

Report of Belize
on the Implementation of Belize of the Recommendations of the
Committee of Experts in the First Round

**1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE COMPLIANCE
(ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)**

1.1. Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms

Recommendation 1.1:

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

Measures suggested by the Committee:

- a. *Establish a standard for addressing the conflicts that can occur between individual specific government matters in which those persons that perform public functions would be expected to act as part of their responsibilities and an official's or family member's financial interests or his outside activities or negotiations for future private employment arrangements. Such a standard could include recusal, request by the person that performs public functions for permission to continue to act, request by the official for a transfer of duties (if appropriate), or direction by an appropriate authority for divestiture/resignation when the conflict is pervasive.*

As explained in the Report of Belize on the implementation of the Convention on the First Evaluation Round, which resulted in the present recommendations from the Committee of Experts, public officers are governed by a code of conduct, which is established in both the Constitution of Belize¹ and in the Public Service Regulations. Such provisions have been further addressed and defined in other pieces of legislation, such as in the Prevention of Corruption Act, Chapter 105 of the Laws of Belize, R.E. 2000-2003; the Criminal Code, particularly sections 281 to 312²; and most recently, in the Prevention of Corruption Act of 2007, which has been in force since February of this year.

This latter Act has established standards that address the issue of conflicts that can occur between a public official's performance of his duties with his outside activities or future negotiations. This Act creates the offence of corruption and provides at s.1 of Part I of the Third schedule (pursuant to s.22), that a person commits an act of corruption if, *inter alia*,

¹ The Constitution Act, Chapter 4 of the Laws of Belize, R.E. 2000-2003.

² Chapter 101 of the Laws of Belize, R.E. 2000-2003.

- (h) he acquires, or becomes a partner, associate or shareholder in, or a director of a firm or company which has a contract with the Government or with the public body of which such person is a member or employee unless the person makes a disclosure of such partnership, association, shareholding or other interest to the Commission;*
- (i) He illegally uses official influence in support of any scheme, or in furtherance of any contract or proposed contract or other matter in regard to which he has in interest;*

Additionally, at s. 25 of the Act, it provides that:

(1) Every person who, subject to subsection (2), acquires or holds a private interest in any contract, agreement or investment emanating from or connected with the public body in which he or she is employed or which is made on account of that public body, commits an offence of corrupt activities and is liable on summary conviction to a fine of not less than ten thousand dollars.

(2) Subsection (1) does not apply to a person:

- (a) who acquires or holds such interest as a shareholder of a listed company;*
- (b) whose conditions of employment do not prohibit him or her from acquiring or holding such interest; or*
- (c) in the case of a tender process, a public officer who acquires a contract, agreement or investment through a tender process and whose conditions of employment do not prohibit him from acquiring or holding such interest through an independent tender process; or*
- (d) unless the person makes a disclosure of such interest to the relevant public body within thirty days of acquiring or holding such interest.*

- b. Establish suitable restrictions for persons who leave public service, such as prohibitions on participation as a representative of a private interest in ongoing specific matters in which they had participated in an official capacity, or for a reasonable time, restrictions on dealing with former government body in which they served.*

There are no set of written restrictions on persons entering or leaving the public service *vis a vis* their private interests and participation. Public officers are, however, governed by a code of conduct which was discussed at length in the report that resulted in these recommendations. With respect to persons serving or who have served as members of the Public Service Commission, s. 105 provides:

- (3) No person shall be qualified to be appointed as a member of the Commission if he is a member of the National Assembly or, save in respect of the *ex officio* members, if he holds or is acting in any public office.*

- (4) Save in respect of the *ex officio* members, a person shall not, while he holds or is acting in the office of a member of the Commission or within a period of two years commencing from the date on which he last held or acted in that office, be eligible for appointment to any public office.

