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நதித்துறைக்கான அனுசரணை திட்டம்  
Support to Justice Sector Project



# RAPID CAPACITY ASSESSMENT OF THE NATIONAL COMMISSION TO INVESTIGATE ALLEGATIONS OF BRIBERY OR CORRUPTION (CIABOC)

UNDP Sri Lanka

## **Disclaimer**

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All opinions and views expressed in this assessment are solely based on the observations, analysis, and insights derived from the assessment process and are reflective of the context within which the assessment was conducted.

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## I. Acronyms

ACA	Anti-corruption Act
ACC	Anti-corruption Commission
AG	Attorney General
CC	Constitutional Council
CIABOC	Commission to Investigate Allegations of Bribery or Corruption
DG	Director General of CIABOC
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
IMF	International Monetary Fund
MACC	Malaysian Anti-corruption Commission
NAP	National Anti-Corruption Policy
ToR	Terms of Reference
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime

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## II Executive Summary

Sri Lanka is undergoing the worst socio-economic crisis in its' recent history, which is reversing development gains achieved and threatens further economic decline. The root causes of the economic downturn include governance deficits that have left the country vulnerable to external shocks and exposed the economy to further vulnerabilities. The economic crisis has also been accompanied by a political crisis that continues to pose challenges for building and maintaining public trust in government.

The economic crisis and public protests that ensued catapulted the anti-corruption agenda and gave it significant momentum. At the centre of the government's intervention strategy is the new composite anti-corruption law, approved by Parliament in August 2023 and came into force on September 15, in line with the government's International Monetary Fund (IMF) reform commitments. The enactment of the new law requires government, businesses, and citizens to take urgent action to strengthen accountability, oversight and governance systems by expanding the mandate of CIABOC to investigate and prosecute several new offenses involving the private sector, conflicts of interest and foreign officials. It also introduces a range of new preventive mechanisms, including the declaration of conflicts of interest by public officials.

The IMF governance diagnostic report calls upon CIABOC (and other institutions within the anti-corruption eco-system) to be equipped and funded to implement the new Anti-corruption Act (ACA) and meet the public demands and expectations associated with the anti-corruption agenda. While the ACA contained a commencement clause of 18 months, the government proceeded to operationalize the ACA from September 2023. This has necessitated an accelerated approach to enhancing CIABOC's capacity.

Whilst the new ACA provides broad authority to CIABOC to pursue and criminalize corruption at all levels working in coordination with other government institutions in the anti-corruption eco-system as well as civil society, media, private sector, and the public, the implementation of the ACA will require foremost political will as well as adequate financial and human resources. The public remains skeptical about the government's genuine commitment to eradication of corruption. The Transparency International's perception index has not improved for Sri Lanka despite government efforts to re-energize the mandate of CIABOC. Input from the private and civil society stakeholders who met the mission team indicated that political leadership needs to demonstrate that their efforts in the anti-corruption front are genuine.

Strong political will alongside the provision of required resources to CIABOC would boost the confidence the public of institutions designed and set up for their services. One other method of showing commitment and regaining the public confidence, which was echoed at several stakeholder meetings, is the reduction of the backlog of cases at CIABOC and holding to account those responsible for corruption.

In this context, UNDP Sri Lanka supported CIABOC to conduct a rapid self-assessment enabling them to understand the institutional capacity gaps vis-à-vis the new composite anti-corruption

law. The assessment is intended to identify prioritized recommendations on required and potential support from donor agencies and related stakeholders.

The assessment was conducted through week-long consultations with all divisions of CIABOC, and validation with conversations/consultations with selected stakeholders in the anti-corruption ecosystem (methodology is detailed below. The questionnaire utilized to guide the conversation is attached).

The main requirements identified through the assessment are as follows, details of which will be discussed later in the report:

- Realignment of the commission structure to effectively undertake the new responsibilities recognized under the new law,
- Development of rules, regulations and guidelines envisaged under the ACA,
- Development of skills and capacity of staff (not limited to prosecutors) to implement new offences and responsibilities identified under the law,
- Development of case management system to streamline the efficiency of complaint handling,
- Development of the online asset declaration system,
- Enhancing intra agency collaborations and cooperation with other institutions in the anti-corruption eco system through formal institutionalization of the same,
- Strengthening the public communication through traditional and social media channels.

### III. Methodology

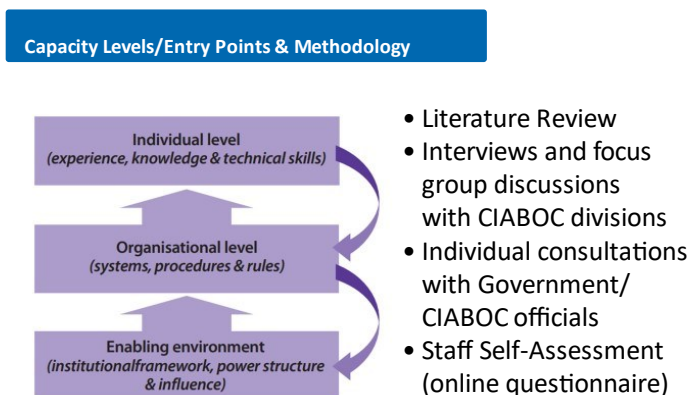
The mission team utilized the UNDP's Capacity Assessment of anti-corruption agencies<sup>1</sup> to guide the assessment process. The success of anti-corruption agencies has differed greatly from country to country and in many countries, and institutions established with great optimism failed to deliver. Experience soon revealed that the better resourced agencies tended to produce better results, whilst weaker anti-corruption agencies tended to be weak and less productive. Lack of/weaker political will is sometimes manifested by the allocation of limited resources, staff capacities and working conditions. UNDP therefore developed a guide to assist national anti-corruption agencies to discharge their mandates more effectively by carrying out capacity assessments of anti-corruption institutions and efforts.

