

QUESTIONNAIRE ON THE PROVISIONS OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION SELECTED IN THE SECOND ROUND AND FOR FOLLOW-UP ON THE RECOMMENDATIONS FORMULATED IN THE FIRST ROUND – MEETING OF THE MESICIC

SECTION 1

QUESTIONS ON IMPLEMENTATION OF THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THE SECOND ROUND

CHAPTER 1

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

1. Government Hiring systems

- a. Are there laws and/or measures in your country establishing government hiring systems? If so, briefly describe the main systems, indicating their characteristics and principles and list and attach a copy of the related provisions and documents

Also describe how the above systems ensure openness, equity and efficiency in your country.

In relation to the above, refer among others, to the following aspects:

- (i) Governing or administrating authorities of the systems and control mechanisms.
- (ii) Access to the public service through a merit-based system.
- (iii) Advertisement for the selection of public servants, indicating the qualifications for selection.
- (iv) Ways to challenge a decision made in the selection system.
- (v) Relevant exceptions to the above.

The revised Belize Constitution¹ establishes three (3) services commissions empowered to conduct the government's hiring system. These commissions are: the Public Services Commission established under section 105; the Security Services Commission established under section 110.C; and the Judicial and Legal Services Commission established under section 110.E. The Security Services Commission and the Judicial and Legal Services Commission were established pursuant to a Constitutional Amendment enacted in 2001² that separated the powers historically held only by the Public Services Commission.

All three commissions operate pursuant to the framework established for each in the Constitution, and pursuant to regulatory guidelines established under the

¹ See The Belize Constitution, CAP 4 of the Substantive Laws of Belize, Revised Edition 2000-2003

² See The Belize Constitution (Third Amendment Act), Act 2 of 2001

subsidiary regulations to the Constitution.³ Below is a brief description of each commission.

1. The Public Services Commission

Established pursuant to section 105(1) of the Belize Constitution; the Public Services Commission consists of a Chairman and five other members appointed by the Governor-General, acting in accordance with the advice of the Prime Minister after consultation with the Leader of the Opposition.

The Public Services Commission is an independent body. Section 105(12) provides that the Public Services Commission shall, in the exercise of its functions, not be subject to the direction or control of any other person or authority. Section 105(5) provides that a member of the Public Services Commission may be removed from office by procedure laid out in the Constitution only for inability to perform the functions of his office or for misbehaviour.

The Belize Constitution in section 106, vests in the Public Services Commission: "the power to appoint persons to hold or act in offices in the public service, other than the offices in the judicial and legal services and the security services, including the power to transfer or confirm appointments, and, ... the power to exercise disciplinary control over such persons and the power to remove such persons from office."

Section 107 vests the Public Services Commission with the power to appoint high ranking public officers, including those holding the offices of Solicitor General, Secretary to the Cabinet, Financial Secretary, Chief Executive Officer, Commissioner of Police, Commandant, Belize Defence Force, Superintendent of Prisons, Ambassador, High Commissioner or principal representative of Belize in any other country or accredited to any international organisation, and, any other office designated by the Governor-General, acting in accordance with the advice of the Prime Minister given after consultation with the Public Services Commission.

The Public Services Commission, in the exercise of its functions, is governed by regulations made by the Governor General, acting in accordance with the advice of the Minister(s) responsible for the public service, and given after consultation with the recognised representatives of the employees or other persons or groups in the public service.

³ See The Belize Constitution, CAP 4s of the Subsidiary Laws of Belize, Revised Edition 2000-2003

2. The Security Services Commission

Established pursuant to section 110.C(1) of the Belize Constitution; the Security Services Commission is appointed by the Governor-General, acting in accordance with the advice of the Prime Minister after consultation with the Leader of the Opposition. It consists of the following:

- (a)* the Chairman of the Public Services Commission, who shall be a member and Chairman;
- (b)* a former senior officer of the Belize Police Department;
- (c)* a former senior officer of the Belize Defence Force;
- (d)* one person nominated by the Leader of the Opposition;
- (e)* one person from the private sector.

