

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

**UPDATE- TO THE QUESTIONNAIRE ON PROVISIONS
SELECTED BY THE
COMMITTEE OF EXPERTS FOR ANALYSIS WITHIN THE
FRAMEWORK OF THE FIRST ROUND**

(All updates to this report are placed in bold type within the body of the original document)

I. BRIEF DESCRIPTION OF THE LEGAL-INSTITUTIONAL SYSTEM

The twin island state of the Republic of Trinidad and Tobago achieved full independence from Great Britain on the 31st August 1962 and became a Republic within the Commonwealth on the 24th September 1976.

In 1976, Trinidad and Tobago's independence Constitution was replaced with a Republican Constitution (Copy of Constitution is annexed separately).

This Constitution declares that it is the supreme law of Trinidad and Tobago and any other law that is inconsistent with this Constitution is void to the extent of the inconsistency. Thus Parliament and other organs of the State must act in accordance with the Constitution.

The Constitution is rooted in the separation of powers of the three branches of Government namely the Executive, the Legislature and the Judiciary.

The Executive

The President, who is elected by an electoral college comprising all members of a bicameral Parliament, holds office for a term of five years. The President acts as Head of State and Commander-in-Chief of the armed forces. The Constitution provides that the executive authority of Trinidad and Tobago is vested in the President.

The Constitution states that in the exercise of his functions under the Constitution, the President shall act in accordance with the advice of Cabinet or a Minister acting under the general authority of Cabinet, except in cases where other provision is made by the Constitution.

The President is required by the Constitution to appoint as Prime Minister a member of the House of Representatives who is the Leader in that House of the party which commands the support of the majority of members of that House. The Prime Minister is the Head of Government.

The President appoints as Leader of the Opposition the member of the House of Representatives who, in his judgment, is best able to command the support of the greatest number of members of the House of Representatives who do not support the Government.

Cabinet consists of the Prime Minister, the Attorney General and such number of other appointed Ministers, as the Prime Minister considers appropriate.

The Constitution vests Cabinet with the general direction and control of the Government of Trinidad and Tobago and makes Cabinet collectively responsible to Parliament.

The President acting in accordance with the advice of the Prime Minister may assign to the Prime Minister or any other Minister responsibility for the administration of any department of Government.

The Attorney General is constitutionally responsible for the administration of legal affairs in Trinidad and Tobago.

The Director of Public Prosecutions is constitutionally responsible for instituting and undertaking criminal proceedings against any person before any court in respect of any offence against the law of Trinidad and Tobago.

The Legislature

The legislative power of Trinidad and Tobago resides in Parliament, which according to the Constitution shall consist of the President, the Senate and the House of Representatives.

The House of Representatives which is the lower house of Parliament, consists of thirty-six members corresponding with the number of constituencies into which Trinidad and Tobago is divided. These members are elected by universal adult suffrage in accordance with the first-past-the-post system (relative majority system) at General Elections which are held within three months after every dissolution of Parliament.

Parliament, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution, and then shall stand dissolved.

The Senate consists of thirty-one members appointed by the President. Of the thirty-one senators, sixteen are appointed on the advice of the Prime Minister, six are appointed on the advice of the Leader of the Opposition and nine are appointed by the President in his discretion from outstanding persons from economic, social or community organisations and other major fields of endeavour.

Parliament is empowered by S.53 of the Constitution to make laws for the peace, order and good government of Trinidad and Tobago.

Tobago

With the passage of an Act of Parliament in 1980, the Tobago House of Assembly was established for the purpose of making better provision for the administration of the island of Tobago. The 1980 Act was repealed and replaced with a new Tobago House of Assembly Act in 1996. Under the 1996 Act the Assembly is a body corporate consisting of twelve Assemblymen elected by the people of Tobago, four appointed Councillors and a Presiding Officer. The Assemblymen elect from among their members the Chief Secretary and the Deputy Chief Secretary. The Assembly continues for four years from the date of its first sitting.

As prescribed by the Constitution, the Cabinet of Trinidad and Tobago retains general direction and control of the Tobago House of Assembly. The Tobago House of Assembly is however responsible for the formulation and implementation of policy on matters set out in Fifth Schedule of the Act. (See Appendix at pages 1-36).

The Judiciary

The Chief Justice has overall responsibility for the administration of justice in Trinidad and Tobago and heads the independent Judiciary. He is appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

Judges are appointed and promoted by the President acting on the advice of the constitutionally established Judicial and Legal Service Commission.

The Judicial and Legal Services Commission which comprises the Chief Justice as Chairman, the Chairman of the Public Service Commission and two former judges appoints Masters, Magistrates and all other judicial officers including state prosecutors, state counsel and legal draftsmen.

The Judiciary comprises the higher Judiciary (the Supreme Court of Judicature) and the lower Judiciary (the Magistracy).

The Supreme Court consists of the High Court and the Court of Appeal. The Magistracy is divided into 13 Magisterial districts.

There is a separate Industrial Court and a Tax Appeal Board, which are superior courts of record created by statute.

Appeals from the Magistracy and the High Court lie to the Court of Appeal. The Chief Justice is the President of the Court of Appeal.

All appeals from the Court of Appeal lie with the Judicial Committee of the Privy Council in England, sometimes as of right and sometimes with leave of the Court of Appeal. The Privy Council is, at present, the highest Court of Appeal of Trinidad and Tobago.

UPDATE:

Legislation was introduced in Parliament of Trinidad and Tobago to replace the Privy Council as the country's highest Court of Appeal with that of the Caribbean Court of Justice (CCJ).

II. CONTENT OF THE QUESTIONNAIRE

CHAPTER ONE

MEASURES AND MECHANISMS REGARDING STANDARDS OF CONDUCT FOR THE CORRECT, HONOURABLE, AND PROPER FULFILMENT OF PUBLIC FUNCTIONS (ARTICLE 111, 1 AND 2 OF THE CONVENTION)

1. General standards of conduct and mechanisms

- a. Are there standards of conduct in your country for the correct, honourable and adequate fulfilment of public functions? If so, briefly describe them and list and attach a copy of the related provisions and documents.

There are standards of conduct for the correct, honourable and adequate fulfilment of public functions contained in the following legislative instruments.

Based on recommendations of the Law Commission contained in a Green Paper entitled *Integrity in Public Life-A Review of Legislation*"(See Appendix at pages 37-59) Trinidad and Tobago has recently strengthened its anti-corruption legislation by enacting a new Integrity in Public Life Act, No. 83 of 2000 to replace the *Integrity in Public Life Act 1987*. Part IV of that Act, sets out a Code of Conduct (See Appendix at pages 60-85) which applies to persons in public life and all persons exercising public functions.

