would also include an appeal mechanism for those contractors who have been denied registration, so they would not be left without recourse. Consideration should be given to making this registry compulsory for all State bodies and dependencies, its purpose being to foster the principles of openness, equity and efficiency provided for in the Convention. In this regard, the Committee will formulate a recommendation. (See Recommendation 1.2(f) in Section 1 of Chapter III of this Report).

Seventh, the Committee observes that there is no provision for the central authority to keep a list of contractors who have defaulted in their contracts, whose circumstances may prevent them from contracting with the Government for a certain period of time. The Committee suggests that the country under review considers making the necessary changes to its legislative framework in relation to the procurement of contracts, so such a list may be kept. There could, for example, be provisions outlining the reasons for an intended ban or including the contractor on the list upon consultation with the Board of Ministers or the Board of Tenders and Licenses (ORAG), as appropriate. Also, an appeal mechanism could be put in place for those contractors who have been banned or included on the list, so they would not be left without recourse. In this regard, the Committee will formulate a recommendation (see Recommendation 1.2(g) in Section 1 of Chapter III of this report).

Eight, regarding the communication of results, it is observed that Section 81 of the General Provisions, states that the principal will communicate in writing to the bidder or bidders whose bids are more acceptable to him that they qualify for the awarding of the contract. Similarly, Section 84, paragraph 2, states that the bidder to whom the contract has been awarded shall be notified of this by the principal by registered letter. However, no mention is made of notifying the results of the process to unsuccessful bidders. Therefore, and in order to promote the impartiality and transparency of the process, the Republic of Suriname should consider taking the necessary steps so that a measure to ensure that the results of the bidding process are communicated to all bidders, including those who were unsuccessful. In that regard, the Committee will formulate a recommendation (see Recommendation 1.2 (h) in Section 1 of Chapter III of this Report).

Ninth, the Committee notices that the General Provisions mention that the invitation to bid must be advertised through publication in the Government Advertiser and, if necessary, also in a manner specified by the Minister. In this regard, it is the view of the Committee that the use of electronic methods and information systems for government procurement assists in adequately informing the public and ensuring openness. The Committee believes that the Republic of Suriname could consider increasing the use of other means of communication, including electronic media, to provide information regarding procurement, including the status of bids and awards and the progress of major projects. The Republic of Suriname may also wish to consider using an electronic procurement system or electronic bidding in order to carry out the contracting needs of the State. In this regard, the Committee will formulate a recommendation. (See Recommendations 1.2(i) and 1.2(j) in Section 1 of Chapter III of this Report)

Tenth, the legislation and guidelines in place are silent in regards to appeal mechanisms that would allow unsuccessful bidders to challenge the result of the bidding process. In order to ensure the principle of fairness provided in the Convention, the Committee will formulate a recommendation (see Recommendation 1.2 (k) in Section 1 of Chapter III of this Report).

Eleventh, the legislation in place does not contemplate sanctions for government servants and employees who violate or fail to fulfill the principles and provisions contained in the General Provisions.<sup>8</sup> In this regard, the Committee will formulate a recommendation (see Recommendation 1.2 (l) in Section 1 of Chapter III of this Report).

Twelfth, with regard to control mechanisms, the Committee notes that there is no mention of a mechanism for the audit, control and oversight of the procurement system. It is critical to the development of a sound government procurement system for a fully operational and functional external and internal control system.<sup>9</sup> In that regard, the Committee will formulate a recommendation (see Recommendation 1.2 (m) in Section 1 of Chapter III of this Report).

Thirteenth, the Committee notes that there is not an independent body or authority responsible for the administration, control and oversight of the government procurement system. In that regard, the Committee will formulate a recommendation (see Recommendation 1.2 (n) in Section 1 of Chapter III of this Report).

Fourteenth, the Committee has no information regarding provisions that allow for the establishment of citizen oversight mechanisms to monitor the execution of contracts where the nature, importance or magnitude so warrants, in particular public works contracts; and that there are no mechanisms that would ensure access to information and develop accountability exercises so that citizens in general would exercise oversight over the administration's contract management. In this regard, the Committee will formulate a recommendation (see Recommendation 1.2(o) in Section 1 of Chapter III of this Report).

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<sup>8</sup> The Republic of Suriname observes that "*The Personnel act provides for disciplinary sanctions in article 61.*" However, this information was submitted after May 22, 2008, which was the deadline set by the Committee of Experts to submit the response to the Questionnaire and, for that reason, it was not analyzed.

<sup>9</sup> The Republic of Suriname states that: "*There are control mechanisms, such as the Government Audit Office and the Section internal Control of a Ministry.*" However, this information was submitted after May 22, 2008, which was the deadline set by the Committee of Experts to submit the response to the Questionnaire and, for that reason, it was not analyzed.

Finally, in view of the various legal provisions indicated by the country under review, the Committee feels it would be advisable to suggest to the Republic of Suriname the possibility of issuing a single new public procurement code covering their entire legal system applicable to public procurement, with rules based on general modern principles governing government contracting. In this regard, the Committee will formulate a recommendation (see Recommendation 1.2(p) in Section 1 of Chapter III of this Report).