Section 110.D. (1) of the Constitution vests in the Public Services Commission the "power to appoint persons to hold or act in offices in the security services, including the power to make appointments, and to deal with all matters relating to the conditions of service of such officers and, ... the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons." Security services refer to service in the Belize Police Department and in the military service, but not the Commissioner of Police or the Commandant, Belize Defence Force. The military service refers to service in the Belize Defence Force or in any other military, naval or air force established for Belize.

3. The Judicial and Legal Services Commission

Established pursuant to section 110.E(1) of the Belize Constitution; the Judicial and Legal Services Commission is appointed by the Governor-General. It consists of the following:

- (a)* the Chairman of the Public Services Commission, who shall be a member and Chairman;
- (b)* the Chief Justice;
- (c)* the Solicitor General;
- (d)* the President of the Bar Association of Belize.

The Judicial and Legal Services Commission is an independent body. Section 115.E(12) provides that the Judicial and Legal Services Commission shall, in the exercise of its functions, not be subject to the direction or control of any other person or authority. Section 115.E(6) provides that a member may be removed from office by procedure laid out in the Constitution only for inability to perform the functions of his office or for misbehaviour.

The Belize Constitution in section 110.F(1), vests in the Judicial and Legal Services Commission: "the power to review the suitability of applicants, and to appoint persons to hold or act in offices in the judicial and legal services, including the power to make appointments, promotions, transfers, to confirm appointments, and to deal with all matters relating to the conditions of service of such judicial and legal officers and, ... the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office." Judicial and legal services refers to the Departments or Offices of the General Registry of the Supreme Court and Court of Appeal, Magistracy, Chief Parliamentary Counsel, Law Revision, Family Courts, Director of Public Prosecutions and Solicitor General.

The Judicial and Legal Services Commission does not appoint the Director of Public Prosecutions nor the Solicitor General. Section 108 provides that the Director of Public Prosecutions is appointed by the Governor General, acting in accordance with the advice of the Judicial and Legal Services Commission and with the concurrence of the Prime Minister given after consultation with the Leader of the Opposition. As referenced above, the Solicitor General is appointed by the Public Services Commission.

The Belize Constitution in its substantive provisions lays out the structure and functions of the three commissions, described above, which are empowered to appoint public officers. The subsidiary provisions of the Belize Constitution, namely the Public Service Regulations, 2001, and the Belize Constitution (Government Open Vote Workers) Regulations regulate the government hiring system. The Public Service Regulations apply to all permanent appointments in the public service made by the Public Services Commission, the Security Services Commission, and the Judicial and Legal Services Commission.

The Open Vote Workers Regulations apply to the "open vote worker", meaning "an employee of any Government Department whose post is not provided for under any Personal Emoluments item of any Head of Expenditure in the Estimates."

The discussion below shall focus on the Public Services Regulations, as the Open Vote Workers Regulations do not address the matters covered in this chapter of the questionnaire. These regulations ensure openness, equity, and efficiency by providing a systems and standards of procedure that apply uniformly to all public officers.

Access to the Public Service through a merit based system

With regard to access to the Public Service through a merit-based system, Regulation 11 of the Public Service Regulations provides that officers shall be qualified for appointments and promotions; and lists "merit" first, along with performance, as a criteria for promotions. See below:

11. (1) No officer shall be appointed or promoted to a post for which he is not qualified.
- (2) The promotion of officers to fill vacancies shall be approved by the relevant Commission, and the Commission shall base its decision on the following factors in descending order of importance:-
 - (a) Performance/Merit;
 - (b) Integrity/Professionalism;
 - (c) Experience/Employment History.

Advertisement for the selection of public servants, indicating the qualifications for selection

Regulation 7 of the Public Service Regulations provides the following with regard to the selection of public servants to fill vacancies:

"When a vacancy occurs in a post, the Chief Executive Officer of the Ministry where the vacancy occurs shall report it to the Chief Executive Officer, Ministry of the Public Service and state his recommendations for filling the post."

There are no provisions requiring the advertisements of vacancies. We understand from relevant human resources personnel within the Public Services Commission that there is a preference to advertise vacancies within the public service, especially for technical positions, but sometimes the posts are filled by internal promotions or transfers, or from existing applications kept on file; and in those instances, there is no advertisement.

