

MECHANISM FOR FOLLOW-UP ON
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION

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Committee of Experts

**STANDARD FORMAT
FOR THE PREPARATION OF THE PROGRESS REPORTS (ARTICLES 31 AND 32 OF
THE RULES OF PROCEDURE AND OTHER PROVISIONS OF THE COMMITTEE)¹**

**INTRODUCTORY SECTION: PRINCIPAL DEVELOPMENTS WITH RESPECT TO THE
IMPLEMENTATION OF THE RECOMMENDATIONS AND MEASURES SUGGESTED BY
THE COMMITTEE IN THE FIRST TWO ROUNDS AND WITH RESPECT TO OTHER
MEASURES PROVIDED FOR IN THE CONVENTION²**

Instructions: Please list, on no more than one page, the principal developments that have taken place in your country during the time period covered by this report (June 23, 2008 to December 17, 2010), both with respect to the implementation of the recommendations and measures suggested by the Committee during the first two rounds of review, as well as with respect to other measures provided for in the Convention:

SECTION I. PROGRESS IN THE IMPLEMENTATION OF THE RECOMMENDATIONS

A. FIRST ROUND OF REVIEW

Instructions: Following the same structure as the country report of the First Round,³ and with respect to each one of the recommendations to which your country wishes to refer in this progress report, please provide the following information:

- I. RECOMMENDATION: Please transcribe the text of the recommendation made to your State by the Committee in the country report of the First Round, and with respect to which you would like to inform on progress that has been made:

¹ This format was adopted by the Committee at the Plenary Session held on June 29, 2007, within the framework of its Eleventh Meeting.

² This section is included in furtherance of what was agreed to by the Committee at its 17th meeting, held from September 13 to 16, 2010.

³ By way of a guide, the last page of this standard format describes that structure in connection with the issues covered in the First Review Round.

- II. ADOPTED MEASURES: Please note the measure or measures suggested by the Committee, or the alternative measure or measures that have been adopted to implement the above

The Bahamas is continuing to enhance standards of conduct and enforce compliance among its public officials through the implementation of the Judicial and Legal Service Commission Regulations, Police Service Commission Regulations, Public Service Commission Regulations which allows for the scrutiny and oversight of every sphere of government. In addition, the Government is expanding its relationship of scrutiny through its Industrial Agreement with the Public Service Union.

Article 18 of the Industrial Agreement between the Bahamas Government and the Bahamas Public Service Union. States:

“18.1 The Employer and the Union are cognizant that within The Public Service an employee may be in a position to exploit his/her official capacity for his/her personal benefit. Being mindful that a conflict of interest may arise from time to time during the employee’s performance of his/her duty the following guidelines are provided:

(a) The remuneration of an employee is fixed under the assumption that he/she will be available to serve the Employer subject to the provisions of this Agreement. He/she is prohibited from engaging in any activity, which involves conflict of interest for the employee or detracts from the Employer’s public image or impairs the employee’s ability to fulfill his position’s normal functions;

(b) No employee shall hold other public or private employment, engage in any occupation or profession, which in the Employer’s opinion is incompatible with the proper performance of his/her official duties;

(c) An employee who has reasonable grounds to believe that he or she has a conflict of interest on a matter must immediately bring this matter to the attention of the Head of Department.

18.2 (a) For the purposes of this Agreement, an employee has a conflict of interest when the employee exercises an official power or performs an official duty or function in the execution of his or her office and at the same time knows that in the performance of the duty or function or in the exercise of the power there is the opportunity to further his or her private interest.

(b) For the purpose of this Agreement, an employee has an apparent conflict of interest if there is a reasonable perception, which a reasonably well-informed person could properly have, that the employee’s ability to exercise an official duty or function may have been affected by his or her private interest. “Private interest” does not include an interest arising from the exercise of an official power or the performance of an official duty or function that:

- (i) applies to the general public
- (ii) affects an employee as one of a broad class of employees.”

III.

