

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

UPDATE OF THE RESPONSE

OF THE REPUBLIC OF ECUADOR

**OF ON PROVISIONS SELECTED BY THE COMMITTEE OF EXPERTS FOR REVIEW
WITHIN THE FRAMEWORK OF THE FIRST ROUND**

PREAMBLE

This is a revised version of the report that Ecuador presented before the Civil Anti-Corruption Commission became Ecuador's central authority for the purposes of the Inter-American Convention against Corruption.

The annexes have also been revised, and are labeled as follows:

- Annex 1. Constitution of the Republic of Ecuador*
- Annex 2. Relevant legislation*
- Annex 3. Draft Freedom of Information Act*
- Annex 4. Draft Organic Act for Societal Control of Government*
- Annex 5. Anti-corruption System of Ecuador*
- Annex 6. Regulations for the Establishment and Functioning of Citizen Advisory and Oversight Committees.*

With regard to the questionnaire's request for statistical data on the application of rules and mechanisms described in the replies, we do not have that information, except concerning Chapter 4.5b, concerning which we are providing the available data.

INTRODUCTION

According to Article 1 of the Constitution, in force since 1998, "Ecuador is a social State under law, sovereign, unitary, independent, democratic, multicultural, and multiethnic. Its government is republican, presidential, elected, representative, responsible, alternating, participatory, and with decentralized administration."

"Sovereignty is vested in the people, whose will is the basis of authority, which is exercised through the branches of government and the democratic procedures established in the Constitution."

Article 3 of the Constitution provides that one of the State's primary duties is to "Guarantee the functioning of the democratic system and a public administration that is free of corruption."

The civil, political, economic, social, and cultural rights guaranteed by the Constitution support the operation of the democratic system and the rule of law.

According to the Constitution the country's economy is a social market economy (Article 244) organized and operating on the basis of the principles of efficiency, partnership, sustainability, and quality, with the objective of ensuring that citizens have a decent life and equal rights and opportunities for access to jobs, goods and services and ownership of the means of production (Article 242). In this economy economic enterprises of the public and private sectors co-exist and compete; property and management can be private, public, mixed, community-owned, or self-managed, as provided in Article 245.

LEGAL AND INSTITUTIONAL STRUCTURE

Article 118 of the Constitution establishes the following State institutions that together comprise the public sector:

- a) Organs and entities of the legislative, executive, and judicial branches;
- b) Electoral organs;
- c) Control and regulatory organs;
- d) Entities in the autonomous section regime;
- e) Organs and entities established by the Constitution and by law to exercise State authority for providing public services or carrying out economic activities assumed by the State; and
- f) Corporations established by sectional legislative acts to provide public services.

The legal system of the basic institutions, their composition and organization, requirements and disqualifications for the election or appointment of office holders, their powers, duties, and principal procedures are established in the Constitution from Title V through Title XI, and can be consulted in the text of the Constitution contained in Annex 1.

Here is a brief description of this legal and institutional structure, with mention of the points we consider most pertinent for the purpose of this report.

Legislative function

This function is exercised by Congress, a unicameral body composed of deputies elected by each of the country's provinces, who serve for a term of four years.

Its principal duties are to amend and interpret the Constitution, to promulgate, amend, and repeal laws and interpret them; monitor the acts of the executive branch and the Supreme Electoral Tribunal; approve or reject international treaties; approve the general budget of the State and monitor its execution; establish the ceiling for the public debt and request the information it deems necessary from government employees. Congress appoints the following officials: the Attorney General, the Prosecutor General, the Ombudsman, Superintendents (banks, companies, and telecommunications), judges of the Constitutional Tribunal and Supreme Electoral Tribunal, and directors of the Central Bank. It also prepares the slate from which the President selects the Comptroller General (Articles 126 and 130).

As part of this function there is also a **Legislation and Codification Committee**, made up of seven members who are appointed by a majority of the members of Congress, but apart from that body. Its duties are basically to write bills, codify and publish laws, and collect and codify Ecuadorian legislation.

Executive branch

According to Article 2 of the Statute of the Legal Administrative Rules for the Executive Branch, this branch is composed of the central public administration and the institutional public administration.

The central public administration includes:

- a) The President, the Vice President, and the organs under or attached to them; and
- b) The ministers of State and the organs under or attached to them.

The institutional public administration includes:

- a) Corporations of the public sector attached to the President, the Vice President, or the ministers of State; and
- b) Autonomous corporations of the public sector whose governing bodies are composed mainly of delegates or representatives of the central public administration.

The **President** is the chief of State and government, responsible for the public administration. He or she is elected by popular suffrage for a four-year term, and may be re-elected after the lapse of one term following the one for which she or he was elected.

The **Vice President** is elected on a slate with the President for a similar term and with the same requirements. In case of the President's definitive or temporary absence, the Vice President assumes the office for the time necessary to complete the respective term. The Vice President's duties are those assigned by the President.

The **General Secretariat of the Public Administration** is an office of the Presidency, whose purpose is to facilitate the adoption of the President's decisions and to coordinate the activities of the executive branch based on direct presidential instructions.

The **Ministers of State**, freely appointed and removed by the President, represent him or her in their ministry and are responsible for their acts and contracts in the performance of their duties.

Judicial branch

According to Article 198 of the Constitution, this branch is composed of the following organs:

- a) The Supreme Court;
- b) The courts, tribunals, and magistrates established by the Constitution and by law; and
- c) The National Judiciary Council

The organs of the judicial branch are independent in the exercise of their duties and powers. The judicial system establishes the principle of single jurisdiction and alternative means (justices of the peace, arbitration, mediation, and duties for officials of indigenous peoples). (Article 191 of the Constitution). Procedurally it will enforce guarantees of due process and the principles of prompt, speedy, and efficient trials; oral proceedings (already applied in penal cases), transparency, and the principle of evidentiary forms. There is a judicial career path.

The legal system is consists of primary and appellate divisions, with recourse to the Supreme Court.

As for the single jurisdiction, the Constitution established in transitory provision number 26 that all magistrates and judges appointed by the executive branch will be transferred to the judicial branch, including military, police, and juvenile court judges.

The **National Judiciary Council** is the administrative and disciplinary organ of the judicial branch and the one responsible for drafting bills for enforcement of these provisions.

As for the **Penitentiary System**, Article 208 of the Constitution provides that the penal system and confinement shall have the purpose of educating and training prisoners for work, so that they may be rehabilitated and duly reincorporated into society.

Electoral organs

Article 10 of the Electoral Law States that “*the election organs are:*”

- a) *The Supreme Electoral Tribunal;*
- b) *The provincial electoral tribunals; and*
- c) *The polling stations.”*

The **Supreme Electoral Tribunal** is the supreme electoral organ, autonomous and independent, with jurisdiction in all of the national territory, responsible for organizing, directing, monitoring, and guaranteeing the voting process, and approving the campaign spending reports. (Article 209 of the Constitution and Article 18 of the Electoral Law).

The Supreme Electoral Tribunal is composed of seven principal members, and their respective alternates. These members represent the politicians who earned the highest number of votes in the last national elections. They are elected by the majority of the members of Congress and serve for a period of four years.

The **Provincial Electoral Tribunals** are also composed of seven principal members with their respective alternates. They are appointed by the Supreme Electoral Tribunal and serve a term of two years. The most important duties of the Provincial Electoral Tribunals are to direct and supervise elections within their jurisdiction, give the necessary instructions for holding them properly, and count the votes of the single and multiple candidate elections held in the respective province.

The **Polling Stations** are those in established in each election district to receive ballots and count them. They are composed of between three and six members.

Control organs

Title X of the Constitution establishes the following control organs: THE COMPTROLLER GENERAL, THE ATTORNEY GENERAL, THE OFFICE OF PUBLIC PROSECUTIONS, THE CIVIL ANTI-CORRUPTION COMMISSION, AND THE SUPERINTENDENTS (banks, companies, and telecommunications).

They are public law organs with administrative and financial independence, whose structure and functioning is regulated in the respective institutional laws.

A complete description of the indicated organs is in the corresponding paragraphs.

The **Constitutional Tribunal** is the supreme organ for constitutional oversight, composed of nine judges and their respective alternates, who serve four-year terms and may be re-elected.

It considers and rules on allegations of unconstitutionality that arise in connection with any sort of regulation issued by organs of State institutions or administrative act of a public official; it considers resolutions that deny habeas corpus, habeas data, or protection, and appeals authorized in the protection suit; it settles conflicts of jurisdiction or duties assigned by the Constitution, among other exclusive powers.

This body has no jurisdiction over decisions of the judicial branch.

Declaring an act unconstitutional will have no retroactive effect, and cannot be appealed.

Office of the Ombudsman

This is a public agency with functional, financial, and administrative independence and national jurisdiction. The Ombudsman heads the agency.

On its own initiative or at the request of the interested party it may defend and require the observance of basic individual or collective rights, and sponsor actions of habeas corpus, habeas data, or protection of persons who require it.

Sectional and autonomous governments

In accordance with our country's territorial and administrative structure, the sectional governments are comprised of:

The **Provincial Councils**, with provincial jurisdiction to promote and carry out works of provincial scope in highways, the environment, irrigation and stream and river basin management in their area.

The **Municipal Councils**, with local jurisdiction in the respective provinces, whose head is the mayor. In addition to the powers granted by law, the Municipal Councils can plan, organize, and control traffic and land transport directly, by concession, grants, or other forms of administrative contracting, in accordance with the community's needs.

The **Parish Councils**, with parish jurisdiction in the communities, have the duties and powers stated in law.

There are also the agencies established by law for the administration of the indigenous and Afro-Ecuadorian communities.

The sectional autonomous governments, in the performance of their duties, must adhere to the principles of autonomy, administrative decentralization and citizen participation. Their members are elected in general elections in each territorial area.

Other public sector agencies and bodies

Constitutional mandates have given the country a broad gamut of agencies responsible for exercising governmental authority in providing public services or carrying out economic activities assumed by the State. Similarly, sectional governments have established specialized agencies to provide public services.

DATA ON THE RATIFICATION OF THE CICC AND INVOLVEMENT IN THE FOLLOW-UP MECHANISM

On May 13, 1997 the Ecuadorian Congress ratified the Inter-American Convention against Corruption, and the corresponding resolution was published in Official Register No. 70 of May 22 of the same year. For its implementation, the full text was published in Official Register No. 83 of June 10 of the same year.

Delegates of the Permanent Mission to the OAS took part in the first meetings of the Working Group on Probity and Public Ethics, which dealt with establishment of the Follow-up Mechanism. Ecuador participated with one delegate from the Office of Public Prosecutions and two delegates from the Civil Anti-Corruption Commission in the first preparatory meeting of the States Parties in March 2001.

At the Conference of Buenos Aires (May 2-4, 2001), represented by the Office of Public Prosecutions, Ecuador took part in the agreement to establish the Follow-up Mechanism, which was subsequently approved at the thirty-first regular session of the OAS General Assembly (San Jose, Costa Rica, June 3-5, 2001).

In Executive Order No. 122 the President of Ecuador established the Civil Anti-Corruption Commission as the central authority for the purposes of the Inter-American Convention against Corruption. On July 9, 2003 the Civil Anti-Corruption Commission appointed Ecuador's principal representative to the Committee of Experts, and the notification was officially transmitted on July 14, 2003 by the country's Permanent Representative to the Organization of American States.

CHAPTER ONE

MEASURES AND MECHANISMS REGARDING STANDARDS OF CONDUCT FOR THE CORRECT, HONORABLE, AND PROPER FULFILLMENT OF PUBLIC FUNCTIONS

Article III "Preventive Measures" of the text of the Inter-American Convention against Corruption establishes that:

For the purposes set forth in Article II of this Convention, the States Parties agree to consider the applicability of measures within their own institutional systems to create, maintain and strengthen:

1. Standards of conduct for the correct, honorable, and proper fulfillment of public functions. These standards shall be intended to prevent conflicts of interest and mandate the proper conservation and use of resources entrusted to government officials in the performance of their functions. These standards shall also establish measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions. Such measures should help preserve the public's confidence in the integrity of public servants and government processes.

These provisions clearly indicate that the standards of conduct and general mechanisms for the correct, honorable, and proper performance of public functions are those involving standards of conduct intended to prevent conflicts of interest in the performance of public functions, those intended to ensure the conservation and use of resources entrusted to government officials in the performance of their functions, and measures and systems that require government officials to report to appropriate authorities acts of corruption of which they are aware. However, in order to answer point 1 of the first chapter of the

questionnaire, there follows a brief description of the principles and mandates that our legal system has in order to ensure the correct, honorable, and proper performance of public functions.