The capacity assessment takes a rapid scan of the functional core capacities and technical capacities currently at CIABOC. The objective was to engage participants in reflecting on the new ACA of 2023 with a view to identifying the need for expanding the resources and skills and identifying options for modifying status quo.

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<sup>1</sup> UNDP Practitioners Guide: Capacity assessment of anti-corruption agencies UNDP, October 2011

The Assessment carried out by the UNDP team, examined CIABOC’s capacities at three levels including individual level (experience, knowledge, and technical skills), organizational level (systems, procedures and rules) and enabling environment (institutional framework, power structure and influence).



The mere existence of an ACC on its own is not a panacea for success. To effectively combat corruption, prevention needs to be adequately focused on as it is the foundation for creating sustainable solutions for transparency and accountability deficits. While most ACCs focus on enforcement, which cover

prosecution and investigation, they do not pay sufficient attention in terms of resource investment towards prevention. An effective prevention programme should deter corruption from occurring. Therefore, this capacity assessment placed extra emphasis on reviewing and assessing preventive mechanisms.

The Jakarta Principles on ACC stress that for ACC’s to be successful they need to be independent, permanent and with financial autonomy. Therefore, this capacity assessment explored CIABOC’s, as the lead anti-corruption agency in Sri Lanka, internal and external capacity to coordinate other institutions in the anti-corruption eco-system.

The tools utilized to obtain primary information included questionnaires, literature/desk review, focus group discussions and self-assessment. Three **questionnaires** were developed to guide the group consultations with senior officials and department heads, staff of all departments. A total of seven (7) **focus group discussions** were organized by UNDP with CIABOC departments, namely with the Secretariat, Prevention Unit, Legal Unit, Investigations Unit, IT unit, Internal Audit, Production Unit, and Administration and Finance Unit. Discussions were also conducted with the Director General, the Commissioners, and the Divisional Heads. The discussions provided a range of qualitative information on issues and capacity gaps. The responses were utilized to inform the recommendations provided in the report. Finally, an **online questionnaire** was distributed to CIABOC staff to capture both qualitative and quantitative information.

There were discussions with the members of key civil society organizations working on transparency and accountability issues and the private sector. Given the limited timeframe for carrying out the rapid assessment, the assessment included a **desk review** that utilized the assessment findings and reports prepared by several other relevant technical partners and inter-governmental bodies to examine and assess the status of CIABOC’s capacities and proposing recommendations.

#### IV. Brief Assessment of CIABOC's new mandate

The new Anti-corruption Bill was presented to the Parliament on 27<sup>th</sup> April 2023 and became operational on 15<sup>th</sup> September 2023 as ACA No 9 of 2023. This replaced the Bribery Act (Chapter 26), Commission to Investigate Allegations of Bribery or Corruption Act No. 19 of 1994, and Declaration of Assets and Liabilities Law No. 1 of 1975.

##### **Investigation and prosecution**

The ACA provides more authority and several new offences have been introduced, namely bribery in the private sector (section 106), failure to declare conflicts of interest (section 107), bribery of foreign officials (Section 105), trading in influence (Section 104) and offences relating to sporting events (section 108).

Regarding the private sector, the need for codes of conduct for prevention and eradication of bribery and corruption is identified. The private sector entities are required to develop proper conduct of business for the promotion of good commercial practices and to take measures to prevent corruption in contractual relations between the Government and private sector entities.

Offences relating to sporting events are covered in detail. The ACA states that any person who directly or indirectly accepts or agrees or accepts any gratification for the benefit of himself or another person in return for engaging in any act which undermines the integrity of any sporting event.

Whilst not a new offence to Sri Lanka, under the section 112, money laundering offences related to bribery and corruption can be prosecuted by the officers of the commission. Sexual favours have been expressly identified as gratification. Initially sexual bribery was prosecuted under the previous Act through implication and judicial interpretation.

Additionally, non-conviction-based forfeiture of assets (section 115), and protection of informers, whistleblowers, witnesses and other persons assisting the commission (Chapter V) are other new areas and responsibilities for CIABOC.

Chapter V further ensures that no disciplinary action shall be taken against whistle blowers and witnesses, for providing information. The provisions explicitly cover officials in both the public and private sectors.

Investigation and prosecution of offences is expected to be conducted holistically through inter-agency collaborations with local and international law enforcement agencies (discussed below).



