

COMMITTEE OF EXPERTS OF THE FOLLOW-UP MECHANISM FOR 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 ROUND

Update January 31, 2005

I. BRIEF DESCRIPTION OF THE LEGAL-INSTITUTIONAL SYSTEM

Jamaica is a constitutional monarchy and a parliamentary democracy. The Jamaican Constitution is the supreme law of the land. There are three branches of Government – the Executive, the Parliament and the Judiciary. The functioning of these bodies is governed by the principle of separation of powers.

The Executive Authority is vested in Her Majesty, the Queen of Jamaica who is also the British monarch and head of the Commonwealth. The Executive Branch consists of the Queen as Head of State, the Governor-General, the Queen's representative, the Prime Minister and the Cabinet. The Governor General, in the exercise of his functions, must act in accordance with the advice of the Cabinet except

- where the Constitution provides that a function is to be exercised by him on or in accordance with the recommendation of a person or authority other than Cabinet and
- where the Constitution provides that a function is to be exercised by him in his discretion.

Cabinet, the main instrument of government policy, is responsible for the general direction and control of the Government and is collectively responsible to Parliament. It consists of the Prime Minister and at least eleven (11) other ministers of Government. The Prime Minister must be a member of the House of Representatives. The other Ministers must be members of either the House of Representatives or the Senate.

The Jamaican Parliament makes laws for the peace, order and good government of Jamaica. It consists of two Houses, the Senate, also called the Upper House, and the House of Representatives, also known as the Lower House.

The members of the House of Representatives are elected under universal adult suffrage, with a maximum of five years between elections. There are 60 constituencies, each represented by one Member of Parliament.

There are 21 members of the Senate who are appointed by the Governor-General; thirteen are appointed on the advice of the Prime Minister; and eight on the advice of the Leader of the Opposition.

Jamaica's legal and judicial system is based on English common law and practice. The highest court is the Judicial Committee of the Privy Council which is the final court of appeal for Jamaica. The other courts in the system's hierarchy are the Court of Appeal, the Supreme Court, the Resident Magistrate's Courts and the Petty Sessions Courts.

CHAPTER ONE

MEASURES AND MECHANISMS REGARDING STANDARDS OF CONDUCT FOR THE CORRECT, HONORABLE, AND PROPER FULFILLMENT 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? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

There are standards of conduct for the correct, honourable and adequate fulfillment of public functions.

The Staff Orders for the Public Service govern the Conditions of Service for public officers, that is, persons employed in the Central Government Service. It comprises provisions from relevant legislation, regulations, policies, directives and results from collective bargaining agreements. The Staff Orders include a Code of Conduct which sets out, among other things, behaviour expectations, guidelines to prevent conflict of interest, and prohibition in participation in partisan political activity in any elections at any level. Officers are expected to demonstrate the highest level of professional conduct and personal integrity in the performance of their duties and in serving the public. (See Chapter 4 - Staff Orders).

Rules for the Guidance and General Direction of the Jamaica Constabulary Force done pursuant to Section 26 of the Constabulary Force Act provide standards of conduct in relation to the Jamaica Constabulary Force (JCF). Chapter 3 of the Rules provides, among other things, that members of the JCF should carry out their duties with sobriety, discipline, and integrity. The Rules set out the conditions of service, the manner in which members of the JCF are expected to conduct themselves, their responsibilities and duties regarding government property, investigations, handling of prisoners, and other such matters.

The Defence Act and Regulations made thereunder as well as Directions issued by the Chief of Staff set out the standard of conduct expected of member of the Jamaica Defence Force. Included are core values which should be maintained. These are discipline, integrity, honour, commitment, courage and loyalty. There is a code of conduct which sets out the standard of behaviour expected of Officers and rank and file

members of the Force. Sections 34 to 76 set out the offences under the Act. Included among these are offence in relation to public and service property (s. 53), permitting escape, and unlawful release of prisoners (s. 61), assisting and concealing desertion and absence without leave (s. 49) and making of false documents (s. 69).

All members of the judiciary are required to take the Judicial Oath which provides that performance of functions shall be done without fear or favour, affection or ill-will

There is also a 2002 Code of Conduct of Ministers which sets out the standards that are expected of Government Ministers. It seeks to ensure that Ministers behave according to the highest standards of constitutional and personal conduct in the performance of their duties. Rearticulate that Ministers are accountable to Parliament for the policies and operations of their Ministries, Departments and Agencies. It also deals with, among other things, conditions for acceptance of gifts and prevention of conflict of interest.

In addition, several government departments have citizens' charters which set standards of service for the proper fulfillment of functions.

- b. **Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

There are various mechanisms to enforce compliance with the above standards.

The Public Services Commission, established under section 124 of the Constitution, advises the Governor General concerning the appointment or removal of, and disciplinary control which should be exercised over, a person holding or acting in a public office pursuant to section 125 of the Constitution.

Pursuant to section 127 of the Constitution, certain powers were delegated to the Public Services Commission and the Permanent Secretaries. (see Delegation of Functions (Public Service) Order, 1963)

The Police Services Commission, established under section 129 of the Constitution, advises the Governor General concerning the appointment or removal of, and disciplinary control which should be exercised over, a person holding or acting in a police officer post pursuant to section 130 of the Constitution.

Pursuant to section 131 of the Constitution, the above powers were delegated to the Commissioner of Police in respect of all police officers not above the rank of inspector. (see Delegation of Functions (Police Service) Order, 1964)

The Judicial Services Commission, established pursuant to section 111 of the Constitution, advises the Governor General concerning the appointment or removal of, and disciplinary control which should be exercised over, a person holding or

acting in a judicial office pursuant to section 112 of the Constitution. For these purposes, judicial office does not include a Judge of the Supreme Court or a Judge of the Court of Appeal. It includes “offices of Resident Magistrate, Judge of the Traffic Court, Registrar of the Supreme Court, Registrar of the Court of Appeal and such other offices connected with the courts of Jamaica as prescribed by Parliament (s. 112(2)).

Pursuant to Section 113 of the Constitution, the following functions were delegated to the Chief Justice:

- *Transfer Resident Magistrates, Judge of the Family Court and Judge of the Traffic Court;*
- *Make acting appointments to any of the offices of Resident Magistrate, Judge of the Traffic Court, Judge of the Family Court, Registrar of the Supreme Court, Registrar of the Court of Appeal and Registrar of the Revenue Court.*

(see Delegation of Functions (Judicial Service) Order, 1976)

Judges of the Supreme Court and the Court of Appeal are appointed by the Governor General on the advice of the Judicial Services Commission. (s. 98(2) and 104 (2)). The Chief Justice and the President of the Court of Appeal are appointed by the Governor General on the advice of the Prime Minister after consultation with the Leader of the Opposition. Removal of a judge from office can only be done for inability to discharge functions or for misbehaviour, subject to section 100(5) and 106(5) of the Constitution which set out the procedures for removal.

