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# Integrity System of Organization of American States (OAS)

PG05-Integrity of International  
Organizations

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# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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## I. INTRODUCTION

The Organization of American States (OAS), the world's oldest regional organization and an agency within the United Nations (UN), was formally adopted in 1948 through the signing of its charter<sup>1</sup> in Bogotá, Colombia (RICHARD, 2010). The OAS, headquartered in Washington, D.C., has been the first supranational organization governing the affairs of America, fostering the promotion and protection of democracy, anti-corruption mechanisms, human rights, health care improvement, regional development and cooperation along with the pursuit of collective security and defense. It has become one of the most important organizations in the Western Hemisphere, given the fact that all 35<sup>2</sup> countries of the American continent have ratified the OAS Charter and presently are members of the organization.

*"In its Annual Report to the General Assembly (GA/OAS) dated January 31, 1977, the Board of External Auditors (BEA) strongly endorsed the recommendations of Price Waterhouse and added: **As an international organization operating with funds contributed by member states, it is most important that all officials and employees avoid not only direct Conflicts of Interest between their personal affairs and their office duties. They should also avoid financial and other relationships which give the appearance of Conflict of Interest whether actual or not. In this way, OAS and its officials and employees are less likely to be subject to unjustified public criticism.**" (OAS/SECRETARY GENERAL, 1977)*

Since 1977, the need for creating policies that strength OAS Integrity System was urged by the BEA. The organization has been a target of criticism more than once and those referred conflicts of interests evidence the organization's weaknesses, which might create structural problems. More than thirty years after the abovementioned statement, the question is whether after having realized OAS deficiencies, it has helped to create new policies that tackle conflicts of interests. To recall some important historical events in which the integrity of the institution has been questioned, just a few examples will be mentioned: the resignation of two Secretary Generals (Alejandro Orfila in 1984<sup>3</sup> and Miguel Ángel Rodríguez Echeverría in 1994<sup>4</sup>), and a series of dubious practices in the 2005 Annual Budget from the Departments of Scholarships, Human Resources and Building Administration, where a total of 4. 613.000 USD was missing.<sup>5</sup> In view of these facts, it is important to question the measures that the OAS has taken in order to provide the transparency necessary to be completely trusted or if it has failed in doing so. The OAS is a global player and thus, it has to fulfill global standards.

The assessment of its integrity results of relevance due to its role as a global player with the capacity to influence political, social and economic policies not only in its member states but also worldwide. If the OAS is considered to be the pioneer in creating a mechanism with aims not only to develop policies combating corruption and fraud but also implementing them through the creation of specific guidelines to be followed up by its member states, an assessment of its internal policies and practices in promotion of ethical standards and integral behavior must be done. In this regard, the present assessment provides a brief structural assessment background of the organization, including programs, budget, and legal framework; an analysis of the policies and practices of the institution, findings and policy recommendations. At the same time, it is important to emphasize that the findings are based on access to public information, which was fragmented, dispersed, inexistent (external evaluations, news articles, independent assessment and reports), and mainly difficult to access. In addition, it is fundamental to clarify that as stipulated in the methodology's scope,

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this study only focuses on the period from 2006 to 2012 in order to facilitate our analysis and also due to time restriction.

## 1. ORGANIZATION'S PROFILE

### 1.1. THE STRUCTURE OF THE ORGANIZATION AND LEGAL FRAMEWORK

The legal constituency of the organization relies mainly on Article 52 of the UN Charter regarding regional agency obligations; the OAS Charter and its amendments. In terms of its structure, the OAS is headed by the GA/OAS, the organization's supreme organ, which establishes the overall policies and its decisions are not overruled by another body than itself due to its supremacy. It is comprised by 35<sup>6</sup> delegations of the independent states of the Americas, usually through their ministers of foreign affairs or their appointed deputies. Moreover, it has granted permanent observer status to 67 states, as well as to the European Union (OAS, 2012). Each State has the right to one vote and decisions require absolute majority, except in those cases in which two thirds of the votes are required in accordance with the Charter or the General Assembly rules of procedure.<sup>7</sup>

In addition, the GA/OAS is able to establish subsidiary organs, agencies, and other entities as are considered necessary to accomplish the organization's purpose. In this regard, it is appropriate to mention some other autonomous and decentralized organs having functions related to integrity and accountability matters, such as the Administrative Tribunal (AT a.k.a. TRIBAD), the BEA and the Office of the Inspector General (OIG). Along with the aforementioned bodies, and in view of the complexity of the OAS,<sup>8</sup> the present assessment will only cover: 1) the GA/OAS; 2) the Permanent Council, which is responsible for matters entrusted to it by the GA/OAS or the Meeting Consultation of Ministers of Foreign Affairs; administrative policy; monitoring relations among member states; and observance of the standards governing the operation of the Secretary General (SG/OAS); and 3) the General Secretariat (GS/OAS), which is the central and permanent organ of the organization (OAS Charter, art. 53).

Considering that the assessment will be performed internally, it is relevant to assess the following legal frameworks: LAWS GOVERNING THE OPERATIONS OF THE GS/OAS, i) OAS CHARTER and its amendments; ii) THE GENERAL STANDARDS TO GOVERN THE OPERATIONS OF THE GS/OAS (GENERAL STANDARDS); iii) STAFF RULES; iv) EXECUTIVE ORDERS (EO); v) ADMINISTRATIVE MEMORANDA (AM); vi) BUDGETARY AND FINANCIAL RULES (BFR); vii) DIRECTIVES; viii) Other administrative instruments of Interest; and ix) Judgments of AT/OAS (OAS, 2012) along with the respective regulations of the AT, the BEA and the OIG.

### 1.2. PROGRAMS AND BUDGET OF OAS

The SG/OAS through the Secretariat for Management, which was designed to become the management and budgetary authority, submits a yearly proposed program-budget<sup>9</sup> for the examination of the Committee on Administrative and Budgetary Affairs of the Permanent

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Council (CAAP) which proceeds to the revision. It is relevant to point out that it is mandatory to present an annual report that details the distribution of income. Annual reports dated from 1998 onwards can be accessed through the official website and they provide complete information about the distribution of these funds classified in different groups: either by Secretariats and Departments, by Programs and Subprograms, or by “object”.<sup>10</sup> The annual budget reports, both the proposed and the approved, present detailed and itemized information (percentage and figures) about each of the following programmatic areas: Infrastructure and Common Costs, Democracy and Governance, Human Rights, Integral Development, Multidimensional Security, support for the Members States, Policy Directions and Administration.

The last approval document for 2012 Annual Budget, dated from October 2011, was for \$85’350,800 as Regular Funds and \$2’275,600 as Voluntary Funds\* (OAS, 2012).

## 2. FACTS TO EVALUATE: THE OAS 2006-2011

The importance of the OAS, besides its antiquity, relies mainly in its oversight of institutional behaviors (predominantly political) as a regional organization that fosters countries to achieve democratic electoral processes; and calls into question the membership status when the states fail to achieve these objectives and experience unconstitutional behavior or conflicts which threaten regional peace. Some examples where the organization has suspended membership are Cuba (1962) and Honduras (coup d’état in 2009) (Richard, 2010).

Other countries where the OAS had been considered to act successfully while it has intervened to stop conflicts, promote peace and in defense of human rights are Venezuela, Panama, Nicaragua, and Haiti (Richard, 2010).

Despite the beneficial work that the OAS does for the region, it is by no means to be considered an institution that performs faultlessly, including its servants. As it could be observed in the following examples:

One major scandal, regarding its transparency occurred in 2008, when the OAS allegedly ignored inaccurate figures regarding the demobilization of former militants that were provided by the government of former president Alvaro Uribe. These numbers were given to the OAS Mission to Support the Peace Process (MAPP) in Colombia.<sup>11</sup> Although, this information was provided to the MAPP, the SG/OAS allegedly did not respond to evidence of reported wrongdoing, a fact that puts into question the integrity of the organization’s work.

In the same year, during the OAS’s 60th Anniversary, journalists questioned the political will of member states to strengthen the organization; the lack of consensus regarding priorities and how these should be addressed; the lack of the OAS’s capacity of a much broader mandate; and the fear of United States’ interference within the OAS decision-making (TICKNER, 2008).

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In 2010, the Public Attorney's Office of Colombia, asked to investigate the conduct of OAS officials of the Inter-American Institute for Cooperation on Agriculture (IICA) who were related to a controversial government project aimed at providing subsidies to the agricultural sector. Reportedly there were millions of alleged diverted subsidies which predominantly went to the hands of large landowners, former beauty queens and politicians' family members.<sup>12</sup>

The aforementioned news reminds us that there are various aspects challenging the OAS's efficiency and its integrity system. Despite the fact that the organization has been largely successful in promoting peace and development; it is undeniable that there are some problems that weaken the organization such as lack of transparency, its annual budget deficit and finally, the always criticized influence of the United States over the organization (Schulz, 2010).

One paradox surrounding the OAS, regarding integrity, is that despite of being aware of the relevance of fighting against corruption in the hemisphere and having identified it as a priority for the regional agenda according to the Summits of the Americas, regional indicators on corrupt practices keep on exposing unsatisfactory outcomes (Transparency International, 2009).

For instance, since 1996 the OAS member states adopted the Inter-American Convention against Corruption, which is considered to be the first international legal instrument to promote cooperation in fighting corruption. Furthermore, in 2002 the OAS implemented an evaluation mechanism, the Inter-American Convention against Corruption and the Follow-Up Mechanism for its Implementation (MESICIC), which comprises tools for preventing, detecting, punishing and eradicating corruption in the region.

In this sense, the OAS Anticorruption Committee frequently adopts reports on the MESICIC in diverse member states. Indeed, on March 26th, 2010, Venezuela, Ecuador, Mexico, Trinidad and Tobago and Colombia were subject to these reports. However, it has been questioned how in fact the OAS is promoting integrity and the endorsement of ethical standards throughout the organization.

## II. ASSESSMENT

### 1. PREVENTION

Prevention measures demonstrate an effective compromise vis-à-vis integrity. This should be reflected through anti-corruption measures and operational guidelines promoting transparency, accountability and participation within the organization (Fagan & Chene, 2011). In this section, the regulations to prevent fraud and corruption along with other preventative legal provisions in the OAS will be analyzed.

- POLICIES AND REGULATIONS REGARDING FRAUD AND CORRUPTION

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The OAS - based on several chapters and articles found on its legal framework documents - refers specifically to several regulations that can be interpreted to prevent fraud and some other illicit activities. However, the word “corruption” was not explicitly stated nor defined in any of them when the initial research was conducted in March 2012. Nevertheless, the concept with some descriptions, taken by definitions stipulated in the INTER-AMERICAN CONVENTION AGAINST CORRUPTION, has been recently introduced under Section III (H)<sup>13</sup> of the CODE OF ETHICS in force, which was just approved on November 2012, through the EO No. 12-03.

Among other documents including the regulations regarding illicit or fraudulent activities, we can mention GENERAL STANDARDS<sup>14</sup>; the STAFF RULES<sup>15</sup>; the BFR<sup>16</sup>; the annual PROGRAM-BUDGET RESOLUTION; and the DIRECTIVE SG/01/05.<sup>17</sup> These guidelines establish specific disciplinary measures that help to prevent “misconduct” among the staff members while pointing out that sanctions will be applied in a situation of misbehavior.

- PRACTICES AND MECHANISMS

In order to assure the compliance of these previous regulations, practical mechanisms such as “SPOT CHECKS” (unannounced investigations), and other COMPULSORY ACTIONS such as the submission of periodically (quarterly and annual) reports, the continuous supervision and administration of assets, and the work performance evaluation at least once a year (General Standards: Chapter III “Personnel” Article 39: Work Performance Evaluation) are required to be conducted by staff members of the following bodies: the Office of the Assistant Secretary General (OASG), the OIG, the Secretariat for Management, the Inter-American Agency for Cooperation and Development (IACD), and the Department of Legal Services (DLS). In this sense, these tools can be considered practical measures that aim to prevent fraud and corruption. Although some reports (OIG ANNUAL REPORTS from 2006 to 2009) have been published by the Inspector General (which will be addressed in detail in the following sections), there is no relevant information regarding the prevention phase. They act when something is happening already or when an investigation is conducted to detect problems; but there are no periodical reports or information regarding general oversight reports with aims of prevention by none of the departments previously mentioned.

- INTEGRITY POLICIES

The same organization referred and established in its AM No. 58 Rev. 1, Subject: Policies with respect to ethics of conduct and conflicts of interest, (September 20, 1977), apparently recently superseded (as it appears enlisted by the DLS as an “AM superseded”; although, it is not explicitly mentioned as superseded in the EO 12-03, on the contrary, it continues being quoted in the new CODE OF ETHICS<sup>18</sup> as a reference; moreover, there is no Executive Order which mentions this derogation) that the “*framework for the standard of ethics and integrity that is expected from the staff of the GS/OAS*”, which are: the GENERAL STANDARDS, THE STAFF RULES, BFR, and THE STANDARD CONTRACTING SYSTEM (EO No. 93-06).

At the same time, the AM No. 58 REV. 1, directly defined and recalled the concepts of integrity and ethics that are included in the content of the CHARTER OF OAS and the GENERAL STANDARDS’ guidelines. It promoted the integrity of the organization and ethical conduct by demanding the staff members to perform their activities according to their



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position and responsibilities, which should be always and only related to the Organization's nature, purposes and interests (not receiving instructions from any other entity, government, institution or authority outside of it); regulations which are also included in the recently approved CODE OF ETHICS in the Section III, Subsection A "COMMITMENT TO GS/OAS". Several specific Articles in the GENERAL STANDARDS point out the LEGAL PROVISIONS ON CONDUCT which staff members are expected to observe. The most specific Articles are covered from Article 26 to 37. Furthermore, the STAFF RULES' section comprises all allowed and restricted functions that staff members must comply with more detail and with cross board references to the GENERAL STANDARDS' and the BFR' Articles.

Regarding training of employees in general; there is no article of reference in the legal provisions that details the enforcement of specific trainings offered before or during their employment. The word "training" appears in the General Standards, Chapter III, Personnel Section, Article 19 "*Personnel Appointed Under Continuing Contracts*", Section i, but without deeper specification, just a regulation that recommends continue training personnel, in order to improve their skills and performance. On the other hand, information is available about policies regulating training regarding ethical values addressed only to public officials and to members of the Expert Committee of the MESICIC.

- INTEGRITY PRACTICES

Besides the mentioned policy framework to promote integrity and ethical behavior, important practices to bind these regulations are conducted. The most relevant practice is related to the principle of loyalty. Staff members must sign a STATEMENT OF LOYALTY AND OF ETHICS OF CONDUCT AND CONFLICTS OF INTEREST<sup>19</sup> and a STATEMENT OF DECLARATION OF ADHERENCE TO NORMS<sup>20</sup> (Directive SG/89/77) before undertaking their duties. Moreover, they are obliged to do an annual update of this statement which is conducted by the Department of Human Resources (DHR). The ETHICS COMMITTEE should also play an oversight role in this task. Despite these regulations, there is no available information about reports conducted by the DHR that can reflect the practices of these mechanisms.

In the recent CODE OF ETHICS, more stipulations with respect to these declarations and oaths have been introduced, and are to be signed before undertaking the duties. For instance, it states that for the Staff Members performing functions at the Director level and higher, it is also required to present a "*sworn Statement of Personal Net Worth and a sworn statement disclosing specified financial associations and creditor information*" (Code of Ethics, Section V, Subsection H).