## **Prevention**

Under the new ACA, strong emphasis has been made on prevention mechanisms. The new law allows the Commission to utilize anti - corruption networks and expertise outside of the Commission to enhance the fight against corruption. For instance, CIABOC is empowered to promote active participation of civil society, non-governmental and community-based organizations, in the prevention of and the fight against corruption to raise public awareness regarding the existence of, causes and gravity of and threats posed by corruption (section 39). Additionally, CIABOC can employ experts such as chartered accountants, forensic auditors, chartered engineers, surveyors, IT specialists. CIABOC is also empowered to enhance public awareness on corrupt conduct; including monitoring the implementation of anti-corruption policies, examination of laws, and to unearth acts of corruption (section 36).

Under (Part II) of the ACA, the Declaration of Assets and Liabilities, public officials are mandated to make periodic declarations of their assets and liabilities within and outside Sri Lanka, through the newly introduced centralized electronic system. It further expands the categories of officials for example, to include the President, armed forces, heads of diplomatic missions, private staff members of the Members of Parliament, etc.

## **Selection of the Commission members and DG, and structure of the Commission**

The appointment of the new CIABOC Commissioners, and Director General (DG) have several new important features including the qualifications and experience of the Commissioners (Section 4) and the DG (Section 18). The age limits of the two positions have also been revised.

Unlike previous Commissions, the current Commission has the authority to set up a separate fund (Section 31(3)). The fund will include the allocation from the Parliament, donations, administrative fines and compensation. The expenditure of the Commission in the exercise, discharge and performance of its powers and functions, will be charged to the fund.

## **Inter-Agency Cooperation**

One key feature of the new law is that it promotes inter-agency cooperation and international collaboration in preventing bribery and corruption as an objective of the Act. As per Section 2, CIABOC is mandated to promote inter-agency cooperation and international collaboration in preventing bribery and corruption and is required to give effect to obligations under the United Nations Convention against corruption and any other International Convention relating to the prevention of corruption to which Sri Lanka is a party and recognize international standards and best practices in order to establish a culture of integrity in Sri Lanka.

CIABOC is now able to collaborate with international law enforcement institutions to investigate, prosecute or conduct judicial proceedings of an offence of corruption covered under UNCAC (Section 63).

Several references have been made to the international obligations of the Commission, namely the UN Convention Against Corruption including in the selection of Commissioners and Director General of the Commission and the discharge of their duties (Section 34).

## V. Key Findings & Recommendations

The key findings and recommendations are briefly summarized below and further detailed below in line with the scope of work for the assignment.

### 1. Strategic Planning

Under the new law, the Commission and the DG are to lead a team, including the provision of strategic guidance, in areas which are not only new to the Commission but also to Sri Lanka. For example, the new offences mentioned earlier in the report are new to the Sri Lankan legal system. Further they are also responsible for the recruitment, dismissal and disciplinary control of staff and the management of a fund all of which would require particular skills.

Under the previous law, the Planning Division of CIABOC has been responsible for the preparation of the annual action plans, monitoring progress, preparation of annual performance report and budget to Parliament, and coordinate matters in relation to the National Action Plan on Bribery and Corruption under the guidance of the DG and the Commissioners.

With the new composite law, it is observed that the approach of the Commission in tackling corruption itself has been changed. One significant requirement stemming from these changes is the need to align the existing Commission's structure and functions. For example, it is clear that the divisions will not be able to function in isolation in investigation and prosecution of cases, as there will be multiple, cross cutting elements in the offences that would require broad based thinking and planning – in some instances, like money laundering CIABOC would actively need to reach out and obtain expertise from the Financial Intelligence Unit, that has been working in combatting money laundering. Further, there would be instances where the Commission would be required to contact local and international experts to investigate and prosecute crimes (for example, sports-related offences, private sector bribery). Another example is the modernized declaration of assets and liabilities mechanism. The Commission would need dedicated staff to manage the system, including following up on red flags that the system would generate, public complaints and monitoring of accumulation of wealth.

It is crucial that the restructuring process of CIABOC considers the design of the divisions, salary structures, and rules and guidelines that are required for the divisions and units to function effectively. The restructuring is also expected to utilize existing human resources within the Commission more strategically, ensuring that the existing skills are used productively. It is crucial

that the skills of the Commissioners and the DG are also enhanced to provide the strategic guidance that is tasked with as required.

**Priorities**

**Immediate**

- Local and international team of experts to support the analysis of the law and identify the design and structure of the Commission in line with the new law. These needs include human resources and infrastructure needs of each division.
- Develop the rules, regulations and guidelines for each unit/division as required.

**Mid term**

- Roll out the re-structuring process.
- Capacity Development of DG and Commissioners in handling novel features of the law (example - human resource management)

2. Complaint handling

Currently, the complaints are received by the Secretariate (currently 17 staff members), which then is assigned to a committee appointed by the Commission. This committee decides whether the complaint requires preliminary inquiry, full investigation or whether the matter need not proceed. The Secretariate utilizes a primary/basic online system to enter key details of the complaint. At the time that the information was being gathered for this assessment, CIABOC receives approximately 200 complaints weekly.