Ways to challenge a decision made in the selection system

The Laws of Belize do not specifically address ways to challenge decisions made in the selection of public servants. There are, however, the usual recourses of judicial review via the courts; complaints to the Ombudsman if there are allegations of abuse of power by government officials; and complaints to the relevant Minister or the complainant's local area representative.

- b. **In relation to a), state the objective results obtained, including any available statistical data.**

There is no statistical data on the matter. However, with respect to complaints made to the Ombudsman, information can be found in the annual reports produced by his Office.

- c. **If no such law and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen government hiring systems, in accordance with Article III (5) of the Convention.**

Not applicable

2. Government systems for procurement of goods and services

- a. **Are there laws and/or measures in your country establishing government systems for procurement of goods and services? If so, briefly describe the main systems, indicating their characteristics and principles and list and attach a copy of the related provisions and documents.**

Also describe how the above systems ensure openness, equity and efficiency in your country.

In relation to the above, refer, among other things, to the following aspects:

- (i) Procurement systems with a public tender and without a public tender.**
- (ii) Governing or administrating authorities of the systems and control mechanisms.**
- (iii) Register of pre-approved contractors.**
- (iv) Electronic methods and information systems for government procurement.**
- (v) Public works contracts.**
- (vi) Identification of the selection criteria for contractors (e.g. price, quality and expertise).**
- (vii) Ways to challenge a selection.**

In Belize the Finance and Audit (Reform) Act, 2005⁴ establishes the government systems for procurement of goods and services. It provides the following in section 17:

17 (1) Subject to this Act, the Government shall have power to acquire, hold and dispose of, by sale or otherwise, property of any kind, and all property owned by the Government shall be held in the name of the Government of Belize.

(2) The Government shall have power to enter into procurement or sale contracts using either the limited tendering procedure, the open tendering procedure, or the selective tendering procedure.

⁴ See Finance and Audit (Reform) Act, 2005, No. 12 of 2005

Each tendering procedure is described below.

Open Tendering Procedure

Open Tendering Procedure is the procurement system with a public tender. Section 19(5) of the Finance and Audit (Reform) Act provides that any procurement or sale of or above \$5 million shall be subject to the open tendering procedure. Section 19(1)(a) provides the following:

“Whenever the Government decides to enter into a contract using the open tendering procedure, the Government shall ensure that any condition for participating in the tendering procedure or sale in question are published in adequate time to enable any interested supplier or purchaser, as the case may be, to initiate and, to the extent that it is compatible with the efficient operation of the procurement or sale process, complete the applicable qualification procedure...”

Section 19(3) provides the following:

The Government shall, through the appropriate Ministry –

- (a) consider the tenders supplied by suppliers or purchasers;
- (b) identify suppliers or purchasers who should be short-listed and interviewed, where appropriate;
- (c) award the contract to a suitable supplier or suppliers or to a suitable purchaser or purchasers; and
- (d) notify unsuccessful suppliers or purchasers in writing.

An additional provision in section 19(4) requires that notices to unsuccessful suppliers or purchasers state the reason why the tender was unsuccessful. Additionally, section 19(6) provides that contracts of or above \$5 million shall be laid before both Houses of the National Assembly within one month of execution.

Finally, there are several provisions ensuring that the conditions for participating in the open tendering process are fair. For example, the invitation for tender must be published with adequate timing for potential suppliers to complete the applicable qualification procedure.

Selective Tendering Procedure

This is a procurement system without a public tender. It may be used for contracts below \$5 million. Section 20 of the Finance and Audit (Reform) Act, 2005 provides the following:

- (1) When undertaking a procurement or sale using the selective tendering procedure, the Government shall ensure that the number of applicable suppliers or purchasers invited to submit a tender is sufficient to ensure competition without affecting efficiency in the tendering process.
- (2) The Government shall select suppliers or purchasers to be invited under this section to submit a tender in respect of a procurement or sale using, among others, the following guidelines –
 - a. the need for fairness and non-discrimination;
 - b. the relevant market for the procurement or sale;
 - c. the need for expediency in the public interest;
 - d. the number of suppliers or purchasers available in Belize in the relevant market;
 - e. the knowledge of government procedures by the applicable suppliers or purchasers; and
 - f. any other relevant factors.

