

(30 August 2004)

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

**QUESTIONNAIRE ON PROVISIONS SELECTED BY THE COMMITTEE OF
EXPERTS FOR ANALYSIS WITHIN THE FRAMEWORK OF THE FIRST ROUND¹**

24 May 2002

INTRODUCTION

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

At its first meeting held from 14 to 18 January 2002, it was decided that during the first round it would review implementation by the States Parties of the following provisions of the Convention: [Article III (1), (2), (4), (9) and (11); Article XIV; and Article XVIII].

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

The responses given to the questionnaire will be reviewed in accordance with the methodology adopted by the Committee which will be attached to this document and can also be found on the OAS website at the following address:

www.oas.org/juridico/spanish/segu_metod.htm.OJO:

OJO COLOCAR NOMBRE CORRECTO DE LA PÁG. – VERSIÓN EN INGLÉS

As agreed by the Committee, each State Party, when drafting the introduction to its country report, must give a brief description of its legal and institutional system, in accordance with its constitutional framework.

¹ This questionnaire was approved by the Committee of Experts of the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption, at its Second Meeting held at the headquarters of the OAS in Washington D.C., United States of America, from 20 to 24 May 2002..

In accordance with Article 21 of the Rules, the State Party shall forward replies to the questionnaire, through its Permanent Mission to the OAS, in electronic format, together with the corresponding supporting documents, by the deadline set by the Committee.

For the purposes mentioned above, replies to the questionnaire and requests for clarification of any doubts must e-mailed to the OAS General Secretariat at the following address: jgarcia@oas.org

Note that **the Committee has decided that replies must reach it by 31 August 2002 at the latest, and that these should not exceed 25 pages.**

I. BRIEF DESCRIPTION OF THE LEGAL AND INSTITUTIONAL SYSTEM.

According to Article 1 of the Constitution of the Republic, Honduras is a sovereign constitutional State consisting of a free, democratic, independent Republic that guarantees its inhabitants the enjoyment of justice, freedom, culture and economic and social wellbeing.

COMMENT

The constitutional State is based on:

- ⇒ Recognition of human dignity and freedom as a fundamental value: Articles: 1, 59, 60, 61, 62, 63, 68 (3); 69,70(1) and Article 83.
- ⇒ The branches of the State have powers which are all specific and limited: Articles 64,69,70 (3); 74, 81, (2); 84, (1); 109 (2); 205, 245, 303, 304, 313 and 316.
- ⇒ The branches of the State are separate from each other and have the following characteristics: a) **(??No dice cuál de los poderes)** Exclusive right to create, interpret, amend and repeal laws: Article 205 (1); b) The Executive sanctions, enacts and publishes the laws; it can also veto them: Articles 213, 214 and 215; c) The powers of the Legislative cannot be delegated, except for the power to receive **pledges??** from senior government officials: Article 206; and, d) The courts of justice have the exclusive power to try cases and enforce decisions: Article 304.
- ⇒ A system of rights and guarantees to prevent authority being abused, to the detriment of freedom:
 - a) Declarations: Articles 59 to 64; b) Individual rights: Articles 65 to 110; c) Social rights: Articles 111 to 181; d) Guarantees: *habeas corpus* and protection: Articles 182 and 183; Unconstitutionality and review: Articles 184, 185, 186, 316 (2).
- ⇒ Standard legal issues, derived from the principle of equality in the eyes of the law: .Articles 60, 61 and 82 (2).
- ⇒ Elimination of immunity prerogatives (constitutional amendment – pending ratification)

- ⇒ Express admission under the Constitution of the liability of the State, State institutions and civil servants, for administrative acts or deeds: Articles 324, 325 and 327.
- ⇒ Principle of express powers of the organs of State: Article 321
- ⇒ Principle of legality: Articles 322 and 323.
- ⇒ Constitutional inviolability: Article 375.

COMMENT ON THE BRANCHES OF THE STATE:

Sovereignty resides in the people and all government authority emanates from the people. In order to strengthen representative democracy and make it function, Article 5 of the Constitution of the Republic was amended and mechanisms were introduced to allow for consultation of the people through plebiscites or referenda.

According to Article 4 of the Constitution: The form of government is republican, democratic and representative. It is exercised through three branches of power: Legislative, Executive and Judiciary, which are complementary, and independent of one another. None of the branches is subordinate to another branch.

The theory of a rigid division of the branches has no place in modern doctrine and legislation. Article 4 of the Constitution is sufficiently clear when it states that there are three powers which are “complementary and independent, without any subordination relationship.”

In the case of the Honduran presidentialist system, according to the Constitution of the Republic the President of the Republic is all of the following: Head of State, Head of Government, Head of the Executive and Head of Public Administration.

According to the reciprocal control of the powers, for instance, legislative instruments (formal laws), can be reviewed by the Judiciary, through an appeal of unconstitutionality; administrative instruments can also be reviewed by the Judiciary through an appeal against an administrative decision. The Executive can veto a law. Congress can approve or disapprove contracts and international treaties entered into by the Executive, approve and amend the General Budget and approve the budgets of the autonomous institutions.

The following summarizes the reciprocal control exercised by the branches under the Constitution:

CONTROL BY THE LEGISLATIVE BRANCH. Article 205.

1) Secondary elections: Election of Justices to the Supreme Court of Justice (*Corte Suprema de Justicia* – CSJ) from the list of candidates proposed by the Judicial

Nominating Board (*Junta Nominadora*) referred to in the Constitution, for the corresponding period (Attribution 9); and election of the Members of the Superior Court of Accounts (*Tribunal Superior de Cuentas* - TSC), the Attorney General (*Procurador*) and Deputy Attorney General, Justices of the Supreme Electoral Tribunal, the Director of Public Prosecutions of the Republic (*Fiscal General*) and the Deputy Director of Public Prosecutions, the Attorney and Deputy Attorney for the Environment, the National Commissioner of Human Rights (Ombudsman), the Superintendent of Concessions, the Director and Deputy Directors of the National Registry of Persons (Attribution 11);

2) Approval or disapproval of contracts which contain: tax exemptions, incentives and concessions and any other contracts liable to affect, or extend their effect into, the following term of government of the Republic; (Attribution 19);

3) Approval or disapproval of the administrative conduct of the executive, the judiciary, the Supreme Electoral Tribunal (*Tribunal Supremo Electoral* – TSE), the Superior Court of Accounts, the Attorney General's Office, the Office of the Attorney for the Environment, the Office of the Director of Public Prosecutions, the Office of the National Commissioner of Human Rights, the National Registry of Persons, decentralized institutions and other ancillary organs of State (Attribution 20);

4) Requests for formal explanations of issues concerning public administration by the Secretaries of State and other central government officials, decentralized organizations, State enterprises and any other entity in which the State has an interest (Attribution 22);

5) Control over the Armed Forces, in that they come under the jurisdiction of the President of the Republic who decides on the number of permanent members of the Armed Forces (Attribution 25);

6) Control over matters of national sovereignty, in that the executive authorizes the sending out of troops to serve on foreign soil and authorizes foreign military missions to enter the country to provide assistance or cooperation (Attributions 27 and 29):

7) Control over treaties entered into by the executive branch (Attribution 30);

8) Control over the revenues and expenditures of Central Government and the decentralized institutions through the approval of the Budget of Revenues and Expenditures at both levels (Attributions 32 and 33);

9) Control over agreements related to public credit (Attribution 36);

10) Subsequent control over public spending through approval or disapproval of disbursements from the General Budget of Revenues and Expenditures of the Republic and from the budgets of the decentralized and deconcentrated institutions.

The Superior Court of Accounts must opine on such disbursements and summarize its view of the efficiency and effectiveness of public sector management. This will cover assessment of spending, organization, management performance and reliability of control through internal audits, the accounting plan and its application (Attribution 38);

11) Control of public revenues; (Attribution 40);

12) Control to safeguard fiscal assets or State property; (Attribution 41);

CONTROL BY THE EXECUTIVE BRANCH:

1) Co-legislates: a) Introduces draft laws [Articles 213 and 245, Attribution 9], b) Sanctions and promulgates laws [Article 215], c) Publishes laws [Article 22]; d) Vetos [Article 216]

2) Convenes Congress into a special session or proposes continuation of regular annual sessions. [Article 245, Attribution 6].

CONTROL BY THE JUDICIAL BRANCH:

1) Controls the constitutionality of the laws, [Articles 184, 185 and 316];

2) Controls the legality of the acts of the executive branch, decentralized institutions and the Superior Court of Accounts through the Law on the Jurisdiction of Appeals against Administrative Decisions.

The Legislative

The legislative branch of government is exercised by a Congress of Deputies elected by direct suffrage. The Congress automatically convenes into regular sessions in the capital of the Republic on the twenty-fifth of January of each year. Sessions end on the thirty-first of October of the same year.

Deputies are elected for a four-year period, commencing from the date on the official opening date of the National Congress. If a deputy is unable to complete his or her term, the National Congress calls upon the alternate to complete the remainder of the term.

The National Congress consists of a fixed number of one hundred and twenty-eight (128) deputies and the same number of alternates, elected in accordance with the Constitution and the national laws.

Deputies represent the people and are distributed among the departments based on the coefficient indicated by the Supreme Electoral Tribunal, in conformity with the nation's law on elections and political organizations.

In departments where the population is smaller than the number indicated by the Supreme Electoral Tribunal, a deputy is elected by the Supreme Electoral Council a principal deputy and the respective alternate deputy is also elected.

The Executive:

The executive branch of government is headed by the President on behalf of and for the benefit of the people and, in the President's absence, by the Vice-President of the Republic. The President and Vice-President of the Republic are elected at the same time, by the people and by a simple majority. The results of the election are announced by the National Elections Tribunal (*Tribunal Nacional de Elecciones – TNE*), and otherwise by the National Congress or the Supreme Court of Justice.

The presidential term is four years, commencing on the twenty-seventh of January following the date of the election.

The Judiciary:

Article 303, amended, of the Constitution of the Republic states that the power to impart justice emanates from the people and is exercised gratuitously on behalf of the State by independent Judges and Justices, subject only to the Constitution and the laws.

The administration of justice in Honduras, as in other countries, is undergoing a period of frank deterioration and is losing credibility. However, over the past twelve years, thanks to the involvement of civil society, substantial reforms have been introduced at the constitutional level and in the area of ordinary legislation.

The constitutional reform of the whole of Chapter XII of the Judiciary Branch through Decree No. 262-2000 of 22 December 2000, published in the court's official record (*La Gaceta*) of 26 February 2001, ratified by Decree 38-2001 dated 16 April 2001 and published in the official record of 29 May 2001, marks a profound change in that branch of government and provides for active participation by civil society in the choice of Supreme Court justices.

The changes were as follows:

- 1) The Supreme Court of Justice has 15 Justices. Decisions are reached by a vote by the majority of all its members. Article 308, (2). There were previously 9 justices and 9 alternates;
- 2) The Justices of the Supreme Court of Justice are elected by a two-thirds vote by the members of the National Congress, from a list of candidates proposed by a Judicial Nominating Board made up as follows: (1) One representatives of the

Supreme Court of Justice, elected by two thirds of the Justices; (2) One representative of the Bar Association, elected at a Meeting; (3) The National Commissioner of Human Rights; (4) One representative of the professors on the staff of the Law Schools, proposed by the Universidad Nacional Autónoma de Honduras (UNAH); (5) One representative elected by civil society organizations; and, (6) One representative of the Workers' Confederations. (Article 311.) In the past they were elected by National Congress by simple majority, from proposals made by the deputies within the Legislative Chamber.

3) Supreme Court justices are elected for a 7 year term as of the date on which they are sworn in, and can be reelected. If they are prevented from completing their term due to death or disability, replacement for legal reasons, or resignation; the justice who fills the vacancy shall complete the remainder of the term and will be elected to office by National Congress by a two-thirds vote by all of its members. The replacement is elected by the remaining candidates proposed by the Judicial Nominating Board at the start of the term (Article 314). The term was previously be four years, coinciding with the presidential term and that of the deputies;

4) The Supreme Court of Justice performs out its constitutional and legal functions under the Presidency of one of its Justices. To elect the President of the Court, the Justices elected BY the National Congress, (?dice "para el Congreso Nacional (creo que debe "POR el Congreso Nacional") meeting in a plenary session, shall select, no later than twenty-four (24) hours after their election, the Justices nominated by the Congress of the Republic for that purpose, by a two-thirds vote by its members, The President of the Supreme Court of Justice shall hold office for a term of seven (7) years and may be reelected [Article 315].

5) Organizationally, below the Supreme Court of Justice is the Constitutional Court. When unanimous decisions are handed down, they are announced on behalf of the Supreme Court of Justice and are final. When decisions are handed down following a majority vote, they must be submitted to the plenary of the Supreme Court of Justice.