As public awareness of the new law increases so will the number of complaints. Therefore, the existing primary case management system will need to be further developed to enable cases to be tracked across the divisions and by the public to enable the complainant to track the status of their complaint. The related IT skills of the Secretariat and the divisions to update the case details would need to be enhanced.

**Priorities**

**Immediate**

- Customization of the primary case management system to include multiple input facilities that would enable live updates to the case and the public facing platform enabling the public to know the updates to their complaint status.

**Mid term**

- The setting up of the required infrastructure with internet facility
- The enhancement of IT skills of the Secretariat staff and selected divisions staff who would ensure the cases are updated with status of the case.

### 3. Investigation and Prosecution

Currently the Investigation Division, which consists of 228 investigators, conducts the investigations with the guidance of the legal officers. The Investigations Division has subdivisions related to corruption, raid, open investigation, money laundering and asset.

As noted earlier, there are significant changes to the manner in which CIABOC is required to conduct its investigations and prosecutions per the new law. As a result, it is evident that the arrangement of the sub-divisions would need to be re-considered and restructured to better suit new offences and interagency cooperation that has been envisaged under the new law.

As an immediate requirement, the investigations team would require capacity and skills development to investigate the newly introduced offences. Whilst capacity development support for money laundering could be requested locally (from the Financial Intelligence Unit), training and skills development with regard to the new offences would require resources from other countries.

Apart from the capacity development relating to new thematic areas, Tamil and English language skills of the investigators also require improvement. It is crucial that investigators are able to handle cases in both local languages effectively. In the context of the new law, the investigators are expected to work with the private sector, and international law enforcement institutions, where English language skills would be crucial.

The legal division currently has 13 legal officers and 11 assistants to support the prosecution of cases. For complex financial crimes, prosecutors of the Attorney General's Department are working together with CIABOC legal officers.

It is also acknowledged that these officers would require immediate capacity and skills development with regard to the prosecution of new cases. As mentioned above in the context of investigators, whilst with regard to the offence of money laundering local resource persons could be utilized, international expertise would be required for the capacity and skills development of legal officers.

As opposed to ad hoc training, the sustainable approach would be to develop a training plan for the investigators and lawyers with local and international expertise. It was noted that mere classroom type training would not be useful for the investigators and mock trials, case studies and mentoring programs would more beneficial.

Additionally, regarding the legal team, since all staff cannot be trained at one time (given the limited number of staff) the training would need to be planned strategically with a mix of training of trainers so that all legal officers can be trained with limited impact on processing of cases. Further, a standby resource panel with local and international resource persons/practitioners would be useful for the investigators and legal officers to reach out as and when they have issues to clarify.

The Commission is currently facing huge challenges in maintaining productions – space is limited and the skills of the staff in the production unit is low on sophisticated evidence handling. Therefore, infrastructure and safes for effective storing of evidence is crucial in order to safeguard proper custody of evidence. Further with the new offences, there will be different new pieces of productions that the unit would be required to maintain. For this, the team would need guidance and skills.

It is necessary that a digital evidence unit is established with skilled staff to manage digital productions effectively. Currently such evidence is stored in CDs which sometimes fail during the life of the trial.

In addition to responding to new complaints, it is important to clear the backlog of cases. During the focus group discussions, the private sector and civil society expressed their interest in seeing the backlog of cases reduced. This would also contribute to building public trust for CIABOC, which will be beneficial in the implementation of the new law.

As a solution to cases that have been delayed due to lack of support in translation services, it would be useful to recruit short term assistants under the guidance of the legal officials, with the required safeguards in place for non-disclosure of sensitive information. Currently, the Translation Unit which consists of 2 staff members handle all official translation matters. The staff would also benefit from the utilization of translation software that could fast-track translations, including the increased number of translators.

### **Priorities**

#### **Immediate**

- Providing capacity development support to investigators and prosecutors on the new offences to address the immediate demand.
- Develop the training plan for investigators and prosecutors with interactive and hands on (when practical) training.
- Clearing the backlog of cases with the support of staff on boarded on short term basis

#### **Mid term**

- Providing the production team adequate space for their productions including safes.
- The enhancement of skills of the productions staff in handling sophisticated evidence.
- Introduction of translation software that could minimize the time taken to translate documentation.

#### **Long term**

- Development of competitive salary structures for legal officers
- Continuation of the implementation of the capacity development plan
- Provision of sophisticated investigative equipment to the investigators
- Steady increase in the number of investigators and translators in anticipation of the increased number of cases

#### 4. Prevention

The notion of prevention in fighting corruption is rather new in Sri Lanka. It gained momentum in the last 20 years being promoted by Anti-corruption Commissions such as the Hong Kong Independent Commission against Corruption. The purpose is to minimize the risk of corruption before it occurs. Investigation and prosecution come in when prevention has failed to be an adequate deterrence.

Whilst prevention was part of CIABOC's mandate even under the previous law, under the new law, it has been recognized as key in combatting corruption in a holistic manner. The challenge is that most of the prevention interventions are not adequately known nor promoted, so, if this strategy is to be successful, the public awareness raising, and education programs should be emphasized. The Prevention team should be able to roll out this mandate nationally and locally for the implementation of the new law to be successful.

