



UNODC

United Nations Office on Drugs and Crime

Country Review Report of Belize

Review by Haiti and Tuvalu of the implementation by Belize of articles 15 - 42 of Chapter III. “Criminalization and law enforcement” and articles 44 - 50 of Chapter IV. “International cooperation” of the United Nations Convention against Corruption for the review cycle 2010 - 2015

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

II. Process

5. The following review of the implementation by Belize of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Belize, and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from *Haiti, Tuvalu and Belize*, by means of by means of email exchanges and during the country visit.
6. A country visit agreed to by Belize was conducted from 9 to 13 July 2018.

III. Executive summary

Belize

1. Introduction: overview of the legal and institutional framework of Belize in the context of implementation of the United Nations Convention against Corruption

Belize is a sovereign parliamentary constitutional monarchy with Queen Elizabeth II as its titular head, represented by the Governor General. Belize became an independent State on 21 September 1981. The legal system is derived from English common law and statutes. The Belize Constitution (Constitution) is the supreme law of Belize and any law that is inconsistent with the Constitution shall be void to the extent of the inconsistency (art. 2). The Caribbean Court of Justice serves as the final appellate court of Belize for civil and criminal matters.

Belize acceded to the United Nations Convention against Corruption on 12 December 2016.

With regard to the incorporation of international law into domestic law, Belize follows a strictly dualist approach. All of the provisions of the Convention have not yet been incorporated into municipal law.

The main anti-corruption institutions include the Director of Public Prosecutions (DPP), the Attorney-General (AG), the Financial Intelligence Unit (FIU), the Belize Police Department, the Public Service Commission and the Central Bank of Belize.

The main pieces of anti-corruption legislation are the Prevention of Corruption Act (Chap. 105 of 2007, as amended, "PoCA"), the Criminal Code (Chap. 101 of 1981, as amended, "CC"), the Criminal Procedure Code (as amended, "CPC"), the Money Laundering and Terrorism (Prevention) Act (Chap. 104, "AMLA") and the Financial Intelligence Unit Act (Chap. 138:02, "FIU Act").

Belize is a member of the Caribbean Community and the Organization of American States and has been reviewed in four rounds under the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption. It is a member of the Caribbean Financial Action Task Force and has undergone three rounds of mutual evaluation reviews and eight follow-up reports.

2. Chapter III: criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Active bribery of public officials is regulated under sections 22, 24, 26, 27 and the Third Schedule of PoCA and under sections 289, 299, 301 and 303 to 307 of the CC. Section 303 CC provides that any act committed by a person in the expectation that he will or may become a public official is included in the offence of active bribery. The CC does not cover the element "offering", while PoCA does not cover the element "promising".

The definitions of "public official" under PoCA (sect. 2) and the CC (sect. 299) include elected officials as well as public officials appointed to positions and judicial officers. Both definitions do not encompass the military branch or employees of State-owned companies and the CC does not include unpaid personnel. The definition of "advantage" under PoCA excludes any material advantage inferior to 2,500 Belize dollars and does not include immaterial benefits. The definition of "valuable consideration" under the CC includes any "private advantage" which, according to governmental authorities, comprises immaterial benefits.

Passive bribery of public officials is criminalized (sects. 26, 27 and 28 PoCA and sect. 302 CC). Section 28 of PoCA specifies that "an agent or any other person who corruptly accepts or obtains; or corruptly agrees to accept or attempts to obtain for himself, or for any other person; any gift, consideration or advantage as an inducement to, or reward for, or otherwise on account of, the agent doing any act in relation to his office or position or his principal's affairs of business commits an offence".

Active and passive bribery of foreign officials and officials of public organizations are not criminalized. Active trading in influence is not criminalized.

Passive trading in influence is criminalized (sect. 290 CC) but does not cover third person beneficiaries or the "supposed influence".

Belize has partially implemented active and passive bribery in the private sector (to the extent that it amounts to the promotion, execution or procurement of any contract and the fixing of its price (sect. 24 PoCA)).

Money-laundering, concealment (arts. 23 and 24)

Belize law criminalizes money-laundering in accordance with the Convention (sect. 3 AMLA). Participation, association, conspiracy and attempt to commit, or aiding and abetting, facilitating, counselling or procuring the commission of money-laundering are criminalized (sect. 3(1)(d) AMLA).

Belize takes an “all crimes approach” to money-laundering, which includes offences committed outside its jurisdiction, provided that the dual criminality requirement is fulfilled (sects. 2B and 10 AMLA). Under section 2B(1) AMLA, “property is the proceeds of crime if it constitutes a person’s benefit from an offence or it represents such benefit, in whole or part and whether directly or indirectly”. Any property obtained as a result or in connection to an offence is considered as a “benefit” (sect. 2B(2)(a) AMLA).

Concealment of proceeds of crime is covered by the provision on money-laundering (sect. 3(1)(b) AMLA) and handling stolen goods (sect. 171 CC).

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)
Embezzlement and misappropriation of property in the private and public sectors are criminalized through the provisions on dishonest appropriation, which does not include acts committed for the benefit of third parties (sects. 139 to 146 CC), and through the provisions on illegal diversion (sect. 22 and Third Schedule (g) PoCA).

Section 22 in conjunction with the Third Schedule (a) PoCA criminalizes abuse of function.

Illicit enrichment was criminalized under the Unlawful Possession Act; however, the Act was found unconstitutional (Civil Appeal No. 3 of 2005).

Obstruction of justice (art. 25)

A number of provisions in the CC relate to obstruction of justice, namely the provisions on the use of violence with intent to deter a judge, magistrate, juror, witness, counsel, agent, prosecutor or party, in any legal proceeding, from acting in any manner (sect. 240); perjury or abet perjury (sect. 249); making a statement false (sect. 252); fabricating evidence (sect. 254); falsifying, destroying, removing or concealing any public register (sect. 256); removing, concealing, injuring or altering any instrument or document (sect. 258); deceiving any court or judicial officer (sect. 260); causing any person to disobey any summons, subpoena or order (sect. 262); perverting the course of justice (sect. 263); and interrupting or disturbing the proceedings of any court (sect. 267).

Liability of legal persons (art. 26)

Section 16 CC defines “person” as including a company or corporation. Section 2 AMLA defines “person” as including a legal person, such as a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture or other unincorporated organization or group capable of acquiring rights or entering into obligations. If an offence under PoCA is committed by a body corporate and is attributable to any wilful neglect of any officer of the body corporate, such person and the body corporate have committed an offence and may be punished (sect. 29 PoCA).

Liability of legal persons and liability of managers or employees for the same act do not exclude each other. The only sanctions available for legal persons are monetary sanctions.

Participation and attempt (art. 27)

Participation is covered in sections 20 and 21 CC, which include instigating, commanding, counselling, procuring, soliciting, aiding, facilitating, encouraging or promoting. Sections 49 and 22, in conjunction with Third Schedule (k) PoCA, criminalize abetting and participating. Section 7 AMLA extends liability to anyone who aids, abets, counsels, procures the commission of or conspires to commit the offence of money-laundering.

Attempt is criminalized for all offences in section 18 CC. Section 49 PoCA and section 7 AMLA also cover attempt. The mere preparation for corruption-related offences is not criminalized.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Belize has a broad range of sanctions for corruption-related offences. However, some of them appear to be insufficient when considering the gravity of the offence. There are no immunities or jurisdictional privileges accorded to Belize public officials.

Prosecution is not obligatory (sect. 50(2) of the Constitution of Belize). The Code for Prosecutors provides guidance on prosecutorial discretion. Decisions not to prosecute are subject to judicial review (sect. 127 Constitution and Mohatt v. DPP of Mauritius (2006)).

An accused person may be released on bail (sect. 5(5) Constitution and sects. 56 and 57 of the Indictable Procedure Act). A court may refuse bail if it believes that the accused person failed to provide sufficient sureties to ensure appearance at trial.

Under section 5 of the Belize Parole Act, an offender is eligible for release on parole upon expiry of one half of the term of imprisonment, in the case of serious offences, or of one third of the term of imprisonment in the case of minor offences.

A public officer that committed serious misconduct, which includes corruption related offences, may be suspended or terminated (sect. 85 of the Belize Public Service Regulation), in accordance with the procedure foreseen under that same Act, which can be carried out simultaneously with criminal proceedings. The reassignment of public officials accused of having committed an offence is not regulated.

Belize has not established a reintegration programme.

While there is no plea bargaining in Belize, due to its discretionary power, the DPP may decline to prosecute or discontinue a prosecution at any stage before a judgment is made if the alleged offender provides useful information. A judge of the Supreme Court, with the written consent of the DPP, may order that a pardon be granted to any person that gave full and true evidence upon any preliminary inquiry or trial (sect. 95 Evidence Act).

Protection of witnesses and reporting persons (arts. 32 and 33)

Under the Justice Protection Act, the Attorney General “shall establish a programme to be known as the Justice Protection Programme, for the purpose of providing participants, subject to this Act, protection or assistance or both” (sect. 4(1)). However, in relation to the offences established in accordance with the Convention, it only applies to money-laundering and, as explained by governmental authorities, it has not been implemented. Belize has not concluded agreements for the international relocation of witnesses and experts, but can cooperate on a case-by-case basis.

Belize does not have specific protection measures for reporting persons, except regarding section 32 PoCA that gives limited protection to persons reporting facts concerning offences under such Act.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

Conviction-based confiscation is regulated under section 49 AMLA. Subject to conviction-based confiscation is any “tainted property”, as defined under section 2(1) AMLA, that includes “proceeds of crime”. If the “tainted property” cannot be located, has been legally transferred to a third party, is located outside Belize, has been diminished in value or rendered worthless or has been commingled with other property that cannot be divided, a court may order the person to pay an amount equal to the value of the property instead of confiscating such property (sect. 54 AMLA).

Section 49(2)(b) AMLA contains a rebuttable presumption according to which property acquired within six years after the commission of an offence is considered “tainted property” if “the income of the offender cannot reasonably account for the acquisition of that property”.

Seizure and freezing of property is regulated under section 40 AMLA. Cash derived from the commission of an offence or to be used in its commission may be seized by the police (sect. 38(1) AMLA). Under section 11(1)(d) AMLA, the FIU may request the seizure of funds to facilitate any investigation, prosecution or proceeding in conjunction with a money-laundering offence.

Regarding the administration of frozen or seized assets, courts may appoint any person as receiver (sect. 40(1)(ii)(a) AMLA). Money related to confiscation orders is administrated by the Belize Confiscated and Forfeited Assets Fund (sects. 78 and 79 AMLA). There is no comprehensive legal framework that regulates the administration of confiscated property.

Transformed or converted property is liable for confiscation pursuant to the definition of “tainted property”. Section 54 AMLA may apply in cases of intermingled property that cannot be divided.

Section 23 AMLA and section 9 FIU Act allow for the seizure of documents “of any person”, which includes banks, in the context of an investigation.

The protection of bona fide third parties in confiscation proceedings is regulated (sect. 52 AMLA). The time frame for the challenge or assertion of third-party interest is six months from the date the forfeiture order is made (sect. 52(3) AMLA).

The provisions under AMLA supersedes any obligation as to secrecy or other restriction upon the disclosure of information (sect. 81 AMLA).

Statute of limitations; criminal record (arts. 29 and 41)

The statute of limitation for offences under PoCA is five years starting from the date when the cause of action accrued (sect. 58). The statute of limitation for offences under AMLA is five years from the date the offence was committed or the facts giving rise to such offence came to the knowledge of the DPP or the FIU. Neither PoCA nor AMLA provide for the suspension of the statute of limitation where the alleged offender has evaded the administration of justice. For any other offences established in accordance with the Convention there is no statute of limitations.

There is no legislation that permits the use of evidence of prior convictions in another State of an accused during trial.

Jurisdiction (art. 42)

Belize has established jurisdiction over offences committed wholly or partially within its territory (sects. 4 and 5 Indictable Procedure Act). It has not established jurisdiction aboard aircrafts or ships of Belize. Except for money-laundering offences (sect. 10 AMLA), Belize has not adopted the active or passive personality jurisdiction principle, or established jurisdiction over offences when the alleged offender is present in its territory and is not extradited. Jurisdiction for the purposes of paragraph 2(c) of article 42 of the Convention is established under section 10 AMLA.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)
Belize has no legislation that provides for the annulment or termination of contracts affected by corruption. Measures such as blacklisting, dissolution of a legal entity or revocation of licences do not exist. Under section 14 of Contractor-General Act, the Contractor-General has investigative powers to ensuring that there is no corruption in the awarding of contracts by a public body. However, it is not entitled to impose any sanctions.

The legal system of Belize provides for persons to seek compensation for wrongs through civil proceedings, including tort, contract or another common law principle.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

Under section 3 PoCA, Belize established the Integrity Commission. Among other things, the Commission has jurisdiction to examine the declarations filled in accordance with PoCA and to investigate complaints regarding non-compliance with or breach of the provisions of PoCA. However, at the time of the country visit, the Chairperson had not been appointed by the Prime Minister.

The National Anti-Money Laundering Committee set out in section 77B AMLA serves as a platform for cooperation and coordination among different national authorities.

Under subsection 7(1)(c) FIU Act, the FIU is responsible to ensure coordination and cooperation between law enforcement agencies, Government departments, regulatory authorities, private institutions and members of relevant professions.

2.2. Successes and good practices

- *The offence of active bribery includes any act executed by a person in the expectation that he will or may become a public official (sect. 303 CC)*
- *There are no immunities or jurisdictional privileges accorded to Belize public officials*
- *The rebuttable presumption, according to which property acquired within six years after the commission of an offence is considered “tainted property” if “the income of the offender cannot reasonably account for the acquisition of that property”*
- *The “all crimes” approach taken with regard to predicate offences for money-laundering*

2.3. Challenges in implementation

General part

- *In the context of the limited number of cases made available, Belize is encouraged to introduce a national system of crime statistics disaggregated by offences, status of the process and outcome.*

Criminalization

With regard to criminalization and law enforcement, it is recommended that Belize:

- *Harmonize the offences of active bribery under the CC with the offence of active bribery under PoCA, ensuring that both include the elements “promising”, “offering” and “giving” (art. 15(a))*
- *Harmonize the definition of “public official” under the CC with the definition under PoCA, ensuring that the military branch, unpaid personnel and employees of State-owned companies are included (art. 15)*
- *Reduce the “monetary threshold” used to define “advantage” under PoCA and explicitly include “immaterial benefits” in the definitions of “advantage” and “valuable consideration” under PoCA and the CC, respectively (art. 15)*
- *Criminalize active bribery of foreign public officials and officials of public international organizations in accordance with the Convention and consider criminalizing passive bribery of those officials (art. 16)*
- *Include the element of advantages for third parties in its provisions relating to embezzlement and misappropriation (art. 17)*
- *Consider the criminalization of active trading in influence as described in the Convention (art. 18(a))*
- *Assess whether the existing sanctions for corruption-related offences are effective and dissuasive (art. 30). In particular, assess whether existing sanctions for legal persons are effective and dissuasive and consider increasing maximum fines and including other type of sanctions (art. 26)*
- *Establish a longer statute of limitations period under PoCA or change its starting date to the date the facts giving rise to such offence came to the knowledge of the DPP or the FIU and provide in PoCA and AMLA for its suspension where the alleged offender has evaded the administration of justice (art. 29)*
- *Consider establishing procedures through which a public official accused of committing a corruption offence can be reassigned (art. 30(6))*
- *Endeavour to further promote the reintegration into society of offenders (art. 30(10))*
- *Improve regulation of the administration of frozen, seized or confiscated assets (art. 31(3))*
- *Amend its legislation to ensure that the limitations upon the exercise of the rights of bona fide third parties do not prejudice the exercise of such rights by increasing the time frame (sect. 52(3) AMLA) and removing the exclusions under section 52(4) AMLA (art. 31(9))*
- *Take measures to establish an effective programme and system for the protection of witnesses and experts, their relatives and persons close to them (art. 32(1) and (2))*
- *Consider entering into agreements or arrangements with other States for the relocation of protected persons (art. 32(3))*
- *Continue efforts on the adoption and implementation of comprehensive legislation on the protection of reporting persons (art. 33)*
- *Provide for further measures to address consequences of acts of corruption, such as corruption as grounds to terminate contracts (art. 34)*
- *Take the necessary steps to make the Integrity Commission operational (art. 36)*
- *Include vessels and aircraft in the territorial jurisdiction (art. 42(1))*

Belize may wish to:

- *Criminalize the mere preparation of a corruption-related offence (art. 30(3))*
- *Take into consideration any conviction in another State (art. 41)*
- *Provide for the active and passive jurisdictional personality principle (art. 42(2))*
- *Establish its jurisdiction when the alleged offender is present in its territory and it does not extradite him or her (art. 42(4))*

2.4. Technical assistance needs identified to improve implementation of the Convention

Belize indicated support in legislative drafting and capacity-building of law enforcement authorities as technical assistance needs.

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition; transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45 and 47)

Extradition is governed by the Extradition Act (Chap. 112, "EA"), which regulates extradition with Guatemala (sect. 8), the United States of America (sect. 9) and Mexico (newly inserted part IV). With regard to Guatemala, sections 8 and 2 of the EA refer to older English extradition acts from colonial times, in particular the United Kingdom Extradition Act 1870. With regard to the United States and Mexico, bilateral extradition agreements are annexed as schedules to the EA. Extradition to other countries is not possible. Belize cannot use the Convention as the basis for extradition. In practice, Belize makes extradition conditional on the existence of a bilateral treaty and does not use the London Scheme for extradition within the Commonwealth as a basis for extradition. As a general observation, it can be noted that Belize has very little practice with regard to extradition. Over the past 10 years, only a handful of extradition cases have been processed. Those cases all concerned Guatemala and the United States, and no request was based on the Convention.

Article 2(1) of the extradition treaty with the United States defines extraditable offences as those listed in the Schedule to the treaty or any other offence that is punishable in both States by imprisonment for a period of more than one year. The Schedule includes many but not all Convention offences, notably embezzlement (No. 9), handling stolen goods (No. 12), bribery (No. 19) and money-laundering (No. 23). Accessory extradition (cf. art. 44(3)) is provided for in article 2(5) of the United States Treaty.

In compliance with article 43(2), the United States Treaty looks at the underlying conduct, irrespective of terminology (art. 2(3)(a) of the United States Treaty).

*The only grounds for refusal of assistance in the United States Treaty are the principle of *ne bis in idem* (art. 5(1)) and political and military offences (art. 4). Pursuant to article 4(2)(b), Convention offences are not considered political offences. Fiscal matters are not mentioned as a ground for refusal. The rule of specialty is enshrined in article 14 of the United States Treaty. Extradition shall not be refused on the ground that the person sought is a national of the requested State (art. 3), nor because of any statute of limitations (art. 8). Belize can and does extradite its nationals and does not make extradition conditional on the return of the person to serve his sentence. Consequently, there are no provisions on prosecution in lieu of extradition (*aut dedere aut judicare*).*

The Constitution contains guarantees for fair trial for any person who is charged with a criminal offence (sects. 5 and 6). These rights and freedoms are directly applicable and are not limited to citizens. Article 9 of the United States Treaty regulates provisional arrest. The EA also contains provisions on the arrest of a person whose extradition is sought (sect. 6). The person sought can consent to be surrendered to the requesting State (art. 15).

There are no explicit provisions on consultations. Extradition proceedings are cost-free for the requesting State (art. 17(3) United States Treaty).

Belize has an arrangement on the transfer of sentenced persons with Mexico (the Exchange of Offenders (Belize/Mexico) Act (Chap. 114)) and is party to the Inter-American Convention on Serving Criminal Sentences Abroad. There are no provisions for the transfer of criminal proceedings.

Mutual legal assistance (art. 46)

Mutual legal assistance (MLA) is governed by the Mutual Legal Assistance and International Cooperation Act (Act No. 8 of 2014, “MLAA”). The Scheme Relating to Mutual Legal Assistance in Criminal Matters within the Commonwealth (Harare Scheme) can also be used. Moreover, Belize has domesticated the Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters. Pursuant to section 3(2), assistance under MLAA may be provided to any foreign State, whether on the basis of a treaty or not. Where a request is made pursuant to a treaty, the provisions of that treaty prevail (sect. 3(5) MLAA). However, nothing precludes Belize from rendering a broader range of assistance under MLAA than may be provided for in a treaty (sect. 3(3) MLAA). Moreover, MLAA does not limit the power of the authorities of Belize to cooperate, including through the sharing of information, with any foreign State through other channels or in another manner (sect. 3(4) MLAA). This would include the use of the communication channels of the International Criminal Police Organization (INTERPOL). MLA can be afforded also in relation to offences committed by legal persons.

MLAA (sects. 12 and 15–28) provides for all of the types of investigative measures listed in article 46 (3). Moreover, forms of assistance not mentioned in MLAA, but available under domestic law, can also be provided (sect. 9).

Belize can spontaneously transmit information on the basis of section 5 MLAA and section 12(2) FIU Act. Confidentiality is provided for in section 36 MLAA and section 12(1) FIU Act, but there is no provision on exculpatory information.

Bank secrecy cannot be invoked vis à vis the FIU (sects. 9, 15 FIU Act). If formal evidence is required, the FIU can request a production order in court.

Section 4(1) MLAA designates the Attorney General as the central authority for MLA. Section 10 MLAA gives the central authority discretion to decline a request for a number of reasons, including costs, legal professional privilege, and ordre public, but not including bank secrecy. MLAA does not make dual criminality a requirement for granting assistance. Belize would not decline a request for MLA on the sole ground that the offence is also considered to involve fiscal matters. Pursuant to section 11 MLAA, the grounds for refusal of an MLA request must be communicated to the requesting country.

The outbound transfer of detained witnesses is governed by section 16 MLAA. Section 17(8) MLAA provides for safe conduct and the rule of specialty. For other witnesses, there are no explicit provisions on safe conduct in MLAA.

The central authority is empowered to transmit and receive MLA requests directly rather than through diplomatic channels. Section 7 MLAA sets out detailed requirements for the form and content of MLA requests to Belize. A request must be made in English (sect. 10(2)(b)) and must normally be in writing; if made orally owing to urgency, it must be confirmed in writing forthwith (sect. 6). If the information provided in the request is not sufficient, Belize may request the foreign State to provide additional information (sect. 7(2)). However, lack of information shall not affect the validity of the request nor preclude its execution (sect. 7(2) and (3)).

Procedures specified in the request can be followed even if they are not used in Belize or are not available domestically, to the extent that they are not contrary

to the fundamental principles of Belize law (sect. 8(1) and (2) MLAA). The legal framework for hearings conducted by videoconference has been created but has not been used yet. The rule of specialty (art. 46(19)) is observed in practice.

MLAA does not contain any rules on the time frame for carrying out a request but the Attorney General's office tries to execute it as soon as possible. Belize will bear the costs of executing a request up to 500 Belize dollars (sect. 10(1) MLAA). Above that amount, Belize would ask the requesting country to bear or share the costs. Documents in the public domain will be provided while confidential documents could be provided on an ad hoc basis.

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

Belize does not consider the Convention as a basis for law enforcement cooperation.