Additionally, The Bahamas is in the process of implementing an Act to amend the current laws that prohibit the legal entrapment of public officials. These amendments when implemented would lead to penalisation of public officials caught issuing or taking bribes. It calls for an amendment to the previous Prevention of Bribery Act, would officially make it legal for the entrapment of public officials in the Bahamas, as a means of rooting out corruption and under-handedness.

The amended provisions it read as follows:

"Be it resolved that the prime minister instruct the attorney general to draft amendments to the Prevention of Bribery Act making entrapment legal, and removing the provisions penalising persons offering an advantage to an agent, public body or public servant as defined by the said Act.

"And that the provisions of the said Act are further amended to include ministers, members of parliament, parliamentary secretaries and permanent secretaries as persons regulated by the Act."

- IV. Recommendation; and briefly describe the concrete steps that have been taken in connection with the measures adopted. If appropriate, please indicate the Internet web site where more detailed information may be obtained with respect to the measures adopted and the steps taken to implement the foregoing recommendation, specifically identifying where the information can be obtained on that website:

B. SECOND ROUND OF REVIEW

Instructions: Following the same structure as the country report of the Second Round,⁴ and with respect to each one of the recommendations to which your country wishes to refer in this progress report, please supply the following information:

- I. RECOMMENDATION: Please transcribe the text of the recommendation made to your State by the Committee in the country report of the Second Round, and with respect to which you would like to inform on progress that has been made:
- II. ADOPTED MEASURES: Please note the measure or measures suggested by the Committee, or the alternative measure or measures that have been adopted to implement the above recommendation; and briefly describe the concrete steps that have been taken in connection with the measures adopted. If appropriate, please indicate the Internet web site where more detailed information may be obtained with respect to the measures adopted and the steps taken to implement the foregoing recommendation, specifically identifying where the information can be obtained on that website:

The Bahamas reiterates its stated reference to the Prevention of Bribery Act, but also reports its Penal Code Bill of 2010. This Bill is intended to provide wide amendments to the Penal Code law of the Bahamas and provide new powers for the Criminalization of the acts of corruption.

Stated section in this Act includes:

“Section 164. Bribery

- (1) Any person who, without lawful authority or reasonable excuse, offers
Any advantage to a public servant as an inducement to or reward for or

⁴ By way of a guide, the last page of this standard format describes that structure in connection with the issues covered in the Second Review Round.

otherwise on account of that public servant's —

(a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;

(b) expediting, delaying, hindering or preventing or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or

(c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body, commits an offence.

(2) Any public servant who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his —

(a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;

(b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant..."

Section 168 & 169 further states:

“168. Bribery of public servant by person having dealings with public bodies.

Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any public body, offers an advantage to any public servant employed in or by that public body, commits an offence.

169. Corrupt transactions with agents.

(1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his —

(a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or

(b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business, commits an offence.

(2) Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's —

(a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or

(b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business.”

NOTE: *Points I and II referred to in Chapters A (First Round) and B (Second Round) of Section I, in relation to each of the recommendations with respect to which your State wishes to refer to progress on implementation, would be repeated.*

SECTION II: DIFFICULTIES IN THE IMPLEMENTATION OF THE RECOMMENDATIONS (ONLY RESPOND TO THIS SECTION IF YOUR COUNTRY CONSIDERS IT NECESSARY)

A. FIRST ROUND OF REVIEW:

Instructions: Following the same structure as the country report of the First Round,⁵ and with respect of each one of the recommendations with respect to which your country wishes to refer to the difficulties that have been faced with respect to implementation, please provide the following information:

- I. RECOMMENDATION: Please transcribe the text of the recommendation made to your State by the Committee in the country report of the First Round, and with respect to which you would like to refer to the difficulties that you have faced with respect to implementation:

The Bahamas recommendations made by the committee that has not yet been implemented continue to be under review.

- II. MEASURES: Please determine the measure(s) suggested by the Committee to comply with the foregoing recommendation, or the alternative measure(s) selected for this purpose, and with respect to which you wish to inform of the difficulties that have been encountered with respect to its implementation, and also briefly inform of those difficulties. If you consider it relevant, please indicate the “Internet” webpage where more detailed information in this regard can be obtained, specifically indicating what information on that page you wish to refer to:

B. SECOND ROUND OF REVIEW:

Instructions: Following the thematic structure of the country reports from the Second Round of Review, and with respect to each of the recommendations to which your country wishes to report on the difficulties that have been encountered in relation to implementation, please provide the following information:

⁵ By way of a guide, the last page of this standard format describes that structure in connection with the issues covered in the First Review Round.