The provisions of section 19(3) and (4), detailed above, apply *mutatis mutandis* to the selective tendering procedure.

Limited Tendering Procedure

The Limited Tendering Procedure is another form of procurement without a public tender. Section 21 of the Finance and Audit (Reform) Act, 2005 provides a very specific set of conditions under which this procedure may be used for government sales and procurements. For example, this procedure may be used if the open or selective tendering procedures were used but no tender was received, or where in the view of the Government the tenders received in the other processes were collusive or not in compliance with the conditions specified in the invitation to tender. Additionally, the Government may use this procedure when technical considerations connected to protection of exclusive rights are at issue, in situations of urgency, to replace parts, to extend existing services, to purchase prototypes, and for national security reasons; all under the conditions laid out in section 21.

The primary governing and administrating authority in government procurements is the Contractor General. Section 18(2) of the Finance and Audit (Reform) Act, 2005 provides that the Government shall refer all contracts subject to these

three tendering processes to the Contractor General for review and comments before the contract is executed. The Contractor General may either issue a certificate that the contract is in his view within the national interest, or state the facts and reasons in writing why in his view, the contract is not in the best interest of the Government or in the national interest of Belize; in which case, the comments must be submitted to each House of the National Assembly for debate before the contract is executed.

Regarding Public Works contracts, s. 2 of the Finance and Audit (Reform) Act, 2005 provides the following interpretation for "contracts":

"contract" or "government contract" means a written or oral agreement for the procurement or sale by the Government of goods or services, or a combination of goods and services, setting out the conditions of the contract, the specification or description of the goods or services, or the goods and services, procured or sold under contract, but does not include anything regulated under the National Lands Act or Regulations made thereunder, which shall subject to the provisions of this Act to the contrary, continue to be regulated by the procedures specified in, and provisions of, the National Lands Act and Regulations made thereunder to the exclusion of this Act."

There are no separate systems in place for public works contracts; they are subject to the same conditions as other contracts. In practice, all contracts for public works are subjected to any of the three tendering procedures, except in the case of contracts for works funded by international agencies, which usually require that they be subjected to the open tendering procedure.

There are no systems in place for electronic methods and no information systems for government procurement. In practice, however, the Ministry of Works used to keep a register of qualified contractors. It is our understanding that such practice was discontinued overtime. However, from its files, the Tendering Committee has knowledge of all tenderers who usually submit tenders, and due to their small numbers, it is not difficult to keep a mental record thereof.

Identification of selection criteria for contractors vary for the different procurements. Finally, there are no specified or legislated ways to challenge a selection other than the usual recourse to the courts for judicial review, complaints to the Ombudsman regarding allegations of abuse of power. In practice, contractors have made recourse to the Contractor General with respect not only to the selection criteria, but also with regard to interpretation to provisions of the contract itself; while others have seen it fit to take their complaints to government Ministers, area representatives, and the media.

- b. In relation to a), state the objective results obtained, including any available statistical data (e.g. percentage of contracts awarded through public tender; sanctions imposed on contractors).**

No information available

- c. If no such law and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen government systems for procurement of goods and services, in accordance with Article III (5) of the Convention.

Not applicable

CHAPTER TWO

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

- a. Are there laws and/or measures in your country establishing systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities? If so, briefly describe them and list and attach a copy of the related provisions and documents.

In relation to the above, refer, among others, to the following aspects:

- i. Mechanisms for reporting (e.g. anonymous reporting, protection of identity reporting)
- ii. Mechanisms for reporting threats or reprisals
- iii. Witness protection mechanisms.

