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APEC ANTI-CORRUPTION AND TRANSPARENCY (ACT) REPORTING TEMPLATE

ECONOMY: CHILE
CALENDAR YEAR: 2014 **LAST UPDATED:** May 2012

LEADERS' AND MINISTERS' COMMITMENTS

- **2010:** We agreed to enhance our efforts to improve transparency and eliminate corruption, including through regular reporting via ACT and other relevant fora on economies' progress in meeting APEC Leaders' commitments on anti-corruption and transparency.
- **2006:** Ministers endorsed APEC 2006 key deliverables on Prosecuting Corruption, Strengthening Governance and Promoting Market Integrity and encouraged member economies to take actions to realize their commitments. Ministers also encouraged all economies to complete their progress reports on the implementation of ACT commitments by 2007. Ministers welcomed APEC efforts to conduct a stocktaking exercise of bilateral and regional arrangements on anti-corruption in cooperation with relevant international and regional organizations, and encouraged member economies to fully participate in the stocktaking activities.

Objective: Where appropriate, to self-assess progress against APEC Leaders' and Ministers' commitments on anti-corruption, transparency, and integrity and to identify capacity building needs to assist the ACT to identify priority areas for future cooperation.

EXECUTIVE SUMMARY

1. Summary of main achievements/progress in implementing the commitments of APEC Leaders and Ministers on anti-corruption, transparency, and integrity since 2004.

Chile has made significant efforts in the task of developing legislation, best practices and initiatives on anti-corruption, transparency and integrity, in a constant and progressive work which began at the end of the 20th century. In this regard it is worth indicating that, since the constitutional reform of 2005, the principles of probity or integrity and transparency are embodied in article 8º of the Political Constitution of the Republic.

As a part of the legislation that safeguards integrity in the performance of the public function, Law 20,088 was enacted in 2006, introducing to the Organic Constitutional Law of General Basis of the State Administration (Law N ° 18.575) provisions on the obligation of public officials on senior hierarchic levels, to present a Declaration of Assets besides the Declaration of Interests, which was already provided for in the Organic Law already mentioned.

Another significant development was the adoption of legislation concerning to the criminalization of bribery of foreign public officials and the jurisdiction of Chilean Courts thereon (Laws 30,341 and 20,371 respectively, both of the year 2009) and also on the penal liability of legal persons for the commission of that offence, among others (Law 20,393 of 2009)

With regard to the need to protect those who report acts of corruption, law 20,205 was enacted in 2007, which incorporated to the Administrative Statute a number of rules protecting public officials who report denounces in matters of corruption, to the competent authority.

As for transparency and access to the public information, it is worth mentioning the Law 20.285, in force since 2009, which puts into practice the principle of transparency throughout the State Administration, with a comprehensive approach, by establishing rules on active transparency, that is to say, information that public bodies must have permanently available to the public (primarily through the web site of the respective public organ, under the icon called *Transparent Government*), and by regulating the procedure for citizens to access to certain specific information that is not included in the active transparency. Besides it includes an action in order that citizens can claim if the respective State body denies information or does not answer the request. Also in this area it is worth noting that since September 2011 Chile is a party to the *Open Government Partnership*, an initiative aimed to promote the adoption of public policies on transparency, citizen participation, fight against corruption, citizen empowerment and e-government, in State members.

In the field of International instruments, it is important to mention that in 2006 Chile ratified the United Nations Convention against Corruption. Prior to 2004 our country had already ratified the Inter-American Convention Against Corruption and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, of the OECD.

2. Summary of forward work program to implement Leaders' and Ministers' commitments.

In this context it is relevant to mention some Bills currently being discussed in the National Congress, aimed at improving the rules on the following matters:

- Access and performance of positions of the Public Senior Management (Alta Dirección Pública).
- Probity in public office including matters referred to Declarations of Assets and Interests.
- Transparency and access to public information.

3. Summary of capacity building needs and opportunities that would accelerate/strengthen the implementation of APEC Leaders' and Ministers' commitments by your economy and in the region.

I. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO UNCAC PROVISIONS

LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Take All Appropriate Steps Towards Ratification of, or Accession to, and Implementation of the UNCAC:

- Intensify our efforts to combat corruption and other unethical practices, strengthen a culture of transparency, ensure more efficient public management, and complete all appropriate steps to ratify or accede to, and implement the UNCAC.
- Develop training and capacity building efforts to help on the effective implementation of the UNCAC's provisions for fighting corruption.
- Work to strengthen international cooperation in preventing and combating corruption as called for in the UNCAC including extradition, mutual legal assistance, the recovery and return of proceeds of corruption.

I.A. Adopting Preventive Measures (Chapter II, Articles 5-13)

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RELEVANT UNCAC PROVISIONS

Chapter II, Articles 5-13 including:

- Art. 5(2) Establish and promote effective practices aimed at the prevention of corruption.
- Art. 7(1) Adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials that:
    - Are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
    - Include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
    - Promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
    - Promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions.
- Art. 7(4) Adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.
- Art. 8(2) Endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
- Art. 8(5) Establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials. Art. 52(5)/(6) [sharing the information on the financial disclosures that should be in place]

- Art. 10(b) Simplify administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities.
- Art. 12(2)(b) Promote the development of standards and procedures designed to safeguard the integrity of private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State.
- Art. 12(2)(c) Promote transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities.
- Art. 13(1) Promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Art. 5(2):

Chile has had an active and permanent participation in the monitoring of the implementation of international Conventions against corruption. Chile has been evaluated in the implementation of the United Nations Convention against Corruption, the Inter-American Convention against Corruption and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Cooperation and Development (OECD). It is important to note that Chile became a member of the OECD on May 7th 2010, which implies a permanent monitoring of its anticorruption policies according to OECD standards.

Chilean Public Institutions issue an Annual Public Report, which besides being presented in an oral manner to the public, are uploaded to the respective institutional websites. Also due to the enactment of law 20,285 on access to the public information, the organs of the State Administration comply with the principle of transparency in public service - both in its active and passive form -, the procedures for exercising the right of access to information and its protection, and the exceptions to the disclosure of information. However, before the enactment of this legislation, some public services were already making public relevant information through their websites.

Among the Chilean public bodies that complies with the requirements of Art. 5 (2), **the Superintendence of Securities and Insurance (SVS)** can be mentioned. In general, the SVS regulations proposals are published on its website, during a period informed in each case, for receiving market and citizens comments. This procedure is applied since the signing of the Free Trade Agreement with the United States. Besides, the SVS has signed 26 Memoranda of Understanding with its counterparts in other countries and with international bodies such as IOSCO, COSRA, IAIS, ASSAL, to exchange information on offences included in the Securities Market Law. All the principles developed by these organizations promote the transparency of securities markets. SVS has signed 26 Memoranda of Understanding with its counterparts in other countries and with international bodies such as IOSCO, COSRA, IAIS, ASSAL, to exchange information on offences included in the Securities Market Law. All the principles developed by these organizations promote the transparency of securities markets.

Among the initiatives and good practices of the **National Civil Service Directorate (DNSC)**[1] in the matter, it can be mentioned the development of a Handbook on Probity and Transparency, which is aimed at helping public officials to get acquainted with the rules on probity and transparency and to incorporate them in the exercise of their functions. It is an important tool in the training and induction processes in the State Administration.

DNSC has also implemented an Induction Program on Probity and Transparency. Its objective is to make known the basic elements of the State Administration, the rights and obligations, and budgetary administration to all those who perform functions within the Central Administration of the State, and also to enhance awareness on the importance of public functions from a State global perspective and its powers, particularly the executive branch, through which the President of the Republic accomplishes his functions and attributions. Therefore, the program seeks to give an approach to the concept of State, to its elements; to what is understood by Rule of Law; which are the functions of the State; which are the rules that govern it and which are its powers. This program has been developed in coordination with the Council for Transparency.

The Comptroller General's Office (CGR) has concluded several Cooperation Agreements with other State Agencies in order to develop joint actions in the fight against corruption, highlighting, among others, the Public Prosecutor's Office, the Judiciary, the State Defense Council and the Constitutional Court, forming the Anticorruption Front and developing joint actions. Likewise, the CGR has concluded several Cooperation Agreements with international institutions such as United Nations Development Program (UNDP), GIZ, and the Inter-American Development Bank aimed at strengthening the institutional tools which allow a better and timely anticorruption fight and the development of joint actions in this direction.

Since 2008, the CGR has developed an active exchange of experiences derived from local and global progress in implementing the United Nations Convention Against Corruption. The International Forum organized by the CGR with the support of the United Nations Development Program, gathers representatives of the most important national and international organizations – such as the International Organization of Supreme Audit Institutions (INTOSAI); the United Nations Office on Drugs and Crime; the International Anti-Corruption Academy (IACA), among others, for reflecting on the obligations assumed by States Parties to the Convention and on the implementation of its provisions. The first cycle of the Forum, initiated in 2008, was mainly focused on the challenges of implementing the Convention by individual countries, with special emphasis on our national experience

In the Forum conducted in 2009, besides listening to the presentations of the institutions which are part of anti-corruption coordinating agencies, such as the Judiciary, the Constitutional Court, the Public Prosecutor´s Office, the State Defense Council and the Comptroller General's Office, in the course of Forum, interesting contributions were presented, from the Academia, International Organizations such as the IDB and UNDP, and civil society, which raised innovative forms to measure this phenomenon in a more objective way than that made through the perception indicators currently used.

The "Third International Forum: The United Nations Convention against Corruption, Tools to Ensure Integrity in Disaster Situations", took place in 2011. The

[1] Decentralized public service, created by Law No. 19,882, which aims to promote and contribute to the modernization of the State, positioning as a central element, the strategic management of people working in the public administration

specific theme was the prevention of corruption in disaster situations. For two days, participants discussed on the risks of corruption arising from disaster situations, and how the United Nations Convention against Corruption is an important guide for the prevention of irregularities in situations where emergency and the need of immediate action threaten the principles of probity and respect for the law. The debate was also held on the need to adjust and update the Chilean regulations in order not to hamper the relief work, adapting them to emergency situations where diligence is required to meet the needs of those affected by disaster. A presentation was made, on the Chilean experience, as a result of recent disasters – recalling the earthquake and the tsunami experienced on February 27th, 2010 – and talks were held on lessons learnt at a national and international level. Important authorities participated as speakers, among them, the Minister of Interior; the Comptroller General of the Republic; the UNDP Resident Representative, Mr. Benigno Rodríguez; the President of the INTOSAI Working Group on Accountability for an Audit of Disaster-related Aid, Mr. Gijs de Vries; and also the Comptrollers of Brazil, Colombia and Perú. Presentations were made also by representatives of the OECD, ISAID, PNUD, by the Chilean Undersecretaries of the Interior and of Telecommunications, and experts of the Ministries of Housing and of Public Works.

Within the annual training Programs of the CGR, courses on Administrative Probity for public officials are included.

CGR issues permanently administrative pronouncements and instructions on matters related to probity. As an example it can be mentioned the Public Letter 15,000 of 2012 giving instructions on the occasion of municipal elections to be held during the current year, which reiterates good practices aimed to preserve State and local patrimony and the correct action of public officials.

Furthermore it should be noted that the CGR chairs the Commission for Public Ethics, Administrative Probity and Transparency (CEPAT), of the Organization of Latin American and Caribbean Supreme Audit Institutions (OLACEFS)

Art. 7(1)

The general framework for establishing a civil service system in Chile is based in article 38 of the Political Constitution of the Republic, which provides that "An organic constitutional law shall determine the basic organization of the Public Administration, guarantee the public service career and the technical and professional principles in which it must be based and ensure equal access to public service, training and development of its members". This provision is complemented by article 19, Nº17 of the Constitution (included in the Chapter on constitutional guarantees) which reads: article 19º: The Constitution guarantees all persons: 17º Admission to all functions and public service employment, with no other requirements than those imposed by the Constitution and the laws.
The Constitutional Law referred to in the Constitution, is the Law 18,575 on General Basis of the State Administration (whose consolidated, coordinated and systematized text was established by Statutory Decree Nº 1/19,653 published in the Official Gazette on November 17th 2001). In reference to Article 7º, Nº 1 of UNCAC, this law contains a number of general provisions on the public function, and also those referred to general criteria related to the system of call, selection, recruiting, hiring, remuneration, retention, promotion and retirement of the civil servants.

Thus, in terms of general criteria, Article 13 establishes the observance of the principles of administrative probity and provides the obligation to exercise the public function with transparency. Article 15 identifies the criteria governing the statutory law on staff administration. Article 16, refers to the entry requirements including compliance with the principle of equality of conditions to apply for public employment through open competitions; the Article 17 establishes that the

statute for public officials shall protect the dignity of the public function and to be in conformity with its technical, professional and hierarchical nature.

Finally, Article 18 provides that public officials are subject to administrative responsibility, without prejudice of civil and criminal liability arising from their actions, while Article 19 of the Law establishes a ban on developing any political activity within the Administration.

On the other hand, more specifically, Articles 43 to 51-Paragraph 2 of the Title II of the Law 18,575 which refers to the Public Service Career, establish the framework for the enactment of the Administrative Statute of public officials, particularly with regard to entry, rights and duties, administrative responsibility and the end of functions.

In this area it is important to note the establishment of public open competitions to select candidates for public offices, through technical and impartial procedures, that ensure an objective assessment of their skills and merits (Art. 44), the stability of the public employment and the specific grounds on which it may cease employment (Art. 46), the general principles relating to the performance assessment (Art. 47). Also, criteria is provided for establishing a system of training and development(art. 48), and for a system of salaries that encourages the exercise of certain functions while preserving the principle that equal payment will be assigned to similar conditions and responsibilities.

On December 1999, Law N ° 19.653, incorporated into the Bases Law an extensive Title III referred to the principle of administrative probity, which, according to the law, "consists of observing an irreproachable official conduct and an honest and loyal performance of the function or position, giving preeminence to the general interest over the individual" (art. 52). This principle was raised to constitutional status, in article 8 ° Nº 1 of the Constitution, by Law Nº 20.050 which introduced several amendments to the Constitution of the Republic.

The specific rules governing the public service career are set forth in Law No. 18,834 which contains the Administrative Statute, **whose consolidated, coordinated and systematized text was established through** Statutory Decree No. 29 of 2004, of the Ministry of Finance, published in the Official Gazette on March 16th 2005; Law No. 19,882 (June 2003) called New Deal Labor, which established the Civil Service and created the Senior Public Management System and Law No. 19,553 on Modernization Assignment, regulating the payment of a portion of variable salary linked to the achievement of goals.

Some important aspects of the Administrative Statute are within its Article 3, letter f), which states that the public service career "... is a comprehensive system of public employment regulations, applicable to the plant personnel -, based on hierarchical, professional, and technical principles, which guarantee equal opportunities for entry, the dignity of the public function, training and promotion, stability of the employment, and objectivity in the performance evaluation based on merit and seniority. "Also, concerning to equal access to public employment, the Administrative Statute provides that it is prohibited "... any act of discrimination that results in exclusion or preference based on race, color, sex, age, marital status, association, religion, political opinion, national ancestry or social origin, which have the effect of nullifying or impairing equality of opportunities or treatment in employment (Art. 17 Nº 3 °) "

In reference to the provision of public employment it is important to mention the rules of Law No. 19,882 whose Senior Public Management System distinguishes between First and Second Hierarchical Level, guaranteeing a system of equal access to directive positions of public services in Chile; it establishes that the

positions of heads of departments and those of equivalent hierarchical levels of ministries and public services, called of the Third Hierarchical Level, should be provided in a system of open competition, and stressed the meritorious nature of the administrative public career regulated by the Administrative Statute.

There are three hierarchies in the directive levels. The first two are called Senior Public Management positions. Its provision is under the responsibility of the **Council of Senior Public Management**, which is supported by the **National Civil Service Directorate** on the basis of objective rules that guarantee the realization of open public competitions, widely disseminated, for the provision of these positions on the basis of merit and suitability. Then there are the positions called of the Third Hierarchy Level, corresponding to Chiefs of Departments and other equivalents, which are also provided on the basis of open public competitions, widely disseminated, allowing equal access on the basis of merit and suitability. Finally, there are competitions for entering the plant, for promotion and "encasillamiento", based on Regulation No. 69 of 2004.

The Senior Public Management System (SADP) was created to professionalize the senior offices of the State. Its purpose is to attain that the highest responsibilities are exercised by the most competent and suitable persons, chosen through public and transparent competitions. The objective is to have a qualified and professional public management for implementing the public policies established by the government. It is a confidential and non discriminatory system, in which the priority is the search capabilities over other considerations. The senior directive public officials, whose positions are within the SADP, subscribe a performance agreement that serves the dual function of guiding and evaluating their performance. The agreement is signed with the direct superior and has a duration of three years. The agreement includes the annual strategic goals of performance and the objectives of the results to be achieved with its respective indicators, means of verification and basic assumptions in which the compliance is based. The senior level official shall inform his superior on the level of compliance of the goals and objectives, corresponding to the minister or the chief of service, as appropriate, to determine the degree of compliance of the agreed objectives.

Induction and strengthening program of Directive Officials whose offices are ascribed to the SADP. The incorporation of senior public managers to the State of Chile is accompanied with an induction program, which includes a set of policies and practices aimed mainly to receive, insert, and adapt adequately the persons designated to positions within the SADP who are entering the administration, and also for those that, while being already part of the administration, assume this type of positions. Among other efforts developed in this regard it can be highlighted the elaboration of the Induction Handbook, the development of capacity building activities (such as induction for senior public managers, seminars, regional workshops with a territorial approach, whose objective is focused on strengthening the attributes of Crisis Management and Contingency, implementing Seminars for Senior Public Managers in the macro regions of the country, North (Iquique), Centre (Santiago) and South (Puerto Montt); colloquiums on women's leadership, focusing on the analysis made by the Senior Public Managers on experiences in conciliating life and work for the directive management in the State; and the completion of a Diploma on Generic Directives Competences for the Senior Public Management with *Universidad del Desarrollo*, for a period of 5 ½ months and 126 chronological hours.

The SADP is expanding its presence into the area of local management and towards other Powers of the State. With regard to the former, it is currently being discussed in the National Congress, a bill that establishes the System of Municipal Senior Public Management which introduces adjustments and modifications in various regulatory bodies in matters concerning to the municipal administration in order to update, refine and complement its provisions in aspects related to finance, control, transparency and probity, perfecting the role of the Council; creating positions in the plants that do not consider them and modifying a set of rules on municipal staff. Its foundations are the need to strengthen the decentralization of the country and, particularly, the local institutions through the

promotion of transparency and probity at the municipal level and the convenience of providing Municipalities with the necessary human and material resources for the proper conduction of the tasks assigned to them by the law, in order to contribute to the municipal autonomy and enhance their quality as a driving force for development at the local level.

With regard to the second area of expansion of the SADP, the National Congress has just ended the discussion of a project creating the Environmental Courts as a part of the Judiciary. The Bill is ready to be promulgated by the President of the Republic and then published in the Official Gazette. The Senior Public Management Council, will have an essential role in the selection of the candidates for the positions of Ministers of these Courts, since the referred rule establishes that each Minister shall be appointed by the President of the Republic, with the consent of the Senate, from a list of five persons that, in each case, will be proposed by the Supreme Court. Each list in turn, will be made from a proposal developed by the Senior Public Management Council, in accordance with the established procedure for the appointment of Senior Public Managers of the First Hierarchical Level, and shall contain a minimum of six and a maximum of eight names for each position.