In relation to the practices concerning the training policies, the Approved Annual Program Budget reports some concepts of "staff training" that are included in certain departments; for example in the GS/OAS and OIG with regard to audit issues but there is no specific information in relation to prevention. Moreover, albeit in the Annual Budget Reports, "trainings" are mentioned, it is not specified how these trainings were conducted. No further explanation is made in respect of the type of trainings, if they are mandatory, to what level of staff they are targeted, periodicity or even the impact and evaluation of them. Yet, information regarding the first Draft of an Ethics Code provided by the OAS Staff Association in a Press Release dating from 15 April 2011 mentions that an initial training program on the Ethics



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Code would be prepared and conducted by the DHR. This training would be addressing first Secretaries and Directors and later Staff members in general (Staff Association of the Organization of American States, 2011). Despite of this, in the recently approved *CODE OF ETHICS*, there is no further mention or specification in regards these previously proposed trainings.

Conversely, regarding the training policies for the MESICIC, the information is only descriptive in terms of the type of trainings (Postgraduate courses, Workshops, and so on) and the institutions that offer them. However, it does not include aspects such as number of participants, periodicity and/or evaluation of them. Once again an empirical backing of practice concerning these regulations is not evidenced within this limited information that has been publicly provided.

## 1.1 RISK ASSESSMENT

- **POLICIES**

The OIG is the institutional body that may conduct periodically evaluations and revisions of the operational procedures and financial transactions within the organization, for the overall conducted programs, services and activities.<sup>21</sup> Through this organ, evaluations of risks are performed in the sense that it is responsible to conduct research when needed regarding non-compliance of regulations from staff member or among the Departments: *“Assist all levels of management in the prevention or detection of fraud and abuse and the risk thereof in programs or operations.”*<sup>22</sup> At the end of the investigation, reports that support its results and decisions should be presented; therefore it can be considered a mechanism for prevention. Another body involved in the process of evaluation of compliance of formal guidelines and personnel behavior is the Joint Disciplinary Committee.

In relation to risk assessment, in every single Audit Annual Report from the year 2006 to 2009 under section II “General Information”, the OIG ratifies its mandate to *“evaluate elements of internal controls against identified risks within the GS/OAS, including organizational structure, standards of business and the risk thereof in programs or operations”*. (The Office of the Inspector General, 2009)<sup>23</sup>

- **PRACTICES**

Risk assessments have been conducted more than once. The annual audit reports show that in 2006,<sup>24</sup> a Strategic Risk Assessment of the Educational Portal of the Americas was performed. The following year, a Risk Assessment of the Procurement, Disbursement & Payroll Processes at Headquarters and the National Offices managed by the Secretariat for Administration and Finance (SAF) was carried out as well.<sup>25</sup> Yet, in 2008 and 2009, there were no risk assessments done.<sup>26</sup>

In reviewing the OIG Activity Reports for the corresponding years, something that stands out is that when the OIG gives its recommendations it always classify them according to its level of risk as low, medium or high.

## 1.2 OPERATIONAL GUIDELINES

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Operational guidelines are designed to develop integrity principles and approaches to promoting co-ordination and harmonization of the processes for recognition and implementation of integrity by the staff, independents and third parties.

- POLICIES AND REGULATIONS

The most important documents embracing descriptive general rules and procedures are the CHARTER OF OAS and the GENERAL STANDARDS. Additionally, more detailed rules and other specifications are contained in the BFR, and THE STAFF RULES.

Concerning guidelines that comprise a defined set of principles to regulate conducts and behavior, it is relevant to highlight that the organization did not have a common framework on this topic to be followed by the general staff before November 2012. Only a set of 14 COMMONLY DEFINED PRINCIPLES is included in Chapter II (Article 3) of the OAS CHARTER. However, these principles only reflect the commitment pursued by the member states but are not directly related to staff.

Nonetheless, the new and only CODE OF ETHICS in its Section I, Subsection A, expressly states that the Code itself comprises the summary of the “*general ethical principles contained in our Internal Law that mostly arise in GS/OAS daily activities*” (Code of Ethics, 2012). Furthermore, it continues clarifying that these principles should govern the behavior of the Staff Members and Other Service Providers and demands compliance of them.

It is mandatory to all OAS Staff Members to sign the STATEMENT OF DECLARATION TO ADHERENCE TO NORMS regulated by the DHR. According to DIRECTIVE SG/89/77,<sup>27</sup> the purpose of this declaration is to reinforce that all members have familiarity with all internal rules and regulations of the GS/OAS (including all portions of the Charter) and copies of these documents should be provided.

- PRACTICES IN COMPLIANCE WITH GUIDELINES

Although there is no detailed information concerning the periodicity for reviewing the process of operational policies, it is assumed that GENERAL REVIEWS have been constantly done. This is based on the fact that several Memorandums and Directives can be found in the website on specific issues comprised in the GENERAL STANDARDS, the STAFF RULES, the BFR and other tools, which detail all the amendments executed. At the same time, the website of the OAS Staff Association shows evidence that they had participated in a meeting regarding a “*Review of the General Staff Rules*” conducted by the SAF dated from 2009 (Staff News, SN 04/09-10).

## 1.3 INFORMATION DISCLOSURE

Information disclosure defines the right to access to information for any person, institution, organization and member state. It should explain how this access to the information is granted, including published and unpublished documents (Fagan & Chene, 2011).

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- POLICIES

The GS/OAS issued the EO No. 12-02, on May 3, 2012, through which a disclosure policy called “Access to information policy” was adopted. The policy, instead of promoting the access of information censures its access through descriptive and explicit exceptions.

In the same way, a disclosure information clause was introduced in the AM No. 120 “Information Security Policy” approved in June 2012. Although this regulation is only concerned with software and information systems, it presents some loopholes regarding the definition and characteristics of what should be considered private, confidential, sensitive and public information for its own purposes. On the other hand, the approved CODE OF ETHICS states under Section IV “Responsibility for GS/OAS Assets”, Subsection B “Specific Assets” that confidential information must not be communicated *“to anyone except as provided in the applicable rules”*.<sup>28</sup> Additionally, Section IX “Definitions” shortly defines confidential information (Please refer to the next section “Practices”).

Actually, an article was found regarding this issue in Freedominfo (freedominfo.org, 2011) in which it is mentioned that there was an urge to develop an internal policy and a directive that determined the scheme for accessing public information within the organization, in line with the standards followed in other international organizations. The fact that until very recently the organization lacked an internal information disclosure policy is one of the factors that evidence a relatively weak system of communication and harmonization within the integrity system. It reflects a potential deterioration in accountability, transparency, and participation. Furthermore, it has to be considered that despite the fact that the OAS already counts with an internal information disclosure policy, it is by no means a policy consistent with international standards because as it has already been mentioned in this study, instead of guarantying the fundamental right to access of information, it seems more like a blockade to it.

- PRACTICES

The first Draft Code of Ethics Proposal, dated in 2011, remarked the importance of defining confidential information and added the following section in detail:

*“Confidential information is any non-public information that, if disclosed, would be damaging to the best interests of the Organization. As GS/OAS staff members, we recognize our responsibility to hold all confidential information obtained from the GS/OAS or its customers in confidence, except when disclosure is authorized or legally mandated. Confidential information should not be shared with the media or any other third parties. If there is any doubt about whether such information has been publicly released or if disclosure is legally mandated, the staff member should contact >>> for guidance. Confidential information must not be disclosed regardless of the employment status, including after the termination of an employment relationship at the GS/OAS.”* (Secretariat for Administration and Finance (SAF), 2011)

The approved CODE OF ETHICS defines what is understood as “confidential information” in the following manner:

*“Any information known by a Staff Member or Other Service Provider exclusively by reason of his/her association with GS/OAS and which has not been made available to the public as directed by the SG/OAS or as otherwise permitted under Internal Law”.*<sup>29</sup>

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It is important to bring attention to the fact that in the first Draft Code the definition of this concept was broader. In contrast, in the current definition included in the Code in force, the organization has narrowed it down to the extreme in which all kinds of information are considered confidential, obviously excepting those, which are or have been made public by the SG/OAS and those pieces of information that are allowed by the internal legislation to be publicized. Taking into consideration the provisions of EO No. 12-02, there is almost no room to guarantee the right of access to information, because there are more exceptions to the rule rather than allowances. This situation puts into question the compromise of the OAS vis-à-vis transparency, accountability and public participation to an extent contrary to the Article 13 of the AMERICAN CONVENTION ON HUMAN RIGHTS, which explicitly recognizes the “freedom to seek, receive, and impart information and ideas of all kinds”.

## 1.4 PUBLIC PROCUREMENT

Public procurement is a very sensitive area inside the integrity system since it involves an organization’s internal staff and external agents as well as great amounts of money. Therefore, it can be susceptible to unethical behavior.

- POLICIES, REGULATIONS AND PROCEDURES

The OAS is currently ruled by: 1) the PROCUREMENT CONTRACT RULES OF THE GS/OAS (PCR) -adopted through EO No. 00-1, CORR. NO. 1- and, 2) by the PERFORMANCE CONTRACT RULES OF THE GS/OAS (CPR) -adopted through EO No. 05-04, CORR. NO. 1. The former provides that “*all procurement contracts, for goods and/or services, shall be awarded through competitive methods. Those procurement contracts which will result in a contract price equal to or greater than \$50,000 will be processed as formal bids*” (Department of Procurement Services, 2012). This threshold was actually first implemented in 2008 through Directive No. 01/08, previously it was \$30,000. However, as this amount became “too low” due to inflation, raising the threshold became necessary in order to expedite the procurement process for contracts below this quantity and to allow the Contract Awards Committee (CAC) to focus only in recommending for approval all that purchases initiating from \$50,000. (DIRECTIVE No. 01/08, 2008). For this purpose, the GUIDELINES FOR THE COMPETITIVE BIDDING AND EVALUATION PROCESS FOR PURCHASES ABOVE \$50,000<sup>30</sup> were also adopted in 2008. The guidelines cover a wide range of topics such as the Structure and Role of the CAC in the Process, Award Decision and Contract Signature, Publication of the Award of Contract, etc.

Those contracts with a price below \$50,000 are classified in three categories: (1) contracts ranging from \$6,000 to \$49,000, these are considered as “small purchases”. A “short list” of vendors is established and by general rule, the GS/OAS solicits the bids by telephone, email or fax and the bidders may submit their bids also through these means. The exception is when specifications are complicated and when there are less than three vendors within a two hundred mile radius where the good or services are to be purchased, only in this case the purchase is processed as a formal bid. (2) Bids for contracts between \$3001 and \$5999 should be requested and submitted through the previously mentioned means. In this category line, all the replies should be summarized in a permanent record, which should be signed by the person receiving the bid. (3) A contract price equal or lower than \$3000 is known as direct

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purchase because it does not have to be bid, but the buyer should select the most responsible vendor (DIRECTIVE NO. 01/11, 2011).

It is important to mention, that the EO NO. 05-04, CORR. NO. 1 which is in force since February 11, 2005 is responsible for the entry into force of the CPR which governs all that is related with the bidding contracts, for instance: responsibilities and liabilities, prohibitions, compensation and payment, dispute settlements, etc.

However, there are complementary documents to the CPR such as the AM NO. 110 REV. 1 entitled "Policy for Use of the Performance Contract ("CPR") Mechanism and Guidelines for Processing CPRs" and the AM NO. 111 REV. 4 entitled "Revised OAS Form 608 for Performance Contracts (CPR) and for CPR's for OAS Special Missions and Projects". The former stipulates policies such as the length of the performance contract ("CPR") based on contract type, remuneration, etc. In terms of process and procedures, it establishes under which circumstances the OHRS will not process CPRs, the different reviews that a CPR has to undergo, etc. The latter designates "OAS Form 608" as the standard form to be used for all the CPR's. Yet, in the case of OAS Special Missions and Projects, the SG/OAS shall designate whether it can be used or not. Also, the BFR in its Chapter IX deals exclusively with procurement; it establishes in a very general way its general principles and rules. The BFR tends to refer to EO and some other legal documents that are out of date since they have been superseded.

The CPR considers very high anti-fraud clauses, which makes this document fundamental for public procurement at the OAS. The REQUEST FOR PROPOSAL (RFP) is the document that comprises the instructions for the preparation and submission for the bidding proposals, the rules that govern the bidding process, the terms of reference and the contractual terms and conditions.

In terms of the operative CODE OF ETHICS, this document makes allusion to procurement under Section IV "Responsibility for GS/OAS Assets", Subsection D. The Code is very concise and simply determines that all participants in the procurement process must act in accordance with Internal Law so that competitiveness, fairness and transparency are guaranteed in the process. At the same time, it makes cross-references to the other previous guidelines mentioned.

- PRACTICES

There are three essential bodies that executed and regulated public procurement activities: firstly, the Department of Procurement which is in charge of opening the call for the bidding process. This is done through an official invitation open to the public which includes the so-called RFP. Secondly, as previously mentioned, in those cases in which the contract awards are over \$50,000 the CAC is the body responsible for the public procurement process. However, it is important to note that the CAC works at all times in collaboration with the department of procurement, since it serves as the CAC's Technical Secretariat.<sup>31</sup> Thirdly, the OIG, which is the independent body that is responsible for controlling and evaluating public procurement activities and reports the evaluation results through the annual audit reports.<sup>32</sup>

## 1.5 ETHICAL STANDARDS

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- POLICIES AND REGULATIONS

The OAS did not have a general CODE OF ETHICS in force up to the preliminary investigation conducted in March 2012.<sup>33</sup> However, the EO No. 12-03 dated from November 2012 approved it.

Before the coming into force of the Code, the AM No. 58 REV. 1 (previously explained to be supposedly superseded)<sup>34</sup> established the provisions regarding expected ethical conduct from the staff of the GS/OAS.<sup>35</sup> Indeed, the memo comprised the most significant regulations in this regard and recognized the need of a document that assembled *“all the existing rules and regulations on this matter in one statement, thus assisting each staff member to avoid real or apparent conflict between private interest and duty to the OAS”*. (OAS General Secretariat, 1977)

Although the recent approval of the CODE OF ETHICS supposes to have somehow fulfilled the loopholes to which the memo was referring, its content does not seem to change much in practice. Despite being more explicit and concise in comparison with the rest of the other disperse regulations, it presents limitations by itself. For instance, according to the code itself, it:

*“does not address every issue contained in Internal Law that might be considered to be of an ethical nature. Nor is the Code intended to address every ethical issue that may arise in the course of providing services to GS/OAS. Staff Members and Other Service Providers are responsible for informing themselves of all ethical requirement contained in Internal Law, including those that may be adopted at a later date, regardless of whether those requirements are referenced in the Code”* (OAS, 2012).

Therefore, it can be said that the CODE OF ETHICS is a summarized version of guidelines that are intended to serve only as a reference, and it does not pretend to replace the multiple and ambiguous existent regulations. As a result, its content does not seem comprehensive enough to become a single regulation by itself.

- PRACTICES

The same Memorandum AM No. 58 REV. 1 prescribed how to operate<sup>36</sup> in practice the rules and misconduct provisions. To provide some examples, it stipulated that any staff member who reveals information contained in any Confidential Statement of Employment and Financial Interests would have been subject to suspension or dismissal; similarly, it specified that any staff member who incurred in any interest or liability to any entity that was engaged in any business with the OAS would have been disqualified from OAS activities (OAS General Secretariat, 1977). Finally, the AM also dictated that when Staff members were dubious about how to comply with the ethics of conduct and conflict of interest rules they should have to consult the Department of Legal Affairs (DLA) for guidance. Equally, the adopted CODE OF ETHICS establishes how the rules operate and dedicated its Section I “Overview”, Subsection E “Consequences of Non-Compliance” to the different disciplinary measures to be taken in the case that a staff member or other service providers violate Internal Law. For instance, it includes among many other measures: dismissal, contract non-renewal or termination, forfeiture of indemnities or benefits, etc. (Code of Ethics, 2012)

## 1.6 ETHICAL INSTITUTIONS

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Ethical institutions are the independent bodies inside the integrity system whose goals are to provide support to deal with any breaches in ethical behavior that may arise.