1. *Mechanisms for Reporting*

(a) Institutional Mechanisms:

In Belize, a number of recourses exist to protect public servants or private citizens who, in good faith report acts of corruption. For example, persons can themselves protect their identities by reporting the offence to a toll free number known as the Crime Stoppers Hotline. Additionally, these persons can have recourse to existing mechanisms such as the Interpol branch in Belize, since Interpol is a system that enjoys worldwide contacts and has access to limitless resources. The country itself, however, does not count with an established witness protection system, exclusively for the purposes of protecting public officers or private citizens who in good faith report acts of corruption. Additionally, if the offence includes a money laundering aspect, the person who reports the offence can also be treated as a participant or witness pursuant to the CARICOM Agreement Establishing the Regional Justice Protection Program,

of which Belize is a Party and which has been given legislative authority by virtue of the Justice Protection Act, No. 48 of 2005.

Legislative Mechanisms:

The Prevention of Corruption Act, 2007

Under the Prevention of Corruption Act, 2007 Section 30 makes provision for the obligation to disclose an advantage received or offered. Section 32 goes further to state that:

32. A person who threatens or takes any action harmful to any person, including interference with a person's lawful employment or occupation, on the ground that a person has made or may make a disclosure in accordance with section 30 commits an offence and is liable on summary conviction to a fine not less than twenty-five thousand dollars or to imprisonment for a period not exceeding one year, or to both fine and imprisonment.

Section 34 of the Act further deals with complaints to the Integrity Commission established under section 3 of the Act. Section 35 strengthens this section by ensuring protection of persons making complaint to the Commission. Sections 34 and 35 are stated as follows:

- 34. (1) Any person who has reasonable grounds to believe that a person:*
- (a) is in breach of a provision of this Act;*
 - (b) has committed an act of corruption, or of corrupt activities may make a complaint in writing to the Commission.*
- (2) The complaint shall state:*
- (a) the particulars of the breach or the act of corruption;*
 - (b) the particulars, as far as they are known, of the person against whom the complaint is made;*
 - (c) the nature of the evidence that the complainant proposes to produce in respect of the complaint; and*
 - (d) such other particulars as may be prescribed in regulations made by the Minister.*
- (3) A complaint to the Commission under this section may be presented in person, or may be sent by registered post to the Chairperson of the Commission.*
- 35. (1) Subject to subsection (2) below, where a person makes a complaint to the Commission pursuant to section 34*
- (a) in good faith;*
 - (b) reasonably believing that the complaint made and any allegations contained in it, are substantially true, and in the circumstances it is reasonable for him or her to make the complaint, he or she shall not be liable to any form of reprisal or any suit whether civil or criminal.*
- (2) The provisions of subsection (1) shall not apply where it is shown that the complaint is frivolous or vexatious.*

Further, under the Act provision is also made for the protection of witnesses. Section 45, "protection of witnesses" states as follows:

45. No person giving evidence before the Commission shall be compelled to incriminate himself and every such person shall in respect of any evidence given by him before the Commission be entitled to all the privileges to which a witness giving evidence before the Supreme Court is entitled in respect of evidence given by him before such Court.

Section 48 of the Act states as follows:

48. (1) Any person who:

(a) willfully hinders or deters any person from attending, giving evidence or producing any article or document; or

(b) threatens, insults or causes any loss to be suffered by any person who has attended before the Commission, on account of such attendance; or

(c) threatens, insults or causes a loss to be suffered by any member of the Commission at any time on account of the performance of his duties as a member of the Commission; or

(d) publishes or otherwise discloses any material which the Commission had prohibited him from publishing or disclosing; or

(e) publishes or otherwise discloses any material received by the Commission in camera; or

(f) knowingly makes or publishes, whether to the Commission or otherwise, any false, frivolous or vexatious allegation or complaint that any person commits an offence under this Act;

Commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment not exceeding one year, or to both fine and imprisonment.

Criminal Code, Chapter 101

The Criminal Code, Chapter 101 (Title 16 - Sections 281 to 312) of the Laws of Belize also makes provision for crimes relates to public offices and to public elections. In respect of intimidation of persons, section 295 states as follows:

295. Every person who is guilty of corruption, intimidation or personation, in respect of a public election, shall be liable to imprisonment on indictment or otherwise for six months, and shall during seven years from the date of his conviction be incapable of voting at any public election and of holding the public office in respect of which the election was held, or any public office of the same nature.