Besides the above mentioned, the National Congress and the National Civil Service Directorate have signed a collaboration agreement whose objective is the feedback and delivery of information on best practices in implementing and developing personnel selection processes aimed to provide the positions determined by the Senate. To that end, technical information will be provided by the DNSC that will ensure the quality of the processes, in accordance with the principles of transparency, non-discrimination and professional qualifications. In this regard relevant information will be shared and expert judgment will be provided in the matters related to the mentioned provision of positions.

Implementation of the SADP to the educational sphere. The Law Nº 20,501 on Quality and Equity in Education, among other regulations, incorporates the participation of the Senior Public Management Council in the Qualifying Commissions of public competitions for Directors of municipal educational institutions and Heads of Municipal Education Administration Departments, measure that involves diffusing the principles and components of the SADP to an essential area for the development of the country as it is the municipal education.

The State of Chile and good working practices. The will of the State has been reaffirmed, in its role as an employer, to promote policies and measures against discrimination tending to promote equality of opportunities and treatment for women and men who are employed in the public sector and thus, ensure equal opportunities for access and development in this area. In this sense, it has been reinforced the strengthening of the public institutions of the State that represent the central axis responsible for implementing public policies aimed to guarantee the fundamental rights under in Article 19º of the Constitution of the Republic, in particular the right to life and physical and mental integrity, provided for in the No. 1 of the mentioned provision.

In this context the role of the **National Civil Service Directorate** has been consolidated as the institution responsible for providing technical assistance for the management of the personnel of the State, in terms of promoting compliance of the Public Ethics standards and to safeguard and prevent attempts against the dignity and/or integrity of the people. In this way, the modernization of the State requires organizations with healthy working environments, based on the respect and good treatment, capable of delivering a suitable context for the normal exercise of the public function, which translates into better conditions for the deployment of optimal performances. In the framework of the above, mentioned, measures have been raised in the areas listed below, not only looking for full compliance with the rules governing public employment, but also looking to foster the development of various initiatives that ensure healthy work environments

and stimulate the commitment of the staff with their service and the public function:

- Recruitment and selection processes;
- Career development and access to training;
- Balanced or equal representation between men and women in positions of leadership and directive responsibility;
- Working conditions;
- Protection of maternity rights and parental responsibilities;
- Conciliation of working responsibilities with family obligations, and,
- Prevention and sanction of labour and sexual harassment in the workplace.

National and sectorial formative meetings with public officials in charge of Human Resources of the Civil Administration of the State's Institutions. The meetings on people´s management correspond to regular instances aimed at reflection, discussion, updating on new trends and approaches in people´s management, dissemination, capacity building, knowledge on management practices, and delivering of results in matters of studies and others, in the framework of developing actions which promote professionalization and the increasing development of the Human Resources Unit (URH) of the Chilean Public Administration It can also be mentioned that the production of documents with guidelines in the area of people's management in the Public Administration (among these, prevention of harassment; induction; assessment of staff performance) is a permanent work developed by the National Civil Service Directorate, in order to contribute in the professional development of public officials, thus increasing the standards of the public function in each of the areas addressed through these instruments

The Comptroller General's Office of the Republic (CGR) as the Supreme Control Organ must have highly qualified personnel. For this purpose its staff selection is made on the basis of the principles of efficiency, transparency and objective criteria such as merit, equity and aptitude. In fact, the entire personnel selection process is made through its web page (www.contraloria.cl), which includes a banner on recruiting personnel (Work with us), and at the same time, calls to participate are published in newspapers of national circulation; applicants participate freely in a process that is the same for all those who want to work in the CGR which includes interviews, tests, and background curriculum data evaluated by a Selection Committee other than the Comptroller General. At the same time an external firm to the Supreme Audit Institutions is requested to perform a job psychological assessment. All the above, with parameters of the highest efficiency.

At the same time CGR has a salary scale according with the required level of demand and provides a training process through internships and lectures to personnel entering and a system of continuous improvement of knowledge to officers who have more time in the institution

The CGR provides a rotation process for heads and staff members both from the central and regional offices, thus avoiding the creation of friendship ties with officials of the supervised Services, giving its personnel, at the same time, a comprehensive and cross institutional overview of its work.

CGR officials are ruled by the Administrative Statute and its Organic Constitutional Law. There is an schematic order of functions contained in its plant (www.contraloria.cl – banner *Contraloría Transparente*); staff rosters are made after an objective process of performance assessment; to access to higher positions there are promotions and regulated processes known by all; there is a competence-based training system enabling officials to acquire the skills required

for acceding to superior positions.

The General Government Internal Auditing Council (CAIGG)[2], in compliance of the government internal auditing policy, produced the Technical Document Nº 29, named "Framework Auditing Program for Administrative Probity", updated in 2010, whose purpose is to harmonize the auditing approach used in the review and control of the administrative probity in the Services of the State Administration. Specifically, it can be mentioned, that this Technical Document gives the Internal Audit Units an auditing framework program that enables auditing different processes such as: 1. "The Performance of the Public Function", whose main objective is the verification, by the Internal Auditor, that the execution of the public function is carried out with adherence to the obligations of public officials, and non-infringement of legal incompatibilities; 2. "Compliance with working time" whose main objective is the verification of the working hours compliance in a continuous form, according to the established schedule and execution of the position's work; 3. "Procurement Process", whose main objective is to verify whether a proper planning of the Service requirements has been done. Finally, the Internal Auditor shall verify in the audited Service whether there is a control environment aimed to prevent the execution of risk actions related to probity within the audited processes.

Art. 7(4)

One of the pillars of the Chilean institutional system is transparency and publicity of the acts of the Administration, embodied in the second paragraph of article 8 of the Constitution (http://www.leychile.cl/Navegar?idNorma=242302&buscar=Decreto+100+constituci%C3%B3n+pol%C3%ADtica). In addition, Law No. 20,285 establishes rules on access to public information and creates the **Council for Transparency**, which aims at promoting the transparency of public function, the supervision of compliance with the rules on transparency and disclosure of information by the organs of the State Administration and ensuring the right of access to information.

Law 20,285 (http://www.leychile.cl/Navegar?idNorma=276363&buscar=ley+20285) is intended to make operational, through the entire State Administration, the principle of transparency. It sets out rules on "active" transparency, i.e. information that public bodies should make permanently available to the citizens (mainly through the web site of the respective public body, under the icon "Transparent Government", which contains information relating to staffing, salaries, acts and resolutions, organizational structure of the respective institution, procurement, budget information, among other items). It also regulates the procedures for citizens to have access to some specific information that is not included in the "active transparency". In this case, the interested citizen must submit a request for information, which can be made directly through the institution's web site, or personally at their offices. The respective public institution has a time period of 20 working days (extendable to 30) to answer the request. In the event that the requested information is refused or is incomplete, this may lead to the submission of a claim by the applicant to the **Council for Transparency** (http://www.consejotransparencia.cl/), an autonomous body - whose Directive Council is appointed with the participation of the Senate -, which is responsible for ensuring compliance with the Law of Transparency and Access to the information. The right of access to information is a key element in achieving a high degree of transparency in the exercise of public functions; it also facilitates a greater and more effective

[2] Advisory body to the President of the Republic, which elaborates proposals on policies, plans, programs and measures for internal control of the governmental management, in its various bodies, according to the guidelines defined by the Government thereon, designed to strengthen the management of the organs conforming the State Administration and the proper use of public resources assigned for complying with its programs and institutional responsibilities.

participation of citizens in public affairs.

Among examples of rules in the Chilean legal system that are inserted in the provisions of the UNCAC, it should be included Law 19,880 which establishes the Bases of the Administrative Procedures governing the acts of the administrative bodies of the State Administration (http://www.leychile.cl/Navegar?idNorma=210676&buscar=ley+19880). This law defines the concept of "administrative act" and establishes (and defines) the principles under which the administrative procedure is submitted, being the majority of them essential for the adequate protection of the Legal System against attempts or acts of corruption. Among them are those of "abstention" (as defined in article 12 of the referred law) and of "transparency" (as defined in article 16 of the law).

Another example of the importance that Chile assigns to the value of transparency and its capacity as a tool for the prevention of corruption, in its various manifestations, is the platform www.mercadopublico.cl that is part of the Public Procurement System established by the Law No. 19,886 (http://www.leychile.cl/Navegar?idNorma=213004&buscar=ley+19886) and in which all public bodies must upload the information of the purchases and contracts made by the administration. The platform is available to public access and does not require passwords to enter, so any citizen can check the transactions carried out by the 845 public bodies that trade in the system. In this way it can be accessed through the bidding tabs, visible for each one of the tender processes, the background detail of each of the bidding processes; it is shown, among other information, the terms of the tender bases with clear identification of the evaluation criteria, the questions and answers during the processes; the suppliers that offer; the amounts offered; the assessment records; allocation resolutions, and even technical bids sent by the suppliers, which today are mostly of public access.

In the context of the measures taken to comply with this provision of the UNCAC, it is important to mention that the **Office of the Comptroller General of the Republic** publishes all the public audit reports on the web page (www.contraloria.cl) except in the case of matters that, by the Constitution or the law, have been assigned a reserved nature, which aims precisely at giving transparency to its proceedings and to that of their supervised, allowing the citizenship to be fully aware of the observations made to the entities it controls. It should be noted that since the year 2007 the CGR has publicized in its web page every information concerning to its organization, granting free, expeditious and full access to its base of administrative jurisprudence, which contains thousands of pronouncements on the compliance of the regulations concerning or related to Public Administration, including, to a large extent, administrative pronouncements relating to the standards of probity, publicity and transparency, equality, conflicts of interest, etc. In the same line, since 2008, consistently and regularly, the Office of the Comptroller General publishes the full text of the final reports of ongoing audits of all the Administration, which are widely reviewed by the public, as it is evident from the high rates of access that the referred web page has recorded since it began such publications. It is also published and updated on a daily basis the working agenda and the meetings of the Comptroller General, the Deputy Comptroller General, the Heads of Division and the Regional Comptrollers, in order that the citizenship, the media and the authorities have broad access to information about such aspects

In regard to the prevention of conflicts of interests and the adequate patrimonial transparency of public authorities, Law No. 18,575, on General Basis of the State Administration (http://www.leychile.cl/Navegar?idNorma=191865&idVersion=2001-11-17), in its Title III (incorporated by Law No. 19,653, published on November 17th, 2001) regulates the issues of administrative probity, establishing in the art. 57 the obligation of a group of high-level authorities to submit a declaration of interests in the period of 30 days counted from the assumption of the position, as well as the obligation set forth in article 60 of the same law to submit a declaration of assets, which extends to the directors representing the State in certain companies where the latter is shareholder (art. 37 Law No. 18,046 on

corporations, http://www.leychile.cl/Navegar?idNorma=29473&buscar=ley+18046).

Both declarations must be submitted to the Comptroller General of the Republic or to the Regional Controller concerned, as appropriate, who will keep them for reference (arts. 59 And 60 D Law No. 18,575).

On the other hand, one of the roles of the CGR is to make pronouncements on the existence of any ineligibility of civil servants, which is made through the control of legality of the appointments of public employees and the analysis, among others, of complaints. So does because of the preventive legality control and also during the auditing of plans, programs, projects, etc., possible conflicts of interest that might have both, staff and former staff members, are reviewed. Thus, as an example, it can be noted that, during the conduction of audits to staff members, it is monitored specifically that public officials that are required to present such statements have submitted them in a timely manner and, in the case of detecting any conflictive patrimonial situation or conflict of interest, it is verified whether the situation had or hasn't been informed in the respective declaration.

Also, as part of the initiatives and measures adopted in the context of compliance with the provision of N°4 of Article 7 of the UNCAC, it is pertinent to mention that Chile joined the *"Open Government Partnership"* (OGP), on September of 2011. This initiative is a partnership agreement to promote the adoption of policies of transparency, citizen participation, the fight against corruption, citizen empowerment and e-government in each of the member States. On the occasion of acceding to this instance, the Government of Chile has promoted a series of activities with different actors in society, both at a national and international level involving the integration of the society in the initiative, which resulted in the submission of a Plan of Action, during the meeting held by OGP in the city of Brasilia, Brazil, on April 2012.

One of the most important activities was the completion of an on-line public consultation, in order to incorporate the perspectives and expectations of the different sectors of society in this task. This was carried out between December 23rd, 2011 and January 9th, 2012 and it allowed receiving views with respect to the first proposal for the Action Plan of the Government of Chile. A parallel consultation was added to the above mentioned process, with expert representatives of public agencies and civil society organizations.

The suggestions and opinions gathered in the framework of the query and the response to it were published on the website of the consultation and served as the basis for the reformulation of the Plan of Action. More information can be find in the link http://www.ogp.cl/

Art. 8(2):
Rules on the correct, honorable and proper performance of public functions, as it has been informed above, are contained in the constitutional framework, the Basis Law of the State Administration and the Administrative Statute. We refer to what has been mentioned with regard to Article 7.

Art. 8(5):
In reference to the compliance by Chile of this provision, it can be reproduced here what it has been informed on declarations of assets and interests, with regard to Article 7, Nº 4 of the UNCAC. Besides it can be mentioned that this provision is contained, as already stated, in paragraph 3 of the Title III of Law 18,575, which regulates the declaration of interest and assets of the public officials, regulation supplemented by Decree Nº 45 of 2006, of the Ministry General Secretariat of the

Presidency (MINSEGPRES)(Regulations for the Patrimonial Declaration of Assets of the Law 20,088, http://www.leychile.cl/Navegar?idNorma=248305&buscar=declaracion+patrimonial+de+bienes)
and by Decree Nº 99 of 2000, of MINSEGPRES (Regulations for the Declaration of Interests of Authorities and Public Officials of the State Administration http://www.leychile.cl/Navegar?idNorma=171504&buscar=declaracion+de+intereses).
In this matter and pursuant to an order issued by the Government, currently 205 public authorities, among which are the President of the Republic, his Cabinet and 150 Heads of Services, have published their declarations of assets and interests in the respective websites of their institutions.

Art. 10(b):

Under this provision of UNCAC it can be mentioned Law 19,880 on Basis for Administrative Procedures governing the acts of the State Administration, published on May 29th, 2003.

According to this Law the actions of the organs of the State Administration must be free of charge for those interested, unless a Law says otherwise; they should be done with celerity proceeding ex officio, where appropriate; they should be done under the principle of procedural economy avoiding delaying procedures; and must conform to the principle of transparency and publicity, allowing and promoting the knowledge, content and basis of the decisions adopted.

In this procedure, a number of rights are recognized to the persons in their relations with the Administration, such as knowing the status of processing procedures and obtaining copies and devolution of documents; identifying the authorities and the personnel at the service of the Administration under whose responsibility the procedures are managed; and exempt themselves of providing documents that do not correspond to the procedure or that are already in the possession of the Administration

The procedure under this Law establishes the principle of Administrative Silence under which after the legal term to resolve a request has expired without a pronouncement of the administrative body, the concerned party shall have the right to denounce this fact to the authority that had to resolve, requiring a decision on his application. If the authority does not answer in a 5 days term, the applicant's request shall be deemed accepted.

It is also relevant to mention Law Nº 20,500 published on February 16th,2011, on associations and citizen participation in public management, under which the State recognizes to the people their right to participate in its policies, plans, programs and actions. This law states that each organ of the State Administration should make public knowledge of the relevant information related to these matters.

Among other matters, the Law states that these bodies must give a participative annual account to the citizens on the management of their policies, plans, programs, actions and budget execution. In the event that observations are made to the account, they shall answer them.

It also states that these bodies should establish Civil Society Councils, with a consultative status, formed in a diverse, representative and pluralistic manner by members of nonprofit associations related to the competence of the respective body.

Law 20,285 on Access to Public Information - already mentioned in relation to Article 7, paragraph 4 of UNCAC - is intended to provide citizens access to public information. For this purpose it establishes rules on active transparency, i.e. information that public bodies should permanently have available to the citizens on their websites, and also regulates the right to access to public information through a procedure establishing grounds for reserve; time limit for deliver; procedures for complaints; notification to third parties and sanctions, among others.

As for initiatives and best practices related to this provision of UNCAC, it is relevant to mention, among others:

- Agreement between the Council for Transparency and the Ministry General Secretariat of the Presidency (MINSEGPRES) signed on April 2011, by which they agreed to develop a collaborative work to develop the Website of Transparency of the State of Chile in order to facilitate the implementation of Law 20,285. Its objective is to provide a unique platform aimed to channel all requests of information, allowing both, tracking the responses to the requirements and also acquiring statistical information

- Offices for Information, Complaints and Suggestions (OIRS). On October 16th, 1990, Decree Nº 680 of the Ministry of the Interior was issued, creating the OIRS, offices designed to assist people in their right to submit requests, suggestions or complaints to the State Administration. The OIRS shall inform people, among other matters, on the organization, competence and functioning of the organ, service or company; on the formalities of presentations or requests and to assist people having difficulties in the processing of their cases.

- Presidential Instruction Nº 2, for citizen participation in public management, was issued on 2011. It establishes that in matters of citizen participation the Government's objectives are strengthening the civil society organizations, promoting and guiding actions for public participation improving efficacy, efficiency and effectiveness of public policies, improving and strengthening channels and spaces of information and opinion of the public, and promoting public oversight of the actions of public organs. In order to promote coordination in the implementation of Law 20,500 of citizen participation in public management, it instructs the Services for ensuring the establishment of formal and specific modalities of participation, aiming to accomplish participative public accounts, Councils of the Civil Society and citizen consultations.

  This rule also promotes new forms of citizen participation for the term 2010-2014, seeking to strengthen relations between public institutions and citizens. These are: citizens' councils; digital participative platforms; participative dialogs; public management schools for social leaders; comprehensive system for information and citizen service; dissemination and systematization of information plan to feedback the service and compliance of the Law 20,285 on access to the public information.

Art. 12(2)(b):

Along with the rules contained in the Commercial Code, Law Nº 18,046 on Corporations, the Tax Code and similar Laws (Banks and Financial Institutions, Pension Fund Administrators, etc.,) there is a regulatory framework for Public Procurement contained in Law Nº 19,886 which creates a system for supplies and services to the State run by the Directorate for Public Procurement (*Chilecompra)*

Regarding public works concessions, it should be noted that they are regulated by Statutory Decree Nº 164 of 1991, of the Ministry of Public Works http://www.leychile.cl/Navegar?idNorma=16121&idVersion=1996-12-18).

It is important to note that after a long period of review and discussion, the Bar Association (Colegio de Abogados AG), a professional association, approved a new Code of Professional Ethics. The Code was presented on May 12th, 2011, in a ceremony attended by the President of the Order and the Minister of Justice. The document was prepared with contributions of academics, and it makes explicit reference to matters related to the regulation of conflict of interests. Its complete text can be found on the website of the Bar Association www.abogados.cl , section *"Ethics and good practices"*.