6) The Constitutional Court was created pursuant to Article 316 and has the following attributions: (1) It hears appeals for *habeas corpus*, protection of fundamental rights, unconstitutionality and review; and, (2) It settles conflicts arising between the branches of government, including the Supreme Electoral Tribunal and other entities or organs stipulated in the law

Decisions where a rule is declared to be unconstitutional shall be enforceable immediately and the effects thereof shall extend to all such cases in general. These decisions will repeal the unconstitutional rule and the National Congress must be informed thereof and publish the decision in the court's official record (*La Gaceta*) The Rules stipulate how the courts are organized and operate. Previously, decisions on unconstitutionality only affected the one specific case;

7) The Judiciary Council was created and its members will be appointed by the Supreme Court of Justice. The law indicates how it is organized, as well as its scope and attributions. Judges and Justices may only be removed, suspended, transferred, demoted or retired if the grounds exist and subject to the guarantees provided for by the law [Article 317].

8) Article 318 indicates that the Judiciary has full administrative and financial autonomy. In the General Budget of Revenues and Expenditures of the Republic it is assigned at least three percent (3%) of the current income. The executive credits the appropriate budget items quarterly in advance.

9) Article 319 stipulates the exclusive nature of the services of judges and justices. Hence they may not practice law independently, nor give anyone independent legal counsel or advice. This ban does not apply to teaching or ad-hoc diplomatic functions. Judicial officials and ancillary staff in jurisdictional and administrative areas may not take part, for any reason whatsoever, in party political activities of any kind, except to deposit their own vote. Nor may they belong to a union or go on strike.

In the field of legislation, criminal procedures were reformed through the new Code of Criminal Procedure (2002) which replaced the written, inquisitive system by faster, oral trials. Through this new system, public prosecutors participate actively in lawsuits, based on the legal principle that the defendant is considered innocent until proven guilty, witness protection, and new legal definitions as to what constitutes a crime. All this speeds up the trial process.

The Supreme Court of Justice created a legal mechanism to coordinate the different institutions comprising the Justice sector, derived from the implementation of the new criminal procedure. As a result, the “**Inter-Institutional Commission of Criminal Justice**,” comprised by the: Supreme Court of Justice, the Office of the Director of Public Prosecutions, the Office of the Attorney General of the Republic, the Higher Court of Accounts, the Ministry of Security, the Ministry of the Interior and the National Congress, is operating effectively.

The National Penitentiary System is undergoing a reorganization process in keeping with an agreement reached between the Inter-Institutional Commission of Criminal and Social Justice and civil society.

The National Congress approved Decree No 244- 2003 regarding the Law on Constitutional Justice whose purpose is to formulate constitutional guarantees and legal and constitutional defenses. Within the jurisdiction of constitutional justice it must hear appeals for: (a) *habeas corpus*; (b) *habeas data*; (c) protection of fundamental rights; (d) unconstitutionality; (e) review; (f) conflicts between the different branches of government, and between these and the Supreme Electoral

Tribunal; conflicts of competence between the Office of the Director of Public Prosecutions and the Attorney General's Office and the Superior Court of Accounts.

Through the appeal for *habeas data*, the State guarantees and ensures access to information, but at the same time it guarantees that information will be corrected, false information eliminated, and confidentiality respected and its transmission and dissemination prevented.

This law has already been approved by the National Congress but has not yet been remitted to the President of the Republic for it to be sanctioned, promulgated and published.

II. CONTENTS OF THE QUESTIONNAIRE

CHAPTER ONE

MEASURES AND MECHANISMS ON STANDARDS OF CONDUCT FOR THE CORRECT, HONORABLE AND ADEQUATE FULFILMENT OF PUBLIC FUNCTIONS (ARTICLE III, 1 AND 2, OF THE CONVENTION)

1. General standards of conduct and mechanisms

- a) Are there standards of conduct in your country for the correct, honorable and adequate fulfillment of public functions. **YES.**

We can mention some constitutional provisions related to the Civil Service System governing employment and civil service relationships between the State and its civil servants, based on principles of suitability, efficiency and honesty. [Article 256 to 259 of the Constitution of the Republic].

ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS (TSC)

ARTICLE 36. THE SYSTEM. The comprehensive, exclusive and unitary control system will function according to the principles of legality, efficacy, efficiency, economy, equity and truthfulness; consisting of technical and legal mechanisms to be followed by the Court in the course of its work.

ARTICLE 37. PURPOSE. The purpose of the control system shall be:

- “3) To see that all civil servants, regardless of hierarchy, take full responsibility for their actions while performing their official functions;

- 5) To promote the development of a culture of public probity and ethics;
- 6) To strengthen the mechanisms necessary to prevent, detect, punish and acts of corruption in any form;“

ARTICLE 38. COMPONENTS. One of the purposes of the control system shall be to monitor public probity and ethics.

ARTICLE 53. PURPOSE. The monitoring of public probity and ethics is designed to establish conditions to ensure that civil servants and persons whose activities involve the State's financial and economic assets exercise those activities correctly, in keeping with legal principles and ethical values of integrity, impartiality, probity, transparency, accountability and efficiency, so that the needs of the community as a whole are served. It is also intended to safeguard the State's assets by warning, investigating and punishing civil servants who use their positions, jobs or influence to accumulate wealth unlawfully or to commit acts of corruption.

The Court shall foster the creation of public probity and ethics committees, comprised and operating in accordance with the law.

ARTICLE 54. PROBITY REQUIREMENT. In order to comply with the conditions of public probity and ethics, the Court shall have the following attributions:

- 1) Formulate, guide and direct a transparent management system to enable civil servants them to perform their functions correctly and adequately;
- 2) Receive and examine the sworn and detailed declaration of assets, in accordance with this Law;
- 3) Investigate, ascertain and determine whether there is any indication of unlawful enrichment and process the file pursuant to the law;
- 4) Ascertain at its own initiative or at the request of any of the members of the Consultative Committee of the Contracts and Acquisitions Office (*Oficina Normativa de Contratación and Adquisiciones*), pursuant to Article 30 of the Law on State Contracts, that the principles of legality, efficiency, advertising, transparency, equality and free competition provided for in Articles 5, 6 and 7 of said Law were complied with during the selection and contracting process;
- 5) At the same time, if deemed necessary, inspect the implementation and oversight of public works, the supply of goods and services and consulting;
- 6) Promote, establish and strengthen the mechanisms necessary to warn, investigate, punish and, in general, combat corruption; and

- 7) Any other attributions foreseen in the law and in any regulations issued by the Court.

ARTICLE 55. PROBITY AND ETHICAL VALUES. The Court shall promote policies and standards of conduct inspired by principles of probity and ethical and moral values that guide the personal and official actions of civil servants and the relationship between them and the community.

ARTICLE 68. PREVENTIVE MEASURES. The Superior Court of Accounts shall implement the Inter-American Convention against Corruption in accordance with this law and its regulations.

ARTICLE 69. SOCIAL COMPTROLLERSHIP. For the purposes of this law, Social Comptrollership shall mean the process whereby citizens participate by helping the Court fulfill its duties; and also whereby they encourage the legal, correct, ethical, honest, efficient and effective management of the State's resources and assets; as well as compliance by taxpayers and individuals in general with the obligations and responsibilities acquired through their financial dealings with the State.

ARTICLE 70. SCOPE OF SOCIAL CONTROLLERSHIP. The Court is responsible for fostering transparent public administration and establishing processes and mechanisms to allow citizens to participate in order to encourage transparent management by civil servants and see that complaints filed regarding irregularities in the execution of contracts are investigated.

ARTICLE 71. CITIZEN COOPERATION. The National Anti-Corruption Council (CAN) will cooperate with and support the Court in this area.

ARTICLE 72. DUTY TO REPORT IRREGULARITIES. Civil servants who are aware of infringements or violations of legally binding rules on governing matters, must immediately notify the Court or their superior.

The civil servants and the people referred to in this Article shall enjoy the broadest possible protection by the State under the Law.

REGULATIONS TO THE ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS (PUBLISHED IN THE COURT'S OFFICIAL RECORD, LA GACETA, ON 26 NOVEMBER 2003)

CHAPTER IV, CONTROL OF PUBLIC PROBITY AND ETHICS. SECTION ONE, PURPOSE OF THIS CONTROL.

Article 82.- PROBITY REQUIREMENT. With a view to carrying out the activities described in Article 54 of the Law, the Superior Court of Accounts will establish

induction processes to familiarize civil servants with the institution. It will also run training programs to enhance the capacities and abilities of civil servants in their field of competence.

In order to pave the way for a transparent, participatory strategy to combat corruption, the Superior Court of Accounts will enlist the participation and cooperation of the Public Sector, Civil Society and the Media.

Article 84.- ETHICAL PROBITY AND VALUES.- The standards of conduct expected of civil servants encompass:

INSTITUTIONAL LOYALTY. All civil servants are obliged to demonstrate loyalty to the institution while carrying out their duties, and to heed the institutional policies, rules and procedures established to ensure that the principles and provisions contained in the Constitution of the Republic and the country's laws in general are enforced.

HONESTY AND INTEGRITY. In order to fulfill individual as well as collective functions and responsibilities, all government officials and employees are expected to show a degree of honesty and integrity that leaves no room for questioning the outcome of the steps and procedures followed. These people must profess and demonstrate that all their acts are transparent and that they are not, and will never be, prepared to be coerced into influencing the outcome.

GOOD BEHAVIOR AND DISCIPLINE. In carrying out their duties, both in the work environment and wherever they represent a public institution, they must demonstrate good behavior and a high level of professionalism. Additionally, their performance as civil servants must show respect for and heed the standards and procedures that govern discipline in their work, as far as hierarchy and general ethical conduct are concerned.

RESPONSIBILITY. They must make it a permanent habit to fulfill their functions carefully and act with the speed and dedication demanded of public activity. Always go about their duties with the care, speed and dedication demanded of public activity. Act in accordance with, and not exceed, the attributions conferred on them by their position and the law. Answer for their acts with the seriousness and disposition demanded of their functions as State employees.

PROBITY. Behave irreproachably in the stewardship of public funds, demonstrating loyalty and honesty in performing the tasks assigned to them.

TRANSPARENCY. They must use modern methods to organize information and keep it up to date so that the steps and procedures followed can be verified; and implement whatever methods and procedures may be necessary to demonstrate that they acted in keeping with State legislation and policies in general.

OBJETIVITY, IMPARTIALITY AND INDEPENDENCE. They must fulfill the responsibilities assigned with the high degree of objectivity required by law, applying them without any subjective leaning, demonstrating independent judgment without manifesting any internal or external influences that might imply erroneous or incorrect proceedings.

SECURITY, TRUST AND CREDIBILITY. Their behavior must reflect their high-level commitment to society in fulfilling their functions; their acts must show character in decision-making and awareness of their responsibility to generate respect and hence the support called for by all civil servants in carrying out their functions.

PUBLIC INTEREST. In fulfilling their responsibilities and complying with the law, all government officials or employees are obliged to demonstrate their interest and commitment in ensuring that their activities benefit the public interest, as set forth in the laws issued for the organization of citizens' rights and duties.

QUALITY OF SERVICE. All civil servants are obliged, by reason of their contractual relationship, to give the best of themselves to assist the users of institutional public services. They must take an ethical and professional attitude that demonstrates that their knowledge and experience are at the service of the community so they can efficiently and effectively fulfill their functions.

Article 84.- OBJECT. Control of Public Probity and Ethics is designed to set forth the conditions for ensuring the correct exercise of the acts of civil servants and anyone connected with the State's financial activities or assets, to ensure that those acts evolve within the framework of such principles of legality and ethical values of integrity, impartiality, probity, transparency, accountability and efficiency as to ensure that they serve the interests of the community; and also that they safeguard the State's assets; warning, investigating and punishing civil servants who use their offices, jobs or influence to accumulate unlawful wealth or commit acts of corruption.

Article 85.- The Court will foster the creation of Probity Committees within each public institution, that will be governed by special rules.

Other laws that regulate this type of rule:

Regarding the creation of the Career in Government Administration, training, field of application, assessment of staff, their rights and prohibitions. [Articles 1, 2, 7 (5) and 8; 33, 38 and 42 of the Law on Civil Service].

Recruitment and selection procedures, re-entry, emergency appointment, promotions, training, etc. [Articles 111 to 290 of the Regulations of the Law on Civil Service].

The following are also in force: 1) regulations governing careers in public prosecution; 2) regulations governing careers in teaching; 3) regulations governing legislative branch officials and employees; 4) regulations governing careers for officials and employees with the Superior Court of Accounts; 5) draft code of ethics for government officials and employees; 6) regulations governing the code of ethics for public administration officials and employees; 7) code of ethics for court officers and employees; 8) draft code of municipal ethics; 9) code of ethics of the Office of the Director of Public Prosecutions; 10) regulations governing careers with the judiciary.

b. Are there mechanisms to enforce compliance with the above standards of conduct? **YES.**

There are mechanisms for enforcing them, but it is important to point out the different regulations on standards of conduct, such as: regulations governing teachers and physicians in employment; regulations governing careers with the judiciary, careers in public prosecution, the legislature, the executive, as well as the codes of ethics of the judiciary, the National Congress, the different professional associations; and other draft codes of conduct that confirm the observance or fulfillment of those regulations and the bodies entrusted with enforcing them.