308. A person is guilty of intimidation at a public election if he endeavours to influence the conduct of any voter in respect of such election by a threat of any evil consequence to be caused to him or to any other person on account of his conduct as such voter.

Income and Business Tax Act, Chapter 55

Section 93 of the Income and Business Tax Act speaks to the protection of agents for the purpose of detecting corruption.

93. (1) Notwithstanding any rule of law or practice to the contrary, it shall be lawful for the Commissioner to authorise any person to act as an agent for the purpose of detecting corruption or the evasion of income or business tax imposed by this Act or the commission of any other related offence, and the evidence of such a person shall be valid and effectual for all purposes and shall be receivable in all courts in Belize.

(2) Any such agent as aforesaid shall not be treated as an accomplice for the purpose of the law on corroboration.

(3) The fact that a crime has been induced by the activities of any such agent shall not be treated as a mitigating factor on sentence by any court.

Sales Tax Act, Chapter 63

Section 38 of the Sales Tax Act, Chapter 63 is in similar vein:

38. (1) Notwithstanding any rule of law or practice to the contrary, it shall be lawful for the Commissioner to authorise any person to act as agent for the purpose of detecting corruption or the evasion of tax or the commission of any other related offence, and the evidence of such a person shall be valid and effectual for all purposes and shall be receivable in all courts in Belize.

(2) An agent shall not be treated as an accomplice for the purpose of the law on corroboration.

(3) The fact that a crime has been induced by the activities of an agent shall not be treated as a mitigating factor on sentence by any court

See also, provisions in similar terms in the Customs Regulation Act, Chapter 49 (Section 117).

b. In relation to question a), state the objective results obtained, including any available statistical data.

No statistical data is available on the matter.

c. If no such laws and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen systems for protecting public servants and private citizens who, in good faith, report acts of corruption, in accordance with Article III (8) of the Convention.

NOT APPLICABLE.

CHAPTER THREE

ACTS OF CORRUPTION (ARTICLE VI OF THE CONVENTION)

1. Criminalization of acts of corruption provided for in Article VI (1) of the Convention

- a. Does your country criminalize the acts of corruption provided for in Article VI (1) of the Convention transcribed in this chapter of the questionnaire? If so, describe briefly the laws and/or measures regarding them, indicating to which of the particular aforesaid acts of corruption they refer, including sanctions, and attach a copy of them.

- Acts of corruption provided for in Article VI (1) of the Convention:

- i. The solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions.

ANSWER: YES.

Prevention of Corruption Act, Chapter 105 of the Substantive Laws of Belize, RE 2003⁵

Under the Prevention of Corruption Act, Chapter 105, provisions are made to criminalize actions by persons tending to corruptly solicit or receive from or corruptly give, promise or offer any consideration to a public official.

Section 3 of the Act deals with “corruption in office a misdemeanour” in the following terms:

3.-(1) Every person who by himself or by or in conjunction with any other person corruptly solicits or receives, or agrees to receive, for himself or for any other person, any gift, advantage or consideration whatever as an inducement to, or reward for, or otherwise on account of, any member, officer, or servant of the Government or of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the Government or the said public body is concerned, shall be guilty of a misdemeanour.

(2) Every person who, by himself, or by or in conjunction with any other person, corruptly gives, promises or offers any gift, advantage or consideration whatever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of the Government or of any public body doing or forbearing to do anything in respect of any matter or transaction whatever, actual or proposed, in

⁵ See Annex 1

which the Government or such public body as aforesaid is concerned, shall be guilty of a misdemeanour.

Any person who commits an offence in terms of section 3 shall on conviction on indictment (at the discretion of the court before which he is convicted):

(a) be liable to be imprisoned for a term not exceeding two years or to pay a fine not exceeding two thousand five hundred dollars, or to both such fine and term of imprisonment; and

(b) in addition, be liable to be ordered to pay to such body, and in such manner as the court directs, the amount or value of any gift or consideration received by him or any part thereof; and

(c) be liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction, and to forfeit any such office held by him at the time of his conviction; and

(d) in the event of a second conviction for a like offence, in addition to the foregoing penalties, be liable to be adjudged to be forever incapable of holding any public office, and to be incapable for seven years of being registered as an elector, or voting at an election of members of any public body; and

(e) if such person is an officer or servant in the employ of any public body, upon such conviction, at the discretion of the court, be liable to forfeit his right and claim to any compensation or pension to which he would otherwise have been entitled.