1. General legal framework and mechanisms

Ecuadorian law has a broad spectrum of regulations for standards of conduct and general mechanisms for the correct, honorable, and proper performance of public duties.

Some of the rules on ethical conduct of public officials have been in force for many years, such as those contained in the Civil Service and Career Service Act of 1978, the Ethics Code of the Legislature of 1988, the Ethics Code for Employees of the Comptroller General's Office of 2002, Disciplinary Regulations for each of the public agencies, etc.

Annex 2 contains a **general compilation of existing regulations** on each of the subjects and sub-topics in the questionnaire, for the present chapter and for chapters II, III, and IV below.

In the past five years the most significant element in the process of legislative development in this area has been the Constitution of Ecuador, promulgated in August 1998, which provides: "**Article 120.** *No official, authority, employee, or civil servant shall be exempt from responsibility for acts in the performance of their functions, or for acts of omission. Performance of public office and functions is a service to the citizens that demands ability, honesty, and efficiency.*"

The same constitutional provision establishes that the regulations to assign civil and criminal administrative responsibility for the handling and management of funds, property, or public resources are applicable to the officials, authorities, and employees of State agencies and institutions, and to public employees and civil servants in general, who shall be subject to the penalties established for the commission of the crimes of embezzlement, bribery, extortion, and illegal enrichment, taking into account that the Constitution provides there is no statute of limitations for these offenses (Article 121).

The Civil Service and Career Service Act prohibits public employment of persons linked in any way to defrauding the government (Article 14).

Furthermore, Article 58 of the Civil Service and Career Service Act says that civil servants' duties include diligent and efficient personal attention to the obligations of their post and observance of the agency's regulations; acting honorably on the job and in their public and private conduct so as not to create a scandal or besmirch the prestige of the institution in which they serve; treating the public courteously and considerately in their official duties; informing their supervisor of acts that could harm the administration; and in Article 60 civil servants are prohibited from delaying or unjustifiably refusing to perform the work or services that they are required to do by virtue of their post; requesting gifts or donations for supervisors or receiving them from subordinates; behaving immorally in any way to the detriment of the proper performance of their duties.

Deputies are required to act justly, honestly, and with probity (Article 1.d of the Ethics Code of the Legislature).

Civil servants must maintain their and their family's reputation, avoiding any appearance of irregular conduct, improper treatment, rudeness, conceit, vulgarity, or vices. Thus persons cannot be appointed to the Comptroller General's Office or remain in their posts if their conduct is publicly and flagrantly believed to be, or confirmed by evidence to be, unethical (Article 1 of the Ethics Code for Employees of the Comptroller General's Office).

“The employee must act honestly, attempting to serve the public interest and eschewing any personal gain, and is required to maintain and exhibit impeccable behavior and honesty.” (Article 9 of the Ethics Code for Employees of the Comptroller General’s Office)

“Civil servants shall put into practice the moral values dictated by their conscience and, if applicable, with total freedom, the religious principles that undergird their moral values.” (Article 13 of the Ethics Code for Employees of the Comptroller General’s Office)

“Civil servants shall know, study, and comply with the provisions of the Constitution, as well as the laws and regulations governing their work.” (Article 19 of the Ethics Code for Employees of the Comptroller General’s Office)

“Civil servants shall be accountable for their actions and decision in the performance of their duties and shall be willing to submit to the review and analysis of their actions in the light of the principles applicable to the subject.” (Article 20 of the Ethics Code for Employees of the Comptroller General’s Office)

“Employees shall use all their official working time in a responsible manner to fulfill their duties and perform their functions in an efficient and effective manner, with spirit and dedication, and see that their subordinates do likewise, in order to contribute to enhancing the agency’s image.” (Article 23 of the Ethics Code for Employees of the Comptroller General’s Office)

In addition to this collection of principles, Title III of the **Penal Code** specifies crimes against the public administration. Chapters V, VI, VII, and VIII.1 deal with the violation of civil servants’ rights, exceeding authority and abuse of power; perjury; bribery; and illicit enrichment.

Failure to obey orders or to observe laws or regulations, and omissions for failing to enforce them: Article 249.

Delay in obeying or enforcing orders, except in legitimate cases as indicated: Article 250.

Conspiracy to block, suspend, or encumber observance of a law, regulation, or order: Article 251.

Exceeding authority to issue regulations or rules, **improper assumption of legal authority** or duties to prevent the execution of a decision or order issued by a competent judge: Article 255.

Embezzlement, which will be covered in point 3 of this first chapter, concerning the conservation and proper use of resources assigned to public officials.

A sub-type of embezzlement is **financial gain from secret, confidential, or restricted information** that civil servants may know about through the positions they hold or have held: Article 257.2.

We also have **use of position to favor** persons or corporations by **awarding contracts or doing business with the public sector**, in violation of specific legal or regulatory provisions: Article 257.3.

Appearance of illicit acts or price fixing in the procurement of goods and products for the public sector. The penalty of two to four years in prison shall also be applicable to an individual who takes part in or cooperates with the illegal act: Article 260.

Unauthorized assessment of fines and fines without giving a receipt: Article 261.

Destruction or willful and fraudulent withholding of documents or valuables received for custody by virtue of the position: Article 262.

Extortion, defined as demanding, giving the appearance of demanding, or receiving improper payments, donations, income, or gratuities: Article 264.

Profit of civil servants from open or covert acts, or through another party, involving the proceeds of an auction, lease, award, embargo, seizure, court settlement, deposit or administration of goods, in which they participated officially by virtue of their office: Article 265.

Aggravated penalties for commission of other crimes that the officials by virtue of their position should have prevented, prosecuted, or punished: Article 275.

Suspension of conditional release for crimes specified in Articles 257 through 261, 265, and 265: Article 276.

Perjury, which will be discussed under conflict of interest: Article 277.

Bribery, defined as accepting an offer or promise of gifts or emoluments for performing an act of their job, which although proper should not require any compensation. It is punished with six months to three years in prison, a fine, and restitution of double the amount received: Article 285.

Aggravated bribery, which, under the former concept, penalizes the taking of **manifestly unjust acts or failing to carry out required acts**. It is punishable by one to five years in prison, a fine, and restitution of three times the amount received: Article 286.

Bribery to commit a crime in the course of official duties. Is punishable with four to eight years in prison: Article 287.

Bribery to judges or arbitrators, punishable with four to eight years of prison and disbarment: Article 289.

Responsibility of private parties who use threats, violence, promises, gifts, or presents to force a civil servant to take a bribe. They can receive the same punishment as the guilty public official: Article 290.

Illegal enrichment as an unjustified increase in an individual's assets during or as a result of the performance of an official function: Article 296.1

2. Conflict of interest

a) Existing standards of conduct to prevent conflict of interest in the performance of public functions.

In this regard the basic standard is contained in paragraph 2 of Article 123 of Ecuador's Constitution, which establishes that public officials must abstain from acting in cases in which their interests are in conflict with those of the agency or body where they work.

Another very important standard is contained in paragraph 4 of Article 97 of the Constitution, which establishes the duty and responsibility of all citizens to promote the common good and place public interest above their personal interest.

Also, the Ethics Code for Employees of the Comptroller General's Office provides in Article 47 that *"When auditors audit an agency they shall take care that their action does not result in a conflict of interest..."*

Article 78 of the Internal Regulations of Congress prohibits legislators from voting on matters in which they have some personal interest, although they can take part in the debate thereon.

The Civil Anti-Corruption Commission has the authority to request reports or documents from any public or private institution or individual in order to verify the facts of the cases it investigates, determine and rule on any situations that imply conflict of interest or improper use of confidential information, and to have recourse for the same purposes to any file or database of any public office or agency. (Article 7.d). In addition, all members of officers of the Commission are required to recuse themselves from participating in the investigation of acts in which they may be a conflict of interest or in some way involves them or a relative in the fourth degree by blood or the second degree by marriage (Article 8.c).

There are also standards to prevent conflict of interest in the performance of public functions in the Civil Service and Career Service Act, whose Article 60.i bars public employees from dealing with matters involving them, their wives, relatives in the fourth degree by blood or the second degree by marriage, or their close friends or notorious enemies. Similarly, section j) of the same article bars them from interceding directly or through a third Party to sign contracts with the State, obtain concessions or any benefits that confer privileges, in favor of companies, associations, or private Parties in which the employee, spouse or relative to the third degree by blood and second degree by marriage have an interest. Section h) of the same standard bars public officials from conducting direct or indirect business or financial dealings with government accountants, contributors, or contractors in cases where the public servants by virtue of their duties must handle their affairs.

In the area of public bidding, specific regulations to control possible conflicts of interest are found in the Public Contracting Act, in Title V, Chapter I, Articles 55 and 56, concerning disqualification from entering into contacts with the State or public sector agencies by the President, Vice President, ministers, legislators, presidents or legal representatives of public sector agencies with national scope, prefects and mayors, delinquent borrowers of the National Development Bank; provincial council members in their respective areas; individuals or corporations that have done studies or plans for or built architectural or engineering works or written specifications for the goods to be procured; members of governing boards or purchasing committees of the procuring agency, spouses and relatives to the fourth degree by blood and second degree by marriage; public employees or officials who have been involved in the pre-contracting stage and by their action or omission could benefit, their relatives to the abovementioned degrees, and companies, corporations, or unincorporated entities in which these employees, their spouses, or their relatives to the third degree by blood and the second degree by marriage have more than 20% of the stock or similar interest; and those who in a direct way have been involved in the writing, reviewing, or approval of the bidding documents.

The Organic Act of the Comptroller General's Office disqualifies the Comptroller General from having outside interests or representing third parties in areas to be controlled or regulated.

Paragraph 3 of Article 101 of the Constitution bars magistrates and judges in the judicial branch from being candidates for any elected office and paragraph 6 of the same article bars participation in elections

of persons who have contracts with the State for execution of public works, providing of public services, or exploitation of natural resources through concession, partnership, or any other contractual arrangement.

As provided in paragraph 3 of Article 178 of the Constitution, persons may not become ministers of State if they have contracts with the State as individuals or representatives of agents of national or foreign corporations, provided that the contract involves the execution of public works, providing of public services, or exploitation of natural resources through concession, partnership, or any other contractual arrangement.

Article 135.3 of Ecuador's Constitution prohibits deputies from offering, accepting, or processing resources of the government's general budget, from seeking appointments to public posts, and from serving on governing boards of institutions or companies in which the State is a Party.

To prevent the existence of possible conflicts of interest involving public institutions, several legal regulations prohibit public employees from holding more than one public office except for university teaching (Articles 125 and 205 of the Constitution, Article 18 of the Civil Service and Career Service Act, Article 28 of the Ethics Code for Employees of the Comptroller General's Office).

Reinforcing the prevention of conflict of interest in performance of public functions, nepotism is prohibited to the fourth degree by blood and the second degree by marriage or if there is a spousal relationship (Articles 125 of the Constitution, 6 and 16 of the Civil Service and Career Service Act, and 7 of the Ethics Code for Employees of the Comptroller General's Office).

The **Penal Code** punishes some cases of conflict of interest through the following provisions:

Prohibition from engaging in a business for employees of customs and criminal judges for business activities in the districts in which they work. The same ban applies to the President, ministers, governors, general commandants, heads of military zones, and magistrates of the courts if they engage in business, except for the sale of products from their own farms and branches of industry in which their relatives or agents are employed: Article 266.

Prohibition against magistrates or judges becoming borrowers or guarantors or assuming any obligation with Parties in a case of which they are seized: Article 267.

Perjury, Article 277: defined, in general, as actions that by **personal interest**, for or against an individual or corporation, lead judges and arbitrators to reach decisions contrary to law; advice that favors one of the parties in litigation assigned to them; malicious application of law in settlement of cases.

b. Mechanisms for enforcing standards intended to prevent conflict of interest in the performance of public functions

Firstly, it is necessary to note that the Civil Service and Career Service Act applies to Ecuadorian citizens who work for pay in government departments or other agencies under public or private law that have a public purpose. The law is applied by the Civil Service Commission, the Claims Board, and the departmental personnel offices. The Ethics Code of the Legislature applies to employees of the legislative branch. The Ethics Code of the Comptroller General's Office applies to employees in that institution and especially the government auditor. The Public Bidding Act governs entities of the public sector, as defined in Article 118 of the Constitution (see introduction), which enter into contracts for the execution of works or the procurement of goods. The provisions of the Organic Act of the Comptroller General's

Office govern the State institutions listed in Article 118 of the Constitution. The judicial branch is covered by the Organic Act of the Judicial Branch. The Constitution and the Penal Code apply nationally.