Persons in public life are set out in the Schedule to the Act as follows:

1. *Members of the House of Representatives.*
2. *Ministers of Government.*
3. *Parliamentary Secretaries.*
4. *Members of the Tobago House of Assembly.*
5. *Members of Municipalities.*
6. *Members of Local Government Authorities.*
7. *Senators.*
8. *Judges * and Magistrates appointed by the Judicial and Legal Service Commission.*
9. *Members of the Boards of all Statutory Bodies and State Enterprises including those bodies in which the State has a controlling interest.*
10. *Permanent Secretaries and Chief Technical Officers.*

*The Integrity Commission based on legal advice has taken the decision that judges will not be subject to the provisions of the *Integrity in Public Life Act* at this stage.

Persons exercising public functions are defined in S.2 of the Act as including "all persons holding office under the Public Service, Judicial and Legal Service, Police Service, Teaching Service and Statutory Authorities' Service Commission, as well as members of the Diplomatic Service and Advisers to the Government".

This Code of Conduct is comprehensive and covers the many types of conduct which should be regulated, including the use of public office for private gain or to influence a decision; the use of insider information to further private interests; the acceptance of fees, gifts and personal benefits; and conflicts of interests.

Section 24 (1) of the Code provides:

" A person to whom this Part applies shall ensure that he performs his functions and administers the public resources for which he is responsible in an effective and efficient manner and shall

(a) be fair and impartial in exercising his public duty;

(a) afford no undue preferential treatment to any group or individual;

(b) arrange his private interests whether pecuniary or otherwise in such a manner as to maintain public confidence and trust in his integrity. "

- The Civil Service (Amendment) Regulations (Legal Notice No. 217 of 1996), Chapter XI, contains a Code of Conduct which regulates the duties and the conduct of civil servants (See Appendix at pages 86-91). The Code covers the general conduct; duties of officers; absence without leave; activities outside the service; unauthorised disclosure of official documents; gifts and rewards; bribery; and the definition of misconduct. Regulation 135 of the Code requires an officer to discharge with integrity the duties of the office to which he is appointed, promptly and effectively.
- There is also Code of Conduct contained in the Police Service (Amendment) Regulations (Legal Notice No. 71 of 1990) (See Appendix at pages 92-101). The Code covers *inter alia* activities outside the service; gifts and rewards and offences such as neglect of duty and corrupt practice.
- The Code of Ethics for Parliamentarians including Ministers was laid in both Houses of Parliament in 1987 (See Appendix at pages 102-105). The Code of Ethics covers *inter alia* the disclosure of pecuniary interests and family interests; conflict of interests; the use of information obtained in the course of official duties and gifts and benefits. The Code contains a section titled "Additional Code of Ethics for Ministers" which deals *inter alia* with disclosure of interests and conflict of interests. The last section of the Code is titled "Code of Ethics for Ministers concerning the receipt of gifts".

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

- The Integrity in Public Life Act, No. 83 of 2000 provides in S. 31 that the Integrity Commission shall report any breach of the Code of Conduct to the appropriate Service Commission, Board or other Authority and to the Director of Public Prosecutions setting out such details and particulars as it thinks fit. The appropriate Service Commission or Board or other Authority may take such disciplinary action in relation to a report made as it thinks appropriate in any particular case (See Appendix at p. 80).
- Regulation 149 of the Code of Conduct for civil servants set out in the Civil Service (Amendment) Regulations 1996, provides that an officer who contravenes any of the regulations commits an act of misconduct. (See Appendix at pages 9091)
- The Public Service Commission, established by S.120 of the Constitution, is empowered to exercise disciplinary control over public officers (See Constitution at p.89). The Commission's Regulations set out the procedure to be followed when dealing with allegations of misconduct which may arise from breaches of the employer's code of conduct, breaches of which may lead to disciplinary action against the alleged offender. The procedure to be followed for the institution of disciplinary proceedings are set out in Chapter VII of the Public Service Commission Regulations Chapter 1:01 (See Appendix at pages 106-116).

The procedures involve: -

- (a) Preliminary investigation of an allegation of misconduct and the appointment of an investigating officer;
- (b) Preferment of disciplinary charges if supported by the evidence;
- (c) Appointment of a disciplinary tribunal to find the facts and to submit its report to the Commission,
- (d) Imposition of a penalty or exoneration based on the tribunal's report and the Commission's findings.

Permanent Secretaries and Heads of Department are required to report any allegations of misconduct against an employee to the Commission. They are further required to inform the employee accordingly and forthwith appoint an investigating officer to investigate the matter and submit a report to the Commission within thirty days from the date of the investigating officer's appointment. The Commission prefers disciplinary charges if or where the facts disclose a prima facie case to answer and appoints a disciplinary tribunal to hear evidence and find facts in the matter.

The Public Service Commission has delegated to Permanent Secretaries and Heads of Departments, the power to hear and determine allegations of misconduct/indiscipline, which are relatively minor in nature, and to impose a penalty as prescribed in the Regulations (See Public Service Commission (Amendment) Regulations, 1990 at pages 117-123 of the Appendix).

- The Code of Conduct contained in the Police Service (Amendment) Regulations, (See Appendix at pages 92-101) provides in regulation 163 that a police officer who without reasonable excuse does an act which contravenes any of the Regulations, commits an offence against discipline and is liable to such punishment as is prescribed by regulation 104(1) of the Police Service Commission Regulations. The Police Service Commission, which was established by S.122 of the Constitution, has the power *inter alia* to remove and exercise disciplinary control over persons in the Police Service. The procedures to be followed in order to institute disciplinary proceedings against police officers are set out in the Police Service Commission Regulations, Chapter 1:01. This Commission deals with matters that are considered major offences and that may attract the penalty of dismissal. The Commission has delegated to police officers in the First Division, from Superintendents to the Commissioner of Police, the authority to discipline police officers in the Second Division for such acts of indiscipline that are of a minor nature. Once the Commissioner of Police reports a matter to the Commission, the Commission refers matter to one of its three Standing Disciplinary Tribunals which have been established for the Service Commissions. The Tribunals report their findings for the consideration of the Commission. The Police Service Commission, on consideration of the Tribunal's Report, may either exonerate the officer or impose a penalty commensurate with the gravity of the act of misconduct.
- The Code of Ethics for Parliamentarians including Ministers provides in rule 13 that there should be established in each House of Parliament a Standing Ethics Committee empowered to *inter alia* "receive, investigate and report upon any complaints of departures by Members from the Code of Ethics, and in particular, upon allegations involving conflict of interest".

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

- In the year 2000 the Public Service Commission preferred seventeen (17) disciplinary charges against officers in the Public Service for matters ranging from unpunctuality, assault and battery to forgery. No information is available as to whether any persons have been charged with misconduct under the Code of Conduct set out in the Integrity in Public Life Act.
(Information required for 2001-2003)

It may be mentioned that the Public Service Commission is engaged in a comprehensive review of the Discipline Regulations with a view to promoting

timely and effective discipline.