The Act also punishes corrupt transactions with agents (Section 5). Further, the Act provides for an increase of the maximum penalty in certain cases (Section 6). Under section 6, a person convicted on indictment of a misdemeanour, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with any Government Department or any public body, or a sub-contract to execute any work comprised in such a contract, shall be liable to imprisonment with hard labour for any term not exceeding seven years.

The Act also provides for the presumption of corruption in certain cases (Section 7). Section 7 states as follows:

Where, in any proceedings against a person for an offence under this Act, it is proved that any money, gift or other consideration has been paid or given to or received by a person in the employment of any Government Department or a public body by or from a person, or agent of a person, holding or seeking to obtain a contract from any Government Department or public body, the money, gift or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in this Act unless the contrary is proved.

Under section 8 of the Act, a person is not exempt from punishment by reason of the invalidity of the appointment or the election of a person to public office. By virtue of section 11, despite the fact that the purpose of a bribe is not carried out, the giver and acceptor of a bribe shall be guilty of the offence.

The Prevention of Corruption Act, 2007

The offence of corruption is created 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:

- (a) he 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;
- (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);
- (c) he offers or grants, directly or indirectly, to a public servant any article, money or other benefit being a gift, favour, promise or advantage to the public servant or another person, for doing any act or omitting to do any act in the performance of the public servant’s public functions;
- (d) he allows his private interest to conflict with his public duties or to improperly influence his conduct in the performance of his public duties;
- (e) he being a natural person or a corporation, either aggregate or sole, club, society or other body of one or more persons, offers or grants, directly or indirectly to a person performing a public function in a foreign State, any article or money or other benefit, being a gift, favour, promise or advantage in connection with any economic or commercial transaction for an act to be performed or omitted to be performed by that person in the performance of his public functions;

- (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 of or in the course of, the performance or 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;
- (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 an interest;
- (j) he or any other person, on his behalf, illegally acquires property or pecuniary resource disproportionate to his legitimate sources of income;
- (k) he instigates, aids, abets or is an accessory after the fact or participates in whatsoever manner in the commission or attempted commission of or conspires to commit any act of corruption referred to in paragraphs (a) to (k).

Additionally, under the new Prevention of Corruption Act, 2007, 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.

- i. the offering or granting, directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions.

ANSWER: YES.

Prevention of Corruption Act, 2007⁶

Under the 2007 Prevention of Corruption Act, section 22(1) states:

⁶ See Annex 2.

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 Part 1 of the Third Schedule, a person commits an act of corruption if:

(c) he offers or grants, directly or indirectly, to a public servant⁷ any article, money or other benefit being a gift, favour, promise or advantage to the public servant or another person, for doing any act or omitting to do any act in the performance of the public servant's public functions.

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 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.⁸

Excise Regulation Act, Chapter 53

Under section 83 of the Excise Regulation Act, it is stated as follows:

Any person who, in or with reference to any matter under this Act-

- (a) offers, gives or promises to give, directly or indirectly, any reward to any officer or person employed in the execution of this Act in respect of the performance or non-performance by any such officer or person of his duties; or
- (b) agrees with or proposes to any such officer or person to do or permit to be done anything in contravention or evasion of this Act or of his duty; or
- (c) being such an officer or person-
 - (i) receives, except as provided by section 88, any reward in respect of the performance or nonperformance of his duty or employment; or
 - (ii) by any wilful act, neglect or default, does or permits, or agrees to do or permit, anything in contravention or evasion of this Act or of his duty, is

⁷ "Public servant" includes the Governor General, members of the National Assembly, members of the Belize Advisory Council, members of the Public Services Commission, members of the Elections and Boundaries Commission, public officers, members and officers of statutory corporations and government agencies, and members and employees of all public bodies, including local authorities.