As enforcement mechanisms for the regulations intended to avoid the existence of conflicts of interest we should mention that civil servants who fail to fulfill their obligations or violate the provisions of the law commit an administrative violation that may result in disciplinary action apart from the civil or criminal liability involved. (Article 61 of the Civil Service and Career Service Act, Articles 45, 46, and 75 of the Organic Act of the Comptroller General's Office).

The Civil Service and Career Service Act establishes disciplinary penalties depending on the seriousness of the action, from verbal admonition, written admonition, administrative fine, temporary suspension without pay, and dismissal. (Article 62).

The punishments that must be applied to civil servants who break the law in any way are established in Articles 58 ff. in the Regulations of the Civil Service and Career Service Act. If the penalty that must be applied is dismissal, it is necessary to follow the summary administrative procedure established in Article 63 of the Regulations, taking into account also the provisions of the subsequent articles (Articles 64-67).

If a deputy's acts or omissions represent noncompliance with or violation of the standards contained in the Ethics Code of the Legislature, they shall be characterized as infractions subject to penalty, apart from any criminal responsibility that may apply for crimes established in the penal laws (Article 7 of the Ethics Code of the Legislature). Penalties applicable to infractions committed by deputies are the temporary suspension from their office and removal as a deputy. (Articles 9, 10, 11, and 12). In addition, deputies who violate the bans contained in Article 135 of the Constitution will be removed from office (Article 21.1).

Articles 24 to 32 of the Ethics Code of the Legislature contain the procedure for investigation and impeachment of a deputy, and Articles 33 and 34 contain guarantees of due process.

It should be noted that the Ethics Committee may on its own initiative or upon complaint investigate any deputy who, in the Committee's opinion, has committed acts that are infractions of the Ethics Code of the Legislature (Article 6).

The Ethics Code for Employees of the Comptroller General's Office (Article 52) establishes disciplinary sanctions for employees of the Comptroller General's Office: verbal admonition, written admonition, administrative fine, and temporary suspension without pay. The regulation is fully consistent with Article 8 of the Career Service Act of the Legislative Branch.

Disqualifications from service as a public employee are contained in Article 17 of the Civil Service and Career Service Act, which establishes that for the removal of a disqualified employee the Comptroller General or National Personnel Director will request in writing the immediate dismissal of the employee and the request will be considered by the minister, the corporation, or the official responsible for appointing the replacement. If the violator is not immediately dismissed, he or she will cease to receive pay or compensation two weeks after the date of the request.

For greater control over the contracts entered into by government agencies the Attorney General's Office must issue the relevant reports and findings on acts and contracts of State institutions (Article 14 of the Organic Act of the Attorney General's Office).

If persons prohibited from signing contracts with the State or public agencies in order to avoid possible conflicts of interest ignore that prohibition, the same Public Bidding Act provides the penalty: the senior official in the contracting agency will in advance and unilaterally terminate the contract without recourse to any compensation for the contractor. After the date of the unilateral termination of the contract the agency must not make any payment on its account, except that resulting from the liquidation that must take place, and if the contract causes financial damage to the contracting agency, the employees who processed and signed the contract will be equally liable with the contractor, aside from any administrative and penal sanctions that may apply. (Article 57).

In addition, as a parallel mechanism, any person can present a complaint to the senior official of the contracting agency, the Comptroller General, or the Prosecutor General on contracts signed with disqualified persons, remitting the evidentiary documents of the case. (Article 59)

The Comptroller General's Office, as the oversight organ to be described in Chapter III of this questionnaire, is empowered to apply individual administrative penalties for violation of legal provisions, regulations, civil responsibility for financial damages sustained by the respective agency or organ because of the acts or omissions of its employees, and to file criminal charges according to the provisions of law. (Articles 39 and 31.34 of the Organic Act of the Comptroller General's Office.

The same law in Article 48, paragraphs 1 and 2, provides that penalties of dismissal or fine, or both, can be applied by the State agency that hired the civil servant, at the request of and in accordance with a resolution executed by the Comptroller General's Office, but when the indicated authority fails to do so or when obligation is not assumed the penalties shall be imposed by the Comptroller General's Office.

To prevent persons from holding more than one job the Civil Service Commission will maintain a special register of workers employed in the public sector (Article 13 of the Regulations of the Civil Service and Career Service Act).

On the specific matter of nepotism, Article 19 of the Regulations of the Civil Service and Career Service Act provides that the Civil Service commission will prepare a form for "Control of Nepotism and Incompatibility by Relationship," which must be used by the human resources directors or heads of personnel offices before approving any appointment or contract. Similarly, Article 20 of the Regulations directs that no appointments or contracts be approved for a spouse or relatives to third degree by blood and the second degree by marriage. In case of incompatibility the earliest appointment will remain valid if the employees are in the career service; otherwise the highest ranking appointment is valid, or if they are of equal rank the earliest appointment. If the incompatibility exists between a career employee and one who can be freely dismissed, the career employee will prevail. (Article 22). Finally, appointments will be declared null and void if they are made in the same province to governors, political leaders, directors, and managers of State enterprises, mayors, deputy mayors, or police chiefs when they are related by marriage or by kinship to the third degree by blood and the second degree by marriage (Article 23).

It is very important to note that members of the Civil Anti-Corruption Commission can be removed by the Commission if they do not recuse themselves from participating in cases under investigation in which they have a conflict of interest. (Article 15.d)

The Penal Code establishes the following penalties for the illegal acts covered by this section:

Prohibition from conducting business: They shall be punished with confiscation of anything in their possession pertaining to the illegal business (Article 266).

Prohibition against magistrates or judges becoming borrowers or guarantors: They shall be punished with a fine of US\$8 to US\$31 and suspension of their civil rights for three years (Article 267).

Perjury: One to eight years in prison (Article 277).

3. Conservation and proper use of resources entrusted to public officials in the performance of their functions.

a. Existing standards for the conservation and proper use of resources entrusted to public officials.

The Organic Act of the Comptroller General's Office defines public resources as "*all property, funds, bonds, stocks, shares, income, profits, subsidies, and any other rights pertaining to the State and its institutions, whatever their origin, including those coming from loans, grants, and gifts that are received in any other capacity by the State or its agencies from individuals, corporations, or national or international agencies.*" (Article 3.1).

The Organic Act on Responsibility, Stabilization, and Fiscal Transparency (July 2002) contains regulations on planning, central and decentralized execution of public budgets, and establishes rules for access to information to meet the public's need for transparency and citizen control. Any public official or agent who is elected, appointed, named, or delegated is responsible for the public resources entrusted to his or her position or under their supervision.

The Standards for Limiting Public Spending, contained in Executive Order No. 44 in Official Register No. 11 of January 30, 2003, contain some provisions on the conservation and proper use of assets entrusted to public officials, such as Article 10, which provides that government vehicles shall only be used for strictly official functions, in accordance with the provisions in the Regulations for the Use of Government Vehicles, and Agreement No. 38-CG of the Comptroller General's Office, published in Official Register No. 307 of October 29, 1993. Its Article 14 prohibits government institutions from giving grants, assistance, prizes, parties, tributes, receptions, or subsidies to any individual or any public or private entity.

The Civil Service and Career Service Act requires civil servants to "*Watch over government property and conserve documents, supplies, equipment, furniture, and general assets entrusted to their care, management, or use.*" (Article 58.f).

In the same vein the Ethics Code for Employees of the Comptroller General's Office States: "*Article 22 – PROPER USE OF STATE PROPERTY. Employees shall properly use all property and material entrusted to them for the performance of their duties, preventing any abuse or waste. They shall not use them, or permit others to use them, for personal ends, or purposes other than those for which they were legally and specifically intended.*"

In the penal area on this subject, it is necessary to cite EMBEZZLEMENT, defined as the abuse of public or private money or its instruments, offices, securities, documents, or furniture in their possession by virtue of their position. The offense is embezzlement, misappropriation, arbitrary disposal, or any similar act (Article 257 of the Penal Code).

This provision is applicable to elected officials, delegates or representatives of the collegiate bodies and State institutions, agents and delegates of the President, employees and civil servants, and, in general, any person entrusted with public service.

The provision covers employees who handle funds at the Ecuadorian Social Security Institute or government or private banks; those who work for the Comptroller General's Office and the Office of the Superintendent of Banks when their reports involve complicity or cover-up in the crime being investigated; officials, administrators, executives and employees of institutions of the national private financial system and members or the governing boards or administrative councils of these institutions; and employees of the Internal Revenue Service and customs officers who may have worked in discovery of offenses.

Others guilty of embezzlement are those elected officials, representatives or agents of the President and other fiscal or municipal employees in autonomous or semiautonomous State agencies, officials, employees, or public servants who in any way use resources for their own benefit or the benefit of others when this represents profit or increased assets for government-paid employees or those paid by public sector agencies or with assets of the public sector. (Article 257-A)

b. Mechanisms for enforcing standards of conduct intended to ensure the conservation and proper use of resources entrusted to public officials.

It is important to clarify at the outset that the Comptroller General's Office is empowered to control income, expenditures, investment, utilization of resources, management and custody of public assets, for which it makes management audits of the public sector entities and agencies and their employees. The Comptroller General's Office has exclusive authority to determine administrative and civil negligence penalties and evidence of criminal responsibility (Articles 211.2 and 212.1 of the Constitution).

In addition to the powers and duties set forth in the Constitution, which we have just mentioned, the Comptroller General's Office can and must review the expenditures, investments, use, management, and custody of public resources; carry out continuous follow-up and control of public works in their various stages or in each one of them until completion; resource use; management and custody of public assets; give opinions on the legality, economy, efficiency, effectiveness, and transparency of the use of public, human, material, financial, technological, environmental assets and the results of agency management; apply individual administrative penalties for infractions of the legal and regulatory provisions and standards covered in this law; civil liability for economic damages suffered by the respective agency or organ because of acts or omissions of their employees, and evidence of penal responsibility for crimes defined by law. This is all found in Article 31 paragraphs 3, 28, 30, and 34 of the Organic Act of the Comptroller General's Office, reproduced in Annex 2.

This law "has the objective of establishing and maintaining the government's control, monitoring, and auditing system under the supervision of the Comptroller General's Office, and to regulate its operation in order to examine, verify, and evaluate compliance with the vision, mission, and objectives of government agencies and the use of resources, administration and custody of public assets." (Article 1 of the Organic Act of the Comptroller General's Office.

State agencies, their executives, officials, staff, and other personnel will operate under the State System for Control, Monitoring, and Audit, whose application extends to all the top officials, staff, and civil servants. They must answer publicly for the performance of their duties, the use of public resources placed at their disposal, and the results of their work. (Article 5.1 of the Organic Act of the Comptroller General's Office.

The government's mechanisms for the control system, monitoring and auditing include:

Internal control, which is a process applied by the senior official, management, and personnel of each institution to afford reasonable security that public resources are protected and agency objectives are achieved. (Article 9.1 of the Organic Act of the Comptroller General's Office). Internal audit is carried out in accordance with national and international standards applicable to the public sector (Article 14.4).

External control, which is carried out by the Comptroller General's Office through government audits and special reviews, using national and international standards and auditing methods (Article 18.1).

This law covers the following audits:

Financial audit, which examines over a specified period the reasonableness of the figures presented in the financial statements of a public agency, accountable entity, program, or project. It ends with the preparation of a professional audit, with the corresponding opinions. (Article 20.1)

Management audit, which is the supervisory action to review and evaluate internal control and management, using multidisciplinary human resources, the performance of an agency, accountable entity, or execution of programs and projects in order to determine whether the performance or execution is being done or has been done in accordance with principles and criteria of economy, effectiveness, and efficiency.

The following elements are covered in management audits: the management process, support, financial, and operational activities, efficiency, effectiveness, and economy in the use of human, material, financial, environmental, technological, and time resources, and fulfillment of the institutional parameters, objectives, and goals. (Articles 21.1 and 21.2)

There are also audits of environmental factors and public works or engineering, which are not relevant in this case.

No official, employee, or civil servant of governmental institutions can avoid legal responsibility for the illegal, incorrect, or improper use of public resources for which she or he is responsible, on the sole basis of higher orders. Public employees may object in writing to orders of their supervisors, giving reasons for the objection, but if the supervisor insists in writing that the order be carried out, the public servant must do it but the penalty will be levied on the supervisor (Article 41 of the Organic Act of the Comptroller General's Office).

In terms of liabilities, the oft-cited Organic Act of the Comptroller General's Office establishes the following:

Civil negligence liability, arises from a negligent act or omission, albeit unintended, by a civil servant or a third party, author or beneficiary of an administrative act done without the necessary warning, safeguards, or precautions to prevent direct or indirect damage to public assets and resources.