- I. **RECOMMENDATION:** Please transcribe the text of the recommendation formulated to your State by the Committee in the country report from the Second Round, and with respect to which you would like to inform on the difficulties encountered in relation to its implementation:
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- II. **MEASURES:** Please determine the measure(s) suggested by the Committee to comply with the foregoing recommendation, or the alternative measure(s) selected for this purpose, and with respect to which you wish to inform of the difficulties that have been encountered with respect to its implementation, and also briefly inform of those difficulties. If you consider it relevant, please indicate the “Internet” webpage where more detailed information in this regard can be obtained, specifically indicating what information on that page you wish to refer to:
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NOTE: Points I and II referred to in Chapters A (First Round) and B (Second Round) of Section I, in relation to each of the recommendations with respect to which your State wishes to refer to progress on implementation, would be repeated.

SECTION III: OTHER PROGRESS IN THE IMPLEMENTATION OF THE CONVENTION (ONLY RESPOND TO THIS SECTION IF YOUR COUNTRY CONSIDERS IT NECESSARY)

Instructions: Following the thematic structure of the Inter-American Convention against Corruption, and in relation to each one of the Convention provisions to which your country wishes to refer to progress in implementation, please provide the following information:

- I. **PROVISION OF THE CONVENTION:** Please indicate the number of the Article of the Convention and of the paragraph of that Article, if appropriate, with respect to which you would like to refer to progress in implementation:
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- II. **MEASURES:** Please briefly describe the concrete measures or actions that have been executed in relation to the implementation of the provision of the Convention noted above. If you consider it relevant, please indicate the “Internet” webpage where more detailed information in this regard can be obtained, specifically indicating what information on that page you wish to refer to:
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NOTE: Points I and II referred to in Section III, with respect to each of the provisions of the Convention, in relation to each of the recommendations with respect to which your State wishes to refer to progress on implementation, would be repeated.

THEMATIC STRUCTURE OF THE COUNTRY REPORTS OF THE FIRST ROUND

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE COMPLIANCE (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)
 - 1.1 Conflicts of interest
 - 1.2 Standards of conduct and mechanisms to ensure the proper conservation and use of resources entrusted to government officials
 - 1.3 Measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware
2. SYSTEMS FOR REGISTERING INCOME, ASSETS AND LIABILITIES (ARTICLE III, PARAGRAPH 4, OF THE CONVENTION)

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4, AND 11, OF THE CONVENTION)
4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11 OF THE CONVENTION)
 - 4.1 General participation mechanisms
 - 4.2 Mechanisms for access to information
 - 4.3 Mechanisms for consultation
 - 4.4 Mechanisms to encourage participation in public administration
 - 4.5 Mechanisms for participation in the follow-up of public administration
5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)
6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)
7. GENERAL RECOMMENDATIONS

THEMATIC STRUCTURE OF THE COUNTRY REPORTS OF THE SECOND ROUND

1. SYSTEMS FOR GOVERNMENT HIRING AND STATE PROCUREMENT OF GOODS AND SERVICES (ARTICLE III, PARAGRAPH 5 OF THE CONVENTION)
 - 1.1. Hiring systems for public officials
 - 1.2. Systems for the procurement of goods and services by the state
2. SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO, IN GOOD FAITH, REPORT ACTS OF CORRUPTION (ARTICLE III, PARAGRAPH 8 OF THE CONVENTION)
3. ACTS OF CORRUPTION (ARTICLE VI OF THE CONVENTION)
 - 3.1. Criminalization of the acts of corruption set out in Article VI.1 of the Convention

3.2. Application of the Convention to other acts of corruption not described therein, pursuant to the terms of Article VI.2

4. GENERAL RECOMMENDATIONS