In particular, there are mechanisms designed to prevent people who are not eligible for employment in the government from entering public administration, as well as mechanisms for detecting such cases and taking corrective measures.

Furthermore, there are constitutional and legal provisions to be considered which call for the presentation of proof of suitability prior to entering Public Administration, such as being “reputed to be honest”, “reputed to be honorable” and “of renowned good behavior.” An example of this can be seen in the Constitution of the Republic, Article 52 (2); 54 (3); 224 (4); Article 28 of the Law on the Promotion and Development of Public Works; Article 5 (d) of Decree 153/95 dated 24 October 1995 (Law on the Human Rights Commissioner; the Decree gives the Commissioner constitutional rank); Article 8 of the Law on the Central Bank of Honduras; Article 3 of the Law on the National Commission of Banks and Insurance Companies; Article 13, (2), of the Law on the National Police; Article 6 of the Law on Migration and Foreign Nationality; Article 14, of the Law on the National Registry of Persons; Article 19, (2), of the Law on Public Prosecutions; Article 3 of the Law on the Attorney General’s Office.

Our country’s Constitution and ordinary legislation contain a series of provisions on ineligibility to hold public office, many of them linked with requisites as to honorability.

Sanctions can be applied against civil servants for failure to fulfill their duties and for misbehavior. For instance, Article 324 of the Constitution of the Republic provides that if in the course of his or her work, a civil servant infringes the law, in a civil action he or she shall be jointly and severally liable with the State or the State institution for

which civil servant works, without this affecting their right to take further action against that civil servant in the event of gross negligence or malicious intent. Civil liability does not exclude the determination of administrative and criminal liabilities against the transgressor; the provisions of Articles 38 and 39 of the Law on Municipalities provides that: members of the Municipalities incur judicial liability, for instance, for any voluntary act or omission committed in the exercise of their functions. Members can also be suspended or removed for immoral behavior and behavior that is contrary to the interests of the community in the performance of their functions. Articles 38 and 39; the provisions of Article 5 of the Law on National Banks and Insurance Companies, and Article 65 of the Law on Mining, states that: the acquisition of rights by persons ineligible under this Law is *ipso jure* null and void.

c.- Briefly state the results obtained by implementing the above standards and mechanisms, attaching the pertinent statistical information if available.

Section 2.3 of the Rules of Procedure on Control approved by the Superior Court of Accounts provides the following:

“Efficient administration of human resources.- Internal control must include the policies and procedures necessary to ensure the appropriate planning and administration of the institution’s human resources, in such a way as to ensure that, from the beginning to the end of their service with the institution, those civil servants’ competencies (skills, attitudes and knowledge) are suitable for the position held.-
COMMENT: *The superior must design and put into operation a human resources management process capable of guaranteeing the acquisition and maintenance of suitable staff. In the first case, this covers activities for planning technically correct and transparent recruitment, selection and hiring practices. In the second case, it includes the creation of suitable working conditions, promotion of training activities to enable staff to increase and improve their knowledge and skills; and the existence of a performance assessment., accountability and incentive system to motivate adherence to institutional values and controls.”*

No specific statistical information is available on the results, but a human resource management analysis is included in all the internal audit reports. Annex No. 1 gives the results of audit reports to illustrate this.

d. If no such standards and mechanisms exist, please indicate how your State intends to apply measures within your institutional system to create, maintain and strengthen the standards of conduct for the correct, honorable and proper fulfillment of public functions and mechanisms to enforce compliance in accordance with Article III (1) and (2) of the Convention.

A draft Law on Civil Service covering all the provisions of the Convention on the subject has been submitted to the National Congress and is pending approval.

2. Conflicts of interest

- a. Are there standards of conduct in your country regarding the prevention of conflicts of interest in the performance of public functions? **YES.**

The Republic of Honduras has numerous legal provisions or regulations designed to prevent conflicts of interest in the sphere of public functions. These regulations include, for example:

CONSTITUTIONALLY BINDING RULES, intended to regulate certain ineligibilities or incompatibilities affecting some public officials and individuals and companies.

Examples of this are:

a) Article 52 (3), which states: the following are ineligible for election as Justices of the Supreme Electoral Tribunal:

- 1) Anyone who is not eligible to be a Supreme Court Justice;
- 2) Anyone nominated to occupy or hold a position subject to election by the people; and
- 3) Anyone who is in a management position of a legally registered political party.

Justices of the Supreme Electoral Tribunal may not carry out or participate directly or indirectly in any kind of party politics, except for voting on election day, nor can they hold any other remunerated office, except for teaching posts.

b) The last paragraph of Article 54, which states that in order to be a Justice of the Supreme Electoral Tribunal, the Director and Deputy Directors of the National Registry of Persons must have a university degree, the highest technical and moral qualifications and fulfill the requirements and ineligibilities stipulated in the Constitution of the Republic.

c) Article 199, which provides that the following may not be elected as deputies:

- 1) The President and Vice-president of the Republic;
- 2) The Justice of the Supreme Court of Justice;
- 3) The Secretaries and Under-Secretaries of State;
- 4) The military chiefs with national jurisdiction;
- 5) The heads of the higher bodies of management, government and administration of the decentralized State institutions;
- 6) The military in active service and members of the security forces and any other armed forces;
- 7) All other officials and government employees of the executive and the judiciary as determined by the law; except those holding teaching posts or working in the healthcare area;

- 8) The Justices of the Supreme Electoral Tribunal and the Director and Deputy Directors of the National Registry of Persons;
- 9) The Attorney General and the Deputy Attorney General of the Republic, Members of the Superior Court of Accounts, the Director and the Deputy Director of Public Prosecutions, the Attorney for the Environment, the Superintendent of Concessions and the National Commissioner of Human Rights;
- 10) The spouse and relatives, up to and including the fourth degree by blood and second degree by marriage, of the persons mentioned in sub-paragraphs 1, 2, 4, 8 and 9 above, and of the Secretary and Under-Secretary of State for Defense and Public Security;
- 11) The spouse and relatives of the chiefs of the military zones, commanders of military units, departmental or sectional military delegates, delegates of the security forces or of any other armed force, up to and including the fourth degree by blood and second degree by marriage, if they are candidates for the department where those people exercise jurisdiction;
- 12) Holders of State concessions to develop natural resources or contractors of State-funded services or public works and anyone who is owed money by the State for such purposes; and,
- 13) People who have outstanding debts with the Public Treasury.

Anyone who held that position six months prior to the elections will be ineligible and shall be disqualified from running for office.

d) Article 203 which bans deputies in office from holding remunerated public posts during the period for which they are elected, with the exception of teaching and cultural posts and positions related to social welfare professional services. Nevertheless, they may hold the position of Secretary or Under-Secretary of State, President or Manager of decentralized entities, Head of Diplomatic or Consular Mission or perform Ad-Hoc Diplomatic Missions. In such cases they may return to the National Congress once they cease to perform those functions. Alternates may hold public offices or job without being required to relinquish these as a result of acceptance or exercise thereof.

e) Article 204 which prohibits deputies from leasing State property either directly or indirectly, or from obtaining contracts or concessions of any kind from the State. Any infringement of this provision shall render such contracts or concessions null and void.

f) Article 229 which stipulates that the Attorney General and the Deputy Attorney General of the Republic must meet the same conditions and have the same prerogatives and be subject to the same ineligibilities as provided by the Constitution for Justices of the Supreme Court of Justice.

g) The following persons may not be elected as President or Vice-President of the Republic:

- 1) Secretaries and Under-Secretaries of State, Justices of the Supreme Electoral Tribunal, Judges and Justices of the Judiciary, Presidents, Vice-Presidents, Managers, Assistant Managers, Executive Secretaries of Decentralized and Deconcentrated Institutions; Members of the Superior Court of Accounts; The Attorney General and the Deputy Attorney General of the Republic; the Director and Deputy Directors of the National Registry of Persons; the Attorney and Deputy Attorney of the Environment; the Prosecutor General of the Republic and the Deputy Prosecutor General; the Superintendent of Concessions and the National Commissioner of Human Rights, who held office during the year prior to the date on which the President of the Republic was elected. The President of the National Congress and the President of the Supreme Court of Justice may not run for President of the Republic for the constitutional term following the one for which they were elected;
- 2) High ranking officers and officers ? of the Armed Forces;
- 3) Senior ranking members of the Armed Forces and police or State Security Forces;
- 4) Military in active service and members of any other armed force who held that position twelve months prior to the elections;
- 5)
- 6) The spouse and relatives, up to and including the fourth degree by blood and second degree by marriage, of the President and Vice-president of the Republic, elected to office during the year preceding the election; and,
- 7) Agents or attorneys of companies that hold State concessions, holders of State concessions to develop natural resources or contractors of State-funded services or public works, and anyone is owed money by the State for contracts or concessions.

h) Article 250, which states that the following persons may not be Secretaries or Under-Secretaries of State:

1. Relatives of the President of the Republic, up to and including the fourth degree by blood and second degree by marriage.
2. Anyone who has administered or collected public securities, until such time as they have been fully acquitted and released from their account;
3. Anyone who has outstanding debts with the Public Treasury; and,
4. Agents or attorneys of companies that hold State concessions, holders of State concessions to develop natural resources or contractors of State-funded services or public works, and anyone who his owed money by the State for contracts or.

i) Article 258 provides that no-one may hold two or more paid public offices at the same time, either in central government or in the decentralized State organizations, with the exception of people who provide healthcare services or who teach. No

official, employee or civil servant on a regular salary can be paid a fee or bonus for providing a service which comes under his or her normal functions. Such provisions, according to Article 259 shall apply to officials and employees of decentralized and municipal institutions.

j) The following persons may not be Presidents, General Managers or Directors General of Decentralized Institutions: the spouse or relatives of the President and Vice-president of the Republic up to and including the fourth degree by blood and second degree by marriage, pursuant to the provisions of Article 263. A similar provision is set forth in Article 279 (2), which states that no relative of the President of the Republic or of his legal substitutes, up to and including the fourth degree by blood and second degree by marriage, may be Joint Chief of Staff;

k) Article 310 states that the following persons may not be elected as Supreme Court Justices: (a) Anyone who is disqualified from being Secretary of State; and (b) spouse and relatives up to and including the fourth degree by blood and second degree by marriage.

LEGALLY BINDING PROVISIONS

a) Law on the Organization and Attributions of Courts and Tribunals

Article 188 of the Law on the Organization and Attributions of Courts and Tribunals, that the appointment of judges and justices may be legitimately challenged for a number of reasons, including:

- 1) Being related up to and including the fourth degree by blood and second degree by marriage to any of the parties or to their attorneys;
- 2) Have been reported or accused by one of the interested parties of being the perpetrator or accomplice or accessory to a crime or be accused of committing a misdemeanor;
- 3) Having defended any of the parties, passed down a decision on a lawsuit or judicial action, or been involved therein as an attorney or intervened therein as a prosecutor, expert or witness;
- 4) Being or having been a private complainants or the person who reported the person under objection;
- 5) Being or having been a custodian or guardian of anyone who has taken part in the lawsuit or judicial action;
- 6) Having been under the custody or guardianship of any of the parties;
- 7) Having a case pending with the person filing the objection;
- 8) Having been direct or indirectly involved in a lawsuit or judicial action;
- 9) Close friendship;
- 10) Clear enmity.

b) Law of Administrative Procedure

Article 15 of the Law of Administrative Procedure states that circumstances or cases in which civil servants who intervene in the administrative procedure can be challenged, include: (a) Bond by marriage, common law marriage, affinity up to and including the fourth degree by blood and second by marriage with the interested parties or the attorneys-in-law, partners or attorneys-in-fact of the entities represented; (b) Close friendship or known enmity with the interested party or parties; (c) A personal interest in this or a similar party that is liable to influence the decision; (d) A service relationship with a person or company directly interested in the matter or be a partner of the interested entity; (e) Being or having been a custodian or being or having been under the custodianship or guardianship of one of the parties or their lawyers; (f) Have a lawsuit pending with one of the parties; (g) Being or having been reported or accused by one of the interested parties of being the perpetrator or accessory to a crime or be accused of committing a misdemeanor; (h) Having intervened as an attorney-in-fact, witness or expert.

The law also gives instructions on: how the objection must be filed; abstention of officials challenged to intervene in the administrative procedure; and the fact that no appeal is admissible in the case of resolutions issued on previous cases [Articles 16 to 18].

c) **General Law on Public Administration**

Article 115 (1) of the Last Title, Common Provisions for collegiate bodies, of the General Law on Public Administration, states that members of collegiate bodies who take part in deliberations or vote on matters in which their spouse or relatives up to and including the fourth degree by blood and second degree by marriage, shall be held criminally and civilly liable.

d) **Law on State Contracts**

1) Articles 4, 5, 6 and 7 of the Law on State Contracts set forth the principles of freedom of agreements, efficiency, advertising and transparency, equality and free competition.

2) The prohibitions or ineligibilities on entering into contracts set forth in Article 15 of the Law shall be evaluated and applied automatically by the bodies responsible for contracting and shall remain in force as long as the circumstances warrant this.

