

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

RESPONSE

OF THE REPUBLIC OF PANAMA

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

I. BRIEF DESCRIPTION OF THE PANAMANIAN LEGAL-INSTITUTIONAL SYSTEM

According to its constitutional order, as set out in the 1972 Constitution, amended by the Amendment Acts of 1978, the Constitutional Act of 1983, and the Legislative Acts of 1994, the Republic of Panama is the sovereign and independent state in which the Panamanian nation is organized. Its government is unitary, democratic, and representative (Article 1, Constitution).

Government power emanates exclusively from the Panamanian people, and is exercised by the state in keeping with what is established by the Constitution, through the Legislative, Executive, and Judicial branches, which act in limited and separate fashion, but in harmonious collaboration (Article 2, Constitution).

The Government of the Republic of Panama is a constitutional democracy developed under a presidentialist regime, where the President of the Republic, who directs the Executive, is both Head of State and Head of Government.

The function of issuing the laws necessary for carrying out the purposes and exercising the functions of the state declared in the Constitution is vested in the Legislative branch, constituted by a unilateral body called the Legislative Assembly. Its members, called legislators, are elected by party nomination and direct popular vote. The election of the legislators is proportional to the number of inhabitants of the corresponding electoral district, or Electoral Circuit, based on the political-administrative division of Districts of each of the nine provinces of the Republic and on the number of inhabitants of the indigenous districts. The legislators act in the interest of the nation and represent, in the Legislative Assembly, their respective political parties and the voters of their Electoral Circuit. At present there are 71 legislators, with two alternates each.

The Executive branch is made up of the President of the Republic and the Ministers of State, 13 in all, who are freely appointed and removed by the President, and whose portfolios are created by law. Among other functions, the Executive branch coordinates the work of the administration and the public establishments, oversees preservation of the public order, passes and enacts laws, obeys them and oversees specific compliance with them; enters into administrative contracts for the provision of services and execution of public works, directs foreign relations, decrees pardons for political crimes, reduces sentences, and grants parole to persons convicted of common crimes, and regulates the laws needed to better implement them, without in any case departing from their letter or spirit. The meeting of the President of the Republic with the two Vice-Presidents of the Republic and the Ministers of State is called the Cabinet Council, which has the functions assigned to it by the Constitution and the Laws.

The President of the Republic, his two Vice-Presidents, the legislators, the district mayors, and the members of the municipal councils, called council members (Concejales) or district representatives (Representantes de Corregimiento), and their respective alternates, are elected in general elections held on the same date every five years, for five-year terms. To guarantee the freedom, honesty, and efficiency of the popular vote there is an Electoral Tribunal, an autonomous organ with its own property and jurisdiction throughout the Republic, which has sole authority to interpret and apply electoral legislation.

The fundamental guarantees are recognized in the Constitution as part of the individual rights and duties of persons. The authorities of the Republic are instituted to protect the life, honor, and property of nationals wherever they may be and of foreigners under its jurisdiction; to ensure the effectiveness of individual and social rights and duties; and to comply with and enforce the Constitution and the Law (Article 17, Constitution).

Private individuals are only accountable to the authorities for infractions of constitutional or statutory provisions. Public servants are accountable for those same causes, and also for acting beyond the scope of their functions or for omission in the exercise of these (Article 18, Constitution).

Every person has the right to present respectful petitions and complaints to the public servants for reasons of social or private interest, and to obtain a prompt resolution. A public servant, in response to one who presents a petition, consultation, or complaint should resolve it within 30 days, or else face the sanctions indicated by Law (Article 41, Constitution).

The Panamanian legal system is a civil law system, as is predominant in Central and South America. The law is binding on both nationals and foreigners residing in or in transit in the territory of the Republic, and once they are enacted, ignorance does not excuse non-compliance. No law has retroactive effect unless it is a matter of public policy or social interest, and this is so stated, or is a criminal matter and benefits a convict (Article 43, Constitution).

The administration of justice is free, expeditious, and uninterrupted (Article 198, Constitution). It is mainly the responsibility of the Judicial branch, constituted by the Supreme Court of Justice and the Courts (Tribunales and Juzgados) established by law. Among the powers of the Supreme Court, special mention should be made of upholding the integrity of the Constitution, exercising the contentious-administrative jurisdiction, serving as a cassation court, and appointing the magistrates of the courts. The work of the Judiciary is closely related to that of the Public Ministry, which is constituted by the Attorney General of the Nation, the Procurator of the Administration, and the Prosecutors, Ombudspersons, and other officers established by law. The powers of the Public Ministry include defending the interests of the State or the Municipality; promoting compliance with or enforcement of the laws, judicial judgments, and administrative provisions; overseeing the official conduct of the public officials and ensuring that all properly perform their duties; prosecuting crimes and breaches of constitutional or statutory provisions; and serving as legal counsel to the administrative officials (Article 217, Constitution).

The oversight, regulation, and control of all acts involving management of funds and other public goods is entrusted to an independent state agency, the Office of the Comptroller General of the Republic (Article 275, Constitution). Among its functions are to examine, intervene in, and close out the accounts of public officials, entities, or individuals who administer, manage, or exercise custody over funds or other public goods; to perform inspections and undertake investigations aimed at determining whether the operations that affect public property are proper or improper; and, as the case may be, to present the respective complaints and judge the accounts of agents and employees involved in its management, when concerns arise over alleged irregularities (Article 276, Constitution).

II. CONTENTS OF THE QUESTIONNAIRE

CHAPTER ONE

MEASURES AND MECHANISMS REGARDING STANDARDS OF CONDUCT FOR THE CORRECT, HONORABLE, AND PROPER PERFORMANCE OF PUBLIC FUNCTIONS (ARTICLE III, SECTIONS 1 AND 2 OF THE CONVENTION)

1. Standards of conduct and mechanisms generally

A. Are there standards of conduct in your country for the correct, honorable, and proper performance of public functions? If so, briefly describe them and list and attach a copy of the related provisions and documents.

The Republic of Panama has a series of standards of conduct that develop the parameters for the correct, honorable, and proper performance of public functions. The Constitution of the Republic of Panama addresses such matters in Title XI on Public Servants, providing at Article 295 that they shall be governed by a merits system and stability in their posts, conditioned solely on their competence, loyalty, and morality in the service. In this regard, by Executive Decree No. 13 of January 24, 1991, the ethical principles for public servants were adopted. These principles include loyalty, vocation for service, probity, honesty, accountability, competence, effectiveness and efficiency, civic values, and transparency.

The Administrative Code, in its Book II (“Political and Municipal Regime”), Title VI, (“Public Administration”), and in particular Chapters I and VIII, sets forth general provisions that regulate the conduct of public servants, so as to guarantee the correct, honorable, and proper performance of public functions.

In addition, Law 9 of June 20, 1994, which establishes and regulates the career service in the public administration, which is regulated by Executive Decree 222 of September 12, 1997, develops the above-noted constitutional provision and enshrines, among other points, the principles that undergird that career service, and in particular the competence, loyalty, honesty, and morality of public servants, as well as the enhanced efficiency of public servants.

In developing the postulates of Law 9 of 1994, the Technical Board of the Administrative Career Service, through Resolution No. 3 of April 16, 1999, adopted the Code of Ethics for Public Servants. Similarly, with the adoption of Law 6 of January 22, 2002, “Issuing standards for Transparency in the Conduct of Public Affairs, Establishing the Habeas Data Action, and issuing other provisions,” and which is commonly known as the “Transparency Law,” the Codes of Ethics have been adopted for several public institutions, including the Inter-Oceanic Regional Authority (Board of Directors Resolution No. 078-02 of July 25, 2002); the Commission on Free Competition and Consumer Affairs (Resolution No. PC-317-02 of July 22, 2002); the National Securities Commission (Resolution No. CNV-259-02 of June 11, 2002); the Entity for the Regulation of Public Services (Resolution No. ADM-178 of July 5, 2002); the Electoral Tribunal (Resolution No. 15 of July 19, 2002); the Office of the Ombudsperson (Resolution No. 3 of July 19, 2002); the Municipality of Panama City (Decision No. 107-A of July 23, 2002); and the Panama Fire Department, Zone 1.