- As far as the implementation of the Code of Conduct for the police is concerned, the Report of the Police Service Commission states that between 1995 to 1998 there were forty-two (42) allegations of police misconduct reported to the Commission. Information on the specific offences with which the officers were charged is not readily available. However, the Report highlights some of the problems faced as well as the solutions identified in the discipline of police officers. (See extract of the Report at pages 124-141 of the Appendix).

UPDATE:

The Report of the Police Service Commission for the Year 2000 indicates that for that year there were 26 allegations of misconduct made against police officers, while 58 Disciplinary Charges were preferred against police officers, and 43 police officers were brought before the Court to face criminal charges.

The statistics do not give specifics as to the nature of the charges against the police officers nor do they indicate as to how many charges relate to corrupt practices.

A later Report of the Police Service Commission for the year 2001 shows that a total of 22 allegations of misconduct were made against police officers for that year, with 60 Disciplinary Charges being preferred against officers and a total of 33 police officers were charge and brought before the Court.

The figures contained in the 2002 Report of the Police Service Commission show a total of 44 Disciplinary Charges being brought against officers, with 28 officers being charged before the Courts, and only one allegation of misconduct being made for that year.

Information on the specific nature of the allegations or charges was not available.

- As regards results obtained in implementing "The Code of Ethics for Parliamentarians including Ministers", the Law Commission's Report on "Strengthening Trinidad and Tobago's Anti-Corruption Legislation" (See Appendix at page 197) states:

"The first attempt to introduce a Code of Conduct in Trinidad and Tobago was made in 1987 when a "Code of Ethics for Parliamentarians including Ministers" was laid in both Houses of Parliament of Trinidad and Tobago. This Code, however, applied only to members of Parliament and was introduced as

"(1) For the purposes of this Act, a conflict of interest is deemed to arise if a person in public life or any person exercising a public function were to make or participate in the making of a decision in the execution of his office and at the same time knows or ought reasonably to have known, that in the making of the decision, there is an opportunity either directly or indirectly to further his private interests or that of a member of his family or of any other person.

a Parliamentary document without the force of law to enforce it and to give it longevity. As such, the Code was only binding on the Parliament of the time. It was also proposed that a Select Committee of Parliament would deal with breaches of the Code and report to Parliament, as occurred in the British Parliament. This raised concerns about the lack of external and independent monitoring of members of Parliament. Consequently, it does not appear that the Code has ever been enforced. "

2. Conflicts of interests

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

- As regards conflict of interests, the Code of Conduct contained in the Integrity in Public Life Act (See Appendix at page 79) in rule 29 provides:

(2) Where there is a possible or perceived conflict of interest, a person to whom this Part applies, shall disclose his interest in accordance with the prescribed procedures and disqualify himself from any decision-making process. "

Section 22(1) of the Integrity in Public Life Act provides further:

"22(1) Where it appears to the Commission that a breach of this Act may have been committed or a conflict of interest may have arisen, it shall order a person in public life to place his assets or part thereof in a blind trust for the purposes of this Act on such terms and conditions as the Commission considers appropriate and file a copy of the trust deed with the Commission. "

The concept of the Code of Conduct is set out in the Law Commission's publications "Integrity in Public Life- A Review of Legislation" and "Strengthening Trinidad and Tobago's Anti-Corruption Legislation" (See Appendix at pp. 53-54 and pp. 197 -198 respectively).

The persons to whom the Code applies are listed in the response to question 1(a) above.

- As regards conflict of interests or compromises, the Code of Conduct set out in the Civil Service (Amendment) Regulations (See Appendix at pages 86-87) provides:

"137(1). An officer shall not, directly or indirectly, be involved in any financial or other interest or undertaking which could compromise, or reasonably be said to compromise that officer's job performance or office.

13 7(2) Where an actual or potential compromise arises, the officer shall inform the Permanent Secretary or Head of Department.

13 7(3) The Permanent Secretary or Head of Department shall determine the nature and degree of compromise, decide upon an appropriate course to resolve it which may include assigning the officer to other duties, and advise the officer accordingly. "

- The Code of Conduct contained in the Police Service (Amendment) Regulations referred to in response to Chapter 1, question 1(a) above (See Appendix at page 93) prohibits conflict of interests in the following regulation:

"149(1) A police officer's whole time shall be at the disposal of the Government. Accordingly

(a) a police officer may not at any time... engage in any occupation or undertaking which might in any way conflict with the interests of the Police Service or be inconsistent with his position as a police officer... "

- The Code of Ethics for Parliamentarians including Ministers makes specific reference to conflict of interests (See Appendix at pages 102-105) as follows:

"6. A parliamentarian should avoid situations in which his private interest, whether pecuniary or otherwise, conflicts or might reasonably be thought to conflict with his public duty.

7. When a parliamentarian possesses, directly or indirectly, an interest which conflicts or might reasonably be thought to conflict with his public duty, or improperly to influence his conduct in the discharge of his responsibilities in respect of some matter with which he is concerned, he should disclose that interest publicly in accordance with the form as in Article 1 above prescribed. Should circumstances change after an initial disclosure was made, so that new or additional facts become material, the parliamentarian should disclose the further information.

14(a) At meetings of the Cabinet and its committees, a Minister should disclose to his colleagues when he has an interest which does, or might reasonably be thought likely to, conflict with his public duty as a Minister...

15(a) When directing or dealing with the business of the department which he administers, a Minister should inform the Prime Minister of any real apparent conflict of interest that arises.

- 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.**

Since the standards of conduct relating to conflict of interests are contained within the Codes of Conduct described in response to Chapter One, question 1.a. above, the response to Chapter One, question 1.b. also applies to this question.

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

Information relating specifically to the implementation of conflict of interests legislation is not available. It should be pointed out that the Integrity in Public Life Act which contains the Code of Conduct was only enacted in late 2000 and more time is needed for full implementation and analysis of the results.

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

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

- The Integrity in Public Life Act in its Code of Conduct (which applies to the persons listed in response to Chapter 1, question 1. a.) provides:

"S. 24(1) A person to whom this Part applies shall ensure that he performs his functions and administers the public resources for which he is responsible in an effective and efficient manner..."

*S.24(2) A person to whom this Part applies shall not
(c) use public property or services for activities not related to his official work..."*

- The Code of Conduct for civil servants contained in the Civil Service (Amendment) Regulations (See Appendix at p. 90) contains the following regulation:

"R. 149 (2) ... an officer who

(i) uses, without the authority of the Permanent Secretary or Head of Department any property or facilities provided for the purposes of the Service, for a purpose not connected with that officer's official duties...

commits an act of misconduct. "

- The Police Service (Amendment) Regulations, 1990 (See Appendix at pages 97-101) provides as follows:

"R. 163 (2) ... a police officer commits an offence against discipline and is liable to such punishment as is prescribed by regulation 104(1) of the Police

Service Commission Regulations if he is guilty of any of the following offences:

(s) Using any property or facilities of the State without the consent given personally of the Commissioner for some purpose not connected with his official duties. "

- The Code of Ethics for Parliamentarians including Ministers described above (See Appendix at p. 103 a.) provides:

"Rule II.A parliamentarian should be scrupulous in his use of public (official) property and services and should not permit their misuse by other persons. "

- The Constitution in S. 116 provides that there shall be an Auditor General whose office shall be a public office. The Exchequer and Audit Act, Chapter 69:01 (See Appendix at pages 142-163) provides *inter alia* for the protection and recovery of public property. In particular it states:

S.9(1) The Auditor General shall examine, inquire into and audit the accounts of all accounting officers and receivers of revenue and all persons entrusted with the assessment of collection, receipt, custody, issue or payment of public moneys, or with the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other State property.