Article 15 (4), (5), (7) and (8) of the Law stipulate that:

The following individuals and companies may not enter into contracts with the administration:

4. If they are paid or unpaid officials or employees in the service of the branches of the State or of any decentralized institution, municipality or organization financed with public funds, regardless of the provisions of Article 258 of the Constitution;

6. If they are the spouse or common law partner or a relative up to and including the fourth degree by blood and second degree by marriage of any of the officials or

employees responsible for pre-qualifying the companies, evaluating the proposals, or awarding or signing the contract;

7. In the case of corporations in whose equity officials or civil servants employees have a share or influence by reason of their position, or if they participate directly or indirectly in any stage of the process for selecting contractors.

This prohibition also applies to companies which have partners who are spouses, common law partners, relatives up to and including the fourth degree by blood and second degree by marriage of the officials and employees mentioned in the previous paragraph, or any who hold management positions or represent persons with those same degrees of consanguinity or affinity;

8. If they have been directly involved or have intervened as advisors at any stage of the contracting procedure or in the preparation of the specifications, designs or terms of reference, except for activities entailing supervision of construction.

Article 16 provides that, for the purposes of Article 15 (7), the President of the Republic, the Vice-president of the Republic, Secretaries and Under-Secretaries of State, Directors General or officials of equal rank to Secretary of State, Deputies of the National Congress, Justices of the Supreme Court of Justice, Justices of the Supreme Electoral Tribunal, the Attorney General and Deputy Attorney General of the Republic, members of the Superior Court of Accounts, the National Commissioner of Human Rights, the Prosecutor General and the Deputy Prosecutor General of the Republic, senior ranking members of the Armed Forces, Managers, Assistant Managers or officials with similar ranks in the decentralized State institutions, Mayors and Municipal Administrators in the contracting area of each Municipality and all other officials who, by reason of their office, are directly or indirectly involved in the contracting procedures, are included.

For the purposes of Article 16 of the Law the government officials or civil servants referred to are those who by reason of their positions are considered to be directly or indirectly involved in the contracting procedures, are those who participate in the pre-qualification of bidders, evaluation of proposals, awarding or signing of contracts, as well as those who take part in the preparation of specifications, drawings, designs, bidding conditions or terms of reference leading up to the awarding of a contract.

Article 19 of the Law indicates that contracts entered into with persons who are unable to exercise these functions or who are subject to the prohibitions or disqualifications referred to in Articles 15 and 16 of the Law, shall be declared invalidated and then liquidated, and the joint and several liability referred to in Article 19 thereof shall be determined.

The body responsible for contracting shall declare these contracts invalid and must inform the Attorney General's Office of the Republic thereof in order for the action referred to in Article 19 of the Law to be taken to recover damages; the municipalities shall take action for the same purpose.

Article 135 (6) and (7). Grounds for dismissal, without involving the employers in labor liability, for anyone who directly or indirectly participates in the contracting procedure in the knowledge that he or she is disqualified from participating therein.

e) Anti-Money Laundering Law

Article 7 of this Law states that: "Civil servants who, availing themselves of their position, participate in, facilitate or benefit from carrying out activities that are defined as offences under this Law, shall be penalized as provided for in Article 3 of this Law plus an additional third (1/3) of that penalty, and also disqualified from ever again holding that office.

f) Article 20 of the **Law of the Office of the Director of Public Prosecutions** states that the Prosecutor General and the Deputy Prosecutor General may not be elected.

g) Law on Promotion and Development

Article 28, last paragraph, of the Law on the Promotion and Development of Public Works and National Infrastructure, provides: that as long as the Superintendent remains in office, he or she may not exercise any paid function.

h) Law on Civil Service:

Article 42 (3), (4), and (5) bans public officials from (i) directly or indirectly using their position to obtain promotion, (ii) holding two paid public offices, except in the case of professionals who provide healthcare services or who teach, and (iii) doing private work and participating in bids or competitions for works connected with the activities of the organizations or dependences where they provide their services.

OTHER LAWS

i) *Article 14, **Law of the Honduran Child and Family Institute (IHNFA)***. No member of the Executive Council may, on his or her own account or on behalf of others, may enter into contracts with the Honduran Child and Family Institute or attend meetings at which any matter in which he or she or any of his or her relatives up to the fourth degree by blood or adoption, or any corporation in which he is a partner, participant or employee, have a personal interest.

ii) Articles 102 and 103, **General Budget Provisions (Decree 12-2002-E)** Civil servants who have received severance benefits, may not be hired by another public institution before one year has elapsed as of the date of agreement to annul or terminate the employment. Accordingly, State institutions may not hire the professional services of former employees who have been retired or pensioned by any public sector institution.

iii) Article 31, **Law on Municipalities** providing that persons or citizens may not be elected members of the Municipal Corporation.

- iv) **Provisions of the Law of the Central Bank of Honduras (9 and 72)** which provides that: such persons may not sit on the Board of Directors of the Central Bank of Honduras, including anyone subject to objection and confirmed by the Superior Court of Accounts, and also that their officers and employees may not be members of the decision-making bodies of public or private institutions or commissions.
- v) **Provisions of the National Commission of Banks and Insurance Companies**, regarding incompatibility with being a member of the Commission, which includes among others, members of boards of directors or supervised institutions, and people who belong to companies that conduct external audits in supervised companies. Likewise, on joint and several personal liability for any act or omission that infringes legal or regulatory provisions [Articles 4 and 5 of its Law].
- vi) Article 177 (d) and (ch) of the **Law on Customs**. It states that civil servants, State contractors and members of the armed forces are not eligible to obtain a Customs Agent's License; nor may they be related to the Secretary of State of that branch, etc.
- vii) Article 9 (c), (ch) and d) of the **Law on Customs**, states who are the people are not eligible to be Directors and Deputy Directors of Customs; and, among other things, may not be given a State contract or concession.
- viii) There are also laws that regulate situations like the one mentioned above, for example: Articles 48, 65 and 103 of the **General Law on Mining**.
- ix) Article 15 of the Law of the Honduran Forestry Development Corporation.

b.-Does your country have mechanisms for enforcing compliance with the above standards of conduct? **YES.**

There are mechanisms in place to enforce the standards of conduct mentioned, for example:

Constitutional mechanisms:

Article 222 which states that: "The Superior Court of Accounts is the governing entity of the system for controlling public funds and is functionally and administratively autonomous from the branches of the state, subject only to compliance with the Constitution and the laws. It shall be accountable to the National Congress for acts undertaken in the course of its duties.

The function of the Superior Court of Accounts is to inspect, *a posteriori*, the funds, property and resources administered by the State powers and decentralized and deconcentrated institutions, including State banks or banks under mixed state and private ownership, the National Commission of Banks and Insurance Companies, the municipalities and any other special body or public or private entity that receives or administers public resources from internal or external sources.

It may, In the course of its duties, monitor finances, management and results, based on efficiency and effectiveness, economy, equity, veracity and legality. It must also

establish a system of transparent management by civil servants, determine whether there have been cases of unlawful enrichment, and monitor the State's property, liabilities, and assets in general. In order to fulfill its functions, the Superior Court of Accounts shall have the attributions provided for in its Organic Law.”

Article 298 which states that: “In exercising its exclusive functions, and provided these are not contrary to the law, municipal corporations shall be independent of the branches of the State, and answerable to the courts of justice for any individual or collective abuse committed, without this affecting any administrative liability they may have.”

Article 323 which states that officials are granted authority whereby they are legally liable for their official conduct, subject to the law but never above it.

Article 324 which states that: If civil servants, in exercising their functions, infringe the Law to the detriment of other individuals, they shall be jointly and severally liable together with the State or the State institution in whose service they are, in a civil action, without prejudice to any action for recovery that those individuals may bring against the civil servant responsible in the event of gross negligence or malicious intent. Civil liability does not exclude the possibility of bringing an action for administrative and criminal liability against the person who infringed the law.

Article 325 which indicates the actions that may be taken to determine the civil liability of civil servants have a ten (10) year limitation; and in the case of actions to determine liability, twice the time provided for under criminal law. In both cases, the term of the limitation shall run from the date at which the civil servant ceased to be in the position held when the liability was incurred.

Other Laws:

- Article 19, and others, of the Law governing State Contracts, provides for various measures in the event of provisions being infringed, declares invalid any contracts entered into with persons who are not legally able or are ineligible to or have been disqualified from so doing, pursuant to the provisions of Articles 15 and 16 of that Law. It also provides for whatever action may be necessary to obtain compensation for any damages caused.
- The Organic Law of the Superior Court of Accounts which, in addition to certain prohibitions, provides for the levying of fines for the infringements in the course of administrative management, [Articles 98 to 101]. Joint and several liability is regulated [Article 80]; it sets forth the steps to be taken in case of unlawful enrichment as well as the penalties applicable, [Articles 53, 54, 56, 62 and 63], and it also authorizes examination of any irregularities that give rise to administrative, civil or criminal liability and any other legal action applicable.

- The Regulations of the Organic Law of the Superior Court of Accounts regulate and define cases of administrative, civil, joint and several, and criminal liability. [Articles 118, 119, 120 and 121].
 - The Law on Municipalities lists the reasons for disqualifying members of the Municipal Corporations and determines that infringement of the law shall cause acts to be invalidated, without this affecting any other type of liability. [Article 30].
 - At present the Superior Court of Accounts is working on a draft Code of Ethics which includes matters regarding Conflicts of Interest within a field of application that covers civil servants in general and also strengthens those regulations, and brings them in line with and implements the rules contained in the Inter-American Convention against Corruption.
- 3.- Mention briefly the results obtained by implementing the above laws and mechanisms, attaching the pertinent statistical information, if available.

As already mentioned, there is no single legal framework or special law that regulates conflicts of interest. Nevertheless, there is an abundance of regulations on this type of case. The Superior Court of Accounts also plays a very important role in seeing that these regulations are enforced and that inspection activities cover the monitoring of compliance with the standards of conduct mentioned. With the creation of this Court, its powers to control Probity have been defined. Article 54 (1) states that the Court must: formulate, direct and manage a system of transparent management by civil servants to ensure that they perform their functions correctly and properly and Article 68 states that it must apply the provisions of the Inter-American Convention against Corruption in accordance with this Law and its regulations.

Thus the body responsible for ensuring compliance with the legal provisions designed to prevent conflicts is the Superior Court of Accounts which, in the course of its activities, has conducted various inspections, special audits, internal control assessments, etc., determined criminal and civil liabilities and imposed sanctions. In other cases, and in conformity with the legislation referred to, the agency or authority that must apply the respective disciplinary sanctions is designate.

The Court requires that Sworn Declarations of Income, Assets and Liabilities include information to help detect cases that involve conflicts of interest.

Another result of efforts to prevent conflicts of interest during the performance of public functions, is the significance of the decision by the National Congress, which was reviewed in June of this year (2004) to repeal the System of Immunity for Civil Servants **and make Congressional deputies accountable.?**

Although no details are available, there are clearly a great many cases in which parties

have appealed to the courts against administrative decisions in cases of conflicts of interest, particularly in the case of bids for public works. The same applies to civil and criminal cases in which the parties object to the presence of certain judges and justices, alleging conflicts of interest.

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

- a. Does your country have any standards aimed at ensuring the conservation and proper use of resources entrusted to public officials while performing their functions?

There are various provisions on the standards mentioned above:

I. Provisions contained in the Constitution of the Republic:

Article 260 (6), decentralized institutions can only be created through a special law, subject to guarantees on the use and development of State-owned property or resources.

Article 301, revenues from participation in the development or industrialization of the natural resources located in the municipal jurisdiction must be deposited with the Treasury of the municipality.

Article 325, A limitation on the term allowed for actions to determine whether civil servants have incurred civil or criminal liability.

Article 332.- The State reserves the right to develop certain basic commodity, mining and service industries of public interest.

Article 333.- State intervention in the economy shall be based on public and social interest.

Article 340.- The technical and rational development of the nation's natural resources is essential for the public benefit.

Article 352.- The following are Treasury property: 1) All the State's movable property and real estate, 2).... and,... 3).....

Article 354.- Fiscal or capital assets can only be transferred to people in accordance with the provisions of the law.

The State reserves the right to set or change the demarcation of zones for the purpose of controlling or protecting natural resources in the national territory.

Article 360.- State contracts for public works, supplies and services, or the purchase, sale or leasing of property, must be executed through public tenders or auctions in accordance with the law.

Exceptions are contracts designed to meet the needs arising from a state of emergency or those which, by virtue of their nature, can only be entered into with a particular person.

Article 361.- Defines financial resources.

Article 362.- All fiscal revenues and disbursements shall be reflected in the General Budget of the Republic.

Article 363.- All ordinary fiscal revenues shall comprise a single Fund.

Article 364.- No commitment may be entered into or payment made, other than for allocations approved under the Budget, or if they infringe budgetary regulations. Anyone who violates this provision shall be held civilly, criminally and administratively liable.

Article 365. The executive, under its own responsibility and provided that the National Congress is not in session, may enter into loan agreements, vary the destination of a budgetary item authorized, or take out additional loans to satisfy pressing or unforeseen needs in the event of war, domestic unrest or public calamity, or to meet international commitments, all of which must be reported in detail to the National Congress during the next legislative period.