This liability incurs a legal obligation (restoration order) for the economic damage caused to State institutions, calculated on the date that it occurred, from an unplanned act or fact attributable to the civil servant or a third party, committed without intention to cause damage, which is subject to the misdemeanor provisions of the Civil Code (Article 52, paragraphs 1 and 2, corresponding to Articles 212 and 20 of the Constitution; Articles 1480, 2211, 2241, 2244, 2245, 2246, 2248, 2252 of the Civil Code; Articles 54, 97, 101 of the Social Security Act; Articles 66, 323, 332, 3333, 348 of the Children and Adolescents Code; Articles 124 and 144 of the Cooperatives Act; Article 12 of the Public Bidding Act; Article 379 of the Corporations Act; Article 28 of the Environmental Management Act; Article 24 of the National Police Staff Act; Article 205 of the Stock Exchange Act; Article 117 of the Traffic and Land

Transportation Act; Article 30 of the Hydrocarbons Act; Article 161 of the Organic Act of the National Development Bank; Article 163 of the Organic Act of the Foreign Service; and Article 15 of the Administrative Structure Act).

If the government audit uncovers evidence of criminal liability concerning the offense of embezzlement, the results must be turned over to the Office of Public Prosecutions for the corresponding criminal prosecution, and consideration will be given to the procedure established in Article 65 of the Organic Act of the Comptroller General's Office. (Article 67). If the defendant or defendants are convicted, they can be required to compensate for damages as prescribed in the Civil Code.

Finally, it should be noted that according to Article 84.2 of the Organic Act of the Comptroller General's Office, interest accrues on offenses from the actual or alleged date on which they occurred, and as a result, the damages sustained by the State increase to the time of payment, as prescribed in the regulations of this act and the provisions of its Article 68.

The Ethics Code for Employees of the Comptroller General's Office requires that personal and official acts of civil servants reflect moral management of public resources, otherwise they are subject to the appropriate administrative and civil penalties or criminal charges, or other penalties established by law (Article 29 of the Ethics Code for Employees of the Comptroller General's Office). The following article, Article 30 of the same law, provides that whether on the basis of a complaint duly filed or as a result of a decision by the Comptroller General, infractions of the rules of the Ethics Code for Employees of the Comptroller General's Office will give rise to summary administrative proceedings, with the respective legal effects.

It should be mentioned that civil servants who commit embezzlement will naturally be dismissed. (Article 15.e of the Law of the Civil Anti-Corruption Commission; Article 3.b of the Ethics Code of the Legislature; and Articles 116 and 114.d of the Civil Service and Career Service Act).

Under penal law civil servants guilty of embezzlement will receive sentences of eight to 12 years in prison, and will be permanently barred from holding any public office. For this purpose, the judge with primary jurisdiction will immediately communicate the verdict to the Civil Service Commission and the authority that appointed the civil servant, as well as the Office of the Superintendent of Banks if the individual was a bank employee. The National Director of Personnel will refuse to register any appointments or contracts for the disqualified individuals, and for this purpose will keep a list of their names. If the embezzlement consists of using workers paid by the State or by public sector agencies or assets of the public sector for personal gain or the gain of third parties when this results in profit or increased wealth, the penalty shall be one to five years in prison and a fine of US\$190 to \$952.

Law 2000-4 (March 13, 2000) provides as an additional penalty the attachment and forfeiture of the illegally gained assets.

In this regard we should also note the draft law for modernization of penal treatment of corruption, which although not yet enacted deals with important elements concerning the conservation and proper use of public resources. For example, it provides for significant reforms regarding crimes against public administration and, within that category, legally protected assets.

4. Measures and systems requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

a. Standards of conduct requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

Ecuador's Constitution establishes the duty and responsibility of all citizens to denounce and combat acts of corruption (Article 97.14).

In addition, under Ecuadorian law it is a crime for a government official who knows of an illegal act to fail to report it immediately to the appropriate authority (Article 292 of the Penal Code, corresponding to Articles 26 and 209 of the Penal Procedure Code).

Besides these provisions that expressly require government officials to report acts of corruption to appropriate authorities, it is appropriate to mention the following regulations:

Article 58.h of the Civil Service and Career Service Act establishes that government officials are required to notify their supervisor of acts that could damage the administration and acts of corruption obviously fall into that category.

The Organic Act of the Comptroller General's Office, in Article 79.4, requires that government officials involved in official audits, preliminary or definitive finding of negligence or evidence of criminal liability immediately notify their supervisor in writing of any gross misconduct or criminal act that they discover in the course of their work. Acts of corruption undoubtedly are gross misconduct.

b. Mechanisms for enforcing the standards requiring public officials to report to appropriate authorities acts of corruption of which they are aware.

In this regard we should note the penalties prescribed for government officials who are guilty of the crime established in Article 292 of the Ecuadorian Penal Code, which are 15 days to six months in prison.

In addition, government officials who fail to fulfill their duties and obligations are subject to the penalties established in the Civil Service and Career Service Act and its Regulations, the Organic Act of the Comptroller General's Office, and other appropriate laws and regulations governing public officials.

CHAPTER TWO

SYSTEMS FOR REGISTERING INCOME, ASSETS, AND LIABILITIES (ARTICLE III, PARAGRAPH 4)

a. Regulations that establish systems for registering the income, assets, and liabilities of persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public.

In our legal structure the ranking instrument on this subject is undoubtedly the LAW TO REGULATE SWORN STATEMENTS OF ASSETS, published in Official Register No. 83 of May 16, 2003.

In this law the first article establishes who is required to file a sworn Statement of assets:

- a) Elected officials;

- b) Officials who may be freely appointed and dismissed;
- c) Officials elected or appointed for a fixed term;
- d) Members of the Public Force and Traffic Commission of Guayas, when they begin work, prior to receiving promotions, and upon retirement;
- e) Third parties related to a person who holds or has held a government position when there is convincing evidence that person is standing in for them;
- f) Government officials in charge of the reception, control, custody, and investment of public funds or the management of public assets;
- g) Members of the governing boards of State institutions;
- h) Members of contracting committees and other boards responsible for decisions on contracts by government agencies;
- i) Directors and senior officials of the Social Security institutes;
- j) Directors and senior officials of entities and corporations that fall under private corporation laws and use any amount of public funds, capital or assets that belong to the State;
- k) Deans and directors of universities, polytechnic schools, and higher education institutions that are funded wholly or partially with public resources;
- l) Officials of boards, foundations, and corporations responsible for management and governance of institutions under public and private law with social and public purposes, which are funded wholly or partially with public resources;
- m) Magistrates and judges of the judicial branch and the National Judiciary Council;
- n) Authorities and directors of control organs and institutions with regulatory powers; and
- o) Officials and staff of the Ecuadorian Customs Corporation.

This regulation clarifies that in case of doubt concerning the need to file the sworn statement the Comptroller General's Office will make the decision.

Individuals required to file must deliver certified copies of sworn statements of assets to the appointing agency, the headquarters of the Comptroller General's Office, or the regional or provincial offices with jurisdiction where the declarant works within 10 working days after it is filed. (Article 4)

These sworn statements of assets must be presented by elected and appointed officials and staff before beginning their job and within 20 working days after leaving it. Members of the public forces must file their sworn statement of assets upon entry into the police or public force or Traffic Commission of Guayas, prior to receiving promotions, and within 20 working days after retirement (Article 2).

The sworn statements of assets must be made with a notary public and contain full information on the declarant's property, assets, and liabilities in the country and abroad, including specifically:

- A list of all accounts and any type of deposits in national and foreign banks, in any currency, with indication of the name or business name of the depositor, account number, and balance on the date the account was opened and on the date the statement was filed;
- A list with a description and market value of real estate, according to the municipal assessment, indicating the location, and dates of purchase and recording of deed;
- A list with a description and value of personal property, especially vehicles, machinery, and equipment, indicating the make, model, serial number as applicable, art works, collectibles, jewelry and similar assets;
- A list of investments in bonds of any type, with identification of the private or public institution in which the investment was made, date of investment, amount invested, and yield earned on the investment;
- A list of stock and shares in any type of company;

- A list of loans made, indicating the amount, the borrower, and the collateral;
- A list of IOUs, with the name or business name of the creditor, the amounts and collateral of each debt, if any;
- A list of credit cards, including the number of the card, the date of issue, and the credit limit; and
- To determine the value of real estate and personal property, assets, rights, and shares that are reported in the declaration, the declarant may estimate the value based on current market prices.

The statement must include not only property in the declarant's name, but also property jointly owned with a spouse or informal partner and property of minor children.

In addition, the notarized statement must include declarant's authorization to lift bank secrecy concerning her or his accounts, if necessary.

The sworn declarations of assets must be complete. If any information is lacking the declarant will be given 15 days to correct any error or omission (Article 3).

Evaluation of the sworn statements of assets submitted by those required to do so will be done by the Comptroller General's Office, which will compare the statement filed by the civil servant upon entering office and the one filed upon leaving office. If the Comptroller General's Office encounters an increase in assets with a presumption of unjustified gain, it will notify the declarant of the results of the comparison so that he or she can provide an explanation within two months.

If the declarant fails to provide an explanation or the Comptroller General's Office considers that the explanation does not suffice, it will perform a special audit of the contents of the declarations and issue a finding on whether there are grounds for criminal prosecution.

The Comptroller General's Office will also make the special audit when a person required to do so has not filed a sworn statement upon termination.

If there is evidence of criminal liability, after the special audits the Comptroller will transmit its decision and the results of the audit, together with all evidence collected on the alleged illegal enrichment, to the Office of Public Prosecutions to begin the corresponding criminal case (Article 5).

The special audit is confidential except for the person being investigated, and will be unsealed only if the Office of Public Prosecutions prosecutes the case. The documents and results of this special audit will be available to the declarant and his or her counsel (Article 6).

During the special audit the Comptroller General may request that any type of information needed be submitted within 60 days by government agencies and corporations supervised by the State. This information must be provided under penalty of dismissal of the government officials and a fine of US\$1,000 to US\$10,000 for the corporations mentioned in the preceding paragraph. The applicable penalty will be levied directly by the Comptroller General's Office. If it is not paid, suit will be filed to collect it (Article 9).

If a person required to file a sworn statement of assets before starting work fails to do so, this will be grounds for immediate dismissal and cancellation of the appointment, as well as removal of the authority who violated this provision. If the sworn statement of assets is not done upon leaving government service, the Comptroller General's Office will initiate the special audit described above (Article 2).

It is important to note that failure to file the sworn Statement of assets upon leaving service creates a presumption of illegal enrichment (Article 8), a crime defined in the articles following Article 296 of the penal code and punishable by two to five years in prison and restitution of double the amount of illegal enrichment.

In addition, the Comptroller General's Office may require third parties to file a declaration if there is clear evidence that they profited from the civil servant's actions.

There are other regulations in force before this law, which are in harmony and agreement with those described in the preceding paragraphs: Article 122 of the Constitution; Article 11 of the Civil Service and Career Service Act; Articles 15 and 16 of the Regulations of the Civil Service and Career Service Act; Articles 2.3, 4, 5, and 19 of the Ethics Code of the Legislature; Articles 49 and 21 of the Ethics Code for Employees of the Comptroller General's Office; Article 8 of the Law for Civic Control of Corruption; Article 31 of the Organic Act of the Comptroller General's Office; Articles 7, 8, and 9 of Executive Order No. 122 of February 19, 2003, etc.

CHAPTER THREE

OVERSIGHT BODIES (ARTICLE III, PARAGRAPH 9)

a. Oversight bodies responsible for enforcement of the provisions contained in paragraphs 1, 2, 4, and 11 of Article III of the Convention

Ecuador's Constitution, in Title X, Chapters I, II, III, IV, and V establishes the oversight bodies, which are also governed by their respective organic acts. \

COMPTROLLER GENERAL'S OFFICE

The following summary of this oversight body is based on Ecuador's Constitution, Articles 211 to 213, and the Organic Act of the Comptroller General's Office, Articles 1, 25-29, and 31, which can be consulted in Annex 2 on legislation.

The Comptroller General's Office is the technical oversight body with administrative, budgetary, and financial autonomy. Its head and official representative is the Comptroller General, appointed by the President from a list submitted by Congress, who serves for four years.

The Comptroller General's Office has the authority to control income, expenditures, investment, use of resources, management and custody of public assets, and its authority extends to private law agencies insofar as they have public assets, income, or other subsidies.

In addition, the Comptroller General's Office is responsible for the government's Control, Monitoring, and Audit System, which reviews, verifies, and evaluates the administrative, financial, operational, and environmental management of government institutions and the acts of their employees. In the review, verification, and evaluation of these operations, it applies management performance indicators and must include comments on the legality, effectiveness, economy, and efficiency of the programs and operations evaluated.