*S.9(2) The Auditor General shall satisfy himself that
... (d) essential records are maintained and the rules and procedures framed and applied are sufficient to safeguard the control of stores and other State property.*

S.26. If at any time it appears to the Auditor General that any irregularities have occurred in the receipt, custody or expenditure of public moneys or in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other State property, or in the accounting for the same, he shall immediately bring the matter to the notice of the Treasury. "

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 mechanisms described in response to Chapter One, question 1.b. (except for the Exchequer and Audit Act, Chapter 69:01) are the same mechanisms that apply to the enforcement of the above standards of conduct for the proper use of resources entrusted to public officials. In the case of the Exchequer and Audit Act, provision is made for a surcharge (See Appendix at pp. 155-156) as follows:

"S. 27(1) If it appears to the Minister that any person who is or was in the employment of the State

(c) is or was responsible for any deficiency in, or the destruction of, any public moneys, stamps, securities, stores or other State property;

and if a satisfactory explanation is not, within a period specified by him, furnished to the Minister with regard to the... deficiency or destruction, the Minister may surcharge against the person the amount of any... deficiency, or loss or the value of the property destroyed, as the case may be. "

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

All cases of thefts and losses within Ministries and Government Departments are reported and published in the Auditor General's Annual Report. This has proven to be an effective system to ensure accountability for government property and resources. Cases of lost or stolen property are reported to and investigated by the police and charges preferred where applicable.

No results are available with respect to the implementation of the other statutory instruments mentioned.

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

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

Public officials are not required under any standards of conduct to report acts of corruption in public office to appropriate authorities. The Integrity in Public Life Act (See Appendix at p. 80) makes it voluntary rather than obligatory for any member of the public, not just public officials, to report acts of corruption. It provides:

"S.32 (1) A member of the public who wishes to allege or make a complaint that a person in public life or any person exercising a public function

(a) is in contravention of this Act;

*(b) in relation to the Register of Interests, has a conflict of interest; or
(c) is committing or has committed an offence under the Prevention of Corruption Act,*

may do so in writing to the Commission. "

- From time to time the Government appoints Commissions of Enquiry to inquire into allegations of corruption. The Commissions of Enquiry Act, Chapter 19: 01 regulates the appointment of these Commissions (See Appendix at pages 364366). Section 2 of the Act provides:

"The President may whenever he deems it advisable, issue a commission appointing one or more commissioners, and authorising such commissioners, or any quorum of them therein mentioned, to enquire into the conduct of any officer in the public service in Trinidad and Tobago, the conduct or management of any department of the public service or of any public or local institution, or into any matter in which an enquiry would, in the opinion of the President, be for the public welfare. Each such commission shall specify the subject of the enquiry... "

Section 11 of the Act gives the commissioners powers of the High Court to summon witnesses, to call for the production of books, plans and documents and to examine witnesses and parties concerned on oath.

In 1997, allegations of corruption against Justices of the Peace led to the appointment of a Commission of Enquiry. A Commission of Enquiry was also appointed to inquire into the Administration of Justice in Trinidad and Tobago in the year 2000. The Government in January 2002 appointed a retired judge to head a Commission of Enquiry into operations at the Elections and Boundaries Commission. In June 2002, a Commission of Enquiry into the circumstances surrounding the construction of the Biche High School began its hearings. Also a Commission of Enquiry is currently underway as it examines the project for the construction of the Piarco Airport.

The appointment of Commissions of Enquiry is an effective mechanism through which the Government can require public officials to report acts of corruption.

UPDATE:

Reports of the 1997 Commission of Enquiry into allegations of corruption against Justices of the Peace, the 2000 Enquiry into the Administration of Justice in Trinidad and Tobago, the 2002 Commission of Enquiry into the operations of the Elections and Boundaries Commission, the Commission of Enquiry into the construction of the Biche High School and the 2002 Commission of Enquiry into the construction of the new Piarco Airport Terminal have all been completed. These Reports are at present engaging the attention of the relevant Authorities.

Persons are presently before the Courts charged with offences related to the construction of the new Piarco Airport Terminal in Trinidad and Tobago. Following an initiative to undertake a comprehensive review of the health sector, a Commission of Enquiry was recently appointed to enquire into the operations of the Health Services in Trinidad and Tobago. One of the terms of reference of the Commission is to enquire into the circumstances surrounding the procurement process and the award of contracts generally in the health sector.

It may be mentioned that a Paper published by the Law Commission entitled "Strengthening Trinidad and Tobago's Anti-Corruption Legislation" (See Appendix at pp. 193-195) has recommended that the Prevention of Corruption Act be amended to include provisions to protect "whistleblowers" or informers, not only to suppress the identity, description or location of an informer in viva voce and documentary evidence in corruption trials, but also to protect informers from victimisation in their job and `reprisals'.

The Government has accordingly drafted a Prevention of Corruption (Amendment) Bill (See Appendix at pages 205-219), which intends *inter alia* to provide protection for informers or whistleblowers. The purpose of whistleblower protection laws is to encourage persons to come forward and give information about corrupt activities. Under this draft legislation, the proposed Anti-Corruption Commission would be responsible *inter alia* for receiving and investigating any complaint made to it regarding an act of corruption [S. 2C(1)(a)] and protecting informers by ensuring that the identity of such persons remains anonymous [S. 2 C (1)(f)].

UPDATE:

The Prevention of Corruption (Amendment) Bill was laid in Parliament but lapsed upon the dissolution of Parliament in October, 2001 .

The Government of Trinidad and Tobago is in the process of retooling and refining its National Anti-Corruption Strategy.

To this end the Government in 2003, with the assistance of the UNDP, engaged the technical assistance of an international expert on Anti-Corruption to develop and implement a National Anti-Corruption Strategy for Trinidad and Tobago.

A Report on the development of a National Anti-Corruption Strategy was prepared and presented to the Cabinet.

In furtherance of the process, a Public Consultation on the Anti-Corruption Strategy and the implementation of a National Anti-Corruption Strategy was also commissioned and Report completed.

Both the Report on the National Anti-Corruption Strategy and the subsequent Report on the National Consultation on the Anti-Corruption Strategy are under active consideration by the Government of Trinidad and Tobago with the ultimate goal of short-term implementation.

Cabinet is giving active consideration to revisiting the legislative approach .