The Belize Police Department (BPD) is responsible for providing law enforcement across the country. Headed by a Police Commissioner, the BPD is part of the Belize Ministry of National Security, which shares administrative responsibility for the BPD with the Security Services Commission. Belize has been an INTERPOL member since 1987. As part of the Joint Intelligence Coordinating Centre, the INTERPOL National Central Bureau for Belize is located at BPD headquarters in Belmopan. The Bureau has access to INTERPOL databases through the I-24/7 global police communications system.

The BPD is also a member of the Police Community of the Americas (Ameripol) and the Association of Caribbean Commissioners of Police. The United States Drug Enforcement Agency has liaison officers in Belize, while the Federal Bureau of Investigation of the United States has liaison officers in El Salvador who are also responsible for Belize.

The Belize FIU has been a member of the Egmont Group of Financial Intelligence Units since 2009 and has entered into memorandums of understanding with several foreign FIUs.

Belize is part of the INTERPOL Regional Cybercrime Initiative.

Belize has not entered into any agreements that provide for joint investigations. Except for controlled delivery, special investigative techniques are not currently practiced in Belize, although there is a legal basis for electronic surveillance in the Interception of Communication Act. However, in accordance with common law principles of criminal procedure, any relevant evidence is admissible, even if it was obtained illegally, unless it has been obtained by unfair means or through a deliberate breach of procedures.

3.2. Successes and good practices

- *Pursuant to section 3(3) MLAA, nothing precludes Belize from rendering a broader range of assistance under MLAA than may be provided for in a treaty (art. 46)*
- *MLAA does not make dual criminality a requirement for granting assistance (art. 46(9))*
- *The central authority is empowered to transmit and receive MLA requests directly rather than through diplomatic channels (art. 46(13))*

3.3. Challenges in implementation

Belize is strongly encouraged to adopt a new, modern extradition act that implements all the requirements of the Convention (art. 44); in particular, it is recommended that Belize:

- *Ensure that it can extradite persons sought for any Convention offence to any State party to the Convention; to that end, domesticate the Convention so that it can be used as a legal basis for extradition (art. 44)*
- *Ensure that all Convention offences are extraditable offences under the EA and any bilateral treaty (art. 44(4))*
- *Consider establishing a procedure for consultation before denying a request for extradition concerning a Convention offence (art. 44(17))*
- *Conclude more bilateral extradition treaties, especially in view of its bilateral approach to extradition (art. 44(6) and (18)) In addition, it is recommended that Belize:*
- *Ensure that exculpatory information received spontaneously can nevertheless be disclosed (art. 46(5))*
- *Include an explicit reference to the rule of specialty in MLAA (art. 46(19))*
- *Adopt explicit provisions on safe conduct for witnesses other than detainees (art. 46(27))*
- *Assess the necessity to increase the amount of 500 Belize dollars in section 10(1) MLAA to fulfil its obligation under article 46(28)*
- *Consider regulating the transfer of criminal proceedings, in particular in cases where several jurisdictions are involved (art. 47)*
- *Consider the establishment of joint investigative bodies, or undertake joint investigations on a case-by-case basis (art. 49)*
- *Allow for the appropriate use, in practice, by competent authorities of controlled delivery and, where appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, and allow for the admissibility in court of evidence derived therefrom (art. 50)*

3.4. Technical assistance needs identified to improve implementation of the Convention

Belize indicated that the following technical assistance, if available, would be helpful in assisting it to strengthen the implementation of the Convention:

- *Support in legislative drafting, particularly with regard to new extradition legislation*

IV. Implementation of the Convention

A. Ratification of the Convention

Please provide information on the ratification/acceptance/approval/accession process of the United Nations Convention against Corruption in your country (date of ratification/acceptance/approval of/accesion to the Convention, date of entry into force of the Convention in your country, procedure to be followed for ratification/acceptance/approval of/accesion to international conventions etc.).

Belize acceded to the United Nations Convention Against Corruption on the 12th day of December 2016. The Convention has not been entered into force as a consequence of Belize being a country that has the dualist system in international law. In effect, the Convention now has to be incorporated into our domestic or municipal law to be given full force and effect. Full implementation will be completed at the end of the implementation review process.

B. Legal system of Belize

Please briefly describe the legal and institutional system of your country.

The legal and institutional system of Belize is modelled of the Westminster model and is rooted in the English Common Law. Belize is a sovereign constitutional democracy, where the doctrine of Constitutional Supremacy is the bed rock of its democracy, coupled with adherence to the rule of law and the separation of powers.

In preparation for the self-assessment, the Focal Point consulted and had comprehensive discussions with all relevant stake holders and members of civil society. A rigorous analysis of the legal, legislative, institutional and administrative framework was conducted. The focus was primarily on those areas in the Convention where it was observed that there were deficiencies or weaknesses in relation to our legislative framework.

Please describe three practices that you consider to be good practices in the implementation of the chapters of the Convention that are under review.

The following practices are considered as good practices by Belize:

1. The establishment of an effective regime in relation to International Cooperation and Mutual Legal Assistance.
2. Establish autonomous and independent institutions to investigate and prosecute corruption of offences.
3. The establishment of a secure and reliable whistle blower and witness protection regime.

Please describe (cite and summarize) the measures/steps, if any, your country needs to take, together with the related time frame, to ensure full compliance with the chapters of the Convention that are under review, and specifically indicate to which articles of the Convention such measures would relate.

To ensure full compliance in relation to the First Cycle of the review process, addressing

Criminalization, Law Enforcement and International Cooperation, requires the drafting and implementation of legislation to give effect to the provisions covered in Chapter III and IV that are not already captured in our legislative framework. In Belize currently, capacity is an issue in many Government Departments and as such when factoring in time, this peculiar situation has to be considered. Nevertheless, in relation to the time frame, including research, consultation, drafting and passing the necessary parliamentary stages before becoming law, it is estimated that it would take about six (6) to nine (9) months to implement legislation to address the provision in Chapters III and IV. Legislative implementation requires us to have approval by Cabinet and by both houses of the National Assembly. The Articles of the Convention, in relation to the First Cycle, for which legislation will have to be implemented include: Article 18, 19, 20, 21, 22, 27, 32, 33, 34, 35, 36, 47.

C. Implementation of selected articles

Chapter III. Criminalization and law enforcement

General observation:

In the context of the limited number of cases made available, Belize is encouraged to assess whether the introduction of a national system of crime statistics disaggregated by offences, state of the process and outcome would be beneficial.

Article 15. Bribery of national public officials

Subparagraph (a) of article 15

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), sections 289, 299 and 301 to 307, and to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), Part I, sections 22, 24, 26, 27, 29 and third schedule.

Criminal Code Act

289. Every person who corrupts or attempts to corrupt any person in respect of any duties as a public officer or juror shall be liable to imprisonment for two years.

299. (1) “Public officer” means any person holding any of the following offices, or performing the duties thereof whether as a deputy or otherwise, namely, (a) any civil office, including the office of Governor General of Belize, the power of appointing a person to which or of removing a person from which is vested Her Majesty, or in the Governor-General of Belize, or in any public commission or board; (b) any office to which a person is nominated or appointed by statute or by public election; (c) any civil office, including any commissionerships, the power of appointing to which or of removing from which is vested in any person or persons holding public office of any kind included in either paragraph (a) or (b) of this subsection; (d) any office or arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of any court; (e) any justice of peace.

(2) A person acting as a minister of religion or ecclesiastical officer of whatever denomination is a public officer in so far as he performs functions in respect of the notification of intended marriage, or in respect of solemnisation of marriage, or in respect of the making or keeping of any register or certificate of marriage, birth, baptism, death or burial, but not in any other respect.

(3) “Civil office” means any public office other than an office in Naval, Military or Air Force Service of Her Majesty.

(4) “Judicial officer” means any person executing judicial functions as a public officer.

(5) “Public office” means the office of any public officer.

(6) It is immaterial for the purposes of this section whether a person is or is not entitled to any salary or other remuneration in respect to the duties of his office.

(7) “Public election means any election the qualification for voting at which, or the mode of voting at which, is determined by or regulated by law.”

301. A person is guilty of corrupting a public officer, juror or voter in respect of the duties of his office, or in respect of his vote, if he endeavours directly or indirectly to influence the conduct of such public office, juror or voter in respect of the duties of his office, or in respect of his vote, by the gift, promise or prospect of any valuable consideration to be received by such public officer, juror or voter, or by any other person from any person whoever.

303. It is immaterial for the purposes of either section 301 or section 302 of this Act, that the person respecting whose conduct the endeavour, agreement or offer therein mentioned is made is not yet at the time of them making of such endeavour, agreement or offer such a public officer, juror or voter if the endeavour, agreement or offer be made in the expectation that he will or may become or act as such officer, juror or voter.

304. It is immaterial for the purposes of sections 301 to 303 of this Act whether the act to be done by a person in consideration or in pursuance of any such gift, promise, prospect, agreement or offer as therein mentioned be in any manner criminal or wrongful otherwise than by reason of the provisions of the said sections.

305. If after a person has done any act as a public officer, juror or voter, he secretly accepts or agrees or offers secretly to accept, for himself or for any other person, any valuable consideration on account of such act, he shall be presumed, until the contrary is shown, to have been guilty of corruption within the meaning of this Title in respect of such act before the doing thereof.

306. If after a public officer, juror or voter, has done any act as a public officer, juror or voter, any other person secretly agrees or offers to give or procure for him or for any other person any valuable consideration on account of such act, the person so agreeing or offering shall be presumed, until the contrary is shown, to have been guilty of having before the doing of such act corrupted such public officer, juror or voter, in respect of such act.

307. In this Title, “valuable consideration” includes any money, money’s worth or valuable thing, and any office or dignity, and any forbearance to demand money, or money’s worth or any valuable thing, and any private advantage of whatever kind.

The relevant sections of the Prevention of Corruption Act provide:

22. (1) A person who, by himself or in conjunction with any other person, or an agent, engages or attempts to engage in any of the acts specified in Part I of the Third Schedule commits an act of corruption. (2) [...].

Third Schedule of the PoCA. A person commits an act of corruption if [...] (c) he offers or

grants, directly or indirectly, to a public servant any article, money or other benefit being a favour, promise or advantage to the public servant or another person, for doing any act or omitting to do any act in the performance of the public servant's public functions; [...] (k) he instigates, aids, abets or is an accessory after the fact of participates in whatsoever manner in the commission or attempted commission of or conspires to commit any act of corruption referred to in paragraphs (a) to (k).

26. A person who,

(a) offers any advantage to a Member of the National Assembly as an inducement or reward for such Member's doing or forbearing to do any act in his capacity as such Member; or (b) [...]

commits an offence of corrupt activities and is liable on conviction on indictment to a fine not less than twenty-five thousand dollars or to imprisonment for a period not exceeding one year or to both fine and imprisonment.

27. A person who,

(a) offers any advantage to any member of a public body as an inducement or reward for

(i) the member's voting or abstaining from voting at any meeting of the public body in favour of or against any measure, resolution or question submitted to that public body;

(ii) the member's performing, or abstaining from performing, or his aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act;

(iii) the member's aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person or

(b) who, being a member of a public body, solicits or accepts any advantage as an inducement or a reward for any such, or any such abstaining, as is referred to in paragraph (a) (i), (ii) and (iii), commits an offence and is liable on conviction on indictment to a fine not less than twenty-five thousand dollars or to imprisonment for a period not exceeding one year or to both fine and imprisonment.

29. (1) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance or, or to be attributable to any wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if the person and the body corporate commit an offence and are liable to be proceeded against and punished as if the person and the body corporate were guilty of that offence. [...]

Under Section 2 of the POCA:

"advantage" include, (a) money or any donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, over a value of \$2,500; (b) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage; (c) any office, dignity, employment, contract of employment or services in any capacity; (d) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part; (e) any valuable consideration or benefit of any kind or any discount, commission, rebate, bonus, deduction or percentage over a value of \$2,500,00; (f) any forbearance to demand any money or money's worth or valuable thing; (g) any other service or favour or advantage of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or

criminal nature, whether or not already instituted, and includes the exercise or the forbearance from the exercise of any right or any official power or duty; (h) any right or privilege; (i) any aid, vote, consent or influence or pretend aid, vote consent or influence; (j) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of paragraphs (a) to (i);

“agent” includes any person employed by or acting for another, any trustee of an insolvent estate, the assignee of an estate assigned for the benefit or with the consent of creditors, the liquidator of a company which is being wound up, the executor of the estate of a deceased person, the legal representative of any person who is unsound mind or is a minor or is otherwise under disability, any public servant or an officer serving in or under or acting for any public body, a trustee, an administrator or a subcontractor and any person appointed as an agent in terms of any law;

“public body” includes local and public authorities of all descriptions;

“public officer” has the meaning ascribed to it in section 131 of the Constitution;

“public servant” includes the Governor General, members of the National Assembly, members of the Belize Advisory Council, members of the Public Services Commission, members of the Election and Boundaries Commission, public officers, members and officers of statutory corporation and government agencies, and members and employees of all public bodies, including local authorities.

Under section 131 of Belize’s Constitution

“public office” means any office of emolument in the public service;

“public officer” means a person holding or acting in any public office;

“the public service” means, subject to the provision of this section, the service of the Crown in a civil capacity in respect of the Government”.

(b) Observations on the implementation of the article

Both the CC and the PoCA contain relevant offences. Depending on the facts of a particular case, the authorities indicated that a decision would need to be taken concerning the provision under which a suspect would be charged, as a certain conduct may match the offence described in several provisions. Such decisions are made on the basis of the evidence available, as well as taking into account the specific elements of the offence.

The definition of “public officer” under the CC (section 299) and the definition of “public servant” under the PoCA (section 2), which also refers to the definition of “public officer” under the Constitution (section 131), include elected officials as well as public officials appointed to positions and judicial officers (professional judges, lay judges and all persons executing judicial functions). Neither of the definitions encompass the military branch or employees of states owned companies. The definition of the CC differs from the definition of the PoCA as the definition of the latter does not include unpaid personal.

The definition of “advantage” under PoCA (section 2) excludes any material advantage inferior to Belize Dollars (BZD) \$2,500.00 and does not include immaterial benefits. The definition of

“valuable consideration” under CC includes the expression “any private advantage of whatever kind” which, according to governmental authorities, comprises immaterial benefits.

The provisions on active bribery under the CC and the PoCA explicitly cover all cases where the advantage is offered not only for the benefit of the public official himself/herself, but also for the benefit of another person (third). The CC does not cover the element “offering”, while PoCA does not cover the element “promising”.

It was concluded that Belize is partially in compliance with Art. 15 (a) of the Convention.

As a result, it was recommended that Belize:

- Harmonize the offences of active bribery under the CC with the offence of active bribery under PoCA, ensuring that both include the elements “promising”, “offering” and “giving”;
- Harmonize the definition of “public official” under the CC with the definition under PoCA, ensuring that the military branch, unpaid personnel and employees of State-owned companies are included;
- Reduce the “monetary threshold” used to define “advantage” under PoCA and explicitly include “immaterial benefits” in the definitions of “advantage” and “valuable consideration” under PoCA and CC, respectively.

(c) Successes and good practices

Section 303 of the CC criminalizes the behaviour set forth in section 301 with regard to persons who, at the time of the making of the endeavour, agreement or offer, are not yet public officers, jurors or voters, if such acts are done in the expectation that he will or may become or act as such officer, juror, or voter.

| Subparagraph (b) of article 15

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), sections 284, 302, 304 and 305, and to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), sections 26, 27 and 28.

Criminal Code Act

284. Every public officer or juror who is guilty of corruption or of wilful oppression or of extortion in respect of the duties of his office, shall be liable to imprisonment for two years.

302. A public officer, juror or voter is guilty of corruption in respect of the duties of his office or vote if he directly or indirectly agrees or offers to permit his conduct as such officer, juror or voter to be influenced by the gift, promise or prospect of any valuable consideration to be received by him or by any other person from any person whoever.

304. It is immaterial for the purposes of section 301 to 303 of this Act whether the act to be done by a person in consideration or in pursuance of any such gift, promise, prospect, agreement or offer as therein mentioned by in any manner criminal or wrongful otherwise than by reason of the provisions of the said sections.

305. If after a person has done any act as a public officer, juror or voter, he secretly accepts or agrees or offers secretly to accept, for himself or any other person, any valuable consideration on account of such act, he shall be presumed, until the contrary is shown, to have been guilty of corruption within the meaning of his Title in respect of such act before the doing thereof.”

Prevention of Corruption Act:

26. A person who,
[...]

(b) being a Member of the National Assembly, solicits or accepts any advantage as an inducement or a reward for his doing or forbearing to do any act in his capacity as such Member, commits an offence of corrupt activities and is liable on conviction on indictment to a fine not less than twenty-five thousand dollars or to imprisonment for a period not exceeding one year or to both fine and imprisonment.

27. A person who,
[...]

(b) who, being a member of a public body, solicits or accepts any advantage as an inducement or a reward for any such, or any such abstaining, as is referred to in paragraph (a) (i), (ii) and (iii), commits an offence and is liable on conviction on indictment to a fine not less than twenty-five thousand dollars or to imprisonment for a period not exceeding one year or to both fine and imprisonment.

28. – (1) An agent or any other person who, (a) corruptly accepts or obtains; or (b) corruptly agrees to accept or attempts to obtain for himself, or for any other person; any gift, consideration or advantage as an inducement to, or reward for, or otherwise on account of, the agent doing any act in relation to his office or position or his principal’s affairs or business commits an offence;
[...]

(5) Any person who commits an offence under this section is liable, (a) on summary conviction, (i) in the case of a first offence, to a fine not less than five thousand dollars; and (ii) in the case of a second or subsequent offence, to a fine not less than ten thousand dollars or to imprisonment for a period not exceeding six months or to both fine and imprisonment; (b) on conviction on indictment (i) in the case of a first offence, to a fine not less than ten thousand dollars; and (ii) in the case of a second or subsequent offence to a fine not less than twenty thousand dollars or to imprisonment for a period not exceeding one year or to both fine and imprisonment.

Section 2 of the PoCA defines “agent” as follows:

“agent” includes any person employed by or acting for another, any trustee of an insolvent estate, the assignee of an estate assigned for the benefit or with the consent of creditors, the liquidator of a company which is being wound up, the executor of the estate of a deceased person, the legal representative of any person who is unsound mind or is a minor or is otherwise under disability, any public servant or an officer serving in or under or acting for any public body, a trustee, an administrator or a subcontractor and any person appointed as an agent in terms of any law.

(b) Observations on the implementation of the article

Section 302 of the CC and sections 26, 27 and 28 of the PoCA criminalize passive bribery. While the solicitation or acceptance of “any advantage” is expressly specified in the PoCA, the CC refers to agreeing or offering to permit the conduct of the public officer to be influenced, but not to the solicitation of a “valuable consideration”. However, the offering to permit one’s conduct to be influenced can be interpreted as solicitation.

Under section 302 of the CC, a person is guilty of corruption “if he directly or indirectly agrees or offers to permit his conduct as such officer, juror or voter to be influenced by the gift, promise or prospect of any valuable consideration to be received by him or by any other person from any person whoever”. The governmental authorities confirmed that the expression “to be influenced” includes “to act” or to “refrain from acting”.

Section 26 criminalizes passive bribery committed by a “member of the National Assembly”, section 27 criminalizes passive bribery committed by a “member of a public body” and section 28 criminalizes passive bribery committed by an “agent”. As the definition of “agent” includes “public body”, which includes “members of the National Assembly”, a decision would need to be taken concerning the provision under which a suspect would be charged, as explained by governmental authorities. Such decision is made on the basis of the evidence available, as well as taking into account the specific elements of the offence.

While the indirect commission of the act is not explicitly mentioned in the wording of section 27 of PoCA, it is self-evident that this is also covered. Section 49 of the PoCA provides that a criminal offence is committed not only by the immediate perpetrator who commits the criminal offence, but also by anyone who abets another person to commit the offence or who conspires to its perpetration.

It was concluded that Belize is in compliance with Art. 15(b) of the Convention.

Article 16. Bribery of foreign public officials and officials of public international organizations

Paragraph 1 of article 16

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act

or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

(a) Observations on the implementation of the article

The reviewing experts concluded that Belize has not taken the necessary measures to implement paragraph 1 of article 16 of the Convention.

(b) Challenges and recommendations

It was recommended that Belize criminalize active bribery of foreign public officials and officials of public international organizations in accordance with the Convention.

| Paragraph 2 of article 16

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(a) Observations on the implementation of this article

The reviewing experts concluded that Belize has not taken the necessary measures to implement paragraph 2 of article 16 of the Convention.

(b) Challenges and recommendations

It was recommended that Belize consider criminalizing passive bribery of foreign public officials and officials of public international organizations in accordance with the Convention.

Article 17. Embezzlement, misappropriation or other diversion of property by a public official

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to (a) the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), sections 16, 139 to 146; (b) the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), section 22 and third schedule; and (c) the Interpretation Act Chapter 1 of the Substantive Laws of Belize Revised Edition 2011 (Interpretation Act), sections 2 and 3.

Criminal Code Act:

16. "Person" includes a company or corporation, and any number or association of persons, and for the purposes of any provision of this Code relating to defrauding a person or to committing any crime against the property of any person, the Government of Belize or of any other place or State shall be deemed to be a person.

139.(1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and "thief" and "steal" shall be construed accordingly.

(2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief's own benefit.

(3) Sections 140 to 145 of this Act shall have effect as regards the interpretation and operation of this section (and, except as otherwise provided by this Title, shall apply only for the purposes of this section).

140. (1) A person's appropriation of property belonging to another is not to be regarded as dishonest,

(a) if he appropriates the property in the belief that he has in law the right to deprive the other of it, on behalf of himself or of a third person; or

(b) if he appropriates the property in the belief that he would have the other's consent if the other knew of the appropriation and the circumstances of it; or

(c) (except where the property came to him as trustee or personal representative) if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

(2) A person's appropriation of property belonging to another may be dishonest notwithstanding that he is willing to pay for the property.

141. (1) Any assumption by a person of the rights of an owner amounts to an appropriation, and this includes, where he has come by the property (innocently or not) without stealing it, any later assumption of a right to it by keeping or dealing with it as owner.

(2) Where property or a right or interest in property is or purports to be transferred for value to a person acting in good faith, no later assumption by him of rights which he believed himself to be acquiring shall, by reason of any defect in the transferor's title, amount to theft of the property.

142. (1) If it be proved on behalf of a person accused of having stolen a thing that the wife of the owner of the thing consented to its appropriation by the accused person, the accused person shall not be convicted unless it be proved against him that he had notice that the wife had no authority to consent to the appropriation.

(2) If it appears that he had committed or designed to commit adultery with the wife, he shall be deemed to have had such notice, but he shall not in such case be deemed guilty of stealing by reason only of his appropriation, with the consent of the wife, or of his assisting the wife to appropriate, any wearing apparel of the wife, or any money or other thing of which the wife is apparently permitted to have the disposal for her own use.

143. (1) "Property" includes money and all other property real or personal, including things in action and other intangible property.