- c. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

Various public officers have been dismissed or otherwise disciplined for breach of one or more of these standards. The Services Commissions have also been proactive in reminding their respective officers of the rules and bringing to the attention of Heads of Department the need for officers to ensure compliance with the standards of conduct. There has generally been greater awareness of the standards of conduct expected.

- d. **If no standards and mechanisms, above stated, exist, briefly indicate how your State has considered the applicability of measures within your own**

Not Applicable.

2. Conflicts of interests

- a. **Are there standards of conduct in your country regarding the prevention of conflicts of interest in the performance of public functions? If yes, briefly describe**

them, indicating aspects like to whom they apply and the concept on which they are based, and list and attach a copy of the related provisions and documents.

The Staff Orders for the Public Service have been under revision and this was completed in 2004. Chapter IV of the Revised Staff Orders sets out standards of conduct. Specifically:-

1. a public officer must seek the approval of the appropriate authority or Service Commission to engage in private work. Subject to specified conditions and based upon an assessment of potential for conflict of interest, permission may be granted. (4.2.8)
2. In order to address the potential for conflict of interest, officers should in all instances inform the appropriate authority of any such undertaking, seek clarification and get permission. Any such permission would be subject to periodic review.
3. Section 4.2.9 of the Staff Orders sets out circumstances of conflict of interest and requires that officers inform the appropriate authority of any such undertaking, seek clarification and get permission. The circumstances of conflict of interest are:-
 - a. Engagement in private activity similar to official functions;
 - b. Using information and/or any material gained from official position for private gain;
 - c. Exploiting the status and privilege of one's position for private gain
 - d. Soliciting and/or accepting payment and/or any other consideration relating to the performance of or neglect of official duties
 - e. Conducting private business during work hours and/or on government property;
 - f. Engaging in transactions with relatives or family members, or an organization in which relatives or family members have interest.
 - g. Ownership of investment or shares in any company or undertaking.
 - h. Acting as auditors or directors of companies or societies

There are also provisions in relation to private work, work for statutory bodies and public companies, and the media.

Section 4.3 forbids officers to solicit or accept gifts or gratuities.

Section 10 of the Jamaica Constabulary Force Act provides that persons appointed to the Constabulary Force cannot hold any other public employment without the consent of the Governor General signified in writing under the hand of the Minister

Provisions of the Force Orders also regulate the conduct of police officers. Chapter 3 of the Force Orders refers to conflicts of interest. These include prohibition from

showing allegiance to a particular political party; disclosure in relation to private investments and prohibition from soliciting or accepting gifts.

- b. **Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

The various Services Commissions can take disciplinary action under the Public Services Regulations, the Police Services Regulations and the Judicial Services Regulations for breaches of the Regulations and Orders.

In relation to the Jamaica Constabulary Force, the Office of Professional Responsibility and Police Public Complaints Authority also serve to enforce compliance with the standards of conduct set out.

- c. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

Reports into allegations of violations have been investigated and where applicable disciplinary proceedings or prosecution have been taken.

The following cases were dealt with by the Public Services Commission:

| | | |
|----------------------|----|---------------------------|
| Involvement in drugs | 16 | 11 completed 5 pending |
| Fraud | 14 | 7 completed 7 pending |
| Larceny as a servant | 4 | 3 completed 1 pending |

In 2003, the Police Services Commission dismissed 14 members of the Jamaica Constabulary Force (JCF) because of judicial convictions. In 2004, 5 members of the JCF were dismissed because of judicial convictions.

In 2002, four (4) police officers were arrested for corruption violations. One (1) was found guilty and sentenced to pay a fine of J\$50,000 or 6 months imprisonment; the other three (3) cases are pending. In 2003, thirteen (13) police officers were charged for corruption related offences. Eleven (11) cases are pending, one (1) police officer was dismissed and one (1) was found guilty and sentenced to 6 months imprisonment. In 2004, thirteen (13) police officers were charged for corruption related offences, one (1) case was dismissed, three (3) police officers were found guilty – two (1) were sentenced to pay a fine of J\$150,000 or 6 months imprisonment and one (1) was sentenced to pay a fine of J\$100,000 or three (3) months imprisonment. The other cases are still pending.

No disciplinary cases were reported to the Judicial Services Commission.

- d. **If no standards and mechanisms, above stated, exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct intended to prevent conflicts of interests, and mechanisms to enforce compliance, in accordance with article III (1) and (2) of the Convention.**

Not applicable

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

- a. **Are there standards of conduct in your country that govern the conservation and proper use of resources entrusted to public officials in the performance of their functions? If yes, briefly describe them, indicating aspects like to whom they apply and whether there are exceptions, and list and attach a copy of the related provisions and documents.**

Yes. Standards of Conduct that govern the conservation and proper use of resources are set out in the Financial Administration and Audit Act (FAA Act), the Executive Agencies Act and the Procurement guidelines.

The FAA Act regulates the manner in which government funds are to be managed, including the safeguards in place for the various Government accounts and procedures for withdrawal and use of government funds, including the purchase of investments. The Act also regulates the payment for goods and services and the acquisition, custody, control and disposal of government property.

Specifically, section 25 (I) (c) of the FAA Act requires that all money expended by a Ministry or Department should be for the purpose approved by Parliament and should be incurred with due regard to the avoidance of waste and extravagance. Section 26(I) (b) of the FAA Act also requires that any improper, extravagant or wasted expenditure disclosed by the Auditor General in the course of his audits is to be reported to the Financial Secretary for possible surcharge of the responsible officer(s).

Under the Constitution, the FAA Act and the relevant Acts of Parliament, the accounts of Central and Local Government agencies as well as many Statutory Bodies and Government Companies are audited by the Auditor General who is required to report any breaches of the Laws or Regulations uncovered by the audit. On receipt of a report from the Auditor General, the Financial Secretary may impose a surcharge of up to the value of the loss suffered by government which is due to the negligence of any officer.

The Contractor-General's Act provides for the monitoring of the award and implementation of government contracts. The Act also attempts to ensure the

promotion of efficiency in the process of award and implementation of government contracts and ensuring transparency and equity in awarding such contracts and establishes a National Contracts Commission for that purpose.

The Procurement guidelines stipulate the procedure that should be followed by public sector agencies to ensure economy in the purchase of goods and services. These include the use of a transparent and competitive price process involving approved and/or pre-qualified suppliers. Deviation from these requirements which are disclosed from time to time by the audits of the Auditor general and the Contractor General are referred in reports to the relevant agencies of government and to Parliament.