- POLICIES AND REGULATIONS

In terms of Ethical institutions and in conformity the EO No. 96-3, the Organization makes reference to the Ethics Committee which according to this document shall be responsible of: (1) doing a periodical review of GS/OAS policies regarding the duties of staff members as well as to recommend to the SG/OAS any necessary changes to them in the area of ethics of conduct and conflicts of interests; and (2) advising the SG/OAS about situations or cases that involve either a conflict of interest under Staff Rule 101.7(b) or might constitute unethical conduct in accordance with GS/OAS policies (OAS General Secretariat, 1996).

Despite the provisions made on EO No. 85-2 since year 1985 superseded in 1996 through the above-mentioned EO No. 96-3 to constitute an Ethics Committee, the Staff News of April 15, 2011, refers to the establishment of an Ethics Committee which will have the power to provide guidance as well as to sanction with regard to the Code of Ethics Proposal of 2011. This raises the question whether the current Ethics Committee has ever performed its duties as the Executive Orders have determined. Otherwise, why would there be consideration given to the establishment of an Ethics Committee if there is already one.

AM No. 77 REV. 1 determines that when the SG/OAS believes that a conflict of interests exists, it has to be brought to the attention of the Ethics Committee for its consideration by the Director of the Department of Human Resource Services (the “DHRS”).

In this regard the approved Code of Ethics indicates that *“the Ethics Committee is authorized to review periodically GS/OAS conflicts of interest policies and to recommend to the SG/OAS any changes in those policies. The Ethics Committee may also advise the SG/OAS on specific cases brought to its attention involving violations of the provisions of the Code and violations of other provisions in Internal Law regarding ethical conduct”* (Code of Ethics, 2012).

- PRACTICES

In line with the EO No. 96-3 stipulations, the Ethics Committee shall be composed by the ASG (chair of the committee), the Assistant Secretary for Management and the Director of the DLS and the Director of the DHR. The Committee performance seems to be evaluated by the IG who acts like a supervisor since it takes part in the meetings with the right of voicing its opinion but without the right to vote. The document also specifies that the Committee members cannot delegate their functions.

Regardless of the previously mentioned reference made to this Committee, information regarding activities performed by this body was not found or at least is not publically available. There is no certainty that this Committee was formally constituted and whether it currently operates. For instance, this body does not appear within the organizational structure nor in the organizational list and at the same time, there are no issued reports by this organ that could imply its existence.

## 2. DETECTION



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The following section provides a picture of the policies for early problem detection and strategic bodies involved in detecting and investigating acts of corruption across the OAS.

- POLICIES

An essential part to detection is the training for early problem detection since it provides the staff with the necessary expertise to identify, avoid and prevent corruption practices. However, no provision was found that requires the OAS to train staff members other than the OIG staff on red flags recognition.

In this regard, the EO No. 95-05: THE INTERNAL AUDIT FUNCTION OF THE GS/OAS & THE OIG, dated May 8, 1995, designates as a *“Responsibility of the Staff of the OIG (OIG, Deputy Inspector General, the staff of the Office and the auditors contracted)”* to *“pursue programs of continuing education and professional development both during and outside regular working hours”*.

- PRACTICES

The OIG ANNUAL REPORTS from 2006 to 2009 show that continuous training is done and, as stated by the IG on its ANNUAL REPORT FOR THE PERIOD JANUARY 1 TO DECEMBER 31, 2009 this is required in order to maintain “Professional Standards”. Hence, training is provided to OIG staff members with the aim to ensure that they are: *“properly trained, maintain adequate skill levels and keep up-to-date on developing trends in internal auditing”*. (OIG, 2010) Additionally, while reviewing the available annual reports (2006 to 2009) it was found that all OIG staff members have been fellows of the Institute of Internal Auditors. In spite of this, it is important to emphasize that there is no other reference made regarding training for further staff apart from the OIG.

## 2.1 AUDITING

- POLICIES

The OAS establishes in its GENERAL STANDARDS two types of auditing, internal and external. Article 117 of the aforementioned document determines the obligation of the SG/OAS to establish the internal auditing procedures and indicates the OIG as the dependency responsible for applying these procedures and exercising the auditing functions. The mandate of the OIG is found in GS Articles 117 to 125 and the formerly mentioned EO No. 95-05. The latter document also describes auditing as one of the OIG responsibilities, that of observing the Code of Ethics for Internal Auditors and, when applicable, the Code of Ethics for Certified Internal Auditors. This document was modified by DIRECTIVE NO. 28-08 which determined under recommendation of the BEA that the period for external peer review should take place every five years instead of every three years as provided in the previously mentioned EO.

On the other hand, according to GENERAL STANDARDS, Article 126, the special body in charge of performing the external audit function is the BEA.<sup>37</sup> However, it is GENERAL STANDARDS, Article 125 the one that refers to the *“Evaluation of the Audit Function”* and

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opens the door to the Permanent Council to request that an external audit firm evaluate the activities of the OIG.

On the subject of the Universal Guidelines for Investigation, information was found that the OAS has not attended several conferences of the International Investigators that have been held. Contrariwise, no information was found in respect of the OAS being a signatory to the treaty, but its absence at the Conferences and the fact that these conferences are mainly targeted to “development banks” suggest that the OAS is not a signatory of the Uniform Guidelines for investigation. Moreover, the Uniform Guidelines for Investigation document itself is very ambiguous when referring to the signatories to the treaty since all over its text it mentions the “Organizations” only delimiting that these are international organizations and multilateral institutions, but it never lists or indicates their names.

- PRACTICES

The results of the performance of each internal auditing are processed quarterly and annually through reports presented by the OIG and publicized on the OAS official website. Yet, at present only the annual reports are available and cover until year 2009. The reason of this situation is in part due to the recent approval of the “Access to Public Information Policy” which explicitly provides under Section IV “Exceptions”, Subsection 1(b) that it does not provide access to “*Auditors’ reports or investigative reports of the OIG, unless they are requested by the permanent mission of an OAS member state*” under the premise to protect confidentiality. (EO No. 12-02, 2012) While this provision explains why the 2012 auditing reports are not available on the website, it does not provide a justification for the missing reports dating from 2010 and 2011, unless this provision were retroactive which is very improbable. This situation also portrays a major setback in terms of transparency within the organization.

*“The recommendations issued by the IG in his audit reports, inspections and investigations are mandatory for the staff members of the GS/OAS, after they are approved by the SG/OAS”.* (Office of the Inspector General, 2012) The OIG is wholly independent in the planning and execution of its auditing activities and has completed technical and managerial autonomy, indeed, the EO 95-05 confers to the OIG unlimited, free and unrestricted access to all functions, activities, operations, records, properties and SG staff, that may be consider necessary in order to carry out its duties. The OIG reaffirms this statement in each of its annual auditing reports from 2006 to 2009, under the section called “independence” and corroborates its operational autonomy and full access to any means that can help it in the consecution of its goals. The only remark that the OIG makes is that “*despite its operational independence, the OIG operates as an essential component of the GS/OAS and provides objective and useful information regarding the achievement of goals and objectives to the member states and the SG/OAS*” (The Office Of The Inspector General, 2009).<sup>38</sup>

However, its ability to act with autonomy has been undermined due to the lack of adequate resources as expressed by the OIG on its ANNUAL REPORT FOR THE PERIOD JANUARY 1 TO DECEMBER 31, 2009: “*inhibits its ability to adequately respond to the GS/OAS audit needs, issue reports in a timely manner, perform systematic follow-up of outstanding recommendations and comply with the Board’s recommendations for training and peer review*”. This concern has been uttered for a number of years both by the Board and the IG.

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Additionally, it is worthwhile to consider that in 2011, the OIG had 8 staff members<sup>39</sup> (1 Inspector General, 2 Auditors, 3 Auditors Junior, 1 Auditor Trainee and 1 Audit Technician), and according to the OIG itself, the work of one staff member represents approximately 20% of the work load. The reduced number of OIG staff members raises a question of capacity and sufficiency due to the size and structural complexity of the OAS.

In terms of the available OIG audits, they mostly reveal operational mistakes and weaknesses in different offices/areas that need to be improved. Nonetheless, to mention an example, a corruption case has been revealed while examining the OIG activities and annual reports from 2006 to 2009. In 2009 the investigation of the GS/OAS Office in Bolivia (SG/OIG/INV-01/09) was performed on account of information received through the hotline.<sup>40</sup>

In the Board's case, the GENERAL STANDARDS in its Article 127 grant complete access to books and records in order to perform its responsibilities. The RPB determines, through Article 13, the obligation of the BEA to annually audit the accounting, financial transactions and financial statements of the funds of the OAS. The results are to be reported through a report to the Permanent Council.

## 2.2 COMPLAINT MECHANISMS

- POLICIES AND REGULATIONS

The OAS has complaints mechanisms, which are ruled by the THE STATUTE OF THE AT, (Statute OAS/AT) Articles II and VI; and THE RULES OF PROCEDURE OF OAS AT, ("Rules of Procedure OAS/AT").<sup>41</sup>

- ADMINISTRATIVE TRIBUNAL JURISDICTION<sup>42</sup>

Complaints may be filed by ANY STAFF MEMBER of the GS/OAS, and ANY OTHER PERSON who can demonstrate that he/she is ENTITLED to administrative regulations; in addition, the jurisdiction of the AT might be extended to ANY INTER-AMERICAN SPECIALIZED ORGANIZATION AND ANY INTERESTED AMERICAN INTERGOVERNMENTAL ORGANIZATION ruled by special agreements.<sup>43</sup>

THIRD PARTY INTERVENTION:<sup>44</sup> Any person, with the legal right that may be affected by the judgment, could intervene in a case at any stage of the process (Art. 44) or at the request of any parties or on the initiative of the tribunal (Art. 45). In this regard, the provisions set forth in Chapter VI regarding preparation and presentation shall apply; a panel, according to the Art. 48, under the provisions stipulated in Art. 41 shall decide the admissibility of any request to intervene made by a third party

The SG/OAS has the duty of the publication of a collection of the judgments and the compilation and maintenance of other records.<sup>45</sup> All this information is in the public domain in the General Secretariat's Columbus Library and is also available at the offices of the Secretariat of the AT/OAS. In addition, the Website of the AT/OAS assembles the judgments, annual reports, resolutions, etc. However, it was not possible to confirm that the collected information available in the library is the same available online.

- ARBITRATION

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Any other possible disputes with contractors and others that do not fall under jurisdiction of its AT can be resolved through arbitration. In this regard, the OAS has adopted a policy to provide arbitration in accordance with the *GENERAL STANDARDS*. The arbitration authority and rules are among several options: American Arbitration Association, the Inter-American Commercial Arbitration Commission and the United Nations Commission on International Trade Law. In this regard, there was a decision to sign an agreement, the *Article VII OF THE HEADQUARTERS AGREEMENT*, to provide arbitration for all disputes that do not fall under jurisdiction of its AT/OAS.

In contractors' specific cases, arbitration is also determined by the PCR, Chapter XI and the CPR, under Chapter 7: 7.1. This concerns all disputes related to performance contract that cannot be "amicably" resolved (EO NO. 05-04, Corr. No. 1, 2005). Yet, the CPR (section 7.3.1) also considers a judicial recourse for those cases in which the performance contract does not require arbitration. It is important to point out that in this case, from the OAS side, in order to proceed with the contract, it must first be submitted to the DLAS for approval. The CPR mainly stipulates the duties and rights of the OAS concerning "settlement of disputes" and tends to forget to delimit the contractor's rights or ways of procedure in these cases.

- *OIG (Staff Rule 101.11 Protection for whistleblowers, informants and witnesses)*  
*REPORTING FINANCIAL AND ADMINISTRATIVE MISCONDUCTS- STAFF and PERFORMANCE CONTRACTORS*, in 2005, the BEA recommended the adoption of policies and provisions granting the reporting of financial and administrative misconduct. This recommendation was adopted in accordance with the *DIRECTIVE SG/58/83*, "General Guidelines on the Investigation of Staff Member by the EO 05-08, CORR. 1<sup>46</sup>, by which was established the *STAFF RULE 101.11, SECTION B*, "Protection for whistleblowers, informants and witnesses" and which determines that a staff member who observes or learns from a reliable source, facts and circumstances constituting financial or administrative misconduct should report them to the IG.<sup>47</sup> In this regard, within the text of the same EO, the OIG hotline was provided to serve as a mechanism "*for reporting allegations of unethical behavior, misconduct or corrupt or fraudulent activities involving financial transactions processed by GS/OAS staff members and performance contractors*".<sup>48</sup>

The Executive Orders concerning how complaints should be filed and how the informers are regulated containing the administrative proceedings and the hotline are publicly available information. Nonetheless, all this information is written in legal jargon, which is fragmented and dispersed and are difficult to harmonize.

The lack of a consolidated and publicly available complaint mechanism guideline constitutes an impediment to free and effective access to the complaint mechanisms, considering there is not a guide explaining how the staff, non-staff members, consultants, and third-parties can file complaints. Nor does it explain what complaint mechanisms are adequate according to their nature and instance.

- *PRACTICES ADMINISTRATIVE TRIBUNAL*  
The Tribunal is subordinated and obliged to report to the GA/OAS.<sup>49</sup> The complaint filing system before the AT takes place in the traditional manner, the OAS Administrative Tribunal's website provides a page with the "Frequently Asked Questions", which provides

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basic information for filing a complaint, such as complainants, the time-limit, accepted languages, requirements of the complaint and the proceedings after the complaint is filed. Also, the statute and the Rules of Procedure OAS/AT are available in the website.

The complaints are to be presented through the Secretary of the Tribunal.<sup>50</sup> The Secretariat of the OAS Administrative Tribunal and its staff, for the purpose of administrative organization, is an autonomous and decentralized organ in the organizational chart of the GS/OAS and reports to the SG/OAS.<sup>51</sup> *“The Secretariat exercises control over the processing, according to the Rules of Procedure, of complaints presented to the Tribunal”*<sup>52</sup> along with the publication of the judgments as it was mentioned above.

According to the annual report 2010, no complaints<sup>53</sup> were filed before the AT during 2010, *“reflects positively on the image of the organization.”* (Administrative Tribunal OAS, 2010). Nevertheless, the perception and reasons for the decreasing number of complaints according to the President of the OAS Staff Association in a meeting held with the AT is due to two principal factors: *“the requirement of a security equal to a month’s salary of a staff member at the P-4 level”* (complaint filing fee) and, the *“significant reduction in the budget allocated... for 2010, compared with... prior years”*. He also mentioned the fact that the members feel insecure approaching the Tribunal to solve disputes because they lack knowledge about the functions and role of this organ and therefore feel uncertain about possible consequences affecting their labor contracts. (Administrative Tribunal OAS, 2009)

Also the Staff Association of GS/OAS can be considered as a counterbalance and monitoring mechanism, considering that this is authorized to be heard in a particular case before the AT.<sup>54</sup> For instance, the TRIBAD and the President of the Staff Association held a meeting on 23rd November 2009, in which several issues were discussed in relation to the image that the staff has of the Tribunal. In this meeting, several recommendations and opinions were exposed focusing basically on the lack of knowledge about the formal procedures and the highly criticized system of having to pay a fee to file a complaint. The AT not only heard these recommendations but also committed to act, creating and implementing new initiatives; such as: setting an appropriate date to plan a meeting with the personnel to address this specific issue and reassuring staff of the decision concerning the elimination of the *“security equal to a month’s salary”* requirement, which is now no longer a policy. (Administrative Tribunal OAS, 2009)

- PRACTICES - OIG

The OIG is responsible for handling the complaints registered through the OIG hotline system. The allegations might be reported by telephone, e-mail, fax and regular mail and the informant could be anonymous, *“however, is less likely to result in a useful investigation and punishment, unless the informant is willing to serve as witness”*.<sup>55</sup>

The overall information regarding the functioning of the OIG and the hotline system is available on the website.<sup>56</sup> The EO No. 05-8 Corr. 1 states that the appropriate authorities in capacity to receive information are *“the IG, the President of the Staff Association; the Director of the Department of Administration and Finance; the Director of the Office of Human Resource Services; the Director of the Department of Legal Affairs and Service (DLAS); and the Director of the Office of General Legal Services”*.<sup>57</sup> They should also without delay



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inform the IG and supply a copy to the SG/OAS. The Inspector shall conduct the investigation; nonetheless, the SG/OAS may assign the investigation to a committee or special investigator.