In addition, through Resolution No. 2 of January 7, 1999, the Technical Board on the Administrative Career Service adopted the “Model By-laws of the Public Sector Institutions.” The By-laws are the same for all central government institutions, and for the autonomous and semi-autonomous institutions subject

to the Administrative Career Service. Both the Ethics Code and the Model By-laws have been in force since December 11, 2000.

As regards the administration of justice, Article 447 of the Judicial Code establishes the ethical standards that are compulsory for officials of the Judicial branch and the Public Ministry. Attorneys, by law (Article 619 of the Judicial Code), are collaborators of the justice system, and as such as are subject to the Ethics Code of the profession.

Along these lines, the National Government is promoting the “National Integrity Plan,” in whose development and implementation representatives of both the public sector and civil society will be participating, with the support of the United Nations Development Program (UNDP).

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

The Republic of Panama has several means for ensuring effective compliance with these standards of conduct. The legal provisions governing careers in the civil service enshrined in Article 300 of the Constitution establish monitoring mechanisms so as to guarantee public servants’ adherence to the ethical principles that should govern their conduct. To this end, the By-laws of each institution set forth the procedures to be followed in case of an infraction or violation of the duties of public servants in their respective career.

In the eventuality that some institution has not adopted such means, Law 38 of July 31, 1998 (Articles 80 to 88), which is of general and supplementary application, regulates the investigative mechanisms and requires the application of the necessary corrective measures, including sanctioning such conduct, establishing the levels of seriousness and their correlate administrative sanction, as appropriate, or referral to the Public Ministry in the case of criminal violations. In any event, the administrative investigation must be completed within two (2) months. The provisions address not only corrupt acts per se, but also include conduct at odds with the proper performance of their functions, and which may affect the public service.

In tandem with these standards, Executive Decree 99 of September 13, 1999, creates one of the government offices with the greatest responsibility and competence in the area of corruption, which is called the National Anti-Corruption Office (Dirección Nacional Contra la Corrupción).

This Office has operated within the Ministry of Economy and Finance since September 16, 1999, and was instituted in the context of implementing the Inter-American Convention Against Corruption, and given the function, among others, of establishing modern mechanisms to prevent, detect, punish, and eradicate corrupt practices in the public administration of the Republic of Panama.

In addition, Article 448 of the Judicial Code provides for jurisdiction, procedure, and punishment in the case of infractions of judicial ethics.

In developing Articles 137 and 138 of Law 9 of 1994, on the career service in the public administration, the “Model By-laws for Public Sector Institutions,” at Article 95, Title VI, address the rights and duties of, and prohibitions on, public servants. Among the latter are those political in nature and conduct at odds with the interests of the institution. Title VIII of the Model refers to the disciplinary regime that public servants must follow in the case of infractions of the law, its regulations, and the by-laws of their institution.

Law 32 of November 8, 1984, the Organic Law on the Office of the Comptroller General of the Republic, assigns this state entity the function of overseeing, regulating, and controlling all acts that entail managing funds and other public goods, to ensure that such acts are performed properly and in compliance with the legal norms in force (Articles 11, sections 2 and 4, 29, 35, 36, 45, 48; and 55 sections F and G). The Standards of Government Audits for the Republic of Panama have been adopted to develop this law (Decree no. 247 of December 13, 1996), and the Standards for Internal Governmental Control for the Republic of Panama (Decree No. 214-DGA of October 8, 1999).

These latter standards are binding on all the institutions that are part of the public administration, including non-governmental organizations that have custody over or manage public funds. In addition, it has issued the Manual of Special Audits for the Determination of Responsibilities, which was adopted in 1996.

Cabinet Decree 36 of February 10, 1990, in force since February 20, 1990, creates the Office of Property-related Liability within the Office of the Comptroller General of the Republic. This Office is entrusted with deciding, through resolutions, on the property-related liability of state agents and employees in relation to managing public goods and funds.

The Government of the Republic of Panama has determined that the fight against corruption should have preventive mechanisms, such as examining the procedures and the performance and training of personnel. For this reason, the standards developed by the careers in the public function should consider evaluations of service rendered, and require that opportunities for professional training be offered (Articles 112 to 123, Law 9).

Law 7 of February 5, 1997, creating the Office of the Ombudsperson, at Article 4, sections 2 and 4, establishes among the powers of this state entity inquiring into acts, deeds, or omissions of the public administration that may have been performed in irregular fashion, and on the acts of the companies that provide public services.

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

The application of the standards of conduct and mechanisms for their enforcement to which we refer in this point have been satisfactory in the public sector. Nonetheless, the statistical information is dispersed in each of the institutions in which the public servants to whom they apply work.

2. Conflicts of interest

A. Are there standards of conduct in your country regarding conflicts of interest in the performance of public functions? If so, briefly describe them, indicating aspects such as to whom they apply and the concepts on which they are based, and list and attach a copy of the related provisions and documents.

The legal order of the Republic of Panama includes constitutional, statutory, and regulatory provisions that refer to conflicts of interest that may arise in the public function, which were in place even before the adoption of the Inter-American Convention Against Corruption. These conflicts include regimes of incompatibilities, impediments based on family relations, disqualifications, and prohibitions on public servants that impede them, disqualify them, or make them incompatible with the exercise of public functions, or keep them from becoming involved in a particular area or in a particular activity.

Following is a list of these, beginning with certain cases of high-level officials in the three branches of government:

1. Judicial Branch and Public Ministry:

- a. The prohibition on magistrates and principal judges holding any other public office, except for professor of law in universities (Article 205, CHA).
- b. The incompatibility of positions in the judiciary with any political participation, except voting in elections; with the practice of the law or commerce and with any paid position, except that of university professor indicated above (Article 209, Constitution). This prohibition is developed by Article 46 of the Judicial Code, including the Public Ministry, and extending incompatibility with the exercise of any other position or activity that is not paid, or that interferes with or is contrary to the public interests entrusted to the post.
- c. The prohibition on officials or employees of the Judicial branch from holding the posts of receivers, depositories of assets that are the subject of judicial or administrative procedures, or any other position whose appointment corresponds to the court or the parties in a proceeding (Article 48, CHA). The prohibitions include those of directing policy; of congratulating the parties for their acts related to official or private entities; participating in giving opinions, advice, or indications related to matters in controversy to private persons; appointing or contributing to the appointment of relatives for any judicial post or auxiliary post of the jurisdiction (Article 49, Judicial Code). In addition, there is a prohibition on running for or holding directing positions in the national bar association (Colegio Nacional de Abogados) while they are holding a judicial post, except for voting and participating in working committees not incompatible with the post (Article 12, Decision No. 46 of September 27, 1991).
- d. The impediment of being a relative, for subordinate employees of the Public Ministry (Article 345, Judicial Code).
- e. The prohibition on appointing relatives in Circuit Courts and Municipal Courts of the same Judicial District, as principals, subordinate or alternate officials, or family relations, with magistrates of the Superior Court or Superior Prosecutors (Article 53, Judicial Code). In addition, the prohibition on relatives being appointed to positions of Public Ministry agent, subordinate or alternate officials, in the same branch or in another of the respective Judicial District (Article 53(3), Judicial Code).
- f. The prohibition on holding more than one alternate post in the Judicial branch or in the Public Ministry (Article 54, Judicial Code).
- g. The grounds for impediments and recusal of magistrates and judges and agents of the Public Ministry (Articles 395, 760 to 763, Judicial Code), and of the magistrates and agents of the Public Ministry on hearing constitutional motions (Article 2571, Judicial Code).

2. Legislative Branch:

- a. The prohibition on principal legislators, and their alternates, when exercising the post, from accepting any remunerated public employment, except that of professor or the posts constitutionally established as exceptions (Article 150, Constitution).
- b. The prohibition on legislators from entering into contracts with the state or with institutions or enterprises linked to it, or from being authorized to handle transactions with the state, other than the exceptions provided for (Article 152, Constitution).