This Control, Monitoring, and Audit System of the State involves **internal control**, which is the administrative responsibility of each government agency to provide reasonable assurance that it is protecting public resources and achieving its organizational objectives, and **external control**, which is

exercised through government audits and special audits by the Comptroller General's Office and other government control organs in their sphere of competence, as described in this chapter.

Internal control requires verification of the control systems, structure, suitability of personnel, satisfaction of agency objectives, international risks in attainment of the objectives and measures taken to meet them, computer system, compliance with legal and technical regulations, and timely correction of any lapses in control.

For external control the government audit performed by the Comptroller General's Office consists of a comprehensive system of advisory services, assistance, and risk prevention that includes the examination and critical review of actions and works of those who administer public resources.

The Comptroller General's Office, working with the results of the government audit in decisions or reports, has the exclusive authority to assess administrative and civil negligence penalties and determine whether there is sufficient evidence for criminal prosecution.

Before assessing administrative and civil negligence penalties based on the internal audit reports, the Comptroller General's Office must consider compliance with legal provisions and auditing regulations and document its decision, basing it in fact and in law.

In all cases, the evidence supporting the imposition of penalties must be adequate, competent, and relevant, meeting formal requirements to be accepted in court. The Comptroller General's Office will follow up to ensure payment of fines implicit in its decisions.

When the Comptroller General's Office determines that there are grounds for criminal prosecution, it submits its reports to the Office of Public Prosecutions for opening the criminal case.

For personnel management the Office will apply the principles of centralized regulatory authority and decentralized operations.

ATTORNEY GENERAL'S OFFICE

This oversight body is primarily established and regulated by Articles 214 to 216 of the Constitution and Articles 2 to 4 of the Organic Act of the Attorney General's Office, which are also included in Annex 2.

The Attorney General's Office is an autonomous government body, incorporated with its own assets and funds, headed and officially represented by the Attorney General, who is appointed for a four-year term by Congress from a slate submitted by the President. The Attorney General's Office has its headquarters in the capital and may establish provincial district offices to meet its administrative needs.

The Attorney General is the government's judicial representative, with basic responsibility for serving as the State's legal counsel. This authority can be delegated, as established in the Operational Organic Regulations of the Attorney General's Office.

The exclusive functions of the Attorney General include the following main ones:

- Serve as the legal representative of the State and its organs as provided in this law;
- Represent the State and public sector organs and entities that do not have independent legal status to protect national assets and the public interest;

- Supervise the course of proceedings and complaints that involve entities of the public sector that have legal status; pursue them or intervene in them to protect national assets and the public interest;
- Represent the Ecuadorian State and public sector bodies in any proceeding or complaint they need to pursue, or that is filed against them by another State, in accordance with the Constitution, valid international treaties and agreements, and the laws of Ecuador.
- Answer queries and advise public sector organs and bodies, as well as public interest groups in the private sector, concerning the interpretation and application of constitutional and legal provisions. The opinion will be binding for the public administration on the issue raised.
- Issue reports and findings required by law, concerning acts and contracts of State institutions. These reports and findings are binding;
- Oversee compliance with these contracts and for that purpose propose or adopt the necessary judicial or administrative measures to protect national assets and the public interest. This oversight will include timely execution of contracts in order to avoid escalation in the cost of projects, goods, or services whose delay would be prejudicial to the community; and
- Recover government assets from third parties by administrative or judicial procedures; and where they belong to provinces, municipalities, or autonomous public sector agencies, require recovery through the corresponding authorities and take direct action if they fail to do so.

The Attorney General appoints and dismisses officials and staff of the office, in accordance with the laws and regulations governing the public administration.

OFFICE OF PUBLIC PROSECUTIONS

The following summary is based on the provisions of Articles 217 to 219 of the Constitution and Articles 65-67, 206, and 215-224 of the Penal Procedure Code.

The Office of Public Prosecutions is a unitary organ independent from the branches of government, with administrative and financial autonomy.

Its legal representative is the Prosecutor General [*Ministro Fiscal General del Estado*] chosen by majority vote of Congress from a slate presented by the National Judiciary Council for a term of six years and may not be re-elected.

The Office of Public Prosecutions institutes legal proceedings, conducts and advances the preliminary investigations and criminal investigations. If supported by evidence, it places charges against the alleged perpetrators in the appropriate courts and tribunals, and prosecutes the case. In the narrow scope of this mission, the Office of Public Prosecutions must coordinate and direct the penal fight against corruption with the cooperation of all agencies that within their area of competence have the same responsibility, respecting the autonomous nature of some of them.

The Prosecutor General is responsible for pressing criminal charges in crimes involving the government. He or she also intervenes as a Party in all stages of the proceeding in a government case, basing the demands and conclusions on an exhaustive analysis of the evidence and points of law, arguing the case orally in the primary court proceedings and with written briefs at other levels.

The Judicial Police is an auxiliary arm of the Office of Public Prosecutions, composed of specialized personnel of the National Police. It investigates crimes in government and the private sector under the supervision and control of the Office of Public Prosecutions, in order to gather or strengthen evidence and avoid the flight or disappearance of suspects, within the time and according to the procedures established

in the Penal Procedure Code. Investigations by the Office of Public Prosecutions, with cooperation from the Judicial Police, produce credible evidence that serves as the basis of the Prosecutor General's case.

In general, the penal process consists of four stages: pre-trial proceedings, the intermediate stage, trial, and appeal.

The Prosecutor General begins pre-trial proceedings when she or he considers there are sufficient grounds to charge a person with commission of a crime. When the Prosecutor General considers that the necessary investigation has been completed, or the allowed time is over, he or she declares the pre-trial proceedings concluded and issues a report within six days. If the Prosecutor General considers that the investigation has shown the existence of a crime and reason to believe that the accused is the author of or accomplice in the infraction, she or he issues a trial order with formal charges. If the Prosecutor General decides there are insufficient grounds to try the suspect, the Prosecutor General will issue a decision abstaining from placing charges and turn the case over to the judge.

The Office of Public Prosecutions supervises the operation and functioning of the convicted person's prison regime and social rehabilitation, and is also responsible for the protection of victims, witnesses, and other participants in the criminal proceeding.

CIVIL ANTI-CORRUPTION COMMISSION

This oversight body is regulated by the Constitution in Articles 220 and 221 and in the Civil Anti-Corruption Commission Act, Articles 1-22.

The Commission is an autonomous public law entity, with financial, political, and administrative independence, which represents the citizens. It is made up of seven members, who meeting together constitute the institution's highest authority.

The organization and operation of the Civil Anti-Corruption Commission are based the principles of jurisdiction, hierarchy, responsibility, decentralization, coordination, cooperation, efficiency, efficacy, and economy.

Each commissioner is elected by a group of organizations that represents one sector of the public, as prescribed in Article 4 of the act that established the Commission and for purposes of responding to this questionnaire will be dealt with later in Chapter Four, point 4.a of this report.

The heads of the sponsoring organizations cannot be members of the Commission unless they step down from their respective posts.

Articles 5, 8, 9, 15, and 16 of the act establish the requirements for members of the Civil Anti-Corruption Commission, their duties, the court with jurisdiction over them, causes for dismissal and suspension, and Title V, Articles 17-22 prescribes the procedure for investigation, impeachment, and dismissal of Commission members.

This oversight body performs extremely important work for the purposes of the Inter-American Convention against Corruption, because its purpose is to take necessary steps to prevent, investigate, and identify acts of corruption and pinpoint the perpetrators, and to disseminate values and principles of transparent management of public affairs. For these purposes it receives, processes, and investigates allegations regarding acts committed by elected officials, authorities, and employees of State agencies and private parties involved in the acts under investigation. If it finds evidence of criminal liability in the

investigations, it reports it to the Office of Public Prosecutions, the Comptroller General's Office, or the organ that has jurisdiction according to law.

The Commission deals primarily with allegations involving embezzlement, bribery, extortion, speculation, fraud in the financial system, fraud in general, and similar acts that affect State resources or those of public sector institutions, including those in which the private sector is represented.

To fulfill its objective, this oversight body has the following powers, set forth in Article 7 of the act that regulates it:

- To prepare programs and direct campaigns against corruption, and to design a national prevention plan to be presented to the highest authorities in the government. The plan is to be presented within 120 days after the Commission begins its work. It will contain the policies, objectives, programs, and actions intended to achieve this objective;
- To encourage citizen participation and organization to develop a culture of legality and honesty;
- To receive and investigate allegations of corruption that have been presented, and proceed on its own initiative if it has sufficient grounds to presume corrupt acts have occurred;
- To request reports or documents from any public or private body or individuals in order to verify the facts in the cases it investigates, issue statements on situations involving conflict of interest or unauthorized use of confidential information, and to have access for the same purposes to any file or database of any public agency or office. The authorities, civil servants, or administrators from whom information is sought must provide it in 20 days. Any review or inspection must be limited to facts and documents involving cases under investigation. In order to examine bank accounts, credit cards, or other documents concerning operations of the financial system of the authorities, public officials or administrators investigated, the Commission will address its requests to the Superintendent of Banks. If the request deal with instruments covered by the Stock Exchange Act, they will be presented to that official or the Superintendent of Corporations. The authorities in each case must respond satisfactorily to the requests. Any government official who refuses or fails to comply with this obligation will be immediately dismissed by the appointing authority after the Civil Anti-Corruption Commission has reported the failure to comply;
- To grant legal protection, through pertinent authorities, for the safety of individuals who spontaneously cooperate with the Commission in investigation of the facts;
- When the cases so warrant, to submit final reports of the investigation to the Comptroller General's Office and the Office of Public Prosecutions, which will process the Commission's decision in accordance with the law;
- To receive statements outside the proceedings from persons who have knowledge of corrupt act or were allegedly involved in it;
- To ask appropriate administrative authorities to impose the pertinent penalties based on the investigations;
- To receive, approve, and evaluate the administrative plan and the draft annual budget prepared by the Executive Director;
- To appoint experts and give written instructions to persons outside the commission to conduct investigations on its behalf, the results of which shall only be submitted to the Commission;
- To approve the rules of procedure of the Commission and any other regulations needed for its organization and operations;
- To order members of the public forces to provide timely and total protection for the members of the Commission or its agents, with a simple verbal request and official identification, without requiring any authorization or order from higher authority. If the member of the public force refuses to comply with this duty the appropriate official will be notified to apply the penalty for this failure and to report thereon to the Commission; and

- To exercise any other powers granted by the Constitution or by law.

SUPERINTENDENTS' OFFICES

Ecuador has:

- The Office of the Superintendent of Corporations;
- The Office of the Superintendent of Banks; and
- The Office of the Superintendent of Telecommunications.

OFFICE OF THE SUPERINTENDENT OF CORPORATIONS

This is regulated by the Constitution in Articles 222 and 223, and the Corporations Act, Articles 430-455, which appear in the second annex, on legislation.

This technical agency, with administrative, economic, and financial autonomy, supervises and controls the organization, activities, operation, dissolution, and liquidation of companies and other entities under the circumstances and conditions prescribed by law.

The Office of the Superintendent of Corporations has legal status and its highest official and legal representative is the Superintendent of Corporations, who is elected by a majority vote of Congress from slates submitted by the President to serve for a four-year term and may be re-elected.

The Office of the Superintendent of Corporations supervises and controls:

- Domestic companies, silent partnerships, and joint ventures in general;
- Foreign companies that conduct activities of any kind in Ecuador;
- Limited responsibility companies; and
- Stock exchanges and other bodies, according to the Stock Exchange Act.

The Office of the Superintendent of Corporations has the authority for **monitoring and total control**, including legal, corporate, economic, financial, and accounting aspects of a corporation, or **monitoring and partial control** when it approves or denies certain corporate acts such as incorporation.

The Superintendent of Corporations will inform the President, Vice President, President of Congress, Comptroller General, Attorney General, and Prosecutor General, without request, confidentially, of facts or matters arising from reports of inspection of corporations when in the Superintendent's judgment that is necessary or desirable to protect interests of the State and other public sector institutions.

OFFICE OF THE SUPERINTENDENT OF BANKS

This office is regulated by the Constitution (Articles 222 and 223) and the General Financial System Institutions Act (Articles 171-190), which are included in the legislation annex.

It is a technical agency with administrative, economic, and financial autonomy and separate legal status, directed and represented by the Superintendent of Banks, who is elected by a majority vote of Congress from slates submitted by the President, and serve for four years and may be re-elected.

The Office of the Superintendent of Banks is responsible for the monitoring and control of institutions of the public and private financial system, as well as insurance and reinsurance companies.