Annual reports rendered by the AT contain the number of complaints filed and a brief summary of the proceedings. In the same line, the OIG annual reports are only available till 2009. Nonetheless, there is neither statistics regarding the number of complaints nor a consolidated report with the record of several years along with other bodies and procedures that might receive complaints, given the fact that AT can admit a complain only when the person has exhausted the procedures provided in the *GENERAL STANDARDS* and other existing provisions.<sup>58</sup> This lack of consolidated information and co-coordination among the bodies and complaints mechanisms do not allow for understanding how the complaint mechanisms have been operating at all levels and with different interested parties (the staff, non-staff members, consultants, third-party) in order to avoid that complaints reach the last instance, the Tribunal. In addition to the fact, that hitherto the lack of the mentioned information and its analysis is evident, it should be underlined that the GS/OAS issued the EO No. 12-02, on May 3, 2012, by which “*auditors’ reports or investigative reports of the Office of the Inspector General*,”<sup>59</sup> are protected under confidentiality, which results in detriment of the transparency and accountability of the OAS.

Other finding in this regard, is that there is no direct correspondence with the information included in two different types of annual reports. For instance, the annual report (2010) available about the SG/OAS<sup>60</sup>, in which a relevant and brief summary is provided about the main findings and activities carried out by each of the Departments; and the annual report executed by the AT<sup>61</sup> contained different information. It is relevant to highlight that information available in relation to the fact that no complaints were received in the Secretariat of the AT during 2010, in the second quoted report is mentioned as relevant while in the other is omitted.

## 2.3 WHISTLEBLOWING

- *POLICIES*

The EO NO. 05-8 CORR. 1 which adopted the currently in force *STAFF RULE 101.11* is the legal provision requiring the organization to have whistleblowing mechanisms. Despite its title, this rule stipulates not only protection but also reprisals for informants, as well as some other regulations regarding obligations, procedures, etc.<sup>62</sup>

In the recent *CODE OF ETHICS*, a very short section concerning this mechanism was introduced into Section VII, “Duty to Report Misconduct and Other Breaches: “Whistleblower Protection”, by which was specified that the obligation to report all violations of administrative and financial misconduct and other breaches is binding in particular on all Staff Members and Other Service Providers, without mention if this also applies to non-staff. Furthermore, it encourages the Staff to inform themselves about the whistleblower protection.

- *PRACTICES*

The *HOTLINE* maintained by the OIG is the principal means to receive misconduct reports and thus, it works as a sort of whistleblowing mechanism.<sup>63</sup> The audit annual reports

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dated from 2006 to 2009 all state that “matters referred to the OIG in (each corresponding year, i.e., 2006, 2007, etc.) through the hotline, that posed an inherent risk to the internal controls of the GS/OAS or anomalies identified in existing rules and policies, were investigated for appropriate action”. (OIG, 2010) In this sense, from the earlier mentioned OIG activity reports only the cited case from Bolivia in 2009 indicates having been initiated and completed through the GS/OAS country office in Bolivia (SG/OIG/INV-01/09) as a result of information received through the OIG Hotline from a former GS/OAS employee.<sup>64</sup>

## 3. INVESTIGATION

In this section, all investigative bodies within the OAS will be discussed in detail. The existence of these bodies is mainly to detect potential problems that might occur within the system (relations among staff misbehavior and/or within the departments) and to follow up on the problems already detected.

- POLICIES

The Investigation within the OAS is ruled by Staff Rules<sup>65</sup>; EO No. 05-8 Corr.1, and Directive SG/58/83, “General Guidelines on the Investigation of Staff Members” by which three general guidelines are provided: a) the investigations should be related to the performance of official duties; b) with respect to the AM No. 58 (which has already been superseded); and c) the authorization of the affected staff member is required when the investigation is not covered by activities of a private nature set forth in AM, concerning policies and rules on ethics and integrity.

The OIG, according to the EO No. 95-05,<sup>66</sup> modified by the DIRECTIVE NO. 28-08, is responsible for conducting investigations when it is necessary or by the Secretary General’s request. Besides the OIG is obliged to report to the GS/OAS the investigations conducted, including the name of the auditor responsible for it.

The purpose of the OIG is to advise and assist the SG/OAS and within this framework, the OIG is independent but under the control of the SG/OAS. The OIG budget is prepared by the IG and submitted to the SG/OAS for consideration and inclusion in its program-budget, which is approved by the GA/OAS.<sup>67</sup>

As well, it is relevant to mention that the “OASG” is conducting a compliance mechanism named “spot checks,” at GS/OAS country offices, in conformity with the Memorandum ASG/OGSMS. (The Assistant Secretary General, 2003)

- PRACTICES- OIG

The OIG is obliged to present a quarterly progress report and annual report.<sup>68</sup> These reports contain overall and specific details regarding the conducted investigation and the recommendations suggested by the OIG. The activity reports are available on the OAS website,<sup>69</sup> but only from 2005 to 2009. The delay in the reports’ publication is alleged due to the lack of resources. In this regard, the OIG is subject to the financial constraints from the GS/OAS, such as those concerning limited staff, which is reflected in an inadequate response to the needs of the GS/OAS with respect to the auditing process, the timeliness of the audit



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reports and in overall poor fulfillment of its mandate. (The Office Of The Inspector General, 2009) However, it can be assumed that even though there has been a continuous request for more resources, these cannot be guaranteed due to the economic instability that OAS is facing. It has publicly declared a “budgetary crisis”, resulting mainly from the delay in the quota payments from some Members States. The head of the organization, José Miguel Insulza, has expressed in numerous occasions that OAS is going through a precarious situation in which although demands are increasing, the financial contributions have not reflected the same behavior (Prensa Libre, 2011).

Therefore, a strict austerity practice among the Departments to some extent can be justified; but not in terms of efficiency, accountability and transparency and this certainly represents a weakness in the system. Nonetheless, the non-updated reports published contain overall and specific information regarding the investigation and the recommendations suggested by the OIG. In this regard, it should be recalled, as previously stated, that since May of this year, according to the EO No. 12-02, OAS “Access to Public Information Policy”, it might be also claimed by the OIG that the delay and non-publication of the reports are made on lawful basis taking into account that OIG does not have the obligation of publishing auditors' reports or investigative reports in the official website, for considering them confidential information and restricted for the public in general.

As previously mentioned in our study, the OIG staff shall be subject to regular training as a requirement established by Professional Standards of the Institute of Internal Auditors, which reflects that the OAS does not differentiate among investigators used for its OIG and its auditors; as a consequence there are not internal investigations that focus on broader issues of corruption apart from auditing fraud. Furthermore, training is considered as a necessity to keep up-to date on developing trends and the highest level of quality according to Section VII of the aforementioned report. Despite these regulations, there is no available information concerning regularity and implementation of these policies; nevertheless, in the Annual Report of the SG/OAS 2010<sup>70</sup> it was mentioned that the Department of Financial and Administrative Management Services (DFAMS), during the second quarter, offered a training program on International Public Sector Accounting Standards (IPSAS) and the OIG participated in that course. The SG/OIG-21/11 and the program-budget 2012 approved by the GA/OAS are the only documents since 2006 containing training items with respect to the OIG. The items are named as “*Audit training required by the IIA*” and “*OIG staff trained and updated in audit issues to complete educational requirements as specified by the institute of internal auditors*” respectively.<sup>71</sup>

## 4. SANCTIONS

Even though the OAS does not have a unique standard guideline or single document that embraces all types of sanctions according to specific misbehaviors and misconducts of both, staff and departments, it does contain several rules within its legal framework that mention the sanctions' nature and thus, the procedures to be imposed. The term “sanctions” is understood to include: all the established penalties that look to ensure compliance and conformity to law and behavior.

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### • POLICIES

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The OAS provisions regarding sanctions are ruled by the General Standards<sup>72</sup> which establishes the adoption and type of disciplinary measures<sup>73</sup> along with the creation of the Advisory Committee on Disciplinary Measures to advise the SG/OAS on the subject and on the application of the measures, (Art. 56) overall guidelines and fundamental norms of due process. In the same vein, Staff Rules 111.1<sup>74</sup> regulates in general the disciplinary measures and the bodies in charge of the foregoing proceedings, as follows:

- I. Oral or written admonition shall be given by the staff member's supervisor and by the "Director of the DHR if he/she concludes that an oral admonition is appropriate,"
- II. Written censure, suspension, or dismissals, are imposed by the SG/OAS at recommendation of the corresponding office or Director of the DHR.

The RULE 111.2 states the creation of a Joint Disciplinary Committee, which is an advisory body to instruct the SG/OAS regarding the advisability and application of the disciplinary measures.

## WHAT TYPES OF MISCONDUCT ARE CONSIDERED SUBJECT TO DISCIPLINARY MEASURES

- I. The STAFF RULE 110.5 regulates the discharge for Serious Misconduct; this is considered according to the BFR, as follows: *"The participation in any of the following actions, if found to have been committed by any staff member in bad faith, willfully, maliciously, or negligently, (...) or such other disciplinary action that the SG/OAS considers appropriate (...) i. Receiving or authorizing the receipt of a check, bank transfer, or cash on behalf of GS/OAS and a) failing to deliver it to the treasurer or as applicable b) failing to inform the treasurers of the authorization ..."*<sup>75</sup>
- II. RULE 101.3 FINANCIAL RESPONSIBILITY states *"Any staff member who causes financial damage to the Organization by malice, culpable or gross negligence, or failure to observe the General Standards, regulations, and other administrative provisions of the GS/OAS shall be responsible therefore and shall be required to pay appropriate compensation."*
- III. PCR, CHAPTER VIII –RESPONSIBILITY OF INDIVIDUAL STAFF MEMBERS, 7.3 DISCIPLINARY MEASURES, *"Any staff member who commits an act of fraud, gross negligence, malice, or bad faith in the contracting process and/or fails to observe any of the prohibitions set forth in Chapter IV of these Rules, the conflict of interest policies set forth in EO No. 96-3 and Administrative Memoranda No. 77, rev. 1 their successor provisions, or any other provisions of these Rules, shall be subject to the disciplinary procedures."*
- IV. CPR, CHAPTER IV, RESPONSIBILITIES AND LIABILITIES OF THE AUTHORIZING OFFICIAL INVOLVED WITH INITIATING, NEGOTIATING, AWARDING, AND EXECUTING PERFORMANCE CONTRACTS, 4.3 LIABILITIES AND DISCIPLINARY MEASURES 4.3.3 *"Any staff member who fails to observe the prohibitions set forth in Chapter 3 of these Rules, the conflict of interest policies set forth in Executive Order No. 96-3 and in Administrative Memorandum No. 58, rev. 1, or any other provisions in these Rules, shall be subject to the disciplinary procedures set forth in Chapter XI of the Staff Rules. All disciplinary measures provided for under all of these Rules are cumulative and are not mutually exclusive."*

It is worth pointing out that in the new CODE OF ETHICS a series of disciplinary measures are summarized in the Section I "Overview", Subsection E "Consequences of Non-compliance", which explicitly states that:

*"Staff Members who violate the Code and the other provisions of Internal Law may incur Disciplinary Measures. These include, among others, dismissal, and forfeiture of indemnities, benefits or other monies. GS/OAS may also take other measures to remedy, correct and prevent non-compliance. These include, among others, transfer, contract non-renewal or termination, placement on administrative leave, compulsory restitution by way of deductions from compensation and/or termination benefits; and write-up in the corresponding performance*

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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*and/or contract evaluation. For Other Service Providers, violation may result in contract termination and exclusion from future contracting opportunities with GS/OAS, as well as legal action seeking restitution and other compensation for damages” (OAS, 2012).*

Nevertheless, the aforementioned sanctions are enlisted or stipulated, there is no a directly correspondence with a specific misbehavior or misconduct and the sanctions neither in the CODE OF ETHICS nor in the related regulations.

- PRACTICES

The mentioned serious misconduct acts can be qualified as corruption, as some stipulated conducts could be framed as bribes, embezzlement, favoritism/nepotism/clientelism, extortion, etc. Even in a power point presentation<sup>76</sup> done by the OAS, they labeled the conduct regulated by the EO NO. 05-8 CORR.1, protection from retaliation for whistleblowers and informants, (referred in the complaint mechanisms section), as anti-corruption measures; ergo, the sanctions pertaining to serious misconducts could be by analogy classified as corruption. Nevertheless, there was no accessible information regarding legal regulations that contain either the word corruption or its definition or any legal document promoting the unification and qualification of those conducts as corruption, or even OAS guidelines regarding internal policies in the fight against corruption and sanctions; until the GS/OAS adopted, on November 2012, its first CODE OF ETHICS throughout the EO NO. 12-03, by which it was defined corruption in terms of the INTER- AMERICAN CONVENTION AGAINST CORRUPTION and considering the STAFF RULES 101. 4 and 101.7 as references; despite of this source, it could be noticed that there is not an authentic and adequate definition for the OAS as international organization different from the member States and according to its nature and purposes.

- POLICY REGARDING FRAUD

Fraud is defined as *“a false statement of fact, by word, by conduct, or by omission, upon which another relies to his/her detriment. Fraud includes for purposes of these Rules what is also referred to as “constructive fraud” and “negligent misrepresentation”.*<sup>77</sup> In the same vein, it is considered a serious misconduct when it is related to BFR Chapter IV, Section IV.2 Subsection D, paragraphs v.) *“Causing a fraudulent obligation<sup>78</sup> to be entered”* and vii.) *“Issuing a fraudulent receipt for goods or services.”*<sup>79</sup>

It is relevant to mention that serious misconduct may have as consequence the summarily dismissal by the SG/OAS,<sup>80</sup> and a staff member who is summarily dismissed may appeal that action through Reconsideration Request presented directly to the Director of the DHR and by subsequently filing a complaint ruled by the STATUTE OAS/AT.<sup>81</sup> The implementation of other instances and the opportunity of appeal guarantee due process, however, there is no information regarding the procedures conducted by the DHR, a fact that implies a lack of transparency into these proceedings.

- PRACTICE- SANCTIONS

As mentioned above (Complaint Mechanisms section), the SG/OAS is responsible for the publication of a collection of the judgments issued by the AT/OAS. Concerning the other complaint mechanisms, there is not a direct stipulation in this regard. However, it is

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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important to emphasize that the External Auditor<sup>82</sup> has the obligation to refer in its reports “*b. Cases of fraud or presumptive fraud*”. Interestingly, there is no mention about the fraud cases in those reports, and unfortunately, the coming auditors' reports can no longer be consulted by the public in general as it stipulated in the EO No. 12-02, which will prevent the accountability of the External Auditor's obligation. It should be mentioned that there are effective manners to protect confidential information without compromising transparency, accountability and participation of the OAS.

Moreover, there is no accessible information or legal provision on disciplinary cases and whether their imposed sanctions were conducted, concerning corruption, and the duty of being published or not considering the restrictions imposed by the new “Access to Information Policy” are only with respect to auditors' reports and OIG reports and not the other bodies responsible for impose sanctions. In the same vein, it is relevant to mention that there is no access to the Disciplinary Committee documents or reports. Despite what was previously mentioned, the BEA and the OIG have underlined their concerns in relation to the control and weaknesses in such areas as petty cash, cash receipts, purchases, vehicle use, and expenses; nevertheless, there is no information regarding publication of pertinent cases (The Report to the Permanent Council, 2010 and 2009).<sup>83</sup> Nonetheless, there is lack of access to the implementation and policies.