There are also standardized contractor registration procedures which along with the new procurement guidelines will ensure that the contracts awards process is discharged with integrity. These standardized procedures, which place emphasis on transparency and consistency at all stages of public sector procurement, will guide agencies in the invitation, evaluation and documentation of the contractor selection process.

- b. **Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

Mechanisms to enforce compliance with the standards of conduct are the sanctions set out in the FAA Act section 20 and 49 that range from personal liability, payment equal to the value of the lost property to on summary conviction, a fine not exceeding ten thousand dollars and/or imprisonment not exceeding three years. The public Accounts Committee of Parliament may also recommend methods to enforce compliance after its examination of the Auditor General's annual report.

The National Contracts Commission (NCC) is an independent Commission of Parliament. Its mission is to facilitate the award of government contracts and is required by law to ensure transparency, integrity and equity in the process.

The NCC has the power to make regulations as provided in the act, including to determining

- the qualifications of prospective contractors and consultants for registration and classification
- the procedure for submission of tenders for government contracts
- the requirement for contractors to enter into performance bonds
- competitive bidding for government contracts
- the circumstances and procedures for canceling the registration of contractors and consultants

The NCC has established Sector Committees to facilitate the speedy processing of contracts. Sector Committees are to examine contract proposals for works, goods and services and guide and assist agencies, which are attached to them. They will not decide what should be bought or what projects undertaken, or services sought, but will seek to ensure that the process by which a contractor or supplier is selected is fair and transparent, and based on merit.

Sector Committees have been established at the Ministry of Education and Culture; Urban Development Corporation; Port Authority of Jamaica; Jamaica Public Service Company; Jamaica Social Investment Fund; National Works Agency (formerly Public Works Department), and at the Ministries of Water & Housing, and Health.

These entities were chosen to host sector committees as they have available the resources and experience necessary to support the contracts award process.

The Office of the Contractor General is responsible for providing the NCC and its sector committees with administrative and other resources to enable the proper performance of its functions.

- c. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

The results obtained in implementing the standards and mechanisms are greater compliance by public officers and reduction in the number of Auditor General queries over the years. There have also been better practices by some government agencies in the maintenance of accounts and records. In general agencies have responded positively where the Auditor General has had to query certain accounts, request further information or make recommendations on methods to be employed.

Some Government agencies remain delinquent in providing the appropriation accounts to the Auditor General for certain periods. There has also been excess in the expenditure approved by Parliament in several government agencies.

There has been greater transparency in the issuance of contracts. The reports of Contractor General have revealed that some agencies have not complied fully with the requirements of the Act. These reports have been submitted to Parliament and recommendations made to ensure that the agencies are carrying out best practices.

- d. **If no standards and mechanisms, above stated, exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct intended to ensure the proper conservation and use of resources entrusted to public officials in the performance of their functions, and mechanisms to enforce compliance, in accordance with article III (1) and (2) of the Convention.**

Not applicable.

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

- a. **Are there standards of conduct in your country that establish measures and systems governing the requirement that public officials report to appropriate authorities acts of corruption in public office of which they are aware? If yes, briefly describe them, indicating aspects like to whom they apply and to what resources they refer, and list and attach a copy of the related provisions and documents.**

There are measures which require government officials to report acts of corruption. These include the following:

The Contractor General is under a duty to report to the competent authority if he finds, during the course of his investigations evidence of a breach of duty, misconduct or a criminal offence on the part of an officer or member of the public body. (Contractor-General Act, section 21).

The Auditor-General is under a duty to inform the Financial Secretary if he discovers:-

- the occurrence of a loss or deficiency that has not been reported; an improper payment (FAA Act section 26);
- the occurrence of any deficiency, loss or destruction of government property of which he is aware (FAA Act section 49);
- the occurrence of an unauthorized expenditure of which he is aware (FAA Act section 52).

An accounting officer must also report:-

- the occurrence of any deficiency, loss or destruction of government property (FAA Act section 49) and the occurrence of an unauthorized expenditure (FAA Act section 52) of which he is aware; as well as
- the loss or destruction of any voucher or other document in respect of the receipt or payment of public moneys.

Permanent Secretaries and Heads of Departments are required to report all cases of fraud involving their agencies to the police immediately they become so aware. The police are required to properly investigate the matter and lay criminal charges where the evidence so indicates.

Section 12(2) of the Corruption (Prevention) Act, 2000 requires the Commission established under the Act to report any act of corruption by a Public Servant to the

appropriate Service Commission, board, body or other authority and to the Director of Public Prosecutions. Section 12(4) of the Parliamentary (Integrity of Members) Act requires the Commission established under that Act to report any act of corruption on the part of any parliamentarian, to the Parliamentary leaders and the Director of Public Prosecutions.

- b. **Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

The Contractor General must submit annual reports to Parliament. In those reports he must include any awards which did not comply with the requirements of the Contractor-General Act. (See Section 28 - The Contractor-General Act). The Public Administration and Appropriations Committee of Parliament serves to, among other things, examine the budgetary expenditure of Government agencies to ensure that expenditure is done with parliamentary approval. (See Standing Orders of the House of Representatives of Jamaica, 1964, section 73A)

The Public Accounts Committee examines the reports of the Auditor General concerning the accounts of government entities and can call on the Auditor General or any of the Government entities to enquire further into an issue. (See Standing Orders of the House of Representatives of Jamaica, 1964, section 73A)

The Auditor General in auditing the accounts of Ministries, Government departments, agencies etc. can call upon the Permanent Secretary/Head of Department as the Accounting Officer to explain the accounts and any discrepancies which may exist.

- c. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

See response to sections 1, 2 and 3 above.

- d. **If no standards and mechanisms, above stated, exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct that establish measures and systems governing the requirement that public officials report to appropriate authorities acts of corruption in public office of which they are aware, and mechanisms to enforce compliance, in accordance with article III (1) and (2) of the Convention.**

Not applicable.

CHAPTER TWO

SYSTEMS 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 law and, where appropriate, for making such disclosures public? If yes, briefly describe them, indicating aspects like to whom they apply and when the declaration must be presented, the content of the declaration, and how the information given is verified, accessed, and used. List and attach a copy of the related provisions and documents.**

The relevant domestic legislation is the Corruption (Prevention) Act, 2000 and the Parliament (Integrity of Members) Act as amended in 2001. The Corruption (Prevention) Act, section 4 requires public servants to give to the Commission for the Prevention of Corruption statutory declarations of their assets, liabilities and income. The public servant's declaration must also include information regarding the assets, liabilities and income of his spouse and children. The information regarding the assets of his spouse and children is limited to those assets held in trust for or as agents of the declarant (not including spouses, children over 18 and married children under 18 not living with the declarant for the period in which the declaration was made). A person who ceases to be a public servant must make a statutory declaration twelve months from the date on which he ceases to be a public servant. (Section 4(7), Corruption Prevention Act). The disclosures are not public documents.