### **1.2.3. Results of the legal framework and/or other measures**

The Republic of Suriname, in its Response to the Questionnaire, did not refer to the results obtained from the application of the above provisions.

The Committee points out the importance that the country under review completes the Questionnaire, including the Results section, in order to be able to make a comprehensive assessment of any progress made and the areas that need to be strengthened for the implementation the Convention.

This Committee considers that, given the lack of information from the Republic of Suriname, it cannot assess the matter and will therefore formulate recommendations in this regard. (General Recommendations 4.2 and 4.3 in Section 3, Chapter III, of this Report.)

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

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

The Republic of Suriname, in its reply to the Questionnaire, states that there is no specific legislation related to systems for protecting public servants and private citizens who, in good faith, report acts of corruption. The country under review does have a set of measures and provisions related to the protection of the identity of threatened witnesses in judicial criminal cases, such those established in article 206 of the Criminal Code, paragraphs (a), (c), (d), (e) and (f).

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

Taking into account the previous section, it is not appropriate to make observations in this regard as there is no formal legislative regime in place for the protection of public servants and private citizens who, in good faith, report acts of corruption. Though there are regulations in place for the protection of the identity of threatened witnesses related to criminal proceedings, the Committee will formulate recommendations that it deems advisable for the Republic of Suriname to consider, in accordance with Article III(8) of the Convention, in establishing systems for protection public servants and private citizens who, in good faith, report acts of corruption. (See recommendation 2 in Section 2 of Chapter III of this Report).

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

The Republic of Suriname, in its Response to the Questionnaire, did not refer to the results obtained from the application of the above provisions.

The Committee points out the importance that the country under review completes the Questionnaire, including the Results section, in order to be able to make a comprehensive assessment of any progress made and the areas that need to be strengthened for the implementation the Convention.

This Committee considers that, given the lack of information from the Republic of Suriname, it cannot assess the matter and will therefore formulate recommendations in this regard. (See General Recommendations 4.2 and 4.3 in Section 3, Chapter III, of this Report.)

### 3. ACTS OF CORRUPTION (ARTICLE VI OF THE CONVENTION)

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

The Republic of Suriname has a set of provisions related to the criminalization of the acts of corruption provided for in Article VI(1) of the Convention, among which the following should be noted:

a. With regard to paragraph (a) of Article VI(1):

- Article 427 of the Criminal Code which states that:

*“A prison sentence up to 4 years will be given to the public servant<sup>10</sup> who:*

*“1. accepts a gift or promise, knowing that such gift or promise may induce him to, in breach of his duty, in his function do or not do something;*

*“2 .accepts a gift, knowing that such gift results from or is due to something he did or did not do in breach of his duty, in his function.”*

b. With regard to paragraph (b) of Article VI(1):

- Article 229 Criminal Code which states that:

*“A prison sentence up to two years or a fine up to three hundred guilders will be given to him who:*

*“1. gives a public servant a gift or promise with the aim of having him do or not do something in breach of his duty;*

*“2. gives a public servant a gift as a result of or due to something he did or did not do in breach of his duty;”*

c. With regard to paragraph (c) of Article VI(1):

- Article 423 Criminal Code which states that:

*“The public servant or any other person that performs a public function, engaged full-time or part-time, who intentionally embezzles or allows others to embezzle, or acts as accomplice to the person*

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<sup>10</sup> The Republic of Suriname indicated that the definition of Public Servant is stated in Article 114 of the Criminal Code, and that “Public officials can also be all persons that are chosen through an election, also all persons that are a member of Parliament not on the basis of an election. Under public officials and judges are also mentioned arbiters. All persons who belong to the category of armed forces are also public officials.”.

*who embezzles money, gold bullion or monetary instruments, that he has under his administration, shall be liable to imprisonment for a term up to six years."*

- Article 424 Criminal Code which states that:

*"The public servant or any other person that performs a public function, engaged full-time or part-time, who intentionally fraudulently keeps or falsifies books or registers, exclusively intended for the management of the administration, shall be liable to imprisonment for a term up to three years."*

- Article 425 Criminal Code which states that:

*"The public servant or any other person that performs a public function, engaged full-time or part-time, who intentionally embezzles, destroys, damages or inactivates or allows others to embezzle, destroy, damage or inactivate matters intended to serve as proof or a means of conviction, deeds, documents or registers under his administration, or acts as accomplice to such person, shall be liable to imprisonment for a term up to four years and six months."*

- Article 429 of the Criminal Code which states that:

*"The public servant who by misusing his authority, forces someone to do or not do, or allow, shall be liable to imprisonment for a term up to two years."*

- Article 430 of the Criminal Code which states that:

*"The public servant who in the performance of his function claims or receives payments to himself, another public servant or any public fund, or upon payment holds back any amount of which he knows to be not receivable, in case he is found guilty of extortion by a public servant, shall be liable to imprisonment for a term up to six years."*

- Article 386 which states that:

*"A person who, with the intention to benefit himself or others unlawfully, either by assuming a false name or in a false capacity, or by cunning devices, or by a tissue of lies, induce a person to issue any good or assume a loan or cancel an outstanding debt, shall in case he is found guilty of fraud, be liable to imprisonment for a term up to three years."*

- Article 381 of the Criminal Code which states that:

*"A person, who intentionally encroaches a possession that entirely or partially belongs to another person, and that he misappropriated in other ways than through a crime, in case he is found guilty of embezzlement, be liable to imprisonment for a term up to three years or a fine up to sixty guilders."*

- Article 370 of the Criminal Code which states that:

*"A person who appropriates property that entirely or partially belongs to another, with the intention to misappropriate such property, shall in case he is found guilty of fraud, be liable to imprisonment for a term up to four years, or a fine up to sixty guilders."*

- Article 69 of the Criminal Code which states that:

*“1. In case a public servant due to commission of an offence, breaches a special civil duty, or during the commissioning of the offense uses power, opportunity or means to his disposal due to his function, and in case an offence is committed as a result of which a public servant obtains help during actions in breach of his special official duty or the misuse of power, opportunity or means to his disposal due to his function, the punishment may be increased by a third.*

*“2. In the events referred to in paragraph 1, the person sentenced may in addition to the punishment be ordered to pay to the State an amount of entire or partial deprivation of the estimated illegally obtained profits. Profit shall include the saving of costs.*

*“3. A person who commits an offence as a result of which a public servant obtains help during acts in breach of his special official duty or misuse of power, opportunity or means, to his disposal due to his function, may in addition to the punishment, and also in addition to the obligation referred to in paragraph 2, be ordered by judicial decision to do that what was unlawfully not done and to perform action to compensate the consequences of one thing and another, all this at the cost of the convicted person, if not decided otherwise by the judge.”*

d. With regard to paragraph (d) of Article VI(1):

- Article 1 of the amendment to the Criminal Code states that:

*“Guilty of intentional money laundering, thus liable to imprisonment for a term up to fifteen years and a fine up to five hundred million guilders in Surinamese currency:*

*“a. the person who hides or conceals the actual nature, the origin, the alienation of an object, or who hides or conceals the person who has the title to such object or person who has such object in his possession knowing that the object – directly or indirectly- originates from a criminal offence;*

*“b. the person who acquires an object, has it in his possession, transfers or makes use of an object, knowing that the object – directly or indirectly- originates from a criminal offence.”*

- Article 2 of the amendment to the Criminal Code states that:

*“The person, who makes a habit of money laundering, is liable to imprisonment for a term up to twenty years and a fine up to seven hundred and fifty million guilders in Surinamese currency.”*

- Article 3 of the amendment to the Criminal Code states that:

*“Guilty of money laundering, thus liable to imprisonment or detention for a term up to six years or a fine up to three hundred million guilders in Surinamese currency:*

*“a. the person who hides or conceals the actual nature, the origin, the alienation of an object, or who hides or conceals the person who has the title to such object or person who has such object in his possession, while he should have reasonable suspicion that the object – directly or indirectly- originates from a criminal offence;*

*“b. the person who acquires an object, has it in his possession, transfers or makes use of an object, while he should have reasonable suspicion that the object – directly or indirectly- originates from a criminal offence.”*

e. With regard to paragraph (e) of Article VI(1):

- Article 72 of the Criminal Code which states that:

*“The following persons shall be punished for an offence:*

*“1. the person who commits, have others commit, or who is a co-perpetrator;*

*“2. the person who through gifts, promises, misuse of authority, violence, threat or deception, or by giving the opportunity, means or information to intentionally incite a criminal offence.*

*“With regard to the last mentioned, only the acts intentionally incited shall be considered, together with the associated consequences.”*

- Article 73 of the Criminal Code which states that:

*“The following persons shall be punished for accessory to a criminal offence:*

*“1. intentional aiding and abetting*

*“2. intentionally offer opportunity, means or information for the commission of a criminal offence.”*

- Article 106 of the Criminal Code which states that:

*“A criminal offence in general or any criminal offence in particular shall mean accessory to and attempt to such criminal offence, if not provided otherwise.”*

- Article 188 of the Criminal Code which states that:

*“The person who takes part in an organization of which he knows or has serious suspicions that the purpose of such organization is to commit criminal offences, the offender shall be liable to imprisonment of a term up to twenty years and a fine up to seven hundred and fifty million guilders.”*

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

With respect to provisions related to the criminalization of the acts of corruption provided for in Article VI(1) of the Convention that have been examined by the Committee, based on the information made available to it, they constitute, as a whole, a set of provisions relevant for promoting the purposes of the Convention.

Nonetheless, the Committee considers it appropriate to make certain observations regarding the advisability that the Republic of Suriname considers complementing and implementing certain provisions in this area, taking into account the following:

- With respect to paragraph (a) of Article VI(1):

- The Committee observes that the offences set out in section in article 427 of the Criminal Code are relevant for promoting the purposes of the Convention. Nevertheless, it also notes that the some elements are missing. First, Article 427 contemplates the acceptance, but not the solicitation, directly or indirectly, of gifts or promises in exchange for acts or omissions in the performance of public duties. Second, the aforementioned article 427 only mentions the acceptance of gifts or promises, leaving out articles of monetary value or other benefits, such as favors, or advantages. Third, it only mentions that the illicit conduct is for the benefit of the public servant, leaving out benefits for another person or entity<sup>11</sup>. Finally, the Committee finds that the action or omission is criminalized only when it is in breach of the duty of the public servant.<sup>12</sup> However, the purpose of the Convention is to punish corrupt actions whether or not they are in breach of duty. In this regard, the Committee will formulate a recommendation (see Recommendation 3.1(a) in Section 3 of Chapter III of this Report)