There is no available information concerning if the SG/OAS, the AT/OAS and the OIG have cooperated with authorities for the prosecution of individuals when a disciplinary process has been carried out within the organization. Conversely, the OAS “*has absolute immunity from suit and execution in U.S. courts, but must provide arbitration for any claims not within the jurisdiction of its Administrative Tribunal, which deals largely with claims by staff.*” (Cissé, Bradlow, Kingsbury, & (eds))

## 4.1 CROSS-DEBARMENT POLICY

The OAS does not have a cross-debarment policy, or at least there is no available information within the OAS legal framework with this denomination. It is relevant to mention that the organization is the leader on cross-debarment policy among States.<sup>84</sup> Nonetheless, there is no information available on the official website regarding this topic. Similarly, there is neither a policy nor a proposal to establish measures of cross-debarment within the organization with similar organizations (or member states).

## V. FINDINGS AND RECOMMENDATIONS

While conducting the preliminary assessment, during the first four months (December 2011 to March 2012) some inconsistencies, lack of public information and overlapping coordination were founded. Therefore, we tried to contact OAS' staff from different departments and regional OAS offices (Please refer to Annex 4) via telephone but mainly via email to request their support in completing a questionnaire (Please refer to Annex 5) in which we included the main queries regarding the missing or confusing information with aims to be clarified by them. Nevertheless, at the end, from a total of 30 persons contacted and

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spread throughout different departments only 6 of them replied to our emails and just a single person answered the phone calls. From all our contacts we received the same answer, they either provided us other contacts to submit our questionnaire or stated not to have knowledge about the information requested (Please refer to Annex 6). However, the new contacts provided never replied to the emails.

As a result, we decided to highlight the most relevant findings in which information is missing or unclear.

## ➤ ANTI-CORRUPTION

Even though OAS was one of the pioneer organizations not only in promoting anti-corruption strategies among member states but in creating the first legal mechanism aiming at implementing these strategies (MESISIC); the term “corruption” was previously not explicitly stated nor defined in any of the policies and regulations governing its internal functioning up to October 2012. The concept was only inferred and interpreted while referring to misbehavior, fraudulent misrepresentation, fraudulent conduct, and some other concepts related to it. How the OAS is a pioneer in developing a mechanism to implement and evaluate the considered first international tool against corruption (MESISIC), when there are no consolidated and well-structured mechanisms that regulate ethical behavior and which promote anti-corruption practices within the organization?

It must be mentioned that it was just recently, precisely on November 2012, that the OAS adopted its first legal *CODE OF ETHICS*, in which corruption is defined; nonetheless, this is just a reference taken from the Inter-American Convention Against Corruption, without any correspondence to its nature, purposes and needs. Apparently, it seems more a result of the political pressure than a reasonable and strategic policy.

## ➤ INTEGRITY SYSTEM

There is no clear consistency between policies and practices in the Integrity System. It is true that some policies exist. However, following the components that were studied (prevention, detection, investigation and sanctions) we could not find a defined and coordinated structure between the departments and policies that should regulate and harmonize the integrity system. It can be said that there is an evident overlapping of policies and/or departments that regulate these components; this makes it complex and confusing to differentiate if practices are really being implemented. As a negative consequence, the system does not reflect transparency, accountability and participation.

## ➤ PUBLIC INFORMATION

Previously, the lack of a public information disclosure policy was one of the biggest loopholes of OAS integrity system and currently the “Access to Information Policy” represents the biggest problem to guarantee the right to access to information about the organization. In the first scenario, there was no stipulation in what was allowed to be published and what was not; and, in the second scenario, although there are some guidelines, these are extremely restrictive and have left very few information to be subject of public access. The official

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website does not comprise efficiently the information required to reflect transparency and accountability to the public while it also is dysfunctional by not working and/or not being updated. Furthermore, staff either did not reply to our information request or if they did so, it was in a very delayed manner with the promise of answering to our queries in the near future, which never happened.

In consideration of the weaknesses previously exposed and with the aim to promote the consolidation of a better Integrity System that allows the organization to project a stronger image among not only the member states but the world community, we urged the OAS to:

- Consolidate an integrity system policy (within the organization) which should include specific anti-corruption measures, the creation of a well-structured (more uniform and standardized) legal framework (definition and functions) and of institutional bodies which should regulate, supervise and evaluate their accomplishment, bearing in mind the four main components of an integrity system: prevention, detection, investigations and sanctions.
- Enforce the functions of the departments involved in the process to regulate and oversee the legal framework compliance in order to evidence their practices. For instance, the internal and external auditing require to be capable of providing a more reliable basis to assess in the long term the efficient functioning of the integrity system's components (regarding transparency, accountability and participation).
- Create legally binding mechanisms that promote and disseminate the new approved **CODE OF ETHICS**, with aims to establish a common ethical ground that will allow for unity and identification of the employees with the organization. However, this Code of Ethics should be reviewed and truly implemented, filling the information gaps exposed before. Following the same line, the Ethics Committee configuration leaves much to be desired since it is not comprised by independent individuals but existing staff. The Committee's structure may compromise its functioning because, as its members are active officials working in diverse organization's departments, this could lead to a lack of impartiality (which would once again put the transparency and the fairness of the organization into question). In this sense and to mention one example, personal interests such as bonds of friendship could affect the objectivity of the Committee.
- Promote a new mechanism that fosters the access to information. For instance, it is urgent to develop an efficient public information disclosure policy. On the other hand, new channels of communication should be implemented with aims to build up trust, transparency and accountability among the public, e.g. the creation of a specific department that can deal with issues regarding access to public information.



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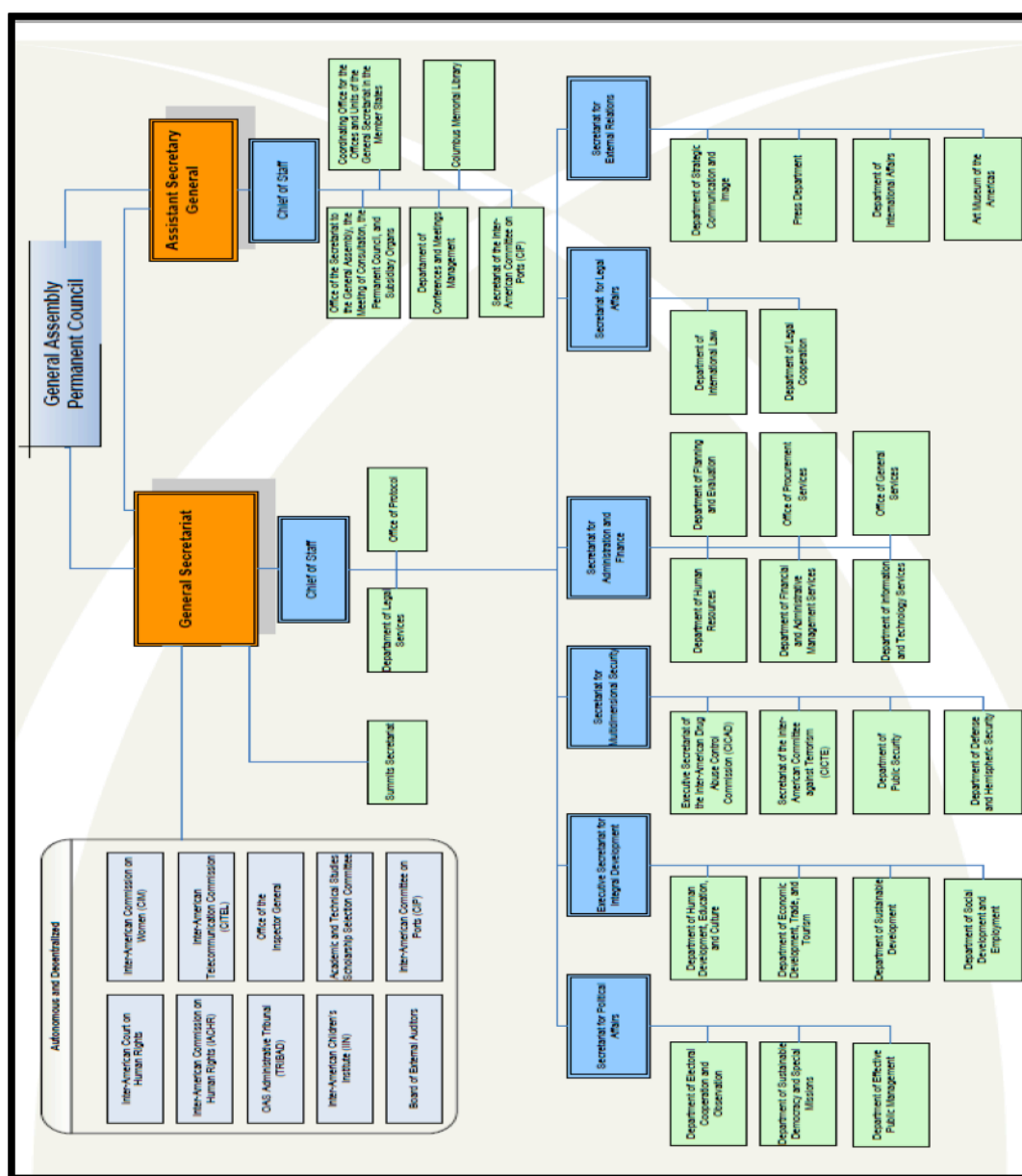
## ANNEX 1 LIST OF ABBREVIATIONS

AM	ADMINISTRATIVE MEMORANDUM/MEMORANDA
AT A.K.A. TRIBAD	ADMINISTRATIVE TRIBUNAL
ASG	ASSISTANT SECRETARY GENERAL
BEA	BOARD OF EXTERNAL AUDITORS
BFR	BUDGETARY AND FINANCIAL RULES
CAAP	COMMITTEE ON ADMINISTRATIVE AND BUDGETARY AFFAIRS OF THE PERMANENT COUNCIL
CAC	CONTRACT AWARDS COMMITTEE
CPR	PERFORMANCE CONTRACT RULES OF THE GENERAL SECRETARIAT
PCR	PROCUREMENT RULES OF THE GENERAL SECRETARIAT
DFAMS	DEPARTMENT OF FINANCIAL AND ADMINISTRATIVE MANAGEMENT SERVICES
DHR	DEPARTMENT OF HUMAN RESOURCES
DLA	DEPARTMENT OF LEGAL AFFAIRS
DLAS	DEPARTMENT OF LEGAL AFFAIRS AND SERVICES
DLS	DEPARTMENT OF LEGAL SERVICES
EO	EXECUTIVE ORDER
GA/OAS	GENERAL ASSEMBLY OF THE ORGANIZATION OF AMERICAN STATES
GS/OAS	GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES
GENERAL STANDARDS	GENERAL STANDARDS TO GOVERN THE OPERATIONS OF THE GENERAL SECRETARIAT
IICA	INTER-AMERICAN INSTITUTE FOR COOPERATION ON AGRICULTURE
IG	INSPECTOR GENERAL
IACD	INTER-AMERICAN AGENCY FOR COOPERATION AND DEVELOPMENT
IPSAS	INTERNATIONAL PUBLIC SECTOR ACCOUNTING STANDARDS
MAPP	ORGANIZATION OF AMERICAN STATES MISSION TO SUPPORT THE PEACE PROCESS
MESICIC	MECHANISM FOR FOLLOW-UP ON THE IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION
OAS	ORGANIZATION OF AMERICAN STATES
OASG	OFFICE OF THE ASSISTANT SECRETARY GENERAL
OIG	OFFICE OF THE INSPECTOR GENERAL
RFP	REQUEST FOR PROPOSAL
RULES OF PROCEDURE	RULES OF PROCEDURE OF THE ORGANIZATION OF AMERICAN STATES
RULES OF PROCEDURE OF OAS/AT	RULES OF PROCEDURE OF THE ADMINISTRATIVE TRIBUNAL
OAS/AT	ADMINISTRATIVE TRIBUNAL
SAF	SECRETARIAT FOR ADMINISTRATION AND FINANCE
SG/OAS	SECRETARY GENERAL OF THE ORGANIZATION OF AMERICAN STATES
STATUTE OAS/AT	STATUTE OF THE ADMINISTRATIVE TRIBUNAL
UN	UNITED NATIONS



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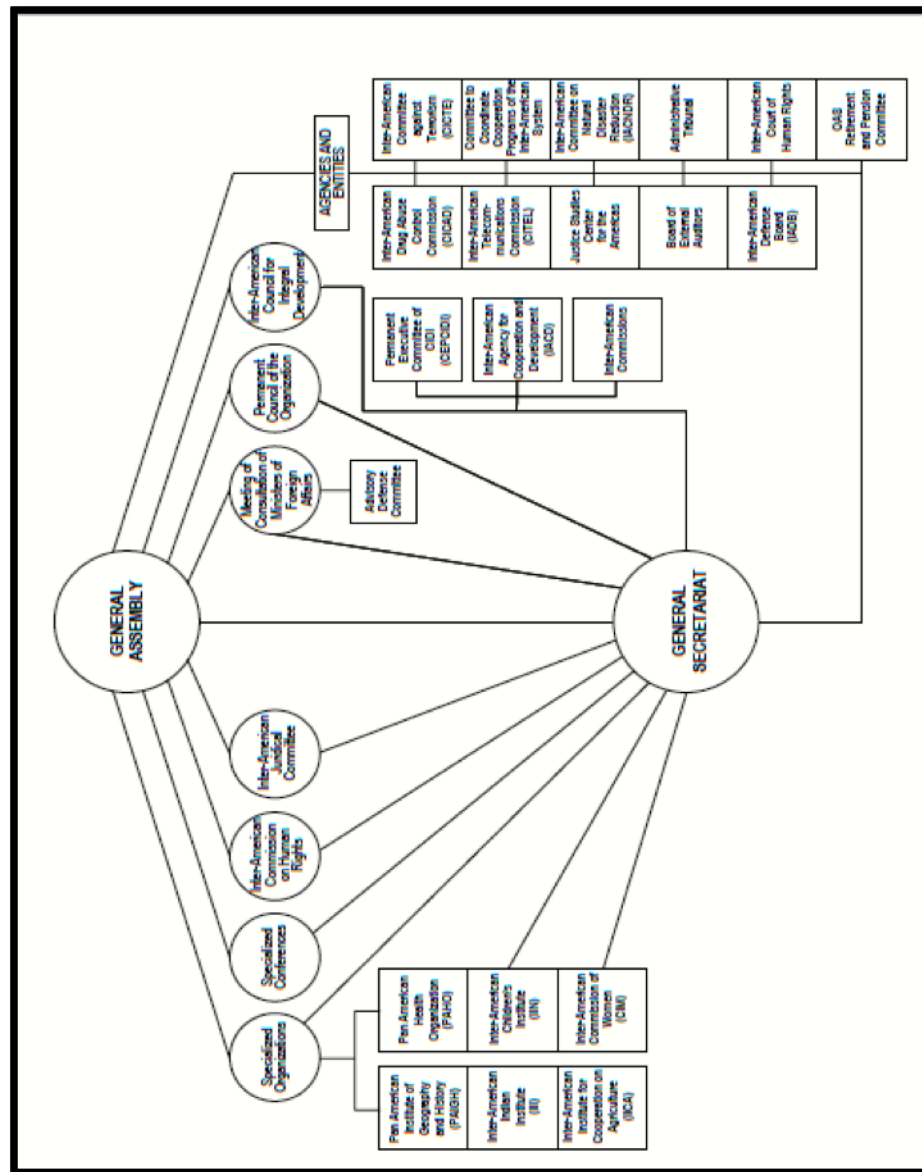
## ANNEX 2



SOURCE: [HTTP://WWW.OAS.ORG/LEGAL/ENGLISH/GENSEC/ORGANIZATIONAL\\_CHARTS\\_EXECUTIVE\\_ORDER\\_0801\\_REV4.PDF](http://www.oas.org/legal/english/gensec/ORGANIZATIONAL_CHARTS_EXECUTIVE_ORDER_0801_REV4.PDF)