The same procedure shall be followed in the case of the State's obligations arising from firm decisions on payment of severance benefits, if there is no budget provision or if it has been used up.

Article 371.- The executive shall be responsible for conducting a preventive inspection on implementation of the General Budget of Revenues of the Republic, and in particular for:

1. Ascertaining whether funds have been collected, and supervising the custody, commitment and disbursement of public funds; and,
- 2 Approving all disbursements of public funds, in line with the budget.

The law will set forth the procedures and scope of this inspection.

The Constitution of the Republic also contains a Special Chapter on the Economic and Financial System's role in seeing that resources are safeguarded and used properly.

See Articles 328 to 372.

II. Provisions with legal rank, for instance :

1) Organic Law of the Superior Court of Accounts:

Article 42 (1), (3) and (4).- Undertake *a posteriori* control of the use of public resources, evaluate environmental management in public sector operations and the mismanagement of State resources.

Article 45 (4), (5) and (6) .- Monitor fiscal income, determine whether financial obligations were legally acquired, and evaluate management of natural resources and the environment as far as their protection, conservation and development are concerned.

Article 46 (2), Safeguard public resources against any loss, waste, improper use, irregularity or illegal act.

Article 37 (1), (4) and (7).- Public resources must be carefully invested; investigate and punish mismanagement of State resources.

Article 40.- Optimize the resources earmarked for control purposes.

Articles 73, 74 and 7.- Oversight and control of national property and responsible management.

Article 80.- Joint and several liability for authorizing the improper use of State property, services or resources.

Article 100 (6) and (12). - Sanctions or fines for failure to return public resources that were not used for the purpose authorized, and State property that was improperly used.

Other Laws:

Articles 132 and 133 of the Law on State Contracts establishes procedures for imposing sanctions and determines the criminal and financial liability of civil servants and individuals, including liability for damages caused to public administration.

Article 135 (3), (4), (5) and (8) of the Law on State Contracts that dismissals that do not incur liability for misdemeanors that are financially detrimental to the State.

Law on the Promotion and Development of Public Works: [Articles 1, 3 (3), 4, 12 and 13.- Regulations: 1, 2, 3, 5, and 7], on the provision and indirect management of public services.

Law on the Executive Directorate of Revenues: Article 2 of its law; 2 and 10 of Agreement 00737 of 20 July 1995, determine that the aforesaid Directorate is accountable for the administration of all tax and customs revenues.

Law on Public Prosecution: Articles 1, (5), (6); 16 (10) and (11), on protection of national property.

Rules of the Superior Court of Accounts.: Articles 112, 113, 114 and 115 related to inspection and control of State assets.

Law of the General Office of Accounts of the Republic (CGR): Articles 35 to 50 and 68, on the management of assets.

General Budget Provisions 2004

Article 23. Regulates amounts and cases subject to supply, consulting and public or private bidding procedures.

Article 48. Last paragraph. The disqualifications and prohibitions indicated in Articles 15, 16 of the Law on Contracts apply to all contracts entered into with the Public Administration.

Article 68. Income generated or received by all offices must be deposited with the General Treasury of the Republic (TGR) in full, at least two (2) days after receipt thereof; the amount of the fiscal revenues collected must be reported to the General Budget Office (DGP) the General Office of Accounts (CGR) and the Central Bank of Honduras on a daily basis.

Articles 11, 12, 14 last paragraph, in relation to the proper use of State resources.

Articles 87 and 97.- Ban on the use of vehicles during non-working days and hours, fines for failure to comply with these provisions.

Law on Municipalities:

Article.-7.- Property and funds received as donations and transfers for specific purposes may not be used for any other purpose.

Article 8.- When a budget allocation has been depleted or is insufficient, financial commitments may not be made, without prejudice to annulment of the action and determination of liability therefor.

Law on the Misuse and Illicit Trafficking of Narcotics and Psychotropic Substances:

Articles 30 and 36.- Forfeiture of property used for illicit drug trafficking or acquired with funds from such trafficking which must be disposed of on behalf of the State of Honduras at public auction.

Moreover:

Article 24 (3) – Obligations - of the Law on Municipalities. Local inhabitants of the municipalities have an obligation to take care of State property and conserve the environment.

Decree 85-91 and Agreement 2441 of 16 December 1991 related to the creation of the National Public Services Supervisory System as the body in charge of approving tariffs or prices charged to consumers or users by the State's decentralized institutions for public services.

Agreement No.1345 of 1 October 1985 on “Regulations on Controlling the Accounting of National Property,” covering, among other things, control and accounting operations related to acquisitions, transparencies and accountability for Central Government property.

Article 183 of the Law on Customs (Decree 212-87): The customs agent shall be vicariously liable, together with the owner or consignee of State property, for any acts or omissions that are detrimental to the Tax Authorities *in the collection of taxes, duties and fiscal charges*.

Law on Public Credit (Decree 111-90 del 20-9-90), which regulates operations for obtaining funds under favorable conditions to finance economically and socially bona fide projects; applicable to all State institutions and public or mixed corporations in which the State??NO DICE MÁS NADA – SUPONGO QUE DEBERÍA HABER DICHO “tenga un interés”, o sea: “has an interest.?”

Officials who infringe the provisions of this law shall be fined. [Article 61].

b. Are there mechanisms to enforce compliance with the above standards of conduct?

One can appreciate that there are many regulations on this matter, which are defined or established alongside various liabilities of a civil, criminal, administrative, joint and several nature, etc. and also sanctions applicable to anyone who infringes them. The competencies and procedures for enforcing them are also determined, as are the mechanisms for ensuring compliance therewith by civil servants and even individuals and companies in special cases.

In accordance with the provisions contained in the Law on State Contracts, a Contracts and Procurement Office has been created (*Oficina Normativa de Contratación and*

Adquisiciones) as the technical and consultative organ of State responsible for issuing general rules and guidelines on the development or improvement of the operational, technical and economic aspects of administrative contracting systems. It also gives advice and coordinates activities designed to orientate and streamline sector contracting processes, without being directly involved in contracting procedures. Article 31 Law on State Contracts.

A series of rules has been issued. These include a Procedure Manual for the Audit Recommendations System; a Manual of General Rules on Internal Control; the former by virtue of the provisions of Articles 31 (2) and 7; 39, and 45 (9), of the Organic Law of the Superior Court of Accounts; as well as budget provisions issued each fiscal year or period by the Ministry of Finance. It should be noted that a new Organic Budget Law will come into effect next January (2005).

Honduras does have a mechanism for enforcing the standards of conduct referred to, such as internal audits in each Public Administration institution or organization, an Anti-Corruption Prosecution Office under the Office of the Director of Public Prosecutions, and also a direct regulation on compliance with the rules on the conservation and use of public resources, under the Superior Court of Accounts with its Organic Law and its Regulations. The fact that this law is new (2003) does not mean that studies or analyses are not being done in anticipation of any amendments that may be necessary.

Provisions have been issued to protect resources, e.g. regarding 1). the inalienable right to ownership of all mines and quarries on Honduran territory, and also the right to regulate mining activities and inspect mining resources to determine whether they are being used in a technical and rational manner. 2). the issuance of rules on the optimum utilization of the country's forestry resources to guarantee their protection, conservation and multiplication. (General Law on Mining, and the Law of the Honduran Forestry Development Corporation).-

- c. Briefly state the results obtained by implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.

A series of Reports has been issued by the Superior Court of Accounts specifying responsibilities and indicating civil liabilities in the case of damage to State assets. Although there are no detailed statistics on this, Annex No. 1 can be referred to.

4. Measures and systems for requiring civil servants to inform the competent authorities about acts of corruption in public service when they are aware of them

- a. Does your country have standards of conduct that establish measures and systems requiring that public officials report cases to the competent authorities if they are

aware that acts of corruption have been committed during the performance of public functions? **YES.**

The rules applicable for ensuring compliance with the requirement to report acts of corruption to civil servants include: Article 80 of the Constitution of the Republic, establishing the right of each person or association of persons to submit petitions to the authorities for reasons of specific or general interest, and to obtain a rapid response within the statutory period. The foregoing is a provision applicable to all persons and establishes the grounds for reporting to the competent authorities any irregular act believed to have been committed during the performance of public functions.

There are other legal provisions that apply to civil servants:

Article 72 of the Law of the Superior Court of Accounts: All civil servants who are aware that legally binding rules have been infringed or violated during the performance of public functions must contact the Court or their superior immediately.

Civil servants and the persons mentioned in this Article shall enjoy the broadest protection by the State, in conformity with the Law.

Articles 45 (9); and 50 of this Law: It is compulsory for the Internal Auditors to report any irregularity, indicating their main source of information.

Articles 108, 109 and 110 of the Regulations of the Law of the Superior Court of Accounts: All civil servants have a duty to report irregularities; procedure for filing a formal complaint and protection for the complainant.

Article 100 (11) of the Law of the Superior Court of Accounts. Sanctions for failure to report deviations from, or the illegal execution of, existing plans and programs.

Article 269.- Code of Criminal Procedure: Civil servants or government employees who are aware that a crime against public order, punishable by the government, has been committed in the performance of public functions, are obliged to file a formal complaint with the National Police or the Office of the Director of Public Prosecutions.

Article 270.- The afore-mentioned Code: Establishes the type of complaint, requisites, etc. It also states that the name and identity of the complainant may be held in reserve, and that he or she shall be given a copy of the document describing the complaint.

Articles 268, 272 to 278 of the Code of Criminal Procedure with all matters related to complaints of the deed, the preliminary investigation, secrecy of the investigations. etc.

Article 50 of the Superior Court of Accounts regarding all Public Administration Internal

Audits. If as a result of their functions, facts are discovered that might involve administrative liabilities, the head of the entity must be notified. If the necessary measures are not taken, the Superior Court of Accounts must be informed so that liabilities may be determined.

It should also be noted that complaints may be filed with the National Commissioner of Human Rights by any individual who feels affected by administrative acts, etc. that are considered to be arbitrary. The deadline for their presentation is one (1) year following the moment when the complainant became aware of the facts that give rise to the complaint, and no formality is required. The procedure, determination of liability, requirements, liability of the authorities, collaboration by the authorities, etc., are regulated in Articles 23 to 28, 31 to 44 of the Law on the Human Rights Commissioner.

Article 388 (5) of the Criminal Code states that anyone who fails to report a crime to the authorities, when the person's profession or job requires that it be reported, shall in addition to the sanction established be liable to special disqualification for twice the length of the confinement.

b. Does your country have mechanisms for enforcing the above standards of conduct?

- In the cases indicated in Articles 50 and 72 of the Organic Law of the Superior Court of Accounts and 108, 109 and 110 of its regulations, the Court is duty bound to enforce them.- Complaints filed with this body are subject to a special investigation and a report must be made to the affected or accused party in order that it may be contested and in order to guarantee the due process of law.- It should be noted that the complaint and in many cases the source of information is the basis for initiating complete audits or controls.

As far as criminal complaints are concerned, these are processed through the Office of the Director of Public Prosecutions which is the body in charge of prosecuting on behalf of the government, without this affecting any criminal action that might be brought by the Attorney General's Office of the Republic on matters within its own competence. [Article 16 (6) of the Law on Public Prosecution].

- It should be mentioned that the Attorney General's Office of the Republic also receives or channels complaints which, in many cases, once they have been checked, lead to searches, forfeitures or, in cases of fiscal fraud or smuggling, to civil or criminal actions.

There are also a variety of actions which, when committed by government officials or civil servants, constitute crimes and may give rise to complaints. Examples are:

Criminal Code:

- A request for protection is not processed or settled within the statutory term, or processing thereof is hampered. [Article 33 (5)].
- Resolutions, agreements, court orders, etc. are issued contrary to the Constitution and the laws of the Republic. [Article 349 (2), (3), and (5)].
- The individual is obliged to provide his or her personal services without any statutory compensation. [Article 334 (4)].
- There is an entire chapter on crimes against Public Administration, such as Abuse of Authority and Breach of Duties by State Officials, which regulates a variety of situations, such as: holding office without having deposited the bond or rendered the sworn declaration of assets, abandoned the office, usurped functions, etc. Other offences are also specified in this paragraph, such as bribery, misappropriation of public funds, incompatible negotiations, fraud, breach of trust, etc. [Articles 345 to 393 of the Criminal Code].

Note that when complaints regarding citizen involvement are filed with the Superior Court of Accounts, no distinction is made as to the nature of the complainant's condition. Such complaints in many cases give rise to special audit reports which result in administrative, civil or criminal liability actions being brought.

Note too that the Superior Court of Accounts, with the participation of the Office of the Director of Public Prosecutions and the Attorney General's Office, the Ministry of Security and the Supreme Court of Justice have prepared a draft Law on the Protection of Witnesses and Experts and Others Involved in Criminal Procedures. With the above regulation, application of the standards of conduct is guaranteed and (??...y tratamos...) and impunity is avoided.