In the last amendment made to Law Nº 18,046 on Corporations, under which the Securities and Insurance Superintendence (SVS) makes supervision, SVS promoted the incorporation of amendments to Article 44 and Title XVI aimed to prevent the realization of negotiations if there was a conflict of interest between the Company Administration and the shareholders of the same, thus promoting equitable negotiations among those to be audited, decreasing thereby information asymmetries that may occur, which could encourage the realization of corrupt acts. Article 44, above mentioned, provides in paragraph 3 the conflicts of interest of a Director: "It is understood that there is a Director's interest in all negotiation, act contract or transaction in which he should intervene, in any of the following situations: (i) himself, his spouse or his relatives up to the second degree of consanguinity of affinity; (ii) the societies or companies in which he is the director or the owner, directly or through other natural or legal persons, of a 10% or more of its capital; (iii) societies or companies in which any of the above mentioned persons is the director or owner, directly or indirectly, of the 10% or more of its capital, and (iv) the controller of the society or his related persons, if the director had not been elected without the votes of that or those".

Art. 12(2)(c):
The rules governing the constitution of companies, establish as mandatory the publicity of a number of issues, including those of individualizing shareholders, and managers, whether for the general public knowledge (market transparency) or for tax purposes (obligations contained in the Tax Code and in the Income Law on identification of shareholders and partners) or for penal purposes, such as the framework governing the Financial Analysis Unit and the Internal Revenue Service and provisions on penal responsibility of legal persons.

In reference to the penal responsibility of legal persons, the General Government Internal Auditing Council (CAIGG) developed the Technical Guide Nº 46, linked with auditing instruments, to evaluate compliance of the Law Nº 20.393 (http://www.leychile.cl/Navegar?idNorma=1008668&buscar=ley+20393) on penal responsibility of legal persons in offences of money laundering, financing of terrorism and bribery, in the public enterprises, in order to collaborate in developing a model on crime prevention for those that have not implemented it. There are two central ideas in the production of this document, the first one linked to compliance, and its purpose is that the internal auditor evaluate whether the designed and implemented prevention model meets the legal requirements, at least those established by Law 20,393. The second orientation is referred to the rationale of the prevention model, in other words, if the model is adequate to the structure, size and nature of the business and if the scope of control (control environment, communication, monitoring, control activities, risk assessment) have embraced the issue and it is internalized.

Art. 13(1):
With regard to this provision of the UNCAC, it is pertinent to mention, what has already been informed on Law 20,500 and the Presidential Instructive Nº 2, in

relation to Article 10 (b) of the UNCAC.
On transparency and access to the information, see the above mentioned on Article 7 Nº 4 of the UNCAC related to the constitutional principle of Transparency and Publicity of the acts of the Administration contained in Article 8 of the Political Constitution of the Republic, as well as regulatory standards contained in Law Nº 20,285 on Access to the Public Information, that establishes the procedures to accede to public information and the obligation to observe a behaviour of active transparency, making public – via website – all the information related to the structure, personnel, budget, public procurement, transfer of resources, acts and resolutions not affecting third parties, mechanisms of citizen participation, the results of auditing processes and other similar matters (Art. 7º).
The Council for Transparency, among other relevant functions, is the legally autonomous organ to recur in case of denial of access to public information. Its Resolutions are only appealable to the respective Court of Appeals.

On the other hand, law No. 19,628 on protection of personal data, establishes the procedure to access to this type of data, understood as "related to any information concerning individuals, identified or identifiable", and within them the so-called sensitive data, which are those "personal data that relate to the physical or moral characteristics of persons or to events or circumstances of their private life or privacy, such as personal habits, racial origin, ideologies and political opinions, beliefs or religious convictions, physical or psychical health condition and sex life"(art. 2° letters f and g). In general, such data can be treated or informed when the law, the owner of the data or a judge authorises to do so.

As already informed in relation to Article 7 (4) of the UNCAC, the **Comptroller General's Office** publishes in its website every information concerning to its organization; has granted free expeditious and full access to its administrative jurisprudence base; publishes the full text of the final reports of the ongoing audits of all the Administration, and publishes and updates, on a daily basis, the working agenda and the meetings of the Comptroller General, the Deputy Comptroller General, the Heads of Division and the Regional Comptrollers.
Recently a banner on accounting and budgetary information has been created on the web site of the CGR, related to the Municipalities, noting in colours (red, yellow and green) the degree of compliance with the delivery of that information to the Supervising Institution by the Municipalities of the country.

The web site Transparent Government Chile. (http://www.gobiernotransparentechile.cl). "Transparent Government" is an electronic gateway that facilitates the access to the Active Transparency information of the Government through a directory of institutions and a browser of information. This website collects all the Active Transparency information published by the services on their electronic sites, it is updated on a regular basis, and is presented to the citizenship in a single site and in the same format.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

It is important to reiterate here, what has been said in reference to Article 7, Nº 4 of the UNCAC, on the existence of a Bill currently in process in the Congress, on

Probity in the Public Function, that among other issues addressed, includes modifying and perfecting the system of Declarations of Assets and Interest.

In this matter and pursuant to an order issued by the Government, currently 205 public authorities - among which are the President of the Republic, its Cabinet and 150 Heads of Services -, have published their Asset and Interests Declarations. The objective is to increase this figure in 207 more authorities, corresponding to the Regional Ministerial Secretaries.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

I. B. Criminalization and Law Enforcement (Chapter III)

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RELEVANT UNCAC PROVISIONS

- Art. 15 Adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:
  - The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;
  - The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.
- Art. 16(1) Adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.
- Art. 17 Adopt measures to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.
- Art. 20 Adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.
- Art. 21 Adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:
  - The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;
  - The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from

acting.

- Art. 27(1) Adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Art. 15.

(a) Bribery of national public officials. Active bribery.

Bribery of national public officials is criminalized in article 250 of the Criminal Code, and is quite similar to the article contained in the Convention. In the bribery of national officials, the perpetrator is a private person, as stated in the relevant article, which reads: "he who" promises or consents to give a public official". The guiding verbs are "*offer*" and "*consent*", which may be assimilated to the three verbs used in the Convention, particularly as promises are considered to involve an offer. The protected legal right in this offence is a correct public administration and the material purpose thereof is that the perpetrator or a third party to obtain an undue economic advantage. The conduct required to materialize actions or omissions is described in articles 248, 248 bis and 249 of the Criminal Code, inserted herein:

Article 250, Criminal Code – "*A person offering or consenting to give a public official an economic advantage to his benefit or that of a third party to perform an act or refrain from acting, as provided for in articles 248[3], 248 bis[4] and 249[5], or for performing or having performed such act, shall be imposed the same fine and disqualification penalties as set for in such provisions.*

In the case of an advantage offered for actions or omissions referred to in article 248, the briber shall be punished also with short-term imprisonment, minimum degree.

In the case of an advantage consented to or offered for actions or omissions referred to in article 248 bis, the briber shall also be punished with short-term imprisonment, medium degree – in the case of an advantage offered – or short-term imprisonment, minimum degree, in the case of an advantage consented to.

In the case of an advantage consented to or offered for a crime or offense referred to in article 249, the briber shall be also punished with short-term imprisonment, medium degree, if offered, and short term imprisonment, minimum to medium degree, if consented to. In such a case, should the briber be subject to a more stringent punishment for the crime or offense committed, the harsher penalty shall apply".

[3] Bribery, Article 248, Criminal Code. "*A public official who solicits or accepts entitlements in excess of those proper to his/her position or an economic advantage for himself or herself or for a third party to carry out or for having carried out an act proper to his position which do not give rise to such entitlements [...]*

[4] Bribery, Article 248 bis, Criminal Code. "*A public official who solicits or accepts an economic advantage for himself or for a third party for refraining or having refrained from acting in relation to the performance of official duties or for carrying out or having carried out an act in violation of the duties proper to his office[...] Should the violation of the duties proper to his office translate into the exertion of undue pressure on another public official to obtain from him a decision that may give rise to an advantage for a third party, a public official shall be punished with partial or absolute disqualification from holding public offices or positions[...].*

[5] Bribery, Article 249, Criminal Code. "*A public official that solicits or accepts to receive an economic advantage for himself/herself or for a third party to commit any of the offenses or crimes in this Title or in paragraph 4, Title III, [...] The provisions in the foregoing paragraph are without prejudice to the penalty applicable to the offense committed by the public servant [...] Any official that, in a situation similar to those described above, consents in giving the said advantage, shall be punished with short-term imprisonment, minimum to medium degree[...]*

For the purposes of Title V, Criminal Code ("Crimes and offenses committed by public officials in the discharge of their duties"), **Article 260** defines a public official as *"any person discharging a public position or duty, whether in the central administration or semi-fiscal, municipal, autonomous institutions or companies or in agencies organized by or dependent upon the State, although the Head of the Republic has not appointed them and they do not receive a salary from the State. This will not be hindered by the fact that the servant has been appointed by public election." Additionally, according to jurisprudence, the concept of "public official" also includes ad honorem officials."*

b. Bribery of national public officials: passive bribery.
The figure described by the Convention is criminalized generically in articles 248, 248 bis and 249, but more precisely in article 248 bis, according to which any economic benefit for oneself or a third party deriving from the omission or commission of an act proper to an official's duties is illegal.

Bribery, Article 248, Criminal Code. *"A public official who solicits or accepts entitlements in excess of those proper to his/her position or an economic advantage for himself or herself or for a third party to carry out or for having carried out an act proper to his position which do not give rise to such entitlements [...]*

Bribery, Article 248 bis, Criminal Code. *"A public official who solicits or accepts an economic advantage for himself or for a third party for refraining or having refrained from acting in relation to the performance of official duties or for carrying out or having carried out an act in violation of the duties proper to his office[...] Should the violation of the duties proper to his office translate into the exertion of undue pressure on another public official to obtain from him a decision that may give rise to an advantage for a third party, a public official shall be punished with perpetual special or absolute disqualification from holding public offices or positions[...].*

Bribery, Article 249, Criminal Code. *"A public official that solicits or accepts to receive an economic advantage for himself/herself or for a third party to commit any of the offenses or crimes in this Title or in paragraph 4, Title III, [...]*
The provisions in the foregoing paragraph are without prejudice to the penalty applicable to the offense committed by the public official [...]
Remarks made on bribery in the foregoing paragraph, particularly as regards economic benefits and intermediaries, are also applicable to this provision.

Article 16. (1) Bribery of foreign public officials and officials from public international agencies
Bribery of a public official is described in article 251 bis of the Criminal Code and has been adjusted to the standards required by OECD. The relevant provisions are as follows:
Article 251 bis.- "He who offers, promises or gives a foreign public official an economic or other advantage, for that official or a third person, to act or refrain from acting in order to obtain or retain - for him or a third party - any undue business or advantage in the field of international business transactions [...] Should the advantage be non-economic, the fine shall range from one hundred to one thousand monthly tax units. The same punishment shall be imposed on he who offers, promises or gives the said advantage to a foreign public official for his having acted or refrained from acting, as stated above.
He who, under the circumstances described in the foregoing paragraph, has consented in giving said advantage shall be punished with short-term imprisonment, minimum to medium degree, as well as the fine and disqualification referred to above."
Article 251 ter.- "For the purposes of the foregoing article, "foreign public official" means any person holding a legislative, administrative or judicial office in a foreign country, whether appointed or elected; any person exercising a public function for a foreign country, including for a public agency or public enterprise; and

any official or agent of a public international organization."

Article 17. Embezzlement, misappropriation of funds and other ways of public property diversion by a public official.
Chilean laws include penalties for the perpetrators of the offense of embezzlement, under the terms of the Convention, particularly in articles 233, 234, 235 and 236 of the Criminal Code.
Article 233. "A public official who, having custody of public or private persons' monies or effects in deposit, consignment or attachment, embezzles said monies or consents to their embezzlement by another individual [...]
Article 234. "A public official who, due to inexcusable negligence or breach of duty, gives a third person an opportunity to embezzle public or private monies and trade effects referred to in the above three numbers [...]
Article 235. "A public official who, to the detriment or hindrance of a public service, applies the monies or effects under his custody for his own benefit or that of third parties [...]
Article 236. A public official who arbitrarily gives the monies or trade effects under his administration a use other than the one intended [...]

Article 20. Unjust enrichment
Law No. 20,088 provides that authorities holding a public position are bound to make a statement indicating their net worth. Unjust enrichment was incorporated into the Criminal Code, particularly in article 241 bis.
Criminal Code, Article 241bis. *"A public official who, in the exercise of his duties, significantly and unreasonably increases his net worth, shall be punished with the amount of the increase and imposed the penalty of absolute provisional disqualification from holding public positions and duties, in its minimum to medium degree.*
The provisions in the foregoing paragraph will not apply if the originating conduct is, for itself, any of the crimes described under this Title, in which case the penalties assigned to the relevant crime will be imposed.
The Prosecutor's Office shall always have the burden of proof referred to herein.
Should the criminal action be initiated by a complaint or action and the public official is acquitted of the crime herein or if the action is dismissed with prejudice for any of the reasons in letters (a) or (b), article 250, of the Criminal Procedure Code, the public official shall be entitled to compensation by the complainant or accuser against any damages, both material and moral, sustained, without prejudice to the criminal liability of the complainant or accuser for the crime in section 211 of this Code."
In Chile, statements by employees (statement of property and income) are public and controlled by the Comptroller's General Office.

Article 21. Bribery in the private sector
The relevant laws include articles 467 – 471, 473 of the Criminal Code and Law No. 18,933. Not all conducts amounting to private bribery are covered by the several kinds of frauds and swindles. Likewise, the stages prior to bribery – i.e. promise and offering – may only be included within the "attempt to", their eventual punishment depending upon jurisprudence. In view of the above and recalling that, as it is not expressly criminalized in Chile, there is no possibility that criminal investigation and public criminal prosecution mechanisms may set or include specific criteria within such sphere.
Chile has raised the need of technical assistance in the form of a model set of laws, as it may be reasonable to be provided with examples of laws summarizing experiences by other States in implementing this matter.

Article 27. Participation and attempt

The Chilean Criminal Code broadly punishes various forms of participation in an offense, be it as principal offender, co-perpetrator, instigator, accomplice or accessory.

In Chile, not only the principal offender or perpetrator of a crime is punished (Article 15, No. 1, of the Criminal Code), but also those who assist him by providing the means to commit the crime or those who witness it - without playing an active role – and do not prevent its commission (Article 15, No. 3, Criminal Code). Our Criminal Code treats the individuals in the latter case as perpetrators, they being imposed the same punishment as the principal offender under article 15 of the Code - although according to doctrine it is arguable whether they can be labeled as accomplices.

Those inducing or instigating a crime are punished according to article 15, No. 2, of the Criminal Code. Complicity is widely covered by the Chilean laws (Article 16 of the Criminal Code), thus allowing to punish anyone who cannot be held as a principal offender, to the extent he/she cooperates with the execution of the offense, either before or concurrently with its commission. If acting after its execution, the punishment is imposed under article 17 of the Criminal Code as an accessory after the fact.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

The Public Prosecutor's Office has developed the first part of the Handbook of **Best Practices in Investigating Corruption Using Financial Flow Tracking Techniques an Financial Intelligence,** together with Thailand, and is looking forward for the second part of the handbook to be developed by Thailand by the end of 2014.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

I.C. Preventing Money-Laundering

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RELEVANT UNCAC PROVISIONS

- Art. 14(1) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons, that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering.
- Art. 14(2) Implement feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders.
- Art. 14(3) Implement appropriate and feasible measures to require financial institutions, including money remitters, to:
  (a) include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;
  (b) maintain such information throughout the payment chain; and
  (c) apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Article 14.

Measures to prevent money laundering.

14.1.a

According to Law 19,913 and its subsequent amendments , there are a number of sectors in Chile that develop financial and non-financial activities, which, within the preventive Money Laundering System are considered as *obliged subjects,* who must apply in their operational processes the measures established in sectorial regulations in order to comply with the Due Diligence with Customers (DDC), allowing for its proper identification, the grounds for its operations, the maintenance of adequate records on the customer's identification and the history of its operations, among others. At the same time, the law establishes the obligation to notify the Financial Analysis Unit of suspicious operations by submitting a Suspicious Transaction Report, as provided for in Article 3 of the Law 19,913.

In anticorruption's matters, The UAF in conjunction with various government superintendencies, it has issued a number of circulars, such as UAF No. 49 of 2012, / which informs the financial system and other economic sectors about measures that they (all the reporting entities) should adopt with respect to operations and transactions undertaken by clients with Politically Exposed Person status. These measures are put into place to prevent and detect acts of money laundering originating from possible acts of corruption committed by high-ranking national or foreign public officials.

Specific Rules by Sector (reporting entities)

Banking institutions

Chapter 1-14 on "Prevention of Money Laundering and the Financing of Terrorism" of the Updated Compilation of Rules (RAN) of the Banking and Financial Institutions Superintendence (SBIF).

The knowledge of the customer begins from the moment when, by reason of an operation, he is linked to the bank. Therefore, the bank requires the development of policies and procedures of acceptance and identification, which must consider, among other factors, the background of the customer; activity profiles; amount and origin of the funds involved; the country of origin of the funds and whether the country complies with the minimum standards of acceptance required; and its corporate relations or other indicators of risk.
For the cases of non-routine transactions or in the case of occasional customers or politically exposed persons at the international level, the bank shall require a statement on the origin of the funds when an operation exceeds the lower threshold, between that defined by Law No. 19,913, which creates the Financial Analysis Unit (UAF), or the one internally regulated. This declaration shall be accompanied by documentation sustaining it. Special attention should be given to identify the sender and the recipient in the case of the transfer of funds.

Savings and Credit Cooperatives

Savings and Credit Cooperatives are under the supervision of the Banking and Financial Institutions Superintendence (SBIF), and are regulated by Circular Letter No. 123, of the SBIF. This circular letter provides that the knowledge of the customer begins from the moment when, by reason of requesting its incorporation as a partner or asks for a transaction, the customer is linked to the entity. Therefore, the Cooperative requires the development of policies and procedures of acceptance and identification, which must take into account, among other factors: The background of the applicant (ID number, address, telephone number, powers of attorney when representing a third party, deeds when appropriate, etc.); the activity it develops; and amount of the transaction (declaration of origin of the funds involved must be solicited, accompanying documentation that sustain it, when the amount of the operation exceeds the lower threshold between that defined by Law No. 19,913 and the one regulated internally). The cooperative shall maintain the background information of their customers updated, in the course of the relationship.
On the other hand, the Financial Analysis Unit issued Circular Letter No. 22 dated June 21 2007 (consolidated in Circular Letter UAF No. 49, dated December 2012),which provides measures in the field of customer knowledge for those cooperatives that are not in the scope of supervision of the SBIF, resulting complementary to these.
Title II in numeral 5 on "Control procedures for the detection, monitoring and reporting of unusual operations", Circular No. 123 on Savings and Credit Cooperatives, establishes: "once a suspicious operation is identified, the cooperative is obliged to report such an operation to the Financial Analysis Unit (UAF) ".