(2) A person cannot steal land, or things forming part of land and severed from it by him or by his directions, except in the following cases, that is to say,

(a) when he is a trustee or personal representative, or is authorised by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him;

(b) when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or

(c) when, being in possession of the land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

For purposes of this subsection “land” does not include incorporeal hereditaments; “tenancy” means a tenancy for years or any less period and includes an agreement for such a tenancy but a person who after the end of a tenancy remains in possession as statutory tenant or otherwise is to be treated as having possession under the tenancy, and “let” shall be construed accordingly.

(3) A person who picks flowers, fruits or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks, unless he does it for reward or for sale or other commercial purpose.

(4) Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or the carcass of any such creature, unless either it has been reduced into possession by or on behalf of another person and possession to it has not since been lost or abandoned, or another person is in course of reducing it into possession.

144. (1) Property shall be regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest).

(2) Where property is subject to a trust, the persons to whom it belongs shall be regarded as including any person having a right to enforce the trust, and an intention to defeat the trust shall be regarded accordingly as an intention to deprive of the property any person having that right.

(3) Where a person receives property from or on account of another, and is under an obligation to the other to retain and deal with that property or its proceeds in a particular way, the property or proceeds shall be regarded (as against him) as belonging to the other.

(4) Where a person gets property by another’s mistake and is under an obligation to make restoration (in whole or in part) of the property or its proceeds or of the value thereof, then to the extent of that obligation the property or proceeds shall be regarded (as against him) as belonging to the person entitled to restoration and an intention not to make restoration shall be regarded accordingly as an intention to deprive that person of the property or proceeds.

(5) Property of a corporation sole shall be regarded as belonging to the corporation notwithstanding a vacancy in the corporation.

145. (1) A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other’s rights; and a borrowing or lending of it may amount to so treating it if, but only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

(2) Without prejudice to the generality of subsection (1) of this section, where a person, having possession or control (lawfully or not) of property belonging to another, parts with the property under a condition as to its return which he may not be able to perform, this (if done for the purposes of his own and without the other’s authority) amounts to treating the property as his

own to dispose of regardless of the other's rights.

146. A person guilty of theft shall on conviction on conviction of indictment be liable to imprisonment for a term not exceeding ten years.

Prevention of Corruption Act, Cap 105 Substantive Laws of Belize, Revised Edition 2011

22. (1) A person who, by himself or in conjunction with any other person, or an agent, engages or attempts to engage in any of the acts specified in Part I of the Third Schedule commits an act of corruption.

Third Schedule. A person commits an act of corruption if [...] (f) he illegally uses for his own benefit or that of a third party, any property (including money) belonging to the Government or any statutory body or any government company or anybody providing public utilities to which he has access as a result of or in the course of, the performance of his functions; (g) he, for his own benefit or for that of a third person, illegally diverts any property belonging to Government or any of the person, which is in his custody for the due administration of his duties". [...]

Interpretation Act:

2.-(1) Save where the contrary intention appears either from the context of this Act or any other Act or instrument, the provisions of this Act shall apply to this Act and to any other Act in force whether such other Act comes or came into operation before or after the commencement of this Act and to any instrument made or issued by virtue of this Act.

3. (1) In this and in any other Act, unless the contrary intention appear "property" includes, (a) money, goods, choses in action and land; and (b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a) of this definition; [...]

(b) Observations on the implementation of the article

Section 139 of the CC criminalizes "theft" committed by a person of property belonging to another. Even though, the definitions of "person" under section 16 of the CC does not explicitly refers to "public officials", due to its broadness, governmental authorities confirmed that it comprises such category. However, section 139 does not include acts committed for the benefit of third parties.

Section 22 in conjunction with third schedule of PoCA criminalizes the illegal use of "any property" belonging to the government. The PoCA does not define the term "property". However, taking into account the definition of "property" under the Interpretation Act, Governmental authorities confirmed that it not limited to funds or money.

It was concluded that Belize is partially in compliance with Art. 17 of the Convention.

Thus, it was recommended that Belize includes the element of advantages for third parties in its provisions relating to embezzlement and misappropriation.

Article 18. Trading in influence

Subparagraph (a) of article 18

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;

(a) Observations on the implementation of the article

The reviewing experts concluded that Belize has not taken the necessary measures to implement article 18 of the Convention.

(b) Observations on the implementation of the article

It was recommended that Belize consider the criminalization of active trading in influence as described in the Convention.

Subparagraph (b) of article 18

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), section 290.

290. Every person who accepts or agrees or offers to accept any valuable consideration under pretence or colour of having unduly influenced, or of agreeing or being able to influence, any person in respect of his duties as a public officer or juror, is guilty of a misdemeanour.

(b) Observations on the implementation of the article

Belize criminalized passive trading in influence under section 290 of the CC. However, it does not cover third person beneficiaries or the “supposed influence”.

Article 19. Abuse of functions

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), section 22 and Third Schedule.

22. (1) A person who, by himself or in conjunction with any other person, or an agent, engages or attempts to engage in any of the acts specified in Par I of the Third Schedule commits an act of corruption.

Third Schedule. A person commits an act of corruption if (a) he in the performance of his public functions does any act or omits to do any act for the purpose of obtaining any illicit benefit of himself or any other person; (b) he fraudulently uses or conceals any property or other benefit derived from any such act or omission to act under paragraph (a) or (b); [...]

(b) Observations on the implementation of the article

Section 22 in conjunction with third schedule of PoCA criminalizes the abuse of function. Thus, it was concluded that Belize is in compliance with the provision under review.

Article 20. Illicit enrichment

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), section 33 and to the Unlawful Possession Act Chapter 113, 2000.

(b) Observations on the implementation of the article

According to Governmental experts, illicit enrichment was considered by Belize .

Article 21. Bribery in the private sector

| Subparagraph (a) of article 21

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial

or commercial activities:

(a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to section 24 of the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA).

24. (1) A person who, directly or indirectly,

(a) [...]; or

(b) gives or agrees or offers to give to any other person any advantage whether for the benefit of that person or for the benefit of another person (i) in order to improperly influence, in any way (aa) the promotion, execution or procurement of any contract with a public body, private organization, corporate body or any other organization or institution; (bb) the fixing of the price, consideration or other moneys stipulated or otherwise provided for in any such contract; or (ii) as a reward for acting as contemplated in paragraph (a),

commits an offence of corrupt activities relating to contracts and is liable on summary conviction to a fine of not less than twenty thousand dollars or to imprisonment for a period of one year or to both fine and imprisonment.

(2) [...]

(b) Observations on the implementation of the article

Belize has partially implemented active bribery in the private sector. The criminalization of giving, agreeing to give or offering to give of any advantage, directly or indirectly, to any other person, for its benefit or for the benefit of another person is limited to cases where the aim is to improperly influence the promotion, execution or procurement of any contract with a private organization or to improperly influence the fixing of the price of such contract.

As mentioned before, the definition of “advantage” under Part I of the PoCA excludes any material advantage inferior to Belize Dollars (BZD) \$2,500.00 and does not include immaterial benefits.

Subparagraph (b) of article 21

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

...

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to section 24 of the Prevention of Corruption Act Cap 105 of the Substantive Laws of

24. (1) A person who, directly or indirectly,
(a) accepts or agrees or offers to accept any advantage from any other person, whether for the benefit of himself or herself or for the benefit of that other person or of another person; or
(b) [...], (i) in order to improperly influence, in any way (aa) the promotion, execution or procurement of any contract with a public body, private organization, corporate body or any other organization or institution; (bb) the fixing of the price, consideration or other moneys stipulated or otherwise provided for in any such contract; or [...],
commits an offence of corrupt activities relating to contracts and is liable on summary conviction to a fine of not less than twenty thousand dollars or to imprisonment for a period of one year or to both fine and imprisonment.
(2) [...]

(b) Observations on the implementation of the article

Belize has partially implemented passive bribery in the private sector. The criminalization of accepting or agreeing or offering to accept any advantage, whether for the benefit of himself or herself or for the benefit of another, is limited to cases where the aim is to improperly influence the promotion, execution or procurement of any contract with a private organization or to improperly influence the fixing of the price of such contract.

Article 22. Embezzlement of property in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred sections 139, 140, 141, 142, 143, 144, 145 and 146 of the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC).

139. (1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and “thief” and “steal” shall be construed accordingly.

(2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief’s own benefit.

(3) Sections 140 to 145 of this Act, shall have effect as regards the interpretation and operation of this section (and, except as otherwise provided by this Title, shall apply only for the purposes of this section).

140. (1) A person’s appropriation of property belonging to another is not to be regarded as dishonest,

(a) if he appropriates the property in the belief that he has in law the right to deprive the other of it, on behalf of himself or of a third person; or

(b) if he appropriates the property in the belief that he would have the other’s consent if the

other knew of the appropriation and the circumstances of it; or

(c) (except where the property came to him as trustee or personal representative) if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

(2) A person's appropriation of property belonging to another may be dishonest notwithstanding that he is willing to pay for the property.

141. (1) Any assumption by a person of the rights of an owner amounts to an appropriation, and this includes, where he has come by the property (innocently or not) without stealing it, any later assumption of a right to it by keeping or dealing with it as owner.

(2) Where property or a right or interest in property is or purports to be transferred for value to a person acting in good faith, no later assumption by him of rights which he believed himself to be acquiring shall, by reason of any defect in the transferor's title, amount to theft of the property.

142. (1) If it be proved on behalf of a person accused of having stolen a thing that the wife of the owner of the thing consented to its appropriation by the accused person, the accused person shall not be convicted unless it be proved against him that he had notice that the wife had no authority to consent to the appropriation.

(2) If it appears that he had committed or designed to commit adultery with the wife, he shall be deemed to have had such notice, but he shall not in such case be deemed guilty of stealing by reason only of his appropriation, with the consent of the wife, or of his assisting the wife to appropriate, any wearing apparel of the wife, or any money or other thing of which the wife is apparently permitted to have the disposal for her own use.

143. (1) "Property" includes money and all other property real or personal, including things in action and other intangible property.

(2) A person cannot steal land, or things forming part of land and severed from it by him or by his directions, except in the following cases, that is to say,

(a) when he is a trustee or personal representative, or is authorised by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him;

(b) when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or

(c) when, being in possession of the land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

For purposes of this subsection "land" does not include incorporeal hereditaments; "tenancy" means a tenancy for years or any less period and includes an agreement for such a tenancy but a person who after the end of a tenancy remains in possession as statutory tenant or otherwise is to be treated as having possession under the tenancy, and "let" shall be construed accordingly.

(3) A person who picks flowers, fruits or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks, unless he does it for reward or for sale or other commercial purpose.

(4) Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or the carcass of any such creature, unless either it has been reduced into possession by or on behalf of another person and possession to it has not since been lost or abandoned, or another person is in course of reducing

it into possession.

144. (1) Property shall be regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest).

(2) Where property is subject to a trust, the persons to whom it belongs shall be regarded as including any person having a right to enforce the trust, and an intention to defeat the trust shall be regarded accordingly as an intention to deprive of the property any person having that right.

(3) Where a person receives property from or on account of another, and is under an obligation to the other to retain and deal with that property or its proceeds in a particular way, the property or proceeds shall be regarded (as against him) as belonging to the other.

(4) Where a person gets property by another's mistake and is under an obligation to make restoration (in whole or in part) of the property or its proceeds or of the value thereof, then to the extent of that obligation the property or proceeds shall be regarded (as against him) as belonging to the person entitled to restoration and an intention not to make restoration shall be regarded accordingly as an intention to deprive that person of the property or proceeds.

(5) Property of a corporation sole shall be regarded as belonging to the corporation notwithstanding a vacancy in the corporation.

145. (1) A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other's rights; and a borrowing or lending of it may amount to so treating it if, but only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

(2) Without prejudice to the generality of subsection (1) of this section, where a person, having possession or control (lawfully or not) of property belonging to another, parts with the property under a condition as to its return which he may not be able to perform, this (if done for the purposes of his own and without the other's authority) amounts to treating the property as his own to dispose of regardless of the other's rights.

146. A person guilty of theft shall on conviction on indictment be liable to imprisonment for a term not exceeding ten years.

(b) Observations on the implementation of the article

Section 139 of the CC criminalizes the dishonest appropriation by a person of property belonging to another. "Property", as defined under section 143, subsection 1, of the CC, includes money and all property real or personal. In addition, land could also be the object of dishonest appropriation in the following situations, listed in section 143 (2) of the CC : (a) when the offender is a trustee or personal representative, or is authorised by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him; (b) is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or (c) when, being in possession of the land under a tenancy, the offender appropriates the whole or part of any fixture or structure let to be used with the land. As such, considering the broadness of the definitions of "person" under section 16 of the CC, it applies to offences in the private and public sector and is not limited to funds or money.

Article 23. Laundering of proceeds of crime

Subparagraph 1 (a) (i)

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred sections 3(1)(a) and 6 of the Money Laundering and Terrorism (Prevention) Act (AMLA).

3. (1) A person commits the offence of money laundering if the person knowing or having reasonable grounds to believe that any property in whole or in part, directly or indirectly, represents any person's proceeds of crime,

(a) converts or transfers that property for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the crime to evade the legal consequences of his action;

[...]

6. Where an offence under the provision of section 3, 5 or 68 of this Act is committed by a body of persons, whether corporate or un-incorporated, every person who, at the time of the commission of the offence, acted in an official capacity for or on behalf of such body of persons, whether as a director, manager, secretary or other similar officer, or was purporting to act in such capacity, shall be guilty of that offence and punished accordingly, unless he adduces evidence to show that the offence was committed without his knowledge consent or connivance.

(b) Observations on the implementation of the article

As provided under section 3 (1) (a) of the AMLA, the conversion or transfer of the property for the purpose of concealing or disguise its illicit origin is criminalized when the person committing the crime knows that the property represents proceeds of a crime. In addition, section 3 (1) (a) of the AMLA also criminalizes these acts when the person "has reasonable grounds to believe" that the property constitutes proceeds of a crime.

Thus, it was concluded that Belize implemented the provision under review.

Subparagraph 1 (a) (ii)

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed

intentionally:

(a) (ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to section 3(1)(b) of the Money Laundering and Terrorism (Prevention) Act (AMLA).

3. (1) A person commits the offence of money laundering if the person knowing or having reasonable grounds to believe that any property in whole or in part, directly or indirectly, represents any person's proceeds of crime,

[...]

(b) conceals or disguises the true nature, source, location, disposition, movement, rights with respect to or ownership of that property;

[...]

(b) Observations on the implementation of the article

Section 3(1)(b) of the AMLA implements the provision under review.

Subparagraph 1 (b) (i)

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to section 3(1)(c) of the Money Laundering and Terrorism (Prevention) Act (AMLA).

3. (1) A person commits the offence of money laundering if the person knowing or having reasonable grounds to believe that any property in whole or in part, directly or indirectly, represents any person's proceeds of crime,

[...]

(c) acquires, possesses, uses or otherwise deals with that property;

[...]

(b) Observations on the implementation of the article

Section 3(1)(c) of the AMLA implements the provision under review.

Subparagraph 1 (b) (ii)

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) Subject to the basic concepts of its legal system:

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 3(1)(d) and 7 of the Money Laundering and Terrorism (Prevention) Act (AMLA).

3. (1) A person commits the offence of money laundering if the person knowing or having reasonable grounds to believe that any property in whole or in part, directly or indirectly, represents any person's proceeds of crime,

[...]

(d) participates in, associates with or conspires to commit, attempts to commit, or aids and abets, or facilitates, counsels or procures the commission of any of the above acts.

[...]

7. Any person who attempts or who aids, abets, counsels or procures the commission of, or who conspires to commit, the offence of money laundering or terrorism is guilty of an offence and shall be liable to the same penalties as prescribed for money laundering and terrorism in sections 4 and 5 of this Act, as the case may be.

(b) Observations on the implementation of the article

Sections 3(1)(d) and 7 of the AMLA implement the provision under review.

Subparagraph 2 (a) and (b)

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 2(1) and 2B and 10 of the Money Laundering and Terrorism (Prevention) Act (AMLA).

2. (1) In this Act, unless the context otherwise requires,

“person” means a natural person or a legal person and includes, among others, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, capable of acquiring rights or entering into obligations;

“offence” means conduct which –

(a) if it occurs in Belize, is unlawful under the criminal law of Belize; or

(b) if it occurs in a country other than Belize – (i) is unlawful under the criminal law applying in that country, and (ii) if it occurred in Belize, would be unlawful under the criminal law of Belize;

“property” includes money, funds, investments, holdings, possessions and assets of every kind, however acquired, whether corporeal or incorporeal, movable or immovable, legal documents or instruments evidencing title in any form including electronic or digital, or interest in such assets, wherever situate (whether in Belize or elsewhere);

Meaning of “proceeds of crime”

2B. (1) Property is the proceeds of crime if it constitutes a person’s benefit from an offence or it represents such a benefit, in whole or part and whether directly or indirectly.

(2) For the purposes of subsection (1) –

(a) a person benefits from an offence if he obtains property as a result of or in connection with the offence;

(b) if a person benefits from an offence, his benefit is the value of the property obtained as a result of or in connection with the offence;

(c) if a person derives a pecuniary advantage as a result of or in connection with an offence, he is to be taken to obtain, as a result of or in connection with the offence, a sum of money equal to the value of the pecuniary advantage; and

(d) it is immaterial – (i) who committed the offence; (ii) who benefitted from the offence; or (iii) whether the offence occurred before or after the commencement date.

(3) References to property obtained or a pecuniary advantage derived in connection with an offence include references to property obtained or a pecuniary advantage derived in both that connection and some other connection.

3. [...]

(2) For the purpose of proving a money laundering offence under subsection (1) of this section is sufficient to prove that –

(a) the property was derived from conduct of a specific kind or kinds and that conduct is unlawful;

(b) the circumstances in which the property could only be derived from unlawful conduct.

(b) Observations on the implementation of the article

As per the definitions of “offence” and “proceeds of crime” under section 2 (1) and 2B, respectively, Belize takes an “all crimes approach” to money laundering”, not restraining the application of money laundering to a particular set of crimes.

Under section 2 B (1) AMLA, “property is the proceeds of crime if it constitutes a person’s benefit from an offence or it represents such benefit, in whole or part and whether directly or indirectly”. Any

property obtained as a result or in connection to an offence is considered as a “benefit” (section 2B (2)(a) AMLA).

Thus, it was concluded that Belize implemented the provision under review.

(c) Successes and good practices

The “all crimes” approach taken with regard to predicate offences for money-laundering.

Subparagraph 2 (c)

2. For purposes of implementing or applying paragraph 1 of this article:

(c) For the purposes of subparagraph (b) above, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 2(1) and 2B and 10 of the Money Laundering and Terrorism (Prevention) Act (AMLA).

2. (1) In this Act, unless the context otherwise request,

“offence” means conduct which –

(a) if it occurs in Belize, is unlawful under the criminal law of Belize; or

(b) if it occurs in a country other than Belize – (i) is unlawful under the criminal law applying in that country, and (ii) if it occurred in Belize, would be unlawful under the criminal law of Belize;

10. Notwithstanding anything to the contrary contained in any other law, the offences created by this Act shall be investigated, tried, judged and sentenced by a court in Belize regardless of whether or not an offence occurred in Belize or in another territorial jurisdiction, but without prejudice to extradition where applicable in accordance with the law.

(b) Observations on the implementation of the article

Belize’s “all crimes approach” also include offences committed outside its jurisdiction provided that the dual criminality requirement is fulfilled, as foreseen under the definition of “offence” (section 2 (1). In addition, section 10 of AMLA provides for the investigation, trial, judgement and sentence of offences created by the AMLA committed in other territorial jurisdictions.

Thus, it was concluded that Belize implemented the provision under review.

Subparagraph 2 (d)

2. For purposes of implementing or applying paragraph 1 of this article:

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

(a) Summary of information relevant to reviewing the implementation of the article

During the country visit, it was clarified that the laws relevant to this article were furnished through the submission of the Self-Assessment Checklist.

(b) Observations on the implementation of the article

It was concluded that Belize implemented the provision under review

Subparagraph 2 (e)

2. For purposes of implementing or applying paragraph 1 of this article:

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence.

(a) Summary of information relevant to reviewing the implementation of the article

It was clarified during the country visit that a person can be guilty of both money laundering and the underlying predicate offence.

(b) Observations on the implementation of the article

It was concluded that Belize implemented the provision under review

Article 24. Concealment

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), sections 171 and 172, and to the Money Laundering and Terrorism (Prevention) Act (AMLA), section 3(1)(b).

Criminal Code Act

171. (1) A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person or if he arranges to do so.

(2) A person guilty of handling stolen goods shall on conviction on indictment be liable to imprisonment for a term not exceeding fourteen years.

172. (1) The provisions of this Title relating to goods which have been stolen shall apply whether the stealing occurred in Belize or elsewhere, provided that the stealing (if not an offence under this Title) amounted to an offence where and at the time when the goods were stolen; and references to stolen goods shall be construed accordingly.

(2) For purposes of those provision references to stolen goods shall include, in addition to the goods originally stolen and parts of them (whether in their original state or not), (a) any other goods, which directly or indirectly represent or have at any time represented the stolen goods in the hands of the thief as being the proceeds of any disposal or realisation of the whole or part of the goods stoles or of goods so representing the stolen goods; and (b) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of a handler of the stolen goods or nay part of them as being the proceed of any disposal or realisation of the whole or part of the stolen goods handled by him or of goods so representing them.

(3) [...]

(4) For purposes of the provision of this Title relating to goods which have been stolen (including subsections (1) to (3)) of this section goods obtained in Belize or elsewhere either by blackmail or in circumstances described in section 153 (1) of this Act, shall be regarded as stolen; and “steal”, “theft” and “thief” shall be construed accordingly.”

Money Laundering and Terrorism (Prevention) Act

3. (1) A person commits the offence of money laundering if the person knowing or having reasonable grounds to believe that any property in whole or in part, directly or indirectly, represents any person’s proceeds of crime,

[...]

(b) conceals or disguises the true nature, source, location, disposition, movement, rights with respect to or ownership of that property;

[...]

(b) Observations on the implementation of the article

Section 171 of the Proceeds of Crime Act criminalizes receiving, dishonestly undertaking or assisting in the retention, removal ore realization of goods knowing or believing them to be stolen goods.

Thus, it was concluded that Belize implemented the provision under review.

Article 25. Obstruction of justice

Subparagraph (a) of article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), sections 240, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 262, 262A, 263, 265 and 267

Criminal Code Act

240. Every person who uses any violence with intent to deter any person from acting in any manner as a judge, magistrate, juror, witness, counsel, agent, prosecutor or party, in any legal proceeding or inquiry, or from acting in execution of his duty as a magistrate or peace officer, or in any judicial or official capacity, or from having recourse to any court or public officer, or on account of his having so acted or had recourse, is guilty of a misdemeanour, and shall be liable to imprisonment for two years.

249. Every person who commits perjury or abets perjury shall be liable to imprisonment for ten years.

250. Every person who commits perjury or abets perjury, with intent to cause the conviction of any person for a crime punishable with death, shall be liable to imprisonment for life.