The National Commissioner of Human Rights has the power to guarantee free access by persons between jurisdictional bodies; and also to see that the rights and guarantees set forth in the Constitution of the Republic, its legislation, the Declaration of Human Rights and other treaties are complied with. It also has the obligation that when certain behavior or deeds that are presumed to be criminal become evident, the Director of Public Prosecutions must be informed immediately. [Articles 5, 40 and 42 of the law on the matter].

The draft Law on Access to Public Information is also in the process of being disseminated among civil society in order to encourage the general public to exercise other fundamental rights, file formal complaints and participate in issues of public interest.

Evidently there are constitutional and legal provisions regarding protection by the State so that a person's physical, mental and moral dignity are respected, in addition to guaranteeing job stability and protection for civil servants who report irregular activities

or acts of corruption. A Law on the Protection of Witnesses and Experts and Others Involved in Legal Processes is also pending and will be another effective means of affording protection.

- c. Briefly mention the results obtained by implementing the above rules and mechanisms, attaching the pertinent statistical information, if available.

No statistical data are available on the results of applying the rules mentioned; however information has been attached to this Reply in an attempt to illustrate the achievements to date.

CHAPTER TWO

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

- a. Are there regulations in your country establishing methods for registering the income, assets and liabilities of those who perform public functions in certain posts as specified by the law and, where appropriate, for making such disclosures public?
YES.

The Republic of Honduras has rules on the presentation of sworn declaration of property and the systems and mechanisms for review and investigation, which are described below.

One of the results of the Superior Court of Accounts insofar as control of probity and ethics are concerned, is to safeguard the State's assets by warning, investigating and sanctioning civil servants who use their positions, jobs or influence to accumulate wealth unlawfully or commit other acts of corruption. [Article 53 of the Organic Law of the Court of Accounts].

In order to determine a case of unlawful enrichment or any other act of corruption, and pursuant to Article 56 of the above-mentioned Organic Law, anyone under the obligation to submit a Declaration of Income is listed, including in particular all persons in remunerated permanent or temporary civil service positions; and persons who hold or have held a position to which they were directly elected by the people or indirectly elected.

The Court is obliged to use information technology when submitting declarations. [Article 56 of the Superior Court of Accounts].

To comply with the probity requirement, a system of transparency must be formulated.

The system must promote the correct and adequate performance of functions; receipt and examination of declarations; investigation and determination of signs of unlawful enrichment. [Article 54 (1), (2) and (3)].

Declarations must be submitted upon: entering, returning to or leaving a public office or public service, change of dependency or position, promotion, change in salary, etc. Declarations must be updated on a yearly basis. [Article 57 of the Law of the Superior Court of Accounts].

Should the person making the declaration die without having submitted his or her declaration, the person's heirs must comply with the obligation to present it. [Article 58 of the Organic Law of the Superior Court of Accounts].

This Article states which persons are exempt from having to submit a declaration and stipulates that the Court has the power to order them to prepare or submit a declaration if this is deemed necessary for a particular investigation. [Article 59, last paragraph of the Organic Law of the Superior Court of Accounts].

Responsibility of the Human Resources Unit to inform the Superior Court of Accounts of appointments, cancellations, promotions, etc. of civil servants who are obliged to submit a declaration. [Article 60 of the Organic Law of the Superior Court of Accounts].

Civil servants shall state in their declaration that they expressly authorize the Court to investigate their accounts, shareholding in companies or business at home or abroad. [Article 61 of the Organic Law of the Superior Court of Accounts].

Concept of unlawful enrichment, presumption and means of determining it; penalties applicable in cases of presumed unlawful enrichment; the State is the first creditor and the judges are obligated to issue precautionary measures as a matter of urgency to guarantee the outcome of the legal action. [Articles 62 and 63 of the Organic Law of the Superior Court of Accounts].

Request for information and proof of origin or lawful nature of an increase in a civil servant's assets; if the civil servant fails to render a declaration when leaving a position, the Court shall initiate the proceeding and order an investigation. [Articles 60, 64 and 65 of the Organic Law of the Superior Court of Accounts].

Powers of the Court when investigating unlawful enrichment. Anyone who refuses to submit a declaration, may be liable to prosecution for disobedience, without prejudice to the possibility that he or she may subsequently be obliged through a summary proceeding to render one. [Article 67 of the Organic Law of the Superior Court of Accounts].

The sum of SEVENTEEN THOUSAND LEMPIRAS (L.17, 000.00) is established as the monthly base salary above which a sworn declaration of income must be presented.

(That value is equivalent to approximately ONE THOUSAND US DOLLARS (\$.1, 000.00). The Court also has the power to revise and amend the amount of that base salary. [Article 86 of the Regulations of the Law of the Superior Court of Accounts].

The contents of the declaration of income; the procedure to be followed for presenting and reviewing declarations and the sanctions applicable for omitting to do so are indicated. [Articles 88, 92 and 93 of the Regulations of the Law of the Superior Court of Accounts].

The procedure for filing an objection procedure, the confidential nature of the contents of the declaration; the fact that the burden of proof is on the civil servant, and that additional punishment to cases of confinement for more than 5 years, when this penalty is not exceeded. [Articles 94, 95 and 102 of the Rules of the Superior Court of Accounts].

Officials are sanctioned if they allow a person under obligation to present a declaration of income, to hold an office without doing so; as well as failure to present it. [Articles 98 and 99 of the Organic Law of the Superior Court of Accounts].

The above rules are aimed at civil servants in general (except for cases determined by the Law) and also for private individuals who handle State funds or property. The above regulations are designed to facilitate the detection of cases of unlawful enrichment, the definition of which is contained in the provisions of the Constitution of the Republic, Organic Law of the Superior Court of Accounts and its Regulations. [See Articles 233 of the Constitution and 62 of that Law].

Other Declarations:

For payment of municipal taxes, a sworn declaration of income earned during the previous calendar year must be submitted. A table must also be prepared to calculate payment of taxes, exemptions, etc. [Article 77 of the Law on Municipalities].

Declarations on income tax returns must also be presented and fines levied for any omission or delay in submitting them. [Articles 27, 28, 39, and 41 of the Income Tax Law].

- b. Briefly state the results obtained by implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.

Since 1976 and based on the Law against the Unlawful Enrichment of Civil Servants, Officials and Employees in Public Administration have submitted their sworn declarations of assets to the Administrative Directorate, a dependency of the Office of the Comptroller General of the Republic. In 1982 the Directorate was granted a

constitutional rank as an auxiliary body of the legislative with functional and administrative independence. Later it merged with the Office of the Comptroller General of the Republic and became the Superior Court of Accounts), through Decree N. 10-2002-E of 5 December 2002. As of 20 January 2003 this organ has been responsible for collecting or receiving the declarations of assets mentioned, and checking them.

Declarations were investigated formally until 1997 which is when the first reports for presumed unlawful enrichment were issued. Also in that year a computer system was implemented to speed up the declaration process, improve the control of supporting documents, and enable information to be obtained quickly and more effectively. Computer systems are still being implemented and used, and audit staff and investigators are being trained and their salaries raised. Deadlines for submitting declarations have also been extended, and beginning in 2003 civil servants covered by this law are under a statutory obligation to **update their declarations each year** [Article 57 of the Law of the Superior Court of Accounts]. A number of amendments to these rules have been drafted. They include a provision to regulate the provision that the information contained in the declarations of income and used for certain cases of unlawful enrichment can also be used to detect cases of conflicts of interest and other acts of corruption.

As far as the results are concerned, a detailed list of the items on the declarations of income is given, as well as Provisional Reports and Final Reports issued and the amounts for unlawful enrichment determined between 1997 and 31 July 2004.

CHAPTER THREE

HIGH LEVEL OVERSIGHT BODIES

- a. Are there high-level oversight bodies charged with the responsibility of ensuring compliance with the provisions stated in Article III (1), (2), (4) and (11) of the Convention?

Yes. In particular, the Superior Court of Accounts, in regard to compliance with the provisions of Article III (1), (2), (4), and (11) of the Inter-American Convention against Corruption; to such an extent that the Organic Law stipulates the obligation to implement said Convention and that Court is designated the Central Authority for the purposes of the Convention [Articles 68 and 104]. The Court also adopts and applies the majority of the preventive measures detailed in Article III of the Convention [See Article 103 of the Rules]. All the foregoing demonstrates the unquestionable acknowledgement of compliance with the Inter-American Convention against Corruption, which is an extremely important international instrument for helping to fight corruption and for enabling States to cooperate with one another to combat this social scourge. The existing control bodies are:

- 1) *Superior Court of Accounts.*
- 2) *Attorney General's Office.*
- 3) *Office of the Director of Public Prosecutions.*
- 4) *Executive Directorate of Revenue.*
- 5) *National Anti-Corruption Council*
- 6) *National Commission of Banks and Insurance Companies*

General nature and purpose of the above bodies:

1. SUPERIOR COURT OF ACCOUNTS

This is the entity governing the system for controlling public funds. It has functional and administrative autonomy from the State powers, subject only to compliance with the Constitution and the laws.

Its purpose is to inspect, *a posteriori*, funds, property and resources administered by the branches of the State, the decentralized institutions, etc. In fulfilling its functions it must manage and exercise financial control over the State's assets, liabilities and its property in general. [Article 222 of the Constitution of the Republic].

A body which, in fulfilling its functions, is functionally and administratively autonomous of the branches of the State, subject only to the Constitution of the Republic, the Law and its Regulations.

2. ATTORNEY GENERAL'S OFFICE

Represents the State in legal matters. Responsible for bringing civil action if the results of inspections by the Superior Court of Accounts warrant this, and also criminal action in cases of fiscal fraud and smuggling, among other actions, on behalf of the interests of the State. [Articles 228 and 230 of the Constitution of the Republic].

3. OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

This body represents, defends and safeguards the interests of society, combats drug trafficking and corruption in any and all of its forms, investigates, checks and determines the legal ownership and integrity of national property used for public purposes, as well as the legal, rational and appropriate use of State assets which have been assigned to individuals, and if necessary, bring any legal actions deemed appropriate. [Article 1 of the Law on Public Prosecution].

In order to combat corruption, the Attorney General's Office created a special Prosecution Office which, between 1994 and March 2004, worked on 2733 complaints of common offences involving: a) **Public corruption:** fraud,

misappropriation of public funds, unlawful appropriation and bribery; b) **Private corruption**: Financial crimes, fraud and special fraud; broken down as follows:

1.- Presented in Court,,,,,,,,,,,,,,,,,,,,,	222
2.- Remitted to other prosecutors' offices	201
3.- Overruled	979
4.- Acquittals	5
5.- Convictions	10
6.- Stays of proceedings.....	40
7.- Dead files.....	85
8.- Criteria on timing.....	4
9.- Files under investigation.....	965

FINANCIAL CRIMES

10.- Presented in Court.....	74
11.- Files under investigation.....	148
TOTAL No. OF COMPLAINTS	<u>2733</u>

- *Source of information: "Diario El Heraldo" newspaper of 29 March 2004.*

4. EXECUTIVE DIRECTORATE OF REVENUE (DEI)

This is a deconcentrated body of the Ministry of Finance. The law through which it was created grants it administrative, technical and financial autonomy. It is in charge of internal tax administration and control and its functions include: a) Collecting, checking, controlling and inspecting taxes and customs duties levied in conformity with tax legislation; b) Examining, inspecting and controlling all people subject to tax exemptions, franchises or incentives pursuant to the special regime customs laws; and c) Alerting, investigating and repressing smuggling and fiscal fraud. [Article 1 of the Law on the Executive Directorate of Revenues and 2 of Agreement No. 000737].

5. NATIONAL ANTI-CORRUPTION COUNCIL

This is the anti-corruption advisory entity and its members are representatives of the public sector and civil society. The Council was created through an executive decree. A bill to make it more independent is awaiting approval.

6. NATIONAL COMMISSION OF BANKS AND INSURANCE COMPANIES

Oversees and controls banking institutions, insurance companies and financing companies.

b. If so (??) list them, give a brief description of their nature and characteristics and attach a copy of the rules and documents supporting them.

From the above descriptions of the control bodies and their legal attributions, specifically delimited areas of competence and the rules that regulate them, it is clear that the functions necessary to comply with the provisions of the Inter-American Convention against Corruption included in this questionnaire are being performed. These are complemented by other rules covering other competencies and coordination efforts to ensure better and more effective control. The rules contained in the General Law on the Environment (Decree 104-93), the General Law on Mining (Decree 292-98), the Law on the Honduran Forestry Development Corporation (Decree Law N.103), the Law on the Executive Directorate of Revenues (Decree 195/94 and Agreement No.000737 of 20 July 1995) are good examples. The control bodies' functions include (a) external control mechanisms which strengthen and implement internal controls through the adoption of preventive measures and serve as a complement to *a posteriori* inspection; (b) internal controls through internal audits undertaken with total functional independence, in line with the criteria established by the respective government body or organization. [Articles 46, 47, 48 and 51 of the Organic Law of the Superior Court of Accounts]; (c) controls which cover all government entities, including the Armed Forces, the Office of the Director of Public Prosecutions, etc. and were implemented pursuant to the provisions of Article 59 of the Constitution by introducing the National Commissioner of Human Rights (Ombudsman) into our legal system to act as the people's defender and the entity responsible for safeguarding citizen's rights. [Decrees No.2-95 and No.153-95]. One of the Ombudsman's attributions is to assist the control bodies by presenting their authorities with any observations, recommendations and suggestions it considers conducive to compliance with the legislation in force.

b. Briefly mention the results obtained by those bodies in fulfilling the functions referred to, attaching the pertinent statistical information, if available.