1.2. Standards of conduct to ensure the proper conservation and use of resources entrusted to government officials in the performance of their functions and enforcement mechanisms

Recommendation 1.2:

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

We consider that this recommendation has been fulfilled with the enactment of the Finance and Audit (Reform) Act of 2005 and of the Prevention of Corruption Act of 2007, both of which establish proper frameworks for ensuring that public resources are properly used and conserved.

The Finance and Audit (Reform) Act, 2005

Some of the relevant aspects of this piece of legislation include the fact that it has expressly set the record straight with respect to the legal status of the Finance Orders and Stores Orders, by providing at s. 23 that they are administrative instructions for the internal use of public officers to guide them in their handling of Government property.

This Act authorizes the Financial Secretary to require explanations to be provided, within specified time-frames, by public officers who, in his opinion: failed to collect moneys owing to the Government, contrary to his duties; made improper payments from public funds; is/was responsible at the time of his employment as a public officer, for "any deficiency in, or for the loss or the unauthorized destruction of, any public moneys, stamps, securities, stores or other Government property". If he considers that the explanation provided by the public officer is unsatisfactory with regard to the failure to collect, the improper payment, deficiency or loss, or the unauthorized destruction, he is required to refer the matter to the relevant Services Commission. In such instances, the Commission shall impose a disciplinary surcharge on that person which shall be equivalent to the amount lost by the Government, if it is satisfied, on a balance of probabilities, that the views of the Financial Secretary are proven.

Additionally, s. 12 of the Act requires the Auditor General to "audit the accounts of all Accounting Officers and of all persons entrusted with the collection, receipt, custody, issue or payment of public moneys, or with the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government

property of any kind whatsoever” and to ascertain that all reasonable precautions for the collection of public monies have been taken and all laws, instructions and directions thereon have been duly observed; all expended public monies have been spent in accordance with proper authority and for the purposes intended therefor; that all reasonable precautions have been taken to safeguard the receipt, custody, issue and proper use of all Government property have been taken and that all relevant laws, directions and instructions thereon have been duly observed.

In accordance with s. 14, if at any time, the Auditor General considers that a fraud or serious loss or serious irregularity has occurred, with the receipt, custody or expenditure of public moneys, or in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or any other Government property or in their accounting, he shall immediately inform the Minister of the matter.

The Prevention of Corruption Act, 2007

This Act creates the offence of corruption at s. 22 (1), which provides that “A person who, by himself or in conjunction with any other person, or an agent, engages or attempts to engage in any acts of the acts specified in Part 1 of the Third Schedule commits an act of corruption.” In accordance with Part 1 of the Third Schedule, a person commits an act of corruption if, *inter alia*:

(b) he fraudulently uses or conceals any property or other benefit derived from any such act or omission to act under paragraph (a) or (b)³;

(f) he illegally uses for his own benefit or that of a third party, any property (including money) belonging to the Government or any statutory body or any government company or any body providing public utilities to which he has access as a result or in the course of, the performance of his functions;

(g) he, for his own benefit or for that of a third person, illegally diverts any property belonging to Government or any other person, which is in his custody for the due administration of his duties.”

Any person who commits an act of corruption commits an offence and is liable on summary conviction: (i) in the case of a first offence, to a fine not less than

³Paragraph (a) provides: (a) in the performance of his public functions does any act or omits to do any act for the purpose of obtaining any illicit benefit for himself or any other person.

ten thousand dollars; and (ii) in the case of a second or subsequent offence, to a fine not less than twenty thousand dollars or to imprisonment for a period not exceeding two years or to both fine and imprisonment.

Any person who commits an act of corruption commits an offence and is liable on conviction on indictment: (i) in the case of a first offence, to a fine not less than twenty-five thousand dollars or to imprisonment for a period not exceeding two years or to both fine and imprisonment; and (ii) in the case of a second or subsequent offence to a fine not less than fifty thousand dollars or to imprisonment for a period not exceeding three years or to both fine and imprisonment.