3. Executive Branch:

- a. The prohibition on being elected President that applies to any citizen who has held the presidency at any time during the three years immediately preceding the period for which the election is held; and on the relatives of the President who have performed his functions in the immediately preceding period, or on the citizen to whom the first prohibition applies (Article 187, CHA). Similar prohibitions are established for the Vice-Presidents (Article 188, Constitution).
- b. The prohibition that bars relatives within the fourth degree of consanguinity or the second degree of affinity of the President from being a Minister of State, or from being a member of the Cabinet Council (Article 192, Constitution).

4. Public Servants in general:

- a. The prohibition on public servants receiving two or more salaries paid by the State, or holding posts with simultaneous work days (Article 298, Constitution).
- b. The prohibition on public servants entering into lucrative contracts with the government entities or agencies where they work, on their own account or through third persons (Article 304, Constitution).
- c. The impediment prohibiting public servants, even when on leave or for any reason temporarily separated from their posts, from exercising judicial, administrative, or police powers, or from taking any initiatives in such matters, with exceptions as provided for in Article 621 of the Judicial Code.
- d. The national legislation provides for a series of limitations that impede the designation of public servants with degrees of relationship, and prohibits them from engaging in commerce and professional activities, by virtue of the functions they perform; these provisions include Law 29 of February 1, 1996, "By which provisions are issued on the defense of competition and other measures are adopted." (Articles 108 and 109)
- e. The prohibition on holding public posts that applies to persons with certain degrees of family relations with the authority that makes appointments in the same institution (Article 44 of Law 9, of July 20, 1994).
- f. The prohibitions on public servants in the area of public contracts, barring them from entering into contracts with the public entities in which they work, or participating the selection of contractors or entering into contracts with the state when they are involved in the preparation, evaluation, or awarding of the contract (Article 12 of Law 56 of December 27, 1995, "Regulating public contracts and issuing other provisions").
- g. The prohibition on public servants giving privileged treatment to administrative matters involving natural or juridical persons of their relatives, in contracts with the state or in applying for or operating administrative concessions, and on being suppliers of or contractors with the state (Law 9 of July 20, 1994).
- h. The prohibition on public employees exercising powers, managing or sponsoring, directly or indirectly, claims that clash with national or subnational interests, in keeping with Article 843 of the Administrative Code.
- i. Incompatibilities on holding popularly-elected posts applying to those who have been public servants, in the terms established by Articles 25 and 26, 181, 186, and 187 of the Electoral Code, and Article 131 of the Constitution.

5. Other institutions:

- A. Office of the Comptroller General of the Republic:
 - Incompatibilities of the members of the Office of the Comptroller General of the Republic. Article 79 of Law 32 of November 8, 1984.

B. Office of the Ombudsperson:

- Incompatibilities of the Ombudsperson (Article 13, Law 17 of February 5, 1997).

C. Electoral Tribunal and Office of the Electoral Prosecutor:

- Prohibitions and incompatibilities applicable to magistrates and judges of the Supreme Court of Justice, in Articles 205 and 209 of the Constitution; are applicable to the Magistrates of the Electoral Tribunal in keeping with Article 5 of Law 4 of February 10, 1978, Organic Law of the Electoral Tribunal and the Office of the Electoral Prosecutor.
- Prohibition on being an electoral official of the electoral organs applying to relatives, within the degrees provided for by law, of candidates and officials in the district in question, or candidates running for popular election (Article 126, Electoral Code).

D. Public Security Council:

- Prohibitions on the members of the Public Security and National Defense Council (Article 2, Executive Decree No. 98 of May 29, 1991; Article 16 of Cabinet Decree No. 38 of February 10, 1990).

E. Inter-Oceanic Regional Authority:

- Incompatibilities of the members of the Board of Directors, General Administrator, and all other executive officers (Article 10, Law 5 of February 25, 1993, "Creating the ARI and adopting measures on the reverted assets").
- Prohibition on the appointment of relatives of the General Administrator and the Deputy General Administrator, Vice-Presidents, or Ministers of State (Article 17, Law 5, as amended by Law 7).

F. Ministry of Interior and Justice, National Police, and Technical Judicial Police:

- Incompatibilities of the Director and Deputy Director of the National Police with the performance of any other public post or professional practice (Article 43, Law 18 of June 3, 1997); incompatibilities barring appointment as Director of the National Police of the relatives of high-level government officials, as indicated in Article 44 of Law 18 of 1997.
- Prohibitions on the members of the National Police, barring them from receiving more than one salary paid by the state, with statutory exceptions for teaching, among others, and on carrying out contracts with the state by oneself or through another person, or engaging in acts of commerce related to their functions, with statutory exceptions (Article 71, Law 18).
- Incompatibility whereby the members of the National Police cannot engage in politics, as they must act in an absolutely neutral manner (Article 110, Law 18; Article 14 of Executive Decree No. 204 of September 3, 1997; Article 15 of Cabinet Decree No. 38 of February 10, 1990, amended by Cabinet Decree No. 42 of February 17, 1990; Law 16 of July 9, 1991, Organic Law of the Technical Judicial Police).
- Incompatibility of the members of the National Police, directly or through other persons, on serving as directors, dignitaries, or shareholders of companies engaged in

imports, sales of arms, accessories, munitions, and non-lethal defensive articles, and on exercising legal representation (Article 4 of Decree No. 2 of January 1991).

G. Social Security Fund (CSS):

- Prohibition on any members of the Board of Directors of the CSS barring them from entering into contracts with the institution, and from engaging in business with it through third persons; prohibition on the directors and alternates barring them from seeking to have relatives employed in the institution; and from becoming involved individually in matters particular to the CSS; prohibition to prevent the Director General from appointing relatives to the Board of Directors, including those within the degree of relationship established by law (Articles 12-A, second paragraph; 18-A, second paragraph; and 20-A of Decree-Law 14 of August 27, 1954, Organic Law of the Social Security Fund, amended and expanded by Law 30 of December 26, 1991).

H. Notaries Public:

- Incompatibility of the post with any other post of the administrative and judicial branches, and with the practice of law, in keeping with Article 2121 of the Administrative Code.
- Prohibition on a given circuit having more Notaries with the degree of relationship established by law (Article 2127, Administrative Code).

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

The legislation of the Republic of Panama has mechanisms for enforcing compliance with those standards of conduct, including the following:

As regards the limitations and prohibitions on acceding to popularly-elected posts, Article 25 of the Electoral Code develops the constitutional language, providing for disqualification of any nomination that violates the prohibition indicated (Article 26 of the Electoral Code).

Article 60 of Law 56 of December 27, 1995, which regulates public contracting, punishes public acts and contracts signed in violation of the Constitution and statutory provisions by rendering them absolutely null and void.

The Judicial Code institutes the mechanism of recusal in those cases in which a judge or magistrate fails to declare himself or herself disqualified despite the existence of a conflict of interest in a case that comes before him or her. That provision also applies to judicial investigative agents (Articles 760 to 763 and 395, Judicial Code).

In addition, Articles 448 ff. of the Judicial Code establish the procedure for investigating and punishing violations of judicial ethics, of which special mention should be made of sections 10, 12, and 18, which are aimed at avoiding nepotism and favoritism in the selection of auxiliary personnel in the administration of justice (administrators and custodians); not allowing themselves to be influenced by partisan demands; and not allowing them to hold any private post that hinders or could hinder the sound performance of their judicial functions.

Chapter III (Corruption of Public Servants) of Title X (Offense Against the Public Administration) of the Criminal Code punishes public servants who for their own benefit or that of a third person delay or fail to

carry out an act attaching to their functions (Article 332 of the Constitution) and for the improper use of confidential information (Article 335 of the Constitution).

The By-laws of the public sector institutions and the regulations of the organic laws of the autonomous institutions establish administrative sanctions for conduct entailing conflicts of interest.

Law 32 of November 8, 1984, the Organic Law of the Office of the Comptroller General of the Republic, in force since November 20, 1984, recognizes that this entity has the function of overseeing, regulating, and controlling all acts involving the management of funds and other public goods, to ensure that such acts are carried out properly and in keeping with the provisions in force (Article 11, sections 2 and 4).

C. Briefly state the results that have been obtained in implementing the above provisions and mechanisms, attaching the pertinent statistical information, if available.

Given the different forms that conflicts of interest can take, and their administrative and judicial characteristics, there is no statistical data on this issue.