251. Every person who commits perjury or abets perjury, with intent to cause the conviction of any person for any crime not capital, shall be liable to imprisonment for fourteen years or for any greater term to which such person would, on conviction of that crime, be liable.

252. If any person knowingly and wilfully makes (otherwise than on oath) a statement false in a material particular, and the statement is made,

(a) in a statutory declaration;

(b) in an abstract, account, application, balance sheet, book, certificate, declaration, entry, estimate, inventory, notice, report, return or other document which he is authorised or required to make, attest, verify or keep or cause to be kept by, under or in pursuance of any Act or other law for the time being in force; or

(c) in any oral declaration or oral answer which he is required to make by, under or in pursuance of any Act or other law for the time being in force,

he shall be guilty of a misdemeanour and be liable on conviction thereof to imprisonment for any term not exceeding two years, or to a fine not exceeding five hundred dollars, or to both such fine and term of imprisonment.

253. Every person who commits perjury or abets perjury, in furtherance of any purpose or conspiracy to defraud by personation, shall be liable to imprisonment for life.

254. Every person who fabricates false evidence, with intent to defeat, obstruct or pervert, the course of justice in any proceeding, shall be liable to the same penalties as if he had committed perjury in that proceeding.

255. (1) Every person who, having given evidence on oath at a preliminary inquiry,
(a) wilfully gives at the trial evidence which contradicts the evidence given by him upon the same subject matter at the preliminary inquiry; or

(b) wilfully varies or alters at the trial the evidence given by him upon the same subject-matter at the preliminary inquiry, with intent unlawfully to shield or injure any person, or to deceive the court or to defeat, obstruct or pervert the course of justice, shall be guilty of a misdemeanour punishable either on indictment or summarily,

Provided that the punishment on summary conviction shall not exceed imprisonment for six months.

(2) Upon the trial of any person for a crime under this section, it shall not be necessary to prove the falsity of the evidence given either at the preliminary inquiry or at the trial.

(3) No complaint or information for a crime under this section shall be laid without the consent in writing of the Director of Public Prosecutions.

256. Every person who intentionally and unlawfully falsifies, destroys, injures, removes or conceals, any public register of marriages, births, baptisms, deaths or burials, or any other public register or record, with intent to defeat, obstruct or pervert the course of justice, or to defraud or injure any person shall be liable to imprisonment for seven years.

257. Every person who intentionally and unlawfully destroys, injures, removes or conceals, any will, or any document of title to land, with intent to defeat, obstruct or pervert the course of justice or to defraud or injure any person, shall be liable to imprisonment for life.

258. Every person who unlawfully, with intent to defeat, obstruct or pervert the course of justice, or to defraud or injure any person, removes, conceals, injures or alters, any instrument or document used or intended to be used in any judicial proceeding, shall be liable to imprisonment for two years.

259. Every person who acknowledges or consents to any judgment or confession or cause of action, or any deed to be enrolled, or any recognisance or bail (whether the same be filed or not), in the name of any other person without his consent is guilty of a felony.

260. Every person who with intent to defeat, obstruct or pervert the course of justice, or to defraud or injure any person, endeavours to deceive any court or judicial officer by personation, or by any false instrument, document, seal or signature, shall be liable to imprisonment for two years.

262. Every person who in any manner wilfully causes any person to disobey any summons, subpoena or order, for his attendance as a witness in any proceeding, or for the production by him of any written or other evidence in any judicial proceeding, is guilty of a misdemeanour.

262 A. (1) Every person who being an accused either by himself or someone acting on his behalf, provides or attempts to provide an inducement whether financial or otherwise, to a complainant or a person acting on his behalf in order to encourage the complainant or person acting on his behalf to abandon criminal proceedings or retract criminal charges against the accused, commits an offence and is liable on summary conviction to a term of imprisonment of two years or on conviction on indictment to a term of imprisonment of ten years.

(2) Every person who being a complainant or anyone acting on behalf of the complainant, accepts an inducement from anyone in order to abandon criminal proceedings or criminal charges as described in subsection (1), commits an offence and is liable on summary conviction to a term of imprisonment for two years or on conviction on indictment to a term of imprisonment of ten years.

263.(1) Any person who does any act tending to pervert the course of justice, intending that the course of justice should thereby be perverted, commits an offence and is liable on summary conviction to imprisonment for five years or on conviction on indictment to imprisonment for a term of ten years.

(2) It shall be within the discretion of the Director of Public Prosecutions to determine whether this offence is tried summarily or on indictment.

265. Every person who with intent to prevent, obstruct or delay the taking of any inquest upon the body or touching the death of any person, or to defeat the ends of justice, buries or in any manner conceals or disposes of such body, shall be liable to imprisonment for two years.

267. Every person who with force, threats or tumult, hinders, interrupts or disturbs the proceedings of any court, or wilfully and unlawfully with force, threats or tumult, hinders any person from entering or quitting any court, or removes him therefrom, or detains him therein, shall be liable to imprisonment for two years.

(b) Observations on the implementation of the article

Belize has criminalized the use of coercive and corrupt means to interfere in the giving of testimony or the production of evidence through several provisions of the Criminal Code, such as: the provisions on the use of violence with intent to deter a judge, magistrate, juror, witness, counsel, agent, prosecutor or party, in any legal proceeding, from acting in any manner (sect. 240); perjury or abet perjury (sect. 249); making a statement false (sect. 252); fabricating evidence (sect. 254); falsifying, destroying, removing or concealing any public register (sect. 256); removing, concealing, injuring or altering any instrument or document (sect. 258); deceiving any court or judicial officer (sect. 260); causing any person to disobey any summons, subpoena or order (sect. 262); and interrupting or disturbing the proceedings of any court (sect. 267). In particular, section 263 of the Criminal Code states that “any person who does any act tending to pervert the course of justice (...) commits an offence (...)”.

As such, it was concluded that Belize implemented the provision under review.

Subparagraph (b) of article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences established in

accordance with this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public official.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), sections 240, 263, 266 and 267.

Criminal Code Act

240. Every person who uses any violence with intent to deter any person from acting in any manner as a judge, magistrate, juror, witness, counsel, agent, prosecutor or party, in any legal proceeding or inquiry, or from acting in execution of his duty as a magistrate or peace officer, or in any judicial or official capacity, or from having recourse to any court or public officer, or on account of his having so acted or had recourse, is guilty of a misdemeanour, and shall be liable to imprisonment for two years.

263.(1) Any person who does any act tending to pervert the course of justice, intending that the course of justice should thereby be perverted, commits an offence and is liable on summary conviction to imprisonment for five years or on conviction on indictment to imprisonment for a term of ten years.

(2) It shall be within the discretion of the Director of Public Prosecutions to determine whether this offence is tried summarily or on indictment.

266. Every person who being under a duty as a magistrate, coroner, gaoler, overseer, peace officer or in any other capacity, to give notice or take any measure in order to the holding of any inquest upon the body or touching the death of any person, wilfully or negligently fails to perform such duty, shall be liable to imprisonment for two years.

267. Every person who with force, threats or tumult, hinders, interrupts or disturbs the proceedings of any court, or wilfully and unlawfully with force, threats or tumult, hinders any person from entering or quitting any court, or removes him therefrom, or detains him therein, shall be liable to imprisonment for two years.

(b) Observations on the implementation of the article

Section 240 of the Criminal code criminalizes the use of violence against any person acting in any manner as a judge, magistrate, juror, witness, counsel, agent, prosecutor or party, in any legal proceeding or inquiry. As such, taking into account the broad language of section 240 and 267, it was concluded that Belize implemented the provision under review.

Article 26. Liability of legal persons

Paragraphs 1 and 2 of article 26

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.

2. *Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.*

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), section 16, to the Money Laundering and Terrorism (Prevention) Act (AMLA), section 2 and to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), section 29.

Criminal Code Act

16. “Person” includes a company or corporation, and any number or association of persons, and for the purposes of any provision of this Code relating to defrauding a person or to committing any crime against the property of any person, the Government of Belize or of any other place or State shall be deemed to be a person.

Money Laundering and Terrorism (Prevention) Act (AMLA)

2. [...]

“person” means a natural person or a legal person and includes, among others, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, capable of acquiring rights or entering into obligations;

Prevention of Corruption Act

29.–(1) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of, or to be attributable to any wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if the person and the body corporate commit an offence and are liable to be proceeded against and punished as if the person and the body corporate were guilty of that offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) of this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director or manager of the body corporate.

In addition to the provisions above, Belize also referred to the general principles of common law, which indicate that, if a company commits an act, the company itself and the person who is the directing mind of the company can be held liable.

(b) Observations on the implementation of the article

Under sections 16 of the CC and 2 of the AMLA, the definition of “person” includes legal persons. As such, liability of legal person is applicable to all offences and applies equally to natural and legal persons. In addition, section 29 of the PoCA regulates the liability of legal persons in connection with offences established under such act.

As such, it was concluded that Belize implemented the provision under review.

Paragraph 3 of article 26

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), section 163, to the Money Laundering and Terrorism (Prevention) Act (AMLA), section 2 and to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), section 29.

Criminal Code

163.—(1) Where an offence committed by a body corporate under section 153, 156, or 162 of this Act is proved to have been committed with the consent or connivance of any director, manager, secretary or other certain similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Prevention of Corruption Act

29. – (1) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance or, or to be attributable to any wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if the person and the body corporate commit an offence and are liable to be proceeded against and punished as if the person and the body corporate were guilty of that offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) of this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director or manager of the body corporate.

Money Laundering and Terrorism (Prevention) Act

6. Where an offence under the provisions of sections 3,5 or 68 of this Act is committed by a body of persons, whether corporate or un-incorporated, every person who, at the time of the commission of the offence, acted in an official capacity for or on behalf of such body of person, whether as director, manager, secretary or other similar officer, or was purporting to act in such capacity, shall be guilty of that offence, acted in an official capacity for or on behalf of such body of persons, whether as director, manager, secretary or other similar officer, or was purporting to act in such capacity, shall be guilty of that offence and punished accordingly, unless he adduces evidence to show that the offence was committed without his knowledge, consent or connivance.

(b) Observations on the implementation of the article

As provided under sections 163 of the CC, 29 of the PoCA and 6 of the AMLA, the liability of legal entities is without prejudice to the liability of the natural persons who have committed the offences.

As such, it was concluded that Belize implemented the provision under review.

Paragraph 4 of article 26

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Money Laundering and Terrorism (Prevention) Act (AMLA), section 4.

4. A person guilty of an offence under the provisions of section 3 of this Act, shall be punishable of conviction,

(a) [...], and.

(b) in the case of a legal person or other entity, with a fine which shall not be less than one hundred thousand dollars but which may extend to five hundred thousand dollars.

(b) Observations on the implementation of the article

Except for the specific sanction provided under section 4 of the AMLA for a money laundering offence, there are no specific provisions on sanctions foreseen for legal persons.

Belize does not extend the types of sanctions applicable to legal persons beyond pecuniary sanctions by including other penalties, such as partial or total loss of tax incentives and benefits or absolute prohibition from receiving them for a specific period, temporary or perpetual prohibition from entering public tenders or concluding acts and contracts with State agencies, prohibition of capital increases, deprivation of business licences and temporary prohibition from engaging in commercial or other activities or dissolution of the corporate body or cancelation of the legal personality.

Legal persons are subject to the same sanctions that could be imposed by courts on a natural person. Sanctions intended for individuals are, in cases of sanctions such as imprisonment, not applicable to legal persons. In addition, monetary sanctions which are considered appropriate for individuals may not be effective, proportionate and dissuasive for legal persons.

Thus, it was recommended that Belize assess whether existing sanctions for legal persons are effective and dissuasive and consider increasing maximum fines and including other type of sanctions

Article 27. Participation and attempt

Paragraph 1 of article 27

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition

2011 (CC), sections 20 to 24, to the Money Laundering and Terrorism (Prevention) Act (AMLA), section 7 and to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), sections 22, 49 and Third Schedule.

Criminal Code Act

20. (1) Every person who,

(a) directly or indirectly instigates, commands, counsels, procures, solicits or in any manner purposely aids, facilitates, encourages or promotes the commission of any crime, whether by his act, presence or otherwise; or

(b) does any act for the purpose of aiding, facilitating, encouraging or promoting the commission of a crime by any other person, whether known or unknown, certain or uncertain, shall be guilty of abetting that crime and of abetting the other person in respect of that crime.

(2) Every person who abets a crime shall, if the crime be actually committed in pursuance or during the continuance of the abetment, be deemed guilty of that crime.

(3) Every person who abets a crime shall, if the crime be not actually committed, be punishable as follows, that is to say,

(a) if the commission of the crime be prevented by reason only of accident, or of circumstances or events independent of the will of the abettor, the abettor shall, where the crime abetted was murder,

be liable to imprisonment for life, or shall where the crime abetted was any crime other than murder, be punishable in the same manner as if the crime had been actually committed in pursuance of the abetment;

(b) in any other case the abettor shall, if the crime which he abetted was a felony, be deemed guilty of a felony, or shall, if such a crime was a misdemeanour, be deemed guilty of a misdemeanour.

(4) Every person who abets a crime shall be punishable on indictment or summary conviction, according as he would be punishable for committing that crime.

(5) An abettor may be tried before, with or after a person abetted, and although the person abetted be dead, or be otherwise not amenable to justice.

(6) An abettor may be tried before, with or after any other abettor, whether he and such other abettor abetted each other in respect of the crime or not, and whether they abetted the same or different parts of the crime.

(7) An abettor shall have the benefit of any matter of exemption, justification, or extenuation to which he is entitled under this Code, notwithstanding that the person abetted or any other abettor is not entitled to the like benefit.

(8) Every person who within the jurisdiction of the court abets the doing beyond the jurisdiction of an act which if done within the jurisdiction would be a crime, shall be punishable as if he had abetted that crime.

21. (1) Where a person abets a particular crime, or abets a crime against or in respect of a particular person or thing, and the person abetted actually commits a different crime, or commits the crime against or in respect of a different person or thing, or in a manner different from that which was intended by the abettor, the following provisions shall have effect, namely,

(a) if it appears that the crime actually committed was not a probable consequence of the endeavour to commit, nor was substantially the same as the crime which the abettor intended to abet, nor within the scope of the abetment, the abettor shall be punishable for his abetment of the crime which he intended to abet in the manner provided by this Title for the punishment of crimes which are not actually committed;

(b) in any other case the abettor shall be deemed to have abetted the crime which was actually committed, and shall be liable to punishment accordingly.

(2) If a person abets a riot, or unlawful assembly with the knowledge that unlawful violence is intended, or is likely to be used, he is guilty of abetting violence of any kind or degree which is committed by any other person in executing the purposes of the riot or assembly, although he did not expressly intend to abet violence of that kind or degree.

22. Every person who, knowing that a person designs to commit or is committing a felony, fails to use all reasonable means to prevent the commission or completion thereof, is guilty of a misdemeanour.

23. (1) If two or more persons agree to commit or abet a crime, or act together with a common purpose in committing or abetting a crime, whether with or without any previous concert or deliberation, each of them is guilty of conspiracy to commit or abet that crime, as the case may be.

(2) If a person abets the commission of a crime by another person, and such other person in any manner assents to the abetment, each of them is guilty of conspiracy to commit such crime, although it be not a part of the design of either of them that the person abetting the other should take any part in or towards the preparing for or committing such crime.

(3) A person within the jurisdiction of the courts can be guilty of conspiracy by agreeing with another person who is beyond the jurisdiction for the commission or abetment of any crime to be committed by them or either of them, or any other person, either within or beyond the jurisdiction, and for the purposes of this subsection as to a crime to be committed beyond the jurisdiction, "crime" means any act which if done within the jurisdiction would be a crime under this Code or under any other law.

(4) A person shall not be guilty of conspiracy to commit or abet any crime if he is an intended victim of that crime.

(5) A person shall not be guilty of conspiracy to commit or abet any crime or crimes if the only other person or persons with whom he agrees are (both initially and at all times during the currency of the agreement) persons of any one or more of the following descriptions, that is to say,

(a) his spouse;

(b) a person exempted from criminal liability under section 25 (1) of this Act;

(c) an intended victim of that crime or each of those crimes.

24. (1) If two or more persons are guilty of conspiracy for the commission or abetment of any crime, each of them shall in case the crime be committed, be punished as for that crime according to the provisions of this Code, or shall in case the crime be not committed, be punished as if he had abetted that crime.

Money Laundering and Terrorism (Prevention) Act

7. Any person who attempts or who aids, abets, counsels, or procures the commission of, or who conspires to commit, the offence of money laundering or terrorism is guilty of an offence and shall be liable to the same penalties as prescribed for money laundering and terrorism in sections 4 and 5 of this Act, as the case may be.

Prevention of Corruption Act, Cap 105 Substantive Laws of Belize, Revised Edition 2011:

22. (1) A person who, by himself or in conjunction with any other person, or an agent, engages or attempts to engage in any of the acts specified in Part I of the Third Schedule commits an

act of corruption. [...]

Under the Third Schedule of the Prevention of Corruption Act . A person commits an act of corruption if [...]

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

49. A person who abets, attempts to commit, or conspires to commit an offence punishable under this Act shall be deemed to have committed the offence and is liable on conviction to be punished in accordance with the provision for that offence.

(b) Observations on the implementation of the article

Participation is covered in sections 20 and 21 of the CC, which include instigating, commanding, counselling, procuring, soliciting, aiding, facilitating, encouraging or promoting. Sections 49 and 22 in conjunction with Third Schedule (k) PoCA, criminalize abetting and participating. Section 7 AMLA extends liability to anyone who aids, abets, counsels, procures the commission of or conspires to commit the offence of money-laundering.

Thus, it was concluded that Belize implemented the provision under review.

Paragraph 2 of article 27

2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), section 18, to the Money Laundering and Terrorism (Prevention) Act (AMLA), section 7 and to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), section 49.

Criminal Code Act

18. (1) A person who attempts to commit a crime by any means shall not be acquitted on the ground that by reason of the imperfection or other condition of the means, or by reason of any circumstances under which they are used, or by reason of any circumstances effecting the person against whom or the thing in respect of which the crime is intended to be committed, or by reason of the absence of such person or thing, the crime could not be committed according to his intent.

(2) Every person who attempts to commit a crime shall, if the attempt be frustrated by reason only of accident or of circumstances or events independent of his will, be deemed guilty of an attempt in the first degree, and shall (except as in this Code otherwise expressly provided) be punishable in the same manner as if the crime had been completed.

(3) Every person who is guilty of an attempt other than an attempt in the first degree shall (except as in this Code otherwise expressly provided) be liable to any kind of punishment to which he would have been liable if the crime had been completed, but the court shall mitigate the punishment according to the circumstances of the case.

(4) Where any act amounts to a complete crime, as defined by any provision of this Code, and is also an attempt to commit some other crime, a person who is guilty of it shall be liable to be convicted and punished either under such provision or under this section.

(5) Any provision of this Code with respect to intent, exemption, justification or extenuation, or any other matter in the case of any act, shall apply, with the necessary modifications, to the case of an attempt to do that act.

(6) Every person who attempts to commit a crime shall be punishable on indictment or summary conviction, according as he would be punishable for committing that crime.

Money Laundering and Terrorism (Prevention) Act

7. Any person who attempts or who aids, abets, counsels, or procures the commission of, or who conspires to commit, the offence of money laundering or terrorism is guilty of an offence and shall be liable to the same penalties as prescribed for money laundering and terrorism in sections 4 and 5 of this Act, as the case may be.

Prevention of Corruption Act

49. A person who abets, attempts to commit, or conspires to commit an offence punishable under this Act shall be deemed to have committed the offence and is liable on conviction to be punished in accordance with the provision for that offence.

(b) Observations on the implementation of the article

Attempt is criminalized for all offences in section 18 of the CC. Section 49 PoCA and section 7 AMLA also cover attempt.

Thus, it was concluded that Belize implemented the provision under review.

Paragraph 3 of article 27

3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Criminal Code Act Cap 101 of the Substantive Laws of Belize Revised Edition 2011 (CC), section 19.

Criminal Code Act

19. Every person who prepares or supplies, or has in his possession, custody or control, or in the possession, custody or control of any other person on his behalf, any instruments, materials or means, with a purpose that such instruments, materials or means may be used by him or by any other person in committing any crime by which life is likely to be endangered, or any forgery, or any crime relating to coin, or any felony punishable with imprisonment for ten years or upwards, shall be liable to punishment in like manner as if he had attempted to commit that crime, and any such instruments, materials or means shall be forfeited and applied as the law directs.

(b) Observations on the implementation of the article

Section 19 of the Criminal Code relates to the preparation or supply of any instrument with the purpose that such instrument be used in committing any crime by which life is likely to be endangered or any crime relating to coins. This provision does not cover the offences established in accordance with the Convention. As such, Belize may wish to criminalize the mere preparation of a corruption-related offence.

Article 29. Statute of limitations

Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Money Laundering and Terrorism (Prevention) Act (AMLA), section 85 and to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), section 58.

Money Laundering and Terrorism (Prevention) Act

85. All prosecutions, actions, suits or other proceedings brought for any offence, or for the recovery of any fines, penalties or forfeitures, under this Act or the Regulations made thereunder, shall be brought within five years next after the offence was committed or the cause of action accrued or the facts giving rise to such offence came to the knowledge of the Director of Public Prosecutions or the Financial Intelligence Unit.

Prevention of Corruption Act

58. Unless otherwise specified under the provisions of this Act, a prosecution for any offence or penalty under this Act shall be commenced within five years from the date when the cause of action accrued.

(b) Observations on the implementation of the article

The statute of limitation for offences under PoCA is five years starting from the date when the cause of action accrued (sect. 58). The statute of limitation for offences under AMLA is five years from the date the offence was committed or the facts giving rise to such offence came to the knowledge of the DPP or the FIU. Neither PoCA nor AMLA provide for the suspension of the statute of limitation where the alleged offender has evaded the administration of justice. For any other offences established in accordance with the Convention there is no statute of limitations.

As a result, it was recommended that Belize establish a longer statute of limitations period under PoCA or change its starting date to the date the facts giving rise to such offence came to the knowledge of the DPP or the FIU and provide in PoCA and AMLA for its suspension where the alleged offender has evaded the administration of justice.

Article 30. Prosecution, adjudication and sanctions

Paragraph 1 of article 30

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that general sentencing principles require the court to consider the nature of the offence and of the offender in considering the appropriate sentence.