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

## ANNEX 3



Source: <http://www.oas.org/legal/english/organigramaOEAeng.pdf>

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

## ANNEX 4

### LIST OF OAS CONTACTS FO INTERVIEWS/QUESTIONNAIRE

No	Name	Department	Email	Sent Date/ Call Date	Answer (Yes/No)
1	N/A	MESICIC	guiatransparencia@oas.org	16/02/2012 14/03/2012	No
2	Ximena Salazar	TI Chile, Coordinator of the Americas Anticorruption Conventions Program and manages the institutional relationship with the Organization of American States.	xsalazar@transparency.org	16/02/2012 14/03/2012	No
3	Eduardo Parada	Procurement Officer	EParada@oas.org	16/02/2012 14/03/2012	No
4	M. Romero-DeSimone	Procurement Director 1889 F St. N.W. Washington, D.C. 20006 T. 202.458.6171 F. 202.458.6401	LRomero@oas.org	16/02/2012 14/03/2012	Yes 14/03/2012*
5	Stella Villagran		SVillagran@oas.org	16/02/2012 14/03/2012	No
6	N/A	Coordinating Office for the Offices of the General Secretariat in the member states	nationalofficesweb@oas.org	16/02/2012 14/03/2012	No
7	Mr. Garry LaGuerre		GLaGuerre@oas.org	16/02/2012 14/03/2012	No
8	Ms. Sandra Burns		SBurns@oas.org	16/02/2012 14/03/2012	No
9	Ms. Carolina Montero		CMontero@oas.org	16/02/2012 14/03/2012	No
10	Ms. Estela Gomes		EGomez@oas.org	16/02/2012 14/03/2012	No
11	Ms. Marcela Chand		MChand@oas.org	16/02/2012 14/03/2012	No
12	N/A	OIG Hotline	OIGHotline@oas.org	16/02/2012 14/03/2012	No
13	Ms. Juanita Saiz		JSaiz@oas.org	16/02/2012	No

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				14/03/2012	
14	Mr. Oscar Chavera		OChavera@oas.org	16/02/2012 14/03/2012	No
15	N/A	OIG Hotline	OIG_OAS@oas.org	16/02/2012 14/03/2012	No
16	Luiz Marcelo Azevedo	Departamento de Cooperación Jurídica Secretaría de Asuntos Jurídicos	Lazevedo@oas.org	16/02/2012 14/03/2012	No
17	N/A	Tribunal Administrativo	tribadm@oas.org	16/02/2012 14/03/2012	
18	Dante Negro	Departamento de Derecho Internacional Secretaría de Asuntos Internacionales	dnegro@oas.org	16/02/2012 14/03/2012	No
19	Jorge García González	Director Departamento de Cooperación Jurídica Secretaría de Asuntos Jurídicos	jgarciag@oas.org	16/02/2012 14/03/2012	No
20	Jorge Sanín	Director Department of International Affairs   Secretariat for External Relations	jsanin@oas.org	16/02/201222/ 02/2012  <b>Call date:</b> 14/03/2012 15/30/2012 16/03/2012  Email: 14/03/2012	Yes- provided another contact information 19/02/2012*  No, message in the voice mail  Answer email: 21/03/2012*
21	Abigail Ovando Vides	Asistente del Representante (Oficina México)	AOvando@oas.org	19/02/2012  <b>Call date:</b> 14/03/2012 15/30/2012 16/03/2012 19/03/2012 20/03/2012	No  No, message in the voice mail
22	Antonio Aranibar Q.	Representante de la OEA en México	OASMexico@oas.org AAranibar@oas.org	15/03/2012 20/03/2012  <b>Call date:</b> 14/03/2012, 15/03/2012 16/03/2012 19/03/2012 20/03/2012	15/03/2012* 20/03/2012*  No, message in the voice mail
23	Yadira Soto	Senior Advisor - Assistant Secretary General Coordinator of the Offices of the General Secretariat in the Member states	YSOTO@oas.org		No

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

24		Oficina de Guatemala Tel. (502)2332-3400 Avenida Las Américas 21-24, Zona 13 Ciudad de Guatemala, Guatemala PBX. (502) 2332-3400 Fax. (502) 2334-1880	OASGuatemala@oas.org MMartineztc@oas.org	15/03/2012	Yes- provided another contact information  15/03/2012*
25	Mr. Gerald Anderson	Secretariat for Administration and Finance	GAnderson@oas.org	22/02/2012	No
26	Alfonso Quiñonez	Secretary for External Relations	AQuinonez@oas.org	22/02/2012	No
27	Ms. Maria Antonieta Gaxiola	Director of Human Resources	TGaxiola@oas.org	22/02/2012	No
28	Mercedes Carrillo	Secretariat of the Administrative Tribunal	mcarrillo@oas.org	<b>Call date:</b>  19/03/2012 20/03/2012	27/02/2012*  Pending this week- No further answer to the emails  No, message in the voice mail
29	Henry C. Jova	Representante de la OEA en Costa Rica	oascostarica@oas.org	<b>Call date:</b>  19/03/2012	Yes- provided another contact information.
30	María del Carmen Palau	Department of Effective Public Management	mpalau@oas.org	29.03.2012 00:16:48	Yes, requested an extension of the deadline, in order to send the questionnaire. (in English)
31	María del Carmen Palau	Department of Effective Public Management	mpalau@oas.org	29.03.2012 20:30:25	Yes, requested an extension of the deadline, in order to send the questionnaire. (Spanish)

\*Please refer to Annex 6 in regarding all the emails received and our latest response.

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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## ANNEX 5

### PROJECT TITLE

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Integrity of International Organizations

Assessment of integrity system of Organization of American States

DEAR PARTICIPANT,

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The main purpose of this questionnaire is to validate the analysis that has been done based on a desk review of publicly available information, by information provided from interviews with internal staff and experts.

The Organization of American States, represents the world's oldest regional organization and an agency within the United Nations, which was formally adopted in 1948, through the signing of its charter in Bogotá, Colombia. The OAS, headquartered in Washington, D.C., has been the first supranational organization governing the affairs of America, fostering the promotion and protection of democracy, anti-corruption mechanisms, human rights, health care improvement, regional development and cooperation along with the pursue of collective security and defense. It has become one of the most important for the Western Hemisphere, given the fact that all the 35 countries of the American continent have ratified the OAS Charter and presently are members of the organization.

The assessment of its integrity results of relevance due to its role as a global player with the capacity to influence political, social and economic policies not only in its member states but also worldwide. In this regard, an assessment of its internal policies and practices in promotion of ethical standards and integral behavior must be done.

Please be assured that all given information will be treated as confidential, you will not be identified and it will not be used for any other purposes. All results from this questionnaire will be solely reported as a validation of the conclusions of our analysis for the course of Integrity of International Organizations (PG-05).

We thank you in advance for your honesty and your invested time answering this questionnaire.

Sincerely,

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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Paulina Coronel paulina\_graciela.coronel\_arias@stud.uni-erfurt.de  
María Isabel Díaz maria\_isabel.diaz\_hernandez@stud.uni-erfurt.de  
Dayan Farías dayan\_lizzette.farias\_picon@stud.uni-erfurt.de

## INSTRUCTIONS

Fill in the following information by marking with a cross, or your answer respectively.

### PREVENTION

1. How often is the statement of Loyalty and of Ethics of Conduct and Conflicts of Interest reviewed and confirmed by the general staff?

- a. Are reports available regarding this practice that register a control about how many employees and from which department had actively participated in this supposedly periodical revalidation of the loyalty statement? (Please explain).

Yes ☐ No ☐

2. Are the "Spot Checks" conducted regularly within the Departments?

- a. Are there any reports about these mechanisms within or among the Departments? (Please explain).

Yes ☐ No ☐

3. Do the employees receive training regarding expected ethical behavior?

Yes ☐ No ☐

If your answer is yes, please mention how often or if it is just an initial training before assuming their job positions.

- a. 4. Are periodical evaluations and revision of the OIG done by program or department? (Please explain).

Yes ☐ No ☐

### THE CODE OF ETHICS PROPOSAL

5. Has the Code of Ethics proposal (dated from March 2011) already been approved?

Yes ☐ No ☐

If your answer is yes, under which executive order?

6. Why has it been proposed?



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- a. Why has it taken so long for the OAS to create and promote a Code of Ethics?
  - b. Has OAS registered numerous problems regarding ethical conducts and misbehavior of the staff?
7. What gaps in the current framework is it trying to address?
8. What are the key areas of resistance to it (internally by staff and member states)?
9. Is there a second draft that isn't available on the internet?

## INFORMATION DISCLOSURE:

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10. Does the OAS have an information disclosure policy?
11. What type of information is considered "confidential" and "non-confidential"?

## AUDITING

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12. Why are not there more up-to-date annual and activity reports available online?
13. Is it the audit function truly independent or has it ever suffered any interventions from other organization's departments? (Please explain).  
Yes ☐ No ☐
14. Does the OIG counts on sufficient human resources to perform its functions or does it work over its capacity? Approximately how much work load does every staff member has? (Please explain).  
Yes ☐ No ☐
15. In terms of financial resources, the annual audit report from year 2009 clearly states that the autonomy of the office has been undermined due to the lack of adequate resources. Could you mention some concrete examples that portray this situation?
16. Are there any evaluations of the audit function performed? If so, how often?
17. It is provided that the recommendations issued by the Inspector General in his audit reports, inspections and investigations are mandatory for the staff members of the General Secretariat, after they are approved by the Secretary General. How does it work this approval process? How long is it? And, In terms of recommendations issued directly to the performance of the General Secretariat/Secretary General are they receptive to these? Has there ever been a clash of interests due to this? If so, please provide an example.

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## DETECTION

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18. Are there any legal provisions requiring the organization to train managers on recognizing red flags? (Please explain).

Yes ☐ No ☐

Are there trainings for senior staff on recognizing red flags? (Please explain).

Yes ☐ No ☐

19. Was the training on the Code of Ethics Proposal ever done?

## COMPLAINT MECHANISMS & WHISTLEBLOWING

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20. Do provisions related to Whistleblowing (protection, retaliation, etc.) only apply for staff members or also for non-staff?

21. Is all the information available in the General Secretariat's Columbus Library also available at the Offices of the Secretariat of the Administrative Tribunal through the Website? (Please explain).

Yes ☐ No ☐

22. Does the organization have complaint mechanisms? (Please explain).

Yes ☐ No ☐

If your answer is yes, the provisions related to Administrative Tribunal and its complaints mechanisms apply only for staff members or also to non-staff?

23. Is there a consolidated and publically available complaints mechanism guideline? (Please explain).

Yes ☐ No ☐

If your answer is yes, do employees and citizens have some access and/or orientation regarding this mechanisms?

24. Are there any legal provisions requiring the organization to have an access-to-public complaint mechanisms? (If your answer is yes, please let us know which ones)

Yes ☐ No ☐

- a. Why is the Secretary General responsible for the publication of the collections of judgments issued by the OAS Administrative Tribunal?

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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25. Could you please mention where the disclosure of information regarding complaint mechanisms is regulated/stipulated at all levels (i.e. Department of Human Resources, OIG, and other instances)?

26. Is there information regarding the transparency of the procedures conducted by the Department of Human Resources? (Please explain).

Yes ☐ No ☐

27. Is the Administrative Tribunal an independent organ?

Yes ☐ No ☐

a. Can you briefly give some reasons?

28. What happened with the legal department and the requirements created by the staff association regarding the administrative (and financial) independence of the OAS Administrative Tribunal and the separation of its secretariat from the GS's Department of Legal Affairs and Services?

29. Are there any examples of good practices that can be drawn on here to discuss whether the scope of **complaint mechanisms** is adequate or if it should be extended? (Please explain).

Yes ☐ No ☐

30. Are there any examples of good practices that can be drawn on here to discuss whether the scope of **hotline** policy is adequate or if it should be extended? (Please explain).

Yes ☐ No ☐

31. Do you know the reasons why no complaints were filed during 2010? (Please provide some).

a. Do you consider that this reflects positively on the image of the organization or are there others attributable causes for this phenomenon?

32. How does the complaints mechanism look like in practice when considering the following:

- a. Complaint filing system (such as hotline, complaint boxes and online systems);
- b. Publically available complaints mechanism guidelines;
- c. Units and individuals handling complaints;
- d. Monitoring the complaint process; (e.g. consolidated reports for long-term)
- e. What units and individuals are responsible for monitoring the complaint process conducted by the Administrative Tribunal?
- f. Independence of units and individuals handling the complaints; and
- g. Accessibility to data related to the outcome of the complaints.

33. How are the policies conducted to report fraud and sanctions, concerning the publication of the Administrative Tribunal and the External Auditors reports?

34. In view of the fact that the Board of External Auditors and the OIG have underlined their concerns regarding the control and weaknesses in such areas as petty cash, cash receipts,

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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purchases, vehicle use, and expenses; could you please explain if the lack of information concerning publication of pertaining cases has to do with implementation problems?

35. Is there solid evidence of implementation practices conducted by the Board of External Auditors and the OIG? (Please explain).

Yes ☐ No ☐

- a. How have they been successful or unsuccessful while dealing with the major weaknesses in the system, such as petty cash, cash receipts, purchases, vehicle use, and expenses?
- b. Have the aforementioned problems decreased or increased?
- c. Can it be a direct consequence of the recommendations lead by these two responsible institutional bodies (the Board of External Auditors and the OIG)?

36. Do you consider that the Staff Association of General Secretariat, which is authorized to be heard in a particular case before the Administrative Tribunal works as a monitoring mechanism? (Please explain).

Yes ☐ No ☐

If your answer is yes, could you please mention if there is any evidence of this?

## INVESTIGATION

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37. Are there any legal provisions requiring the organization to have an investigation mechanism?

Yes ☐ No ☐

If your answer is yes, could you please mention them?

38. Is there available information relating to auditing reports regarding the investigators' independence? (Please explain).

Yes ☐ No ☐

39. Are the investigators independent? (Please explain).

Yes ☐ No ☐

40. Why is the OIG budget not independent from the Secretary General?

- a. Does OIG have budgetary independence? (Please explain).
- b. Is there an item in the OIG's budget attributed? If yes, since when and could you please supply the legal documents that support this?

41. Is there online access to the Standards for the Professional Practice of Internal Auditing approved by the Institute of Internal Auditors?

Yes ☐ No ☐

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If your answer is yes, please let us know how.

42. Is there any document containing information related to training done by the OIG staff, particularly regarding investigation proceedings? (Please explain).

Yes ☐ No ☐

43. Are the investigation results published?

Yes ☐ No ☐

If your answer is yes, please let us know how

44. Is there any legal obligation requiring the OIG staff to go through regular training?

Yes ☐ No ☐

If your answer is yes, please mention the regulations

a. Do they have adequate resources for doing this? (Please explain).

Yes ☐ No ☐

## SANCTIONS

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45. Is there a legal document that rules OAS internal policy in the fight against corruption and establishing sanctions?

Yes ☐ No ☐

If your answer is yes, please mention the regulations

46. Do the sanctions only relate to OAS staff?

Yes ☐ No ☐

a. What about third parties and contractors?

47. Are the imposed sanctions publicized?

Yes ☐ No ☐

If your answer is yes, please let us know how

b. Is there any legal provision that Disciplinary Committee documents and disciplinary measures have an obligation to publicize the imposed sanctions concerning corruption and fraud cases? (Please explain).

48. Does the organization cooperate with authorities for the prosecution of individuals? (Under a legal procedure)

Yes ☐ No ☐

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If your answer is yes, please mention the regulations and does it comply with what exists in other organizations in terms of good practices.

49. Serious misconduct acts can be qualified as corruption, ergo the sanctions pertaining to them? (Please explain).

## CROSS-DEBARMENT POLICIES

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50. Does the organization have a cross-debarment policy (please describe the provisions/mechanisms and name the responsible bodies)?