Filial companies of leasing and filial companies of factoring

For these bank subsidiaries, that are under the supervision of the SBIF, the rules provide that they must establish a system for prevention of money laundering and

financing of terrorism, for which they must comply with the provisions applicable to its headquarter bank, laid down in chapter 1-14 of the updated compilation of rules (RAN). Circular Letter No. 36 for filial leasing companies and N° 18 filial factoring companies, in its Title V and numeral 8 respectively stipulate that "they shall constitute a system for prevention of money laundering and terrorist financing". They have the obligation to report to the Financial Analysis Unit of any operation that, in the exercise of that activity, is suspicious under the terms of the law.
In the case of companies that carry out this activity and are not banking subsidiaries, the UAF has issued Circular Letter No. 20 (factoring) and No. 21 (leasing) dated June 14, 2007 (both consolidated in Circular Letter UAF No. 49, dated December 2012), concerning to customer knowledge.

Credit Card Issuers and Operators

The UAF issued Circular Letter No. 32 dated September 7, 2007 (consolidated in Circular Letter UAF No. 49, dated December 2012), which provides that the knowledge of the customer begins from the moment that, by reason of the request of an operation or a product, a natural or legal person is linked to a credit card issuing company or to a credit card operating company, and until the contractual relationship is completely finished. As a result, they require the development of policies and procedures for identification of customers, both, for its acceptance and maintenance.
Circular Letter No. 17 for credit card issuers and operators, in numeral 20.4 on "Information to the Financial Analysis Unit", establishes that they must inform to the Financial Analysis Unit of any operation that, in the exercise of their activity results suspicious, according to the terms of the law.

Securities intermediaries

The securities intermediaries are responsible for the identity and legal capacity of the persons contracting through them, the registration of the most recent titular holder in the issuer records, and the authenticity of the last endorsement.
The General Rule No. 12 of 1982 specifies that the securities intermediaries should require of their clients, either natural or legal persons, all the relevant information in the field of identification.
In addition, the customer's relationship with the intermediary must be set on record; this is, if the customer is a shareholder of the intermediary or if the intermediary is shareholder or partner of the customer (legal person). In addition, it should be left on record the type of orders that the intermediary may receive from the client (written orders, verbal orders with or without confirmation from the customer, or by any other mechanical or electronic means that is clearly identified in the Card)."
All that information shall be contained in a document called *Customer Card* that must be signed by the customer or its legal representative, in which case the representative must attest the veracity of the information. Stock exchanges and intermediaries are also authorized to require any additional information that they determine as necessary.
By Circular Letters Nº 30 and Nº 31, dated August 16, 2007 (both consolidated in Circular Letter UAF No. 49, dated December 2012), the Financial Analysis Unit, regulated in matter of customer knowledge on these agents.

Security Deposit Company

Deposit companies do not have accounts with natural persons, but only with entities such as financial intermediaries, managers of third-party funds and other

entities, from whom they require the records relating to their identification and legal constitution. The identification of the final beneficiary of the deposited values corresponds to the securities intermediaries, entities through which persons and agencies operate, other than those authorized to make deposits into these companies.

Third-party Funds Administering Societies

For all the Administering Societies of third-party funds (Mutual Funds, Investment and Savings for Housing) the final paragraph of article 161 of the Securities Market Law, No. 18,045 provides the duty of the external auditors to inform on the internal control systems in order to ensure compliance with the prohibitions of Article 16, as well as on information and file systems, to record the origin, destination and opportunity of the transactions done with the resources of each fund. For its part, the UAF issued Circular Letters Nº 26, 27 and 28, dated August, 2007, (all consolidated in Circular Letter UAF No. 49, dated December 2012) related to the funds collection in knowledge of the customer.

Mutual Fund Administrators

The Administering society must keep a Registry of Members, enabling their identification, according to the background information required to the investor at the time of materializing the contribution. The transfer of mutual funds quotas must be carried out by means of a transfer that should identify the parties and the surrendered quotas, subscribed in the presence of two witnesses, a securities intermediary or a notary public.
Also, if the placements of contributions are paid through intermediaries of values, they must maintain an adequate identification of the constituents.

Investment Funds

Within 6 months from the adoption of the internal rules of procedure, funds must have at least 50 contributors, or at least one institutional, provision that requires knowing who the contributors are.
The Administering society must keep updated in its registered office a list with the name, address and number of quotas of each of the contributors, for each of the funds that it manages. In the same way it must keep a Registry of Contributors, under the responsibility of the manager, with indication of the name, address, national identity card or RUT, number of quotas and date of registration in the name of the contributor.
Subscription Contracts of quota must individualize the contributor by its name, amount of the contribution and form of payment. Also, the registration of the transfers must be issued without further conditionality than the fulfillment of the legal requirements, that is, identification of the contributor in the subscription agreement or transfer and prevent that a same investor, not institutional, control more than 35% of the quotas in the fund.
Finally, the titles (documents) expressing the quotas owned by the holders must contain identical individualization of the contributors as the one already expressed.

Housing Leasing

The contributions into these types of funds shall be implemented through the signing of a contract, which should indicate at least the nature of the account, name, ID card of national identity number, date of birth, address, marital status, marital regime, name of the fund in which the investment is to be made. In the case of transfers of quotas it must indicate the name and number of the national identity card. In addition, the administrator must keep a record indicating name, national identity card number, address, number of the savings account, name of the fund in which the investment is made, number of quotas, amount of the investment. Similar information must be sent to the contributors.

Insurance companies

Notwithstanding they are included in the rules issued by the Securities and Insurance Superintendence (Circular Letter 1809) the Financial Analysis Unit, through Circular Letter No. 29 of August 16, 2007 (consolidated in Circular Letter UAF No. 49, dated December 2012), also regulates its operations. In this sense it provided that the knowledge of the customer begins from the moment in which, by the request of an operation or a product, a natural or legal person is linked to an insurance company. As a result, they require the development of policies and procedures for identification of customers, both for their acceptance as for their maintenance.

Insurance Brokers

They must verify the identity of the insured persons, the existence and location of the insured goods, to give to the company the information they have on the proposed risk and send to the company premiums and documents received for the insurance policies that they mediate.
To perform their activity, insurance brokers must register on the Register kept by the Superintendence to the effect, and meet the requirements of the regulations in force.
In accordance with the General Law of Banking, subject to the rules of the Superintendence, subsidiaries of banks or financial entities are allowed to engage in the activity of insurance brokerage, excluding pension funds insurance.

Pension Fund Managers

The transactions performed by the Pension Funds Administrators (AFP) with their customers (affiliated), may have a dual nature, on the one hand quotations or mandatory legal deposits and on the other, the possibility they have to make deposits and withdrawals on a voluntary basis, operations that represent a very dissimilar risk level to be an instrument for money laundering. For this reason, the UAF issued Circular No. 36 of December 28, 2007, providing instructions for customer knowledge on the operations of voluntary nature, performed on a regular or occasional basis.
In the same way, Circular Letter No. 1,480 of a joint character, between the Pension Funds Administrators Superintendence and the Financial Analysis Unit, which obliges the Pension Funds Administrators, among others, to develop risk profiles of its affiliates, so that a consistency can be established between the voluntary deposits, withdrawals and mandatory contributions with the sole and exclusive purpose of financing a pension. Without prejudice to the foregoing and as noted in

the preceding paragraph, the Pension Funds Administrators have records and history of each of those affiliated to the Pensions System, which allows us to conclude that there is due knowledge of the customer.

Financial Analysis Unit (UAF)

The UAF issued Circular Letter No. 18 for the currency exchange offices, money transfer companies, and securities and money transport companies. This Circular Letter provides for the mandatory compliance by these institutions of the Due Diligence with Customers.
The obligations that in this regard are established for the above-mentioned obliged subjects are oriented to the following guidelines:
a) Require and register for each operation made in cash or any type of document, exceeding US$ 5,000 (five thousand dollars of the United States of North America) or its equivalent in other currencies, data relating to the identification of the customer who performs the operation, and in addition, to request a statement mentioning the origin and/or destination of the funds. Complementing the above, it is also instructed on the conservation of the information collected and its background, for at least five years.
b) To have a manual establishing the policies and procedures necessaries to avoid involvement in operations related to money laundering, detailing the minimum information that the document must contain.
c) Likewise, paragraph 1 of numeral 2 of the UAF Circular Letter No. 0018, for currency exchange offices; money transfer companies, and securities and money transport companies, provides that in case of detecting suspicious transactions, they should report to the Financial Analysis Unit.

14.1.b
Law No. 19,913, published in the Official Gazette on December 18, 2003, created the Financial Analysis Unit, with the tasks of receiving reports of events, transactions and suspicious operations of money laundering and financing of terrorism performed by institutions of the financial system and other obliged subjects; analyse these reports and, where appropriate, refer them to the Public Prosecutor's Office. It is established that the UAF may also recommend measures to the public and private sectors to prevent the commission of the offence of money laundering as well as imparting instructions of general application to the subjects obliged to inform.
With the enactment of Law No. 20,393, a system of penal liability of legal persons has been established with regard to the offences of money laundering, terrorist financing and bribery to public officials.

From the year 2010, the Financial Analysis Unit (UAF) has been appointed the official representative of the country to the GAFISUD and the coordinator agency at the national level for the prevention and combat of the money laundering and the financing of terrorism (ML/FT).

For the first time in its history, Chile has a National Strategy for Preventing and Combating Money Laundering and the Financing of Terrorism. In an unprecedented effort, 20 public institutions have agreed an action plan to protect Chileans, the economy and the country from damage to social, financial, and the reputational stability caused by both crimes. This is a technical and executive response to the national security challenges against money laundering and the financing of terrorism, with a target of three years.

From this perspective, the National Strategy integrates, organizes and coordinates the development of the work in prevention, detection and prosecution, for each institution in their own area of work, bringing together their proposals, and incorporating private sector approaches for a more effective fight against organized crime.

Supported by technical assistance from the International Monetary Fund (IMF), the Inter-American Development Bank (IDB) and coordinated by the Financial Analysis Unit (UAF in Spanish), who acted as Technical Secretariat, this mission was undertaken, collaboratively with representatives of: the General Comptroller Office of the Republic; the Public Prosecutor's Office; the Central Bank of Chile; the Ministries of Interior and Public Security, of Foreign Affairs, of Finance and of the General Secretariat of the Presidency; the Internal Revenue Service (SII); the Superintendency of Securities and Insurance, of Banks and Financial Institutions, of Pensions, of Casinos and of Social Security; the National Customs Service; the Directorate of General Maritime Territory and Merchant Navy; the National Service for Prevention and Rehabilitation of Drug and Alcohol Consumption; the OS.9 and OS.7 Departments of Carabineros (Chilean Police); the Money Laundering Unit of the PDI (Investigative Police of Chile); and the UAF.

This effort – the First National Strategy for Preventing and Combating Money Laundering and the Financing of Terrorism – describes and articulates an action plan to provide Chile with the skills necessary to protect its society and economy from organized crime networks; it is the response to the mandate required by the President of the Republic, to present it to the country before the end of 2013 and to meet the challenges of preventing money laundering and combating the financing of terrorism for the 2014 – 2017 period.

Organized in 5 areas of work, this Plan contains 50 specific actions to overcome identified weaknesses and strengthen the fight against organized crime. It is also Chile's response to the requirements of the members of the Organization for Economic Cooperation and Development (OECD), and of the Financial Action Task Force (FATF), who dictates the international standards in this area. In particular it is the response to promote coordinated actions among relevant national authorities in preventing and combating both crimes, focusing on both high-risk areas, and in those where the existing barriers can be improved, the emphasis being on understanding the phenomenon of ML/FT, particularly by training staff of different vulnerable financial and economic institutions.

It must be noted that great care has been taken to avoid lifting barriers that affect the country's economic dynamism when designing the National Strategy for Preventing and Combating Money Laundering and the Financing of Terrorism. On the contrary, from the point of view of working jointly and on the basis of developing inter-institutional coordination, the proposed Action Plan aims to protect the conditions that have made Chile a safe country, renowned for its social, economic and financial stability, noted internationally for its low levels of corruption, its attractiveness to foreign investors and its successful environment for business development.

Its five work streams, containing 50 specific targets, respond to the national reality and make the necessary adaptations for compliance with FATF standards:
1. Understanding of the phenomenon of money laundering and the financing of terrorism and ad-hoc inter-institutional coordination to combat it;
2. Financial investigation and managing of assets seized and confiscated for ML/FT crimes;
3. Measures to control the movement of assets across borders;
4. Adjustments to national legislation for preventing and combating ML/FT; and
5. Transparency and ultimate beneficial ownership of legal persons.

14.2

The control of the physical cross-border transportation of cash and bearer negotiable instruments is regulated in article 4 of law 19,913, in the wording given by law 20,119.

This is a system of "declaration" at the entrance, for which all the people who cross the border, carrying cash or bearer negotiable instruments must submit a document to the designated authority, on request.

At the departure of the country a system of "revelation" is applied, to the people who carry or bear foreign currency over US$ 10,000 for which they must complete and submit to the Customs Office a document established for the effect.

The statements of money demand to indicate the origin of the money or instruments. In the event that this requirement is not met, the Customs Office may require that such information is supplied. If a false declaration or non-declaration is detected, the Customs Office demands to fill out a *"non-voluntary declaration",* which contains the information about the origin of the money or instruments that is immediately forwarded to the UAF for its processing and application of sanctions.

Law 20,119 established as less serious sanctions the contraventions to the provisions of article 4 of the Law 19,913 that obliges to declare the carrying of cash currency from or towards the country, which can be penalized with a fine up to three thousand *Unidades de fomento* (approximately US$100,000), not exceeding 30% of the amount involved.

In the case of a false declaration or inconsistencies in the declaration, the Customs Service is empowered to denounce the situation to the Public Prosecutor' Office, which after the respective investigation shall submit the case to the Guarantee Judge. It is also possible that precautionary measures are adopted with respect to the funds and ultimately, in the case of a condemnatory sentence, they can be confiscated.

14.3
Banks

Numeral 2 of Chapter 1-14 of the Updated Compilation of Rules (RAN), on *"know your customer"* states that in the case of transfers of funds, the originator and the beneficiary must be identified.
In addition, Circular Letter 0010 (consolidated in Circular Letter UAF No. 49, dated December 2012) of the Financial Analysis Unit, on Electronic Funds Transfers, provides that: For all electronic funds transfers, the sender institutions must obtain and retain for a minimum period of five years, at least the following information concerning to the originator of the transfer, also verifying that the information is accurate:
- Amount and date of the transfer
- Name of the originator
- National Identity Card Number for Chileans or residents foreigners, or Passport Number or similar document of identification for non-resident foreigners.
- Originator's account number (or, in its absence, the reference number assigned to the operation).
- Address of the originator

Also, in Chapter 2-2 of the RAN it is established that institutions should have the appropriate technological tools that allow them to develop alert systems, for the purpose of identifying and detecting unusual operations. These instruments must be able to monitor all transactions carried out by their clients through the various products, paying special attention to those that are carried out in cash. The parameters for detecting unusual transactions will consider in its application the risk of customers and/or products.

Additionally, Circular Letter 0010 of the Financial Analysis Unit above mentioned, establishes that the institutions that receive electronic transfers must adopt effective procedures based on risk, to isolate and manage transfers that are not accompanied by complete information about the originator. The lack of complete information of the originator can be considered as a factor for assessing whether an electronic transfer or the transactions related to it are suspicious and, accordingly, should be reported to the UAF.

When required, the institution receiving the electronic transfer should consider restricting or even ending its business relationship with the sender institution that fails to comply with the procedures. They should also refrain from processing transfers when the originator requesting them does not deliver the minimum information.
In addition, the specific obligation to save the documentation relating to the transfer when the financial institution acts as an intermediary is reflected in article 155 of the General Banking Law, which requires the documentation of the financial institution to be preserved for a period of six years.

Currency Exchange Offices and Money Transfer Companies monitored by the UAF
Circular Letter 0010 (consolidated in Circular Letter UAF No. 49, dated December 2012) of the Financial Analysis Unit is applied on Electronic Funds Transfers, in the same terms and conditions set forth in the preceding paragraph.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

There are a number of proposed amendments to Law No. 19,913 which are in part incorporated in the Bill (Bulletin 4426-07), currently in its second procedural stage in the Senate, which contains:

- Rules that complement the powers of the UAF and the Public Prosecutor's Office, in regard to the analysis of information related to money laundering and criminal prosecution of those who perform it.

- Adequacy of the criminal type of money laundering, adjusts the listing of base offences, and generates a clear and expeditious procedure that allows the retention and preventive freezing of funds associated with terrorist activities.

Among other amendments the Bill proposes the following:

a. Modifications of the powers of the UAF

It incorporates rules that expressly empower the UAF to examine and analyze suspicious transactions that could be linked to the financing of terrorism, and it gives the UAF new powers related to the obliged persons.

It incorporates, within its scope of control and monitoring, new subjects obliged to report suspicious transactions, such as for example, the stock exchanges and commodity exchanges that can be or are linked to financial activities, the professional sports organizations referred to in Law No. 20,019, the Savings and Credit Cooperatives, as well as the representations of foreign banks and other financial entities and finally to public services and agencies.

Law No. 19,913 is modified in matter of access to information subject to bank reserve, so that the Public Prosecutor's Office can access it without prior judicial authorization, since they are public agencies that have the necessary legitimacy to request this information, in accordance with the provisions of Article 154 of the General Banking Law.

b. Modifications of the powers of the Public Prosecutor's Office

The project proposes that prosecutors have the power to access the current bank accounts and all information that is relevant, when investigating financial transactions related to this type of offence, since this is an integral part of a good system of detection and prevention of money laundering

The project also proposes new faculties for the Public Prosecutor's Office in relation to the lifting of the banking secrecy, by amending the Law on current accounts and the General Banking Law, allowing a proper system of prevention and detection of money laundering and terrorist financing.

c. Investigations of money laundering

In order to protect and better tackle the success of investigations on Money Laundering, the Bill proposes the following modifications:

In reference to the criminal type of money laundering, the Bill proposes changes in the following aspects:

- The list of base offenses of money laundering, are adapted and perfected;
- Special rules are established for the application of the penalty, when the penalty for money laundering is greater than the one the judge can apply for the base offense under investigation;
- extends the secrecy of the investigation not only to the offences of money laundering and illicit association to money laundering, but also to all those referred to in Law 19,913 ;
- It regulates in a better manner the provisional file by prosecutors and;

d. Other proposed modifications

- With respect to the financing of terrorism, the Bill proposes an administrative procedure with judicial ratification, of the preventive retention of assets, exercised by the Financial Analysis Unit, complying with the resolutions of the United Nations Security Council, which enables strengthening the preventive work, both in the field of money laundering and in the financing of terrorism.