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

Recommendation 1.3:

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

On February 6, 2008, the Prevention of Corruption Act, No. 21 of 2007 ("the POCA"), came into effect. This Act was passed "to provide for the strengthening of measures to prevent and combat corruption and corrupt activities; to provide for the offence of corruption and offences relating to corrupt activities; to provide for investigative measures in respect of corruption and related corrupt activities; to provide measures for establishing probity, integrity and accountability in public life; to repeal the Prevention of Corruption in Public Life Act, Chapter 12 of the Substantive Laws of Belize, Revised Edition 2000-2003; and to provide for matters connected therewith or incidental thereto." It is our considered opinion, therefore, that Belize has complied with the recommendation of the Committee of Experts.

Measures suggested by the Committee:

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

Section 30(2) of the POCA requires that any person exercising a public function who knows, reasonably suspects or ought to have reasonably known suspected that any person has committed, is committing or is about to commit an offence under this act, or the offence of bribery, to disclose as soon as is reasonably

practicable, the knowledge or suspicion, as well as the information on which it is based.

Additionally, persons exercising public functions who are offered or receive an advantage in circumstances which could constitute an offence under this Act, or the offence of bribery, are required by s. 30(1) of the POCA to disclose the existence and nature of the advantage or the offer of it and the name, if known, of the person who gave, procured or offered it or agreed to give or procure it.

Disclosure under s. 30(1) and (2) should be made to a Constable, or the Commission of Enquiry (“the Commission”) established by this Act; or through procedures established by the employer of the person exercising the public function for the purpose of making such disclosure.⁴

Protective Measures:

Section 31(2) of the POCA – It is a defence for a person charged with the offence of failure to report in accordance with the foregoing provisions, to prove that he reasonably believed that if he made the required disclosure, he or another person or the property of either would suffer physical harm.

Section 32(1) of the POCA – Offence is created against persons who threaten or take any action which is harmful to any person, including interference with a person’s lawful employment or occupation, on the ground that such person has made or may make a disclosure pursuant to s.30. The offence attracts a fine of not less than twenty-five thousand dollars and/or imprisonment for a term not exceeding one year.

Section 35 (1) of the POCA – Persons who, in good faith report breaches of this Act, or of the commission of acts of corruption or of corrupt activities, are protected from any form of reprisal or civil or criminal liability.

Section 45 of the POCA – Persons giving evidence before the Commission shall not be compelled to incriminate themselves and shall, in respect of evidence given to the Commission, be entitled to all the privileges that persons giving evidence before the Supreme Court are entitled to.

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

In addition to the protective measures highlighted above, the POCA also makes the failure to comply with the disclosure requirements in s. 30 an

⁴ Section 30(3) of the Prevention of Corruption Act, 2007 (“the POCA”).

offence which attracts a fine of not less than ten thousand dollars (BZ\$10,000.00)⁵ or imprisonment of up to one year.⁶

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

Recommendation 2:

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

As identified in paragraph 1.3 above, the aim of the POCA includes, *inter alia*, to provide measures for establishing probity, integrity and accountability in public life. One way in which the Act seeks to do this is by creating the requirement of declaration of income, assets and liabilities, as did its predecessor, the Prevention of Corruption in Public Life Act, which now stands repealed.

Measures suggested by the Committee:

- a. *Consider taking necessary steps to enforce the current financial declaration requirements for those to whom the Prevention of Corruption in Public Life Act law currently applies, including implementing penalties for those who fail to file and establishing penalties for late filing.*

Section 10(1) of the POCA requires persons in public life, namely Members of the House of Representatives (including the Speaker), Members of the Senate (including the President) and Members of the Town and City Councils, to file sworn declarations of assets, income and liabilities of him/herself, his/her spouse, children and agents in the manner prescribed by the Act.