⁸ This provision applies to each of the corruption offences specified in Schedule Three, Part 1.

liable to a fine not exceeding five hundred dollars, or to imprisonment for a term not exceeding six months.

- ii. Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party.

ANSWER: YES.

Prevention of Corruption Act, 2007

Under the 2007 Prevention of Corruption Act, section 22(1) states:

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 Part 1 of the Third Schedule, a person commits an act of corruption if:

(a) he 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.

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 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.

- iii. The fraudulent use or concealment of property derived from any of the acts referred to in this article.

ANSWER: YES.

Prevention of Corruption Act, 2007

Under the 2007 Prevention of Corruption Act, section 22(1) states:

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 Part 1 of the Third Schedule, a person commits an act of corruption if:

(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).

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 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.

- iv. Participation as a principal, co-principal, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this article.

ANSWER: YES.

Prevention of Corruption Act, 2007

Under the 2007 Prevention of Corruption Act, section 22(1) states:

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 Part 1 of the Third Schedule, a person commits an act of corruption if:

(k) he instigates, aids, abets, or is an accessory after the fact or participates in whatsoever manner in the commission or attempted commission of or conspires to commit any act of corruption referred to in paragraphs (a) or (k).

Paragraphs (a) to (k) read as follows:

A person commits an act of corruption if:

(a) he 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.

(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).

(c) he offers or grants, directly or indirectly, to a public servant⁹ any article, money or other benefit being a gift, favour, promise or advantage to the public servant or another person, for doing any act or omitting to do any act in the performance of the public servant's public functions.

(d) he allows his private interest to conflict with his public duties or to improperly influence his conduct in the performance of his public duties.

(e) he being a natural person or a corporation, either aggregate or sole, club, society or other body of one or more persons, offers or grants, directly or indirectly to a person performing a public function in a foreign State, any article or money or other benefit, being a gift, favour, promise or advantage in connection with any economic or commercial transaction for an act to be performed or omitted to be performed by that person in the performance of his public functions.

(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 of or in the course of, the performance of his functions.

(g) he, for his own benefit or 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;

(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 an interest;

(j) he or any other person, on his behalf, illegally acquires property or pecuniary resource disproportionate to his legitimate sources of incomes;

(k) he instigates, aids, abets, or is an accessory after the fact or participates in whatsoever manner in the commission or attempted commission of or conspires to commit any act of corruption referred to in paragraphs (a) or (k).

⁹ "Public servant" includes the Governor General, members of the National Assembly, members of the Belize Advisory Council, members of the Public Services Commission, members of the Elections and Boundaries Commission, public officers, members and officers of statutory corporations and government agencies, and members and employees of all public bodies, including local authorities.

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 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.

- b. Briefly state the objective results that have been obtained in enforcing the above provisions, and provide the pertinent information available in your country on which those results are based, such as judicial proceedings undertaken and their outcome, referring, as far as possible, to the last five years.

The Prevention of Corruption Act, which repealed the Prevention of Corruption in Public Life Act, was enacted in 2007. As such, objective results as well as data on the objective results are still in the process of being obtained in the enforcement of the provisions of the Prevention of Corruption Act.

- c. If the aforementioned acts of corruption are not criminalized, what steps is your country taking to criminalize these acts.

ANSWER: NOT APPLICABLE (acts of corruption are criminalized)

2. Application of the Convention to acts of corruption not described therein, in accordance with Article VI (2)

- a. Has your State entered into any agreements with other States Parties to apply the Convention to any act of corruption not described therein, in accordance with Article VI (2)? If so, briefly describe the respective agreements or conventions and attach a copy of the related documents.

ANSWER: NOT APPLICABLE.

- b. If the above answer was in the affirmative, briefly state the objective results that have been obtained in the application of the respective agreements or conventions, and provide the pertinent information available in your country on which those results are based, such as judicial proceedings undertaken and their outcome, referring, as far as possible, to the last five years.

ANSWER: NOT APPLICABLE.

SECTION III

INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

(a) State Party: BELIZE

(b) The officials to be consulted regarding the responses to the questionnaire is:

	Ms. Pricilla Banner	Ms. Rondine Twist
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