For corruption offences, the following range of sanctions is foreseen:

Article of the Convention	Article	Sanction (imprisonment or other)
15 a	289 Criminal Code	Imprisonment for two years
	22 PoCA	Summary conviction – fine not less than 10.000 (first offence) or a fine not less than 20.000 dollars or to imprisonment up to two years or both Indictment – fine not less than 20.000 dollars or imprisonment up to two years or both (first offence) or fine not less than 50.000 dollars or imprisonment up to three years or both
	26 PoCA	Fine not less than 25.000 dollars or to imprisonment up to one year or both
	27 PoCA	Fine not less than 25.000 dollars or to imprisonment up to one year or both
15 b	284 Criminal Code	Imprisonment for two years
	26 PoCA	Fine not less than 25.000 dollars or to imprisonment up to six months or both
	28 PoCA	Summary conviction – fine not less than 5.000 (first offence) or a fine not less than 10.000 dollars or to imprisonment up to two years or both Indictment – fine not less than 10.000 dollars (first offence) or fine not less than 20.000 dollars or imprisonment up to one year or both
17	146 Criminal Code	Up to 10 years
	22 PoCA	Summary conviction – fine not less than 10.000 (first offence) or a fine not less than 20.000 dollars or to imprisonment up to two years or both

		Indictment – fine not less than 20.000 dollars or imprisonment up to two years or both (first offence) or fine not less than 50.000 dollars or imprisonment up to three years or both
18 b	290 Criminal Code	Misdemeanour
	22 PoCA	Summary conviction – fine not less than 10.000 (first offence) or a fine not less than 20.000 dollars or to imprisonment up to two years or both Indictment – fine not less than 20.000 dollars or imprisonment up to two years or both (first offence) or fine not less than 50.000 dollars or imprisonment up to three years or both
	24 PoCA	Fine not less than 20.000 dollars or to imprisonment up to one year or both
19	22 PoCA	Summary conviction – fine not less than 10.000 (first offence) or a fine not less than 20.000 dollars or to imprisonment up to two years or both Indictment – fine not less than 20.000 dollars or imprisonment up to two years or both (first offence) or fine not less than 50.000 dollars or imprisonment up to three years or both
21 a /b	24 PoCA	Fine not less than 20.000 dollars or to imprisonment up to 01 year or both
	28 PoCA	Summary conviction – fine not less than 5.000 (first offence) or a fine not less than 10.000 dollars or to imprisonment up to 6 months or both Indictment – fine not less than 10.000 dollars (first offence) or fine not less than 20.000 dollars or imprisonment up to 1 year or both
22	146 Criminal Code	Up to 10 years
23 1 (a)(i)/ 23 1 (a)(ii)/ 23 1 (b) (i)/ 23 1 (b) (ii)/	4 AMLA	Natural Person– fine not less than 50.000 up to 250.000 dollars or imprisonment not less than five years up to 10 years or both Legal Person – – fine not less than 100.000 up to one million dollars
24	171 Criminal Code	Imprisonment up to 14 years
25	249 Criminal Code	Imprisonment up to 10 years

	253 Criminal Code	Imprisonment for life
	256 Criminal Code	Imprisonment for 7 years
	257 Criminal Code	Imprisonment for life
	258 Criminal Code	Imprisonment for 2 years

(b) Observations on the implementation of the article

Taking into account the existing sanctions for corruption-related offences, it was recommended that Belize assess whether they are effective and dissuasive.

Paragraph 2 of article 30

2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that there are no immunities or jurisdictional privileges accorded to Belize public official.

(b) Observations on the implementation of the article

It was concluded that Belize implemented the provision under review. In addition, the fact that public officials were not accorded any immunity was considered a good practice.

Paragraph 3 of article 30

3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that prosecution was not obligatory, as provided under section 50(2) of the Constitution of Belize.

Constitution of Belize
50. (1) [...]

(2) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do-

- a. to institute and undertake criminal proceedings against any person before any court of law (other than a court-martial) in respect of any offence alleged to have been committed by that person;
- b. to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and
- c. to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

However, it was indicated that the “Code of Conduct for Crown Prosecutors in the Office of the Director of Public Prosecutions, Belize,” (Code of Conduct) provided guidance on prosecutorial discretion. To illustrate this Belize referred to a part of such Code, namely:

Code of Conduct

The test of Prosecution

The decision as to whether or not to prosecute criminal cases, encompasses two stages. The First Stage is the Evidential Test. If a case does not pass this test, it must not proceed as there is no purpose in prosecuting a case which in law must result in an acquittal. However, if the case does pass the evidential test, Prosecutors must then decide if a prosecution is needed in the public interest.

The Second Stage therefore, is the Public Interest Test. The Office of the Director of Public Prosecution will only start or continue Prosecution if a case can pass both tests

In addition, Belize indicated that decisions not to prosecute were subject to judicial review (section 127 of the Constitution of Belize and *Mohatt v. DPP of Mauritius* (2006)).

Constitution

127. No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law or should not perform those functions.

(b) Observations on the implementation of the article

Even though prosecution is not obligatory (sect. 50(2) of the Constitution of Belize), the Code for Prosecutors provides guidance on prosecutorial discretion. In addition, Decisions not to prosecute are subject to judicial review (sect. 127 Constitution and *Mohatt v. DPP of Mauritius* (2006)).

Thus, it was concluded that Belize implemented the provision under review.

Paragraph 4 of article 30

4. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Constitution of Belize, section 5 and to the Indictable Procedure Act, Chapter 96, sections 56 and 57

Constitution

5. [...]

(3) Any person who is arrested or detained -

a. for the purpose of bringing him before a court in execution of the order of a court; or

b. upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law,

and who is not released, shall be brought before a court without undue delay and in any case not later than seventy-two hours after such arrest or detention.

(4) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

(5) If any person arrested or detained as mentioned in subsection (3)(b) of this section is not tried within a reasonable time, then without prejudice to any further proceedings that may be brought against him, he shall, unless he is released, be entitled to bail on reasonable conditions.

Indictable Procedure Act

56. (1) Subject to any other law to the contrary, where the crime with which the accused person is charged is a misdemeanour punishable with fine or with imprisonment for any term not exceeding two years, the accused person shall be entitled to be admitted to bail as hereinafter mentioned.

(2) Subject to any other law to the contrary, where the crime with which the accused person is charged is a misdemeanour punishable otherwise than as is mentioned in subsection (1) of this section or, subject to the exceptions mentioned in subsection (3) of this section, is a felony, the magistrate may in his discretion admit the accused person to bail as hereinafter mentioned.

(3) A magistrate shall not admit to bail any person charged with treason, misprision of treason, treason-felony or murder.

57. (1) An accused person whether committed to prison or not shall or may, as the case may be, be released on bail upon providing a surety or sureties sufficient in the opinion of the magistrate to secure his appearance, or upon his own recognisance if the magistrate thinks fit and, where by any statute for the time being in force, bail may be allowed or refused in the discretion of the magistrate, that discretion may be exercised at any stage of the proceedings.

(2) Whenever the preliminary inquiry is for any reason adjourned or interrupted, the examining magistrate shall or may, as the case may be, instead of remanding the accused person to prison, admit him to bail on condition of his appearing at the time to which the inquiry is adjourned, or at an earlier day if so required.

(3) If an accused person who has appeared and has been admitted to bail, either on the recognisance of sureties or on his own recognisance, to appear at any adjournment, fails to appear according to the condition of the recognisance, the magistrate before whom he ought to have appeared may issue a warrant for his apprehension, whether there has been any information in writing and upon oath or not.

(4) Where a person is remanded on bail the recognisance may be conditioned for his appearance at every time and place to which during the course of the proceedings the hearing is from time

to time adjourned, without prejudice, however, to the power of the court to vary the order at any subsequent hearing.

58. (1) An accused person who is not admitted to bail shall be committed for safe custody to prison, or as the case may require.

(b) Observations on the implementation of the article

As provided under section 5 of the Constitution and 56 and 57 of the Indictable Procedure Act, an accused person may be released on bail. However, a court may refuse to grant bail if it believes that the accused person failed to provide sufficient sureties to ensure appearance at trial.

As such, it was concluded that Belize implemented the provision under review.

| Paragraph 5 of article 30

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Parole Act, 2017, sections 4 and 5.

Parole Act

4. (1) [...]

(3) In considering any case for parole, the Board shall take into account,

(a) The nature of the circumstances of the offence for which the applicant was convicted and sentenced;

(b) the sentence imposed by the court and any comments made by the court when the sentence was imposed;

(c) the safety of the public, and of any person or class of persons who may be affected by the release of the offender;

(d) any representations made by the victim of the offence or any person acting on his behalf, or of the relatives of the victim of the offence, or anyone acting on their behalf;

(e) any representations made by the offender or any person acting on his behalf;

(f) the welfare of the offender and his reformation and training while in the prison;

(g) the probable circumstances of the offender if release, especially the likelihood of his peaceful reintegration into society;

(h) the likely response of the offender to supervision by the parole officer;

(i) the reasonable probability that the offender will live and remain at liberty without violating law, and

(j) any other factor that the Board may consider relevant in reaching a decision.

5. (1) An offender other than an offender sentenced to death, is eligible for consideration for release on parole upon the expiry of the following periods from the date of his reception in a prison after sentencing,

(a) the minimum term fixed by the Court in accordance with section 106(3) if the Criminal Code, in the case of an offender convicted of the offence of murder and undergoing a sentence of imprisonment for life;

(b) fifteen years, in the case of any other offender undergoing a sentence of imprisonment for

life;

(c) one half of the term of imprisonment, in the case of any serious offender undergoing a sentence, other than an offender specified in any of the preceding paragraphs, and

(d) one third of the term of imprisonment, in the case of a lesser offender undergoing a sentence.

(2) [...].

(b) Observations on the implementation of the article

Under section 5 of the Parole Act, an offender is eligible for release on parole upon expiry of one half of the term of imprisonment, in the case of serious offences, or of one third of the term of imprisonment in the case of minor offences.

It was concluded that Belize implemented the provision under review.

Paragraph 6 of article 30

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Belize Public Service Regulations, rules 82, 85 and 95.

Belize Public Service Regulation

82. (1) A minor misconduct is any of the following -

[...]

(2) A major misconduct is any of the following -

(a) use obscene, abusive, threatening or insulting language or behavior towards another public officer or member of the public;

(b) aids, abets or incites major misconduct by another public officer;

(c) making false claims including false allegations of sexual harassment under regulation 57;

(d) pilfering;

(e) acceptance of bribe;

(f) theft, extortion, or misappropriation; (g) embezzlement;

(h) fraud or dishonesty;

(i) concealing loss or irregularity of government finance; (j) reporting for duty under the influence of drug;

(k) taking illegal drug, alcohol or abusing prescription drug during working hours; (l) sexual harassment pursuant to regulation 57;

(m) sabotage;

(n) making false declarations in the course of duty or public service;

(o) physical assault of another public officer or member of the public while on duty; (p) breach of confidentiality;

(q) any other conduct which amounts to a series of acts or omission, incompetence, misbehaviour or low productivity established over a period of six months; or

(r) any of the following acts committed by a public officer as a second offence -

(i) unauthorized absences and failure to satisfactorily correct behaviour after such absences are

brought to that public officer's attention;

(ii) any case of tardiness or unauthorized absence where such case is made more serious due to the attendant circumstances or the penalty made more severe in consideration of the seriousness of the misconduct;

(iii) any of the conduct specified in subregulation (1) (f), (g) or (h);

(iv) breach of public service code of conduct which the Commission determines are of major consequence; or

(v) failure to report to duty during a strike pursuant to regulation 80.

85. (1) Where the Commission sees fit, having regard to the seriousness of the misconduct, the Commission may impose one of the following penalties or a combination thereof instead of the penalties specified in regulation 83(5)(b) or regulation 84(9) -

(a) surcharge in accordance with Finance and Audit (Reform) Act; (b) stoppage or loss of increment for a specified period;

(c) suspension without pay for a period not exceeding three months; (d) withholding of a quantum benefit;

(e) termination;

(f) retirement in the public interest; or (g) dismissal.

(2) A public officer may be retired in the public interest on recommendation made from the Chief Executive Officer to the Commission, or the Commission may make the consideration in its own right.

(3) A public officer may be dismissed -

(a) if proven to be absent from duty for five consecutive days without permission from his supervisor or head of department, from the first day of absence; or

(b) for repeated tardiness or unexcused absence and has failed to satisfactorily correct behaviour after offences have been brought to the public officer's attention.

95. (1) Where a public officer is alleged to have committed a criminal offence, and where legal proceedings are being taken against that public officer, if the public interest so requires, the Commission may interdict the public officer from the exercise of the functions of his office.

(2) A public officer who is under interdiction shall -

(a) receive such portion of the salaries of his office not being less than one-half as the Commission shall approve;

(b) cease to receive all allowances approved to him prior to his interdiction.

(3) A public officer who is under interdiction shall not, without the written permission of the Commission, leave the country during the period of interdiction.

(4) Where a public officer is convicted of a criminal charge, such charge being serious enough to warrant his dismissal from the service, the public officer shall not receive any salaries and allowances from the date of conviction.

(5) In making a determination under subregulation (4) in relation to the seriousness of the offence, the Commission shall have regard to -

(a) whether the criminal offence was committed during working hours;

(b) the nature of the criminal offence in relation to the duties of the public officer; (c) the effect of the criminal offence on the reputation of the public service;

(d) whether the public officer convicted would create a serious risk to other public officers or the public; and

(e) damage or loss of government property and where such damages or loss is proved to be the result of a public officer's negligence, such public officer shall be subject to a surcharge in accordance with the Finance and Audit (Reform) Act.

(6) If the public officer is not convicted of the criminal charge, the Commission may provide the public officer with an opportunity to explain himself and thereafter determine whether the public officer may be subject to disciplinary proceedings pursuant to regulation 83 or 84, as the case may be.

(b) Observations on the implementation of the article

As provided under rule 85 of the Public Service Regulation a public officer that committed serious misconduct, which includes corruption related offences, may be suspended or terminated, in accordance with the procedure foreseen under that same Act. Such procedure can be carried out simultaneously with criminal proceedings. The reassignment of public officials accused of having committed an offence is not regulated.

As a result, it was recommended that Belize consider establishing procedures through which a public official accused of committing a corruption offence can be reassigned.

Subparagraph 7 (a) of article 30

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

(a) Holding public office;

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 58 and 63 of the Constitution, which establish the criteria for disqualification of members of the House of Representatives and Senators, and to section 85 of the Belize Public Regulations 2014, quoted above.

Constitution

58. (1) No person shall be qualified to be elected as a member of the House of Representatives who-

(a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or State;

(b) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;

(c) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law;

(d) is under sentence of death imposed on him by a court in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;

(e) is disqualified for membership of the House of Representatives by any law by reason of his holding, or acting in, any office the functions of which involve-

i. any responsibility for, or in connection with, the conduct of any election, or

- ii. any responsibility for the compilation or revision of any electoral register;
- (f) is disqualified for membership of the House of Representatives by virtue of any law by reason of his having been convicted of any offence relating to elections;
- (g) is disqualified for membership of the House of Representatives under any law by virtue of-
 - i. his holding or acting in any office or appointment specified (either individually or by reference to a class of office or appointment) by such law;
 - ii. his belonging to any of the armed forces of Belize or to any class of person that is comprised in any such force, or
 - iii. his belonging to any police force or to any class of persons that is comprised in any such force; or
- (h) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the government for or on account of the public service and has not, within one month before the day of election, declared publicly and in a newspaper circulating in the electoral division for which he is a candidate a notice setting out the nature of the contract and his interest, or the interest of any such firm or company therein:

Provided that if it appears to the Governor-General, acting in his own deliberate judgment, that it is proper so to do, he may by order direct that any such disqualification shall be disregarded for the purposes of this section, but no such order shall be made if proceedings have been commenced calling in question the right of that member to be a member of the House of Representatives on the ground that he is disqualified under this paragraph.

2. [...]

63. (1) No person shall be qualified to be appointed as a Senator who-

- (a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or State;
- (b) is a member of the House of Representatives;
- (c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;
- (d) is a person certified to be insane or otherwise to be of unsound mind under any law;
- (e) is under sentence of death imposed upon him by a court in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;
- (f) is disqualified for membership of the House of Representatives by any law by reason of his holding, or acting in, any office the functions of which involve-
 - i. any responsibility for, or in connection with, the conduct of any election; or
 - ii. any responsibility for the compilation or revision of any electoral register;
- (g) is disqualified for membership of the House of Representatives by virtue of any law by reason of his having been convicted of any offence relating to elections;
- (h) is disqualified for membership of the Senate under any law by virtue of
 - i. his holding or acting in any office or appointment specified (either individually or by reference to a class of office or appointment) by such law;
 - ii. his belonging to any of the armed forces of Belize or to any class of person that is comprised in any such force; or
 - iii. his belonging to any police force or to any class of person that is comprised in any such force; or
- (i) is a party to, or a partner in a firm or a director or manager of a company which is a party

to, any contract with the Government for or on account of the public service, and has not disclosed to the Governor-General the nature of such contract and his interest, or the interest of any such firm or company, therein:

Provided that if it appears to the Governor-General, acting in his own deliberate judgment, that it is proper so to do, he may by order direct that any such disqualification shall be disregarded for the purposes of this section.

2. [...]

(b) Observations on the implementation of the article

Sections 58 (1)(d) and 63 (1)(e) of the Constitution establish that no person who is under sentence of death imposed by a court in any part of the Commonwealth or serving a sentence of imprisonment exceeding twelve months, or is under such a sentence of imprisonment whose execution has been suspended, shall be qualified to be elected as a member of the House of Representatives or to be appointed as Senator, respectively.

In addition, as provided under rule 85 of the Public Service Regulation a public officer that committed serious misconduct, which includes corruption related offences, may be suspended or terminated, in accordance with the procedure foreseen under that same Act.

It was concluded that Belize implemented the provision under review.

Subparagraph 7 (b) of article 30

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from: ...

(b) Holding office in an enterprise owned in whole or in part by the State.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 58 and 63 of the Constitution, which establish the criteria for disqualification of members of the House of Representatives and Senators (quoted above) and to section 85 of the Belize Public Regulations 2014 (quoted above).

(b) Observations on the implementation of the article

It was concluded that Belize implemented the provision under review. See above analysis.

Paragraph 8 of article 30

8. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Belize Public Service Regulations, rules 82, 85 and 95 (quoted above).

(b) Observations on the implementation of the article

It was clarified during the country visit that criminal and disciplinary procedures may be conducted in parallel.

It was concluded that Belize implemented the provision under review.

Paragraph 10 of article 30

10. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Prison Act of Belize. Chapter 139.

(b) Observations on the implementation of the article

It was clarified during the country visit that Belize has not established a reintegration programme.

As a result, it was recommended that Belize endeavour to further promote the reintegration into society of offenders.

Article 31. Freezing, seizure and confiscation

Subparagraph 1 (a) of article 31

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 2, 2B and 49 of the Money Laundering and Terrorism (Prevention) Act Chapter 104 Laws of Belize

Money Laundering and Terrorism (Prevention) Act

2. (1) In this Act, unless the context otherwise requires,

[...]

“tainted property” means, subject to subsection (9A), property that—

(a) has been used in, or in connection with, an offence or is intended to be used in, or in connection with, an offence; and

(b) is, or is derived from, the proceeds of crime;

[...]

Meaning of “proceeds of crime”.

2B. (1) Property is the proceeds of crime if it constitutes a person's benefit from an offence or it represents such a benefit, in whole or part and whether directly or indirectly. (

2) For the purposes of subsection (1)—

(a) a person benefits from an offence if he obtains property as a result of or in connection with the offence;

(b) if a person benefits from an offence, his benefit is the value of the property obtained as a result of or in connection with the offence;

(c) if a person derives a pecuniary advantage as a result of or in connection with an offence, he is to be taken to obtain, as a result of or in connection with the offence, a sum of money equal to the value of the pecuniary advantage; and

(d) it is immaterial—

(i) who committed the offence;

(ii) who benefitted from the offence; or

(iii) whether the offence occurred before or after the commencement date.

(3) References to property obtained or a pecuniary advantage derived in connection with an offence include references to property obtained or a pecuniary advantage derived in both that connection and some other connection.

49. (1) Where, upon application by the Director of Public Prosecutions or the Financial Intelligence Unit, the Court is satisfied that a property is tainted property in respect of an offence of which a person has been convicted, the Court may order that specified property to be forfeited.

(2) In determining whether property is tainted property the Court may infer, in the absence of evidence to the contrary,

(a) that the property was used in or in connection with the commission of an offence if it was in the person's possession at the time of, or immediately after the commission of the offence for which the person was convicted; (Act 7 of 2016, s.15)

(b) that the property was derived, obtained or realized as a result of the commission of the offence if it was acquired by the person before, during or within six years after the period of the commission of the offence of which the person was convicted, and the Court is satisfied that the income of that person from sources unrelated to criminal activity of that person cannot reasonably account for the acquisition of that property. (Act 7 of 2016, s.15)

(3) Where the Court orders that property, other than money, be forfeited, the Court shall specify in the order the amount that it considers to be the value of the property at the time when the order is made

(4) In considering whether a forfeiture order should be made under subsection (1) the Court shall have regard to,

(a) the rights and interests, if any, of third parties in the property;

(b) the gravity of the offence concerned;

(c) any hardship that may reasonably be expected to be caused to any person by the operation of the order; and

(d) the use that is ordinarily made of the property, or the use to which the property was intended to be put.

(5) Where the Court makes a forfeiture order, the Court may give such directions as are necessary or convenient for giving effect to the order.

(b) Observations on the implementation of the article

Conviction-based confiscation is regulated under section 49 AMLA. Subject to conviction-based confiscation is any “tainted property”, as defined under section 2(1) AMLA, that includes “proceeds of crime”.

It was concluded that Belize implemented the provision under review.

(c) Successes and good practices

The rebuttable presumption, according to which property acquired within six years after the commission of an offence is considered “tainted property” if “the income of the offender cannot reasonably account for the acquisition of that property”

Subparagraph 1 (b) of article 31

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

...

(b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 2, 2B and 49 of the Money Laundering and Terrorism (Prevention) Act Chapter 104 Laws of Belize (Quoted above).

(b) Observations on the implementation of the article

The definition of “tainted property” under the Money Laundering and Terrorism (Prevention) Act includes any property used in or destined for use in an offence.

Thus, it was concluded that Belize implemented the provision under review.

Paragraph 2 of article 31

2. Each State Party shall take such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 11, 32, 34 and 40 of the Money Laundering and Terrorism (Prevention) Act Chapter 104 Laws of Belize.

Money Laundering and Terrorism (Prevention) Act
Powers of the Financial Intelligence Unit

11. (1) Without prejudice to its powers and responsibilities under the Financial Intelligence Unit Act or any other provision of this Act, the Financial Intelligence Unit, Cap. 138.02.

[...]

(d) may instruct any reporting entity to take such steps as may be appropriate, including the freezing of funds and other financial assets or economic resources of any person or entity, to facilitate any investigation, prosecution or proceeding for a money laundering offence or for terrorist financing, whether in Belize or elsewhere;

[...]

Monitoring orders

32. (1) A police officer or an authorised officer of the Financial Intelligence Unit may apply, ex parte and in writing to a judge or magistrate in chambers for an order (in this section called a monitoring order) directing a reporting entity to give information to a police officer or an authorised officer of the Financial Intelligence Unit. An application under this subsection shall be supported by an affidavit.

(2) A monitoring order shall,

(a) direct a reporting entity to disclose information obtained by the institution about transactions conducted through an account held by a particular person with the institution;

(b) not have retrospective effect; and

(c) only apply for a period of a maximum of three months from the date of the making of the order.