- With respect to paragraph (b) of Article VI(1):

- The Committee notes that the offences set out in section in article 229 of the Criminal Code are relevant for promoting the purposes of the Convention. Nevertheless, here too the Committee notes that some elements are missing. First, article 229 criminalizes the action of giving a public servant a gift or promise, directly or indirectly, in exchange for an act or omission in the performance of his public function, but does not criminalize the act of offering him said gifts or promises. Second, Article 229 only mentions the acceptance of gifts or promises, leaving out articles of monetary value or other benefits, monetary or not, such as favors, or advantages. Third, it only mentions that the illicit conduct is for the benefit of the public servant, leaving out benefits for another person or entity.<sup>13</sup> Finally, the Committee finds that the action or omission is criminalized only when it is in breach of the duty of the public servant.<sup>14</sup> However, the purpose of the Convention is to punish corrupt actions whether or not they are in breach of duty. In this regard, the Committee will formulate a recommendation (see Recommendation 3.1 (b) in Section 3 of Chapter III of this Report)

- With respect to paragraph (c) of Article VI(1):

-The Committee notes that the offenses recognized in Article 430 of the Criminal Code are relevant for promoting the purposes of the Convention. However, the Committee also notes the absence of a number of elements in this instance. In first place, Article 430 makes it an offense for a public servant in the performance of their duties to request or receive payments for themselves, another public

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<sup>11</sup> The Republic of Suriname indicates that in practice this article is interpreted as benefit to oneself only, but that there is draft legislation that contemplates the issue of benefits for a third party. Suriname indicates as well that this draft legislation includes the concept of benefits other than those of monetary value.

<sup>12</sup> The Republic of Suriname indicates that Article 426 of the Criminal Code does not mention that the act or omission is contrary to the duties of the public servant. However, this information was submitted after May 22, 2008, which was the deadline set by the Committee of Experts to submit the response to the Questionnaire and, for that reason, it was not analyzed.

<sup>13</sup> The Republic of Suriname indicates that in practice this article is interpreted as benefit to oneself only, but that there is draft legislation that contemplates the issue of benefits for a third party. Suriname indicates as well that this draft legislation includes the concept of benefits other than those of monetary value.

<sup>14</sup> The Republic of Suriname indicates that Article 426 of the Criminal Code does not mention that the act or omission is contrary to the duties of the public servant. However, this information was submitted after May 22, 2008, which was the deadline set by the Committee of Experts to submit the response to the Questionnaire and, for that reason, it was not analyzed.

servant, or for any public fund, or, upon receiving a payment, to keep any amount that they know to be not rightfully collectible. However, the article does not mention whether this benefit may be not only for the public servant themselves, but also for third parties who are not public servants or manage public funds. Furthermore, the article refers only to payments while failing to include other benefits, such as favors or advantages. The Committee will make a recommendation in this regard (see Recommendation 3.1(c) in Chapter III, Section 3 of this report).

- With respect to paragraph (e) of Article VI(1):

Having analyzed the criminal standards reported by the Republic of Suriname, the Committee finds that those standards make no provision to define the conduct of someone who engages in actions to conceal or make it impossible to investigate or punish the perpetrator or participant in any of the acts described in Article VI.I of the Convention, or those who participate as co-principal, accomplice or instigator.<sup>15</sup> The Committee also notes that the conspiracy of two or more persons to commit a crime is not criminalized either. In this regard, the Committee will formulate a recommendation (see Recommendation 3.1 (d) in Section 3 of Chapter III of this Report)

- In regards to the definition of “public servant”:

Although Article 114 of the Criminal Code provides a definition of “public servant”, the Committee notes that this definition, in terms of application to that Code, does not contemplate private citizens who perform public functions or who manage public funds in any capacity or form. In this regard, the Committee will formulate a recommendation. (see Recommendation 3.1 in Section 3 (e) of Chapter III of this Report)

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

The Republic of Suriname, in its Response to the Questionnaire, did not refer to the results obtained from the application of the above provisions.

The Committee points out the importance that the country under review completes the Questionnaire, including the Results section, in order to be able to make a comprehensive assessment of any progress made and the areas that need to be strengthened for the implementation the Convention.

This Committee considers that, given the lack of information from the Republic of Suriname, it cannot assess the matter and will therefore formulate recommendations in this regard. (General Recommendations 4.2 and 4.3 in Section 3, Chapter III, of this Report.)

## **III. CONCLUSIONS AND RECOMMENDATIONS IN RELATION TO THE IMPLEMENTATION OF THE PROVISIONS SELECTED IN THE FRAMEWORK OF THE SECOND ROUND**

Based on the review conducted in Chapter II of this Report, the Committee offers the following conclusions and recommendations regarding implementation by the Republic of Suriname of the provisions contained in Article III(5) (systems of government hiring and for the procurement of goods and services); Article III(8) (systems for protecting public servants and private citizens who, in

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<sup>15</sup> The Republic of Suriname indicates that this issue is covered under Article 241 of the Criminal Code. However, this information was submitted after May 22, 2008, which was the deadline set by the Committee of Experts to submit the response to the Questionnaire and, for that reason, it was not analyzed.

good faith, report acts of corruption); and Article VI (acts of corruption) of the Convention, which were selected for review within the framework of the second round.