Additionally, the Commission may require further information from a declarant,⁷ or where it considers it necessary, may advise the Governor General to set up a Tribunal to enquire into the fullness or accuracy of a filed declaration.⁸

The Commission is also mandated to publish information in the Gazette, regarding the failure of a person in public life to file a declaration, which includes failure to disclose any material fact in the declaration⁹, without reasonable cause, or failure to furnish further particulars required by the Commission pursuant to s.13, and to submit a report to the Director of Public Prosecutions for appropriate action.¹⁰

⁵ Note that all sums expressed herein are in Belize Dollars.

⁶ Section 31(1) of the POCA.

⁷ See s. 13, *ibid.*

⁸ Section 15(1), *ibid.*

⁹ Section 14(2), *ibid.*

¹⁰ Section 14(1), *ibid.*

Failure to file a declaration or to provide further particulars to the Commission or the Tribunal may attract a fine of not less than three thousand dollars on a first offence, and a fine of not less than five thousand dollars and/or imprisonment for one year on a second and subsequent offence. In addition, such offenders will be liable to pay the Commission an administrative fine of one hundred dollars for each day that the declaration or explanation remains outstanding.¹¹

If the offence includes non-disclosure of property corruptly acquired while in public office, in addition to the penalties highlighted in the preceding paragraph, the property shall be forfeited to the Government if such property is found in Belize. If the property is abroad, the offender shall pay to the Government the equivalent of the value of such property, as assessed by the Courts. If the property has been acquired by a bona fide purchaser for value without notice, the property shall not be forfeited, but the offender shall pay to the Government an amount equivalent to the value of the property or the price paid by the purchaser, whichever is greater. The Government can take necessary proceedings to recover the sums from the offender as a debt due to the Government.¹²

The Act also creates the offence of filing false declarations, which attracts a fine of between one and five thousand dollars and/or imprisonment for six months.¹³

- b. *Identify positions not currently covered by the Act which have duties where the potential for conflict of interest is substantial and require the individuals holding those positions to file financial declarations.*

The POCA makes provisions for the National Assembly to extend the application of this Act to any public servant or class of public servants. However, before doing so, it is required to obtain public opinion on the matter by consulting with representatives of civil society organizations and other interested persons and bodies as deemed necessary; and to give public servants reasonable opportunity to express their views on the matter and to give due consideration to such views.¹⁴

- c. *Use the financial declarations not only to detect actual violations of law and conflicts of interest, but to also serve as a basis for providing counseling on the prevention of conflicts of interest.*

The Act makes provisions for the reports on the enquiries of the Commission to

¹¹ Section 19(1) to (3), *ibid.*

¹² Section 19 (5) and (6), *ibid.*

¹³ Section 19 (3), *ibid.*

¹⁴ Section 21 (1) to (3), *ibid.*

be sent to the Director of Public Prosecutions ("the DPP") and to the Attorney General. If the DPP is satisfied that the evidence before him is sufficient to substantiate the commission of an offence under the act, he may institute criminal proceedings against such person. Where the person suspected of the commission of an offence is the DPP, the Attorney General may institute proceedings against him.¹⁵

d. *Consider making the reports public, were appropriate.*

Pursuant to s. 12 of the POCA, the Commission is required to examine all financial declarations submitted by declarants and to publish Certificates of Declaration in the *Gazette*, if satisfied that the declarations have been fully made.

Once the Certificates have been published, any person may make a written complaint to the Commission with respect to any of these Certificates, and the Commission shall review such complaints for appropriate action. If the Commission considers that a full disclosure has not been made, it may – request further information from the declarant; or require him to attend before the Commission; or conduct independent enquiries and investigations; or summon witnesses and require them to produce documents; or summon the complainant to appear before them to hear from him and any of his witnesses in support of his complaint.

If, after concluding its investigations into the matter, the Commission considers that the complaint is groundless or has not been substantiated, it is required to publish a statement to that effect in the *Gazette*. Additionally, if there is evidence that an offence has been committed either by the complainant or the declarant, the Committee is mandated to report the matter to the DPP.¹⁶

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

Recommendation 3:

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

The Integrity Commission

¹⁵ See s. 37 of the Act.