The work undertaken by the Superior Court of Accounts is shown in Annex 1.

CHAPTER FOUR

PARTICIPATION BY CIVIL SOCIETY (ARTICLE III, 11)

1. Participation mechanisms in general

a. Are there mechanisms and a legal framework in your country to promote the active

participation of civil society and non-governmental organizations in efforts to prevent corruption?

At present our country has no special legal framework to regulate citizen involvement. There is a draft Law on Citizen Participation which will eventually fill this gap; and there are also constitutional provisions that deal with this mechanism, for instance:

- Article 2. Which provides that sovereignty lies with the people and all the powers of the state emanate from the people.
- Article 5, Which is complemented by mechanisms for consulting citizens directly, such as plebiscite and referendum.
- Articles 37 to 43. Which provides that citizens' rights include participation in political life; other rights and duties are also included.
- Article 45. Which declares that any act through which the participation of citizens in the country's political life is banned or limited must be punished.
- Article 59. States that: people are the be all and end all of society and the State. Everyone has the obligation to respect and protect them.

In order to guarantee the rights and freedoms recognized in the Constitution of the Republic, the Office of the National Human Rights Commissioner is created.

- Acknowledgement of the fact that all men are born free and with equal rights; that in Honduras there is no privileged class and that all Hondurans are equal before the law; any discrimination for reasons of sex, class, and any other discrimination that is harmful to human dignity is declared punishable. [Article 60].
- Article 79. All persons have the right to meet with others, in a public demonstration or in a temporary meeting, by reason of their common or other interests.
- Article 80. Any person or association of persons is entitled to submit petitions to the authorities for reasons of personal or general interest.
- Article 311 (6). In relation to the Judicial Nominating Board whose members include a representative of civil society.
- There are also rules or legal provisions that deal with this issue, as well as active participation by different organizations of civil society in efforts aimed at preventing corruption, for instance:

I. **The National Anti-Corruption Council:** was created by Executive Agreement No. 015-2001. Its purpose is to promote the implementation of public and private policies

that lay the institutional bases necessary to combat corruption at all levels and in all activities of Honduran society. It is made up of sectors of civil society, State powers and control bodies.

II. National Forum for Convergence (FONAC): This is an institution created by the State through Legislative Decree No.155-94 as: A forum for dialogue in which, following analyses and discussions of national problems, consensus are arrived at and courses of action for the medium and short term are defined.

The following are some of its objectives:

Decentralization to strengthen the municipalities and boost participation by citizens in community development.

Strengthen participation by citizens and institutionalization as rights of organized civil society.

III. The Citizens' Council: Has consultative functions and supports the work of the Office of the Director of Public Prosecutions. Its members include a representative of the organized workers' sector, organized rural workers, organized women's sector. [Article 79 of the Law of Public Prosecution].

Examples of the legal provisions:

-Article 31 (12) of the Law of the Superior Court of Accounts which provides that the Superior Court of Accounts must coordinate the actions of the institutions of the State and the organizations of society in the fight against corruption.

-Article 72 of the Organic Law of the Superior Court of Accounts, regarding having the National Anti-Corruption Council (CAN) as a collaborating entity.

-Article 69 of the Organic Law of the Superior Court of Accounts which creates Social Comptrollership as a process of citizen involvement, aimed at cooperating with the Court in its functions, and fostering the legal, correct, ethical, honest, efficient and effective management of State resources and property.

-Article 70 of the Organic Law of the Superior Court of Accounts establishes the scope of the Social Comptrollership in strengthening transparency in public management, establishing levels and mechanisms of citizen involvement to facilitate investigations into complaints filed regarding irregularities in the execution of contracts and transparent management by civil servants.

The chapter on Measures against Corruption, includes boosting participation by citizens and non-governmental organizations in efforts aimed at preventing corruption linked to the exercise of public functions as being a legal obligation of the Superior

Court of Accounts. [Articles 68 and 31 (12) of the Organic Law of the Superior Court of Accounts].

-Article 24, (5), (6), (7); and Article 33-B of the Law on Municipalities: Through which neighbors are able to participate in various ways in investment programs and projects. Creation of the open lobby mechanism as a forum to enable neighbors to participate in the municipality to learn about and discuss municipal issues.

- When dealing with environmental cases and particularly when applying for company permits or licenses, one of the pre-authorization stages planned is consultation of competent, technical, public or private organizations, and creation of the National Consultative Council. Its members include representatives of the private sector, municipalities, non-governmental organizations, workers organizations, rural workers organizations, (AQUÍ FALTA ALGO) environmental activities, the population is encouraged to take part in those activities. Cooperation and collaboration with national and international non-governmental organizations on environmental issues are also encouraged. [Articles 10, 11 (b), 13 (d), (f), (g), (h) and (i) of the General Law on the Environment].

* There are other mechanisms as well:

- The Superior Court of Accounts must pave the way for a participatory and transparent strategy to fight corruption. This means asking the public sector, civil society and the media to participate and cooperate. [Last paragraph of Article 82 of the Organic Law of the Superior Court of Accounts].

-Citizen participation through the Municipal Commissioners elected by the Municipal Corporation and nominated by civil society. They are assigned specific functions and attributions, in particular that of Social Comptrollers. [Articles 31-A, 31-B, 31-C and 59 of the Law on Municipalities].

-Peoples' Assemblies: For appointing auxiliary mayors; they are entitled to attend the meetings of the Municipal Corporation, and have the right to speak. The municipal government or corporation will regulate all the other rights and obligations of the auxiliary mayors. [Articles 60 and 61 of the Law on Municipalities].

Municipal Employers' Associations: The inhabitants of each municipality, district, parish or village, are entitled to form organized groups of employers to enhance their communities. The leaders of these employers associations are elected once a year by the citizens of their community, by direct and secret ballot. [Article 62 of the Law on Municipalities].

- Participation by civil society in the process for adopting public policies through the Honduran Association of Municipalities (AMHON), a civil entity whose object is to improve municipal governments and further municipal development. (Copy of

incorporation document attached).

Participation by a representative of the organized community employers' associations in Honduras, legally incorporated as the National Public Services Supervisory Commission. [Article 2, (g) of Decree 85-91].

In order to formulate and adopt the measures that must be taken to modernize the State, the need to reach concerted agreements as the main means of dialogue and consultation with all sectors of society has been recognized. In view of the foregoing, Decree No.190-91 of 11 December 1991 containing the Law on Modernization of the State was issued, creating the Presidential Commission on State Modernization directed by the President of the Republic and made up of broad sectors of civil society: Private Enterprise Council, Confederation of Workers, of the university sector, Association of Municipalities, of the mass media, journalists, women's associations, private development organizations, etc.

b. Briefly state the results obtained by implementing the above mechanisms, attaching the pertinent statistical information, if available.

As far as the results are concerned, information on this matter is incomplete. However the Superior Court of Accounts has a Directorate of Citizen Participation in charge of its macro-processes. Its main duties are to:

- 1. Coordinate and supervise the citizen participation system and propose Court actions to the plenary to consolidate and strengthen it.*
- 2. Oversee and provide advice and guidance on the design and implementation of mechanisms for Citizen Participation.*
- 3. Design and implement mechanisms for Citizen Participation.*
- 4. Design and **??reparar** the strategic and operational plan for citizen participation.*
- 5. Receive, evaluate and channel research, and investigate, follow up and report the result of complaints.*

In 2003, the Directorate of Citizen Participation which comes under the Superior Court of Accounts, received 70 complaints from citizens, 17 of which have been dealt with and closed and 32 of which are in the process of being investigated.

LA PARTE QUE SIGUE, ENTRE PARÉNTESIS NO TIENE SENTIDO. CREO QUE FALTA UNA CIFRA ("x" cantidad de denuncias), POR LO QUE QUEDARÍA ASÍ: "x" of the complaints were transferred to other entities within the public sector, and the remainder do not qualify as complaints (??or "as such")

2. Mechanisms for access to information

- a. Are there mechanisms in your country to regulate and facilitate access by civil society and non-governmental organizations to information under the control of public institutions?

At present there are no specific rules that take into account or regulate this type of mechanism; however, since the right to information emanates from the Universal Declaration of the Rights of Man, and regulations on the publication of information enable citizens to monitor government management and entitle them to petition [Article 80 of the Constitution of the Republic) and obtain transparent accountability for government accounting, society's lack of participation in finding out about such information, restricts fundamental freedoms. All this has led to the need to produce a draft "Law on Access to Public Information," which is in the stage of being disseminated prior to approval.

The Constitution of the Republic of Honduras also recognizes the right to file an appeal of unconstitutionality and guarantee protection for anyone who considers that his or her entitlement to enjoy the rights and or guarantees established under the Constitution has been harmed. This refers to the Law on Protection of Fundamental Rights, which regulates the right to file an appeal of unconstitutionality. [Decree No.9 of 14 March 1936].

Other legal provisions:

Article 24, (3) and (5), of the Law on Municipalities which determines the right of the inhabitants of the municipalities to petition for personal or general reasons and obtain a rapid response. They may also file complaints against acts, agreements or resolutions passed by the Municipality and determine responsibilities, if applicable, and also have access to information on municipal finances.

Article 35 (4), of the Law on Municipalities, which states that municipal instruments are public documents and as such any citizen may request certifications of the resolutions and agreements when these become final.

Articles 32, 33, and 35 of the Organic Law of the Superior Court of Accounts, which states the obligation to inform the National Congress on General Budget spending; submit a report on the activities and results for the fiscal year or period, publish the reports sent to the National Congress and an annual compilation of the reports issued.

-The obligation of the internal auditors to submit a report on their work; and the right to have access to information for the interested party's defense against administrative and legal judicial proceedings. Failure to submit a timely report on deviations from

the plans shall be sanctioned. [(Articles 50,81 and 100 (11) of the Law of the Superior Court of Accounts and 132 of its Regulations].

Article 182 of the Constitution has been amended and now recognizes the right to *habeas data* for the purpose of gaining access to and obtaining information, rectifying inexact data and updating false information; as well as the possibility of demanding that the government or private organizations deliver or allow access to information that should be under public ownership. –Former constitutional guarantee which shall be exercised without out any type of formality.

- Application of the legal definition *affirmativa ficta*. This is an administrative and regulatory decision, whereby all applications submitted in writing by citizens to the public authorities shall be deemed to have been approved if no official decision on them is issued within the term established by the law.

In view of the foregoing, State bodies must issue resolutions to conclude the administrative procedure under the terms foreseen in the legislation on the matter; and unless they stipulate a specific period of time, they must be resolved within 40 working days. – It also states that if the authority does not issue its resolution within the period established, the resolution will be considered to be affirmative and defined as *affirmativa ficta*. –If the State’s silence or omission causes any damages, the negligent official shall be held accountable. [Article 29, Law of Administrative Simplification].

A microfilm system has also been created for use by government institutions so that the documents kept or safeguarded in the offices can be classified, managed, conserved and accessed and information obtained quickly and efficiently. [Decree 1059 of 15 July 1980].

The Superior Court of Accounts, the legislative, the judiciary, etc. all have websites making reports, complaints, initiatives and bills, decisions and rulings, etc. available to the general public. (www.tsc.gob.hn), www.congreso.gob.hn, www.poderjudicial.gob.hn, and www.ministeriopublico.gob.hn).

The draft Law on Access to Public Information is attached. It demonstrates the significant progress made towards implementing the Inter-American Convention against Corruption.

b. Mention briefly the results obtained through application of the above mechanisms. attaching the pertinent statistical information, if available.

No information is available on the results in this field.

3. Consultation mechanisms

- a. Are there mechanisms in your country for those who perform public functions to consult civil society and non-governmental organizations on matters within their sphere of competence, which can be used for the purpose of detecting, punishing and eradicating acts of corruption?

Our legislation does not contain provisions that make it compulsory to consult organized civil society; however, it is quite significant that in the last ten (10) years certain modalities are being used to do this through issues of great importance or matters that have a social impact, such as community meetings, round tables, seminars, public hearings and open lobbies.

The consultation mechanism is used on mining, forestry and environmental issues in municipalities or areas where there are plans to introduce this type of activity. In some municipalities or areas it has been implemented in order to shut down businesses whose activities are contrary to good morals and customs.

In addition to the consultation mechanism, efforts have been made to ensure that our constitutional legal system considers using Referenda and Plebiscites to consult citizens and ascertain the wishes of the general public. An example of this was a proposed reform to the Constitution, approved through Decree No. 295/93; unfortunately this came to nothing because it was never ratified by the next legislature. Another was the amendment to Article No. 2 of the Constitution, which added the following: "The sovereignty of the people may also be exercised directly by plebiscite and referendum". –National Congress is in the process of reviewing and consulting on this rule prior to approval.