The main functions of the Office of the Superintendent of Banks are:

- To ensure the stability, soundness, and correct operation of institutions under its control, and in general, that they observe the regulations governing their operations;
- To ensure that information that the institutions it controls must make public is clear, truthful, and easy to understand;
- To establish preventive monitoring programs and make unrestricted inspection visits to the institutions it controls, which afford familiarity with their economic and financial situation, their handling of business or special aspects that may be required, and to verify the truth of information that the institutions of the financial system submit to the Central Bank of Ecuador to meet its requirements;
- To establish and maintain a system of records at a risk center to compile consolidated and sorted data on the principal borrowers from the institutions of the financial system, which shall be only for their use; and
- To maintain a financial information center open to the public and establish minimum criteria for implementation of a system that includes a uniform scale for rating risk for institutions of the financial system.

The Office of the Superintendent of Banks will have a Bank Board composed of five members: the Superintendent of Banks, who will chair it, the General Manager of the Central Bank of Ecuador, two members and their alternates who will be appointed by the President, and a fifth member and alternate who will be appointed by the other four members.

The main function of the Bank Board is to set policy for the control and supervision of the financial system, approve changes in the required level of technical assets and the allowable amount of risk assets, and to decide on the establishment and liquidation of financial institutions and the removal of their managers.

OFFICE OF THE SUPERINTENDENT OF TELECOMMUNICATIONS

The legal framework governing the operation and organization of this body is in the Constitution, Articles 222 and 223, and the Telecommunications Act, Articles 34-37, which can be consulted in the annex on legislation.

It is a technical body with administrative, economic, and financial autonomy and separate legal status, directed by a Superintendent of Telecommunications, appointed by Congress for a term of four years from a slate submitted by the President.

The basic functions of the Office of the Superintendent of Telecommunications are:

- To control and monitor the use of radio frequencies;
- To control operators who provide telecommunications services; and
- To supervise fulfillment of concession contracts for the provision of telecommunications services.

ANTI-CORRUPTION SYSTEM OF ECUADOR (SAE)

In Executive Order No. 122, published in Official Register No. 25, which appears in Annex 1, the President gave national priority to the establishment and consolidation of the Anti-Corruption System of

Ecuador (SAE), and tasked the Civil Anti-Corruption Commission and the Office for Social Dialogue and Planning with drawing up an initial action agenda for design of the system.

This Executive Order made a preliminary definition of the SAE “...as a connected and coordinated set of control bodies, State institutions, organizations of civil society and the general public, which define, execute, and control—within their respective spheres—policies, plans, programs, and actions for the purpose of eradicating corruption...”

Based on this Executive Order, an Interagency Committee was formed of representatives of the State institutions called to participate in the SAE. The Committee drafted a proposal (hereinafter called “the Document,” Annex No. 5), which develops the configuration of the SAE in the framework of current legislation, and puts forth program lines for incorporation in a State policy.

The Document defines the **mission** of the Anti-Corruption System of Ecuador as fighting corruption through the design, promotion, and execution of a State policy for the prevention and punishment of corrupt acts and practices, eradication of impunity and compensation to the State for damages sustained. For this purpose the SAE has a coordinated and interconnected oversight mechanism, consisting of State institutions, organizations of civil society and the general public. The **vision** for the system is a continuous and visible reduction of corruption in Ecuador, to restore public trust in the institutions and improve the State’s ability to accomplish its tasks.

In furtherance of the SAE mission and vision, the working group has proposed that the **general objective** of the Anti-Corruption System of Ecuador be to design and implement mechanisms and actions to prevent and punish corrupt acts and practices. The **specific objectives** will be:

- To promote societal control of government and collective responsibility of private sector organizations and the general public in the fight against corruption;
- To organize transparent public administration that is of a quality to ensure the elimination of corrupt acts and practices in the respective areas; and
- To perfect the institutional operation of all the oversight and enforcement organs through the promulgation of interagency regulations to facilitate programs and projects in the State policy, in their respective jurisdictions.

The system will function on the basis of the following elements:

- Incorporation in the system of interagency coordination agreements signed by oversight bodies and other institutions at the initiative of the Office of Public Prosecutions, and those with national and international organizations;
- Incorporation of bilateral and multilateral agreements signed by the various agencies to combat corruption and impunity;
- Receipt and review of agency plans, projects, and actions to combat corruption prepared by participating agencies in the SAE, to integrate them in the abovementioned emerging agenda and national plan;
- Appropriation of the necessary budgetary resources to carry out the national anti-corruption agenda or plan and ensure that external technical and financial cooperation for combating corruption is concentrated on joint interagency projects; and
- Assurance of proper functioning of the Anti-Corruption System of Ecuador’s decision-making, planning, and management through the following:

SAE High Council composed of the heads of each branch of government, the President of the Constitutional Tribunal, the President of the Supreme Electoral Tribunal, the heads of the oversight bodies, the presidents of the Association of Municipalities and Provincial Councils, the Ombudsman, a representative of nongovernmental organizations with expertise in the anti-corruption area, and a representative of the business community. Representation of the nongovernmental organization must be done in a way that is truly representative.

SAE Executive Committee made up of the heads of the oversight bodies or their representatives with decision-making authority and other institutions that in the Council's opinion should be included, especially the heads of the Internal Revenue Service and the Ecuadorian Customs Corporation, appointed by the members of the SAE High Council and by two representatives of nongovernmental organizations that work in the anti-corruption area and two representatives of the business community. Its basic functions will be:

- Execution, follow-up, and evaluation of the emerging agenda and national plan and regulations of the SAE; and
- Information and communication concerning the SAE.

The following priority areas have been identified:

- Draft a State anti-corruption policy;
- Prepare and carry out a National Anti-Corruption Plan that includes actions for prevention, investigation, punishment, and restitution, taking into consideration two cross-cutting elements: public administration and citizen participation;
- Develop an emerging agenda for investigation and punishment of corrupt practices and acts, legal reforms, and honest performance;
- Write a charter that provides for composition, vision, general objectives, emerging agenda, national anti-corruption plan, structure and scope of the system's regulations, mechanisms for adhering to and denouncing the agreement; and
- Establish standard guidelines for the process of coordination among members of the SAE (system regulations), consonant with the current constitutional and legal provisions. These guidelines will include treatment of the consequences for failure to comply with the obligations.

The program lines for drafting a National Anti-Corruption Plan to embrace the State policy on the subject are:

- Citizen participation, political culture, information, and transparency;
- Regulations; and
- Public institutions.

A preliminary breakdown of these three lines can be seen in the corresponding annex (No. 5).

From the foregoing it is clear that it is imperative for the heads of the institutions involved to sign the agreement establishing the SAE and to form the High Council and Executive Committee.

CHAPTER FOUR

PARTICIPATION BY CIVIL SOCIETY (ARTICLE III, PARAGRAPH 11)

1. General questions on the mechanisms for participation

a) Legal framework and mechanisms to stimulate participation by civil society and nongovernmental organizations in efforts to prevent corruption.

Article 1 of the Constitution states that the government of Ecuador is republican, presidential, elected, representative, alternating, **participatory**, and with decentralized administration.

This citizen participation against corrupt acts is clearly expressed in the citizens' right to recall elected mayors, prefects, and deputies for corrupt acts at any time during their term. Recall initiative may be exercised by a given number of citizens in the exercise of their political rights: at least 30 percent of the registered voters in the respective electoral district. When the Electoral Tribunal confirms that the recall initiative has the required number of signatures, within 10 days it must set a date for the election, to be held within 30 days of the convocation. If a majority of the voters support the recall, the decision is binding and the official is immediately removed and replaced according to law (Articles 109-113 of the Constitution).

On the subject of this questionnaire it is important to note the State Decentralization and Social Participation Act, whose Article 3 defines social participation as “...*the system by which all social sectors are actively involved in the legal, political, cultural, and socioeconomic life of the country in order to improve the standard of living of the Ecuadorian citizen and achieve a more equitable distribution of public services and resources.*”

The specific mechanism and legal framework to encourage the participation of civil society in the society and prevent corrupt acts is found in Articles 36 to 40 of this act, which establishes social and community participation thorough Neighborhood Committees, Neighborhood Federations, Parish Boards, which are social organizations made up of citizens in the respective local areas. Their main functions are as follows:

Neighborhood Committees

- Identify, prioritize, and cooperate in planning and execution of projects of neighborhood interest;
- See to the effective functioning, maintenance, preservation, and best use of neighborhood projects and public services;
- Assist in evaluation of works and projects that benefit the neighborhood;
- Monitor the correct, timely, and efficient execution of public works in the neighborhood;
- Promote collective responsibility mechanisms for neighborhood improvement; etc.

Neighborhood Federations: These consist of representatives of the neighborhood committees, whose function is coordination and mutual support of their initiatives.

Parish Board: This is composed of five members and their alternates, elected by residents of the parish. Its anti-corruption duties are:

- Appoint management and oversight committees from among its members to evaluate the efficiency, speed, and quality of works and services being or to be executed in the respective parish;
- Check progress of projects in the parish against the timetable for completion and make recommendations as necessary for finishing them;
- Lodge complaints and requests with the respective governing agencies on behalf of the parish on matters of community interest, which must be answered within 15 days.

It should also be noted that the Civil Anti-Corruption Commission, with representatives of various Ecuadorian social sectors, was established to respond to the protest of citizens who rejected corrupt practices committed by previous governments, and did not want to see any more of them. The Civil Anti-Corruption Commission is therefore one of the best tools for promoting citizen participation in anti-corruption efforts.

2. Mechanisms for access to information

a) Mechanisms that regulate and facilitate access by civil society and nongovernmental organizations to information in possession of or controlled by public institutions.

Article 81 of the Constitution provides that the State shall guarantee access to sources of information; to seek, receive, understand, and disseminate objective, truthful, complete, timely information without prior censorship, and it expressly provides that “...*there shall be no withholding of information in government files, except for documents that must be treated as confidential for reasons of national security or other reasons clearly established by law...*”

Furthermore, Article 94 of the Constitution establishes habeas data, which guarantees every person access to information *concerning themselves or their property* in public or private entities, and the right to know how the information is being used and for what purpose. They have the right to update, correct, expunge, or cancel data if they are not true or illegally affect their rights. When failure to honor this request harms them, they may demand compensation.

Executive Order No. 122, published in Official Register No. 25 of February 19, 2003 (Article 2) establishes the Public Bidding Information Project CONTRATANET (<http://www.contratanet.gov.ec>), an initiative of the Civil Anti-Corruption Commission, which requires all public institutions to give electronic notice of the competitive bidding process before contractors are selected, and all documents related to pre-qualification and bidding. This information must be posted on the web site that the Commission has established for the purpose.

Article 11 of this Executive Order incorporates the following provision after Article 50 of the Statute of the Legal and Administrative System of the Executive Branch:

“Art. Public, central, and institutional administrators of the executive branch shall respect and guarantee the citizens’ right to oversee and monitor government acts that is established in Article 26 of the Constitution.

In this regard, no official may deny citizens access to documents in their possession by virtue of their duties or position or to files that are in their custody, except for those that have been declared confidential pursuant to law.

Failure to observe this provision and consequent impairment of citizens’ constitutional rights shall be punished in accordance with Article 213 of the Penal Code.”

If the constitutional right to access to public information is violated, and this violation threatens serious harm, the citizen can file for a protective injunction as provided in Article 95 of the Constitution, although there is no specific law that develops the right to access to public information, because Article 18 of the Constitution, in the third paragraph, provides that “absence of a law cannot be used to justify the violation

or denial of rights established in this Constitution, to reject motions to assert those rights, or to deny recognition of them.”

However, in practice the exercise of the right to access to information is very limited, because in Ecuadorian jurisprudence the law is given more weight than the Constitution and judges have not been vigilant in advocating and defending basic rights. Therefore, some civic watchdogs (such as the Ecuadorian chapter of Transparency International) and the Civil Anti-Corruption Control Commission have sponsored preliminary draft legislation that was combined into the **Draft Freedom of Information Act**. Congress approved the bill on first reading and within a few days it will receive its second reading for definitive approval. It has seven paragraphs in the preamble, seven titles, 31 articles, five transitory provisions, and two final provisions.

This law would apply to public sector entities and agencies and private-law corporations that are wholly or partly owned by the State, to reaffirm the right of public access to information held by the institutions, organizations, individuals, or corporations under their jurisdiction, with the exceptions in the same law, which must be interpreted narrowly, and to guarantee and protect the privacy of personal information in the public sector and facilitate effective citizen participation in the oversight of decisions of public interest.

The act establishes an administrative procedure for requesting information, the requirements the request must satisfy, delivery of the information, the need to explain a refusal to supply the information, lack of response, and lifting the confidentiality of the information.