Exceptions

- Parliamentarians (Members of the House of Representatives and Senate) do not submit a declaration to the Corruption Commission. They must, however, submit a declaration to the Integrity Commission under the Parliament (Integrity of Members) Act. section 4.
- Members of the Corruption Commission must also submit a statutory declaration to the Integrity Commission. (section 4(2), Corruption (Prevention) Act).
- Public servants whose total emoluments are less than two million Jamaican dollars (J\$2, million) do not have to submit a declaration; except those public servants whose posts are set out under Parts I and II of the Corruption (Prevention) Regulations, 2002.

Sanctions

Under both the Corruption (Prevention) Act and the Parliament (Integrity of Members) Act, a person is liable to a fine not exceeding \$200,000 and/or imprisonment not exceeding two years for failing to give a statutory declaration, knowingly making a false statement on a declaration, failing to give the Commission further information required without reasonable cause, failing to attend an enquiry of the Commission without reasonable cause or knowingly giving false information at such an enquiry. If the Court finds that the person deliberately did not disclose

property held by him, the Court may also order the property forfeited (if situated in Jamaica) or the payment of the value of the property (if situated outside of Jamaica) in addition to the fine and/or imprisonment. (section 15 of the Parliament (Integrity of Members) Act; section 11 of the Parliament (Integrity of Members) (Amendment) Act and section 15 of the Corruption (Prevention) Act).

The Government is pursuing certain amendments to the Corruption (Prevention) Act and regulations based on recommendations made by the Commission for the Prevention of Corruption. These include amending the definition of spouse to include persons living together as man and wife for a certain period of time but who are not legally married pursuant to the Marriage Act.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

Corruption (Prevention) Commission

The Commission submits an annual report to House of Representatives through the Minister responsible for Justice pursuant to section 12 of the First Schedule of the Corruption (Prevention) Act. The Commission sought information from several Government Ministries and Departments, Statutory Agencies/Bodies, Parish Councils, Army and Police. Declarations were to be received from 15,536 public servants.

Since the passing of the Regulations, two (2) sets of declarations became due, the initial set as at January 31, 2003 and the latter December 31, 2003 due by March 3, 2004. The third set of declarations (as at December 31, 2004) will be due by March 2005.

11,818 declarations as at January 31, 2003 were received up to March 31, 2004, a compliance rate of 73%.

The Commission had started issuing reminders to the 3,718 recalcitrant declarants as at March 31, 2004 prior to reporting them to the Director of Public Prosecutions. The Commission has submitted 63 cases to the Director of Public Prosecutions for failure to submit the declarations, despite the reminders.

7,403 declarations as at December 31, 2003 were received by March 31, 2004, a compliance rate of 47%.

Six (6) allegations of corruption were received. Four (4) were closed because the allegations could not be substantiated. The remaining two (2) are being pursued.

Integrity Commission

During the year 2003 - 2004 the Commission completed the examination of one-hundred and thirty-nine (139) declarations. In the process of examining declarations the Commission issued sixty-five queries, the answers to which were considered necessary for proper examination of the declarations.

As at 31st March, 2003, the deadline set by the Act for submission of statutory declarations due as at 31st December 2002, there were twenty-two (22) declarations outstanding. Four (4) of the outstanding declarations were received during the first five days of April, 2003. Nineteen Parliamentarians and ex-parliamentarians subsequently furnished the required declarations with the result that at the 31st December 2003 three (3) of the declarations were still outstanding.

The Commission submitted to the Director of Public Prosecutions for necessary action the names of three (3) ex-Parliamentarians whose declarations as at 31st December 2002 were still outstanding.

In addition the following declarations due as at the 31st December, 2000, 29th August, 2003 and 22nd September 2003 (final) were outstanding at the 31st December, 2003.

- 2 statutory declarations due as at 31st December 2000
 - 1 statutory declaration due as at 29th August, 2003
 - 18 statutory declarations due as at 22nd September, 2003 (final)
- c. **If no regulations, above stated, exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the regulations that establish methods for registering the income, assets and liabilities of those who perform public functions in certain posts as specified by law and, where appropriate, for making such disclosures public, in accordance with article III (4) of the Convention.**

Not applicable.

CHAPTER THREE

OVERSIGHT BODIES

- a. **Are there oversight bodies charged with the responsibility of ensuring compliance with the provisions stated in article III (1), (2) and (4)? If yes, list and briefly describe their functions and characteristics, and attach a copy of the related provisions and documents.**

Commission for the Prevention of Corruption - The Commission (which is chaired by a retired Supreme Court Judge) consists of the Auditor-General and four other persons appointed by the Governor-General after consultation with the Prime Minister and Leader of the Opposition. The appointed members serve for a period of seven years and may be reappointed. (see Corruption (Prevention) Act, First Schedule.) The functions of the Commission are: to receive, keep on record and

examine statutory declarations from public servants, pursuant to the Corruption (Prevention) Act; to make enquires of the public servant or any other person or entity in relation to the statutory declarations, and to conduct investigations into an act of corruption pursuant to a complaint or on the Commission's own initiative. (see Corruption (Prevention) Act, Section 5.)

Integrity Commission – The Commission consists of the Auditor-General and four other persons appointed by the Governor-General after consultation with the Prime Minister and Leader of the Opposition. The appointed members serve for a period of two to five years and may be reappointed. (see Parliament (Integrity of Members) Act, First Schedule.) The functions of the Commission are: to receive, keep on record and examine statutory declarations from Parliamentarians, pursuant to the Parliament (Integrity of Members) Act; to make enquires of the public servant or any other person or entity in relation to the statutory declarations, and to conduct investigations into an act of corruption pursuant to a complaint or on the Commission's own initiative. (see Parliament (Integrity of Members) Act, Section 5.)

Public Services Commission – The members of the Commission are appointed by the Governor General on the recommendation of the Prime Minister after consultation with the Leader of the Opposition. One member shall be appointed by the Governor General from a list of person submitted by the Jamaica Civil Service Association. The appointed members serve for a period of five years and are eligible for reappointment after a three-year period. (The Constitution of Jamaica, section 124) The Commission shall deal with disciplinary proceedings and is empowered to recommend termination or other punitive measures to the Governor General. Where in the view of the Commissions the officer's conduct may constitute a criminal offence the Commission shall obtain the advice of the Attorney General as to whether criminal proceedings should be instituted (Public Service Regulations 28 – 47).