(3) A judge or magistrate shall not issue a monitoring order unless he is satisfied that there are reasonable grounds for suspecting that the person in respect of whose account the order is sought,

(a) has committed or was involved in the commission, or is about to commit or be involved in the commission of, an offence; or

(b) has benefited directly or indirectly, or is about to benefit directly or indirectly from the commission of an offence.

(4) A monitoring order shall specify,

(a) the name or names in which the account is believed to be held; and (b) the class of information that the institution is required to give.

(5) Where a reporting entity, which has been given notice of a monitoring order, knowingly,

(a) contravenes the order, or

(b) provides false or misleading information in purported compliance with the order, the reporting entity commits an offence against this section and shall be liable on conviction, in the case of a natural person, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; and in the case of a body corporate, to a fine not exceeding twenty thousand dollars.

Power to intercept communications and the admissibility of intercepted communications

34. (1) Without prejudice to the powers of the Minister responsible for telecommunications under the Telecommunications Act, Cap. 229, a police officer or an authorized office of the Financial Intelligence Unit may, for the purpose of obtaining evidence of the commission of a money laundering offence, a terrorist financing offence or the proceeds of crime under this Act, apply, ex parte, to a Judge of the Supreme Court, for an interception of communications order.

(2) A judge to whom an application is made under subsection (1) of this section, may make an order,

(a) requiring a communications service provider to intercept and retain a specified communication or communications of a specified description received or transmitted, or about to be received or transmitted by that communications service provider;

(b) authorising the police officer or the authorized officer of the Financial Intelligence Unit, to enter any premises and to install on such premises, any device for the interception and retention of a specified communication or communications of a specified description and to remove and retain such device,

if the judge is satisfied that there are reasonable grounds to believe that material information relating to,

- (i) the commission of an offence under this Act, or
 - (ii) the whereabouts of the person suspected by the police officer or the Financial Intelligence Unit to have committed the offence,
- is contained in that communication or communications of that description.
- (3) Any information contained in a communication,
- (a) intercepted and retained pursuant to an order under subsection (2) of this section;
 - (b) intercepted and retained in a foreign state in accordance with the law of that foreign state and certified by a Judge of that foreign state to have been so intercepted and retained,
- shall be admissible in proceedings for a money laundering offence or terrorist financing offence or for proceedings in relation to the forfeiture of the proceeds of crime or terrorist property under this Act, as evidence of the truth of its contents notwithstanding the fact that it may contain hearsay.

Seizure and detention of suspicious cash

38. (1) A police officer or a customs officer may seize and, in accordance with this section, detain any cash found anywhere in Belize, including at any border, if he has reasonable grounds for suspecting that it is –
- (a) property derived from the commission of an offence;
 - (b) intended by any person for use in the commission of an offence;
 - (c) involved in money laundering or the financing of terrorism; or
 - (d) being, or has been, brought into or taken out of Belize without making the declaration required under section 51A or 77A of the Customs Regulation Act, Cap. 49 or after making a false declaration.
- (3) Cash detained under subsection (1) of this section shall not be detained for more than 72 hours after seizure, excluding weekends and public and bank holidays unless a magistrate orders its continued detention for a period not exceeding 3 months from the date of seizure, upon being satisfied that,
- (a) there are reasonable grounds for the suspicion referred to in subsection (1) of this section; and
 - (b) its continued detention is justified while,
 - (i) its origin or derivation is further investigated; or
 - (ii) consideration is given to instituting in Belize or elsewhere criminal proceedings against any person for an offence with which the cash is connected.
- (4) A magistrate may subsequently order continued detention of the cash if satisfied of the matters mentioned in subsection (3) of this section, but total period of detention shall not exceed 2 years from the date of the order made under that subsection.
- (4A) Where cash is detained under this section for more than 72 hours, it shall, as soon as practicable, be paid into an interest-bearing account and held there, and the interest accruing on it is to be added to it on its forfeiture or release.
- (5) Subject to subsection (4) of this section, cash detained under this section may be released in whole or in part to the person from whom it was seized,
- (a) by order of a magistrate that its continued detention is no longer justified, upon application by or on behalf of that person and after considering any views of the Director of the Financial Intelligence Unit to the contrary; or
 - (b) by an authorized officer, if satisfied that its continued detention is no longer justified.
- (6) No cash detained under this section shall be released where,
- (a) an application is made under this Act for the purpose of,
 - (i) the forfeiture of the whole or any part of the cash; or
 - (ii) its restraint pending determination of its liability to forfeiture; or

(b) proceedings are instituted in Belize or elsewhere against any person for an offence with which the cash is connected, unless and until the proceedings relating to the relevant application or the proceedings for the offence as the case may have been concluded.

(7) On being satisfied that cash detained under this section represents the proceeds of crime or property that has been used in, or in connection with, an offence or is intended to be used in, or in connection with, an offence, the magistrate shall make a forfeiture order.

(8) An order may be made under subsection (7) whether or not proceedings are brought against any person for an offence with which the cash in question is connected.

(9) Any question of fact to be decided by a magistrate in proceedings under this section shall be decided on the balance of probabilities.

40. (1) Subject to this section, where the Director of Public Prosecutions or the Financial Intelligence Unit applies to the Court for a restraining order against property and the Court is satisfied that,

(a) the accused has been convicted of an offence or has been charged or is about to be charged with or is being investigated for an offence;

(b) where the accused has not been convicted of an offence, there is reasonable cause to believe that the property is tainted property in relation to an offence or that the accused derived a benefit directly or indirectly from the commission of the offence;

(c) where the application seeks a restraining order against property of a person other than the accused, there are reasonable grounds for believing that the property is tainted property in relation to an offence and that the property is subject to the effective control of the accused or is property held by the defendant or a gift caught by this Act; and

(d) there are reasonable grounds for believing that a forfeiture order or a pecuniary penalty order may be or is likely to be made under this part in respect of the property, the Court may make an order,

(i) prohibiting the defendant or any person from disposing of, or otherwise dealing with, the property or such part thereof or interest therein as is specified in the order, except in such manner as may be specified in the order; and

(ii) at the request of the Director of Public Prosecutions or the Financial Intelligence Unit, where the Court is satisfied that the circumstances so require,

(a) directing the Registrar-General or such other person as the Court may appoint to take custody of the property or such part thereof as is specified in the order and to manage or otherwise deal with all or any part of the property in accordance with the directions of the Court; and

(b) requiring any person having possession of the property to give possession thereof to the Registrar-General or to the person appointed under sub-paragraph (i) to take custody and control of the property.

(2) An order under subsection (1) of this section, may be made subject to such conditions as the Court thinks fit and, without limiting the generality of this subsection, may make provision for meeting out of the property or a specified part of the property, any or all of the following,

(a) the person's reasonable living expenses and reasonable business expenses;

(b) the person's reasonable expenses in defending the criminal charge and any proceedings under this Part.

(3) Where the Registrar-General or other person appointed under subsection (1)(ii)(a) of this section is given a direction in relation to any property, he may apply to the Court for directions on any question respecting the management or preservation of the property under his control.

(4) Subject to section 42 of this Act, an application shall be served on all persons interested in

the application or such of them as the Court thinks expedient and all such persons shall have the right to appear at the hearing and be heard.

(5) When the application is made on the basis that a person is being investigated or about to be charged, any order made by the Court shall lapse if the person is not charged,

(a) where the offence is an offence against the laws of Belize, within 28 days; or

(b) where the offence is an offence against the laws of a foreign State, within three months.

(b) Observations on the implementation of the article

As provided under section 40 of the Money Laundering and Terrorism (Prevention) Act (“AMLA”), a court may make an order prohibiting the defendant or any person from disposing of, or otherwise dealing with any property deemed as tainted property.

In addition, cash derived from the commission of an offence or to be used in its commission may be seized by the police (sect. 38(1) AMLA). Furthermore, under section 11(1)(d) AMLA, the FIU may request the seizure of funds to facilitate any investigation, prosecution or proceeding in conjunction with a money-laundering offence.

It was concluded that Belize implemented the provision under review.

Paragraph 3 of article 31

3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 40, 78 and of the Money Laundering and Terrorism (Prevention) Act Chapter 104 Laws of Belize.

Money Laundering and Terrorism (Prevention) Act

Restraining orders

40. (1) Subject to this section, where the Director of Public Prosecutions or the Financial Intelligence Unit applies to the Court for a restraining order against property and the Court is satisfied that,

[...]

the Court may make an order,

[...]

(ii) at the request of the Director of Public Prosecutions or the Financial Intelligence Unit, where the Court is satisfied that the circumstances so require,

(a) directing the Registrar-General or such other person as the Court may appoint to take custody of the property or such part thereof as is specified in the order and to manage or otherwise deal with all or any part of the property in accordance with the directions of the Court; and

(b) requiring any person having possession of the property to give possession thereof to the Registrar-General or to the person appointed under sub-paragraph (i) to take custody and control of the property.

[...]

Establishment of the Fund

78. There is hereby established a special fund to be known as the Belize Confiscated and Forfeited Assets Fund.

Receipts and Disbursements

79. (1) There shall be credited to the Fund,

- (a) all moneys derived from the fulfilment of confiscation and forfeiture orders and from settlements of confiscation and forfeiture claims;
 - (b) any sums of money allocated to the Fund from time to time by parliamentary appropriation;
 - (c) any voluntary payment, grant or gift made by any person for the purposes of the Fund;
 - (d) any income derived from the investment of any amount standing to the credit of the Fund; and
 - (e) any sharing of confiscated or forfeited property and funds received from other States;
 - (f) any sums of money received from the imposition of a pecuniary penalty.
- (2) [...]

(b) Observations on the implementation of the article

As provided under section 40(1)(ii)(a) AMLA) of the Money Laundering and Terrorism (Prevention) Act (“AMLA”) courts may appoint any person as receiver. Money related to confiscation orders is administrated by the Belize Confiscated and Forfeited Assets Fund (sects. 78 and 79 AMLA).

Considering that the Confiscated and Forfeited Assets Fund only relates to money and that a receiver can only be appointed in connection with a restraining order, it was concluded that Belize does not have a comprehensive legal framework that regulates the administration of confiscated property.

As such, it was recommended that Belize improve the regulation of the administration of frozen, seized or confiscated assets.

| Paragraph 4 of article 31

4. If such proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 2 and 49 (quoted above) of the Money Laundering and Terrorism (Prevention) Act Chapter 104 Laws of Belize

Money Laundering and Terrorism (Prevention) Act

2. (1) In this Act, unless the context otherwise requires,

[...]

“tainted property” means, subject to subsection (9A), property that—

- (a) has been used in, or in connection with, an offence or is intended to be used in, or in connection with, an offence; and
- (b) is, or is derived from, the proceeds of crime;

[...]

(b) Observations on the implementation of the article

It was clarified during the country visit that due to the expression “derived from” used in the definition of “tainted property”, transformed or converted property is liable for confiscation.

Thus, it was concluded that Belize implemented the provision under review.

Paragraph 5 of article 31

5. If such proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 2 (quoted above) and 54 of the Money Laundering and Terrorism (Prevention) Act Chapter 104 Laws of Belize.

Money Laundering and Terrorism (Prevention) Act

Payment instead of a forfeiture order

54. Where the court is satisfied that a forfeiture order should be made in respect of the property of a person convicted of an offence but that the property or any part thereof or interest therein cannot be made subject to such an order and, in particular,

- (a) cannot, on the exercise of due diligence, be located;
 - (b) has been transferred to a third party in circumstances which do not give rise to a reasonable inference that the title or interest was transferred for the purpose of avoiding the forfeiture of the property;
 - (c) is located outside Belize;
 - (d) has been substantially diminished in value or rendered worthless; or
 - (e) has been commingled with other property that cannot be divided without difficulty,
- the Court may, instead of ordering the property or part thereof or interest therein to be forfeited, order the person to pay to the Government an amount equal to the value of the property, part or interest.

(b) Observations on the implementation of the article

It was clarified during the country visit that Section 54 of the Money Laundering and Terrorism (Prevention) Act may apply in cases of intermingled property that cannot be divided.

Thus, it was concluded that Belize implemented the provision under review.

Paragraph 6 of article 31

6. Income or other benefits derived from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 2, 2B and 54 of the Money Laundering and Terrorism (Prevention) Act Chapter 104 Laws of Belize (quoted above).

(b) Observations on the implementation of the article

The definition of “tainted propriety” includes “proceeds of crime”. Under section 2B “proceeds of crime” constitutes “a person’s benefit from an offence or it represents such a benefit”. In addition, it was clarified during the country visit that “tainted property” encompasses transformed or converted property.

Thus, it was concluded that Belize implemented the provision under review.

Paragraph 7 of article 31

7. For the purpose of this article and article 55 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to section 23, 26 and 87 of the Money Laundering and Terrorism (Prevention) Act Chapter 104 Laws of Belize (quoted above) and to section 9 of the Financial Intelligence Unit Act.

Money Laundering and Terrorism (Prevention) Act

Production orders

23. (1) Where a person is being investigated for an offence, or has been charged with or convicted of an offence, or where the Financial Intelligence Unit or a law enforcement authority is endeavouring to trace terrorist property or funds or other property related to an offence, and a police officer or an authorised officer of the Financial Intelligence Unit has reasonable grounds for suspecting that any person has possession or control of,

(a) a document relevant to identifying, locating or quantifying property of the person or to identifying or locating a document necessary for the transfer of property of such person; or

(b) a document relevant to identifying, locating or quantifying tainted property in relation to the offence or to identifying or locating a document necessary for the transfer of tainted property in relation to the offence; or

(c) a document relevant to identifying, locating or quantifying recoverable property or to identify or locating a document related to the transfer of terrorist property; or

(d) a document related to terrorist property,

the police officer or an authorised officer of the Financial Intelligence Unit may apply ex parte and in writing to a judge of the Supreme Court in chambers for an order against the person suspected of having possession or control of a document of the kind referred. The application shall be supported by an affidavit.

(2) The judge may, if he considers there are reasonable grounds for so doing, make an order that the person produce to a police officer or an authorised officer of the Financial Intelligence Unit, at a time and place specified in the order, any documents of the kind referred to in subsection (1) of this section.

(3) A police officer or an authorised officer of the Financial Intelligence Unit to whom

documents are produced may,

- (a) inspect the documents;
 - (b) make copies of the documents; or
 - (c) retain the documents for so long as is reasonably necessary for the purposes of this Act.
- (4) Where a police officer or an authorised officer of the Financial Intelligence Unit retains documents produced to him, he shall make a copy of the documents available to the person who produced them.
- (5) Notwithstanding any other rule of law or practice to the contrary, a person is not entitled to refuse to produce documents ordered to be produced under this section on the ground that,
- (a) the document might tend to incriminate the person or make him liable to a penalty; or
 - (b) the production of the document would be in breach of an obligation of the person not to disclose the existence or contents of the document.

Production orders in relation to foreign offences

26. Where a foreign State requests assistance to locate or seize property suspected to be tainted property in respect of an offence within its jurisdiction, the provisions of section 23 shall apply with necessary modifications.

Secrecy obligations overridden

81. Subject to the provisions of the Belize Constitution, Cap. 4, the provision of this Act shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise.

Financial Intelligence Unit Act

Power to obtain information.

- 9.— (1) Without prejudice to the powers of the supervisory authority under the Money Laundering and Terrorism (Prevention) Act, the Director may, by notice in writing, require-
- (a) a person whose affairs are the subject of investigation whether in Belize or elsewhere, to furnish such information or produce such documents as may be required with respect to any matter relevant to such investigation; and
 - (b) a person, reporting entity, supervisory authority, law enforcement agency, public utility or domestic government agency who may have evidence relevant to a law enforcement investigation whether conducted in Belize or elsewhere, to furnish such information or produce such documents as may be required with respect to any matter relevant to such investigation;
- or
- (c) any public officer to furnish information or to produce any document in his custody or under his control.
- (2) The Director may take copies or extracts from any document produced under subsection (1) of this section and may require the person producing it to give any explanation relating to such document.
- (3) Where material to which an investigation relates consists of information stored in a computer, disc, cassette, or on microfilm, or preserved by any mechanical or electronic device, the request from the Director shall be deemed to require the person named therein to produce or give access to it in a form in which it can be taken away and in which it is visible and legible.
- (4) A person required to furnish information or to produce any specified documents or any documents of a specified class shall not, without reasonable excuse, fail to furnish information or produce a document or class of documents.
- (5) It shall be a reasonable excuse, for the purposes of subsection (4) of this section, for a person to refuse or fail to furnish information or to produce a document or a class of documents that

he is required to furnish or produce, where the furnishing of the information or the production of the document or class of documents might tend to incriminate him.

(6) Any person who contravenes subsection (4) of this section, commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(7) This section and the next following section 10 of this Act, shall have effect notwithstanding anything to the contrary in any other law.

(b) Observations on the implementation of the article

Section 23 of the AMLA and section 9 of the FIU Act allow, in the context of an investigation, for the seizure of documents “of any person”. It was clarified during the country visit that the expression “any person” includes banks. In addition, bank secrecy will not constitute an obstacle for this, as provided under section 81 of the AMLA.

Thus, it was concluded that Belize implemented the provision under review.

Paragraph 8 of article 31

8. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the fundamental principles of their domestic law and with the nature of judicial and other proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to section 49 (2) (b) of the Money Laundering and Terrorism (Prevention) Act Chapter 104 Laws of Belize.

Money Laundering and Terrorism (Prevention) Act

Forfeiture order on conviction

79. (1) [...]

(2) In determining whether property is tainted property the Court may infer, in the absence of evidence to the contrary, (a) that the property was used in or in connection with the commission of an offence if it was in the person's possession at the time of, or immediately after the commission of the offence for which the person was convicted; (

(b) that the property was derived, obtained or realized as a result of the commission of the offence if it was acquired by the person before, during or within six years after the period of the commission of the offence of which the person was convicted, and the Court is satisfied that the income of that person from sources unrelated to criminal activity of that person cannot reasonably account for the acquisition of that property.

(3) [...]

(b) Observations on the implementation of the article

Considering the rebuttable presumption under section 49(2)(b) of the AMLA, according to which property acquired within six years after the commission of an offence is considered “tainted property” if “the income of the offender cannot reasonably account for the acquisition of that property”, it was concluded that Belize implemented the provision under review.

Paragraph 9 of article 31

9. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to section 49 (2) (b) of the Money Laundering and Terrorism (Prevention) Act Chapter 104 Laws of Belize.

Money Laundering and Terrorism (Prevention) Act

Protection of third parties

52. (1) Where an application is made for a forfeiture order against property, a person who claims an interest in the property may apply to the Court, before the forfeiture order is made, for an order under subsection (2) of this section.

(2) If a person applies to the Court for an order under this section in respect of property and the Court is satisfied on a balance of probabilities,

(a) that he was not in any way involved in the commission of the offence; and (Act 7 of 2016, s.25)

(b) where he acquired the interest during or after the commission of the offence, that he acquired the interest,

(i) for sufficient consideration; and

(ii) without knowing, and in circumstance such as not to arouse a reasonable suspicion that the property was, at the time he acquired it, property that was tainted property,

the Court shall make an order declaring that his interest shall not be affected by the forfeiture order.

(3) Subject to subsection (4) of this section, where a forfeiture order has already been made directing the forfeiture of property, a person who claims an interest in the property may, before the end of the period of 6 months commencing on the day on which the forfeiture order is made, apply under this subsection to the Court for an order under subsection (2) of this section.

(4) A person who,

(a) had knowledge of the application for the forfeiture order before the order was made; or

(b) appeared at the hearing of that application,

shall not be permitted to make an application under subsection (3) of this section except with leave of the Court.

(5) A person who makes an application under subsection (1) or (3) of this section, shall give no less than 14 days written notice of the making of the application to the Director of Public Prosecutions or the Financial Intelligence Unit who shall be a party to any proceedings in the application.

(6) An applicant or the Director of Public Prosecutions or the Financial Intelligence Unit, as the case may be, in accordance with the rules of court, may appeal against an order made under subsection (2) of this section.

(7) Any person appointed by the Court as a custodian or receiver for property shall, on application by any person who has obtained an order under subsection (2) of this section, and where the period allowed by the rules of court with respect to the making of appeals has expired and any appeal from that order has been determined,

(a) direct that the property or part thereof to which the interest of the applicant relates, be returned to the applicant; or

(b) direct that an amount equal to the value of the interest of the applicant, as declared in the

order, be paid to the applicant.

(b) Observations on the implementation of the article

Section 52 of the AMLA foresees the protection of third parties. Under paragraphs (1) and (3), where an application for a forfeiture order against property is made, an affected third party may apply to the Court for it to declare that the interest of that person shall not be affected.

However, the time frame for the challenge or assertion of third-party interest is six months from the date the forfeiture order is made. In addition, section 4 lists certain exclusions regarding the right to apply to the Court.

As a result, it was recommended that Belize amend its legislation to ensure that the limitations upon the exercise of the rights of bona fide third parties do not prejudice the exercise of such rights by increasing the time frame (section 52(3) AMLA) and removing the exclusions under section 52(4) AMLA.

Article 32. Protection of witnesses, experts and victims

Paragraphs 1 and 2 of article 32

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 3 and 4 of the Justice Protection Act, Chapter 119:02, 2011

Justice Protection Act

3. In this Act, unless the context otherwise requires,

[...]

“Minister” means the Attorney General;

“participants” means witnesses, jurors, judicial officers, legal officers, law enforcement personnel, associates of such persons and any other persons to whom protection or assistance or both is given under the Justice Protection Programme;

[...]

4. (1) The Minister shall establish a programme to be known as the Justice Protection Programme, for the purpose of providing to participants, subject to this Act, protection or assistance or both.

[...]

First Schedule. Protected offences under the Programme [Section 6]

1. Murder. 2. Manslaughter 3. Treason. 4. Sedition. 5. Piracy or hijacking. 6. Possession or use of firearms and ammunition with intent to injure. 7. Possession or use of firearms in furtherance of any criminal offence. 8. Aggravated assault. 9. Shooting or wounding with intent to do grievous bodily harm. 10. Robbery. 11. Robbery with aggravation. 12. Armed robbery. 13. Arson. 14. Any sexual offence. 15. Any drug trafficking offence. 16. Kidnapping. 17. Any money laundering offence. 18. Any domestic violence offence.

(b) Observations on the implementation of the article

Under section 4 (1) of the Justice Protection Act, the Attorney General “shall establish a programme to be known as the Justice Protection Programme, for the purpose of providing participants, subject to this Act, protection or assistance or both” (sect. 4(1)). Section 1 defines participants as including witnesses, jurors, judicial officers, legal officers and law enforcement personnel.

However, as provided under First Schedule, in relation to the offences established in accordance with the Convention, it only applies to money-laundering. In addition, as explained by governmental authorities, it has not been implemented.

Therefore, it was recommended that Belize take measures to establish an effective programme and system for the protection of witnesses and experts, their relatives and persons close to them.

| Paragraph 3 of article 32

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that it has not entered into agreements or other States for the relocation of persons referred to in paragraph 1 of article 32 of the Convention.