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

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

Panamanian law assigns all public servants, and in general persons who in one way or another exercise any degree of control, custody, or administration of public goods, responsibility for their integrity.

In this context, the Fiscal Code states at Article 10 that *“Those persons who are entrusted with the administration of national goods shall be accountable for their monetary value in the event of loss or harm caused by negligence or improper use of such goods, even when these have not been under the immediate care of the person responsible when the loss or harm occurred.”* No one is exempted from this responsibility, even if they allege they have acted under the orders of a superior; nonetheless, in such cases, the superior will be jointly and severally liable.

The Standards for Internal Governmental Control (Decree 214-DGA of October 14, 1999, of the Office of the Comptroller General of the Republic) develop the criteria for risk evaluation, control and monitoring activities, and especially financial administration, materials and supplies, information and technology, public works, and human resource management. Those standards are binding on all institutions that are part of the public administration, as well as the non-governmental organizations (NGOs) that have custody over public funds.

In this respect, Law 32 of 1984 authorizes the Office of the Comptroller General of the Republic to audit the use of public funds that have been provided to support non-governmental associations or entities. In this regard, there are also the Standards for Governmental Audits for the Republic of Panama (Decree No. 247 of December 13, 1996) and the Manual on Special Audits for the Determination of Liability, approved in 1996.

The laws governing career civil service set forth, among the obligations of all public servants, caring as a good father would for the public goods and valuables assigned to them, or whose custody or administration has been assigned to them (Article 137, section 12, of Law 9 of 1994).

This requirement is also contained in the Code of Ethics for Public Servants (Resolution No. 3 of the Technical Board of the Administrative Career Service of April 16, 1999). The by-laws of the public sector institutions establish provisions with respect to the adequate use of the resources allocated (Chapters I and II of Title VIII, of Resolution No. 2 of the Technical Board of the Administrative Career Service, of January 7, 1999).

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

The criminal law provisions described provide for sanctions that entail not only deprivation of liberty, but also fines, including fines defined by number of days of salary, and confiscation, as well as disqualifications for the performance of public functions.

In addition, the provisions in Title X of the Criminal Code, which has been amended and updated by Law 39 of June 19, 2001, "Amending and adding provisions of the Criminal Code and the Judicial Code, and issuing provisions for the prevention of corruption," make express reference to crimes against the public administration and against the state goods and property, and to the acts of corruption of public officials in the performance of their functions, and especially with respect to the different forms of embezzlement (*peculado*) (Articles 322-325, 327, and 328 of the Criminal Code).

Similarly, the Criminal Code addresses the crimes of embezzlement of goods (*malversación de bienes*) (Article 326), graft (*conculsi6n*) (Article 329), extortion (*exacci6n*) (Article 330), corruption of public servants (Articles 331-335), illicit enrichment (Article 335), influence-peddling (Articles 335-B), and frauds in auctions and public biddings (Articles 349 and 350).

Among the provisions setting forth sanctions is that contained in Article 326, which establishes the penalty of six months to one year imprisonment for public servants who give monies collected or goods entrusted to their administration a public function other than that for which they were earmarked; the penalty is aggravated in the event that such conduct has a detrimental impact on the public service or if personal gain is sought.

Furthermore, Articles 352 to 359 of the Judicial Code describe the powers of the Offices of the Superior Prosecutors (*Fiscalías Superiores Delegadas*) of the Office of the Attorney General of the Republic, currently called Office of Anti-Corruption Prosecutors (*Fiscalías Anticorrupci6n*), who have exclusive authority over investigations, at the national level, of offenses against the public administration.

The National Office of Special Investigations of the Office of the Comptroller General of the Republic (Resolution No. 204 of July 13, 1995) has among its functions that of receiving complaints on alleged irregularities in the management, care, administration, and use of funds and public goods; it should forward to the Office of Property-related Liability (DRP) those cases that correspond to it under Cabinet Decree No. 36 of February 10, 1990. Among the functions of the DRP are making determinations on property-related liability to the state of the agents and employees who manage and oversee public goods and funds, because of their performance, or any other person who has had access to those funds and has benefited improperly.

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

In Annex 2 we attach the statistics of the Office of the First and Second Prosecutors of the Office of the Attorney General (today Anti-Corruption Prosecutors) for offenses against the public administration, including cases of corruption.

The information corresponding to the Office of Property-related Liability is in the process of being collected, and will be forwarded in due course.

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

A. Are there standards of conduct in your country that establish measures and systems governing the requirement that public officials report appropriate authorities acts of corruption in public office of which they are aware? If so, briefly describe them, indicating aspects such as to whom they apply and if there are any exceptions, and list and attach a copy of the related provisions and documents.

The Republic of Panama has standards of conduct that establish measures and systems that require public servants to report to the competent authorities any acts of corruption in public office of which they become aware. In this regard, Article 342 of the Criminal Code and Article 2026 of the Judicial Code require that public officials report to the competent authorities acts that are punishable or subject to prosecution at the state's initiative that come to their attention because of the performance of their functions.

To cite one example, customs offenses that can be prosecuted at the state's initiative, and that any person may report. Public officials who in the performance of their functions learn of such offenses have the obligation to report them, or they will be considered accomplices, and will face the corresponding principal and accessory penalties; with the complaint they will receive an award or prize from the General Bureau of Customs of the Ministry of Economy and Finance (Articles 33 and 34 of Law 30 of November 8, 1984).

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

The legislation of the Republic of Panama provides at Article 342 of the Criminal Code a penalty of 25 to 100 days fine for public officials who breach this obligation.

C. Briefly state the results that have been obtained with the implementation of the above standards and mechanisms, attaching the pertinent statistical information, if available.

The statistical records kept by the Public Ministry and the Judicial branch with respect to offenses against the public administration do not identify which correspond to the duty of public servants to report punishable acts that may constitute acts of corruption, accordingly, there is no data in this regard.

CHAPTER TWO

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

A. Are there regulations in your country establishing methods for registering the income, assets and liabilities of those who perform public functions in certain posts as specified by law and, where appropriate, for making such disclosures public? If so, briefly describe them, indicating aspects such as to whom they apply and when the declaration must be presented, the content of the declaration, and how the information given is verified, accessed, and used. List and attach a copy of the related provisions and documents.

With respect to the system for registering income, assets and liabilities by persons who perform public functions, Article 229 of the Constitution of the Republic of Panama, which sets forth the Basic Principles for Personnel Management (Title XI, "Public Servants," Chapter 2), establishes the obligation of certain public servants to "submit at the beginning and end of their work as a public servant a sworn statement of their net worth." This provision, effective immediately since the Constitution came into force with the Constitutional Act of 1983, has been regulated by Law 59 of December 29, 1999.

The public servants who have the express duty of submitting sworn statements in keeping with said constitutional provision and Law 59 are the President and Vice-Presidents of the Republic, the magistrates of the Supreme Court of Justice, and of the regular and special courts, the Attorney General and the Procurator for the Administration, the judges, the ministers and vice-ministers of state, the Comptroller General and Deputy Comptroller General, the President of the Legislative Assembly, the Rectors and Vice-Rectors of the public universities, the directors general, managers, and chiefs of autonomous entities, the national and provincial directors of the police, the Ombudsperson, and in general all employees and agents who manage resources, as per the Fiscal Code.

The submission of the sworn statement on net worth should be made before a Notary Public, which has no cost, and must be set forth in an official public document (*escritura pública*).

One has ten working days to make that submission, counted from the date one has assumed or left the post, as the case may be (Article 1, Law 59).

The sworn statement on net worth incorporates the complete name of the person making the declaration, his or her national identification card number, home address, sources of income over the last two fiscal years, both local and international; the name of the bank or other financial institutions in which he or she has current account, savings, or term deposits; the name of the any foundations, associations, or non-profit organizations of which he or she is a member, director, or associate; the number, class, and value of shares or equity quotas in corporations or partnerships, cooperatives, and civil or commercial contracts for the provision of work (*cuentas en participación*); assets, both movables and real property, securities, commercial paper, order, nominal, or bearer, that are the property, in full or in part, of the declarant, and any accounts payable to banking or financial institutions and to natural or juridical persons of any type (Article 2, Law 59).