Currently the prevention division has 18 staff whilst 50 is the approved cadre (to implement the previous law). The retention of staff has been an issue given that the salary of prevention officers is low. It would be required to re-consider the salary structures of these officers as part of the restructuring process of CIABOC.

In a context where new recruitments have been suspended, it would be unpractical to recommend the recruitment of new staff for the prevention unit. Therefore, it is recommended that multi-skilled staff are recruited for the asset declaration and legal unit where they could also assist in the prevention mandate of the Commission. Additionally, as mentioned above, it is recommended that a prevention staff training program/plan is developed, sufficiently financed, and monitored, including drawing on regional ACCs. Skills needed in prevention include developing institutional NAPs and developing codes of ethics.

CIABOC is empowered to promote active participation of civil society, non-governmental and community-based organizations, in corruption prevention by raising public awareness on the negative impact of corruption to development, peace and security. CIABOC is also empowered to enhance public awareness on corrupt conduct including monitoring the implementation of anti-corruption policies against corruption. Currently the Commission's ability to conduct outreach programs is limited given that it does not have a public outreach unit. CIABOC will have to establish a new public outreach unit which could interact with public and civil society organizations.

Currently the IT division and other staff supports the maintenance of CIABOC website, which is perceived by CIABOC as a key outreach mechanism. It is crucial that more visibility and public presence is provided to the Commission to make it more public centric, transparent and accountable. Therefore, including media focused personnel within this unit with the required logistics should be a key priority for the Commission.

Civil Society in Sri Lanka can also assist the Commission to design outreach programs and help to identify advocacy groups, which can work with CIABOC to raise awareness on anti-corruption as well as strengthening governance at the local level. These institutions could include, schools and

universities, professional associations, religious and cultural institutions. There are multiple youth led initiatives that can also be harnessed by CIABOC for awareness raising and outreach.

Asset Declaration system which has been in operation in Sri Lanka since 1975, has been a manual and paper-based system. With the new amendment it is expected that Sri Lanka transition to an online platform. With CIABOC identified as the central authority, the responsibility to develop and maintain the system lies with the Commission. This includes ensuring that the online system is not vulnerable to cyber-attacks which will compromise personal data in the assets and liabilities declarations.

Whilst the development of a new e-system would require exorbitant amount of resources, what would be practical and cost effective would be to customize an existing system to suit the local context. For this purpose, the Commission can explore online systems that are currently being utilized in other countries in the region which are considered best practices and negotiate the same to be utilized with customizations in Sri Lanka. From the beginning of this process, it is crucial that all relevant stakeholders are consulted (ICTA, civil society, Ministry of Public Administration, etc.).

#### **Priorities**

##### **Immediate**

- The development/customization of the e-asset declaration system
- Utilization of civil society networks for outreach/prevention programs with the public
- Setting up of a public outreach unit with required basic hardware and software

##### **Long term**

- Per the restructuring plan of the Commission, recruit new staff for the purposes of carrying out the prevention mandate with required infrastructure.

#### **5. Cooperation and coordination**

The anti-corruption echo system in Sri Lanka is composed of a variety of institutions such as oversight ministries and institutions (Justice, Attorney General's office, National Procurement Commission, Auditor General's Office, Financial Intelligence Unit, Parliamentary Committees, Human Rights Commission, Right to Information Commission), Ministries and offices dealing with Fiscal issues including (Ministry of Finance, Central Bank of Sri Lanka), court system, and relevant CSOs.

CIABOC is responsible for implementing obligations under the UNCAC and any other International Conventions relating to the prevention of corruption to which Sri Lanka is a party. Sri Lanka has been a party to the United Nations Convention against Corruption (UNCAC) since 2004. UNCAC aims to promote and strengthen measures to prevent and combat corruption more efficiently and effectively, and CIABOC coordinates these efforts. CIABOC also promotes international

cooperation and provides technical assistance in preventing corruption including in asset recovery and aims to promote integrity, accountability and proper management of public affairs and property.

Improved coordination with other institutions at the national and international levels (including public, private and civil society) was highlighted repeatedly as a necessity and is now made a mandatory requirement under the law. Whilst informal coordination efforts are important, through rules, regulations and MOUs, formalization and institutionalization of these coordination protocols are important. More regular meetings with specialized offices, such as the Financial Action Task Force (FATF), National Audit Office, and Procurement Commission are required to effectively implement the new law.

**Priorities**

**Immediate**

- Formalization of Memorandum of Understanding amongst partners (example, Financial Intelligence Unit, Auditor General’s Department)

**Long term**

- Maintaining periodic coordination with local and international institutions in the anti corruption eco system, including civil society and private sector.

**6. General**

Across the Commission staff retention has been a constant challenge. One of the key reasons is the uncompetitive salary scheme. For example, the salary gaps continue to remain with regard to the prosecutors of CIABOC when compared to AGs Department leading to higher staff turnover. In 2022 there were 26 legal officers, and the number has dropped to 18. The prevention unit faces similar challenges as well. Whilst they attempt to recruit young graduates with multiple and diverse skills, they move on to better opportunities, for example to the private sector.