Judicial Services Commission – The Commission consists of the Chief Justice, the President of the Court of Appeal, the Chairman of the Public Services Commission and three other members appointed by the Governor General on the recommendation of the Prime Minister after consultation with the Leader of the Opposition. The appointed members serve for a period of three years and are eligible for reappointment after a three-year period. (The Constitution of Jamaica, Section 111) The Commission has the power to recommend appointments and termination of appointments due to retirement or as a result of disciplinary proceedings, to the Governor General. (Judicial Service Regulations, 13, 14 and 17).

Police Services Commission - The members of the Commission are appointed by the Governor General on the recommendation of the Prime Minister after consultation with the Leader of the Opposition. The appointed members serve for a period of five years and are eligible for reappointment after a three-year period. (The Constitution of Jamaica, Section 129) The Commission shall deal with disciplinary proceedings and is empowered to recommend termination or other punitive measures to the Governor General. Where in the view of the Commissions the officer's conduct may

constitute a criminal offence the Commission shall obtain the advice of the Attorney General as to whether criminal proceedings should be instituted (Police Service Regulations 31 – 59).

National Contracts Commission - The members of the Commission are appointed by the Governor General based on nominations by the Contractor-General, Cabinet, the Joint Consultative Committee of the Building Industry and the Professional Societies Association of Jamaica. The Members are appointed for a period of seven years and may be reappointed. (see Contractor-General (Amendment) Act, Third Schedule.) The principal object of the Commission is the promotion of efficiency in the process of award and implementation of government contracts and ensuring transparency and equity in the awarding of such contracts. The Commission's functions include: examining applications for the award of government contracts; approving or overseeing the award of government contracts within the specified limits; in the case of government contracts above the specified limits, making recommendations to the Cabinet regarding the award of such contracts; registering prospective contractors for the purposes of this Part and classifying such contractors according to the level and scope of government contracts to which such registration applies; establishing and keeping up-to-date lists of contractors so registered, distinguished according to the category of work for which they have been registered; continuously assessing the financial and human resources, technical, financial and managerial capacity and performance of contractors; and making recommendations to the Cabinet for improving the efficiency of the procedures for the granting and implementation of government contracts. (See the Contractor-General Act section 23D)

The Auditor General annually audits and reports on the accounts of the Court of Appeal, Supreme Court, Offices of the Clerks to the Senate and House of Representatives and all accounts of all departments and offices of the Government of Jamaica including the Judicial Service Commission, the Public Service Commission, the Police Service Commission but excluding the department of the Auditor General. The accounts of the Auditor General's department are audited and reported on by the Minister responsible for Finance. (The Constitution of Jamaica, Section 122) (Please see also response to Chapter One, question 3)

The Contractor General, on behalf of Parliament monitors the award and the implementation of government contracts with a view to, among other things, ensuring that the contracts are awarded impartially and on merit; that the award of a contract does not involve impropriety or irregularity. The Contractor General also monitors the grant, issue, suspension or revocation of any prescribed licence, to ensure that the circumstances of such grant, issue, suspension or revocation do not involve impropriety or irregularity and, where appropriate, to examine whether such licence is used in accordance with the terms and conditions thereof. The Contractor-General has the power to require any public body to furnish in such manner and at such times as may be specified by the Contractor-General, information with regard to the award

of any contract and such other information in relation thereto as the Contractor-General considers desirable. (See Contractor General Act, sections 3 and 4).

The Police Public Complaints Authority serves to monitor investigations by the Force of any complaint or other matter to which this Act applies with a view to ensuring that such investigation is conducted impartially; supervise the investigation of complaints by the force; undertake direct investigation of complaints in sum circumstances as may be prescribed by or pursuant to this Act; and evaluate and report to the Minister from time to time on the system of handling complaint. (See sections 3 and 4 – Police Public Complaints Authority Act)

The Office of Professional Responsibility also serves to investigate reports of police misconduct, in particular corruption.

- b. **Briefly state the results that said oversight bodies have obtained in complying with the previous functions, attaching the pertinent statistical information, if available.**

See previous responses to Chapters 2 and 3 of the Questionnaire regarding results.

- c. **If no standards and mechanisms, above stated, exist, briefly indicate how your State has considered the applicability of measures, in accordance with article III (9) of the Convention.**

Not applicable.

CHAPTER FOUR

PARTICIPATION BY CIVIL SOCIETY (ARTICLE III, NUMBER 11)

1. General questions on the mechanisms for participation

- a. **Are there in your country a legal framework and mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

The legislation does not specifically encourage participation by civil society in efforts to prevent corruption. In certain areas, for example, government procurement, the Contractor General's Act establishes a National Contracts Commission (NCC) (see section 23B – Contractor General's Act). The NCC is an independent body, the purpose of which is to recommend the award of government contracts and in so doing, seek to ensure transparency, equity and integrity in the contract award process. (see section 23C – Contractor General's Act). The NCC is comprised of government and private sector organizations.

Another mechanism for participation by civil society is the Human Rights Consultative Committee established by the Ministry of Justice. It is comprised of various government representatives and non-governmental organizations to address various concerns relating to justice, including corruption.

There are other mechanisms for encouraging participation by civil society and non-governmental organizations. See, for example, response to 2(a) and (b) of this section where there is close collaboration between the Access to Information Unit and civil society.

There are also several cooperation mechanisms between the Jamaica Constabulary Force and the public.

The Community Conflict Resolution Council (CCRC) is another mechanism which encourages participation by civil society and non-governmental organizations. Each Committee of the CCRC consists of five (5) community leaders; a Justice of the Peace or Minister of Religion; three (3) police officers. The CCRC serves, among other things, to receive reports of corrupt activities in the community.

In addition, section 5 of the Corruption (Prevention) Act foresees participation by citizens in the fight against corruption.

See also responses to 2(a) of this section.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

The HANDBOOK OF PUBLIC SECTOR PROCUREMENT PROCEDURES was prepared with the assistance of a Working Group consisting of representatives of private and public sector organizations.

The Carter Centre Access to Information Project (CCAIP), a NGO works closely with the Access to Information Unit. The CCAIP, in collaboration with the Jamaican Bar Association and the Independent Jamaica Council for Human Rights has launched a volunteer attorneys' panel which will provide free legal representation to persons denied access to government information.

The Code of Conduct for Police Citizen Relations was the result of collaboration between the Jamaica Constabulary Force, the Jamaica Chamber of Commerce, the Inncity Development Committee and other non-governmental organizations. Included in the Code of Conduct for Police Citizen Relations is the duty of each citizen to report all crime and corrupt activities. (see Code of Conduct for Police Citizen Relations, paragraph 45).

See also responses to 2(b) and 5(b) of this section.

- c. **If no mechanisms, above stated, exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption, in accordance with article III (11) of the Convention.**

The Ministry of Justice is still planning to organize a Public Education Programme to inform the public about the Commission for the Prevention of Corruption and the fight against corruption.