- Empowers the National Customs Service to apply fines when it detects that it has not been declared the entry or exit of cash or bearer negotiable instruments by an amount equal or greater than US$10,000 according to article 4 of the Law No. 19,913 being able to retain up to 30% of the money not declared or 100% of the bearer instruments.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

II. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO APEC INEGRITY STANDARDS (CROSS CHECK WITH I.A. ABOVE)

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS
Santiago Commitment/COA: Strengthen Measures to Effectively Prevent and Fight Corruption and Ensure Transparency by Recommending and Assisting Member Economies to: • Establish objective and transparent criteria that assure openness for merit, equity, efficiency for the recruitment of civil servants, and promote the highest levels of competence and integrity; • Adopt all necessary measures to enhance the transparency of public administration, particularly with regard to organization, functioning and decision-making processes; • Develop and implement appropriate public financial disclosure mechanisms or codes of conduct for senior-level public officials [SOM III: Guidelines];

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS
As informed in I.A. Adopting Preventive Measures Chapter II, Articles 5-13

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

III. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO SAFE HAVENS (CROSS CHECK WITH I.C. ABOVE):

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LEADERS' AND MINISTERS' COMMITMENTS
Santiago Commitment/COA: Deny safe haven to officials and individuals guilty of public corruption, those who corrupt them, and their assets: • Promote cooperation among financial intelligence units of APEC members including, where appropriate, through existing institutional mechanisms. • Encourage each economy to promulgate rules to deny entry and safe haven, when appropriate, to Officials and individuals guilty of public corruption, those who corrupt them, and their assets. • Implement, as appropriate, the revised Financial Action Task Force (FATF) 40 Recommendations and FATF's Special Recommendations (Santiago Course of Action) • Work cooperatively to investigate and prosecute corruption offenses and to trace freeze, and recover the proceeds of corruption (Santiago Course of Action) • Implement relevant provisions of UNCAC. These include: o Art. 14 (Money laundering) o Art. 23 (Laundering of Proceeds of Crime) o Art. 31 (Freezing, seizure and confiscation) o Art. 40 (Bank Secrecy) o Chapter V (Asset Recovery)

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

The Chilean anti-money laundering system is currently regulated by Law No. 19,913, published in the Official Gazette on December 18, 2003, and amended by Act No. 20,119, published on 31 August 2006; Law 20,371, published on August 25, 2009; No. 20,393, published on December 2, 2009; No. 20,507, published on April 8, 2011, and 20,549, published on November 2, 2011. These laws establish the Financial Analysis Unit (UAF), and amend several provisions on money laundering.

Generally, the law is organized upon two pillars: a preventive and a control pillar.

(1) Preventive Pillar

The central body is the Financial Analysis Unit (UAF), primarily responsible for analyzing Suspicious Transactions Reports (STRs) and Cash Transactions Reports which different institutions and persons bound to report – as set by the law - should send. If the analysis of the records submitted by the said parties gives rise to suspicions about the commission of the crimes of money laundering and conspiracy to launder money, it shall send all records to the Public Prosecutor's Office, for such agency to determine whether to initiate an investigation for money laundering or conspiracy to launder money. The Financial Analysis Unit's other duties, referred to in Article 2 of the law, include requesting from any natural or legal persons required to report suspicious transactions any background that, as a result of a suspicious transaction review – previously reported to the UAF or detected by said agency in the discharge of its duties – may be necessary to develop or complete the analysis of such transaction. If the information were secret or confidential or should it be requested from a person other than one bound to report a court's authorization must be sought; organizing, maintaining and managing files and databases, which, with due care for their protection, can be incorporated into national and international networks of information for due discharge of their duties; recommending measures to the public and private sector in order to prevent the commission of the crime of money laundering; giving generally applicable instructions to persons bound to report suspicious transactions and, at any time, verifying their implementation; exchanging information with their counterparties abroad, and imposing administrative sanctions provided by law.

(2) Control Pillar:

As regards criminalization of money laundering and investigation thereof, Law No. 19,913 turned out to be a great improvement to the previous criminal regulations, contained in Article 12, Law No. 19,366, which sanctioned the illicit traffic in narcotic drugs and psychotropic substances. The offense of money laundering is now criminalized in Article 27, Law N° 19,913, partially following the model of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988 (Vienna Convention) and the United Nations Convention against Transnational Organized Crime of November 15, 2000 (Palermo Convention). The recommendations of the Financial Action Task Force of South America (GAFISUD) were also taken into consideration.

The Public Prosecutor's Office is the sole Chilean agency responsible for the investigation of the crimes of money laundering and conspiracy to launder money. The law also provides that rules governing special investigative techniques, asset freezes, prosecution and others established in Law No. 20,000 - which punishes traffic in narcotic drugs and psychotropic substances - shall apply also to money laundering and conspiracy to launder money (eg, covert agents, informants, tapping of communications, surveilled deliveries, international cooperation, etc.).

Article 14: Money Laundering

Article 27 of Law 19,913 establishes several hypotheses about money laundering:

*"**Article 27.** - A penalty of long-term imprisonment, minimum to medium degrees, and a fine ranging from two hundred to one thousand monthly tax units shall be imposed on any person that:*

(a) in any way conceals or disguises the illicit origin of certain goods, knowing that they come, directly or indirectly, from the commission of any offense referred to in Law No. 19,366, which sanctions the illicit traffic in narcotic drugs and psychotropic substances; in Law No. 18,314, which defines terrorist acts and establishes their sanction; in Article 10 of Law No. 17,798, on arms control; in Title XI, Law No. 18,045, on securities market Law 20,371; in Title XVII, statutory decree, Art. 2, No. 1, and 2, No. 3, of 1997, issued by the Ministry of Finance; Banking General Law, publised on 25.08.2009; in paragraphs 4, 5, 6, 9 and 9bis, Title V, Book II, of the Criminal Code, and articles 141, 142, 366 quater, 367, 411 bis, 411 ter, 411 quater and 411 quinquies of the Criminal Code, or, else, that knowing their source, conceals or disguises these goods.

(b) Any person who acquires, possesses, owns or makes use of those goods, for profit, if, at the time of receipt, he/she was knowledgeable of their illicit origin.

The same penalty shall apply to the conduct described in this article if the goods come from an act committed abroad, which is punishable in the place of commission and, in Chile, it amounts to any of the offenses referred to in item (a) above.

For purposes of this article, goods are defined as objects of any kind having a pecuniary value, tangible or intangible, movable or immovable, as well as legal documents or instruments evidencing title to or interest in them.

If the perpetrator of any conduct described in item (a) ignores the origin of the goods due to gross negligence, the penalty prescribed in paragraph one shall be reduced by two degrees.

The fact that the origin of the goods referred to above is a an unlawful act typical of the offenses in letter (a) need not be established in prior conviction; it may be established in the proceeding aimed at trying the offense described in this article.

If the offender has acted as principal offender or accomplice originating such goods, he will also be charged with the offense in this article and punished accordingly.

The law punishes two basic conducts by way of money laundering: (a) to conceal or disguise the origin of certain goods or the goods themselves despite being aware that they come, directly or indirectly, from the commission of any of the foregoing offenses, as established in the law (concealment), and (b) to acquire, own, possess or use illegal assets for profit, despite knowing their origin (contact). The law also provides for a culpable type of money laundering, punishing anyone who conceals or disguises the illegal origin of the goods or the goods themselves without knowing their origin because of gross negligence.
The term "goods" includes objects of any kind having a pecuniary value, tangible or intangible, movable or immovable, as well as legal documents or instruments evidencing title to or interest in them (Art. 27, third paragraph). Thus, the description of "goods" coming from the offenses referred to above is quite ample (goods of any kind having a pecuniary value, as well as legal documents or instruments evidencing title to or interest in them). Also, the law sets no objective limit as to the value of goods matter of the offense for money laundering purposes. In other words, the value of goods is irrelevant for establising the existence of the criminal conduct. Finally, prevailing rules and regulations punish money laundering of proceeds coming, directly or indirectly, of the perpetration of the foregoing offenses (Article 27 letter a)).

Regarding the level of knowledge about the illicit origin of the goods and their laundering, Article 27, Law No. 19,913, punishes both those who acted with intent

or "knowingly" and those having acted out of gross negligence, restricting the latter hypothesis to only one of the typical conducts of the "culpable" laundering (conduct in letter (a), Article 27, i.e. concealment or disguise of the illicit origin of the goods or of the goods themselves). The law employs the term "knowingly" in item (a), Article 27, and "knowledge" in item (b) of the same rule.
According to doctrine and most of the Chilean jurisprudence, the term "knowingly" used in Article 27, Law No. 19,913, to refer to knowledge of the illicit origin of the goods covers both direct and eventual intent. The main reason therefor, among others, is that Article 27 itself defines culpable laundering; therefore, it would be senseless, from a systematic point of view, to punish a negligent and culpable conduct and not the one willfully committed (which fact would result in punishment lacking any logical or systematic basis).
Furthermore, the laundering hypothesis in letter (b), Article 27, does not include the term "knowingly", but restricts to "knowledge" about the illicit origin of the goods, a term that has also been understood as to include both direct malice and eventual intent about knowledge of the illicit origin of the goods.
Regarding the negligence hypothesis, article 27, paragraph 4, states that any person having acted according to letter (a), same article (conceal or disguise, in any form, the illicit origin of the goods or the goods themselves) who ignores the origin of the goods out of gross negligence (culpable conduct) shall be imposed a lesser punishment.

Article 28. - The persons who join or organize themselves to carry out any of the conducts described in the preceding article shall, for this fact alone, be imposed the following punishments:

A. *Long-term imprisonment, medium degree, upon anyone who finances, controls, directs or plans the acts to be proposed, and*
B. *Long-term imprisonment, minimum degree, upon anyone who provides vehicles, weapons, ammunition, tools, shelter, hiding places, meeting places or who otherwise cooperate with the fulfilment of the organization's goals.*

Where the association has been formed through a legal person, as a penalty in addition to the one imposed upon individuals, the said legal person shall be dissolved and its legal status cancelled.
Article 28 defines a special offense of conspiracy to launder money, i.e, it punishes the fact of organizing to perform any of the punishable offenses described as money laundering, but distinguishes the penalty to be imposed upon the members of the organization depending on the roled played (leader, financer or just members).
This rule punishes all members of the criminal organization engaged in money laundering, penalties varying according to their role in the organization. The conspiracy is punishable as a separate crime, independent from those that make up the organization's criminal purpose; accordingly, its members are sanction irrespective of whehter they have actually commited the money laundering offenses they intended to. If any of them has actually committed it, he is punished as principal offender of both crimes (there is, in fact, a concurrence of offenses).
Additionally, when the organization has been formed through a legal person, the dissolution or cancellation thereof shall be imposed as an accesory penalty.
It must be noted that legal persons are criminally liable in Chile for their participation money laundering. Law No. 20,393, published in Official Gazette dated December 2, 2009, establishes the criminal liability of legal persons for money laundering, terrorist financing and bribery of domestic and foreign public officials.
Indeed, Law No. 20,393 establishes the criminal liability of legal persons for money laundering, terrorist financing and bribery of domestic and foreign public officials. To make legal persons criminally liable for said crimes, the formulas contained in Articles 3, 4 and 5 of the Law are used, which can be summarized as follows:
Legal persons are criminally liable for the above crimes, if commited, directly and immediately to their benefit, by their owners, holding companies, senior managers, CEOs, representatives or those discharging managerial and supervisory duties, or by such individuals as are under their direct supervision, provided that

the commission of said offense is the result of a brech, by the legal person, to discharge the managerial and supervisory duties.
Criminal liability of legal persons, therefore, requires that offenses had been committed in their interest and to their benefit by any individual holding managerial and supervisory powers, and that there is a breach of managerial and supervisory duties on the part of the legal person. This model is sometimes called "default liability of a company". According to the law, a legal person has breached its managerial and supervisory duties if it has failed to adopt an offense prevention mechanism, which minimum contens is defined in article 4 of the Law (appointment of a prevention manager; definition of resources and powers of the prevention manager; establishment of an offense prevention system; supervision and certification of the offense prevention system).
Pursuant to Article 5, the criminal liability of a legal person is autonomous and survives the extinguishment of an individual's criminal liability due to decease or lapse of the criminal action, dismissal without prejudice based on non-appearance or derangement, or even where liability cannot be demonstrated, provided that it is conclusively established that the offense should have necessarily been committed within the sphere of the powers and duties of such individuals holding managerial and supervisory powers as referred to in article 3.

The law further contains circumstances mitigating and aggravating criminal liability. With respect to sanctions, legal persons may be imposed the following penalties:

1. Dissolution of the legal person or cancellation of its legal status. This penalty cannot be imposed upon State enterprises or private law persons providing a service which interruption would cause a serious social and economic impact or serious damage to the community. Also, this penalty would only be applied in case of recidivism or repeated cases of money laundering.
2. Temporary or perpetual prohibition to enter into acts and contracts with State agencies.
3. Partial or total loss of tax benefits or absolute prohibition to enjoy the same for a certain period of time.
4. A fine for State benefit.
5. Accessory penalties (publication of an excerpt of the judgment, confiscation of proceeds of crime and other goods, effects, objects, documents and instrumentalities, and if the offense involves the investment of corporate resources in excess of corporate income, the legal person shall be sentenced to lodge into the Treasury funds an amount equivalent to the investment made.

In terms of procedure, both the investigation and the prosecution of the legal person shall be conducted by the criminal division. This means that the Public Prosecutor's Office will be responsible for conducting the investigation against the legal person and, if appropriate, bring charges against it, and that criminal courts (guarantee courts and criminal courts) shall be responsible for determining its liability, if appropriate. In general, with certain changes, most of the institutions, principles and rules of procedure applicable to individuals remain the same, and are established both in the Criminal Procedure Code and in special laws.

However, the Law amended Articles 294 bis of the Criminal Code (on penalties applicable to a "generic" conspiracy) and 28 of Law No. 19,913 (which defines "conspiracy to launder money), as follows:

Where the association has been formed through a legal person, as a penalty in addition to the one imposed upon individuals, the said legal person shall be dissolved and its legal status cancelled.

With this regulation, the law provides a system to hold legal persons criminal liable for their participation in the offense of conspiracy. Said system consists in attributing criminal liability to a legal entity when have been used as a basis or medium to commit conspiracy.

Like any crime, for both hypotheses (Art. 27 and Art 28), the general regulations on participation (articles 15 et seq. of the Criminal Code) and consummation degrees (attempted, frustrated, completed offense, without prejudice to the special rules on the matter) are applicable to money laundering. In this way, both direct perpetrators, co-perpetrators and instigators, may be punished for money laundering; the offense is deemed as completed since the very

beginning of its execution, and conspiracy to commit the crime, which generally goes unpunished, is especially imposed a diminished penalty, due to the application to money laundering of the special rules on the matter found in articles 17 and 18 of Law No. 20,000, on illicit traffic in narcotic drugs and psychotropic substances.

Between 2006 and April 2014, 80 final judgments have been issued fro money laundering. Of all judgments, 65 were convictions and 7 acquittals. In total, 124 people have been sentenced for this offense.

Article 23. Laundering of proceeds of crime
Subparagraph i), item (a), Paragraph 1
Subparagraph ii), item (a), Paragraph 1
Subparagraph i), item (b), Paragraph 1
To identify the relevant domestic laws, reference is made to the above-described measures:

Subparagraph ii), item (b), Paragraph 1

Article 33, item (d), Law No. 19,913 provides that, in respect of money laundering and conspiracy to launder money, all the regulations in Law No. 19,366 on illicit traffic in narcotic drugs and psychotropic substances, and in any other law substituting or amending it, (presently Law No. 20,000), shall be applied to the following matters:
(a) Investigation (including, inter alia, international cooperation, special investigative techniques and others); (b) Disqualification of attorneys; (c) Precautionary measures and seizures, and (d) Prosecution and enforcement of the sentence imposed (includes matters such as special aggravating circumstances, inadmissibility of certain mitigating circumstances and rules on offense consummation and conspiracy punishability, inter alia).
As regards the rules on *iter criminis* (degree of completion of an offense), Articles 17 and 18 of Law No. 20,000 are applied. According thereto, the offense is held as consummated, for penalty purposes, since any attempt is made to perpetrate it. Conspiracy to commit this offense – a conduct that in our legal system, as a rule, goes unpunished – is specially sanctioned.
the time where the act is punished as a consummated offense and early punishment under *iter criminis*, articles 17 and 18 state as follows:
Article 17. - Conspiracy to commit the offenses described in this Law shall be imposed the penalty attached to the offense in question, reduced by one degree.
Article 18. - Offenses dealt with under this Law shall be held and punished as completed since the beginning of its execution.
As for the punishment of other members and special participation ways, such as instigation, upon application of the general rules of the Criminal Code, Article 15, all such participation ways are covered, the offender being punisable either as perpetrator, accomplice or accessory. Chile's legal system provides an ample construction to the term participation, as evidenced hereinafter: Art.15. Perpetrators are deemed to be: 1. Those who take part in the execution of an act, whether in an immediate and direct way, or by preventing or attempting to prevent its avoidance; 2. Those who directly force or induce others to commit it. 3. Those who concert to carry it out, provide the means therefor or witness the act without actually taking part therein. Article 16 refers to accomplices and article 17 to accessories after the fact. It should be noted that in Chile covering up a crime is a form of participation rather than a separate offense - except for aggravated forms of an offense or sui generis crimes, as money laundering and reception of stolen goods. Therefore, in principle, and upon fulfillment of the legal elements and requirements, a person may be punished for covering up any offense, including, in principle, money laundering.

Item (a), Paragraph 2

Money laundering predicate offenses are not described in Chile in terms of their severity or penalty, but only as a catalog. Indeed, Article 27, item (a), Law No. 19,913 contains an exhaustive list of predicate offenses for money laundering. Currently, the list of predicate offenses include the following:

- **Offences under Law No. 19,366**, which punishes illicit traffic in narcotic drugs or psychotropic substances (this law was repealed and replaced by Law No. 20,000, published in the Official Gazette on February 16, 2005, to which reference is understood to have been made); the manufacturing and production of narcotic drugs or psychotropic substances; the manufacturing and traffic in precursors and essential chemicals; the supply of aromatic hydrocarbons to people under 18 years old; prescription abuse; illegal supply; sowing, planting, cultivation or harvesting of plants producing narcotic drugs or psychotropic substances; diversion of legal plants producing narcotic drugs or psychotropic substances; facilitation of goods to commit crimes described herein; allowing drug traffic at entertainment centers; failure by public officials to file a report; use of drugs by military staff and assimilated military personnel; use of drugs by seaman; conspiracy to commit the offenses described in this law; conspiracy to commit the offenses described in this law, as an exceptional figure, as generally the Chilean laws fail to punish conspiracy; and other special offenses (breach of investigation secrecy, failure to provide information requested by the Public Prosecutor's Office, etc.).
- **Offences under Act No. 18,314**, which defines terrorist acts and establishes penalties therefor. This law states that certain offenses, which the law itself defines, must be considered as terrorist acts since they have been committed to cause a justified fear in the population or part of the population of being victims of the same kind of offense, either by the nature and effects of media used, by the evidence that a deliberate plan is being followed to attack a certain category or group of people, or either because they are committed for authorities to act or refrain from acting or to condition their acts. Article 2 of the Law contains a list of terrorist offenses, including, inter alia, homicide, injuries of varying severity, kidnapping, child abduction, arson and destruction, derailment, poisoning of food, water or other beverages for public consumption, spread of pathogens, seizure or attack of a vessel, aircraft, bus or other public transportation service, physical assault against political, judicial, military, police or religious authorities, placement, release or firing of bombs or explosives or incendiary devices and conspiracy to commit terrorist acts. It also includes, as a separate offense, the financing of terrorism, which punishes anyone who solicits, collects or provides funds for the commission of any terrorist act referred to above. Terrorist financing is punishable under Article 8 of the law.
- **Offenses described in article 10, Law No. 17,798, on arms control**. This offense punishes anyone who manufactures, assembles, imports into the country, exports, transports, stores, distributes or enters into agreements on war material, firearms, ammunition and cartridges, explosives, bombs and other similar devices, chemical substances that can be used to manufacture explosives, ammunition, projectiles, missiles, rockets, bombs, cartridges and tear gas items, without the authorization of the Chilean Mobilization Directorae General. The same rule punishes those who construct, condition, use or own facilities to manufacture, assemble, test, store or deposit the above items without the authorization of Chilean Mobilization Directorate General.
- **Offences under Title XI, Law No. 18,045, on securities market.** Offenses include granting and obtaining false information or certifications, using privileged information, disclosing privileged information, delivering false information to the market and using securities given under custody.
- **Offences under Title XVII, statutory decree No. 3 of 1997, issued by the Ministry of Finance, General Banking Law.** Violations to the General Banking Act, predicate offenses for money laundering, are mainly related to the production, use, delivery or statement of false information by directors, managers, subscribers, employees or external auditors of a financial institution subject to supervision by the relevant Commission and the fraudulent obtention of loans.
- **Offences in paragraphs 4, 5, 6, 9 and 9bis of Title V, Book II, of the Criminal Code**. This category includes offenses committed by public officials in the discharge of their duties, among others: breach of trust where the perpetrator is a member of the Courts of Justice or a court Attorney; embezzlement of public funds, consisting in theft or diversion of funds; application of funds for a purpose other than the one stated or refusal to pay or deliver funds; tax fraud; illegal exaction and incompatible negotiation; passive and active bribery, both by domestic and foreign paublic officials and unjust enrichment.