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

### **1.1 Systems of Government Hiring**

**The Republic of Suriname has considered and adopted measures to establish, maintain and strengthen the systems of government hiring, as discussed Section 1.1 of Chapter II of this Report.**

In light of the comments made in the above-noted section, the Committee suggests that The Republic of Suriname consider the following 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.

In meeting this recommendation, the Republic of Suriname could take into account the following measures:

- a) Adopt, through the appropriate legislative and/or administrative procedures provisions that explicitly provide that government hiring into the public service entry is to be based on the principle of merit, through a competitive selection process. (See Section 1.1.2. of Chapter II of this Report)
- b) Establish regulations on staff recruitment on the manner to hold competitive examinations, including the methods for announcing vacancies and publishing selection requirements, in order to ensure that merit-based competitive examinations comply with principles of openness, efficiency, equity, legality, neutrality, equality and transparency. (See Chapter II, Section 1.1.2. of this Report).
- c) 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 public service position is open to the public, the appropriate Government authority is required to advertise it. (See Section 1.1.2. of Chapter II of this Report)
- d) Make the necessary changes so that the 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. (See section 1.1.2 of Chapter II of this Report)
- e) Take the necessary steps including the amendments of its legislation that it deems adequate in order provide an administrative and/or legal method of redress regarding appointments. (See section 1.1.2 of Chapter II of this Report)
- f) Adopt a post classification manual as well as a clearly defined policy in order to regulate how the ranks of officials are determined, including those of new entry into the public service. (See section 1.1.2 of Chapter II of this Report)

- g) Adopt provisions concerning those positions in the other branches of the Government not covered by the Staff Act (State Decree 1985, No. 41) , that explicitly provide that government hiring into all branches of Government and all Government agencies is to be made through a competitive selection process and based on the principle of merit, and develop that system. (See Section 1.1.2. of Chapter II of this Report)
- h) Design and implement, when appropriate, training and induction programs for those persons recently hired into public service. (See Section 1.1.2. of Chapter II of this Report)

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

**The Republic of Suriname has considered and adopted measures intended to establish, maintain and strengthen the systems for government procurement of goods and services, as discussed in Section 1.2 of Chapter II of this Report.**

In light of the comments made in the above-noted section, the Committee suggests that the Republic of Suriname considers the following recommendation:

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

In meeting this recommendation, the Republic of Suriname could take into account the following measures:

- a) Provide criteria for what constitutes the expression “in the national interest” used in Article 18 of the Compatibility act. (See Chapter II, Section 1.2.2. of this Report).
- b) Adopt legislation to regulate the authority that some public servants have to forego public tendering. (See Chapter II, Section 1.2.2. of this Report).
- c) Establish clear and objective criteria for the purposes of evaluating and awarding publicly awarded contracts. (See Chapter II, Section 1.2.2. of this Report)
- d) Implement guidelines or criteria that allow for an analysis as to whether the launch of a procurement process requires prior planning sufficiently in advance of the launch of procurement process, such as preparing studies, designs and technical evaluations, and to assess the appropriateness and timeliness of the purchase. (See Section 1.2.2. of Chapter II of this Report)
- e) Establish general standard contracting terms and conditions that are applicable to the various tendering and public purchasing modalities. (See Section 1.2.2. of Chapter II of this Report)
- f) Establish a centralized registry of contractors of works, goods or services, mandatory to all State bodies and dependencies, to foster the principles of openness, equity and efficiency provided for in the Convention, which would also include an appeal mechanism for those contractors who have been denied registration, so they would not be left without recourse. (See Section 1.2.2. of Chapter II of this Report)
- g) Implement a mechanism by legislative or administrative means to facilitate the exclusion and/or sanction of certain contractors for stipulated reasons, which would also include an

appeal mechanism for those contractors who have been banned or included in the list, so they would not be left without recourse. (See Section 1.2.2. of Chapter II of this Report)

- h) Implement provisions so all bidders, including the unsuccessful ones, are notified of the results of the bidding process. (See Section 1.2.2. of Chapter II of this Report)
- i) Strengthen and expand the scope of use of other forms of publication, including electronic communications, such as the internet for advertising the tender opportunities, status of bids and awards and the progress in the execution of major projects. (See Section 1.2.2. of Chapter II of this Report)
- j) Develop and implement electronic procurement systems, so that the acquisition of goods and services may be carried out through those means. (See Section 1.2.2. of Chapter II of this Report)
- k) Implement specific provisions allowing for challenges to the procurement process at the administrative and judicial level, which detail the procedure to be followed by government entities in handling and responding to such challenges and appeals. (See Section 1.2.2. of Chapter II of this Report)
- l) Develop and implement a system of sanctions for government servants and employees who violate or fail to fulfill the principles and provisions contained in the General Provisions. (See Chapter II, section 1.2.2 of this report).
- m) Implement mechanisms responsible for the internal and external audit, control and oversight of the government procurement system and the monitoring of execution of contracts. (See Section 1.2.2. of Chapter II of this Report)
- n) Establish an independent body or authority responsible for the administration, control and oversight of the government procurement system. (See Section 1.2.2. of Chapter II of this Report)
- o) Implement provisions that facilitate the participation of citizen oversight mechanisms to monitor the execution of contracts where the nature, importance or magnitude so warrants, in particular public works contracts, as well as mechanisms that would ensure access to information and develop accountability exercises so that citizens in general can exercise oversight over the administration's contract management. (See Section 1.2.2. of Chapter II of this Report)
- p) Create a single procurement code that brings together all legal provisions applicable to the procurement of goods, works, and services by the government. (See Section 1.2.2. of Chapter II of this Report)