2. Mechanisms for access to information

- a. **Are there mechanisms in your country that regulate and facilitate the access of civil society and non-governmental organizations to information in the control of public institutions? Is so, describe them briefly, and indicating, for example, before which entity or agency said mechanisms may be presented and under what criteria the petitions are evaluated. List and attach a copy of the related provisions and documents.**

The Access to Information Act came into operation on January 5, 2004. The Access to Information Unit which falls under the Jamaica Archives and Records Department of the Office of the Prime Minister is responsible for implementation and monitoring of the Access to Information Act.

The Act aims to reinforce fundamental democratic principles vital to:

- improved, more transparent government;
- greater accountability of government to its people;
- increased public influence on and participation in national decision making; and
- knowledge of the functions of government.

The Act therefore, signals a ground breaking departure from an age-old culture of secrecy surrounding government and its day to day activities

Section 6 of the Access to Information Act (“the ATI Act”) grants every person a right of access to an official document that is not considered an exempt document.

Included in the documents which are exempt are:

- Documents the disclosure of which would prejudice the security, defence or international relations of Jamaica;
- Documents which contain information communicated in confidence to the Government by or on behalf of a foreign government or by an international organization.
- Documents where the disclosure would reveal trade secrets;

- Documents which would involve the unreasonable disclosure of information relating to the personal affairs of any person, whether living or dead. (Not applicable where the application for access is made by the person to whose affairs the document relates.

(See sections 15 to 24 of the ATI Act).

Persons should make the request for information to the government entity which has the information (Section 7 - the ATI Act). Section 9 of the ATI Act sets out the manner in which access may be granted. This includes allowing the applicant to inspect the document; furnishing the applicant with a copy of the document; and in the case of a document from which sounds or visual images are capable of being reproduced, allowing the applicant to hear the sounds or view the visual images. Section 9 requires that the access be granted in the manner specified by the applicant unless the grant of access in the form requested would:-

- be detrimental to the preservation of the document, or be inappropriate, having regard to its physical state;
- constitute an infringement of copyright subsisting in any matter contained in the document.

The ATI Act also provides for an internal review by the Public Authority if the request for access is denied. (See Sections 30 to 31, ATI Act). It provides for a further appeal to an Appeals Tribunal established by the ATI Act (see Second Schedule – ATI Act). An appeal can be lodged:-

- in the case of an internal review,
 - against a decision taken on such review;
 - if the time specified in section 31 (2) (b) has expired without the applicant being notified of a decision;
- in any other case, against a relevant decision in relation to any of the matters referred to in paragraphs (a) to (c) of section 30 (1) or section 30 (2), and accordingly section 30 (3) shall apply with necessary modifications to an appeal under this paragraph.

Currently, the ATI Act applies to government entities. Proposals have been made for the Government's consideration of extending the Act, under powers of Section 5(3), to a number of privately operated organizations which offer services of a public nature essential to the welfare of the country.

Other mechanisms

There is a relatively strong relationship between the ATI Unit and Civil Society organisations. An umbrella group, The ATI Committee of Stakeholders, brings together a local human rights group Jamaicans for Justice, the Media Association of Jamaica (MAJ), the Press Association of Jamaica (PAJ), the Farquarhson Institute,

the Private Sector Organisation of Jamaica (PSOJ) and others. This Committee meets often to discuss the implementation of the Act. There are also other collaborations such as the development of educational and promotional materials (pamphlets, posters, ATI call center etc.) The ATI Unit also works closely with and receives assistance and support from the Carter Center, an NGO based in the US.

The ATI Unit has also done various sensitization sessions for a wide cross section of Government employees. A Public Service Announcement has been developed by the ATI Unit in collaboration with the JIS and is to be aired in 2005.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

The ATI Unit prepares quarterly reports on the implementation of the Access to Information Act.

To date, 279 applications for access to information have been received by the Government. In all quarters to date, the Ministry of Finance and Planning received the most applications (total of 61 of the 279 applications). The Office of the Cabinet and the Ministry of Local Government, Community Development and Sport received the second and third highest numbers of applications (39/36 respectively). [According to the ATI Unit, this however, should be viewed in the context of these Entities (phase 1) having had a head start on the others).

Applications are received primarily from the Media, NGOs and other stakeholder groups.

The Unit acts as Secretariat to the ATI Appeal Tribunal and initially received ten (10) appeals against three (3) public authorities, namely, the Bank of Jamaica (5 appeals), the Ministry of Finance and Planning (4 appeals) and the Office of the Prime Minister (1 appeal). Relevant copies of the appeals received were sent to these public authorities as well as to the members of the ATI Appeal Tribunal.

One of the appellants subsequently indicated a desire to withdraw an appeal against the Ministry of Finance as the information originally requested, and which was denied, was later made available.

The results according to the Access to Information Stakeholders Committee

REPORT NO. 1 (JAMAICANS FOR JUSTICE [NGO] - REQUESTS AS AT OCTOBER 2004)

| | |
|--------------------------|-----|
| Total requests received | 120 |
| Total Completed Requests | 52 |

| | |
|------------------------------|----|
| Total Requests not completed | 68 |
|------------------------------|----|

| Response | No. of Requests |
|-------------------------|------------------------|
| Full Access granted | 33 |
| Partial access granted | 10 |
| Denied access | 4 |
| Document does not exist | 5 |
| Transferred | 26 |
| Extended/Delayed | 2 |
| Cancel by requester | 0 |
| No response given | 40 |
| At internal review | 10 |

| Period of Days for completion | No. of requests |
|--------------------------------------|------------------------|
| 0 to 30 days | 36 |
| 31 to 60 days | 9 |
| 61 to 90 days | 1 |
| 91 to 120 days | 1 |
| 21 days or more | 5 |

Problems/Concerns included:

The slated thirty day deadline is not being adhered to. According to the Access to Information Unit this matter has been brought to the attention of responsible officers and all attempts are being made to improve on this matter.

Transfers to agencies not under the Act continues to delay the process.

REPORT NO. 2 – JAMAICA ENVIRONMENTAL TRUST (JET) [NGO]

Status of JET's Access to Information Requests (as at December 14, 2004)

JET made 9 direct requests (July to September 2004). Of these, 2 have had responses by way of information provided and 1 has been referred. The Ministry of Health (MOH) is the only Ministry currently under the Act that was petitioned and their response received within 30 days. The single referral was made to the MOH by the St. Catherine Health Department. The National Environmental and Planning Agency (NEPA) received the most requests (5) and has so far responded to 1, after approximately 80 days.