• **Offences under Articles 141 and 142 of the Criminal Code**, describing the offenses of kidnapping and abduction of children under 18 years old.
• **Offences under Articles 366 quarter and 367 of the Criminal Code,** describing offenses of a minor exposure to sexual acts (watching pornographic material, sexual activities or taking part in the production of pornographic material), and promoting or facilitating child prostitution
• **Offences under Articles 411 bis, 411 ter, 411 quarter and 411 quinquies of the Criminal Code**, which respectively provide for the following offenses: illicit traffic of migrants; promoting or facilitating the entry or departure of persons to engage in prostitution, whether within the country or abroad; forced labor; slavery or similar practices, removal of organs, and conspiracy to commit any of these crimes.

Item (b), Paragraph 2

As noted above, predicate offenses for bribery of public officials are dealt with in paragraphs 4, 5, 6, 9 and 9 bis, Title V, Book II, of the Criminal Code. This category includes offenses by public officials in the discharge of their duties, to wit: breach of trust where the perpetrator is a member of the Courts of Justice or a court Attorney; embezzlement of public funds, consisting in theft or diversion of funds; application of funds for a purpose other than the one stated or refusal to pay or deliver funds; tax fraud; illegal exaction and incompatible negotiation; passive and active bribery, both by domestic and foreign paublic officials and unjust enrichment.

Item (c), Paragraph 2

Article 27, paragraph 2, of Law No. 19,913 provides: "The same penalty shall be applied to the conduct described in this article if the goods come from an act committed abroad, which is punishable in the place of commission and that, in Chile, amounts to any of the offenses listed in item (a) above."
In view of the above, it suffices that an offense be punishable in the place of commission and amount to a predicate offense in Chile for money laundering of the proceeds thereof to be punished.

Item (d), Paragraph 2 Esto debe informarlo Cancillería.

Item (e), Paragraph 2

The final paragraph of Article 27, Law No. 19,913, reads: "If the person participating as a principal offender or accomplice of the originating fact also commits the offense in this article, he shall also be imposed the penalty herein."
Consequently, Chile may punish any person having committed a predicate offense for money laundering and the actual money laundering offense (punishment of the "self-laundering" offense) both as regards concealment under item (a), article 27, and contact under item (b), of the same regulation.

Article 31. Freezing, seizure and confiscation

Item (a), Paragraph 1
Item (b), Paragraph 1

Freezing, seizure and confiscation procedures and mechanisms of assets related to money laundering are governed by a special statute in Chile, as opposed to the general rules contained in the Criminal Code and the Criminal Procedure Code, applicable to all crimes, unless a special rule exists.
Indeed, Article 33, Law No. 19,913 on money laundering, refers to regulations in Law No. 20,000, on illicit traffic in drugs, on a wide range of subjects, including precautionary measures, seizures and origin of goods seized (or confiscated), the scope thereof and destination of the goods seized. In other words, the special rules on seizure, freezing (precautionary measures) and confiscation of goods governed by the law on illict traffic in drugs are fully applicable to money laundering.

Additionally, for all matters not expressly regulated in special drug and money laundering laws, general rules contained in the Criminal Code and the Criminal Procedure Code apply. Article 32, Law No. 19,913, particularly governs freezing of assets in case of money laundering.
As regards seizure, it is regulated and defined in Article 31 of the Criminal Code, generally applicable, which reads as follows:
"Article 31. Any penalty imposed for an offense or crime entails the loss of the proceeds thereof and the instrumentalities used for its perpetration, unless they belong to a third party having no liability for the crime or misdemeanor. "
As regards money laundering, Article 45, Law No. 20,000, expressly provides that instrumentalities used to commit an offense, the proceeds thereof and any profit obtained will be seized. The rule specifically states:
"Article 45. - Notwithstanding the general rules, real estate, movable property - such as land motor vehicles, vessels and aircraft - cash, trade effects and bearer securities, and generally any other instrumentality that has served or has been employed in the commission of any offense punishable under this law; the effects and benefits coming therefrom, whatever their legal nature or the transformations they have undergone, and all such property as supplied or acquired by third parties despite being fully aware of their destination or origin shall be seized.

The same penalty shall apply to the substances identified in the first paragraph of Article 2, and raw materials, components, materials, equipment and devices used or intended to be used in any way, to commit any offense punishable under this law."

It must be added that Article 13, No. 2, of Law No. 20,393, which establishes criminal liability of legal persons in the case of money laundering, terrorist financing and bribery of domestic and foreign public officials, provides:

*"**Article 13. Accessory penalties**. In addition to the penalties mentioned in the foregoing articles, the following accesory penalties shall be applied: (...) (2) Seizure. The proceeds of the crime and other property, effects, objects, documents and instrumentalitiess of the same shall be seized."*
Chile does not allow, in respect of any offense, to seize property for an amount equivalent to the proceeds. This follows from the wording of Article 31 of the Criminal Code, which regulates seizure. In its first part, it states that any penalty imposed for an offense or crime entails the loss of its proceeds and the instrumentalities used to perpetrate it, there being no possibility of seizing other goods for an equivalente consideration.

Paragraph 2
With respect to money laundering, there exists, as noted above, a special regulation on confiscation and freezing (precautionary measures) assets linked to crime, with a view to eventually confiscating them.
In relation to the identification of goods, the only institutions that can currently identify and trace goods that are or may become subject to confiscation is the Public Prosecutor's Office, with the assistance of both police (Chilean "Carabineros" and Investigative Police) as part of a specific criminal investigation, as provided for in articles 180 et seq. of the Code of Criminal Procedure. The Financial Analysis Unit may require information and, on the base thereof, identify and track goods, but within the analysis of a Suspicious Transaction Report.
The law grants broad powers to prosectors of the Public Prosecutor's Office, as entity responsible for conducting a criminal investigation to identify and trace property. In this regard, Article 180, first and third paragraphs, of the Criminal Procedure Code provide that prosecutors will lead the investigation and take, on their own through the police, any investigations formalities they deem necessary to clarify the facts. Prosecutors may require information from any person or public official, who can not excuse themselves, save in the cases provided by law. The rule also states that public authorities and officials who, as a general rule, are to be required – information requests - to identify assets, such as notaries public, real estate registrars, the Internal Revenue Service, the National Register of

Motor Vehicles, the Civil Registration and Identification Service, among others, are bound to provide such information for free.
Article 181 of the Criminal Procedure Code, in turn, provides in paragraph two that, for faithfully discharging investigative purposes, scientific operations may be instructed to be performed, such as taking of pictures, filming or recording and, in general, reproducing images, voices or sounds.
For its part, Law No. 20,000 on illicit traffic in drugs - which rules on investigation, among others, are applicable to money laundering - contains a number of special investigative rules which have proved efficient for the identification and tracking of goods. These measures include the effective cooperation, surveilled or controlled deliveries, restricted communications and other technical means of investigation, covert agents, and informants.
It also provides that the investigative actions, including seizure and freezing of assets, may be requested by the Public Prosecutor's Office before formalizing the investigation and without notice to the person being investigated.
It should be noted that, if an effective identification and tracing of goods, steps must be taken tha devoid, disturb or restrict the accused or a third party's rights enshrined in the Constitution, court authorization shall be sought. In this case, authorization must be granted by the Guarantee judge (Article 9, Criminal Procedure Code), for example to lifting banking secrecy, according to Article 154 of the General Banking Law. In other words, lifting of banking secrecy in Chile requires court authorization.
In terms of seizing and freezing (precautionary measures) goods, Laws No. 19,913 and 20,000 also contain special rules applicable to money laundering. These rules expressly provide for confiscation and freezing (precautionary measures) of goods in order to prevent the use, development, benefit or use of such goods, as well as to prevent the illicit proceeds from turning into activities concealing or disguising its criminal origin, thus preventing any good transaction, transfer or disposal.
In this regard, as to precautionary measures aimed at preventing the free disposition of crime-related goods, i.e. freeze them, article 32 of Law No. 19,913 provides:
"Article 32. - In the investigation of offenses referred to in Articles 27 and 28 of this Law, the Public Prosecutor's Office may ask the Guarantee judge to decree any precautionary measure preventing the use, development, benefit or destination of any class of goods, securities or monies derived from the crime dealt with. For these purposes, without prejudice to any other powers vested by law, the court may order, inter alia, a prohibition to carry out certain acts and enter into any contracts, as well as to enter them in all kinds of records; to retain in banks or financial institutions deposits of any nature whatsoever; to prevent transactions with stocks, bonds or debentures, and, in general, to prevent the conversion of illicit advantage into activities concealing or disguising their criminal origin."
This rule has been drafted in broad terms, allowing to take any step to freeze goods for the above purposes. In this regard, the regulation on precautionary measures departs from the general rule on the matter, contained in Articles 157 and 158 of the Criminal Procedure Code, which remit to the civil procedural law, which is more confined as to the measures that can be requested, since they are exhaustively listed.
With respect to seizure, Law No. 19,913 contains no special rule; therefore, we must, by express reference in Article 33, item (c), analyze the rules in Law Nº 20,000, article 27, final paragraph, which reads: "The Public Prosecutor's Office, with the authorization of the Guarantee judge, granted under Article 236 of the Criminal Procedure Code, may, without notice to the person investigated, collect and seize documents and background necessary for investigating the facts, should there be serious indications that this step may result in the discovery or verification of a fact or circumstance being material to such investigation. To such end, the provisions in Articles 216 and 221 of the Criminal Procedure Code shall apply."
Concerning the application for and granting of precautionary measures and seizures, it must be noted that that they can be decreed without the person being investigated having knowledge thereof, at the request of the Public Prosecutor's Office and upon authorization by the Guarantee judge of jurisdiction.
Precautionary measures and seizure are widely used by the Public Prosecutor's Office in money laundering investigations, which is partly reflected in seizures decreed in final judgments connected with this offense.

Paragraph 3

The Public Prosecutor's Office is responsible for the administration of goods seized or frozen, in accordance with the provisions of Article 188 of the Criminal Procedure Code, which reads as follows:

"Article 188. Custody of goods.

The goods collected during the investigation will be kept under the custody of the Public Prosecutor's Office, which must take the necessary measures to prevent tampering thereof in any way.

Complaints may be filed with the Guarantee judge for non-observance of the foregoing provisions, so that the necessary measures are taken to protect the integrity of the goods collected.

Participants will have access to said goods in order to recognize them or subject them to any test, to the extent they are authorized by the Public Prosecutor's Office or, if appropriate, by the Guarantee judge. The Public Prosecutor's Office shall keep a special register identifying the persons authorized to recognize or manipulate such goods, a copy of such authorization being deposited, if appropriate."

Each Public Prosecutor's local office within the country shall keep a record of the goods seized, as well as management system thereof, whether the goods are physically located at the Public Prosecutor's office or somewhere else.

Moreover, the special rule on seizure contained in Article 40, Law No. 20,000 (applicable, as already told, to the money laundering offense) must be borne in mind, particularly as regards the administration of the goods seized, their destination and early disposition in certain cases.

"Article 40. - The instrumentalities, objects of any kind and proceeds seized under this Law – as referred to in Articles 187 and 188 of the Criminal Procedure Code - may be assigned by the Guarantee judge, at the request of the Public Prosecutor's Office, to a State agency or, upon a security being posted, to a non-profit private institution aimed at preventing and treating drug abuse and reinserting abusers into society, or controlling the illicit traffic in narcotic drugs, after consulting the Narcotic Drugs National Council, particularly its Executive Secretariat.

These goods must be used for purposes within the line of business of the receiving entity, which shall duly establish that its resources are sufficient enough to bear the conservation costs thereof.

Seizure of arms shall be governed by Law No. 17,798 on Arms Control. The funds will be deposited at Banco del Estado de Chile, in adjustable accounts or securities.

If the seizure applies to industrial or commercial establishments or crops, the Guarantee judge, at the request of Public Prosecutor's Office, will appoint a provisional administrator, who must report on the discharge of his duties to the latter, at least quarterly. The seizure of a real estate includes its fruits or income.

If the Guarantee judge, at the request of the Public Prosecutor's Office, deemes it fit to dispose of any good referred to in this article, he shall so decree in a well-founded decision. In the case of perishable goods, or goods that may sustain deterioration, or which conservation is difficult or expensive, they shall be disposed of. Disposition shall be conducted by "Dirección General del Crédito Prendario" in public auction, unless the court, also at the request of the Public Prosecutor's Office, decrees the direct sale thereof.}

In the latter case, in the event that the judgment does not include the seizure of goods disposed of, the purchase price, its adjustment and interests shall be paid to whom it may concern. The same applies to the monies referred to in paragraph two.

The Public Prosecutor's Office must inform the Ministry of the Interior, quarterly, on the monies, securities and other goods seized under this Act."

With respect to goods seized, as provided for in Article 46, Law N ° 20,000, the proceeds of the disposition of assets and securities, as well as the seized cash, will be applied to a special fund kept by the Ministry of the Interior for drug prevention, treatment and rehabilitation programs.

Article 46, Law No. 20,000, in turn, regulates the application of seized goods, noting that the proceeds of the disposition of assets and securities, as well as the

seized cash, will be applied to a special fund kept by Ministry of the Interior for use in drug prevention, treatment and rehabilitation programs.

Paragraph 4
Paragraph 5
Paragraph 6
Concerning the transformations sustained by crime proceeds, reference has already been made above, taking particular account of the provisions in Article 45, Law No. 20,000, the contents of which is transcribed:
"Article 45. - Notwithstanding the general rules, real estate, movable property - such as land motor vehicles, vessels and aircraft - cash, trade effects and bearer securities, and generally any other instrumentality that has served or has been employed in the commission of any offense punishable under this law; the effects and benefits coming therefrom, whatever their legal nature or the transformations they have undergone, and all such property as supplied or acquired by third parties despite being fully aware of their destination or origin shall be seized.

The same penalty shall apply to the substances identified in the first paragraph of Article 2, and raw materials, components, materials, equipment and devices used or intended to be used in any way, to commit any offense punishable under this law."
It must also be added, as for money laundering, that, accordingl to law, the material object of this offense are the direct or indirect proceeds of any of the offenses listed in the catalog. Consequently, for the purposes of this offense, goods having been transformed or converted into other goods may be seized and later on confiscated if they are deemed to, at least, be the indirect proceeds of any predicate offense.
Likewise, reference must be made to the law amending Law No. 19,913, which, inter alia, contains amendments allowing for the seizure or confiscation of goods "for an equivalent amount", as provided and stated in several international instruments

The Chilean system against money laundering was evaluated during 2010 by GAFISUD (Financial Action Task Force of South America) as part of the 3rd round of mutual evaluation. The evaluation methodology places a special emphasis on compliance and effectiveness of the standards and procedures implemented (http://www.gafisud.info/pdf/IEMChile3raronda_2.pdf).

Paragraph 7
As already mentioned, the law grants broad powers to the Public Prosecutor's Office, as the entity responsible for conducting criminal investigations to identify and trace goods. In this regard, Article 180, first and third paragraphs, of the Criminal Procedure Code, provide that prosecutors will lead the investigation and take, on their own or through the Police, any steps they may deem appropriate to clarify the facts. Prosecutors may require information from any person or public official, who cannot excuse themselves, except in the cases provided for by law. The rule also states that public authorities and officials who, as a general rule, are to be required – information requests - to identify assets, such as notaries public, real estate registrars, the Internal Revenue Service, the National Register of Motor Vehicles, the Civil Registration and Identification Service, among others, are bound to provide such information for free.
Information subject to banking secrecy (information on deposits and placements) must be submitted by banks and other financial institutions after obtaining a court's authorization. Information subject to banking secrecy (e.g. information in a customer's folder or credit card transactions, any transaction other than deposits or placements) can be requested from banks or financial institutions directly by the Public Prosecutor's Office, without court authorization, for it has a legitimate interest and no impairment of the affected person's net worth can be expected, in accordance with the provisions of Article 154 of the General Banking

Law. This is explained in detail hereinbelow.

Paragraph 8

Chilean laws do not contain a rule allowing an offender to be bound to establish the lawful origin of the alleged proceeds of a crime or other goods liable to seizure, mainly because the burden of proof rests always iin the Public Prosecutor's Office; otherwise, the presumption of innocence principle, enshrined in the Chilean constitution, would be at stake.

The Chilean Constitution sets forth the presumption of innocence principle, under which the Public Prosecutor's Office is legally bound to prove a person's criminal liaiblity or the unlawful origin of his property before the court. The accused may remain silent and has no obligation to prove his innocence or the legitimacy of his property.

Indeed, Article 19, No. 7, item (f), of the Constitution provides:

"In criminal actions, the accused may not be required to testify under oath about his own acts, nor aginst his descendents, spouse and such other persons as specified by law the certain cases and circumstances."

In this context, in Chile, any change in the burden of proof in order for the accused to be required to establish the lawful origin of the goods to be seized is against the Constitution. Indeed, Article 19, paragraph 7, No. 3, of the Chilean Political Constitution states that "the law cannot presume criminal liability"; additionally, international treaties signed and ratified by Chile expressly enshrine the presumption of innocence. Criminal and constitutional doctrine note the dual effect of the presumption of innocence: first it guarantees that the accused of a crime shall be treated as innocent until proven guilty of an offense; it also establishes that the burden of proof shall rest in the prosecuting agency (the Public Prosecutor's Office in Chile). Moreover, seizuer or confiscation (as defined in Article 31.1, which is in line with Chilean laws) covers goods used in the commission of a crime and the proceeds thereof: to require the offender to establish the lawful origin of the goods means to provide him with the burden of effecting the penalty, since, as a general rule and the rule in 31.8, "any good in the possession of the accused shall be subject to seizure, unless otherwise established". However, the rule is against the Constitution because it alters the burden of proof because of the existence of a penalty as a legal consequence of the offense and also because it relieves the Public Prosecutor's Office from a dulty vested in it under the Constitution (Article 83, Constitution of the Republic) .