There was also input from the Commission that staff numbers are not adequate to implement the new law. There is also the need to create new divisions within the Commission, i.e. the Asset Declaration unit managing the online system. It is not recommended that staff be recruited to the existing units without holistically evaluating how the Commission must be restructured for sustainable functioning. As proposed under strategic planning, it is reiterated that the Commission is required to deploy a team with input from international best practices, to strategize this restructuring. Salary schemes, cadre requirements, infrastructure requirements and required rules and regulations would need to be addressed in a holistic manner in this exercise.

Further training needs exist across the existing divisions at CIABOC as detailed above. Consistently the Commission staff noted that apart from training, there needs to be access to a resource pool with local and international experts that allow them to reach out to them as and when required.



Staff training could be reinforced through bilateral arrangements with other regional ACCs. The following ACC were mentioned as potential partners in strengthening the institutional capacity of CIABOC: Indonesia's Corruption Eradication Commission, the Malaysian Anti-corruption Commission (MACC), and the Corrupt Practices Investigation Bureau of Singapore.

Rather than awaiting resources from the Treasury, it was felt that maximizing mutual legal assistance where it exists to put in place ToT programmes would be a good option to explore for CIABOC as an initial reaction to solving the capacity gaps.

Coordinated and systematic international assistance is required to support CIABOC's success. International support has been provided by organizations such as UNODC, USAID, UNDP, UNODC, IMF, World Bank and Asian Development Bank. Therefore, as an example, the Capacity Development Plan should identify potential international partners that could assist in the process.

## Annexes

### 1. List of Consultations

#### Consultations with CIABOC

- Commissioners
- Director General
- Heads of Divisions - Secretariat, Prevention Unit, Legal Unit, Investigations Unit, IT unit, Internal Audit, Production Unit, and Administration and Finance Unit
- Staff of the Divisions - Secretariat, Prevention Unit, Legal Unit, Investigations Unit, IT unit, Internal Audit, Production Unit, and Administration and Finance Unit

#### Consultations with civil society stakeholders

#### Consultations with the private sector stakeholders

Consultations with key officers of Financial Intelligence Unit, Procurement Commission, Presidential Secretariat, Prime Minister's Office

### 2. Online CIABOC Staff Questionnaire

#### Staff Profile Sample questions

Interviews with CIABOC staff are primarily geared towards assessing their competences and technical qualifications and developing an accurate staffing profile of the CIABOC. However, the interviews also provide an opportunity to assess organizational issues, as well as enabling environment capacities. The information obtained will allow the consultant to triangulate this information with prior obtained data from the desk review and heads of agency interviews. This will ensure an accurate picture is developed of all the capacity gaps and needs.

Staff Profile	Questions
1. Type of Work	<ul style="list-style-type: none"><li>- What is your post title?</li><li>- Do you have terms of references (TORs)?</li><li>- Do the TORs reflect your day-to-day work?</li><li>- What are your main responsibilities within the CIABOC?</li></ul>
2. Background	<ul style="list-style-type: none"><li>- What year did you join the CIABOC?</li><li>- Where did you work prior to the CIABOC up to 10 years back in time?</li><li>- What are your academic qualifications?</li><li>- What is your professional experience to date within the anti-corruption agency? Did you hold any other positions within the agency?</li><li>- Were you interviewed for your position at the CIABOC?</li></ul>
3. Training	Have you received any training before or during your assignment with the CIABOC to undertake this job?

<p>4. Motivation and reason for staff turnover</p>	<ul style="list-style-type: none"> <li>- Why did you want to work for the CIABOC?</li> <li>- What were your main reasons?</li> <li>- What are the three main reasons for staying with the CIABOC?</li> <li>- What are the three main reasons for which you could see yourself leave the CIABOC?</li> <li>-What do you like most about working for the CIABOC?</li> <li>- What do you like least about working for the CIABOC?</li> <li>- What do you like most about your work?</li> <li>- What do you like least about your work?</li> </ul>
<p>5. Career Development</p>	<ul style="list-style-type: none"> <li>- How long do you intend to stay with the CIABOC?</li> <li>- Are you aware of promotion criteria?</li> <li>- Have you ever applied for promotion?</li> <li>- Were you satisfied with the process and with the outcome?</li> <li>- Have there been any opportunities to transfer to, or work in, other parts of the CIABOC?</li> </ul>
<p>Technical Capacities</p>	
<p>1. Investigation Staff</p>	<ul style="list-style-type: none"> <li>- How many cases do you deal with annually?</li> <li>- Are you familiar with the following concepts? If yes, did you ever deal with these concepts in specific cases? <ul style="list-style-type: none"> <li>• Private sector corruption</li> <li>• Cases involving foreign public officials</li> <li>• Trading in influence</li> <li>• Anti-money laundering</li> <li>• Sexual bribery</li> <li>• Conflict of interest</li> <li>• Bribery in sports</li> <li>• Non-conviction-based forfeiture</li> </ul> </li> <li>- Do you have any of the following skills? If yes, have you received any specific training for these? <ul style="list-style-type: none"> <li>• Preparing file cases for the prosecutor</li> <li>• Interviewing</li> <li>• Note-taking</li> <li>• File management</li> <li>• Document requests to other institutions</li> <li>• Open-source information-gathering</li> <li>• Intelligence gathering</li> <li>• Reading financial statements</li> <li>• Asset restraint</li> <li>• Dealing with money laundering cases</li> <li>• Access and search electronic devices</li> <li>• Surveillance</li> <li>• Using informants</li> <li>• Participating in joint operations with other institutions like FIU</li> <li>• Protecting evidence integrity</li> <li>• Investigation report writing</li> </ul> </li> <li>-What are the main skills, knowledge and experience missing at the moment in the investigation team?</li> </ul>