Comments – “JET’s experience so far suggests that information is more forthcoming where a personal relationship is established, such as by way of a follow-up call or visit. Requests are also more easily tracked if made in writing. This is especially important where there is no dedicated Access to Information personnel on hand to record the request and staff is unfamiliar with the concept of the ATI Act. Therefore, one recommendation is to intensify sensitization efforts in Agencies and Ministries not yet under the Act. Where information is not readily available for administrative or other reasons, communication to this effect is helpful.”

3. Mechanisms for consultation

- 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 preventing, detecting, punishing, and eradicating public corruption? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

The Consultation Code of Practice for the Jamaican Public Sector, 2005 was drafted in order to fulfill the Government’s objective to become more service oriented and citizen-centred in our activities. It is a result of the Public Sector Modernization programme and the recommendations of Ministry Paper 56 of 2002.

The Government’s vision is for all citizens to enjoy a quality life in a society that is just, inclusive and open and in which authorities are accountable. While consultation is not new to Government ministries and agencies, it was thought important to have a set of standards to better manage the practice of consultation within the public sector.

This Code does this by providing the level of guidance necessary for improving the quality of consultations and preventing possible consultation fatigue or frustration among stakeholders.

The Code will apply to all consultations carried out by Government Ministries, their departments and agencies, as well as Executive Agencies, Statutory Bodies, Government companies and local authorities in their development or revision of major policies, programmes, plans and services.

While the Code does not carry with it the force of law, it should be generally regarded as binding on all Government ministries.

In addition, Parliament, when considering legislation, may establish a Joint Select Committee which will receive any comments, concerns or suggestions from the public.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

While there are no results yet regarding the Code of Consultation, various consultations have been held in relation to legislation and government policy, including corruption. The Government, for example, encouraged public participation in the drafting of the Corruption (Prevention) Regulations through comments to the Joint Select Committee currently considering the draft Regulations. The Human Rights Consultative Committee, which meets on a bimonthly basis to discuss various issues related to justice, also held discussions concerning the draft Regulations and concerns which were brought to that Committee were considered.

See also response to 1, 2 and 3 of this section.

4. Mechanisms to encourage active participation in public administration

- a. **Are there mechanisms in your country to facilitate, promote, and obtain the active participation of civil society and non-governmental organizations in the process of public policy making and decision making, in order to meet the purposes of preventing, detecting, punishing and eradicating acts of public corruption? If so, briefly describe them and list and attach the related provisions and documents.**

See responses to 1, 2 and 3 of this section.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

See responses to 1, 2 and 3 of this section.

5. Participation mechanisms for the follow-up of the public administration

- a. **Are there mechanisms in your country to facilitate, promote, and obtain the active participation of civil society and non-governmental organizations in the follow-up of public administration, in order to meet the purposes of preventing, detecting, punishing and eradicating acts of public corruption? If so, briefly describe them, and list and attach a copy of the related provisions and documents.**

The Corruption (Prevention) Act provides in section 5 that the Commission shall receive and investigate any complaint regarding an act of corruption and does not limit in any way the persons or entities that may proffer such a complaint.

See response to sections 1, 2, 3 and 4 of this section.

- b. **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

See response to sections 1, 2, 3 and 4 of this section.

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 that seek assistance in the investigation and prosecution of acts of corruption. Attach a copy of the provisions that contain such mechanisms.**

The Mutual Assistance (Criminal Matters) Act (“the **MACMA**”) allows for mutual legal assistance in making and receiving requests seeking assistance in the investigation and prosecution of acts of corruption.

The principal organisations in Jamaica that are responsible for the execution of mutual legal assistance requests are the Central Authority (i.e. the Minister with responsibility for justice and the Director of Public Prosecutions) as well as the Organised Crime Investigation Unit of the Jamaica Constabulary Force.

The **MACMA** allows Jamaica to facilitate overseas law enforcement agencies by assisting in investigations and proceedings in relation to a criminal matter. The country requesting assistance from Jamaica should either be (a) a designated Commonwealth country or (b) a treaty country.

- (a) A designated Commonwealth country is one that has been identified in an order made by the Minister with responsibility for justice as being a Commonwealth country that can receive assistance from Jamaica.
- (b) A treaty country is defined as a country that is a party to a relevant treaty (whether bilateral or multilateral) and that country has been so identified by an order of the Minister with responsibility for justice.

Countries that do not fall into either of these categories have been able to receive limited assistance provided it does not involve any intrusive methods of investigation such as a search warrant or access to financial records. This means, in practice, that the assistance usually includes but is not necessarily limited to:

- supplying information that is already in the public domain;
- making enquiries into matters that are not covered by secrecy obligations such as those relating to financial records;
- providing information that has been voluntarily provided by the holder of the information.

Dual criminality is required where the request involves:

- registration and enforcement of foreign forfeiture orders;
- the registration and enforcement of foreign pecuniary penalty orders;
- the issuing of a restraint order by a Jamaican court;
- the registration and enforcement of foreign restraint orders.

Assistance under the MACMA consists of the:-

- location and identification of persons and objects;
- examination and taking of testimony of witnesses;
- production of documents and other records including judicial and/or other official records as well as articles;
- making of arrangements for persons to give evidence or assist investigations;
- temporary transfer of persons in custody for the giving of testimony;
- carrying out of search and seizure;
- service of documents;
- restraining of dealings in property, or the freezing of assets that may be forfeited or may be needed to satisfy orders which are similar to pecuniary penalty orders imposed in respect of certain offences;
- tracing, seizure and forfeiture of property that may be subject to a forfeiture order in force for the time being in relation to certain offences in the foreign country which makes the request;

Assistance must be refused where:

- compliance with the request would contravene the provisions of the Jamaican Constitution, or prejudice the security, international relations or other essential public interests of Jamaica;
- there are substantial grounds for believing that compliance with the request would facilitate the prosecution or punishment of a person affected by the request on account of the person's race, religion, nationality or political opinions or, for any of the foregoing reasons, would cause prejudice to such persons;
- the request relates to an offence under military law only or under a law relating to military obligations;

- the request relates to conduct in respect of which the person accused or suspected of having committed an offence has been convicted or acquitted by a Court in Jamaica;
- the steps required to be taken in order to comply with the request cannot be legally taken in Jamaica in respect of criminal matters arising in Jamaica;
- the request relates to an offence or proceedings of a political character not being an offence included in any relevant treaty to which Jamaica and the relevant foreign country are parties and which imposes on the parties thereto an obligation either to extradite or prosecute a person accused of that offence;
- any confidentiality requested in relation to information or evidence furnished by Jamaica would not be protected by the relevant foreign country.