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

**The Republic of Suriname has considered and adopted certain measures intended to establish, maintain and strengthen systems for protecting public servants and private citizens who in good faith report acts of corruption, as discussed in Section 3 of Chapter II of this Report.**

In light of the comments made in the above-noted section, the Committee suggests that The Republic of Suriname considers the following 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.

In meeting this recommendation, the Republic of Suriname could take into account the following measures:

- 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. (See Section 2.2 of Chapter II of this report)
- 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. (See Section 2.2 of Chapter II of this report)
- 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. (See Section 2.2 of Chapter II of this report)
- 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. (See Section 2.2 of Chapter II of this report)
- e) Witness protection mechanisms that provide the same guarantees to both public servants and private citizens; (See Section 2.2 of Chapter II of this report)
- f) 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. (See Section 2.2 of Chapter II of this report)
- g) A simple whistleblower protection application process. (See Section 2.2 of Chapter II of this report)

- 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. (See Section 2.2 of Chapter II of this report)
- i) The respective competence of judicial and administrative authorities with respect to whistleblower protection, clearly distinguishing one from the other. (See Section 2.2 of Chapter II of this report)

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

**The Republic of Suriname has adopted measures aimed at criminalizing the acts of corruption provided for by Article VI.1 of the Convention, as discussed in Section 3 of Chapter II of this Report.**

In light of the comments made in the above-noted section, the Committee suggests that the Republic of Suriname consider the following recommendations:

- 3.1. Modify and/or complement the Criminal Code, in order to expand the coverage to meet the requirements of Article VI.1 of the Inter-American Convention against Corruption. To comply with this recommendation, the Republic of Suriname could take the following measures into account:
  - a) Article 427 of the Criminal Code, could be complemented so as to include the elements “solicit,” “directly or indirectly”, modify the elements “gift or promise” with “any benefit such as a favor or advantage,” include that the benefit can be for himself or for a third party, and modify or replace the conditional term “contrary to its obligations,” allowing for the inclusion of conducts carried out in the performance of duties. (See Section 3.2 of Chapter II of this report)
  - b) Article 229 of the Criminal Code could be complemented so as to include the elements “offering,” “directly or indirectly”, modify the elements “gift or promise” with “any benefit such as a favor or advantage,” include that the benefit can be for himself or a third party, and modify or replace the conditional term “contrary to its obligations,” allowing for the inclusion of conducts carried out in the performance of duties. (See Section 3.2 of Chapter II of this report)
  - c) Article 430 of the Criminal Code could be complemented so as to modify the element “payments” for “any benefit such as a favor or advantage,” and include that the benefit can be for himself or for a third party. (See Section 3.2 of Chapter II of this report)
  - d) Criminalize, in its Criminal Code, the conduct of an accessory after the fact, as well as the co-author or accomplice, instigator, and the conspiracy of two or more persons to commit a crime, for the purposes referred to in paragraph e) of Article VI.1. of the Convention. (See Section 3.2 of Chapter II of this report)
  - e) Study the possibility of amending the legislation in place, in particular the Criminal Code, so that the definition of public servant is expanded to include those private citizens who perform public functions or who manage public funds in any capacity or form. (See Section 3.2 of Chapter II of this Report)

#### **4. GENERAL RECOMMENDATIONS**

Based on the review and contributions made throughout this Report, the Committee suggests that The Republic of Suriname consider the following 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. (See Section 1.1.2. of Chapter II of this Report)
- 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. (see Sections 1.1.3, 1.2.3, 2.3 and 3.3 of Chapter II of this Report)
- 4.3 Establish mechanisms for providing timely responses to the Questionnaire regarding the provisions of the Inter-American Convention against Corruption within the set deadlines, including the section on results. (See Chapter II, Section 3.3 of this Report).

#### **5. FOLLOW-UP**

The Committee will consider the periodic update Reports submitted by the Republic of Suriname concerning progress in implementing previous recommendations, within the framework of the plenary meetings of the Committee and in accordance with the provisions of Article 31 of the Rules of Procedure and Other Provisions.

Similarly, the Committee will review the progress in implementing the recommendations made in this Report, in accordance with the provisions of Article 29 of the Rules of Procedure.