Public servants who make such declarations must send a certified copy of their declaration to the Office of the Comptroller General of the Republic. The Minister of Economy and Finance and the judicial authorities may request of the respective Notary a certified copy of the declaration of the civil servant in question, for the pertinent legal purposes (Article 3, Law 59).

A public servant required to present a sworn statement of his or her net worth who breaches this obligation shall have payment of his or her remuneration suspended until such time as he or she submits it.

When the breach occurs at the conclusion of his or her service, it will be sanctioned by the imposition of a fine by the Office of the Comptroller General, without prejudice to any possible criminal liability (Article 4, Law 59).

The criteria for assessing the sworn statement include the contents of the statement, the sum of the assets compared to the income and regular expenses, the acts that reveal the lack of probity in the performance of the position, and the economic advantages derived from contracts or other acts of financial or administrative management, all within the framework of the applicable standards of conduct.

To verify the information declared, the Office of the Comptroller General investigates, on its own initiative, or when a complaint is lodged, to determine whether there was unjustified enrichment; if it is found, it forwards the pertinent documentation to the Office of the Attorney General for a criminal investigation.

The official public document that incorporates the sworn statement should be kept available and may be seen by order of the competent authority.

B. Briefly state the results that have been obtained in implementing the above standards, attaching the pertinent statistical information, if available.

As of Law 59 of December 29, 1999, 534 officials have submitted sworn statements on their net worth.

CHAPTER THREE

OVERSIGHT BODIES

A. Are there oversight bodies charged with the responsibility of ensuring compliance with the provisions stated in Article III (1), (2), (4), and 11 of the Convention? If so, list and briefly describe their functions and characteristics, and attach a copy of the related provisions and documents.

The Office of the Comptroller General of the Republic, according to Articles 275 and 276 of the Constitution, is entrusted, among other functions, with overseeing, regulating, and controlling the acts involving the management of funds and carrying out investigations and inspections to determine whether operations that affect public property are proper or improper.

The Public Ministry, by mandate of Article 217 of the Constitution, is to oversee the official conduct of public officials and see to it that they all perform their duties properly; this power is assigned to the Office of the Procurator for the Administration, according to Article 6 of Law 38 of July 31, 2000. In addition, the Public Ministry should investigate conduct that may entail a violation of the criminal law, the sanctions for which are determined by the Judiciary.

By Law 6 of January 22, 2002, which issues the standards for transparency in the conduct of public affairs, it was ordered that the ethics codes compiled by the Office of the Ombudsperson apply to all state agencies and offices.

To prevent and detect practices of corruption, the Office of Oversight (Dirección de Fiscalización) was strengthened by the mechanism of prior control, and the General Office of Audits of the Office of the Comptroller General. In addition, the Office of Special Investigations was created so that citizens would have easy access to make their complaints of irregularities committed using state funds and property, thereby shoring up the Office of Property-related Liability of the Office of the Comptroller General.

The Office of the Ombudsperson: Law 7 of February 5, 1997, at Article 4, sections 2 and 4, establishes among the powers of this state entity inquiring into acts, deeds, or omissions of the public administration that may have been performed irregularly, and the acts of companies that provide public services.

Another novel practice is the implementation of a pilot plan for government procurement through the government institutions' web sites, so that bidders can have direct access to participation in procurement, locally and internationally; the respective draft law is being prepared, to amend the Law on Public Contracts.

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

Given the many powers assigned to the institutions that serve as oversight bodies, there is to up-to-date information that covers all of them.

As regards the obligation contained in section 11 of Article III, and considering that Law 6 of 2002 entered into force in January of this year, there is not yet complete statistical data. That provision requires the submission of information in the annual reports of each institution, therefore the data will be available beginning next year.

CHAPTER FOUR

PARTICIPATION OF CIVIL SOCIETY (ARTICLE III, SECTION 11)

1. General questions of the mechanisms for participation

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

The Government of Panama understands that fighting corruption requires active citizen participation. To that end, the Constitution of the Republic and the national legislation have developed legal instruments to facilitate access of the various components of civil society to the management of public resources, encouraging their critical stance, and making it a participant in and overseer of the decisions of the government organs.

Such participation has a dual character. On the one hand are the norms that make it possible for citizens to gain access to information on the performance of public action, which is a development of the right of petition enshrined in Article 41 of the Constitution; on the other hand, there is wide-ranging legislation that facilitates the participation of civil society in the decisions that may affect it.

In this context, Chapter VII (“Citizen Participation in Administrative Decisions and its Modalities”) of Law 6 of January 22, 2002, “Issuing standards for transparency in the conduct of public affairs, establishing the Habeas Data action, and issuing other provisions,” provides that “*the institutions of the state nationally and locally shall have the obligation of allowing for the participation of the citizens in all acts of the public administration that may affect the interests and rights of groups of citizens, through the modalities of citizen participation.... These acts are, among others, those relating to the construction of infrastructure, rates of valuation, zoning, and setting rate schedules and fees for services.*” In this way, Executive Decree No. 124 of May 21, 2002, “Regulating Law 6 of January 22, 2002,” refers at its Article 15 to the notice that must be published prior to entering into any of the administrative acts subject to citizen participation.

Articles 18 to 21 of Law 41 of July 21, 1998, “General Law on the Environment of the Republic of Panama,” establishes “Consultative Commissions” at the national, provincial, special district, and district levels with the participation of civil society in decision making, analyzing the issues, recommendations, and observations with respect to important environmental decisions.

Law 26 of January 29, 1996, “Creating the Entity for Regulating Public Services,” at its Article 19, section 18, provides that the powers of the Entity include organizing the public hearings established in

each of the sectoral laws, or as the Entity itself deems necessary for the control and oversight of the public services.

In this regard, by Resolution No. JD-3233 of March 5, 2002, the procedure of public hearing was approved for modifying the rate schedule regime of the public electricity service.

The By-laws of the Legislative Assembly recognize citizen participation when establishing that the Assembly debates recognize the right to voice for “*those persons who are summonsed or required to appear and those who are granted this right by the plenary.*” It is also established that the Presidents of the Provincial Councils “*shall have the right to voice when bills introduced by them are considered.*” Nonetheless, there is no norm that allows for broader participation of citizens in the debates on laws generally.

Civil society in Panama is represented in the struggle against corruption by non-governmental organizations (NGOs), such as the Fundación para el Desarrollo de la Libertad Ciudadana, which is the Panamanian chapter of Transparency International (TI), the Justice and Peace Commission of the Catholic Church, the Frente Nacional contra la Corrupción, and Periodistas Frente a la Corrupción (PFC), among whose main objectives are fostering the participation of citizens in building a genuinely democratic society free of corruption, with the objective of consolidating the rule of law and the proper public administration in Panama.

One of the projects carried out by the Fundación para el Desarrollo de la Libertad Ciudadana - Panamanian chapter of Transparency International (TI) was to monitor the process of privatizing 49% of the shares of the state phone company, INTEL, S.A., from September 1996 to May 1997, with the participation of its members on the Board of Directors of INTEL, S.A., and access to all the information on public bidding, publishing weekly reports in the media on the issue, thereby increasing the transparency of that public transaction.

The press in Panama is a palpable expression of the exercise of the constitution right of freedom of expression (Article 37, Constitution). In this connection, Law 67 of September 19, 1978, which regulates journalism in Panama, enshrines in its Article 22 the right to freedom of access to information, and the obligation, except for special cases, of the state and private persons to provide all available information. This is without prejudice to the provision in Law 6 of January 22, 2002, called “Transparency Law,” in conjunction with what is established in Law 39 of July 19, 2002, “Amending and adding provisions to the Criminal Code and the Judicial Code, and issuing standards for the prevention of corruption” in Chapter IV, “Standards for Information on the Conduct of Public Affairs.”

In this respect, by Decree No. 7 of January 22, 2002, the President of the Republic designated a Presidential Commission to Fight Corruption, made up of key members of civil society, in order to make a diagnosis of the legal and institutional shortcomings that might give rise to acts of corruption. The results of the investigation and the recommendations of that Commission, given their breadth, are presently undergoing legal evaluations in each of the institutions involved.