(b) Observations on the implementation of the article

It was recommended that Belize consider entering into agreements or arrangements with other States for the relocation of protected persons.

| Paragraph 4 of article 32

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that it has not implemented the provision under review.

(b) Observations on the implementation of the article

Please refer to the recommendation made under article 32 paragraphs 1 and 2.

Paragraph 5 of article 32

5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that victims can be called as witnesses to the trial of the accused.

(b) Observations on the implementation of the article

As explained during the county visit, victims can testify as witnesses during the trial of the accused.

Article 33. Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), sections 29 and 32

Prevention of Corruption Act

29. (1) [...]

(2) A person exercising any public function who knows or reasonably suspects, or ought reasonably to have known or reasonably to have suspected, that any person has committed, is committing or is about to commit an offence under this Act, or the offence of bribery, must disclose, as soon as reasonably practicable and in the prescribed manner, that knowledge or suspicion, and the information on which it is based, or cause such knowledge or suspicion to be so disclosed.

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

(b) Observations on the implementation of the article

Belize does not have specific protection measures for reporting persons. Section 32 of the PoCA gives limited protection to persons reporting facts concerning offences under such Act.

As a result, it was recommended that Belize continue efforts on the adoption and implementation of comprehensive legislation on the protection of reporting persons.

Article 34. Consequences of acts of corruption

With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, States Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Contractor-General Act Chapter 6, 2011, section 14.

Contractor-General Act

14.-(1) Subject to the provisions of this Act, the functions of the Contractor-General shall be as follows, (a) to monitor the award and the implementation of public contracts with a view to ensuring that, (i) such contracts are awarded impartially and on merit; (ii) the circumstances in which each contract is awarded or, as the case may be, terminated, do not involve any impropriety or irregularity; (iii) without prejudice to the functions of any public body in relation to any contract, the implementation of each such contract conforms to the terms thereof; (iv) there is no fraud, corruption, mismanagement, waste or abuse in the awarding of contracts by a public body; (b) to investigate any such fraud, mismanagement, waste or abuse; (c) to develop policy guidelines, evaluate programme performance and monitor actions taken by a public body with respect to the award, execution and termination of contracts; and (d) to monitor the grant, issue, suspension or revocation of any prescribed licence, with a view to ensuring that the circumstances of such grant, issue, suspension or revocation do not involve impropriety or irregularity and, where appropriate, to examine whether such licence is used in accordance with the terms and conditions thereof.

(2) For the purpose of the discharge of his functions under this Act, the Contractor-General shall be entitled, (a) to be advised of the award and, where applicable, the variation of any public contract by the public body responsible for such contract; (b) subject to section 19 of this Act, to have access to all books, records, documents, stores or other property belonging to a public body, whether in the possession of any officer of a public body or a contractor or any other person; (c) to have access to any premises or location where work on a public contract has been, is being or is to be carried out; (d) to have access to all books, records, documents or other property used in connection with the grant, issue, suspension or revocation of any prescribed licence whether in the possession of any public officer or any other person; (e) to have access to any premises or location where he has reason to believe that any such books, records, documents or other property as are referred to in paragraph (d) above or any property which is the subject of a prescribed licence, may be found; (f) to enter any premises occupied by any person in order to make such enquiries or to inspect such document, record or property

as he considers necessary to any matter being investigated by him; and (g) without prejudice to the provisions of sections 18 and 19 of this Act, to retain any such document, record or other property referred to in paragraph (f) above.

(3) For the purpose of subsection (2) of this section, the Contractor General shall have power to require any public body to furnish in such manner and at such times as may be specified by the Contractor-General, information with regard to the award of any contract and such other information in relation thereto as the Contractor-General considers desirable. (4) For the purposes of paragraph (d) and (e) of subsection (2) of this section, the Contractor-General shall have power to require any public officer or any other person to furnish in such manner and at such times as may be specified by the Contractor-General, information with regard to the grant, issue, suspension, or revocation of any prescribed licence and such other information in relation thereto as the Contractor-General considers desirable.

(b) Observations on the implementation of the article

Belize has no legislation that provides for the annulment or termination of contracts affected by corruption. Measures such as blacklisting, dissolution of a legal entity or revocation of licences do not exist.

Under section 14 of Contractor-General Act, the Contractor-General has investigative powers to ensuring that there is no corruption in the awarding of contracts by a public body. However, it is not entitled to impose any sanctions.

As such, it was recommended that Belize provide for further measures to address consequences of acts of corruption, such as corruption as grounds to terminate contracts.

Article 35. Compensation for damage

Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

(a) Summary of information relevant to reviewing the implementation of the article

The authorities indicated that the legal system of Belize provides for persons to seek compensation for wrongs through civil proceedings, including tort, contract or another common law principle.

(b) Observations on the implementation of the article

In Belize there is no specific piece of legislation that ensures that entities or persons who have suffered as a result of an act of corruption have the right to initiate legal proceedings against the perpetrators. However, a plaintiff/claimant may bring a civil action in contract or tort so as to obtain compensation. As such, it was concluded that Belize implemented the provision under review.

Article 36. Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the

existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Prevention of Corruption Act Cap 105 of the Substantive Laws of Belize, Revised Edition 2011 (PoCA), sections 3, 4 and 5.

Prevention of Corruption Act

3. (1) There is established for the purposes of this Act, a body to be known as the Integrity Commission, which shall consist of a Chairperson, who shall be an attorney-at-law with not less than five years' standing, and six other members who shall be persons of integrity and high national standing.

(2) Two members of the Commission shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister given with the concurrence of the Leader of the Opposition, and the other members of the Commission including the Chairperson, shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister given after consultation with the Leader of the Opposition,

Provided that in the process of consultation with the Leader of the Opposition for the appointment of the Chairperson, the Prime Minister shall use his best endeavours to secure the agreement of the Leader of the Opposition.

(3) At least one member of the Commission shall be a member of the Institute of Chartered Accountants of Belize.

(4) The First Schedule shall have effect as to the term, the powers and practice of the Commission and otherwise in relation thereto.

4. The Commission shall, (a) examine and retain all declarations filed with the Secretariat under this Act; (b) make such inquiries as it considers necessary in order to verify or determine the accuracy of the declarations filed under this Act; (c) investigate complaints regarding non-compliance with or breach of the provisions of this Act; (d) performs such other functions as it is required by this Act to perform.

5. In the exercise of its functions under this Act, the Commission is not subject to the direction or control of any other person or authority.

In addition, Belize referred to the Attorney General's Ministry (section 42 of the Constitution) and to the Department of Public Prosecutions (art. 50 of the Constitution)

Constitution

42.- (1) The Attorney-General shall be the principal legal adviser to the Government. (2) The office of Attorney-General shall be the office of a Minister, with responsibility for the administration of legal affairs in Belize. (3) No person shall be qualified to hold the office of Attorney General unless he is a person who has for at least five years been entitled to practice as an advocate in a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland or a court having jurisdiction in appeals from any such court. (4) If a person holding the office of Attorney-General is for any reason

unable to perform the functions conferred on him by or under any law, those functions may be performed by such other person, being a person qualified as aforesaid (whether or not that person is a member of either House of the National Assembly), as the Governor-General, acting in accordance with the advice of the Prime Minister, may direct. (5) Legal proceedings for or against the State shall be taken, in the case of civil proceedings, in the name of the Attorney-General and, in the case of criminal proceedings, in the name of the Crown.

50.-(1) There shall be a Director of Public Prosecutions whose office shall be a public office. (2) The Director of Public Prosecutions shall have power with good and sufficient reason, (a) to institute, and undertake criminal proceedings against any person before any court of law (other than a court-martial) in respect of any offence alleged to have been committed by that person; (b) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.
[...]

(b) Observations on the implementation of the article

Under section 3 PoCA, Belize established the Integrity Commission. Among other things, the Commission has jurisdiction to examine the declarations filled in accordance with PoCA and to investigate complaints regarding non-compliance with or breach of the provisions of PoCA. However, at the time of the country visit, the Chairperson had not been appointed by the Prime Minister.

As such, it was recommended that Belize take the necessary steps to make the Integrity Commission operational.

Article 37. Cooperation with law enforcement authorities

| Paragraph 1 of article 37

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Constitution, section 50 and to the Evidence Act, Chapter 95, 2011, section 95.

Constitution

50.-(1) There shall be a Director of Public Prosecutions whose office shall be a public office. (2) The Director of Public Prosecutions shall have power with good and sufficient reason- (a) to institute, and undertake criminal proceedings against any person before any court of law (other than a court-martial) in respect of any offence alleged to have been committed by that person; (b) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any

other person or authority.

Evidence Act

95. A judge of the Supreme Court, with the written consent of the Director of Public Prosecutions, may order that a pardon be granted to any person accused or suspected of, or committed for trial for, any crime on condition of his giving full and true evidence upon any preliminary inquiry or trial, and such order shall have effect as a pardon by the Governor-General, but may be withdrawn by a judge of the Supreme Court upon proof satisfying him that the person has withheld evidence or given false evidence.

(b) Observations on the implementation of the article

Belize has taken measures to encourage persons who participate or who have participated in the commission of an offence to collaborate with justice and to supply information useful to competent authorities for investigative and evidentiary purposes.

While there is no plea bargaining in Belize, the Director of Public Prosecutions (DPP) is vested with discretionary power to carry out his functions (Art. 50(2)(c) of the Constitution). As a result, the DPP may decline to prosecute or discontinue a prosecution at any stage before a judgment is made if the alleged offender provides useful information.

In addition, a judge of the Supreme Court, with the written consent of the DPP, may order that a pardon be granted to any person that gave full and true evidence upon any preliminary inquiry or trial (sect. 95 Evidence Act).

Consequently, it was concluded that Belize implemented the provision under review.

Paragraph 2 of article 37

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

In addition to the above cited article 50 of the Constitution, Belize referred to section 160 of the Indictable Procedure Act, 2000, which allows the Courts to impose reduced sentences.

Indictable Procedure Act

160. Where any person is convicted of a crime punishable by imprisonment under the Code or any other Act, the court may, in its discretion, sentence the person to any less term of imprisonment, as the case may be, than the term prescribed for the crime by the Code or any other Act, as the case may be.

(b) Observations on the implementation of the article

It was clarified during the country visit that one of the factors a Court may take into account when sentencing, given its discretionary powers as provided under section 160 of the Indictable Procedure Act includes the offender's cooperation during the proceedings.

It was concluded that Belize implemented the provision under review.

Paragraph 3 of article 37

3. Each State Party shall consider providing for the possibility, in accordance with the fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Evidence Act, Chapter 95, 2011, section 95.

Evidence Act

95. A judge of the Supreme Court, with the written consent of the Director of Public Prosecutions, may order that a pardon be granted to any person accused or suspected of, or committed for trial for, any crime on condition of his giving full and true evidence upon any preliminary inquiry or trial, and such order shall have effect as a pardon by the Governor-General, but may be withdrawn by a judge of the Supreme Court upon proof satisfying him that the person has withheld evidence or given false evidence.

(b) Observations on the implementation of the article

It was concluded that Belize implemented the provision under review. Please refer to the analysis above.

Paragraph 4 of article 37

4. Protection of such persons shall be, mutatis mutandis, as provided for in article 32 of this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to sections 3 and 4 of the Justice Protection Act, Chapter 119:02, 2011 (above cited)

(b) Observations on the implementation of the article

Please refer to the analysis and recommendation made under article 32, paragraph 1.

Paragraph 5 of article 37

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Mutual Legal Assistance and International Cooperation Act (Act no. 8 of 2014, “the MLAA”). It was indicated that this act provide for, among others: a) taking evidence or statements from persons; b) effecting service of judicial documents; c) executing searches and seizures, and freezing; d) examining objects and sites; e) providing information, evidentiary items and expert evaluations; f) providing originals or certified copies of relevant documents and records; g) identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes; h) facilitating the voluntary appearance of persons in the requesting State Party; and (i) any other type of assistance that is not contrary to the domestic law of the requested State Party.

(b) Observations on the implementation of the article

Considering the forms of assistance under the MLAA, it was concluded that Belize implemented the provision under review.

Article 38. Cooperation between national authorities

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

- (a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or*
- (b) Providing, upon request, to the latter authorities all necessary information.*

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Money Laundering and Terrorism (Prevention) Act, section 77B.

Money Laundering and Terrorism (Prevention) Act

77B. (1) There shall be established a committee, to be known as the National Anti-Money Laundering Committee, for the purpose of— (a) advising the Minister in relation to the detection and prevention of money laundering, terrorist financing and the financing of proliferation, and on the development of a national plan of action to include recommendations on effective mechanisms to enable supervisory and law enforcement authorities in Belize to coordinate with each other concerning the development and implementation of policies and activities to combat money laundering, terrorist financing and the financing of proliferation; (b) advising the Minister as to the participation of Belize in the international effort against money laundering, terrorist financing and the financing of proliferation; and (c) advising the Minister in the development of policies to combat money laundering, terrorist financing and the financing of proliferation; and the Committee shall meet as often as may be necessary to carry out its duties.

(2) The members of the National Anti-Money Laundering Committee shall be— (a) the Director of the Financial Intelligence Unit, who shall be the Chairman; (b) the Solicitor General; (c) the Financial Secretary; (d) the Chief Executive Officer of the Ministry responsible for the Police; (e) the Commissioner of Police; (f) the Governor of the Central Bank of Belize;

(g) the Director of Public Prosecutions; (h) the Comptroller of Customs; (i) the Director of Immigration; (j) the Supervisor of Insurance; (k) such other persons as the Minister may from time to time appoint.

(3) The Minister shall prescribe the procedures of the National Anti-Money Laundering Committee, including appointment of members under paragraph (1)(k).

(b) Observations on the implementation of the article

The National Anti-Money Laundering Committee set out in section 77B of the Money Laundering and Terrorism (Prevention) Act serves as a platform for cooperation and coordination among different national authorities.

Article 39. Cooperation between national authorities and the private sector

| Paragraph 1 of article 39

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Money Laundering and Terrorism (Prevention) Act, section 77B (quoted above) and to the Financial Intelligence Unit Act, section 7.

Financial Intelligence Unit Act

7.—(1) The Unit shall, subject to the provisions of this Act, (a) investigate and prosecute financial crimes; (b) perform the functions of the competent authority, and such functions as a supervisory authority, as may be assigned under the Money Laundering and Terrorism (Prevention) Act; (c) ensure coordination and cooperation between law enforcement agencies, Government departments, regulatory authorities, private institutions and members of relevant professions in evolving methods and policies to prevent and suppress financial crimes; (d) take such measures as may be necessary to counteract financial crimes; (e) share information and cooperate with foreign financial intelligence units in the fight against financial crimes; (f) inform and educate the public and financial and business entities of their obligations under measures that have been or might be taken to detect, prevent and deter the commission of financial crimes; (g) co-operate with, and provide assistance to, foreign countries, law enforcement agencies and other regulatory or supervisory bodies relating to financial crimes in accordance with the Money Laundering and Terrorism (Prevention) Act, No. 18 of 2008; and; (h) perform such other functions related to the above as may be assigned by the Minister.

(2) The Commissioner of Police, Comptroller of Customs, Director of Immigration and any person specified as a supervisory authority under the Money Laundering and Terrorism (Prevention) Act may refer to the Unit, for the purpose of investigation and prosecution, any suspected financial crime.

(3) The Director may, on his own initiative, investigate any suspicious transaction or any financial crime.

(4) The Commissioner of Police, Comptroller of Customs, Director of Immigration and any person specified as a supervisory authority under the Money Laundering and Terrorism

(Prevention) Act shall give such assistance to the Director as may be necessary to enable him to discharge his functions under this Act.

(b) Observations on the implementation of the article

As mentioned above, the National Anti-Money Laundering Committee set out in section 77B AMLA serves as a platform for cooperation and coordination among different national authorities.

In addition, under subsection 7(1)(c) FIU Act, the FIU is responsible to ensure coordination and cooperation between law enforcement agencies, Government departments, regulatory authorities, private institutions and members of relevant professions.

It was concluded that Belize implemented the provision under review.

Paragraph 2 of article 39

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Money Laundering and Terrorism (Prevention) Act, sections 11 and 17.

Money Laundering and Terrorism (Prevention) Act

Powers of the Financial Intelligence Unit

11. (1) Without prejudice to its powers and responsibilities under the Financial Intelligence Unit Act or any other provision of this Act, the Financial Intelligence Unit,

(a) shall receive, analyse and assess reports of suspicious transactions issued by reporting entities pursuant to section 17(4) of this Act;

[...]

Reporting of suspicious transactions by reporting entities

17. (1) Reporting entities shall pay special attention to, (a) all complex, unusual or large business transactions, or unusual patterns of transactions, whether completed or not, and to insignificant but periodic transactions, that have no apparent economic or lawful purpose; (b) business relations and transactions with persons including legal persons and arrangements, from or in jurisdictions that do not have adequate systems in place to prevent or deter money laundering or terrorist financing; (c) electronic funds transfer that do not contain complete originator information and shall adopt effective risk-based procedures to identify and handle any such transfer.

(2) In relation to subsection (1) of this section, a reporting entity shall, (a) set forth in writing the specific information regarding the transaction(s) or business relations specified in subsection (1) (a) to (c) of this section, its background and purpose to the extent known, and the identity of the persons involved; and (b) upon request, shall make available such findings to the Financial Intelligence Unit.

(2A) The requirements set forth in subsections (1) and (2) apply to any casino or licensed gaming premises in relation to any transaction equal to or above the amount of six thousand dollars in Belize currency (or its equivalent in foreign currency) or such other sum as may be prescribed by the Minister by notice published in the Gazette.

(b) Observations on the implementation of the article

The Financial Intelligence Unit is the agency responsible for receiving, analysing, obtaining and disseminating information relating to offences under the Money Laundering and Terrorism (Prevention) Act. It provides guidelines to govern the receipt of suspicious transactions reports within the reporting entities.

Article 40. Bank secrecy

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Money Laundering and Terrorism (Prevention) Act, section 81.

Money Laundering and Terrorism (Prevention) Act, section 81.

Secrecy obligations overridden

81. Subject to the provisions of the Belize Constitution, Cap. 4, the provision of this Act shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise.

(b) Observations on the implementation of the article

As provided under section 81 of the Money Laundering and Terrorism (Prevention) Act the provisions under AMLA supersedes any obligation as to secrecy or other restriction upon the disclosure of information.

Article 41. Criminal record

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that there is no legislation that permits the use of evidence of prior convictions in another State of an accused during trial.

(b) Observations on the implementation of the article

Belize may wish to take into consideration any conviction in another State.

Article 42. Jurisdiction

Subparagraph 1 (a) of article 42

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

(a) The offence is committed in the territory of that State Party; or

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Indictable Procedure Act, sections 4 and 5.

Indictable Procedure Act

4. The jurisdiction of the court for the purposes of the Code or any other law creating a crime extends to every place within Belize, or within any island or territory over which the Government exercises authority for the time being or within three miles of the coast of Belize, or of any coast of any such island or territory aforesaid.

5. When an act, which if wholly done within the jurisdiction of the court would be a crime against the Code or other law, is done partly within and partly beyond the jurisdiction, every person who within the jurisdiction does, or abets any part of such act, may be tried and punished under the Code or other law, in the same manner as if such act had been done wholly within the jurisdiction

(b) Observations on the implementation of the article

As provided under sections 4 and 5 of the Indictable Procedure Act, Belize has established jurisdiction over offences committed wholly or partially within its territory.

It was concluded that Belize implemented the provision under review.

Subparagraph 1 (b) of article 42

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

...

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that it has not implemented the provision under review.

(b) Observations on the implementation of the article

Belize has not established its jurisdiction aboard aircrafts or ships of Belize. As a result, it was recommended that Belize include vessels and aircrafts in the territorial jurisdiction.

Subparagraph 2 (a) and (b) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party; or

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that it has not implemented the provision under review.

(b) Observations on the implementation of the article

Belize has not adopted the active or passive personality jurisdiction principle. As such, Belize may wish to provide for the active and passive jurisdictional personality principle.

Subparagraph 2 (c) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

...

(c) The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 23, paragraph (a) (i) or (ii) or (b) (i), of this Convention within its territory; or

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Money Laundering and Terrorism (Prevention) Act, section 10.

Money Laundering and Terrorism (Prevention) Act

Extra-territorial jurisdiction

10. Notwithstanding anything to the contrary contained in any other law, the offences created by this Act shall be investigated, tried, judged and sentenced by a court in Belize regardless of whether or not an offence occurred in Belize or in another territorial jurisdiction, but without prejudice to extradition where applicable in accordance with the law.

(b) Observations on the implementation of the article

Jurisdiction for the purposes of the provision under review is established under section 10 of the Money Laundering and Terrorism (Prevention) Act. Thus, it was concluded that Belize implemented the provision under review.

Subparagraph 2 (d) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

...

(d) The offence is committed against the State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that it has not implemented the provision under review.

(b) Observations on the implementation of the article

Belize may wish to provide for the active and passive jurisdictional personality principle.

Paragraph 3 of article 42

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that it can and does extradite its nationals.

(b) Observations on the implementation of the article

Belize can extradite its nationals. Please refer to article 44, paragraph 11, of the Convention.

Paragraph 4 of article 42

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that it has not implemented the provision under review.

(b) Observations on the implementation of the article

Belize may wish to establish its jurisdiction when the alleged offender is present in its territory and it does not extradite him or her.

Paragraph 5 of article 42

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

(a) Summary of information relevant to reviewing the implementation of the article

Belize referred to the Mutual Legal Assistance and International Cooperation Act (Act no. 8 of 2014,) which makes provision for Commonwealth countries and other territories to give and receive

assistance through cooperation and other arrangements.

(b) Observations on the implementation of the article

Please refer to the comments made under article 46 of the Convention.

| Paragraph 6 of article 42

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

Belize has not established any further criminal jurisdiction.

(b) Observations on the implementation of the article

No observation was made.

Chapter IV. International cooperation

With regard to the incorporation of international law into domestic law, Belize follows a strictly dualist approach. Therefore, the Convention is not directly applicable. Moreover, the Convention has not yet been incorporated into municipal law.

Belize is a member of the Caribbean Community (CARICOM) and the Organization of American States (OAS); as a party to the Inter-American Convention against Corruption, it has been reviewed in four rounds under the respective implementation review mechanism (MESICIC). It is also a member of the Caribbean Financial Action Task Force, a FATF-style regional body, and has undergone three rounds of mutual evaluation reviews and eight follow-up reports.

Article 44. Extradition

Extradition is governed by the Extradition Act (Chapter 112, “the EA”), which regulates extradition with Guatemala (section 8), the United States of America (section 9) and Mexico (newly inserted part IV). With regard to Guatemala, Sections 8 and 2 of the EA refer to older English extradition acts from colonial times, in particular the UK Extradition Act 1870. With regard to the US and Mexico, bilateral extradition agreements are annexed as Schedules to the EA. Extradition to other countries is not possible. Belize cannot use the Convention as the basis for extradition. In practice, Belize makes extradition conditional on the existence of a bilateral treaty and does not use the London Scheme for extradition within the Commonwealth as a basis for extradition. As a general observation, it can be noted that Belize has very little practice with regard to extradition. Over the past 10 years, only a handful of extradition cases have been processed. Those cases all concerned Guatemala and the US, and no request was based on the Convention.

| Paragraph 1 of article 44

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Art. 2(1) of the extradition Treaty with the US defines extraditable offences as those listed in the Schedule to the treaty or any other offence that is punishable in both States by imprisonment for a period of more than one year. The Schedule includes many but not all Convention offences, notably embezzlement (no. 9), handling stolen goods (no. 12), bribery (no. 19) and money laundering (no. 23).