The Law on Municipalities foresees the mechanism of the plebiscite, whereby citizens can participate in the creation or merger of municipalities. The initiative came from the Ministry of the Interior. [Articles 15, (4) and (5); 19 (4) and 25 (10)].

Historically, the inclusion of plebiscite in the above-mentioned Law is quite novel and demonstrates the tendency towards truly democratic procedures. It is the clear will of the Constitution [Article 2] in relation to the fact that municipalities are created in accordance with the will of the sovereign will, which lies in the people.

The constitutional amendment that institutes the plebiscite and referendum as consultation mechanisms is in the process of being ratified,

- Open lobbies are another method of participation. They are an important means of airing the community's problems directly and finding a solution to them. They facilitate community involvement and give them voting and petitioning rights, both individually and through organized representation. Pursuant to Article 32 of the Law on Municipalities, open lobby meetings must be held at least once every five (5)

years. Furthermore, Article 24 (6) and (7) of the law create conditions enabling the community to play an active role in the work and management of their municipality, giving them the opportunity to be directly and indirectly involved, on an individual and collective level, in learning about and discussing municipal issues.

Other mechanisms:

- Creation of an Electronic Documentation and Information Center of the Judicial Branch of Government and a web page that can be accessed by the public, thereby boosting the dissemination of information emanating from the judiciary.
(www.poderjudicial.gob.hn)

Efforts are under way to develop the right to be informed and to strengthen consultation, through the creation of the National Center for Information on Legislation (*Centro de Atención Nacional Legislativo - CANAL*). It can be visited at www.congreso.gob.hn or the Library of National Congress where citizens are invited to legislate with the Congress by selecting the bill they are interested in and sending in their comments, suggestions or criticisms.

The different sectors of society can have access to the different Congressional Commissions in charge of analyzing bills laws, through which they can channel their comments and criticism and suggest changes.

There are other legal provisions that regulate Employers' Associations, Neighborhood Associations or Community Organizations that represent groups of people residing in a particular neighborhood or territorial jurisdiction, The purpose of this is to promote community development, defend their interests, rights etc. and cooperate with the authorities and municipal corporations.

Legislation covering participation by sectors of the community in procedures that have an environmental impact, mining aspects, natural resources, and in issuing regulations, proposing solutions, etc.

The public is encouraged to participate in helping to prevent corruption by creating processes or bodies through which complaints can be channeled to the authorities responsible for control.- For instance, in the case of complaints by civil society, the Superior Court of Accounts has its own webpage (Web www.tsc.gob.hn,) where complaints can be formulated. The other branches of the State, Ministries, decentralized institutions, etc. also have websites which foster this method of consultation.

So, there is no special legislation or general framework for determining cases, nor are there specific procedures for consulting organized civil society and the general

public, prior to approving or ruling on cases. Still, as we have already said, considerable progress has been made in this field.

- b. Briefly mention the results obtained by implementing the above mechanisms, attaching any pertinent statistical information available.

No information is available on this subject

4. Mechanisms for encouraging active participation in public administration

- a. Does your country have mechanisms for facilitating, promoting and obtaining active participation by civil society and non-governmental organizations in public policy decision-making, with a view preventing, detecting, punishing and eradicating acts of public corruption. If so, give a brief description, draw up a list and attach a copy of the provisions and documents that envisage them.

There are two bills: the draft law on Citizen Participation and the draft law on Access to Public Information. The legal provisions issued on this matter have led to various opportunities for citizen involvement: government publications and websites, the National Anti-Corruption Council [Article 71 of the Organic Law of the Superior Court of Accounts]. One of the most important is the Office of the Director of Public Prosecutions, which represents the interests of society. Clearly these all boost the mechanisms that enable civil society and non-governmental organizations to have a say in government.

- b. Mention briefly mention the results of applying the above mechanisms, attaching the pertinent statistical information, if available.

No information is available on this mechanism.

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

- a. Are there mechanisms in your country to enable civil society and non-governmental organizations to participate in the follow-up of public administration with a view to preventing, detecting, punishing and eradicating acts of public corruption?

An important mechanism for enabling citizens to participate in follow-up is the New Budget Law which covers the Integrated Financial Management System (SIAFI) due to take effect on 1 January 2005. This program will automate the budgetary and financial records, etc., of government institutions and enable citizens to have access to records via the Internet. The program is in effect as far as functionality, services and physical installation in the majority of the state institutions are concerned, and is pending total coverage.

- Information on the branches of State, decentralized and deconcentrated institutions can be obtained from their websites. These contain information on laws, activities and publications to help civil society follow up government management.

Everything related to the system of political parties, professional associations, associations of teachers, workers unions, rural workers association, social comptrollership, municipal commissioners, plebiscite, open lobby and referendum mechanisms; appeals for legal protection, *habeas data*, *affirmativa ficta*, the Law on the Modernization of the State, creation of the Consumer Protection Office, elimination or appeal against immunity of State officials by the National Congress, prompt approval of the Law on Citizen Participation and the Law on Access to Public Information, etc., which will encourage active involvement in the prevention and fight against corruption in public administration. Lastly there is a mechanism to promote and ensure active participation by civil society and non-governmental organizations in the process of adopting major public decisions or policies, for instance the mechanism known as the “Great National Dialogue” promoted by the executive. Civil society can influence important decisions through this mechanism.

b. Briefly state the results obtained by implementing the above mechanisms, attaching the pertinent statistical information, if available.

No information is available on this.

CHAPTER FIVE

ASSISTANCE AND COOPERATION (ARTICLE XIV)

1. Mutual Assistance

a. Briefly describe your country’s legal framework, if any, that establishes mechanisms for mutual assistance in processing requests from foreign States whose domestic laws allow them to investigate and prosecute acts of public corruption in order to obtain evidence, and take whatever action is necessary to facilitate those efforts. List them and attach a copy of the provisions that contain such mechanisms.

- Our country has provisions of a constitutional nature which are related to the treaties and consequently to international assistance and cooperation; these include the following rules:

-Article 15. States that Honduras “adopts the principles and practices of international law to support mankind’s common causes.....”

-Article 16. States that all international treaties entered into with other States, once they come into effect, become part of the country's domestic body of legislation.

-Articles 16, 17, 18 and 21: These articles deal with how to settle conflicts between treaties if they affect a constitutional provision. In the case of a treaty with the law, the first one will prevail. –Insofar as the need for international treaties to be approved by the National Congress, and in cases where the executive can enter into or ratify international conventions without requiring prior approval from the National Congress.

Based on the legal provisions mentioned, Honduras has received the assistance and cooperation necessary to channel requests from other States Party with a view to ensuring compliance with or facilitating the prosecution of the following offences involving corruption: Misuse and Illicit Trafficking of Drugs, Money Laundering, Financial Crimes and Extradition. A number of treaties for assistance have been signed in different areas. These include the Treaty on Extradition with the United States of America; treaties on the provision of mutual assistance in cases of money laundering, illicit drug trafficking, and investigation and prosecution of the acts of corruption mentioned.

It can therefore be concluded that there are a number of provisions on this matter which include treaties and bilateral conventions signed with other States, such as: the Inter-American Convention against Corruption, the UN Convention against Corruption, the Code of Private International Law, etc. We have received assistance from the Spanish Cooperation Agency for the judiciary, and also from the Office of the Director of Public Prosecutions and the Ministry of Security. Partial reports are attached hereto as examples.

- b. Has your government presented or received requests for mutual assistance under the Convention? If so, indicate the number of requests that it has presented, stating how many of them have not been answered, how many have been denied and for what reason; also indicate the number of requests received, how many of them have not been answered, how many have been denied and for what reason. Mention the average time it has taken your country to answer said requests and the average time in which other countries have responded, and indicate whether you consider these intervals reasonable.

As regards the central authority, no request for assistance has been received or made. The foregoing does not mean that Honduras will not use such an important mechanism; it is essential for boosting technical and financial cooperation in order to strengthen international relations and obtain optimum results from investigations and prosecutions for acts of corruption.

2. Mutual technical cooperation

- a. Does your country have mechanisms to permit the widest measure of mutual technical cooperation with other States Parties regarding the most effective ways 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 for citizen participation in the fight against corruption? If so, describe them briefly.

There is no specific or special mechanism to encourage the States Party to provide mutual technical cooperation on the methods indicated here to sanction acts of corruption, including exchange of experiences and knowledge and forms and methods of citizen participation in the fight against corruption. Cooperation tends to be isolated and provided at the initiative of each individual branch of government, institution or organization through countries with which Honduras has friendly relations, as well as through financial organizations. USAID, ILANUD, AID, PNUD, BID, BM, the Central American and Caribbean Organization of Supreme Audit Institutions (OCCEFS) run aid programs to train and strengthen agencies dedicated to judicial control and reform.

Generally speaking, as far as mutual technical cooperation with other States is concerned, there are a number of organizations or institutions that have specific functions in this area. These include: 1) the Secretariat for Technical and International Cooperation (SETCO), a technical body that reports to the Office of the President of the Republic, and was created through Legislative Decree No. 128-96, Article 124-A. It has been in force since 1 January 1997.- This institution formulates policies and strategies to apply international cooperation; identify its sources, and establish coordination and international cooperation mechanisms. It also acts as liaison between the units responsible for executing non-reimbursable cooperation agreements. There are **bilateral** sources of cooperation, such as the Argentine Fund for **Horizontal** Cooperation; the Canadian International Cooperation Agency, the Mexican Institute for International Cooperation, the US Agency for International Development (USAID), etc. **Multilateral**: European Union (EU), Organization of American States (OAS), United Nations Development Programme (UNDP), etc. **International NGOs**: Catholic Relief Services, Word Vision, CARE, etc. 2) the Ministry of Finance, which supports, strengthens and legitimizes institutional, municipal, environmental, mining and State modernization processes. Entity in charge of financial cooperation (loans), economic cooperation (balance of payments support), etc. 3) the Ministry of Foreign Affairs.

The above-mentioned ministries have websites where information can be obtained on the matter: www.setco.gob.hn , and www.sefin.gob.hn . Bi-monthly bulletins are issued on donations, execution of projects, projects approved. Examples are attached hereto.

- b. Has your government made requests to other States Party or received requests from them for mutual technical cooperation under the Convention? If so, briefly describe the results.

No requests based on the Convention have been made or received, but we have had experience in this field of cooperation as stated above.

- d. Has your country developed technical cooperation programs or projects on aspects that are referred to in the Convention, in conjunction with international agencies or organizations? If so, briefly describe, including, for example, the subject matter of the program or project and the results obtained.

Yes, especially regarding modifying the Criminal Code to its legislation to the terms of the Convention.

CHAPTER SIX

CENTRAL AUTHORITIES (ARTICLE XVIII)

1. Appointment of central authorities

- a. Has your country designated a central authority for the purposes of channeling requests for mutual assistance as provided under the Convention?

The government of Honduras designated the Superior Court of Accounts as the central authority for the above purposes under the Inter-American Convention against Corruption.

- b. Has your country appointed a central authority for the purposes of channeling requests for mutual technical cooperation as provided under the Convention?

- The Superior Court of Accounts has been designated as the central authority [Article 104 Organic Law of the Court and 186 of its Regulations].

- c. If your country has designed a central authority or central authorities, please provide the necessary contact information, including the name of the agency(ies) and the official(s) responsible, the position that he or she occupies, telephone and fax numbers and e-mail address(es).

Entity:	Superior Court of Accounts
Persons responsible:	Ricardo Galo Marengo, Renan Sagastume Fernández and Fernando Daniel Montes Matamoros.
Positions:	Justices
Tel:	234-2211 or 2337558

Fax: 233-5555
 Email: www.ricardogalomarenco.tsc.gob.hn,
www.fernandodanielmontesmatamoros.tsc.gob.hn
www.renansagastume.tsc.gob.hn

- d. If no central authority or authorities have been designated, briefly indicate how your State will implement the obligation, in accordance with Article XVIII of the Convention.

2. Operativity of the central authorities

- a. Do the central authority or authorities mentioned have the resources needed to formulate and receive the requests for assistance and cooperation referred to in the Convention? If so, briefly describe them.

NO

- b. Since they were designated, have the central authority or central authorities mentioned made or received requests for assistance and cooperation under the Convention? If so, indicate the results obtained, whether there were obstacles or difficulties in handling the requests, and how this problem could be solved.

NO.

III. INFORMATION ON THE AUTHORITY RESPONSIBLE FOR HANDLING THIS QUESTIONNAIRE

Please fill in the following information:

- (a) State party: HONDURAS, C.A
 (b) The official who can be consulted on the replies given to this questionnaire is:
 () Mr.: RENAN SAGASTUME FERNANDEZ (Chief expert)
 () Mr.: RIGOBERTO CORDOVA LAITANO (Expert and liaison)
 Title/position: Justice and Deputy Legal Director, respectively
 Agency/office: SUPERIOR COURT OF ACCOUNTS
 Postal address: T-295

Telephone No.: (504) 233-1619, (504) 233-5332 and (504) 234-2211

Fax No.: (504) 233-55-55

E-mail: rsagas@hotmail.com

rcLaitano@yahoo.com