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

There are no mechanisms to ensure that public officials report acts of corruption to the appropriate authorities. However, the Integrity in Public Life Act vests the Integrity Commission with special powers of investigation as set out in S. 34 (See Appendix at pages 81-82). The Commission is authorised by S.34 (2)(b) to require any person to furnish all information in his possession relating to the affairs of any suspected person being investigated. Section 34(1)(c) empowers the Commission to require any person to answer any question which the Commission considers necessary in connection with any enquiry or investigation.

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

No information is available to respond to this question.

CHAPTER TWO
SYSTEMS FOR REGISTERING INCOME, ASSETS AND LIABILITIES
(ARTICLE 111, 4)

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

of the related provisions and documents.

Declarations

The Integrity in Public Life Act (See Appendix at pages 69-72) in S. 11 provides:

- (1) *A person shall, within three months of becoming a person in public life, - complete and file with the Commission in the prescribed form, a declaration of his income, assets and liabilities in respect of the previous year and thereafter, on the 31st May in each succeeding year that he is a person in public life, he shall file further declarations of his income, assets and liabilities.*

- (3) *The declaration shall be in such form as the Commission may from time to time prescribe and may be accompanied, if the declarant so wishes by a statement relating to his net worth as indicated by details of his income, assets and liabilities.*

Persons in public life who are required to file this declaration are listed in response to question 1 a. above.

Section 12 (1) of the Integrity in Public Life Act stipulates that a declaration shall include "such particulars as are known to the declarant of the income, assets and liabilities of himself, his spouse and his dependent children".

Further under S.12 (3) "where a person in public life holds money or other property in trust for another person, he shall so state in his declaration but shall not be required to disclose the terms of the trust".

Section 12(5) provides that where in a declaration filed with the Commission, a person in public life discloses an income which is insufficient to support the accretion in value of the net assets disclosed so as to raise the inference that there must have been other income to account for the extent of the acquisition of such assets, the person in public life will be deemed to have been in possession of such income which has not been disclosed and the onus shall be on him to establish the source of that further income.

Section 13 allows the Commission to request further particulars. It provides:

- (1) *The Commission shall examine every declaration that is filed and ensure that it complies with the requirements of the Act, and may request from a declarant, any information or explanation relevant to a declaration made by him and which would assist in its examination.*

- (2) *The Commission may require that*

- (a) *a declarant furnish such particulars relating to his financial affairs as may be considered necessary;*
 - (b) *a declarant or his duly appointed agent attend at the offices of the Commission in order to verify his declaration;*
 - (c) *a declaration be certified by a chartered accountant.*
- (3) *Where, upon an examination under subsection (1), the Commission is satisfied that a declaration has been frilly made, it shall forward to the person in public life, a Certificate of Compliance.*

The Act also provides for the appointment of a tribunal to verify the contents of a declaration as follows:

"S. 15 Where upon the examination referred to in section 13, the Commission is of the opinion that is should enquire further into any declaration so as to ascertain whether there has been a full disclosure, it may advise the President to appoint a tribunal of two or more of its members to conduct an enquiry to verify the contents of the declaration or the statement fled with the Commission. "

Section 16 of the Act sets out the powers of the tribunal.

Declarations filed with the Commission are deemed by S. 20 of the Act to be secret and confidential and shall not be made public, except where a particular declaration or record is required to be produced for the purpose of any court proceedings.

A person who fails to furnish the Commission with a declaration or who knowingly makes a declaration that is false will by S. 21 of the Act be guilty of an offence and would be liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for a term of ten years.

It should be noted that the names of persons who have failed to file declarations of income, assets and liabilities with the Integrity Commission are published in the *Gazette*, the official government publication which is circulated through all Government departments. Publication of defaulting persons is a mechanism which indirectly enforces compliance with the Act.

Statement of Registrable Interests

Section 14 of the Act provides for the filing of a statement of registrable interests and allows for public inspection of these statements. It states:

A person in public life shall file with his declaration an additional statement of registrable interests in the prescribed form, which shall contain the information required

- (1) *by subsection (3).*

- (2) *The Registrar of the Commission shall compile and cause to be entered in a Register of Interests, all information furnished pursuant to subsection (1) and shall at the request of any member of the public, permit the inspection of such Register.*
- (3) *A statement of registrable interests... shall contain information relating to a person in public life in respect of*
- (a) particulars of any directorships held in any company or other corporate body;*
 - (b) particulars of any contract made with the State;*
 - (c) the name or description of any company, partnership, or association in which the person is an investor;*
 - (d) a concise description of any trust to which the person is a beneficiary or trustee;*
 - (e) beneficial interest in any land;*
 - (f) any fund to which the person contributes;*
 - (g) particulars of any political, trade or professional association to which the person belongs;*
 - (h) particulars relating to sources of income; and*
 - (i) any other substantial interest whether of a pecuniary nature or not, which he considers may appear to raise a material conflict between his private interests and his public duty.*

Declaration under the Code of Conduct

Section 30 of the Code of Conduct contained in the Integrity in Public Life Act provides as follows:

"S.30(1) A person holding office under the Public Service, Judicial and Legal Service, Police Service, Teaching Service or Statutory Authorities' Service Commission, shall upon his appointment, and from time to time as may be required, declare to the appropriate Commission in such form as may be prescribed

- (a) all business, commercial and financial interests and activities in which he is engaged; and*
- (b) all personal property, assets and liabilities in respect of himself, his spouse and dependent children*

provided that all information so given shall be treated as confidential. "

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

The members of the new Integrity Commission were appointed in July 2000. The year 2001 was the first year of functioning under the new integrity legislation-the Integrity in Public Life Act, 2000 (No.83 of 2000) which was proclaimed on November 6, 2000. In accordance with S. 10 of the Act, the Commission has published annual reports on its activities for the years 2000 and 2001 (See Appendix at pages 220-261).

The 2001 report states that the work of the Commission "was directed towards reducing the declarations which were outstanding from previous years covered under the Integrity in Public Life Act, 1987, the former Act. The Commission monitored, reviewed and certified outstanding declarations for 1997, 1998 and 1999. In this regard, 31 declarations were certified for 1999, 5 for 1998 and 2 for 1997. There are still 39 declarations outstanding from the years 1999, 1997, 1996 and 1995".

The 2001 Report states further at p.6 that "the number of persons who were deemed persons in public life and who came under the purview of the Act in the year 2001 requiring them to submit declarations of income, assets and liabilities has been estimated at one thousand, one hundred and twenty (1,120)".

The Commission in its 2001 Annual Report has recommended that a more effective sanction for defaulting declarants would be the imposition of a penalty, which "would be more easily enforceable and would result in greater compliance".

UPDATE:

The 2002 Report of the Integrity Commission bemoaned the fact that the legislated authority and responsibilities of the Commission had grown considerably, though the staffing size of the Commission had not kept pace.