Dual criminality is also required by the extradition treaties with Guatemala and Mexico, and Art. 10 of the UK Extradition Act 1870.

(b) Observations on the implementation of the article

Belize is strongly encouraged to adopt a new, modern extradition act that implements all the requirements of Art. 44 of the Convention; in particular, Belize was recommended to:

- Ensure that it can extradite persons sought for any Convention offence to any State party to the Convention;
- To that end, domesticate the Convention so that it can be used as a legal basis for extradition.

(c) Technical Assistance

Belize indicated that the following technical assistance, if available, would be helpful in assisting it to strengthen the implementation of the Convention:

- Support in legislative drafting, particularly with regard to new extradition legislation.

Paragraph 2 of article 44

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that there are no exceptions to the requirement of dual criminality.

(b) Observations on the implementation of the article

It was noted that Belize always requires dual criminality.

Paragraph 3 of article 44

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

(a) Summary of information relevant to reviewing the implementation of the article

Accessory extradition is provided for in art. 2(5) of the US Treaty.

(b) Observations on the implementation of the article

It was concluded that, to the extent that Belize can extradite at all, its legislation is in compliance with

this provision of the Convention.

Paragraph 4 of article 44

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

(a) Summary of information relevant to reviewing the implementation of the article

Art. 2(1) of the extradition Treaty with the US defines extraditable offences as those listed in the Schedule to the treaty or any other offence that is punishable in both States by imprisonment for a period of more than one year. The Schedule includes many but not all Convention offences, notably embezzlement (no. 9), handling stolen goods (no. 12), bribery (no. 19) and money laundering (no. 23).

Pursuant to art. 4(2)(b) of the US Treaty, Convention offences are not considered political offences.

(b) Observations on the implementation of the article

It was recommended that Belize

- Ensure that all Convention offences are extraditable offences under the EA and any bilateral treaty;
- To that end, domesticate the Convention so that it can be used as a legal basis for extradition.

Paragraph 5 of article 44

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

(a) Summary of information relevant to reviewing the implementation of the article

Belize makes extradition conditional on the existence of a bilateral treaty. Therefore, Belize cannot use the Convention as a legal basis for extradition.

(b) Observations on the implementation of the article

It was noted that Belize does not consider the Convention the legal basis for extradition in respect of any offence to which this article applies.

Paragraph 6 of article 44

6. A State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

(a) Summary of information relevant to reviewing the implementation of the article

Belize makes extradition conditional on the existence of a treaty.

Belize only has extradition treaties with the US, Guatemala and Mexico.

(b) Observations on the implementation of the article

It was recommended that Belize conclude more bilateral extradition treaties, especially in view of its bilateral approach to extradition.

Paragraph 7 of article 44

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

(a) Summary of information relevant to reviewing the implementation of the article

As Belize makes extradition conditional on the existence of a treaty, this para. is not applicable.

(b) Observations on the implementation of the article

It was noted that Belize makes extradition conditional on the existence of a treaty.

Paragraph 8 of article 44

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

(a) Summary of information relevant to reviewing the implementation of the article

Art. 2(1) of the extradition Treaty with the US defines extraditable offences as those listed in the Schedule to the treaty or any other offence that is punishable in both States by imprisonment for a period of more than one year. The Schedule includes many but not all Convention offences, notably embezzlement (no. 9), handling stolen goods (no. 12), bribery (no. 19) and money laundering (no. 23).

In the treaties with Guatemala and Mexico, extraditable offences are defined in exhaustive lists only.

The only grounds for refusal of assistance in the US Treaty are the principle of *ne bis in idem* (art. 5(1)), and political and military offences (art. 4). Pursuant to art. 4(2)(b), Convention offences are not considered political offences. Fiscal matters are not mentioned as a ground for refusal. The rule of specialty is enshrined in art. 14 of the US Treaty.

(b) Observations on the implementation of the article

It was concluded that, to the extent that Belize can extradite at all, its legislation is in compliance with this provision of the Convention.

| Paragraph 9 of article 44

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

(a) Summary of information relevant to reviewing the implementation of the article

According to Sec. 10 and 14 of the UK Extradition Act 1870, the applicable evidentiary requirement of extradition is a *prima facie* test.

The person sought can consent to be surrendered to the requesting State (art. 15 of the US Treaty).

(b) Observations on the implementation of the article

It was concluded that, to the extent that Belize can extradite at all, its legislation is in compliance with this provision of the Convention.

| Paragraph 10 of article 44

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition

proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

Art. 9 of the US Treaty and Sec. 7 and 8 of the UK Extradition Act 1870 regulate provisional arrest.

The EA also contains provisions on the arrest of a person whose extradition is sought (section 6).

(b) Observations on the implementation of the article

It was concluded that, to the extent that Belize can extradite at all, its legislation is in compliance with this provision of the Convention.

Paragraphs 11-13 of article 44

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

(a) Summary of information relevant to reviewing the implementation of the article

Belize can and does extradite its nationals, and does not make extradition conditional on the return of the person to serve his sentence. Consequently, there are no provisions on prosecution in lieu of extradition (*aut dedere, aut iudicare*).

(b) Observations on the implementation of the article

It was concluded that, to the extent that Belize can extradite at all, its legislation is in compliance with this provision of the Convention.

Paragraph 14 of article 44

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

(a) Summary of information relevant to reviewing the implementation of the article

The Constitution contains guarantees for fair trial for any person who is charged with a criminal offence (sec. 5 and 6). These rights and freedoms are directly applicable and are not limited to citizens.

(b) Observations on the implementation of the article

It was concluded that, to the extent that Belize can extradite at all, its legislation is in compliance with this provision of the Convention.

Paragraph 15 of article 44

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

(a) Summary of information relevant to reviewing the implementation of the article

The Constitution contains guarantees for fair trial for any person who is charged with a criminal offence (sec. 5 and 6). These rights and freedoms are directly applicable and are not limited to citizens. Sec. 16 of the Constitution contains guarantees against discrimination.

Political offences are a ground for refusal of extradition (Art. 4 of the US Treaty).

(b) Observations on the implementation of the article

It was concluded that, to the extent that Belize can extradite at all, its legislation is in compliance with this provision of the Convention.

Paragraph 16 of article 44

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

(a) Summary of information relevant to reviewing the implementation of the article

Fiscal matters are not mentioned as a ground for refusal in the Extradition Act or the bilateral treaties.

(b) Observations on the implementation of the article

It was concluded that, to the extent that Belize can extradite at all, its legislation is in compliance with this provision of the Convention.

Paragraph 17 of article 44

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

(a) Summary of information relevant to reviewing the implementation of the article

There are no explicit provisions on consultations in the Extradition Act.

(b) Observations on the implementation of the article

It was recommended that Belize consider establishing a procedure for consultation before denying a request for extradition concerning a Convention offence.

Paragraph 18 of article 44

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

(a) Summary of information relevant to reviewing the implementation of the article

Belize only has bilateral extradition treaties with the US, Guatemala and Mexico.

(b) Observations on the implementation of the article

It was recommended that Belize conclude more bilateral extradition treaties, especially in view of its bilateral approach to extradition.

Article 45. Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

(a) Summary of information relevant to reviewing the implementation of the article

Belize has an arrangement on the transfer of sentenced persons with Mexico, the Exchange of Offenders (Belize/Mexico) Act (Chapter 114).

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Article 46. Mutual legal assistance

Paragraph 1 of article 46

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Mutual legal assistance (MLA) is governed by the Mutual Legal Assistance and International Cooperation Act (Act no. 8 of 2014, “the MLAA”). The Scheme Relating to Mutual Legal Assistance in Criminal Matters within the Commonwealth (Harare Scheme) can also be used. Moreover, Belize has domesticated the CARICOM Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters.

Pursuant to section 3(2), assistance under the MLAA may be provided to any foreign State, whether on the basis of a treaty or not. Where a request is made pursuant to a treaty, the provisions of that treaty prevail (sec. 3(5) MLAA). However, nothing precludes Belize from rendering a broader range of assistance under the MLAA than may be provided for in a treaty (sec. 3(3) MLAA). Moreover, the MLAA does not limit the power of the Belize authorities to cooperate, including through the sharing of information, with any foreign State through other channels or in another manner (sec. 3(4) MLAA).

Belize receives about 150 MLA requests per year and has received two that were based on UNCAC.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

(c) Successes and good practices

Pursuant to sec. 3(3) MLAA, nothing precludes Belize from rendering a broader range of assistance under the MLAA than may be provided for in a treaty.

Paragraph 2 of article 46

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

MLA can be afforded also in relation to offences committed by legal persons.

The Interpretation Act clarifies that the term “person” includes legal persons. Likewise, the Caribbean Treaty on Mutual Legal Assistance in Serious Criminal explicitly provides that “‘person’ means any natural or legal person” (Art. 1).

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Subparagraphs 3 (a) to 3 (i) of article 46

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;*
- (b) Effecting service of judicial documents;*
- (c) Executing searches and seizures, and freezing;*
- (d) Examining objects and sites;*
- (e) Providing information, evidentiary items and expert evaluations;*
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;*
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;*
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;*
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;*

(a) Summary of information relevant to reviewing the implementation of the article

The MLAA (sections 12, 15-28) provides for all of the types of investigative measures listed in article 46 (3). Moreover, forms of assistance not mentioned in the MLAA but available under domestic law can also be provided (sec. 9).

In particular:

- (a) Taking evidence or statements from persons is possible under Sec. 15 MLAA;
- (b) Effecting service of judicial documents is possible under Sec. 12 MLAA;
- (c) Executing searches and seizures, and freezing is possible under Sec. 18 and 26 MLAA;
- (d) Examining objects and sites is possible under Sec. 15, 9 and 3(3) MLAA;
- (e) Providing information, evidentiary items and expert evaluations is possible under Sec. 20, 21 MLAA;
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records is possible under Sec. 26(6) MLAA;
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes is possible under Sec. 22 MLAA;

- (h) Facilitating the voluntary appearance of persons in the requesting State Party is possible under Sec. 3(3) and 9 MLAA;
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party is possible under Sec. 3(3) and 9 MLAA;

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Subparagraphs 3 (j) and 3 (k) of article 46

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

...

(j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;

(k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

The MLAA (sections 12, 15-28) provides for all of the types of investigative measures listed in article 46 (3). Moreover, forms of assistance not mentioned in the MLAA but available under domestic law can also be provided (sec. 9).

In particular:

- (j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention is possible under Sec. 19, 25 and 26 MLAA;
- (k) The recovery of assets, in accordance with the provisions of chapter V of this Convention is possible under Sec. 3(3) and 9 MLAA.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 4 of article 46

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party to this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Belize can spontaneously transmit information on the basis of sec. 5 of the MLAA and section 12(2) of the FIU Act.

Moreover, the MLAA does not limit the power of the Belize authorities to cooperate, including through the sharing of information, with any foreign State through other channels or in another manner (sec. 3(4) MLAA). This would include the use of the communication channels of the International Criminal Police Organization (INTERPOL).

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 5 of article 46

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restriction on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

(a) Summary of information relevant to reviewing the implementation of the article

Confidentiality is provided for in sec. 36 MLAA and sec. 12(1) FIU Act, but there is no provision on exculpatory information.

(b) Observations on the implementation of the article

It was concluded that Belize has largely implemented this provision of the Convention. However, it was recommended that Belize ensure that exculpatory information received spontaneously can nevertheless be disclosed.

Paragraph 8 of article 46

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

(a) Summary of information relevant to reviewing the implementation of the article

Section 10 MLAA gives the central authority discretion to decline a request for a number of reasons, including costs, legal professional privilege, and *ordre public*, but not including bank secrecy.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

| *Subparagraph 9 (a) of article 46*

9. (a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;

(a) Summary of information relevant to reviewing the implementation of the article

The MLAA does not make dual criminality a requirement for granting assistance.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

(c) Successes and good practices

The MLAA does not make dual criminality a requirement for granting assistance.

| *Subparagraph 9 (b) of article 46*

(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

The MLAA does not make dual criminality a requirement for granting assistance.

Belize does not refuse assistance when requests involve matters of a de minimis nature.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Subparagraph 9 (c) of article 46

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

(a) Summary of information relevant to reviewing the implementation of the article

The MLAA does not make dual criminality a requirement for granting assistance.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraphs 10-12 of article 46

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

- (a) The person freely gives his or her informed consent;*
- (b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.*

11. For the purposes of paragraph 10 of this article:

- (a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;*
- (b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;*
- (c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;*
- (d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.*

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs

10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

(a) Summary of information relevant to reviewing the implementation of the article

The outbound transfer of detained witnesses is governed by section 16 MLAA.

Section 17(8) MLAA provides for safe conduct and the rule of specialty for incoming detained witnesses.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 13 of article 46

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

(a) Summary of information relevant to reviewing the implementation of the article

Section 4(1) MLAA designates the Attorney General as the central authority for MLA.

The central authority is empowered to transmit and receive MLA requests directly rather than through diplomatic channels.

Moreover, the MLAA does not limit the power of the Belize authorities to cooperate, including through

the sharing of information, with any foreign State through other channels or in another manner (sec. 3(4) MLAA). This would include the use of the communication channels of the International Criminal Police Organization (INTERPOL).

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 14 of article 46

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

(a) Summary of information relevant to reviewing the implementation of the article

Section 7 MLAA sets out detailed requirements for the form and content of MLA requests to Belize. A request must be made in English (sec. 10(2)(b)) and must normally be in writing (sec. 10(2)(a)); if made orally owing to urgency, it must be confirmed in writing forthwith (sec. 6).

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraphs 15 and 16 of article 46

15. A request for mutual legal assistance shall contain:

- (a) The identity of the authority making the request;*
- (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;*
- (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;*
- (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;*
- (e) Where possible, the identity, location and nationality of any person concerned; and*
- (f) The purpose for which the evidence, information or action is sought.*

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

(a) Summary of information relevant to reviewing the implementation of the article

Section 7 MLAA sets out detailed requirements for the form and content of MLA requests to Belize.

If the information provided in the request is not sufficient, Belize may request the foreign State to provide additional information (sec. 7(2)). However, lack of information shall not affect the validity of the request nor preclude its execution (sec. 7(2) and (3)).

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 17 of article 46

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

(a) Summary of information relevant to reviewing the implementation of the article

Procedures specified in the request can be followed even if they are not used in Belize or are not available domestically, to the extent that they are not contrary to the fundamental principles of Belize law (sec. 8(1) and (2) MLAA).

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 18 of article 46

18. Whenever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

The legal framework for hearings conducted by videoconference has been created but has not been used yet.

(b) Observations on the implementation of the article

It was concluded that Belize has legislatively implemented this provision of the Convention.

Paragraph 19 of article 46

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

(a) Summary of information relevant to reviewing the implementation of the article

Section 17(8) MLAA provides for the rule of specialty with regard to detained witnesses.

Otherwise, the rule of specialty is observed in practice but there is no specific provision in the MLAA.

(b) Observations on the implementation of the article

It was recommended that Belize include an explicit reference to the rule of specialty in the MLAA.

Paragraph 20 of article 46

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Confidentiality is provided for in sec. 36 MLAA.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 21 of article 46

21. Mutual legal assistance may be refused:

- (a) If the request is not made in conformity with the provisions of this article;*
- (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;*
- (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;*
- (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.*

(a) Summary of information relevant to reviewing the implementation of the article

Section 10 MLAA gives the central authority discretion to decline a request for a number of reasons, including costs, legal professional privilege, and *ordre public*, but not including bank secrecy.

Procedures specified in the request can be followed even if they are not used in Belize or are not available domestically, to the extent that they are not contrary to the fundamental principles of Belize law (sec. 8(1) and (2) MLAA).

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 22 of article 46

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

(a) Summary of information relevant to reviewing the implementation of the article

Belize would not decline a request for MLA on the sole ground that the offence is also considered to involve fiscal matters, as this is not a ground for refusal listed in Sec. 10(2).

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 23 of article 46

23. Reasons shall be given for any refusal of mutual legal assistance.

(a) Summary of information relevant to reviewing the implementation of the article

Pursuant to section 11 MLAA, the grounds for refusal of an MLA request must be communicated to

the requesting country.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 24 of article 46

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

(a) Summary of information relevant to reviewing the implementation of the article

The MLAA does not contain any rules on the time frame for carrying out a request but the Attorney General's office tries to execute it as soon as possible. Belize originally indicated that it takes approximately 30 days to execute MLA requests.

During the country visit, it was further stated that out of 157 requests that were received in 2017, half of them had been processed during the first half of 2018.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 25 of article 46

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

(a) Summary of information relevant to reviewing the implementation of the article

There is no specific provision in the MLAA on the postponing of requests on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

(b) Observations on the implementation of the article

Belize has not explicitly implemented this provision of the Convention, which does not, however,

impose an obligation but is a permissive clause.

Paragraph 26 of article 46

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

(a) Summary of information relevant to reviewing the implementation of the article

If the information provided in the request is not sufficient, Belize may request the foreign State to provide additional information (sec. 7(2)). However, lack of information shall not affect the validity of the request nor preclude its execution (sec. 7(2) and (3)).

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 27 of article 46

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

(a) Summary of information relevant to reviewing the implementation of the article

Section 17(8) MLAA provides for safe conduct and the rule of specialty for incoming detained witnesses. For other witnesses, there are no explicit provisions on safe conduct in the MLAA.

(b) Observations on the implementation of the article

It was recommended that Belize adopt explicit provisions on safe conduct for witnesses other than detainees.

Paragraph 28 of article 46

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

(a) Summary of information relevant to reviewing the implementation of the article

Pursuant to Sec. 10(1) of the MLAA, the central authority may, where he determines that the costs of responding to a request may exceed BZD 500, decline the request if the requesting State does not agree to pay the difference in the costs of responding to the request.

During the country visit, it was added that in this case, Belize would approach the requesting State to cover the costs.

(b) Observations on the implementation of the article

It was recommended that Belize assess the necessity to increase the amount of 500 Belize dollars in section 10(1) MLAA to fulfil its obligation under article 46(28).

Subparagraph 29 of article 46

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

(a) Summary of information relevant to reviewing the implementation of the article

Documents in the public domain will be provided while confidential documents could be provided on an *ad hoc* basis.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 30 of article 46

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this article.

(a) Summary of information relevant to reviewing the implementation of the article

Belize does not have any bilateral MLA treaties. Mutual legal assistance is governed by the Mutual Legal Assistance and International Cooperation Act. Pursuant to section 3(2), assistance under the MLAA may be provided to any foreign State also in the absence of a treaty.

Moreover, Belize has domesticated the CARICOM Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters. The Scheme Relating to Mutual Legal Assistance in Criminal Matters within the Commonwealth (Harare Scheme) can also be used.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Article 47. Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

(a) Summary of information relevant to reviewing the implementation of the article

There are no provisions for the transfer of criminal proceedings. Belize indicated that this may pose a constitutional challenge.

(b) Observations on the implementation of the article

It was noted that Belize has not implemented this provision of the Convention.

It was recommended that Belize consider regulating the transfer of criminal proceedings, in particular in cases where several jurisdictions are involved.

Article 48. Law enforcement cooperation

Subparagraph 1 of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

The Belize Police Department (BPD) is responsible for providing law enforcement across the country. Headed by a Police Commissioner, the BPD is part of Belize's Ministry of National Security, which shares administrative responsibility for the BPD with the Security Services Commission.

Belize has been an INTERPOL member since 1987. As part of the Joint Intelligence Coordinating

Centre, the INTERPOL National Central Bureau (NCB) for Belize is located at BPD headquarters in Belmopan City. The Bureau has access to INTERPOL databases through the I-24/7 global police communications system.

The Belize Police Department is a member of AMERIPOL and the Association of Caribbean Commissioners of Police (ACCP). The United States Drug Enforcement Agency (DEA) has liaison officers in Belize, while the FBI has liaison officers in El Salvador who are also responsible for Belize.

The Belize Financial Intelligence Unit has been a member of the Egmont Group of FIUs since 2009 and has entered into memorandums of understanding with several foreign FIUs.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 2 of article 48

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

(a) Summary of information relevant to reviewing the implementation of the article

Belize does not consider the Convention as a basis for law enforcement cooperation.

The Belize Police Department is a member of AMERIPOL and the Association of Caribbean Commissioners of Police (ACCP). The United States Drug Enforcement Agency (DEA) has liaison officers in Belize, while the FBI has liaison officers in El Salvador who are also responsible for Belize.

The Belize Financial Intelligence Unit has been a member of the Egmont Group of FIUs since 2009 and has entered into memorandums of understanding with several foreign FIUs.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Paragraph 3 of article 48

3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

(a) Summary of information relevant to reviewing the implementation of the article

Belize is part of INTERPOL's Regional Cybercrime Initiative.

(b) Observations on the implementation of the article

It was concluded that Belize has implemented this provision of the Convention.

Article 49. Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

(a) Summary of information relevant to reviewing the implementation of the article

Belize has not entered into any agreements that provide for joint investigations.

(b) Observations on the implementation of the article

It was recommended that Belize consider the establishment of joint investigative bodies; or undertake joint investigations on a case-by-case basis.

Article 50. Special investigative techniques

Paragraph 1 of article 50

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

(a) Summary of information relevant to reviewing the implementation of the article

Except for controlled delivery, special investigative techniques are not currently practiced in Belize, although there is a legal basis for electronic surveillance in the Interception of Communication Act. However, in accordance with common law principles of criminal procedure, any relevant evidence is admissible, even if it was obtained illegally, unless it has been obtained by unfair means or through a deliberate breach of procedures.

(b) Observations on the implementation of the article

It was concluded that Belize has not, in practice, implemented this provision of the Convention.

It was recommended that Belize allow for the appropriate use, in practice, by competent authorities of controlled delivery and, where appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, and allow for the admissibility in court of evidence derived therefrom.

| Paragraph 2 of article 50

2. For the purpose of investigating the offences covered by this Convention, States parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

(a) Summary of information relevant to reviewing the implementation of the article

Belize has not concluded bilateral or multilateral agreements or arrangements for using such special investigative techniques.

Belize indicated that the FIU has a MoU with US Treasury that might cover special investigative techniques.

| Paragraph 3 of article 50

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that it has not implemented this provision of the Convention.

(b) Observations on the implementation of the article

It was concluded that Belize has not implemented this provision of the Convention.

| *Paragraph 4 of article 50*

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

(a) Summary of information relevant to reviewing the implementation of the article

Belize indicated that it has not implemented this provision of the Convention.

(b) Observations on the implementation of the article

It was concluded that Belize has not implemented this provision of the Convention.