Yes ☐ No ☐

51. Is the organization part of any cross-debarment agreements with other organizations/institutions?

Yes ☐ No ☐

If your answer is yes, please mention the regulations

52. Are the names of the cross-debarred individuals/firms publicized?

Yes ☐ No ☐

If your answer is yes, please let us know how

53. Are the bodies independent? (Please explain)

Yes ☐ No ☐

54. Does the organization evaluate the impact/outcome of such policies? (Please describe)

Yes ☐ No ☐

WE THANK YOU AGAIN FOR YOUR COOPERATION.

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# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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## ANNEX 6

**De:** "Sanin, Jorge" <JSanin@oas.org>  
**Date:** 19 févr. 2012 17:42:28  
**Objet:** University of Erfurt - Willy Brandt School of Public Policy | OAS questionnaire  
**À:** Dayan Lizzette Farias Picon <dayan\_lizzette.farias\_picon@uni-erfurt.de>  
**Cc:** "Anderson, Gerald" <GAnderson@oas.org>, Quiñonez, Alfonso <AQuinonez@oas.org>, "Gaxiola, Tony" <TGaxiola@oas.org>, paulina\_graciela.coronel\_arias@uni-erfurt.de, maria\_isabel.diaz\_hernandez@uni-erfurt.de

Many thanks for your interest in the Organization of American States (OAS).

We have done a preliminary review of this document and as you may understand, it requires the input from multiple Departments of the OAS General Secretariat, including the Department of Human Resources, Legal Services, Financial Services and the Administrative Tribunal, making it almost impossible to be filled out before the deadline of February 24, 2012.

I kindly suggest that you submit this questionnaire to the Secretariat for Administration and Finance (Mr. Gerald Anderson, Secretary for Administration and Finance) and to the Department of Human Resources (Ms. Maria Antonieta Gaxiola, Director of Human Resources), whom I am copying on this email. As you may understand, the complexity of these questions is beyond the scope of the Department of International Affairs' work.

Please see the following links in order for you to advance in your research:

Staff Rules: [http://www.oas.org/legal/english/STAFF\\_RULES/rulesindex.htm](http://www.oas.org/legal/english/STAFF_RULES/rulesindex.htm)  
General Standards to Govern the Operations of the General Secretariat of the Organization of American States: <http://www.oas.org/legal/english/Standards/GenStIndex.htm>  
Executive Order No. 05-8 Corr. 1: Protection for Whistleblowers, Informants and Witnesses: <http://www.oas.org/legal/english/gensec/EXOR0508CORR1.pdf>

Best regards,  
Jorge Sanín  
Director  
Department of International Affairs | Secretariat for External Relations  
Organization of American States  
1889 F St. N.W., Washington, D.C. 20006  
T. 202-458-6072 | 202-458-6905 | C. 202-286-1644 | F. 202-458-6319  
jsanin@oas.org  
www.oas.org

**De:** "Carrillo, Mercedes" <MCarrillo@oas.org>  
**Date:** 27 févr. 2012 17:39:55  
**Objet:** RE: Kindly request, OAS questionnaire  
**À:** paulina\_graciela.coronel\_arias@uni-erfurt.de, maria\_isabel.diaz\_hernandez@uni-erfurt.de, dayan\_lizzette.farias\_picon@uni-erfurt.de

Estimadas Buenos días,

Las semanas anteriores el Tribunal estuvo en reuniones por lo que no fue posible atender este requerimiento antes del día 24. Si les parece conveniente podríamos transmitir el cuestionario esta semana.

Atentos saludos,  
Mercedes Carrillo  
Secretariat of the Administrative Tribunal/  
Department of Social Development and Employment  
Executive Secretariat for Integral Development, SEDI

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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Organization of American States  
1889 F St., NW, Washington D.C. 20006  
T. 202-458-3418  
F. 202-458-3307  
mcarrillo@oas.org  
[www.oas.org](http://www.oas.org)

**De:** "Romero, Lili" <LRomero@oas.org>  
**Date:** 14 mars 2012 17:24:58  
**Objet:** RE: Kind reminder, OAS questionnaire  
**À:** Dayan Lizzette Farias Picon <dayan\_lizzette.farias\_picon@uni-erfurt.de>  
**Cc:** paulina\_graciela.coronel\_arias@uni-erfurt.de, "Navarro, Ileana" <INavarro@oas.org>

Dear Ms. Farias Picon,

Please be advised that your request was forwarded to the Office of the Secretary for Administration and Finance. I am copying Ms. Ileana Navarro, who is the point of contact assigned to this task.

Sincerely,  
Lili M. Romero-DeSimone  
Director  
Office of Procurement Services  
Secretariat for Administration and Finance  
Organization of American States  
1889 F St. N.W. Washington, D.C. 20006  
T. 202.458.6171  
F. 202.458.6401  
lromero@oas.org  
[www.oas.org](http://www.oas.org)

**De:** "Aranibar, Antonio" <AAranibar@oas.org>  
**Date:** 15 mars 2012 18:15:05  
**Objet:** RE: Cuestionario sobre OEA  
**À:** Paulina Graciela Coronel Arias <paulina\_graciela.coronel\_arias@uni-erfurt.de>

De mi mayor consideración:

Acuso recibo de su correo electrónico haciéndole notar que el adjunto que Ud. me envía no contiene cuestionario alguno sino una nueva carta sin destinatario preciso reiterando el pedido de este correo. En esas condiciones no me es posible señalarle con claridad si puedo o no cooperar con Ud. en la investigación que junto a otras compañeras suyas están efectuando. Esperaría ese cuestionario para ver si puedo y de qué modo responder a sus inquietudes.

Lamento que hayan tenido tantas dificultades en contactarme. Espero que las mismas no se repitan hacia delante.

Cordialmente.  
Antonio Aranibar Q.  
Representante de la OEA en México

**De:** OAS Guatemala <OASGuatemala@oas.org>  
**Date:** 15 mars 2012 21:25:38  
**Objet:** RE: Cuestionario sobre OEA  
**À:** Paulina Graciela Coronel Arias <paulina\_graciela.coronel\_arias@uni-erfurt.de>

Estimada Sra. Graciela,

Espero que se encuentre bien, en respuesta a su correo puede escribirle a la Sra. Patricia Esquenazi a la siguiente dirección: AEsquenazi@oas.org

Cordial Saludo.

Oficina de la SG/OEA en Guatemala  
Organización de los Estados Americanos  
Avenida Las Américas 21-24, Zona 13

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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Ciudad de Guatemala, Guatemala  
PBX. (502) 2332-3400  
Fax. (502) 2334-1880  
oasguatemala@oas.org  
www.oas.org

**From:** Aranibar, Antonio <AAranibar@oas.org>  
**Date:** 2012/3/20  
**Subject:** RE: Documento cuestionario OAS  
**To:** Paulina Coronel <paulinacoronel@gmail.com>  
**Cc:** Marissa Díaz <marissa.dzh@gmail.com>, Dayan Lizzette Farias Picon <dalifarias@gmail.com>

Estimada Srta. Coronel:

Disculpe que ya no le haya dado señales de vida. Lamentablemente su nuevo envío resultó igualmente inaccesible para mi por alguna extraña razón que no alcanzo a entender. Ya no tuve tiempo de decírselo. Adicionalmente, su pedido relativo al tema del Código de Ética no se lo puedo responder porque no tengo noticias directas acerca del estado de su consideración y/o aprobación. Lo mas lógico es que Ud. acuda a alguien de la oficina central de Washington o bien del Departamento de Recursos Humanos o, mejor aún, de la Asociación del Personal de la OEA. Supongo que para cualquiera de ambos Ud. puede recurrir a la página web para obtener sus direcciones y/o teléfonos.

Con mis mejores deseos para la búsqueda en la que está empeñada y ´para el trabajo que viene realizando reciba Ud. un cordial saludo de mi parte.

Antonio Aranibar Q.  
Representante OEA en México  
Telf: (5255) 5280.1208 ; 5280.1498 ; 5280.1147  
Av. Presidente Mazarick No. 526, 1er Piso (Edificio SEP)  
Colonia Polanco  
11560; México D.F.

**De:** "Sanin, Jorge" <JSanin@oas.org>  
**Date:** 21 mars 2012 22:33:26  
**Objet:** University of Erfurt - Willy Brandt School of Public Policy | OAS questionnaire  
**À:** Maria Isabel Diaz Hernandez <maria\_isabel.diaz\_hernandez@uni-erfurt.de>, Dayan Lizzette Farias Picon <dayan\_lizzette.farias\_picon@uni-erfurt.de>  
**Cc:** "Anderson, Gerald" <GAnderson@oas.org>, Quiñonez, Alfonso <AQuinonez@oas.org>, "Gaxiola, Tony" <TGaxiola@oas.org>, paulina\_graciela.coronel\_arias@uni-erfurt.de

Dear Maria Isabel,

We would like to inform you that we are currently collecting the information available from the different Departments at the OAS General Secretariat to complete the questionnaire you sent us. We hope to share it with you no later than next week. Please feel free to contact us should you need further assistance.

Best regards,  
Jorge Sanín  
Director  
Department of International Affairs | Secretariat for External Relations  
Organization of American States  
1889 F St. N.W., Washington, D.C. 20006  
T. 202-458-6072 | 202-458-6905 | C. 202-286-1644 | F. 202-458-6319  
jsanin@oas.org  
www.oas.org

Von: DMEG Guia Transparencia <GuiaTransparencia@oas.org>  
Datum: 29.03.2012 00:16:48  
Betreff: RE: Kind reminder, OAS questionnaire  
An: Dayan Lizzette Farias Picon <dayan\_lizzette.farias\_picon@uni-erfurt.de>

Dear Ms. Farías, I sincerely apologize for not answering your request until now. We are aware of the importance of the study you are developing. For that reason, we would like to request an extension of the deadline for completing our responses until mid April.

I would appreciate your positive response to our request.

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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Best regards,

María del Carmen Palau  
Department of Effective Public Management  
Organization of American States  
1889 F Street, Washington D.C. 20006 suite 655  
T. 1 202.458.3558  
F. 1 202.458.6250  
mpalau@oas.org  
www.oas.org

Von: DMEG Guia Transparencia <GuiaTransparencia@oas.org>  
Datum: 29.03.2012 20:30:25  
Betreff: RE: Kind reminder, OAS questionnaire  
An: Dayan Lizzette Farias Picon <dayan\_lizzette.farias\_picon@uni-erfurt.de>, DMEG Guia Transparencia <GuiaTransparencia@oas.org>  
Cc: paulina\_graciela.coronel\_arias@uni-erfurt.de

Estimadas señoras, el día de ayer hemos solicitado la extensión del plazo para responder al cuestionario enviado por ustedes. Agradecería confirmar si esto es posible, con el fin de iniciar el trabajo, para cuya realización se ha designado un pequeño grupo de personas.

Un cordial saludo,

María del Carmen Palau  
Department of Effective Public Management  
Organization of American States  
1889 F Street, Washington D.C. 20006 suite 655  
T. 1 202.458.3558  
F. 1 202.458.6250  
mpalau@oas.org  
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> From: Dayan Lizzette Farias Picon <dayan\_lizzette.farias\_picon@uni-erfurt.de>  
> Date: April 25, 2012, 2:52:10 PM GMT+02:00  
> To: DMEG Guia Transparencia <GuiaTransparencia@oas.org>  
> Cc: paulina\_graciela.coronel\_arias@uni-erfurt.de, maria\_isabel.diaz\_hernandez@uni-erfurt.de  
> Subject: RE: Kind reminder, OAS questionnaire  
>  
> Estimada Sra. Palau,  
>  
> Muchas gracias por su colaboracion y respuesta, por favor disculpe mi tardanza en contestar pero no había tenido acceso al mail de la universidad .  
>  
> Agradeceríamos atentamente, si nos pudieran colaborar con nuestro cuestionario, y así poder comparar nuestras conclusiones con las de ustedes. Igualmente, estaríamos dispuestas, una vez se haya hecho la respectiva validación de la información, a ofrecer nuestra versión final, si es de ayuda para ustedes o en caso de que esta pueda ser publicada en alguna página web o cualquier publicación. Muchas Gracias nuevamente por su colaboración.  
>  
> Quedamos atentas a su respuesta  
>  
> Cordialmente,  
>  
>  
> Paulina Coronel  
> María Isabel Díaz  
> Dayan Farías

# INTEGRITY SYSTEM OF ORGANIZATION OF AMERICAN STATES

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## ENDNOTES

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<sup>1</sup> The Chapter entered into force on December 13, 1951. This has been amended by four protocols: the Protocol of Buenos Aires (1967), the Protocol of Cartagena de Indias (1985), the Protocol of Washington (1992) and the Protocol of Managua (1993). (OAS, 2012)

<sup>2</sup> On June 3, 2009, the Ministers of Foreign Affairs of the Americas adopted resolution AG/RES. 2438 (XXXIX-O/09). The former document resolves the cease of effect of the 1962 resolution, which excluded the Government of Cuba from its participation in the OAS. Additionally, the 2009 resolution determines that the participation of Cuba in the OAS will be the result of a process of dialogue initiated at the request of the Cuban Government, and in accordance with the practices, purposes, and principles of the OAS.

<sup>3</sup> He resigned one year before he was going to finish his second term as General Secretary due to corruption charges because he was accused of receive money (bribe) from Haitian government with aims to promote a better image during the dictatorship (Arrieta, 2004) .

<sup>4</sup> He was force to resign due to allegedly accusations of corruption. (Arrieta, 2004)

<sup>5</sup> Several scandals and administrative failures about the OAS that encompass mainly unjustified expenses were published. This information is compiled in the reports from the OIG and the SG/OAS and appeared as *"ineficiencias...structural problems, old settled traditional practices and the same culture inside the administrative system"*. These dubious practices involved several departments: Scholarships, Human Rights and Building Administration. (Gómez, 2005).

<sup>6</sup> Please refer to endnote no. 2, resolution AG/RES. 2438 (XXXIX-O/09) and OAS website "members states" section.

<sup>7</sup> OAS CHARTER, arts 55, 56, 57, 58, 59 and Rules of Procedure of General Assembly, Chapter IX

<sup>8</sup> Please refer to the Annexes 2 and 3 – OAS Organigrams

<sup>9</sup> This Program-Budget must be based upon a fiscal year calendar basis, running from January 1st to December 31 and therefore it varies (both in quantity and in program distribution, although there is an annual recommended ceiling on the Budget). It is comprised with different income sources, - funds Regular Funds refers to obligatory quotas paid annually by member states, pledges, and other Contributions; Voluntary Funds- they are not compulsory and differ in quantity and nature of sources (donors); Specific Funds- formed by "special contributions and/or payments received for services performed in relation to the projects and activities of the General Secretariat", which has to be submitted in advance and requires approval of the General Assembly.

<sup>10</sup> Referring to travel, equipment, buildings, contracts, documents, personnel, and others.

<sup>11</sup> The OAS/Secretary General José Manuel Insulza responded to a letter from President Pastrana in which the latter ask him to pronounce himself about the consequences that had the apparent increase in the number of demobilized from illegally armed groups during the government of former President Alvaro Uribe. In response, Insulza explained the activities of the Mission since its inception in November 2004 and clarified that the information allegedly provided to the then head of the OAS/MAPP by the former minister of the Interior, Sabas Pretelt, "was not known to my person". Similarly, the OAS/SG stated that he did not receive any information about the conversation between the Chief of Mission and U.S. Ambassador, to which Pastrana referred to based on a revelation of a WikiLeaks cable. Finally, he indicates that Caramagna, left the head of the mission in late 2008 and retired from the Organization. In the WikiLeaks cable, dated June 28, 2006 the head of the OAS in Colombia, Sergio Caramagna, told the U.S. ambassador that there was a disparity in the numbers of demobilized and that that information was told to him by the former minister Pretelt (Semana.com, 2009).

<sup>12</sup> The Agricultural Income Security Program (AIS) was conceived to protect small farmers from the effects of the Free Trade Agreement (FTA) between Colombia and the United States. To design and implement the program, the Government of Colombia and IICA signed four cooperation agreements in science and technology. The IICA is an organ of the OAS and, therefore, its personnel have diplomatic immunity, putting it beyond the reach of the Colombian Public Attorney's Office (Elespectador.com, 2010).