It was further suggested at page 3 of the Report that there was a need to recruit professional staff with the necessary qualifications and expertise to render support in the various areas of the Commission's expanded mandate.

The Report indicated that steps are being taken to address the staffing issue.

In this 2002 Report the Commission proposed the establishment of a website to assist in the education of persons in public life about their expectations under the Act and to raise awareness of the public about the role of the Integrity Commission.

In the 2003 Report of the Integrity Commission, attention was drawn to the fact that the Commission had published a Guide on Corporate Governance entitled "Principles of Integrity for persons in Public Life and Those Exercising Public Functions".

This guide was published for distribution among persons in public life, public bodies, public libraries, and other relevant parties. The guide is part of the Commission's mandate to instruct, advise, and assist heads of public institutions to carry out changes in practices and procedures to reduce the occurrence of corrupt practices and further to educate the public.

Early in 2004, Integrity in Public Life Regulations were laid in Parliament along with prescribed forms for the declaration of assets. The forms were subsequently made available to persons in public life who are required to report under the Integrity in Public Life Act, 2000.

CHAPTER THREE

OVERSIGHT BODIES

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

As regards Article III (1) and (2), the Code of Conduct contained in the Integrity in Public Life Act provides in S. 31 that the Integrity Commission shall report any breach of the Code to the appropriate Service Commission, Board or other Authority and to the Director of Public Prosecutions setting out such details and particulars as it thinks fit. Once a breach of the Code is reported by the Integrity Commission to the appropriate Service Commission, the Commission may institute disciplinary proceedings in the manner described in response to question I b above. The Code is therefore to be enforced by the appropriate Service Commissions, which have the authority to enforce standards of conduct on such officers.

- The relevant head of department in which the public officer operates monitors the Code of Conduct for civil servants described in response to Chapter One, question La. above. Permanent Secretaries and Heads of Departments are required to report any allegations of misconduct against an employee to the Commission. The Commission prefers disciplinary charges if or where the facts disclose a prima facie case to answer. The Commission has delegated to Permanent Secretaries and Heads of Departments, the authority to hear and determine relatively minor allegations of misconduct or indiscipline.
- The Code of Conduct for officers in the Police Service is monitored by the police officers in the First Division, from Superintendents to the Commissioner of Police. If a police officer contravenes the Code, he commits an offence against discipline which may be referred to the Police Service Commission for action as described in response to Chapter One, question I .b. above.
- In terms of Article III (4) the oversight body with responsibility for ensuring compliance is the Integrity Commission. The Constitution in S.138 (2)(a) provides that the Integrity Commission shall be charged *inter alia* with the duty of:

"receiving from time to time, declarations in writing of the assets, liabilities and income of members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Senators, Judges, Magistrates, Permanent Secretaries, Chief Technical Officers, Members of the Tobago House of Assembly, Members of Municipalities, Members of Local Government Authorities, Members of the Boards of all Statutory Bodies, State Enterprises and the holders of such other offices as may be prescribed. "

The Integrity in Public Life Act, 2000 (See Appendix at pages 66-67) in S. 4 establishes an Integrity Commission consisting of "a Chairman, Deputy Chairman and three other members who shall be persons of integrity and high standing".

The functions of the Commission are listed in S.5 of the Act and include receiving and investigating "complaints regarding any alleged breaches of the Act or the commission of any suspected offence under the Prevention of Corruption Act".

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

In the year 2000 the Public Service Commission preferred seventeen (17) disciplinary charges against officers in the Public Service.

No information is available on the enforcement of the Code of Conduct contained in the Integrity in Public Life Act. This may be attributed to the fact that the legislation has only been in force since November 2000.

See response to Chapter Two, question b. above for information on the results obtained by the Integrity Commission with regard to the filing of declarations. The last two annual reports of the Integrity Commission are also annexed for further details.

CHAPTER FOUR

PARTICIPATION BY CIVIL SOCIETY (ARTICLE III, NUMBER 11) 1.

General questions on the mechanisms for participation

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

To date, no formal or statutory mechanisms have been implemented which are aimed at specifically encouraging participation by civil society and non-governmental organizations in efforts to prevent corruption.

As mentioned above, The Integrity in Public Life Act in S.32 (See Appendix at p.80) makes provision for members of "the public" to lodge complaints with the Integrity Commission as follows:

(1) A member of the public who wishes to allege or make a complaint that a person in public life or any person exercising a public_ function

(a) is in contravention of the Act;

(c) is committing or has committed an offence under the Prevention of Corruption Act,

(b) in relation to the Register of Interests, has a conflict of interest; or may do so in writing to the Commission.

The Act in S.33 requires the Integrity Commission, upon the complaint of any member of the public, to consider and enquire into any alleged breaches of the Act or any allegations of corrupt or dishonest conduct.

The Integrity legislation has however provided a safeguard against spurious complaints being lodged with the Commission. In this regard, S.32(2) provides that any person who knowingly and mischievously makes or causes to be made a false report to the Commission or misleads the Commission by giving false information or by making false statements or accusations shall be guilty of an offence and liable on conviction to a fine of five hundred thousand dollars and to imprisonment for ten years.

- There is also in Trinidad and Tobago a national chapter of Transparency International called the Trinidad and Tobago Transparency Institute which is actively engaged in "building coalitions to strengthen integrity systems in their countries". These systems include:

-transparency and accountability in government procurement and other decision-making

-an effective auditor general and ombudsperson -a

free media and access to official information -a

responsible business sector

-an independent judiciary, investigators and prosecutors

-an elected legislature, with power to hold public officials to account.

In fulfilling its mandate the local branch of the Institute collaborates with both Government and civil society.

The Institute in the year 2001 engaged in a number of activities which included public communication through the media on integrity issues as well as an outreach programme and membership drive. According to a report of its activities (See Appendix at pages 355-358):

" In February a team began working on producing a commentary on the Integrity in Public Life Act that would make recommendations for improvement of the legislation and serve as a basis for public discussion leading to reform of the law ... It is hoped that a reconstituted team will be able to complete the project in 2002. "

Also significant is that during the course of the year 2001, the local branch of Transparency International issued statements to the media on a number of topics including:

-the Integrity in Public Life Act's requirement for directors of Statutory Boards and State Enterprises to declare their assets to the Integrity Commission;

-the need for the Integrity Commission to investigate the conflict of interest issue arising out of an application for a telecommunications licence;

-the Integrity Pact as a means of preventing corruption in the award of public contracts.

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

The Government is working on establishing a formal mechanism to encourage the participation of civil society and non-governmental organizations in all the mandates listed in the plan of action of the Summit of the Americas including the fight against corruption.

2. Mechanisms for access to information

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

In an effort to promote transparency and accountability in government affairs and in a spirit of democracy and good governance, the Government has recently enacted a Freedom of Information Act, No. 26 of 1999 (See Appendix at pages 262-303). The Act came into force on February 20, 2001.