¹⁶ See s. 13, *ibid.*

One of the important oversight bodies referred to in this section is the Integrity Commission under the Prevention of Corruption in Public Life Act, which now stands repealed and replaced by the Prevention of Corruption Act of 2007 (“the POCA”). The POCA similarly provides for an Integrity Commission which is given much wider powers than it had under its predecessor Act. As mentioned above, the Commission is now empowered to examine declarations, request further info in respect thereof, and enquire into declarations, and in so doing may advise the Governor General to appoint a Tribunal to carry out that enquiry. For the purposes of the enquiry, the Tribunal is vested with the powers of a Commission of Enquiry under the Commissions of Enquiry Act¹⁷.

The POCA also requires the Commission to submit reports of its enquiries to the Director of Public Prosecutions (“the DPP”) and to the Attorney General. If the DPP is satisfied that the evidence substantiates the commission of an offence under the Act, he may institute criminal proceedings against the offender. Where the offender is the DPP, the Attorney General may institute proceedings against him.¹⁸

To enable the Commission to effectively carry out its duties under the Act, it is vested with police investigative powers and can retain legal counsel to serve as legal adviser when deemed necessary for the duties of the Commission.¹⁹ The Commission is also assisted by a Secretariat, which is charged with the administrative duties of the Commission and consists, among others, of an Executive Director, who is answerable to the Commission, and an in-house legal adviser.²⁰

Further, to secure the financial stability of the Commission, the Act requires that the Secretariat submit the necessary budget estimates of the Commission each year to the Prime Minister, who shall include these sums in the budget for that year.²¹

The Auditor General

In 2005, the Finance and Audit (Reform) Act, No. 12 of 2005, was enacted “to make new and better provisions regulating public revenue, expenditure and contracts; to repeal the Finance and Audit Act, Chapter 15 of the Substantive Laws of Belize, Revised Edition 2000 – 2003; to clarify the legal status of the Financial Orders and Stores Orders and to provide for matters connected therewith or incidental thereto”.

¹⁷ Chapter 127 of the Laws of Belize, R.E. 2000 – 2003.

¹⁸ Section 38 of the Prevention of Corruption Act, 2007.

¹⁹ Section 40, *ibid.*

²⁰ See generally, s. 7, *ibid.*

²¹ Section 52, *ibid.*

This Act directs the Auditor General to “audit the accounts of all Accounting Officers and of all persons entrusted with the collection, receipt, custody, issue or payment of public moneys, or with the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property of any kind whatsoever” and to ascertain that all reasonable precautions for the collection of public monies have been taken and all laws, instructions and directions thereon have been duly observed; all expended public monies have been spent in accordance with proper authority and for the purposes intended therefor; that all reasonable precautions have been taken to safeguard the receipt, custody, issue and proper use of all Government property have been taken and that all relevant laws, directions and instructions thereon have been duly observed.²²

In discharging his duties, the Auditor General shall not be under the control of anyone or any authority and shall have access to all books, vouchers, documents, cash, stamps, securities, stores or other Government property in any form, including electronic form, in the possession of any public officer. Additionally, he can call on any public officer to any enquiry or examination of audit on his behalf; cause searches to be made of any book, document, or record in any public office, and to take extracts therefrom, at no cost; or request the Attorney General to provide him with an interpretation, in writing, of any law relating to his powers or the discharge of his duties.²³

If, at any time, the Auditor General considers that a fraud or serious loss or serious irregularity has occurred, with the receipt, custody or expenditure of public moneys, or in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or any other Government property or in their accounting, he shall immediately inform the Minister of the matter.²⁴

The Act also requires the Accountant General to submit to the Auditor General, within three months from the close of each financial year, accounts showing the financial position of the Consolidated Revenue Fund and other public funds of the country at the last day of each financial year – and the Auditor General shall, within ninety days from receiving same, submit copies thereof to the Minister along with a certificate of audit and a report of his audit of all public monies, stamps, securities, stores and all other Government property. The Minister is, in turn, required to lay same, without alteration, at the next meeting of the National Assembly, and if the Minister fails to comply with this requirement, the Auditor General is mandated to send copies to the Speaker of the House of Representative and to the President of the Senate, for presentation to the

²² See s. 12 of the Audit and Finance (Reform) Act, 2005.