The Office of Special Investigations of the Office of the Comptroller General has a “citizen complaint” phone line for reporting alleged irregularities in the management, care, administration, and use of public funds. The National Office against Corruption of the Ministry of Economy and Finance also receives complaints of alleged acts of corruption.

In order to incorporate the citizenry into the efforts to prevent corruption, the installation of web sites at the various institutions and media has been encouraged so that citizens can send in complaints by email.

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

As a result of the work assigned by the national government to the Presidential Commission to Fight Corruption, a final report was issued with the recommendations of this group of representatives of civil society, suggesting institutional, constitutional, and statutory changes to eradicate situations that could give rise to acts of corruption.

2. Mechanisms for access to information

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

Law 6 of January 22, 2002, enshrines transparency in the conduct of public affairs and the right of every person to request, without needing to justify it, information accessible to the public controlled by public institutions or of which they have knowledge; this obligation extends to those private companies that provide public services on an exclusive basis, which are required to provide them to the users of the service.

Furthermore, Law 38 of July 31, 2000, at Articles 74 to 88, establishes the parameters for processing administrative consultations, allegations, and complaints, the last two without major formal requirements, and the investigation of which should be undertaken within two (2) months, so as to determine their merit, and to adopt the appropriate sanction, or refer them to the appropriate judicial entity.

By Law 39 of July 19, 2001, at Chapter IV, Standards on Information in the Conduct of Public Affairs, guaranteeing access, protection, and support for the communications media and the citizens in general to the activities of the public and private entities that perform public functions or administer state resources, with the exception of cases where information must be kept confidential by law. It also provides for the offense of breach of the duty of public servants for hindering, delaying, or denying documents without justification where the submission has been made lawfully (Article 338, Criminal Code).

Chapter III of Law 56 of December 27, 1995, on addressing the Principles of Public Contracting, guarantees access to all bidders of the files, reports, and records in general referring to the public act in which they are involved, and to statistics and research centers that include the Office of the Comptroller General of the Republic, the ministries, autonomous and semi-autonomous institutions, and the universities in Panama. That Chapter is regulated by Executive Decree 19 of January 25, 1996.

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

In the wake of the recent implementation of Law 6 of January 22, 2002, documentation is being compiled on the number of requests for information resolved and denied that have been submitted to the various public institutions, since, in keeping with Article 26 of that Law, it will be incorporated into the annual reports that must be submitted by all the institutions of the Legislative branch.

3. Mechanisms for consultation

- A. Are there mechanisms in your country for those who perform public functions to consult civil society and non-governmental organizations on matters within their sphere of competence that can be used for the purposes of preventing, detecting, punishing, and eradicating public corruption? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

Law 6 of January 22, 2002, mentioned above, at Chapter VII, requires that state institutions, at the national and local levels, have the obligation to allow for citizen participation in all acts of public administration that may affect the interests and rights of groups of citizens, setting forth four modalities of citizen participation, without detriment to others that exist in special laws: public consultation, public hearings, forums or workshops, and direct participation in institutional mechanisms. These instruments facilitate citizen access to the issues that affect them, and gives them the instruments for overseeing the work of the administration.

Special laws such as the General Law on the Environment and the Law Creating the Entity Regulating Public Services require holding public hearings on the issues of their competence.

- B. Briefly state the results obtained in implementing the foregoing mechanisms, attaching the pertinent statistical information, if any.**

As described above, with the approval of Law 6 of January 22, 2002, there is an obligation on public institutions to incorporate to the annual reports they present to the Legislative branch a list of the issues subject to citizen participation, with a report of observations and the decisions finally adopted; accordingly, at the end of this year complete statistical data should be available.

4. Mechanisms to encourage active participation in public administration

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

As has been indicated, the above-mentioned Law 6 of January 22, 2002, offers the means for accessing information on the public administration and fosters the active participation of civil society in decision-making on decisions that affect it. In addition, roundtables for dialogue have been established on the issues of economic recovery and education that have concluded in the adoption of national legislation.

The national government has adopted, as a state policy, fighting corruption, and, in conjunction with civil society, an effort has been undertaken to determine the causes that may lead to corruption (Presidential Commission), while the Legislative Assembly has mechanisms for citizen participation for adopting legislation.

- B. Briefly state the results obtained in implementing the above mechanisms, attaching the pertinent statistical information, if any.**

As a result of civil society participation, laws have been drafted aimed at fighting corruption, as is the case of Law 39 of July 19, 2001, which amends and adds provisions to the Criminal Code and the Judicial

Code, and issues provisions for the prevention of corruption, and Law 6 of January 22, 2002 (Transparency Law).

The National Government recently announced a National Integrity Plan, which will include the participation of the political parties and representative actors of civil society.

5. Participation mechanisms for monitoring the public administration

A. Are there mechanisms in your country that enable civil society and non-governmental organizations to participate in monitoring the public administration for the purposes of preventing, detecting, punishing, and eradicating acts of public corruption? If so, briefly describe them, and list and attach a copy of the related provisions and documents.

One of the modalities of citizen participation established by Article 25 of Law 6 of 2002 is direct participation in institutional mechanisms, whereby citizens or the representatives of social organizations participate directly in making specific decisions.

It should be noted that a large number of autonomous and semi-autonomous entities include on their boards of directors representatives of civil society in general or representative members of groups closely tied to the particular activities of each institution. The first include the boards of directors of the Inter-Oceanic Regional Authority and the Panama Canal Authority.

As examples, among the autonomous and semi-autonomous entities that maintain a representation on their boards of directors related to their activities are the Social Security Fund, which has representatives of employees covered and employers, the Panamanian Autonomous Cooperative Institute, which has three (3) representatives of federations of cooperatives, and the Colón Free Trade Zone, which has representatives of users of the Free Trade Zone on its board of directors.

The boards of directors are able to recommend the removal of the administrators, managers, or directors of the entities they direct, in addition to authorizing contracts, expenditures, and the budgets of their respective entities.

Recently the national government, in partnership with representative groups of civil society (professional associations, trade unions, and business associations) and the political parties held a National Dialogue for Economic Recovery. As a result of this dialogue, Law 120 of May 7, 2002 was adopted; it provides for the use of part of the Trust Fund for Development in investment works, authorizes the use of assets under the administration of the Inter-Oceanic Regional Authority, and establishes ceilings on indebtedness, which actively involved the social actors in the planning and development of public policies on economic matters. In developing the spirit of that dialogue, the Commission for Monitoring the Accords of the National Dialogue for Economic Recovery was established by Executive Decree 69 of June 19, 2002.

Following the principle of the active participation of civil society in the search for solutions to problems that affect society, a National Dialogue for Education was held; the projects discussed there were submitted to the Legislative Assembly. This dialogue included the participation of parents, students, trade unionists, peasants, trade unions, teachers, the national government, and the political parties. Similarly, a dialogue is being held by the Social Security Fund to seek financial alternatives for strengthening the institution.

B. Briefly state the results that have been obtained in implementing the above mechanisms, attaching the pertinent statistical information, if available.

Information on the mechanisms of citizen participation is now being collected, both in the framework of the Law of January 2, 2002, and in the special laws, due to the breadth of the requirements of the Transparency Law. The Law requires the use of instruments of citizen participation at all levels of the public administration, not only in the central government, but also in the municipal and local governments and in the autonomous and semi-autonomous institutions.

CHAPTER FIVE

ASSISTANCE AND COOPERATION (ARTICLE XIV)

1. Mutual Assistance

- A. Briefly describe your country's legal framework, if any, that establishes mechanisms of mutual assistance in processing from the authorities of the other states parties which, in keeping with their domestic law, have powers to investigate or prosecute acts of public corruption, for the purposes of obtaining evidence and performing other acts necessary to facilitate the proceedings referring to the investigation or prosecution of acts of corruption. List and attach a copy of the provisions that contain such mechanism.**

Law 39 of July 9, 2001 establishes in its Article 30 that “for the purposes of international assistance and cooperation provided for in the framework of the Inter-American Convention Against Corruption, the Fourth Chamber for General Transactions of the Supreme Court of Justice is designated as the central authority; it shall have responsibility for formulating, receiving, processing, and forwarding requests for international assistance and cooperation.”