Legal Staff	<ul style="list-style-type: none"> <li>- How many cases do you deal with annually?</li> <li>- Are you familiar with the following concepts? If yes, did you ever deal with these concepts in specific cases? <ul style="list-style-type: none"> <li>• Private sector corruption</li> <li>• Cases involving foreign public officials</li> <li>• Trading in influence</li> <li>• Anti-money laundering</li> <li>• Sexual bribery</li> <li>• Conflict of interest</li> <li>• Bribery in sports</li> <li>• Deferred prosecution</li> <li>• Non-conviction-based forfeiture</li> </ul> </li> <li>- Do you have any of the following skills? If yes, have you received any specific training for these? <ul style="list-style-type: none"> <li>• File management</li> <li>• Document requests to other institutions</li> <li>• Open-source information-gathering</li> <li>• Reading financial statements</li> <li>• Dealing with money laundering cases</li> <li>• Participating in joint operations with other institutions like FIU</li> </ul> </li> <li>- What are the main skills, knowledge and experience missing at the moment in the investigation team?</li> </ul>
Prevention Staff	<p>Do you have experience in any of the following areas?</p> <ul style="list-style-type: none"> <li>• Developing national anti-corruption strategies</li> <li>• Developing anti-corruption action plans</li> <li>• Monitoring the implementation of anti-corruption policies</li> <li>• UNCAC Self-assessment coordination</li> <li>• Measuring corruption</li> <li>• Evaluating the effectiveness of anti-corruption policies</li> <li>• Corruption risk / integrity assessments</li> <li>• Reviewing legislation, regulations and procedures</li> <li>• Proposing new or revised legislation, regulations and procedures</li> <li>• Mainstreaming international standards</li> <li>• Public education</li> <li>• Disseminating knowledge on corruption and anti-corruption</li> <li>• Communication</li> <li>• Knowledge sharing</li> <li>• Conflict of interest regimes</li> <li>• Gift policies</li> <li>• Asset declarations</li> <li>• Participation in international for a / UNCAC Review Mechanism</li> <li>• Mutual legal assistance</li> </ul> <p>-Do you have any of the following skills? If yes, have you received any specific training for these?</p>

	<ul style="list-style-type: none"> <li>• Training people</li> <li>• Educating people</li> <li>• Developing distance learning modules</li> <li>• Mentoring and coaching</li> <li>• Writing public materials</li> <li>• Writing training materials</li> <li>• Public speaking</li> <li>• Developing codes of conduct</li> <li>• Drafting laws</li> <li>• Developing and undertaking public perception surveys</li> <li>• Designing communication strategies</li> <li>• Writing reports</li> <li>• Reviewing asset declarations</li> <li>• What are the main skills, knowledge and experience missing at the moment in the prevention team</li> </ul>
<b>Organizational Level</b>	
1. Vision and mission	<ul style="list-style-type: none"> <li>- What are the vision and mission of the CIABOC?</li> <li>- Are the vision and mission of the CIABOC clear to you?</li> </ul> <p>What do you think the CIABOC does well?</p> <p>In which areas do you think the antic-corruption agency could improve its work?</p>
2. Leadership	How do you assess the CIABOC's leadership ☐excellent, very good, average, fair or poor?
3. Strategic planning	Have you taken part in any strategic planning exercise?
4. Organizational structure	<ul style="list-style-type: none"> <li>- Are your reporting lines clear?</li> <li>- Do you have the equipment to do your work?</li> <li>- If not, what equipment do you need?</li> <li>- Why and how does the absence impact on your work?</li> <li>- How do you apply for the equipment</li> </ul>
5. Human resource management	<ul style="list-style-type: none"> <li>- Are there published policies on health and safety, discrimination, bullying, etc.</li> <li>- Are there published policies on holiday and sickness entitlement, pay scales, allowances and overtime, promotion, grievance procedures?</li> <li>- Is there a code of conduct and training in ethical conduct?</li> <li>- Disclosure of assets?</li> <li>- Policy on conflict of interest?</li> <li>- Do you feel that your salary reflects your expertise/experience?</li> <li>- Are you satisfied with the additional allowances?</li> <li>- How would you rate staff relations in your team - excellent, very good, average, fair or poor?</li> </ul>
6. Knowledge and information management	Are knowledge and information shared adequately with you by email and/or other means?
7. Communication	<ul style="list-style-type: none"> <li>- How well do you feel the CIABOC communicates with you?</li> <li>- Do you have regular staff/team meetings</li> </ul>
8. Monitoring and evaluation	<ul style="list-style-type: none"> <li>- Do you monitor and evaluate your work? How? Are you appraised annually?</li> <li>- Has there been any outcome from the appraisal?</li> </ul>