²³ See s. 13, *ibid.*

²⁴ Section 14, *ibid.*

respective Houses of the National Assembly.²⁵

In addition to the matters referred to in the preceding paragraph, the Auditor General may send a special report to the Minister for presentation to the National Assembly on any matter incidental to his duties and powers, which he may consider desirable. And in any of the reports mentioned above, he may call the attention of the National Assembly on any matter he considers should be brought to their attention or on any particular case, *inter alia*, where: accounts have not been properly kept, public monies have not been properly accounted for, laws, directions or instructions relating to finance and accounts are either inadequate or not properly followed; disbursements exceeded authority, were misapplied or not duly certified; there is apparent waste or extravagance in administration of Government property.²⁶

The Contractor General

The Finance and Audit (Reform) Act, 2005 also regulates the very important duties of the Contractor General in s. 18 thereof. These include providing written comments to the Government on the disposal of public assets of or above the value of two million dollars – and such comments shall be submitted to the National Assembly before the assets are affected in any way. The Contractor General is also mandated to review and comment on any contract that the Government intends to enter into using the open, selective or limited tendering procedures before such contracts are executed.

If he considers that any of the aforementioned contracts are not in the best interest of the Government or of the national interest of the country, he shall express this view and reasons therefor in writing, and shall submit same to both houses of the National Assembly for debate before the execution of said contracts. If, however, he is of the considered opinion that said contract is in the national interest, he shall issue a corresponding certificate and submit same to the Financial Secretary.

The Financial Secretary

The Finance and Audit (Reform) Act sanctions the Financial Secretary to require explanations to be provided, within specified time-frames, by public officers who, in his opinion: failed to collect moneys owing to the Government, contrary to his duties; made improper payments from public funds; is/was responsible at the time of his employment as a public officer, for “any deficiency in, or for the loss or the unauthorized destruction of, any public moneys, stamps, securities, stores or other Government property”. If he considers that the explanation provided by the public officer is unsatisfactory with regard to the failure to collect, improper

²⁵ See sections 15 and 16, *ibid*.

²⁶ See subsections (4) and (5) of s. 16, *ibid*.

payment, deficiency or loss, or unauthorized destruction, he is required to refer the matter to the relevant Services Commission. This Commission shall, in turn, impose a disciplinary surcharge on that person which shall be equivalent to the amount lost by the Government, if it is satisfied, on a balance of probabilities, that the views of the Financial Secretary are proven.

Difficulties/Further Considerations:

As a creature of the Prevention of Corruption in Public Life Act, Chapter 12 of the Laws of Belize, R.E. 2000 – 2003, which now stands repealed, the Integrity Commission had limited powers to enable it to carry out its duties effectively. It was also burdened with all the work involved with the declaration of income, assets and liabilities - from the receipt of the declarations, to the consideration thereof, to the publication of the certificate of declaration. Though in practice, it was aided in part by the efforts of the Clerk of the National Assembly, it had no administrative staff or a definite and independent budget. All the above arguably clouded the transparency of the process and of the requirement for disclosure of income, assets and liabilities; and allegedly discouraged persons in public life to comply with the disclosure requirement.

In contrast, the Integrity Commission created by the Prevention of Corruption Act of 2007 is flanked with a Secretariat, a legal adviser, an independent budget, and wide powers, including Police and investigative powers, to enable the performance of its duties under the Act. Most importantly, however, the Act establishes a monitoring procedure to ensure transparency and accountability on the part of the Commission in the performance of its duties. The adequacy of this new piece of legislation remains to be tested by time, aided by the stated political will of zero tolerance to corruption and corrupt activities.