<sup>13</sup> Please refer to the document "Code of Ethics for the General Secretariat of the Organization of American States", available at <http://www.oas.org/legal/spanish/gensec/EXOR1203.htm>

<sup>14</sup> Chapter III: Personnel-Subchapter B: Status and Obligations of all Staff Members and Limitations on their Activities; Subchapter G: Discipline... Chapter X: Standards on Real or Apparent Conflicts of Interest applicable to the Secretary General, the Assistant Secretary General, and other staff Members of the General Secretariat- Article 131

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<sup>15</sup> Chapter 1: Obligations and Rights, Rule 101.3 “Financial Responsibility”, Rule 101.4 “Outside Activities and Interests”; Chapter XI: Discipline, Rule 111.1 Disciplinary Measures;

<sup>16</sup> Chapter IV: Delegation of Authority, Responsibility and Accountability-IV.2, Chapter XVI: Conflicts of Interest, Executive Orders here included, Administrative Memorandum No, 86 Rev.1 Obligation Review Guidelines

<sup>17</sup> Subject: *“Observance of the General Standards, and Administrative, Budgetary, and Financial Rules governing the operations of the general Secretariat of the Secretary General”*.

<sup>18</sup> The New Code does not explicitly supersede the AM No. 58, considering that Section I. Overview, Subsection C states *“If there is ambiguity between the summary of a requirement contained in the Code and the text of a provision of Internal Law that is the source of the summary, then the text of the source provision shall apply. Nonetheless, in the event of any inconsistency between the Code and Administrative Memorandum No. 58, Rev. 1, Policies with Respect to Ethics of Conduct and Conflicts of Interest”*. In addition, it cannot be claimed that it has been impliedly superseded because it has been quoted in the New Code of Ethics as a reference several times. E.g. Section I subsection E; Section II, Subsection E; Section III, Subsection F; Section IV, subsection A; Section V, subsection A, etc.

<sup>19</sup> General Standards: Chapter III “Personnel” Article 35 and Staff Rules: Rule 101.7. Code of Ethics, Section III, Subsection B: “Loyalty Oath” and Section V, letter H: “Disclosing Conflicts”.

<sup>20</sup> *“I solemnly undertake to perform loyally, discreetly, and conscientiously my duties as a member of the international staff serving the General Secretariat; to conduct myself in accordance with the interests of the Organization of American States; neither to seek nor to accept instructions regarding my duties and obligations as a staff member from any particular government or from any authority other than the General Secretariat; and, in all respects, to abide by the provisions of the Charter of the Organization of American States and to comply with the General Standards for the Functioning and Organization of the General Secretariat, and other pertinent provisions.”* Staff Rule 101.7.

<sup>21</sup> General Standards: Chapter VII, Article 116

<sup>22</sup> Executive Order 95-05 The Internal Audit Function Of The General Secretariat And The Office Of The Inspector Chapter III, Section B. General Objectives Of The Office.

<sup>23</sup> See annual reports from 2006 to 2009 “general information” section.

<sup>24</sup> Audit SG/OIG/AUDIT-01/06 was performed to assess the level of risk that may be associated with the proposed sharing of OAS technical infrastructure and connectivity through the signed Memorandum of Understanding between Educational Portal of the Americas and a third party and evaluate the OAS relationship with that supplier. By letter dated August 9, 2006 the Chief of Staff to the SG suspended the agreement with the third party thereby significantly reducing the inherent risk identified during the audit. The report concluded that there is need for an improved enterprise wide internal security architecture that includes implementation of Intrusion Detection Software and the possibility of encrypting all “sensitive data” stored in the OAS data repositories. The audit also identified the need for evaluating the skills of the personnel within the Department of Information and Technology Services (DOITS), including the Information Security Officer, to determine whether the current level of expertise within that area is sufficient to effectively carry out the required responsibilities. (Office of the Inspector General, 2006)

<sup>25</sup> Audit SG/OIG/AUDIT-01/07 was performed to assess the level of risk and control of the mentioned activities and the likelihood of risk factor occurrence at three levels – High, Moderate and Low. The conclusion was that there was need to address critical operational processes, such as: staff authorizations in OASES should be kept current; vendor approval process needs improvement, updating and accuracy.; reference of contracts to the DLS when they exceed the aggregate established levels; submission of Statements of Conflict of Interest should by all staff members as required in the Staff Rules, etc. (Office of the Inspector General, 2007) .

<sup>26</sup> Please refer to the annual reports from 2006 to 2009.

<sup>27</sup> Regarding the Policies with Respect to Ethics of Conduct and Conflicts of Interest.

<sup>28</sup> Code of Ethics for the GS/OAS Section IV “Responsibility for GS/OAS Assets”, Subsection B “Specific Assets”.

<sup>29</sup> Code of Ethics for the GS/OAS Section IX “Definitions”

<sup>30</sup> Please refer to the document entitled “GUIDELINES FOR THE COMPETITIVE BIDDING AND EVALUATION PROCESS FOR PURCHASES ABOVE \$50,000” available at: <http://www.oas.org/legal/english/gensec/EXOR-00-01-CORR1.htm>.

<sup>31</sup> Please refer to the document entitled “GUIDELINES FOR THE COMPETITIVE BIDDING AND EVALUATION PROCESS FOR PURCHASES ABOVE \$50,000” (Endnote 30)

<sup>32</sup> Please refer for instance the Annual Report of the OIG for the period January 1 to December 31, 2007.

<sup>33</sup> As of 22 March 2012 a Code of ethics proposal was prepared by the DRH for consideration to be issued by Executive Order. It is also important to mention that there was an earlier effort to codify ethical conduct in the organization on 31 March 2011 a draft code was presented.. But once again the process of change and approval in between was long.



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<sup>34</sup> The AM NO. 58 REV. 1 is enlisted by the DLS as superseded. In spite of this, it is quoted in the new Code of Ethics as a reference and there is no Executive Order which mentions its derogation. Indeed, the Code in its section I "Overview", Subsection C "Relationship of the Code to Other Internal Law" establishes that in any case of inconsistency between the Code and the AM No. 58, Rev. 1, the Code prevails. (Please refer to the endnote 18)

<sup>35</sup> Please refer to the Integrity Policies Section

<sup>36</sup> Please refer to the Compliance with Rule and Regulations section of Memorandum No. 58 Rev. 1., to see how it was operating before of being "superseded". (Please refer to the endnote 18 and 34)

<sup>37</sup> It mandates that the Board *"shall examine the accounts of the General Secretariat in accordance with resolutions AG/RES. 123 (III-O/73), adopted by the General Assembly on April 14, 1973, and CP/RES. 124 (164/75), adopted by the Permanent Council on June 30, 1975; and the RULES OF PROCEDURE OF THE BOARD (RPB), and approved on June 30, 1976"*.

<sup>38</sup> Please refer to "independence section" of annual reports from 2006 to 2009.

<sup>39</sup> Response from the OIG to the note from the Chair of the Working Group to review the proposed program-budget for 2012 CAAP/GT/PPP-33/11" question 6 "personnel resources" available at: <http://scm.oas.org/pdfs/2011/CP27047E.pdf>

<sup>40</sup> Financial irregularities were reported, and as a result of auditing, the Administrative Technician (EO6924) resigned on July 31, 2009 and the contract of the Office Director (EO3971), which expired on March 31, 2010, was not renewed. A new Administrative Technician and a new Director were appointed on October 15, 2009 and April 1, 2010, respectively. This investigation was undertaken following receipt of Memorandum SG/SAP-DECO-1859/08 in which the OIG received complaints of serious allegations of financial irregularities that were submitted by OAS personnel and performance contractors, regarding requests from the Administrative Technician of the GS/OAS Bolivia (EO6924) for kickbacks from local suppliers or other kinds of "benefits" in return to do business with the GS/OAS Bolivia Office, its projects and Electoral Observation Missions. The allegations also indicated that EO6924 intentionally withheld or delayed payments to demand a payment from a supplier (OIG Annual Report For The Period January 1 To December 31, 2009).

<sup>41</sup> The reform of the STATUTE OAS/AT was adopted by the GA/OAS. (AG/RES. 2700 (XLII-O/12) at the second plenary session held on June 4, 2012. The intention of amend the STATUTE OAS/AT and the RULES OF PROCEDURE OAS/AT, is dated since the 53<sup>rd</sup> regular session (2005), where the members of the TRIBAD acknowledged the need to amend some provisions, considering reasons of procedural economy and swiftness, such as modernization of its procedures and the use of technology. The proposal was submitted through the Resolution 362 in November 2009, in order to be considered during the regular session of the GA/OAS. Subsequently, the AT, in their 58th period of sessions in November 2010, adopted Resolution 371, requesting the Committee on Administrative and Budgetary Affairs to make a new official decision concluding that the Draft Amendments of the Statute of the OAS AT are indeed free of budgetary, and finally, it was adopted in the forty-second regular session of the GA/OAS. Please refer to the TRIBAD annual report 2011, available at: <http://scm.oas.org/pdfs/2012/CP28046E.pdf> for more information. Furthermore, please note that in the official OAS/AT website there is no information available about the reform.

<sup>42</sup> Statute OAS/AT, Article II

<sup>43</sup> Statute OAS/AT Article II, Section 4

<sup>44</sup> Rules of Procedure OAS/AT, Chapter VII

<sup>45</sup> Rules of Procedure OAS/AT, chapter II, Article 4, Section 3

<sup>46</sup> Issued on April 14, 2005

<sup>47</sup> Staff Rule 101.11, Section B

<sup>48</sup> The OIG: Annual Report 2009 (pg 6 and 10). Please refer to [http://www.oas.org/en/oig/documents/Annual\\_Reports/2009/English/2009%20Annual%20Report%20-%20E.pdf](http://www.oas.org/en/oig/documents/Annual_Reports/2009/English/2009%20Annual%20Report%20-%20E.pdf)

<sup>49</sup> Statute OAS/AT, Article. I, Section II

<sup>50</sup> Rules of Procedure OAS/AT, Chapter VI, Article 26

<sup>51</sup> Executive Order No. 08-01 Rev. 5, Section 1 Subsection c. and Annex I, the autonomous and/or decentralized organs, agencies, entities, and dependencies Annex I, Section III, Subsection B

<sup>52</sup> Annex I, the autonomous and/or decentralized Section III, Subsection B, paragraph 2.

<sup>53</sup> Please note that the AT/OAS: Annual Report 2011 (pg 11) states that only one complaint was filed and judged. For more information please refer to the report available at <http://scm.oas.org/pdfs/2012/CP28046E.pdf>

<sup>54</sup> Rules of Procedure OAS/AT, Chapter XI, Article 52

<sup>55</sup> EO No. 05-8 Corr. 1, 2005, Section b, Subsection iii

<sup>56</sup> Please refer to the webpage: <http://www.oas.org/en/oig/hotline.asp>

<sup>57</sup> EO No. 05-8 Corr. 1, 2005 Section a), subsection viii, and Section d), Subsections i), ii) and iii)

<sup>58</sup> Statute OAS/AT Article VI

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<sup>59</sup> Section IV, Exceptions Subsection B.

<sup>60</sup> For more information please refer to the “Annual Report of the Secretary General 2010” available at: <http://scm.oas.org/pdfs/2011/AG05411E.pdf>

<sup>61</sup> For more information please refer to the “Administrative Tribunal of the Organization of American States: Annual Report 2010” available at: <http://scm.oas.org/pdfs/2011/TRIBAD/CP25755E.pdf>

<sup>62</sup> For more information please refer to the following sections: 1) OFFICE OF INSPECTOR GENERAL (Staff Rule 101.11 Protection for whistleblowers, informants and witnesses); and “PRACTICES – OIG”

<sup>63</sup> For more information please refer to the following sections: 1) OFFICE OF INSPECTOR GENERAL (Staff Rule 101.11 Protection for whistleblowers, informants and witnesses); and “PRACTICES – OIG”

<sup>64</sup> For more information on this case please go back to “AUDITING “ section

<sup>65</sup> Chapter XI Discipline, Rules 111.1 and 111.4 and Chapter I. Obligations and rights and Rule 101. 11

<sup>66</sup> Chapter III, purpose, authority, and responsibility of the office of the inspector general, Section B, Subsection 1; Section C, Subsections 1 and 2, and Section D, Subsection 19

<sup>67</sup> Executive Order 95-05, Chapter III, Section C, Subsection 4

<sup>68</sup> with resolution AG/RES. 1321 (XXV-O/95) and Article 119 of the General Standards

<sup>69</sup> Please refer to <http://www.oas.org/en/oig/activityreports.asp> and <http://www.oas.org/en/oig/annualreports.asp>

<sup>70</sup> The Report of the SG/OAS 2010 is available at <http://scm.oas.org/pdfs/2011/AG05411E.pdf>

<sup>71</sup> Please refer to former section titled TRAINING FOR EARLY PROBLEM DETECTION

<sup>72</sup> General Standards to Govern the Operations of the General Secretariat, Chapter III, Personnel; Subchapter G. Discipline, Separation from Service, Dispute Resolution, And Indemnities

<sup>73</sup> General Standards to Govern the Operations of the General Secretariat, Chapter III, Personnel; Subchapter G. Discipline, Separation from Service, Dispute Resolution, And Indemnities; Articles 54 and 56

<sup>74</sup> Chapter XI, Discipline

<sup>75</sup> BFR, Chapter IV, Delegation of Authority, Responsibility and Accountability; IV.2 Accountability for Delegated Authority, literal D

<sup>76</sup> Please refer to the Power point presentation available at <http://scm.oas.org/pdfs/2010/CP23653E.pdf>

<sup>77</sup> Staff Rules, Chapter XIII, General Provisions, Rule 113.5

<sup>78</sup> In this regard, the AM No. 58 Rev. 1 (which has been superseded); and Administrative Memorandum, 86 Rev. 1 Subject: Obligation Review Guidelines, states in its Section III ADDITIONAL DEFINITIONS AND GUIDELINES FOR OBLIGATIONS, Subsection 9 defines “*A fraudulent obligation is an obligation recorded or caused to be recorded by a staff member who knows or should have known, through the exercise of ordinary care, that the obligation was not supported by the corresponding appropriation or allotment. Any intentional or negligent conduct which leads to the recording of a fraudulent obligation constitutes misconduct punishable under Chapter XI of the Staff Rules*”

<sup>79</sup> BFR, Chapter IV, Delegation of Authority, Responsibility and Accountability, Section IV.2 Accountability for Delegated Authority, Subsection d), paragraphs v) and vii)

<sup>80</sup> General Standards, Chapter III, Personnel; Subchapter G. Discipline, Separation from Service, Dispute Resolution, And Indemnities Article 59; in the same line, the Chapter X, Standards on real or Apparent conflict of Interest Applicable to The Secretary General, the Assistant Secretary General, and The Other Staff Members, Article 141 establishes as penalties, “*failure to comply the provisions of paragraphs a), b), c) and d) of the preceding article shall be penalized in accordance with articles 54 through 56.*” (Articles of the Chapter III, Personnel; Subchapter G.)

<sup>81</sup> Staff Rule 110.5, Discharge for Serious Misconduct: Summary Dismissal, Section e

<sup>82</sup> BFR, Charter IX, Advisory Services, Auditing, And Fiscal Control, Article 128

<sup>83</sup> For more information please refer to <http://scm.oas.org/pdfs/2011/CP26200E.pdf>

<sup>84</sup> In this vein, the OAS undertook to outlaw cross-border bribery and the “illicit enrichment” of officials in the hemisphere. For instance in 1996, 21 member states of OAS signed the Caracas Convention, which undertakes collective measures concerning transnational bribery, illicit enrichment, and extradition. (Asian Development Bank, 2010), the Inter-American Convention against Corruption, Anti-Bribery Convention (1999), these among others

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