	<ul style="list-style-type: none"> <li>- Who assesses your work in terms of performance?</li> <li>- Are the performance measures used adequate?</li> <li>- Do you feel the CIABOC has made the best use of your skills?</li> </ul>
9. Training and mentoring	Has the CIABOC provided you with sufficient training to undertake your assignment?
<b>Enabling Environment</b>	
1. Social, economic and political context	How do you assess political will in your country to fight corruption - excellent, very good, average, fair or poor?
2. Institutional arrangements and coordination mechanisms	<ul style="list-style-type: none"> <li>- Do you work with any institutions outside the CIABOC?</li> <li>- How would you assess your partnership -excellent, very good, average, fair or poor?</li> </ul>
3. Legal Framework	<ul style="list-style-type: none"> <li>- Are there any legal provisions which facilitate your work especially?</li> <li>- Are there any legal provisions which hinder your work especially?</li> </ul>
4. Accountability	How do you rate the public image of the CIABOC ?high, average or low?
Overall	In your view, what is the highest priority for the CIABOC in order to work more effectively?

### 3. Terms of Reference

#### Terms of Reference

**Consultancy Title:** International Consultant-Advisor on Anti-corruption

**Description of Services:** Rapid Capacity Assessment of the National Commission to Investigate Allegations of Bribery or Corruption

**Duty Station:** Home based with mission to Sri Lanka

**Duration:** 20 days (including two-week mission to Sri Lanka).

**Expected start date:** Immediate.

#### 1. BACKGROUND

Sri Lanka's ongoing socio-economic crisis has reversed development gains achieved and threatened further advancement. Its root causes can be traced to governance deficits that left the country vulnerable to external shocks. The economic crisis has also been accompanied by a political crisis that continues to pose challenges for building and maintaining public trust in government. The fragility of the social contract was underscored by the mass protest movement in 2022.

At the heart of these is the challenge of corruption, which has long been a structural issue in Sri Lanka. With the onset of the current economic crisis and public protests that ensued, the anti-corruption agenda gained significant momentum. Consequently, a new composite anti-corruption law, *the Anti-corruption Act*, was approved by Parliament in August 2023 and came into force on September 15, in line with the government's IMF reform commitments. The enactment of the new law requires not only the government, but also the whole of society, including businesses, to take urgent and concerted

action to strengthen accountability, oversight and governance systems. For example, the new law significantly expands the mandate of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) to investigate and prosecute several new offenses involving the private sector, conflicts of interest, and foreign officials; and introduces new preventive mechanisms, including on the declaration of assets by public officials. The IMF governance diagnostic report calls upon the Government to ensure that CIABOC (and institutions within the anti-corruption eco-system) is equipped and capitated to implement the new law and meet the public demands associated with the anti-corruption agenda. While the law contained a commencement clause of 18 months, the government proceeded to operationalise the Act in full in September. This has necessitated an accelerated approach to enhancing CIABOC's capacity.

UNDP envisages supporting the conduct of a "rapid capacity assessment" of CIABOC to enable the identification of capacity constraints that could inform targeted and prioritised interventions to address such gaps.

## **2. SCOPE OF WORK, RESPONSIBILITIES AND DESCRIPTION OF THE PROPOSED WORK**

The overall purpose of the consultancy is to conduct a rapid assessment of CIABOC, to identify institutional and individual capacity gaps; and advise UNDP Sri Lanka on prioritization of interventions to meet the anti-corruption reform agenda for Sri Lanka.

The scope of work will include the below initiatives:

1. Assess the existing CIABOC capacities vis-à-vis the new composite Anti-corruption Law.
2. Provide recommendations on capacity development of CIABOC vis-a-vis other oversight institutions to implement the new law i.e., coordination capacity with other institutions.
3. Provide inputs to the National Action Plan for Combatting Bribery and Corruption in Sri Lanka (National Action Plan) which is due to expire end of 2023.

The consultant is expected to conduct the self-assessment per the agreed upon methodology, conducting relevant stakeholder consultations. UNDP will facilitate the meetings with CIABOC, and relevant stakeholders as required. The consultant is expected to present the findings of the assessment with the recommendations to UNDP, CIABOC and identified development partners.

With regard to the National Action Plan, the consultant is expected to provide input into the same, in light of the current changes in the governance landscape as relevant. It is anticipated that international best practices are incorporated to enhance the Action Plan.

### 3. EXPECTED DELIVERABLES

1. Outline of the capacity self-assessment methodology and identification of tools, including benchmarks
2. Presentation of the key findings of the self-assessment (to UNDP, CIABOC and identified development partners)
3. Final Report of the assessment containing short term, mid-term and long-term recommendations
4. Brief report on the input provided to the National Action Plan