Similarly, the Finance and Audit Act, Chapter 15 of the Laws of Belize, R.E. 2000 – 2003, was tainted with challenges to its transparency and accountability provisions and to its questionable position with regard to the status of the Financial Orders and Stores Orders, which provide valuable guidance to public officers with respect to their administration of public funds and other Government property. The Finance and Audit (Reform) Act of 2005 was enacted with the aim of curing the above-mentioned defects and to set the record straight regarding the said Financial Orders and Stores Orders.

Further consideration: A Bill which seeks to amend the Constitution of Belize by, *inter alia*, establishing a time-frame and penalties for failure by the Auditor General to table the required reports, is presently being discussed in both Houses of the National Assembly and is the subject of national consultations. The wider public, so far, have expressed their complete satisfaction with what they term "tremendous legislative improvement and transparency of process",

which this Bill seeks to accomplish.

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

4.1 General participation mechanisms

Recommendation 4.1:

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

Belize's history of Civil Society participation is etched in the very Constitution of Belize, the supreme law of the land, and is reflected at the highest level of governance in the country – in the composition of the Senate.

4.2. Mechanisms for access to information

Recommendation 4.2:

Strengthen the mechanisms on access to information.

Measures suggested by the Committee:

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

The general difficulty with respect to the recommendation of the honourable Committee of Experts on this matter is the complexity of engaging in comprehensive reviews and evaluations of systems, legislation and mechanisms. Some of these complexities are posed by the time-frame required to successfully carry out such evaluations, as well as the extremely limited resources, including financial and human, with which small countries like ours operate under. In light

thereof, Belize humbly requests the Committee to consider removing these recommendations.

With regard to paragraph (b) in this section, information can be accessed from the website www.governmentofbelize.gov.bz in which reports from the Office of Governance are posted.

4.3. Mechanisms for consultation

Recommendation 4.3:

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

Measures suggested by the Committee:

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

The Minister of the Public Service is aided by three advisory bodies, each of which enjoy participation by civil society:

The Human Resource Development Committee

This Committee's terms of reference are to provide transparency in the areas of training and development of human resources of the Public Service by, *inter alia*, strengthening the process for selection of nominees for merit and external scholarship awards. Its functions include advising the Minister of the Public Service on policy goals and strategies regarding training and development of human resources in the Public Service as well as on the priority of training needs and scholarship programs, and to ensure the development, implementation and monitoring of human resource policy and strategy for the Public Service.

The Council on Good Governance and Public Sector Modernization

This Committee was created "pursuant to the mutual commitment of the Government of Belize and other partners to a collaborative approach and increased cooperation on good governance and public sector initiatives." Its responsibilities include, *inter alia*, making recommendations on good governance initiatives; providing guidance in the implementation of improvement initiatives in public sector administration; serving as forum for interface between the Government of Belize and its social partners for the sharing of ideas and information arising from modernization and governance endeavours; and making recommendations on modernization initiatives to improve service delivery and enhance structures.

Members of this Committee are persons of integrity and leaders from the public,

private and social sectors. This Committee was tasked with the preparation of an annual report on their work and accomplishments.

The Joint Staff Relations Council

This Committee advises on matters of human resource development and management and among its duties is seeking improved conditions of work for public officers.

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

The membership of each of the above-mentioned Committees include the Chief Executive Officers and Heads of Department of key Ministries and of the Financial Secretary.

4.4. Mechanisms to encourage participation in public administration

Recommendation 4.4:

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

See response to sub-paragraph (a) of section 4.3

Measures suggested by the Committee:

- a. *Develop standards and procedures to establish, maintain and strengthen mechanisms to encourage participation by civil society and nongovernmental organizations in public administration as part of the efforts to prevent corruption*

See response to sub-paragraph (a) of section 4.3.