There is also provision for legal action to gain access to information, handled by a civil court judge, when the information is false or incomplete in the opinion of the petitioner. A temporary injunction can be issued on the judge’s initiative or upon request of the interested party when the information is hidden, removed, or destroyed. The injunctive relief process is provided in the Constitutional Control Act.

Government officials who fail to honor court orders will be considered guilty of gross misconduct and dismissed if they are career employees or ones who can be freely named and removed, apart from any applicable criminal, civil, or administrative penalties. Employees of Congress can be dismissed by that body through impeachment. Elected officials in the sectional governments shall be suspended for one to three months depending on the seriousness of the offense, upon a vote of the majority of the council members and parish boards.

The heads of the agencies subject to this act will establish the administrative, technical, operational, and public information procedures to ensure freedom of information for access to data in their files.

The agencies must also put up web sites with updated basic information on the institution. Political parties and organizations that receive State funds must publish the information on their disposition.

In the context of civil society there is a Freedom of Information Coalition, whose primary mission is currently to promote and follow up on congressional approval of the bill on this subject.

3. Mechanisms for consultation

- a. Mechanisms for those who exercise government functions or administer State resources to consult civil society and nongovernmental organizations on matters within their sphere of competence, which can be used for the purpose of preventing, detecting, punishing, and eradicating public corruption.**

To answer this question, we take it to mean consultations that government officials, in the performance of their duties, must make with civil society for the design and execution of public policy.

In this regard we should note the reference to a plebiscite in Article 103 ff. in the Constitution, which shall be held when the President considers it necessary to deal with matters of critical importance to the country. Sectional agencies may also convoke plebiscites when necessary to consider critical issues for the community. Citizens can also recall mayors, prefects, and deputies for corrupt acts, as noted in point 1 of this fourth chapter.

As another form of consultation, the Constitution provides in Article 84.5, among the collective rights of indigenous peoples, that they have the rights to be consulted on policies that affect their environment or culture, to benefit from those projects, and to receive compensation for socio environmental impacts on them.

Agreement 169 on Indigenous Peoples and Tribes in Independent Countries, of which Ecuador is a signatory, establishes in Article 6 that in application of the provisions of this agreement governments must consult the peoples involved through appropriate procedures, especially through the organizations that represent them, any time legislative or administrative measures under consideration might adversely affect them. In its final paragraph, it says that consultations made in application of the agreement must be in good faith and appropriate for the circumstances, in order to reach an agreement or obtain concurrence with the proposed measures.

Given the importance of involvement of civil society in the design and execution of public policy, the President has on his own initiative established the Office for Social Dialogue and Planning, whose mission is to strengthen the capability to link government action with the stakeholders in the social dialogue, and thereby build new bridges between government and civil society to establish a permanent process of dialogue as a method of democratic interaction between State and society, through the implementation of a transparent participatory system of information and management of the commitments arising from the dialogue and their consequences for government management and planning. It also seeks to strengthen linkage with the various territorial jurisdictions in the country in an effort to develop their management ability and participation.

The Civil Anti-Corruption Commission prepared the draft bill for societal control of government, currently awaiting congressional approval. In Chapter Two, Title Three, Articles 17-20 it provides that citizens and organizations of civil society must be consulted before any of the agencies listed in Article 118 of the Constitution makes a decision that has a positive or negative impact on the general public or civil society organizations. The agencies are required to establish mechanisms for information and training before and during the consultation for the people participating in the drafting, execution, follow-up, and evaluation of public policy in a clear, complete, truthful, and understandable manner. Criteria for the training should be technical and practical, with an explanation of the benefits, costs, needs, risks, and consequences of a given future action.

The President has an obligation to listen to and educate civil society on the content of a plebiscite.

4. Mechanisms to promote active participation

- a. Mechanisms to facilitate, promote, and obtain the active participation of civil society and nongovernmental organizations in the process of making public decisions, as part of efforts intended to prevent, detect, punish, and eradicate acts of government corruption.**

Article 225 of the Constitution provides that the State, through decentralization and local involvement, will promote the harmonious development of the country, the strengthening of citizen participation and sectional organizations, and the distribution of public income and wealth.

Article 230 of the Constitution states that notwithstanding the provisions of the Constitution, legislation will prescribe the structure, composition, duties, and powers of the provincial and municipal councils, and ensure the effective application of the principles of autonomy, administrative decentralization, and **citizen participation**.

In the specific area of sectional and local governments there is already partial application of participatory planning mechanisms, such as the Neighborhood Committees, Neighborhood Federations, and Parish Board, which were described in point 1.a of this fourth chapter.

Article 5 of the Draft Organic Act for Societal Control of Government States: *“All State institutions must establish procedures for public participation so citizens may be involved in and contribute to the country’s development.”*

In addition, according to Article 220 of the Constitution and Article 4 of the Civil Anti-Corruption Commission Act that Commission is an oversight body that represents Ecuadorian society, composed of seven members. Each commissioner is chosen by one of the following groups of organizations that represent a sector of the public:

1. The National Council of Universities and Polytechnic Schools;
2. Legally recognized national professional associations that represent each sector;
3. The Ecuadorian Association of Editors of Newspapers, Television Channels, Radio Stations, and the National Journalists’ Federation;
4. National Federations of Chambers of Industry;
5. Labor federations and legally organized national organizations of Indians, Afro-Ecuadorians, and campesinos;
6. Legally recognized national women’s organizations; and
7. Legally recognized human rights and consumer protection organizations.

Each of these groups of organizations will appoint a principal member of the Commission, and an alternate to replace the member in the event of suspension, temporary, or permanent absence; in the latter case, the alternate will complete the member’s term.

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

- a) **Mechanisms that permit civil society and nongovernmental organizations to participate in the follow-up of public administration as part of efforts intended to prevent, detect, punish, and eradicate acts of government corruption.**

Ecuador’s Constitution provides in Article 26 that citizens have the right to monitor actions of government agencies, which is related to the obligation in Article 97.13 to report to society.

Development of this constitutional right is the basic purpose of the abovementioned Draft Organic Act for Societal Control of Government, which also deals systematically with the related rights of association and assembly, and the right to lodge complaints and petitions and receive a timely response from the

authorities. The draft supplements the regulatory framework with procedures for effective protection of the right of societal control and related rights (see annex).

Like freedom of information, the right of societal control is a basic right that if *seriously* violated may give rise to a motion for *constitutional injunctive remedy*. However, given Ecuador's legal tradition, it would appear that a specific law is needed for effective protection of this right. That is the purpose of the draft act.

However, Article 7.b of the Organic Act of the Civil Anti-Corruption Commission states that the Commission's powers include "*to promote citizen participation and organization in the establishment of a culture of legality and honesty.*" The Regulations of that act provide in Article 9.e that the Commission's powers also include "*to appoint citizen advisory or oversight committees for matters of interest to the Commission.*"

To this end the Civil Anti-Corruption Commission has prepared the Regulations for the Establishment and Functioning of Citizen Advisory and Oversight Committees (annex 6), which includes four perambulatory paragraphs, five titles, 11 articles, two general provisions, and one final provision.

According to the provisions of these regulations, the oversight committees are responsible for specific activities concerning the monitoring and societal control of public administration, and the advisory committees are responsible for developing specialized activities to shape policies and technical mechanisms for transparency in public administration (Article 2). The advisory and oversight committees are groups of individuals or organizations appointed by the Civil Anti-Corruption Commission (Article 3). The regulations establish qualifications for members of an advisory or oversight committee, one of which, naturally, is to demonstrate recognized honesty and probity (Article 4). We also find the powers and duties of the advisory and oversight committees (Articles 5 and 6, respectively), among them to monitor planning and execution of public spending; to ensure that contracting is done in accordance with current legal regulations; to evaluate the technical quality of works and services and their impact on the quality of life of the users; and other important powers. The advisory and oversight committees have a fixed term depending on their purpose (Article 8).

The regulations also establish procedures for forming and terminating advisory and/or oversight committees, the institutional support to be given them by the Civil Anti-Corruption Commission, and the internal processing of their reports (Articles 7, 9, 10, and 11).

Although the oversight program launched by the Civil Anti-Corruption Commission has had good results, it is necessary to enact the Organic Act for Societal Control of Government in order for citizens to have complete autonomy in exercising their right other than through the Commission's mechanisms.

b. Objective results from the application of the foregoing measures. Statistical data.

The Civil Anti-Corruption Commission has established a total of 40 citizen oversight committees since 2000.

It set up 11 oversight committees in 2000; 13 in 2001; 9 in 2002; and 7 this year through August. Since then newspapers have frequently reflected the work of the oversight committees and given it extensive coverage. From July 2002 to February 2003 there were 13 published articles on the work of the citizen oversight committees in domestic and international papers.

CHAPTER FIVE

ASSISTANCE AND COOPERATION (ARTICLE XIII)

1. Mutual Assistance

- a) **Legal framework that establishes mechanisms for mutual assistance for processing requests from authorities in other States Parties that, in conformity with their domestic laws, have the power to investigate or prosecute acts of public corruption to obtain evidence and take other necessary action to facilitate legal proceedings and measures regarding the investigation or prosecution of acts of corruption.**

As for the legal framework that establishes mechanisms for mutual assistance, Ecuador is a signatory of the Sánchez de Bustamante International Private Law Code, which establishes the legal concept of **extradition** as an effective means for asserting international jurisdiction in penal cases, so that the States Parties can respond to the request of any other State Party to deliver persons sentenced for or charged with crimes committed in the territory of the requesting State or subject to its penal laws, in accordance with the provisions of international treaties or conventions that contain lists of offenses for which extradition is authorized (Articles 344 and 351).

States Parties are not required to extradite their nationals, but are required to try them (Article 345).

The Sánchez de Bustamante Code offers solutions in case several States Parties request the extradition of a criminal, provided the State Party does not have obligations to another State under treaties in force prior to this code (Articles 347-350).

One point that must be noted is that the offense for which extradition is sought must be illegal in both the requesting and requested State (Article 353). In addition, extradition may include persons charged or convicted as perpetrators, accomplices, or those who concealed the crime (Article 352).

Political and related offenses are excluded from extradition (Article 355). But homicide or assassination of a chief of State of a State Party or any person in authority shall not be considered a political offense (Article 357).

Extradition will not be granted if the person sought has been tried and acquitted, or completed his or her sentence, or is awaiting trial in the territory of the requested State for the same offense that gave rise to the request (Article 358). There is also no recourse if the statute of limitations for the offense or the penalty has run out under the laws of the requesting or requested State (Article 359).

In no case may the death penalty be imposed for the offense that gave rise to the extradition (Article 378).

The extradition request must be made by officials duly authorized for that purpose by the laws of the requesting State (Article 364). The request must be accompanied by:

1. A sentence or order for confinement or similar document that requires the Party to report to the respective jurisdiction, together with copies of the proceedings that contain evidence or at least a reasonable presumption of the guilt of the individual;
2. The names of the individual's parents or other elements for positive identification;
3. A certified copy of the provisions that specify the legal definition of the offense that gave rise to the request for extradition, the alleged role of the individual in the offense, and the applicable penalty (Article 365).

If the requesting State does not decide the case within three months of the delivery of the individual to its custody, he or she shall be released (Article 367). The individual has recourse in the requested State to all available legal remedies to attempt to win release (Article 368).

A State that acquits an individual extradited to it shall transmit a certified copy of the verdict to the State that granted extradition (Article 376).

If an extradition request is denied, it may not be resubmitted for the same offense (Article 381).

Ecuador is a signatory of the following treaties and conventions on extradition:

- EXTRADITION TREATY WITH THE UNITED STATES: Agreement No. 000.PO/311 of November 17, 1873.
- EXTRADITION TREATY BETWEEN ECUADOR AND CHILE: Executive Order No. 1 RO/886 of June 21, 1899.
- EXTRADITION AGREEMENT WITH ANDEAN COUNTRIES: Agreement No. 000.RO/74 of November 29, 1912.
- EXTRADITION TREATY BETWEEN ECUADOR AND BOLIVIA: Agreement 000.RO/369 of November 26, 1913.
- INTER-AMERICAN CONVENTION ON EXTRADITION, 1936: Agreement No. 000.RO/280 of September 2, 1936.
- EXTRADITION TREATY WITH BRAZIL: Agreement No. 000.RO/175 of May 28, 1938.
- EXTRADITION AGREEMENT WITH BRAZIL: Agreement No. 000.RO/194 of June 20, 1938.
- EXTRADITION AGREEMENT WITH SWITZERLAND: Agreement No. 000.RO/194 of June 20, 1938.
- EXTRADITION TREATY WITH FRANCE: Agreement No. 000.RO/20 of December 24, 1938.
- EXTRADITION TREATY WITH THE UNITED STATES: Agreement No. 000.RO/194 of April 21, 1941.
- EXTRADITION TREATY WITH AUSTRALIA: Agreement No. 000.RO/407 of March 30, 1990.
- EXTRADITION TREATY BETWEEN ECUADOR AND SPAIN: Agreement No. 000.RO/243 of January 26, 1998.
- INTER-AMERICAN CONVENTION ON EXTRADITION, 1998: Agreement No. 000.RO/262 of February 20, 1998.