#### **IV. OBSERVATIONS REGARDING THE PROGRESS MADE WITH IMPLEMENTING THE RECOMMENDATIONS ISSUED IN THE FIRST ROUND**

Regarding the progress made with the implementation of the recommendations issued in the report adopted during the first round of analysis, the text of which is annexed hereto,<sup>16/</sup> the Republic of Suriname did not address the issue in its response to the Questionnaire, and did not add any other information using the standard format adopted by the Committee for submissions of such information, as provided for in Article 29 of its Rules of Procedure.

In connection with this, the Committee notes its concern at not having received any information from the State undergoing analysis in the terms set out in Article 29 of the Rules of Procedure and elaborated upon in the questionnaire and methodology adopted by the Committee for the second round. The Committee consequently offers the following remarks:

1. The Committee believes it should note the following background details regarding what the MESICIC State Parties agreed on for following up on implementation of recommendations:

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16. See annex to this Report, containing the recommendations extended to the Republic of Suriname in the report of the first round of analysis.

- a. The Document of Buenos Aires – which created the MESICIC and was signed by all of the Mechanism’s member states – establishes that one of its goals is “to follow up on the commitments made by the States Parties to the Convention and to study how they are being implemented.” It also states that its characteristics include ensuring “equal treatment among States Parties” and being “conducted on the basis of consensus and on the basis of the principle of cooperation among States Parties.”
- b. Article 29 of the Rules of Procedure, adopted through the consensus of all the members of the Committee at its Eighth Regular Meeting (September 2005) provides that:

*“Article 29. Follow-up within the framework of future rounds. 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. 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.”*

*“With respect to the implementation of recommendations, the State Party shall refer to any difficulties that may have arisen in the process. 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.”*

*“During the second and subsequent rounds, the country report of each State Party shall address the steps taken to implement the recommendation adopted by the Committee in previous country reports. The country report shall note those recommendations that have been satisfactorily considered and those that need additional attention by the country under review.”*

- c. In accordance with the terms of Article 29 of the Rules of Procedure, the Committee adopted, by consensus and as a part of the second round questionnaire,<sup>17/</sup> the standard form to be used by the states to present information on the progress made with the recommendations extended during the first round. Similarly, the Committee adopted by consensus the methodology for analyses in the second round,<sup>18/</sup> which establishes all provisions and considerations regarding the scope of the follow-up that the Committee is to conduct with respect to the recommendations extended to each country in the first-round country reports.
2. The report adopted in connection with the Republic of Suriname as a part of the first round of analysis, including the recommendations formulated for that State therein, was adopted with the consensus of The Republic of Suriname as the State under review and in accordance with the procedure established in the Document of Buenos Aires and the Rules of Procedure.
  3. Related to each of the recommendations set out in the country reports, the Committee includes, in each case and in accordance with the analysis carried out, a series of measures that it believes the State undergoing review could take into account in order to make progress with the implementation of those recommendations.

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17. See “Questionnaire” at: [http://www.oas.org/juridico/english/mesicic\\_quest\\_IIround.doc](http://www.oas.org/juridico/english/mesicic_quest_IIround.doc)

18. See “Methodology” at: [http://www.oas.org/juridico/english/mesicic\\_method\\_IIround.pdf](http://www.oas.org/juridico/english/mesicic_method_IIround.pdf)

In accordance with the consideration given to the recommendations, the State undergoing review can always make progress with their implementation by adopting the measures suggested by the Committee or other alternative measures that it deems appropriate.

Consequently, the standard form adopted by the Committee for States to report on their progress with implementing the first-round recommendations allows the State to indicate the measure or measures suggested by the Committee or the measure or measures taken by the State to implement the corresponding recommendation and to briefly describe the specific steps it has taken in connection with those measures.

4. In accordance with the provisions of Article 29 of the Rules of Procedure, this standard form allows the State undergoing review to set out the possible difficulties it sees in the implementation of the various recommendations and, in addition, to identify which of its domestic agencies have participated in the implementation of the corresponding recommendation and to identify specific needs (such as technical assistance or help in other areas) associated with its implementation.
5. The Committee would like to stress that in accordance with the decisions taken by the MESICIC States Parties, the information sought on each State's progress with implementing the recommendations and the standard form in which it is to be provided is intended, as one of its basic aims, to facilitate, promote, and strengthen cooperation among the States Parties, in compliance with the terms of the Convention, the Document of Buenos Aires, and the Rules of Procedure.

Thus, Article 29 of the Rules of Procedure establishes that: "During the second and subsequent rounds, the country report of each State Party shall address the steps taken to implement the recommendation adopted by the Committee in previous country reports. The country report shall note those recommendations that have been satisfactorily considered and those that need additional attention by the country under review."

6. All the above underscores the importance of the reviewed State's supplying adequate, detailed information in the fashion agreed on by the Committee.

Clearly, without that information, the Committee cannot address any measure taken or difficulty encountered by the State, nor can it note any recommendation that has been satisfactorily implemented or that requires additional attention. Without that information, the Committee is essentially unable to perform any analysis or to comply with the mandate imposed by Article 29 of the Rules of Procedure.