The Republic of Panama, in the effort to build ties of cooperation for fighting crime, has signed Mutual Legal Assistance Treaties (MLAT) with several countries, as well as other legal instruments, to wit: MLAT with the United States of America (Law 20 of July 22, 1991), MLAT with Central America (multilateral) (“Treaty on Mutual Legal Assistance in Criminal Matters among the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama,” Law 39 of July 13, 1995), MLAT with Colombia (“Agreement on Mutual Legal Assistance and Judicial Cooperation,” Law 42 of July 14, 1995); Additional Protocol to the 1994 Agreement, MLAT with the United Kingdom of Great Britain and Northern Ireland (Law 11 of July 7, 1994), MLAT with Spain (Law 7 of May 3, 1999), MLAT with Mexico (“Treaty on Mutual Legal Assistance on Criminal Matters”) (Law 40 of June 30, 1998), and the “Inter-American Convention on Mutual Assistance in Criminal Matters” (Nassau, Bahamas, May 23, 1992) (Law 52 of October 17, 2001) (Canada, United States, Grenada, Peru, Panama, and Venezuela). With respect to this last treaty, the Republic of Panama made the following reservation: “With regard to the first paragraph of Article 5, the Republic of Panama declares that it is not obliged to render assistance when the acts that give rise to it do not constitute crimes in the Republic of Panama, and the rendering of said assistance violates legal provisions in force in the Republic of Panama.”

In furtherance of those commitments, the Office for the Implementation of the Mutual Legal Assistance Treaty was established by Resolution No. 1446 of September 13, 1991, amended by Resolution No. 94 of April 12, 1995.

Furthermore, as regards asset laundering, Laws 41 and 42 of 2002 were adopted, defining the crime of asset laundering, including assets stemming from acts of corruption, whose analysis and investigation is a responsibility of the Financial Analysis Unit, under the Office of the Presidency, which refers the cases to the Public Ministry; the signatory countries are to seek reciprocal cooperation and assistance before this latter entity.

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

Some states parties have sought international judicial assistance from the Republic of Panama under this Convention. Nonetheless, such international judicial assistance can only be provided in those cases in which it can be shown that it does not run against the public policy of the state. In this regard, the Republic of Peru has issued four requests, of which two have been declared partially viable and two have been declared not viable by the Fourth Chamber of the Supreme Court of Justice of the Republic of Panama. Similarly, Ecuador and Costa Rica have presented two requests that have been declared not viable and partially viable, respectively.

In the framework of the Convention, the Office of the Attorney General has initiated the process vis-a-vis one state party, seeking the extradition of a former officer of an official bank, who has been convicted of crimes against the public administration.

Furthermore, the Government of the Republic of Panama has had exchanges of mutual legal assistance based on the various MLATs with four countries (Colombia, Mexico, Nicaragua, and Spain). It has made five requests for mutual legal assistance in this area in the last two years; one has been answered and the other four are still pending; none has been denied. In this same period, the Government of Panama has received nine requests for mutual legal assistance, seven of which have been answered while two remain pending. None of these requests has been denied.

The time the requests take to be answered has usually depended on the authority or entity in charge of performing the procedures requested. In Panama, the requests are forwarded to the competent authority within three working days, which is approximately the same time needed to send them back to the requesting countries once the procedures have been performed.

As for the requests that we have made to other states, the response time will vary depending on the government system (unitary or federal), the organization and structure of the respective authority or entity, and its internal procedures. Nonetheless, several treaties provide that if it is needed that the procedures be carried out within a specific time, this should be spelled out in the request, and the requested state will do everything in its power to respond in that period.

2. Mutual technical cooperation

- A. Does your country have mechanisms to permit the widest measure of mutual technical cooperation with other states parties regarding the most effective ways and means of preventing, detecting, investigating, and punishing acts of public corruption, including the exchange of experiences by way of agreements and meetings between competent bodies and institutions, and the sharing of knowledge on methods and procedures for citizen participation in the fight against corruption? If so, briefly describe them.**

As has been explained above, the Fourth Chamber for General Transactions of the Supreme Court of Justice is the entity entrusted with international technical cooperation for the matters contained in the Convention.

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

No such requests have been made or received.

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

No technical cooperation projects or programs have been carried out on the aspects referred to in the Convention.

CHAPTER SIX

CENTRAL AUTHORITIES (ARTICLE XVIII)

1. Designation of central authorities

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

By Article 30 of Law 39 of July 19, 2001, the Fourth Chamber for General Transactions of the Supreme Court of Justice was so designated.

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

As provided for in Article 30 of Law 39 of July 19, 2001, the Fourth Chamber for General Transactions of the Supreme Court of Justice was so designated.

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

Supreme Court of Justice
President of the Supreme Court
Adán Arnulfo Arjona
Tel: 212-0587, 262-1469 (ext. 298)

2. Operation of central authorities

- A. Does the central authority have the necessary resources to enable it to properly make and receive requests for assistance and cooperation under the Convention? If so, briefly describe them.**

The Judicial branch has the resources needed to provide the international mutual assistance described in the Convention.

B. Has the central authority, since its designation, made or received requests for assistance and cooperation under the Convention? If so, indicate the results obtained, whether there were obstacles or difficulties in handling the requests, and how this problem could be solved.

Some states parties have requested international judicial assistance from the Republic of Panama under this Convention. Nonetheless, such international judicial assistance can only be provided in those cases in which it can be shown that it does not violate the public policy of the state. In this regard, the Republic of Peru has issued four requests, of which two have been declared partially viable and two have been declared not viable by the Fourth Chamber of the Supreme Court of Justice of the Republic of Panama. Similarly, Ecuador and Costa Rica have presented two requests that have been declared not viable and partially viable, respectively.

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

Please fill in the following information:

- (a) State Party: **Republic of Panama**
(b) The official who can be consulted on the responses given in this questionnaire is:
Ms. Martha Patricia de Gonzalez
(c) Title/position: **Secretary General**
(d) Agency/office: **Ministry of Economy and Finance**

Postal address:

**Ministerio de Economía y Finanzas
Apartado Postal 2394 Zona 3
Panamá
Republic of Panama**

Telephone number: **(507) 269-2061**
Fax number: **(507) 269-3596**
Email: mdegonzalez@mef.gob.pa

ATTACHMENTS

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

- ATTACHMENT 1) Political Constitution of the Republic of Panama (Articles 2, 17, 18, 37, 41, 43, 98, 131, 150, 152, 192, 205, 209, 217, 275, 276, 295, 298, 300 and 304).
- ATTACHMENT 2) Criminal Code (Articles 322, 349 and 350)
- ATTACHMENT 3) Law 39 of July 19, 2001, amending and adding provisions to the Criminal Code and the Judicial Code and issuing standards for the prevention of corruption.
- ATTACHMENT 4) Agreement 46 of September 27, 1991, of the Supreme Court Justice.
- ATTACHMENT 5) Resolution ADM-178 of July 5, 2002, of the Public Services Regulator.
- ATTACHMENT 6) Article 10 of the Fiscal Code.
- ATTACHMENT 7) Administrative Code (Book II, Title VI, Chapter I and VIII, and Articles 2121 and 2127).
- ATTACHMENT 8) Judicial Code (Articles 46, 48, 49, 53, 54, 150, 152, 187, 188, 226, 345, 395, 447, 448 and following, 619, 621, 760 to 763, 2026 and 2571).
- ATTACHMENT 9) Elections Code (Articles 25, 26, 126, 181, 186 and 187).
- ATTACHMENT 10) Cabinet Decree 36 of February 10, 1990, creating the Financial Liability Directorate within the Comptroller General's Office of the Ministry of Government and Justice.
- ATTACHMENT 11) Executive decree 204 of September 3, 1997, issuing disciplinary regulations for the National Police of the Ministry of Government and Justice.
- ATTACHMENT 12) Executive decree 69 of June 19, 2002, designating the Commission for Follow-up to the Agreements of the National Dialogue for Economic Reactivation.
- ATTACHMENT 13) Executive Decree 7 of January 22, 2002 designating the Presidential Commission to Combat Corruption.
- ATTACHMENT 14) Decree 214-DGA of October 8, 1999 of the Comptroller General's Office, Issuing Standards of Internal Governmental Control for the Republic of Panama.