Assistance may be refused where:

- the conduct in respect of which assistance is requested is not an offence under Jamaican law.
 - the information supplied by Jamaica would not be restricted to the purpose stated in the request by the requesting country.
- 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, explaining how many of them have not been answered and how many have been denied and for what reason; indicate the number of requests that it has received, explaining how many of them have not been answered and 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.**

There have not been any requests made or received which deal specifically with offences under the Convention. There has been one (1) request from a State regarding investigations into an insurance scheme which was being promoted by that State's previous Government officials. The request is currently being considered.

- c. **If no mechanisms, above stated, exist, briefly indicate how your State has implemented the obligation, in accordance with article XIV (1) of the Convention.**

Not applicable.

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 and means of preventing, detecting, investigating, and punishing acts of public corruption, including the exchange of experiences by way of agreements and meetings between competent bodies and institutions, and the sharing of**

knowledge on methods and procedures for citizen participation in the fight against corruption? If so, describe them briefly.

There are various mechanisms providing mutual technical cooperation. There are various treaties for economic and technical cooperation. There are also general police cooperation initiatives, including INTERPOL, bilateral treaties on police cooperation (e.g. Jamaica/Colombia) which establish Bi-national Commissions which allow for general cooperation initiatives. Jamaica also has general cooperation arrangements with various countries, including the United Kingdom, Canada and the United States.

The Caribbean Community (CARICOM) and the Commonwealth, of both of which Jamaica is a member, also allow for technical cooperation regarding the most effective ways and means of preventing, detecting, investigating, and punishing acts of public corruption, including the exchange of experiences by way of agreements and meetings between competent bodies and institutions, and the sharing of knowledge on methods and procedures for citizen participation in the fight against corruption.

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

Specific requests relating to corruption have not been made but we have made and received general requests on community policing, preventing, detecting, investigating and punishing crime in general. These have resulted in exchange of personnel for training purposes and exchange of information on best practices. These have resulted in successful investigations leading to a decision to prosecute.

CARICOM established a task force for the purpose of participating in the negotiations on the United Nations Convention against Corruption. That task force allowed for exchange of information.

There is also a CARICOM Task-Force on Crime and Security which meets regularly and provides a forum for exchange of information on ways to prevent, detect, investigate and punish crime. In addition, the Association of Caribbean Commissioners of Police provides another forum for such information exchange.

In October, 2004, the United States Department of Justice in collaboration with prosecutors and investigators in the English speaking Caribbean put on a workshop on Investigating and Prosecuting Corruption for Caribbean Investigators and Prosecutors. The workshop involved exchange of experiences of US and Caribbean prosecutors and investigators. An e-mail forum was launched as a result to assist in the exchange of best practices.

- c. If no mechanisms, above stated, exist, briefly indicate how your State has implemented the obligation, in accordance with article XIV (2) of the Convention.**

Not applicable.

- d. **Has your county 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.**

See response to 2(a) and (b) of this Section.

CHAPTER SIX

CENTRAL AUTHORITIES (ARTICLE XVIII)

1. Designation 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 General Secretariat of the OAS has not yet been informed in writing of the designation of the Central Authority in relation to mutual legal assistance as it specifically relates to the offences under the Inter-American Convention Against Corruption.

On August 12, 2004, the date of deposit of Jamaica's instrument of ratification to the Inter-American Convention on Mutual Assistance in Criminal Matters, Jamaica informed the General Secretariat of the OAS that the Minister responsible for Justice or a person designated by him was the Central Authority for Mutual Assistance in Criminal Matters.

Pursuant to section 2 of the Mutual Assistance (Criminal Matters) Act, 1995, the Minister responsible for Justice designated the Director of Public Prosecutions as the Central Authority for the purpose of performing most of the functions under the Act. (See The Jamaica Gazette Extraordinary – Friday, May 2, 1997, The Mutual Assistance (Criminal Matters) Act, Instrument of Designation of Central Authority).

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

There is no specific designation in relation to mutual technical cooperation; however, the Central Authorities for purposes of Mutual Legal Assistance would also perform the functions for mutual technical cooperation.

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

Carol Palmer
Permanent Secretary, Ministry of Justice
2 Oxford Road, North Tower, 7th Floor
Kingston 5, Jamaica
Tel: (876) 906 4908-31 Fax: (876) 906 1713
E-mail: psec1@moj.gov.jm

Kent Pantry
Director of Public Prosecutions
Office of the Directory of Public Prosecutions
Public Buildings, West, P.O. Box 633
King Street
Kingston, Jamaica
Tel: (876) 922 6321 – 5 Fax: (876) 922 4318
E-mail: dpp@moj.gov.jm

- d. **If no central authority or authorities have been designated, briefly indicate how your State will implement the obligation, in accordance with article XIV (2) of the Convention.**

[See response to 1\(a\) and \(b\) of this Chapter.](#)

2. Operation of Central Authorities

- a. **Does the central authority have the necessary human, financial and technical resources to enable it to properly make and receive requests for assistance and cooperation under the Convention? If yes, please describe them briefly.**

[There are some constraints, in particular human and technical resource constraints. Within the Office of the Director of Public Prosecutions there are seven attorneys who receive, analyse and supervise the execution of mutual legal assistance requests from foreign countries. They perform this very important task in addition to their normal prosecutorial duties. The Office is not fully computerised; however, efforts are being made to determine the resources needed to computerise the Office, including possible electrical re-wiring.](#)

[The Organised Crime Investigation Unit assists in the execution of mutual legal assistance requests. This unit does the necessary preparatory work for visiting foreign law enforcement officials or executes the request on behalf of the foreign country. The officers of this unit accompany visiting law enforcement officials on their investigations during their sojourn in Jamaica in order to ensure that the request is executed in accordance with laws of Jamaica and in the most efficient and non-contentious manner. These duties are in addition to the normal duties of the Unit as it relates to criminal investigations in Jamaica.](#)

- b. **Has the central authority, since its designation, 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.**

To date the Central Authority has not received requests for assistance and cooperation relating to corruption. Assistance arrangements which are specifically concerned with financial crimes are under consideration.

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

a. State Party **JAMAICA**

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

Mr. **B. St. Michael Hylton**
 Ms.
Title/position: **Solicitor General**
Agency/office: **Attorney-General's Chambers**
Mailing address: **NCB Towers, North Tower, 2 Oxford Road,
Kingston 5, Jamaica**
Telephone number: **(876) 906-4908-31**
Fax number: **(876) 754-5158**
E-mail address: **solicitorgeneral@agc.gov.jm**

Mr.
 Ms. **Gladys Young**
Title/position: **Crown Counsel**
Agency/office: **Attorney-General's Chambers**
Mailing address: **NCB Towers, North Tower, 2 Oxford Road,
Kingston 5, Jamaica**
Telephone number: **(876) 906-4908-31 ext. 2261**
Fax number: **(876) 754-5158**
E-mail address: **gladys.young@agc.gov.jm**