The Act gives members of the public (including civil society and non governmental organisations) a statutory right to access information in the possession of public authorities. Section 11 provides that it shall be the right of every person to obtain access to an official document. Part IV of the Act sets out a list of documents which are exempt from disclosure (Sections 24-35)..

"Public authority" is defined in S. 4 of the Act and includes *inter alia*, a Ministry or a department or division of a Ministry; a Service Commission and a company owned or controlled by the State.

The Act in S.7 requires all public authorities to publish *inter alia* a statement of the categories of documents that are maintained in the possession of the public authority and a statement of the procedure to be followed by a person when a request for access to a document is made to a public authority.

Section 13 of the Act provides that a person who wishes to obtain access to an official document shall make a request in the form set out in the Schedule, to the relevant public authority.

If a public authority refuses to allow a person access to an official document, the person may either complain in writing to the Ombudsman in accordance with S. 38 A or he may

apply to the High Court for judicial review of the decision as permitted by S. 39 of the Act.

A Freedom of Information Unit was established in May 2001 to monitor, advise and report on compliance by public authorities with the Act. A major thrust of the Unit has been to prepare two seminars for public authorities to assist them in implementing the Act. The Unit has also been involved in the production of television and radio features on the Act and has carried out a national mail out of pamphlets explaining the Act. The Unit is in the process of preparing a compact disc on the Act for distribution to public authorities.

The Government has also launched a Freedom of Information Website. Information on the Act is available on that Website at www.foia.gov.tt

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

For the year 20 February 2001 to 19 February 2002 since the Act came into force, approximately sixty six (66) requests were made under the Act. Some forty three (43) of these requests were made to Service Commissions. Out of the 66 requests, in only 4 cases was it determined that an applicant was not entitled to access to a document requested. There are no details as yet on how many of these requests were made by civil society and non governmental organizations.

There were no applications for judicial review during this period. There was one complaint to the Ombudsman and based on his recommendation, the public authority supplied the information requested.

Under S. 40 of the Act, the Minister is required to prepare a report on the operation of the Act after the end of each year and to cause a copy of the report to be laid before each House of Parliament. Public Authorities have been requested by the Freedom of Information Unit to submit quarterly returns of requests made to them for the purpose of preparation of the Annual Report. The first Annual Report is still being completed.

3. Mechanisms for consultation

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

As a matter of established practice the Law Commission consults with stakeholders in government and civil society in the preparation of any legislation which affects the public.

Orders 77 -79 of the Standing Orders of the House of Representatives provides for the appointment by the House of Representatives of Select and Joint Select Committees of members of Parliament with specific terms of reference (See Appendix at pages 359361). Such Committees are from time to time appointed by Parliament to engage in consultations with stakeholders from both government and civil society prior to formulating legislative policy or enacting draft legislation which affects the public interest.

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

In the case of the Integrity in Public Life Act, there was a Senate resolution calling for the reform and review of integrity legislation. The Attorney General instructed the Law Commission to prepare a Green Paper for presentation to Parliament (See Appendix at pages 37-59). With Cabinet's approval, the Green Paper was laid in Parliament and a Joint Select Committee of Parliament was established on the recommendation of the Attorney General. The Green Paper was also published for public comment.

The Joint Select Committee held over fourteen meetings and conducted a massive public consultation exercise before it reported to the Parliament and the Bills which were eventually laid in Parliament accurately reflected all the recommendations of the Joint Select Committee. It should be pointed out that the Committee, having engaged in widespread consultation, supported some but not all of the recommendations contained in the Green Paper.

4. Mechanisms to encourage active participation in public administration

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

- The Opinion Leaders Group is a group of 2,800 randomly selected persons who have this year agreed to be consulted on a regular basis about public service issues. The Ministry of Public Administration and Information is working with MORI International in this exercise; a firm well known for its work in the field of corporate, consumer and social research exercise. Trinidad and Tobago is the first country in the Caribbean to embark on a research exercise of this nature. The method of selection has ensured that the Opinion Leaders Group is representative of the population of Trinidad and Tobago in terms of gender, age, race, occupation and geographic distribution. MORI has partnered with the local firm of HHB Associates Limited and, with the assistance of the Government's Central Statistical Office, the Group has been recruited. The baseline survey was undertaken between July and August 2002 and the Government is currently

processing the data. The findings will be released later this year. The findings of the survey will be a basis for the formulation of government policy for administrative reform within the public service.

- As stated in response to the previous question, as far as the Integrity Legislation was concerned, the Government ensured that it engaged in the widest possible consultation with stakeholders from government and civil society prior to formulating its legislative policy.
- The Government uses public opinion in the formulation of policy through the mechanism of the media. In Trinidad and Tobago freedom of the press and freedom of thought and expression are guaranteed by S.4 of the Constitution. There are two independent television stations, one government information television station and several daily and weekly newspapers. Both the television and radio stations have frequent call-in programmes in which members of the public are invited to express their comments on matters including the issue of corruption in the public sector. Also very often television and radio hosts invite key stakeholders from government and civil society to comment and answer questions on issues such as corruption. The Government through its Ministry of Public Administration and Information has allocated staff to monitor these media programmes and to record the comments made. Reports on these comments are sent to the relevant Ministers or public officials. Through this mechanism, public officials become aware of the views of a wide cross section of the population including civil society on issues such as public sector corruption. Public comment aired in the media in this way is sometimes able to effectively shape government policy.
- Town meetings are also held by both the Government and the media from time to time to encourage public discussion and invite public comment from stakeholders on matters of importance.

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

- As far as government monitoring of public comment on the media is concerned, this has proven to be a very effective mechanism for ensuring that the views of members of civil society and non governmental organizations are taken into account by the government.
- The results of the Opinion Leaders Group Survey are not yet available. 5.

Participation mechanisms for the follow-up of public administration

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

so, briefly describe them, and list and attach a copy of the related provisions and documents.

Not at present

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

Not applicable.

UPDATE:

Public consultation was commissioned by the Cabinet of Trinidad and Tobago to solicit the views of the public in respect of the Government's proposed Anti-Corruption Strategy.

The report sought to obtain the views of a wide cross-section of the Trinidad and Tobago public.

The completed report will be used to inform the Government's policy on its National Anti-Corruption Strategy.

CHAPTER FIVE

ASSISTANCE AND COOPERATION (ARTICLE XIV)

1. Mutual Assistance

a. Briefly describe your country's legal framework, if any, that establishes mechanisms for mutual assistance in processing requests from foreign States that seek assistance in the investigation and prosecution of acts of corruption. Attach a copy of the provisions that contain such mechanisms.

A foreign state or entity can request assistance from Trinidad and Tobago in the gathering of evidence for criminal matters, including corruption and terrorism cases, through two separate routes: treaty and convention requests and non-treaty requests. The fullest assistance can be provided for treaty or convention requests. More limited assistance is available for non-treaty requests.