Paragraph 9

In relation to *bona fide* third parties, the law protects their rights. Regarding seizure, Article 31 of the Criminal Code seizure of property belonging to a third party not liable for the offense or crime. Article 45, Law N ° 20,000, applicable to offenses criminalized under the drug and money laundering law, states that goods supplied or acquired by third parties that are fully aware of the destination or origin thereof may also be seized. Consequently, the rule requires knowledge by the third, excluding *bona fide* third parties. As regards goods seized, the general rule in Article 189 of the Criminal Procedure Code is applicable. According thereto, participants or third parties may lodge claims or third-party actions during the investigation in order for the goods collected or seized to be returned. These complaints or actions shall be heard by the Guarantee judge of jurisdiction. The Judge's decision should be limited to state the claimant's right to said goods, but the restitution thereof will only take place after the determinatioin of the proceeding, unless the court finds it unnecessary to keep them under its custody.

Article 40. Bank Secrecy

Bank secrecy is regulated in Chilean laws under Articles 154 of the General Banking Law and Article 1 of the Banking Current Accounts and Cheques Law. According to these regulations, the courts are empowered to decree, in the actions being heard by them, the forwarding of information on transactions under banking

secrecy the review thereof. The same power is vested in the Public Prosecutor's Office when conducting its investigations, but subject to the authorization of the Guarantee Judge.
With respect to criminal investigations brought against public officials for crimes committed in the discharge of their duties, including bribery of international public officials, the powers of the Public Prosecutor's Office in respect of current accounts are broader thatn in the general rule. It may even order full disclosure of the official's current accounts and their balances.
The powers conferred upon the Financial Analysis Unit referred to in Law No. 19,913 to prevent the use of the financial system and other economic sectors in the commission of any offense referred to in Article 27 (Investigation suspicious transactions) are another exception to the rules on banking secrecy and confidentiality. Detailed access is provided to transactions and the related information if previously authorized by a justice of the Court of Appeals of Santiago.
It should be noted that Law No. 20,119 expanded UAF powers to access a larger volume of protected information by establishing a system to lift banking and tax. To such end, procedures must be carried out to obtain the lifting of such secrecy by the Court of Appeals Santiago. It also provides access to public agencies' databases for information purposes. On the other hand, the Financial Analysis Unit is empowered to punish individuals who breach the law or the instructions issued by the said Unit.
In accordance with the provisions of Law 20,119, which amended Law 19,913, UAF can request from other entities and persons not covered by Article 3, Law No. 19,913, additional information needed to complete the analysis of a transaction previously reported or detected by said Unit in the discharge of its duties or as required to meet the request of a foreign counterparty. Should this background be secret or confidential, or should they be requested from a person not included in Article 3, Law No. 19,913, the request must firstly be granted by a justice of the Court of Appeals of Santiago. Similarly, UAF can access any existing information and material in public agencies' databases during the review of a previous suspicious transaction reported to the Unit or detected by it the discharge of its duties, should they become necessary to develop or complete the analysis of said transaction and to grant the request of a foreign counterparty. Finally, on December 5, 2009, Law No. 20,406 was published, which establishes rules allowing for access to secret or confidential banking information by tax authorities, after obtaining the authorization of ordinary courts of justice, in the case of proceedings connected with the fulfillment of tax obligations, so as to verify the accuracy or completeness of any tax returns or lack of them and to grant requests for information by foreign tax authorities under prior agreements and for exchanging information exchange aimed at avoiding double taxation.
The Public Prosecutor's Office, when conducting money laundering investigations, may obtain information about financial transactions, contracts or operations, as well as accounting information by financial and other institutions. In doing so, it must be distinguished as follows:
(a) With respect to banking transactions deemed as confidential under the law, i.e. checking accounts, deposits and placements, the Public Prosecutor's Office, in order to access such information, must obtain the authorization of the Guarantee judge. If the judge, by means of a well-founded decision, lifts the banking secrecy, according to the Banking Current Accounts and Cheques Law (art. 1) and the General Banking Law (Article 154) the scope of this authorization extends to "disclosure of certain items in the current account," or specific information regarding deposits and placements of an individual who is charged with money laundering. The rest of the financial information on banking transactions is confidential and may be accessed, according to law, if there is a legitimate interest and there is no risk of financial loss by the customer, which situation shall be determined at the discretion of the bank (Art. 154 General Banking Act). The Public Prosecutor's Office constructs this rule to the effect that in the case of investigations conducted by a prosecutor, the two foregoing requirements are met.
1. If the bank denies access to that information even if a court authorization is previously granted, the prosecutor may request the judge to send a subpoena for the said institution to provide the information within a specified period. Likewise, the judge, at the request of the prosecutor, may decree the search of premises at the branch where the financial information is located, the subpoena of the bank" and seizure of the documentation.
(b) If the prosecutor has, by means of an official letter addressed to the institution, demanded the delivery of confidential information and the institution refuses

to prived it, he cannot forcefully demand its delivery, unless the request is made through a court authorization (a proper authorization or an order for exhibition of and delivery of documents in face of an eventual obstruction of justice).
(c) As to other financial records, which are not handled by banking institutions, but are of public domain or can be forwarded to the Public Prosecutor's Office (eg information from the Internal Revenue Service, which must be submitted at the request of the Prosecutor without need for a court approval), the Prosecutor may send an official letter to said institution for the delivery of such information. However, in this case, the Prosecutor has no coercive means to have the information delivered in case of refusal; in such case, the subpoena referred to above must be sent. In the case of sensitive information, i.e. information affecting the physical or moral characteristics of an individual, such as race, religion, ideology, sex life, the authorization to access such databases must be sought from the Guarantee judge.
(d) Financial information existing in public agencies' databases must be delivered at the request of the prosecutor. In case of refusal by the public agency on the grounds that such information is secret, a mechanism exists to settle the dispute between authorities in the relevant Court of Appeals. If, eventually, it is found that disclosure of information may affect national security, the Supreme Court must make said decision.
(e) Finally, miscellaneous financial information can be seized by the prosecutor, upon authorization by the Guarantee judge of jurisdiction, during a premises search, provided that such instruments are connected with the offense under investigation, means of proof or goods that may later be subject to seizure. Documents or instruments may be seized from the accused or a third party, and a notice may be handed down before the seizure or else the seizure may be performed forthwith should this step be taken without the accused's knowledge; however, in any case, the court authorization must have been granted (Articles 180 et seq.).
It must be added that Article 28, Law No. 20,000, provides that notaries public, registrars and clerks must expeditiously provide the Public Prosecutor's Office with such reports, documents, copies of instruments and data as are requested from them, free from any kind of fees and taxes. Article 29 of the same law provides for a penalty of short-term imprisonment, medium to maximum degree, to be imposed on any person unreasonably refusing to expeditiously deliver to the prosecutor thereports, documents, copies of instruments and data requested.
The bill now pending before the Congress, and to which reference has been made, sets forth rules facilitating the delivery of secret, confidential information in money laundering investigations, allowing for larger access by the Public Prosecutor's Office, to the exntent authorized by the Guarantee judge of jurisdiction. It also contains a bill on a special regulation which explicitly states that the Public Prosecutor's Office fulfils the legal requirements to access information protected by banking secrecy, i.e. without need for a court authorization.
Seeking a court authorization to lift banking secrecy is a mechanism used in most money laundering investigations.
In this sense, there is a rule easing the use thereof, contained in Article 33 bis, Law No. 19,913, allowing for provisionally suspending an invetigation, although evidence subject to banking secrecy has been obtained (this is not permitted under the general statuts in the Criminal Procedure Code). The particular rule provides as follows:
"Notwithstanding the provisions in Article 32, where during an investigation conducted for the offenses referred to in Articles 27 and 28 of this law, information or copies of documents under banking secrecy or confidentiality are to be delivered, and in the absence of information allowing to clarify the facts, the prosecutor – notwithstanding the provisions in section 167 of the Criminal Procedure Code - may not provisionally suspend the investigation until the discovery of information further clarifying the facts."

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)
At present, a bill is pending at the Chilean Congress to fully amending the Law No. 19,913. This bill is contained in Bulletin No. 4426-07, and is currently at the second constitutional stage (review by Senate). Amendments under discussion include criminalization and prosecution of the offense of money laundering, particularly as follows: (a) increase of predicate offenses, including the list under the Customs General Ordinance, the laws on intellectual and industrial property, the Central Bank Constitutional Law, the crimes of conspiracy to commit a crime, fraud and other swindles, and crimes related to child pornography; (b) Removal of the terms "knowingly" and "for profit"; (c) Extension of the scope of negligent money laundering acts to conducts in items (a) and (b), Article 27. (d) Regulation of the money laundering penalty according to the penalty applicable to predicate offenses (offenses or crimes); (e) Incorporation of a rule on allocation of funds or goods seized and confiscated to crime prevention efforts. (f) Incorporation of a rule allowing for the seizure and confiscation of goods for "an equivalent consideration"; (g) Establishment of an administrative freezing procedure – upon instructions by UAF and subsequent court ratification – of funds associated to individuals and legal persons including on terrorist acts and terrorist financing lists prepared by Committess created under UN Security Council Resolutions No. 1267 of 1999, 1333 of 2000 and 1390 of 2002 and such supplemental or substituting resolutions as may be proper. This procedure shall be applied at the discretion of UAF and subsequent ratification by the court of jurisdiction; (h) Authorization granted for the National Customs Service to retain a percentage of non-declared amounts when entering or leaving the country, as provided for in Article 4 of Law No. 19,913; (i) Criminalization of a special offense (failure to report by public officials); (j) Amendment of the rules on banking secrecy, making them more flexible and allowing for greater access by the Public Prosecutor's Office to secret, confidential information.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

IV. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO PRIVATE SECTOR CORRUPTION:

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS
Santiago Commitment/COA: Fight both Public and Private Sector Corruption: • Develop effective actions to fight all forms of bribery, taking into account the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or other relevant anticorruption conventions or initiatives. • Adopt and encourage measures to prevent corruption by improving accounting, inspecting, and auditing standards in both the public and private sectors in accordance with provisions of the UNCAC. • Support the recommendations of the APEC Business Advisory Council (ABAC) to operate their business affairs with the highest level of integrity and to implement effective anticorruption measures in their businesses, wherever they operate.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

V. ENHANCING REGIONAL COOPERATION

Contact Point:

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LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Strengthen Cooperation Among APEC Member Economies to Combat Corruption and Ensure Transparency in the Region:

- Promote regional cooperation on extradition, mutual legal assistance and the recovery and return of proceeds of corruption.
- Afford one another the widest measure of mutual legal assistance, in investigations, prosecutions and judicial proceedings related to corruption and other offences covered by the UNCAC.
- Designate appropriate authorities in each economy, with comparable powers on fighting corruption, to include cooperation among judicial and law enforcement agencies and seek to establish a functioning regional network of such authorities.
- Sign bilateral and multilateral agreements that will provide for assistance and cooperation in areas covered by the UNCAC. (Santiago Course of Action) These include:
    - Art. 44 – Extradition
    - Art. 46 – Mutual Legal Assistance
    - Art. 48 – Law Enforcement Cooperation
    - Art. 54 – Mechanisms for recovery of property through international cooperation in confiscation
    - Art. 55 – International Cooperation for Purposes of Confiscation
- Work together and intensify actions to fight corruption and ensure transparency in APEC, especially by means of cooperation and the exchange of information, to promote implementation strategies for existing anticorruption and transparency commitments adopted by our governments, and to coordinate work across all relevant groups within APEC (e.g., SOM, ABAC, CTI, IPEG, LSIF, and SMEWG).
- Coordinate, where appropriate, with other anticorruption and transparency initiatives including the UNCAC, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, FATF, the ADB/OECD Anticorruption Action Plan for the Asia Pacific region, and Inter-American Convention Against Corruption.
- Recommend closer APEC cooperation, where appropriate, with the OECD including a joint APEC-OECD seminar on anticorruption, and similarly to explore joint partnerships, seminars, and workshops with the UN, ADB, OAS, the World Bank, ASEAN, and The World Bank, and other appropriate multilateral intergovernmental organizations.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS
Article 44. Extradition
Overview of the extradition system in Chile:

Active Extradition: Article 431, paragraph 1, of the Chilean Code of Criminal Procedure, states that "Where, in a criminal action, an individual being abroad is accused of an offense punished with a custodial sentence of at least one year, the MINISTERIO PUBLICO will request the Guarantee Judge to remand the case to the Court of Appeals, for it to, if deemed appropriate, request the extradition of the individual from the country where the offender is actually residing." The same request may be filed by the complainant should the MINISTERIO PUBLICO fail to do it. Extradition shall also be applicable to enforce, within the country, a final judgment sentencing the person sought to a custodial sentence of at least one year." If the request for extradition is granted by the Chilean courts, a formal request shall be sent through the diplomatic channels to the authorities of the country where the sought individual is living.
This same procedure is used in the case of crimes and misdemeanors committed outside the Chilean territory and tried by the Chilean courts of justice under Article 6 of the Organic Code of Courts (*numerus clausus* list of Chilean extraterritorial criminal jurisdiction). Article 6 of the Organic Court Code provides that "crimes and misdemeanors committed outside the Chilean territory, including No. 2, misappropriation of public funds, fraud and extortion, breach of duty as regards the custody of documents, breach of secrecy, bribery, perpetrated by public officials, whether Chilean or foreigner, in the service of the Republic and the bribery of foreign public officials, shall be subject to the jurisdiction of Chilean courts when committed by a Chilean citizen or a person whose habitual place of residence is located in Chile."

Passive Extradition: In the case of passive extradition, Article 449 of the Criminal Procedure Code provides that a Chilean court will grant extradition if satisfied of compliance with the following circumstances:
(a) The identity of the person whose extradition is sought;
(b) That the offense of which the individual is accused or for which he has been convicted is an extrditable offense under the treaties in force or, failing that, in accordance with the principles of international law, and
(c) That the procedural background gives rise to the presumption that an accusation is to be filed against the individual for the acts attributed to him.
Determination of the way to process a request for extradition is based directly on bilateral treaties. Chile has signed numerous bilateral treaties on extradition. In the absence of bilateral treaties, we resort to multilateral conventions signed by Chile and the country which must process a request for extradition to fill any lacunae.
In the absence of a treaty between Chile and a particular country, extradition can be sought on the basis of international laws general principles, in exchange for reciprocity.
The Supreme Court's jurisprudence consider the general principles in the Bustamante Code, the Montevideo Convention of 1933 and the bilateral agreements signed by Chile on the matter as general principles.
These principles include the formulation of the request for extradition and its remittance through the diplomatic channels; the remittance of some essential documents (statement of the facts attributed to the individual and warrant of arrest, inter alia); a minimum severity of the penalty attached to the offense (at least one year of imprisonment); the inability to extradite the individual if he may face the death penalty, if the offense is political or military in nature; dual

criminality; the possibility of extraditing nationals (unless otherwise prescribed by the relevant treaties); the fact that the alleged offense must have been committed abroad and that entitlement to file criminal action should not have lapsed; reciprocity in the absence of a treaty, and a test standard equivalent to "probable cause".[6]
The processing of a passive extradition request begins with the receipt of a petiton by the Ministry of Foreign Affairs, which forwards it to the Supreme Court (art. 440). The passive extradition system in Chile authorizes the detention of the person sought (art. 446) even before receiving the formal request for extradition, under certain minimum conditions (art. 442). Upon completion of the extradition request processing, the detention may be maintained for the periods established in relevant treaties or, in the absence of a treaty, for up to two months.
Once a final judgment granting the extradition is rendered, the Supreme Court puts the indiviudal at the disposal of the Ministry of Foreign Affairs, so that he/she eis surrendered to the country seeking his/her extradition (art. 451 Criminal Procedure Code).
With regard to jurisdiction, Article 52 of the Organic Court Code provides that a Supreme Court Justice appointed by said court is qualified to hear, in the first instance, the request for the extradition, while the Criminal Division of the Supreme Court will hear the appeal.

Article 44. Extradition - Paragraph 1
Chile considers the United Nations Convention against Corruption as the legal basis for cooperation on extradition in its relations with the rest of its States Parties.

Article 44. Extradition - Paragraph 2
This paragraph does not apply since, according to Chilean law, particularly Article 449, letter (c), of the Criminal Procedure Code dual criminality is required as a condition for passive extradition.
The Supreme Court has stated that dual criminality is met by the fact of being understood the offense within the catalog of crimes in both countries, even if it differs name or some circumstances the typical description.

Article 44. Extradition - Paragraph 3
According to the Supreme Court's jurisprudence, should an offense comply with the minimum severity requirement, all other related offenses, punished with a lesser penalty, are linked with the more serious one.

Article 44. Extradition - Paragraph 4
In the Chilean law, and in treaties signed by Chile, all offenses satisfying the dual criminality and a custodial sentence in excess of one year requirements are considered as extraditable offenses (art. 431 and 440, Criminal Procedure Code).
Such offenses as are assigned penalties of another nature or penalties other than custodial sentences are not extraditable.
Additionally, extradition for political or military offenses, whatever the penalty assigned, is prohibited.

Article 44. Extradition - Paragraph 5

[6] Term that can be translated as criminality rational circumstances allowing to make an individual stand justice.

Should Chile receive a request for extradition from another State Party, with which it has no extradition treaty, Chile may hold the Convention as the legal basis for extradition in respect of offenses under Article 44 of UNCAC.

Article 44. Extradition - Paragraph 6

When depositing its UNCAC ratification instrument, on September 13, 2006, the Chilean Government provided the Depositary with the following information:
"The Government of the Republic of Chile, in compliance with the provisions of Article 44, paragraph 6; letter (a), of the United Nations Convention against Corruption does hereby inform it holds the present Convention as the legal basis for cooperation on extradition in relations with other States Parties. "
Notwithstanding the foregoing, it should be noted that Chile does not make extradition conditional on the existence of a treaty on the matter. Indeed, in the absence of a treaty, any request for passive extradition is processed and settled on the basis of the general principles of international law on extradition.

Article 44. Extradition - Paragraph 7

Chile holds UNCAC as a legal basis for cooperation on extradition matters in relation with other State Parties.

Article 44. Extradition - Paragraph 8

The grounds for rejection contained in bilateral and multilateral treaties of which Chile is a party include, inter alia, dual criminality, minimum penalty and test standard, as well as the statute of limitations and political and military nature of the offense exceptions.