- ATTACHMENT 15) Decree 247 of December 13, 1996, of the Comptroller General's Office (Government Audit Standards for the Republic of Panama).
- ATTACHMENT 16) Cabinet Decree 38 of February 10, 1990, organizing the police forces.
- ATTACHMENT 17) Executive Decree 13 of September 1999, creating the National Anticorruption Directorate.
- ATTACHMENT 18) Decree 15 of July 19, 2002, of the Elections Tribunal, establishing the Code of Ethics for the Elections Tribunal.
- ATTACHMENT 19) Resolution 3 of July 19, 2002, approving the code of ethics for public servants of the Ombudsman's Office.
- ATTACHMENT 20) Bylaw 107-A of July 23, 2002, adopting the code of ethics for municipal public servants.
- ATTACHMENT 21) Law 16 of July 9, 1991, approving the Act creating the Judicial Technical Police within the Public Ministry.
- ATTACHMENT 22) Cabinet Decree 42 of February 17, 1990, reforming and supplementing Cabinet Decree 38 of February 10, 1990.
- ATTACHMENT 23) Executive Decree 19 of January 25, 1996, issuing regulations to Article 16 of Chapter III of Law 56 of December 27, 1995, establishing the principle of transparency in public procurement.
- ATTACHMENT 24) Executive decree 98 of May 29, 1991, implementing Article 16 of Cabinet Decree 38 of February 10, 1990.
- ATTACHMENT 25) Executive Decree 124 of May 21, 2002, issuing regulations to Law 6 of January 22, 2002.
- ATTACHMENT 26) Decree 90-LEG of April 9, 2002, of the Comptroller General's Office, amending the decree of January 25, 2002, and issuing a single text of model instruments of surety to be constituted to guarantee the fulfillment of obligations contracted with public entities and corporations or bodies in which the State holds economic participation or effective control, and in general, any person who handles public funds or assets.
- ATTACHMENT 27) Law 17 of May 1, 1997, implementing Article 283 of the Political Constitution and establishing the special cooperatives system.
- ATTACHMENT 28) Law 18 of June 3, 1997, the National Police Act
- ATTACHMENT 29) Law 26 of January 29, 1996, creating the regulatory entity for public services.
- ATTACHMENT 30) Law 29 of February 1, 1996, issuing standards for the protection of competition and adopting other measures.

- ATTACHMENT 31) Law 30 of December 26, 1991, amending Decree Law 14 of August 27, 1954, establishing the Social Insurance Fund.
- ATTACHMENT 32) Decree Law 14 of August 27, 1951, amending Law 134 of April 27, 1943, creating the Social Insurance Fund.
- ATTACHMENT 33) Decree Law 32 of November 8, 1984, adopting the Comptroller General Act.
- ATTACHMENT 34) Law 38 of July 31, 2000, approving the statutes of the Administration Attorney General's Office (*Procuraduría de la Administración*), regulating general administrative procedures and issuing special provisions.
- ATTACHMENT 35) Law 39 of July 13, 1995, approving the treaty of mutual legal assistance in criminal matters between the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, signed in Guatemala City on October 29, 1993.
- ATTACHMENT 36) Law 4 of February 10, 1978, establishing the Elections Tribunal and the Electoral Prosecutor's Office.
- ATTACHMENT 37) Law 40 of June 30, 1998, approving the treaty of mutual legal assistance in criminal matters between the Government of Panama and the Government of the United Mexican States, signed in Mexico City, July 29, 1997
- ATTACHMENT 38) Law 42 of July 1, 1998, approving the Inter-American Convention against Corruption, signed in Caracas, Venezuela, on March 29, 1996.
- ATTACHMENT 39) Law 41 of July 1, 1998, the Environment Act of the Republic of Panama.
- ATTACHMENT 40) Law 41 of October 2, 2000, implementing Chapter VI, "Money-laundering", of Title XI and Title XII, "Provisions".
- ATTACHMENT 41) Law 42 of October 2, 2000, establishing measures to prevent the crime of money-laundering.
- ATTACHMENT 42) Law 42 of July 14, 1995, approving the agreement on legal assistance and mutual judicial cooperation between the Government of Panama and the Government of Colombia, signed in Panama City on November 18, 1993.
- ATTACHMENT 43) Law 45 of November 27, 2000, amending Articles 70 and 201 of Book II of the General Administrative Procedures of Law 38 of 2000.
- ATTACHMENT 44) Law 5 of February 25, 1993, creating the Interoceanic Region Authority of Panama and adopting measures concerning reverted assets.
- ATTACHMENT 45) Law 52 of October 17, 2001, regulating public contracting and issuing other provisions.

- ATTACHMENT 46) Law 56 of December 27, 1995, regulating public contracting and issuing other provisions.
- ATTACHMENT 47) Law 59 of December 29, 1999, issuing regulations to Article 299 of the Political Constitution and issuing other provisions against administrative corruption.
- ATTACHMENT 48) Law 6 of January 22, 2002, issuing standards for transparency in public administration, establishing the recourse of *habeas data* and issuing other provisions.
- ATTACHMENT 49) Law 67 of September 19, 1978, regulating the exercise of the journalistic profession in the Republic of Panama.
- ATTACHMENT 50) Law 7 of March 7, 1995, amending and supplementing certain Articles of Law 5 of 1993, creating the Interoceanic Region Authority of Panama and adopting measures on reverted assets.
- ATTACHMENT 51) Law 7 of May 3, 1999, approving the agreement between the Republic of Panama and the Kingdom of Spain on legal assistance and judicial cooperation in criminal matters, signed in Madrid, Spain, on October 19, 1998.
- ATTACHMENT 52) Law 9 of June 20, 1994, establishing and regulating the administrative career.
- ATTACHMENT 53) Resolution PC-317-02 of July 22, 2002, of the Competition and Consumer Affairs Commission (code of ethics for public servants of the commission).
- ATTACHMENT 54) Executive decree 222 of September 12, 1997, regulating Law 19 of June 20, 1994, establishing and regulating the administrative career.
- ATTACHMENT 55) Resolution JD-3233 of March 5, 2002, of the Public Service Regulator Entity, approving the procedure for public hearings for amending the tariff schedule of electric utility services.
- ATTACHMENT 56) Board of Directors Resolution 078/02 of July 25, 2002, of the Interoceanic Region Authority, approving the code of ethics which shall be binding on all employees of the Authority (ARI).
- ATTACHMENT 57) Resolution 7 of January 1999 of the Administrative Career Board, approving the model internal regulations for public sector institutions.
- ATTACHMENT 58) Resolution 204 of 1995, Directorate for Special Investigations and Financial Liability Directorate, creating the Directorate for Special Investigations.
- ATTACHMENT 59) Resolution 3 of April 16, 1999, of the Administrative Career Board, approving the code of ethics for public servants.

- ATTACHMENT 60) Resolution CNV-259-02 of June 11, 2002, of the National Securities Commission, approving the code of ethics of public servants of the National Securities Commission.
- ATTACHMENT 61) Resolution 1446 of September 13, 1991, Ministry of Government and Justice (Directorate for Coordination and Implementation of the Treaty of Mutual Legal Assistance in the Ministry of Government and Justice).
- ATTACHMENT 62) Resolution 94 of April 12, 1995, of the Ministry of Government and Justice, stipulating that the Directorate for Coordination and Implementation of the Treaty of Mutual Legal Assistance shall hereafter be called "National Directorate for the Execution of Treaties of Mutual Legal Assistance and International Cooperation".
- ATTACHMENT 63) Law 7 of February 5, 1997, creating the Ombudsman's Office.
- ATTACHMENT 64) Law 30 of November 8, 1984, issuing measures against contraband and Customs fraud and adopting other provisions.
- ATTACHMENT 65) Decree 2 of January 1991, adopting measures on the import and sale of arms, ammunition, accessories, and non-lethal defensive Articles, and issuing other provisions.
- ATTACHMENT 66) Documents presented by organizations of the Civil Society.