The Mutual Assistance in Criminal Matters Act 1997, as amended by Act No 7 of 2000, (See Appendix at pages 304-354) is Trinidad and Tobago's domestic legislation for implementing its mutual legal assistance treaties in criminal matters. This Act may only be applied in relation to requests submitted to Trinidad and Tobago under a treaty, multilateral convention, special arrangement or designation. The Act gives the courts the power to issue compulsory measures in Trinidad and Tobago to gather evidence for a criminal investigation or prosecution in a foreign state or entity or to locate a person who is suspected of having committed an offence on the basis of a request made under a treaty, convention, special arrangement or designation. The legislation permits assistance to be rendered at any stage of a criminal matter, from investigation to appeal.

The Central Authority Division reviews the requests it receives to ensure formal compliance with the relevant treaty, if applicable, the Mutual Assistance in Criminal Matters Act 1997 and any other relevant Trinidadian law. The request will be considered to determine if it contains sufficient specific information for its execution and if there are any circumstances, which would require that the request be refused or postponed on any basis, provided for in the applicable treaty.

Where the assistance sought will require a compulsory measure in Trinidad (for example, search and seizure), the Central Authority Division will examine the material provided to

determine whether it meets the standards of the relevant legislation. For most types of orders, the requesting authority must show reasonable grounds to believe that an offence has been committed and that evidence of the commission of the offence will be found in Trinidad and Tobago.

In general, the Central Authority carries out the execution of the request with investigations done by the Counter Drug and Crime Task Force, the Fraud Squad or Criminal Investigations Division. Counsel with the Central Authority will apply to the court of competent jurisdiction for the necessary orders.

Requests submitted pursuant to a treaty or administrative arrangement which do not require compulsory measures will be submitted by the Central Authority to a relevant police or investigative agency, or in some instances to a government department, to obtain the assistance or information sought.

Under the Mutual Assistance in Criminal Matters Act, Trinidad and Tobago may provide the following assistance:

- seizing evidence by search warrant;
- obtaining documentary evidence by production order;
- obtaining evidence through the execution of other warrants;
- compelling witness testimony, including compelling witnesses to give evidence in foreign proceedings by means of audio or video-link;
- lending exhibits which have been tendered in Trinidad and Tobago court proceedings;
- obtaining an order for the examination of a place or site in Trinidad and Tobago (including the exhumation and examination of a grave);
- the transfer of a sentenced prisoner (with his or her consent) to testify or assist in an investigation;
- serving documents;
- the enforcement of orders made by a court of criminal jurisdiction for the restraint, seizure or forfeiture of property situated in Trinidad and Tobago, and
- enforcement of foreign criminal fines (to a limited extent).

The bilateral treaties and conventions specify the information required in a request for assistance. In general terms, a request for assistance to Trinidad and Tobago should include:

- a summary of the allegations under investigation or prosecution, including the grounds on which the allegations are based and a clear indication of how the assistance requested is relevant to the alleged offence;
- the name of the authority making the request or conducting the criminal proceedings/investigations;
- the identity of the subjects of the investigation or prosecution, including name, date of birth, address, etc;
- the text of the offences under investigation or prosecution in the requesting state or entity;

- a description of the evidence sought, including any specific procedures to be applied during the process (e.g. list of questions; form for certification of documents, if required by the requesting state or entity), whether and to what extent the foreign authorities wish to participate in the evidence gathering process;
- the relevant legislations and provisions;
- time limits facing the requesting state or entity;
- any special confidentiality requirements; and
- any other information that might allow Trinidadian officials to identify and provide the evidence requested or to render the assistance sought.

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

The Government of Trinidad and Tobago has not presented nor has it received any requests for mutual assistance under the Convention. The Government has however presented requests for assistance under the Prevention of Corruption Act 1987, and the Mutual Assistance in Criminal Matters Act 1997 as amended.

Mutual Assistance requests are answered by the Government within a time frame of four to six weeks (4-6), depending on the nature of the request and the intensity of the investigations required.

c. If no such mechanisms exist, briefly indicate how your State has implemented the obligation, in accordance with Article XIV (1) of the Convention.

Not applicable.

2. Mutual technical cooperation

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

Informal mechanisms do exist to permit mutual technical cooperation between Trinidad and Tobago and other States. For example, the Governments of the United Kingdom and Canada provided general technical assistance in respect of the establishment of the Central Authority. These same informal mechanisms for technical cooperation would apply in respect of technical cooperation under the Convention.

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

No.

c. If no such mechanisms exist, briefly indicate how your State has implemented the obligation, in accordance with Article XIV (2) of the Convention.

Not applicable.

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

No.

CHAPTER SIX

CENTRAL AUTHORITIES (ARTICLE XVIII) 1.

Designation of Central Authorities

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

The Attorney General is the central authority for Trinidad and Tobago, under the Mutual Legal Assistance in Criminal Matters Act 1997. The Central Authority Department, which is part of the Ministry of the Attorney General at Cabildo Chambers, Port of Spain was established to carry out the functions assigned to the Attorney General as Central Authority for Trinidad and to provide advice to the Minister on his/her responsibilities under statutes.

The Central Authority Department reviews and coordinates extradition and mutual legal assistance requests made to Trinidad and Tobago, as well as those made by Trinidad and Tobago to other countries. The Department also has an additional mandate of developing and advising on policy in the area of bilateral treaties and multilateral conventions concerning extradition and mutual legal assistance.

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

Although The Mutual Assistance in Criminal Matters Act does not specifically refer to technical cooperation, whenever the Central Authority receives such requests, it directs the request to the relevant Government Department or Division.

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

Mr. David West
Senior Legal Executive
The Central Authority Department The
Ministry of the Attorney General
Cabildo Chambers 23-27 St Vincent
Street Port of Spain

Telephone: (868) 623-4904
Facsimile: (868) 624-1986
E-mail address centralauthoritytt@tstt.net.tt

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

Not applicable.

2. Operation of Central Authorities

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

The Central Authority Department is equipped with the necessary manpower needed, since it receives the assistance of the different investigative departments in the Police Service in investigating offences and in the gathering of evidence, documents, proceeds of crime and witnesses. In the event that there is a significant increase in the number of requests based on the Convention it may become necessary for increased human, financial and technical resources to be allocated to this department.

- 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.**

The Central Authority Department has not made or received requests for assistance under the Convention. However, the Central Authority Department has made requests under, domestic statute, namely the Prevention of Corruption Act which is aimed at the prevention of corruption of public officials.

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

a. State Party : The Republic of Trinidad and Tobago

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

Mr Norton Jack and Miss Ann-Marie Brassington

Title/position: Senior Legal Advisers

Mr. Charles Sabga

Title/position: Legal Officer II

Agency/office: Ministry of the Attorney General

**Mailing address: 23-27 St. Vincent Street,
Port of Spain Trinidad
West Indies**

Telephone number: 868-624-2120

or 6251529 or 627 0269

Fax number: 868-624-1986

E-mail address: njack@ag.gov.tt