7. The lack of information on the implementation of the recommendations has the more serious implication of making it impossible to pursue the basic goal of facilitating, promoting, and strengthening cooperation among the States Parties, in accordance with the terms of the Convention, the Document of Buenos Aires, and the Rules of Procedure. Thus, in the absence of relevant information, it is impossible to identify those areas where progress has been made or to share them with other States to which those experiences could be of use. Furthermore, it prevents the sharing of any difficulties detected by the State undergoing review and the facilitation of international cooperation for the State in overcoming those problems.

Bearing in mind the considerations set out above, the Committee urges The Republic of Suriname to report on its progress with implementing the recommendations extended to it in the first-round report at the forthcoming meetings of the Committee, in compliance with Article 31 of the Rules of Procedure.

The Committee will continue to duly monitor the implementation of the recommendations it extended to The Republic of Suriname, in accordance with the terms of its Rules of Procedure.

ANNEX

**RECOMMENDATIONS TO THE REPUBLIC OF SURINAME 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:

*Consider strengthening the implementation of the provisions on conflicts of interest, and ensure that the laws on this matter are applicable to all public officials and employees, so as to permit the practical and effective application of a public ethics system.*

Measures suggested by the Committee:

- a. *Establish a standard for addressing the conflicts that can occur between individual specific government matters in which those persons that perform public functions would be expected to act as a part of their responsibilities and an official's or family member's financial interests or his outside activities or negotiations for future private employment arrangements. Such a standard could include recusal, request by the person that perform public functions for permission to continue to act, request by the official for a transfer of duties (if appropriate), or direction by an appropriate authority for divestiture/resignation when the conflict is pervasive.*
- b. *Establish suitable restrictions for persons who leave public service, such as prohibitions on participation as a representative of a private interest in ongoing, specific matters in which they had participated in an official capacity, or for a reasonable time, restrictions on dealing with former government body in which they served.*

**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:

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

**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 1.3.1:

*Establish standards and mechanism that require public servants to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware. This should be complemented by measures that protect public servants who report acts of corruption in good faith.*

Recommendation 1.3.2:

*Facilitate compliance with this obligation by such measures as it deems appropriate.*

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

Recommendation:

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

Measures suggested by the Committee:

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

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

Recommendation:

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

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

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

###### Recommendation 4.1:

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

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

###### Recommendation 4.2:

*Strengthen the mechanisms on access to information.*

###### Measures suggested by the Committee:

- a. Conduct a comprehensive review of the rules and regulations that provide exceptions to the right of access to public information, in order to ensure that they do not obstruct the exercise of the right to information as an effective mechanism in efforts against corruption, in accordance with the observations in Section 4.2.2 of this report.*
- b. Strengthen systems that ensure public access, as appropriate, to information on public administration bodies and their program-related and financial activities, in particular as regards those bodies concerned with the issues covered in this report; and improve, where possible, the use of modern technologies to that effect.*
- c. Carry out a comprehensive evaluation of the use and effectiveness of mechanisms for access to information, and, based on the results of that evaluation, consider the adoption of measures to promote, facilitate, and consolidate the effectiveness of these mechanisms.*

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

###### Recommendation 4.3:

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

###### Measures suggested by the Committee:

- a. Strengthen consultation mechanisms to enable civil society and nongovernmental organizations to generate opinions and proposals to be taken into account in preventing, detecting, investigating, and punishing corruption.*

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

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

##### Recommendation 4.4:

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

##### Measures suggested by the Committee:

- a. *Develop standards and procedures to establish, maintain and strengthen mechanisms to encourage participation by civil society and nongovernmental organizations in public administration as part of the efforts to prevent corruption.*
- b. *Design and implement specific programs to publicize mechanisms to encourage participation in public administration and, as appropriate, provide the necessary training and instruments to public officials for the effective implementation of those mechanisms.*

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

##### Recommendation 4.5:

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

##### Measures suggested by the Committee:

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

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

##### Recommendation 5.1:

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

Recommendation 5.2:

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

Recommendation 5.3:

*Strengthen efforts to exchange technical cooperation with other States Parties on the most effective ways and means to prevent, detect, investigate, and punish corruption.*

**6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)**

Recommendation 6.1:

*Formalize the designation of the Solicitor General as the central authority provided for in Article XVIII of the Convention for the purposes of international assistance and cooperation envisaged in that treaty, and communicate that designation to the General Secretariat of the OAS in accordance with the procedures provided to that end.*

Recommendation 6.2:

*Ensure that said authority has sufficient resources to enable it to carry out its functions.*

**7. GENERAL RECOMMENDATIONS**

Recommendation 7.1:

*Design and implement, where appropriate, training programs for public servants responsible for application of the systems, standards, measures, and mechanisms included in this report, in order to ensure their proper acquaintance, management, and application.*

Recommendation 7.2:

*Select and develop procedures and indicators, as appropriate, for verifying follow-up of the recommendations contained in this report, and notify the Committee accordingly through the Technical Secretariat. For said purposes, Belize could take into account the list of broader indicators applicable to the inter-American system that were available for election, as necessary, by Belize, and which have been published by the Technical Secretariat of the Committee on the OAS Internet web site. Belize could also take into account any information arising from the review of mechanisms developed pursuant to recommendation 7.3 below.*

Recommendation 7.3:

*Implement the recommendations contained in this report and develop, as appropriate and where none exist, procedures to review the mechanisms mentioned herein.*