- b. *Promote public awareness of available corruption prevention mechanisms.*
See the website www.governmentofbelize.gov.bz

4.5. Mechanisms to encourage participation in the follow-up of public administration

Recommendation 4.5:

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

Measures suggested by the Committee:

- a. *Promote, where appropriate, methods to facilitate civil society and non-governmental*

organizations' efforts to engage in activities in the follow up of public administration and prevention of corruption.

As reported in the Report of Belize on the implementation of the Convention in the first evaluation round, such mechanisms are already in place at the highest level of governance in this country – civil society has membership in the composition of the Senate, the Upper House of the National Assembly. Additionally, the Bill referred to in Section 3 of this Report entitled "Oversight Bodies for the Selected Provisions" seeks to increase the number of Senators from twelve to thirteen, to provide for a representative from the non-governmental organizations. This will have the effect of effectively removing the majority (of members) in the Senate from the Government representatives to the Opposition and Civil Society. Again, this proposed amendment is viewed by the general public as a positive change and one which will promote transparency and accountability.

b. Design and implement specific programs to publicize mechanisms to encourage participation in follow-up on public administration and, as appropriate, provide the necessary training and tools to public officials for the effective implementation of those mechanisms.

5. ASSISTANCE AND COOPERATION (ARTICLE XIV of the Convention)

Recommendation 5.1:

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

Belize is Party to a bilateral treaty with the United States of America on Mutual Legal Assistance in criminal matters and is presently negotiating a similar treaty with Mexico, its northernmost neighbor. Additionally, Belize is a Party to a regional treaty on the subject-matter with its CARICOM counterparts; and to a number of multilateral treaties, like the present Convention, and including the United Nations Convention against Transnational Organized Crime and the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which make wide provisions for mutual legal assistance among Member States.

Belize has not developed specific comprehensive programs to train its competent authorities and officials on the implementation of the country's mutual legal assistance obligations with regard to investigative and prosecution of acts of corruption. However, the country and its officials have benefitted from several training opportunities under the auspices of relevant international organizations,

which have been held both at home and abroad. For example, the United Nations Office on Drugs and Crime (“the UNODC”) organized and hosted a one-week training program in Belize City which counted with the participation of, *inter alia*, representatives from the Police Department, the Office of the Director of Public Prosecutions, the Ministry of Foreign Affairs, the Attorney General’s Ministry and the Bench. A follow-up session is presently being discussed with the UNODC. A number of officers have also received training abroad.

With its existing resources, the Government has been able to respond to some requests made by some of its counterparts. This, in itself has been a learning experience.

Recommendation 5.2:

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

Needless to say, the country recognizes that it is in need of further training of its competent authorities and officials for a more effective collaboration with its counterparts. Training in the investigative field and exchange of information on best practices are a priority.

Recommendation 5.3:

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

Belize accepts the importance of this recommendation and is engaged in identifying the most effective “best practices” regarding prevention; detection; investigation and punishment of corruption from within and from its counterparts in other countries, which it hopes, will greatly assist the country’s zero tolerance policy with respect to corruption and corrupt practices.

6. CENTRAL AUTHORITIES (ARTICLE XVIII of the Convention)

Recommendation 6.1:

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

A decision on the matter will be forthcoming in the very near future since one view is that the Attorney General be designated as the Central Authority for Belize for the purposes of international assistance and cooperation anticipated in the present Convention. The Attorney General is the designated Central

Authority under the Treaty with the United States of America and under the CARICOM Treaty, which are the most recent.

As soon as the matter is resolved, it shall be duly communicated to the Secretariat of the OAS.

Recommendation 6.2:

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

This is one of the special considerations weighing in the final determination of the matter regarding the Central Authority discussed above. In practice, however, the requests for legal assistance from other countries have been addressed by the Attorney General's Ministry with its existing staff and budget.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1:

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

Recommendation 7.2:

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

Recommendation 7.3:

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

**INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS
QUESTIONNAIRE**

(a) State Party: BELIZE

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