The Sánchez de Bustamante Private International Law Code also provides for **letters rogatory**, a procedure for obtaining any sort of legal cooperation that one State Party needs from another, and the States Parties may agree on or accept any other procedure for transmitting civil or criminal information (Article 388).

The petitioning judge decides on his authority and the legality and appropriateness of the document or evidence, without prejudice to the jurisdiction of the judge petitioned. The judge petitioned rules on his own *ratione materiae* authority for the action requested (Articles 389 and 390).

The judge petitioned must follow the law of the petitioner in terms of the purpose and the law of the petitioned country in terms of procedure (Article 391).

The letter rogatory shall be drafted in the language of the petitioning State and shall be accompanied by a translation to the language of the petitioned State, duly certified by an officially recognized translator.

Private parties with an interest in the execution of the letters rogatory shall name agents and bear their costs (Articles 392 and 393).

Ecuador has signed the following international treaties governing letters rogatory:

- INTER-AMERICAN CONVENTION ON LETTERS ROGATORY: Agreement No. 000.RO/865 of August 12, 1975;
- ADDITIONAL PROTOCOL TO THE INTER-AMERICAN CONVENTION ON LETTERS ROGATORY: Executive Order No. 833.RO/235 of May 4, 1982.

b) Requests for mutual assistance under the Convention

Ecuador's judicial authority has not made nor received any request for mutual assistance under the Convention.

2. Mutual technical cooperation

- a) **Mechanisms to permit the widest measure of mutual technical assistance with other States Parties on the most effective ways and means of preventing, detecting, investigating, and punishing acts of public corruption, including the exchange of experiences by way of agreements and meetings between competent bodies and institutions, and the sharing of knowledge on methods and procedures of citizen participation in the fight against corruption**

In this area we have the Supplemental Agreement for Technical Cooperation on Government Contracting Databases signed by Ecuador's Civil Anti-Corruption Commission and Mexico's Secretariat of the Comptroller's Office and Administrative Development on March 20, 2000. The agreement supplements the provisions of the Basic Agreement for Technical and Scientific Cooperation signed by the two countries on June 23, 1992.

The purpose of this agreement is to establish technical cooperation mechanisms concerning government contracting systems that would contribute to more modern, efficient, and transparent procedures for contracting of works, procurement, and government consulting and other services, to meet the need for technological exchange and training through the installation of the Computer System for Government Contracts called COMPRANET in Ecuador, based on the Mexican government's results with the system (Article I).

Article II of this agreement provides that cooperation between the parties may be accomplished through the transfer of technology, exchange of applicable regulations in each country concerning procurement and government contracts; exchange of experience and documentation; training; advisory services and technical assistance; exchange of information; and any other means agreed upon by the two countries.

The text of the agreement contains provisions for its regulation and application, such as the development of projects; oversight and follow-up; use of information; financing; labor relations; dispute settlement; entry into force, amendment, and termination.

A similarly important mutual technical cooperation agreement, which undoubtedly offers a valuable way to prevent, detect, and investigate acts of public corruption is the Agreement between the Swiss Government and the Government of the Republic of Ecuador on Financing and Execution of the Project

on “Development of a Transparent and Effective Contracting System for the Public Sector CONTRATANET,” signed on December 19, 2001. This agreement was signed on the basis of the Agreement for Technical and Scientific Cooperation signed by Switzerland and Ecuador on July 4, 1969. The agreement was signed because the parties share a common interest in fighting corruption, which threatens proper management of public affairs or appropriate use of resources for development and undermines transparent and open competition on the base of cost and quality. The agreement therefore joins forces of the two countries to fight corruption, and they declare that no offer, gift, payment, salary, or advantage of any sort that constitutes an illegal act or corrupt practice that has been or will be arranged directly with any person, contrary to the provisions of this agreement, will be sufficient grounds for voiding the agreement and taking all necessary corrective measures in accordance with applicable law.

The agreement’s **objective** is to ensure and regulate the funding and execution of the first phase of the CONTRATANET, whose **purpose** is to provide information and technological support to promote probity in public contracting.

The **primary objective** of the CONTRATANET is to promote efficiency, dissemination, transparency, equity, free competition, economy, technological currency, decentralization, reorganization, and administrative streamlining as basic elements to encourage probity in public contracting. To achieve this primary objective it will:

1. Use a computer database to complement written records to achieve transparency, equity, and faster processing for contracts in Ecuador’s public sector;
2. Promote reforms in the Public Contracting Act and the promulgation of subsidiary regulations for the operation of the information system for procurement of goods; and
3. Computerize the National Planning System for the procurement of goods and services and for the execution of infrastructure projects.

For execution of this agreement, there are provisions in its text concerning obligations of the Swiss government (Article 3); obligations of the Ecuadorian government (Article 4); organization and execution (Article 5); resource management (Article 6); equipment and ownership (Article 7); duration (Article 8); amendments (Article 9); rescission (Article 10); and contingencies (Article 11).

Another pertinent element is the “International Seminar on Public Ethics and the Fight against Corruption: Bases for a Regional Policy,” held in Lima, Peru, June 18 and 19, 2003, with participation of representatives from Argentina, Bolivia, Colombia, Ecuador, and Peru.

This two-day meeting produced an intensive exchange of experiences, reflection, and discussion on effective ways and means for preventing, detecting, investigating, and punishing acts of corruption. The meeting’s main conclusions, reflecting a consensus of the five countries, were:

1. Policies to prevent and combat corruption should transcend the governments in power to become State policies;
2. Corruption prevention and dissemination of ethical values and codes of conduct for civil servants are lynchpins of the fight against corruption;
3. Incorporation of civil society and citizens with the different experiences of each country should be encouraged by anti-corruption offices and become a key element to succeed in controlling corruption.
4. The five participating countries agreed to hold these regional meetings periodically;
5. The representatives of the five participating countries agreed to support the initiatives of the Latin American Group in international forums to ensure that proceeds from corrupt acts are returned from banks and so-called “tax havens” to the States that experienced the economic loss;

6. Finally, the representatives of the five participating countries agreed to support all initiatives to put an end to impunity for corrupt acts.

In Lima it was decided to hold the next meeting in October in Ecuador, at which this country will propose signature of the “Pact of Quito” to establish a Regional Anti-Corruption Alliance, specifying its nature, objectives, structure, and functioning. The Pact would also have a substantive purpose, to determine the subjects that will be dealt with in the framework of Article 14 of the Inter-American Convention against Corruption (CICC) on Assistance and Cooperation, and the methodology and timetable for dealing with them. These three subjects would be: extradition, return of proceeds, and money laundering. For each of these it would be necessary to develop regulations for two geopolitical dimensions: international and domestic. The former would involve the design of legal instruments and international policies at three levels: hemispheric, encompassing CICC and its Follow-up Mechanism; subregional, restricted initially to the Andean Community and Mercosur, which would be important for the development of integration-based community initiatives; and bilateral, with agreements between the Alliance’s member States and other countries, whether States Parties of the CICC or not. Finally, the methodology would include participation of civil society in both the formulation of the Alliance’s program activities and the implementation, consolidation, and continuation of the Alliance under the PACT OF QUITO.

At the second, domestic, level, it is important to implement the legal provisions and public policies developed in the plans made for the international level. In fact, the distinction between domestic and international levels is purely academic, because they pursue the same objective. It is necessary to harmonize relevant laws with the three subject areas mentioned above, through the preparation of prototype laws.

b) Has your government made requests to other States Parties or received requests from them for mutual technical cooperation under the Convention?

As noted above, Ecuador’s Civil Anti-Corruption Commission and Mexico’s Secretariat of the Comptroller’s Office and Administrative Development signed the Supplemental Agreement for Technical Cooperation on Government Contracting Databases.

Results from the agreement have been positive.

c) Technical cooperation programs or projects on matters covered by the Convention, with support from agencies for cooperation or international organizations.

There are some anti-corruption technical cooperation programs, which include matters covered by the Convention. They are still few in number. Organizations that have supported projects in Ecuador are the World Bank, the United Nations Development Program, the OAS, USAID through the Esquel Foundation, German cooperation from GTZ, Swiss cooperation from COSUDE, and the British Embassy.

CHAPTER SIX

CENTRAL AUTHORITIES (ARTICLE XVIII)

a., b., and c. Central authority for the purposes of channeling international assistance and cooperation under the Convention.

In Executive Order No. 122, published in Official Register No. 125 of February 19, 2003, President Lucio Gutiérrez Barbúa designated the Civil Anti-Corruption Commission as the central authority for the purposes of the Inter-American Convention against Corruption. That designation was communicated to

the Organization of American States in March 2003 by Ecuador's Permanent Representative to the OAS, Minister Federico Meneses.

Civil Anti-Corruption Commission [*Comisión de Control Cívico de la Corrupción*]:

Telephone: 2-280373

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On July 9, 2003, the Civil Anti-Corruption Commission appointed Dr. Ali Lozada Prado as Ecuador's principal representative to the Committee of Experts.

2. Operation of the central authorities

a. Does the central authority have the necessary resources to enable it to properly make and receive requests for assistance and cooperation under the Convention?

Yes, for basic activities.

b. Has the central authority, since its designation, made or received requests for assistance and cooperation under the Convention?

See the comments in Chapter V, point 2.b.

III. INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

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| <i>State Party:</i> | <i>Ecuador</i> |
| <i>Name of the official:</i> | <i>Alí Lozada Prado</i> |
| <i>Title/Position:</i> | <i>Legal Director and Coordinator of the Anti-Corruption Studies and Policies Unit</i> |
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ATTACHMENTS

PRESENTED BY THE REPUBLIC OF ECUADOR TO THE QUESTIONNAIRE OF THE PROVISIONS OF THE CONVENTION SELECTED FOR REVIEW WITHIN THE FRAMEWORK OF THE FIRST ROUND

- ATTACHMENT 1) Political Constitution of the Republic
- ATTACHMENT 2) Appendix 2. Compendium of National Legislation against Corruption
- ATTACHMENT 3) Appendix 3. Criminal Code
- ATTACHMENT 4) Appendix 4. Code of Criminal Procedure
- ATTACHMENT 5) Appendix 5. Organic Law of the Office of the Public Prosecutor (*Ministerio Público*)
- ATTACHMENT 6) Appendix 6. Organic Law of the Government Office of the Comptroller General
- ATTACHMENT 7) Appendix 7. Law of the Committee on Civic Corruption Control
- ATTACHMENT 8) Appendix 8. Organic Law of the Government Office of the Attorney General
- ATTACHMENT 9) Appendix 9. Draft Amendments to the Criminal Code
- ATTACHMENT 10) Appendix 10. Ecuadorian Bishops' Conference – Contributions to the topics on the questionnaire
- ATTACHMENT 11) Appendix 1. Political Constitution of the Republic
- ATTACHMENT 12) Appendix 2. Pertinent legislation
- ATTACHMENT 13) Appendix 3. Draft Law on Access to Public Information
- ATTACHMENT 14) Appendix 4. Draft Organic Law on Social Government Control

- ATTACHMENT 15) Appendix 5. Anticorruption System in Ecuador – SAE – preliminary working document
- ATTACHMENT 16) Appendix 6. Regulations for the Establishment and Operations of Oversight and Advisory Committees
- ATTACHMENT 17) Explanatory note from the Government Office of the Comptroller General, dated February 4, 2003
- ATTACHMENT 18) Government Modernization Law
- ATTACHMENT 19) Law on Civil Service and Careers in Administration
- ATTACHMENT 20) Special Law on State Decentralization and Social Participation
- ATTACHMENT 21) Organic Law on Fiscal Responsibility, Stabilization, and Transparency
- ATTACHMENT 22) Regulations for the Law of the Committee on Civic Corruption Control
- ATTACHMENT 23) General Regulations for the Law on Civil Service and Careers in Administration
- ATTACHMENT 24) Regulations for the Presentation and Control of Sworn Statements of Net Worth
- ATTACHMENT 25) Form for the Sworn Statement of Net Worth
- ATTACHMENT 26) National Corruption Prevention Plan – 2000
- ATTACHMENT 27) Civic Anticorruption Network of Guayas – Rules of Procedure
- ATTACHMENT 28) Documents presented by organizations of the Civil Society.