Article 44. Extradition - Paragraph 9

The Criminal Procedure Code has no specific deadlines for the processing of extradition requests. However, practice has proved that the duration of an extradition procedure from the date of the initiating note from the Embassy to the remittance by the Supreme Court terminating the processing is, on average, 6 months.
Additionally, Chilean law establishes simplified measures as regards the processing of requests for extradition:
Under Article 442 of the Chilean Criminal Procedure Code, courts may order the detention of the accused even before receiving a formal request for extradition. Article 443 of the Code provides that the MINISTERIO PUBLICO will automatically represent the State in an extradition proceeding, unless a different counsel of its choice is selected. Article 449, letter (b), that there is no need for a prior extradition treaty, it being sufficient for an extradition to be carried out to observe the general principles of international law. Article 454 establishes a simplified passive extradition mechanism operating when the person whose extradition is sought – after being informed about his/her rights to formal extradition proceeding and the protection it provides, and assisted by a legal counsel - expresses to the Supreme Court Justice hearing the case his willingness to being surrendered to the requesting State. In such case, the Justice, without further delay, will grant the extradition.
As to the evidentiary requirements in the course of the extradition proceedings, Chile requires a merit review of the case before extraditing a person. The merit test is a preliminary hearing to determine the probability of a trial against the person sought. No means of proof are required; only a satisfaction standard equivalent to the one governing indictment in Chile. This means that there are sufficient reasons to convict an individual (comparable to the "probable cause" standard in Anglo-Saxon systems).

Article 44. Extradition - Paragraph 10

At the request of a State Party, in accordance with Article 442 of the Criminal Procedure Code, the Supreme Court may order the detention of the individual whose extradition is sought or else adopt any other appropriate measures to ensure the attendance of that person at extradition proceedings.
Indeed, the Code of Criminal Procedure (Article 155) provides for personal measures such as total or partial deprivation of liberty at the detainee's home or other

place, subject to surveillance, regular reporting to the judge, the obligation to regularly appear before the judge, prohibitiion to leave the country, etc..

Article 44. Extradition - § 11-13

No legal or constitutional constraints are found in the Chilean for the extradition of its nationals.

Some of the international treaties ratified by Chile establish the possibility of denying the extradition of a State's own national, in which case the State is bound to prosecute the accused. This is the case of the "Convention on Extradition" signed at Montevideo on December 26, 1933 (Country Parties: Argentina, Colombia, Chile, El Salvador, United States, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Dominican Republic), and the Convention on Private International Law, 1928 (Havana Convention, which contains the Bustamante Code or Private International Law Code). Both conventions contain the principle "*aut dedere aut iudicare*". That is, if the requested State fails to surrender its national because of his/her nationality, it is compelled to prosecute him/her for the acts he is charged with (Article II of the Montevideo Convention and Article 345 of the Bustamante Code).

The same duty to prosecute by the requested State is established in all bilateral extradition treaties signed by Chile, upon exercise of the right not to surrender a national. Indeed, this principle is enshrined in each of these treaties, particularly in Articles referred to below: Australia (Article V, No. 1), Bolivia (art. 4), Brazil (art. 1), Colombia (art. 4)., Korea (art. 6, No. 2), Ecuador (Article VII, paragraph 2), Spain (art. 7, No. 2), Mexico (art. 6, No. 2), Nicaragua (Art. 7, No. 2), Paraguay (art. 7, paragraph 2), Peru (Article IV), Uruguay (art. 7), Venezuela (art. 3, paragraph 2), United States (art. 3).

Article 44. Extradition - Paragraph 14

The Chilean Constitution, Article 19, No. 3, contains the right to due process and its guarantees. Since the extradition process under the Chilean law is a judicial process, these guarantees are fully applicable.

Likewise, the Criminal Procedure Code, Article 10, states that "At any stage of the proceeding at which the judge finds that the accused is unable to exercise his rights under the Constitution, and the prevailing laws or international treaties ratified by Chile, he shall, *ex officio* or on request, adopts such measures as required for such exercise."

Article 44. Extradition - Paragraph 15

Chile has stated that it holds this Convention as the legal basis for cooperation on extradition in its relations with other State Parties; accordingly, it must comply with the provisions of this paragraph.

Article 44. Extradition - Paragraph 16

Chile has stated that it holds this Convention as the legal basis for cooperation on extradition in its relations with other State Parties; accordingly, it must comply with the provisions of this paragraph.

Article 44. Extradition - Paragraph 17

Article 443 of the Criminal Procedure Code provides that the PUBLIC PROSECUTOR'S OFFICE shall be immediately appointed as legal counsel of the requesting State, and that it is bound to keep it informed of all its actions.

At any time, the requesting State may designate another counsel; in such case, the intervention of the PROSECUTOR'S OFFICE will cease to intervene.

Article 44. Extradition - Paragraph 18
Chile has entered into multilateral and bilateral extradition treaties with various countries, without prejudice to the fact that the existence of such an instrument is no *conditio sine qua non* for the Supreme Court to proceed with a request for extradition.

1. Bilateral Treaties
Bilateral extradition treaties were concluded with the following countries:

Australia (Extradition Treaty. Signed at Canberra on 6 October 1993. Enacted by Executive Decree N °1844 RR.EE. of December 27, 1995. Official Gazette: February 20, 1996);
Belgium (Convention on Extradition. Signed in Santiago on May 29, 1899. Enacted on 03.13.1904. Official Gazette: April 5, 1904);
Bolivia (Extradition Treaty. Signed in Santiago on December 15, 1910. Enacted by Decree No. 500 of 08.05.1931. Official Gazette: 26 May 1931);
Brazil (Extradition Treaty. Signed at Rio de Janeiro, on November 8, 1935. Enacted by Decree No. 1180 of 08.18.1937. Official Gazette: 30 August 1937)
Canada (Extradition Treaty in force between Chile and Canada, with the United Kingdom of Great Britain and Northern Ireland. Signed at Santiago on January 26, 1897. Enacted on 04.14.1898. Official Gazette: 22 April 1898);
Colombia (Extradition Treaty. Signed in Bogota on November 16, 1914. Enacted by Decree No. 1472 of 12.18.1928. Official Gazette: January 7, 1929);
Korea (Extradition Treaty. Signed in Seoul on November 21, 1994. Enacted by Decree No. 1,417 of 01.09.1997. Official Gazette: 23 October 1997);
Ecuador (Convention on Extradition. Signed at Quito on November 10, 1897. Promulgated on September 27, 1899. Official Gazette: October 9, 1899);
Spain (Treaty of Extradition and Mutual Assistance in Criminal Matters. Signed on April 14, 1992. Enacted by Executive Decree RR.EE. No. 31 of 10.01.1995. Official Gazette: April 11, 1995);
United States (Treaty for the Extradition of Criminals. Signed in Santiago, April 17, 1900. Official Gazette: August 11, 1902. Additional Protocol to the Extradition Treaty. Signed in Santiago on June 15, 1901. Enacted on 06/08/1902. Official Gazette: August 11, 1902);
Mexico (Treaty of Extradition and Mutual Legal Assistance in Criminal Matters. Signed in Mexico City, on October 2, 1990. Enacted by Executive Decree N° 1,011 of RR.EE. of 30.08.93. Official Gazette: 11.30.93);
Nicaragua (Treaty on Extradition and Mutual Legal Assistance in Criminal Matters. Signed in Santiago on December 28, 1993. Enacted by Executive Decree No. 411 RR.EE., 8.6.2001. Official Gazette: 20.08.2001);
Paraguay (Treaty on Extradition. Signed in Montevideo on May 22, 1897. Official Gazette: November 13, 1928);
Peru (Extradition Treaty. Signed in Lima on November 5, 1932. Enacted by Decree No. 1152 of 08.11.1936. Official Gazette: August 27, 1936);
United Kingdom (Treaty on Extradition. Signed in Santiago on January 26, 1897. Enacted on 14.04.1898. Official Gazette: April 22, 1898. (Art. XVII "The provisions of this Treaty shall apply to the Her Majesty's outer Colonies and possessions, as permitted by the laws of such outer Colonies and possessions ... ").
Uruguay (Treaty on Extradition. Signed in Montevideo on May 10, 1897. Official Gazette: November 30, 1909);
Venezuela (Extradition Treaty. Signed in Santiago on June 2, 1962. Enacted by Executive Decree No. 355 RR.EE. 05.10.65. Official Gazette: June 1, 1965).

2. Multilateral
Chile is also a State party to the following multilateral treaties on extradition or containing rules on extradition:

Convention on Extradition. Signed at Montevideo on December 26, 1933. Enacted by D.S. RR.EE. No. 942 of 06.08.1935. Official Gazette: 19.8.1935. Country Parties: Argentina, Colombia, Chile, El Salvador, United States, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Dominican Republic.
Convention on Private International Law, 1928 (Havana Convention, which contains the Bustamante Code or Private International Law Code) (Title III, Book IV). Country Parties: Bolivia, Brazil, Chile, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru, Dominican Republic, Venezuela. Articles 344-381 of this Code contain provisions on extradition in criminal proceedings, as is the case of requests by several Contracting States, dual criminality, inadmissibility of the extradition of nationals, the severity of penalty (at least one year), exclusion of political offenses, the principle of specialty, procedures, and expenditures.
Agreement on Extradition between the Member States of MERCOSUR and the Republic of Bolivia and the Republic of Chile. Signed at Rio de Janeiro on 10 December 1998.DS No. 35 of 17.2.12, 18.4.12 Official Journal of. Country Parties: Chile, Brazil, Uruguay, Bolivia, Paraguay, Ecuador (membership).

3. Other treaties containing rules on extradition:

Chile is a party to several specific multilateral treaties on a number of issues, including extradition rules, namely:

- **Inter-American Convention Against Corruption.** Article XIII.
- **Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents.** Articles 7 and 8.
- **From 1936 Convention for the Suppression of Illicit Traffic Of Dangerous Drugs.** Articles 7, 8 and 9.
- **UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.** Article 6.
- **For the Prevention and Punishment of the Crime of Genocide Convention.** Article VII.

Article 46. Mutual legal assistance - Paragraphs 1 to 3
Chile provides legal assistance on the basis of multilateral and bilateral treaties signed, the principles of international law and, particularly, the rules of international reciprocity. The Convention will also be held as a basis for such assistance.
Chile provides assistance for all UNCAC offenses. For legal assistance, there is no dual criminality requirement; therefore, assistance can be provided on all types of foreign offenses, although not existing in Chile. Our country also provides assistance with respect to offenses for which a legal person may be held liable in the requesting State Party, without need for liability being established under the Chilean law. The main requirement for the enforcement of requests is that the act required is in accordance with Chilean law.
Mutual legal assistance is provided for all proceedings, investigations, actions and judicial proceedings. The presence of requesting country's officials in the enforcement of the application is accepted. For example, when taking a witness deposition, the presence of the requesting State's officials is permitted and the questions made by them are taken into account, although questions are made by Chilean officials.
Chilean legislation on mutual legal assistance is limited only to the general rules contained in two articles of the Criminal Procedure Code. Article 20 bis of the Criminal Procedure Code deals with the processing of requests for international assistance, and states: "Applications filed to competent authorities of foreign countries in order for steps to be taken in Chile shall be immediately remitted to the PUBLIC PROSECUTOR'S OFFICE, which shall seek the intervention of the relevant Guarantee Judge where the nature of the proceedings so require in accordance with the provisions of Chilean law."
Furthermore, Article 21 of the Criminal Procedure Code sets the way to carry out communication. It states: "Communications set in the foregoing articles may be

carried out by any suitable means, without prejudice to subsequent submission of the relevant documentation." Threfore, UNCAC relevant provisions can be applied directly, except for measures involving restriction or deprivation of rights guaranteed by the Constitution, which require prior authorization by a Chilean court.
Applications for passive extradition must be addressed to Chile usually through the diplomatic channels, which then submit them to the relevant central authority (Ministry of Foreign Affairs). Most requests are enforced by the Prosecutor's Office or the Police; only if the step involves a restriction of rights the request will be forwarded to the Guarantee judge, through a public prosecutor. For instance, measures to be enforced by the judge include seizure of goods, search of premises or tapping of telephone conversations. In contrast, general information on the financial standing of an individual requires no court authorization.
Close cooperation exists between the Ministry of Foreign Affairs and the Prosecutor's Office. At the Embassies, officials work that are specially trained for direct communication with the authorities of other States.
Similarly, most applications which do not include restriction of rights are enforced by the Public Prosecutor's Office through Interpol and its red alerts are not considered as self-executing; rahter, they require the consent of a Chilean judge.

Chile has concluded the following treaties and agreements on judicial cooperation in criminal matters:

a) Bilateral:
- **Spain**: Treaty on Extradition and Mutual Legal Assistance in Criminal Matters. Signed on April 14, 1992. Enacted by D.S. RR.EE. No. 31 of 10.1.1995. Official Gazette: April 11, 1995
- **Spain:** Agreement on the supression of legalization of judicial requests transmitted through official channels. Exchange of Letters signed at Santiago on August 16 and September 2, 1901. Official Journal of 25 October 1901.
- **Mexico**: Treaty on Extradition and Mutual Legal Assistance in Criminal Matters. Signed in Mexico City, on October 2, 1990. Enacted by D.S. RR.EE. No. 1011 of 30.8.93. Official Gazette: 30.11.93.
- **Nicaragua**: Extradition and Mutual Legal Assistance in Criminal Matters. Signed in Santiago on December 28, 1993. Enacted by D.S. RR.EE. N° 411, 8.6.2001. Official Gazette: 20.8.2001.
- **Uruguay**: Agreement on the Exchange of Criminal Records, signed in Montevideo on April 15, 1981. Executive Decree No. 287 of 1982. Official Gazette of 26 May 1982.
- **Argentina :** Agreement on the processing of judicial requests . Signed in Buenos Aires on July 2, 1935 . DS 02.15.63 92 . Official Journal of 19 April 1963 .
- **Bolivia:** Convention dealing with judicial requests. Signed at La Paz on November 23, 1937 . No background on ratification, but both states invoke in processing rogatory letters. (Treaties, Conventions and International Arrangements Chile 1810 - . 1976 Bilateral Chile - Bolivia Volume II.) .
- **Brazil**: Agreement on on the processing of judicial requests. Signed at Santiago by Exchanging Note dated 15 January and 10 February 1970 . DS Foreign Affairs 214. Official Journal of 12 May 1970 .
- **Colombia**: Convention on Rogatory Letters, judicial requests and judicial comunicatios. Signed at Bogota on June 17, 1981. S.D. Foreign Affairs 07/28/88 642 . Official Journal of 16/11/88.
- **Italy:** Treaty on Judicial Assistance in Criminal Matters. Signed in Rome on 27 February 2002.Promulgado by DS Foreign Affairs No. 50 of 31.3.2011 , published in the Official Journal of September 5, 2011 .
- **Peru**: Convention on Judicial requests. Signed in Santiago on July 5, 1935 Ratified on July 30, 1936 Exchange of ratifications: . Lima, April 17, 1945 Promulgated

by Decree 48a of January 16, 1948 (Treaties , Conventions and International Arrangements. . of Chile 1800 - 1976 T. I p 209) . .

b) Multilateral:

- **Inter-American Convention on Mutual Assistance in Criminal Matters.** Adopted at Nassau, Bahamas, on 23.5.92 and its Optional Protocol, signed in Managua on 11.6.93. D.S. RR.EE. No. 108 of 04/05/04. Official Gazette dated 8.7.2004. Country Parties to the Convention as at 11.5.2006: Canada, Chile, Colombia, Dominica, Ecuador, El Salvador, United States, Grenada, Guatemala, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago and Venezuela. Countries party to the protocol (as at 13/07/04): Chile, Colombia, Ecuador and the United States.
- **Agreement on Mutual Legal Assistance in Criminal Matters between the Member States of MERCOSUR and the Republic of Bolivia and the Republic of Chile**, adopted in Buenos Aires, Argentina, on February 18, 2002. Enacted by D.S. RR.EE. No. 78 of 7 May 2009, published in the Official Gazette of 17 October 2009. (No. 52 of MERCOUSR List of Treaties).
- **United Nations Convention against Transnational Organized Crime and its Protocols,** November 15, 2000 (Palermo Convention). D.S. RR.EE. No. 342 of 20.12.04. Official Gazette of 16.2.05.
- **Inter-American Convention on the Taking Evidence Abroad ,** signed in Panama on January 30, 1975 . DS Foreign Affairs 1976 N 642 . Official Journal of 9.10.76 .
- **Inter-American Convention on Letters Rogatory ,** signed in Panama on January 30, 1975 . Promulgated by DS Foreign Affairs 1976 N 644 . Official Journal of 10/18/76 .
- **Additional Protocol to the American Convention on Letters Rogatory ,** signed in Montevideo, Uruguay , on May 8, 1979 . Enacted by DS Foreign Affairs N 21/11/89 858 . Official Journal of 12 February 1990 .
- **European Convention on Mutual Assistance in Criminal Matters,** signed at Strasbourg on 20/04/59 , 17/03/78 and Additional Protocol II Additional Protocol 8.11.01 . S.D. N ° 112 of 18/08/11. OD of 3/23/12 .

Article 46. Mutual Legal Assistance - Paragraph 4 and 5

With respect to the transmission of information other than upon prior request, Chile applies the same rules that deal with mutual legal assistance in general. No international treaty that provides for the transmission of information is required.

As to the procedure, the same procedure as in reciprocal legal assistance in general is followed: The Public Prosecutor's Office sends the information to the central authority and the latter shares it with the central authority of the other country (or through diplomatic channels, if applicable .)

Additionally, Chile forms part of several networks and institutions informally exchanging relevant information on criminal proceedings, as Interpol or IberRed.

Article 46. Mutual Legal Assistance - Paragraph 6

As already mentioned, Chile is a party to several bilateral or multilateral treaties governing reciprocal legal assistance. Chile considers that such treaties are not affected by the rules of the Convention.

Article 46. Mutual Legal Assistance - Paragraph 7

Paragraphs 9 to 26, Article 46, are considered applicable to requests made between Chile and a State party to UNCAC, in the absence of a treaty on reciprocal mutual legal assistance between them.

Article 46. Mutual Legal Assistance - Paragraph 8
Banking secrecy is not a ground allowing Chile, due to its domestic laws, to deny mutual legal assistance (Article 154 of the General Banking Act and Article 1 of Law on Banking Checking Accounts and Checks). However, to lift the banking secrecy, Chilean laws require that court approval is sought, after formal request by the Public Prosecutor's Office.

Article 46. Mutual Legal Assistance - Paragraph 9
Chile does not limit or condition the provision of mutual legal assistance upon dual criminality, as Articles 20 bis and 21 of the Procedure Code and the relevant treaties fail to set said requirement.

Article 46. Mutual legal assistance - Paragraphs 10-12
The conditions and guarantees laid down in UNCAC paragraphs 10 to 12, Article 46, are applicable to requests between Chile and a State party to UNCAC, in the absence of a bilateral legal assistence agreement governing the transfer of persons in detention or serving a sentence for identification purposes, or for taking witness testimony or assisting in legal investigations, proceedings or formalilties in relation to offenses covered by UNCAC.

Article 46. Mutual Legal Assistance - Paragraph 13
At the time of depositing its Convention ratification instrument - September 13, 2006 – Chile designated the Ministry of Foreign Affairs as the Central Authority for receiving requests for mutual legal assistance. The role of central authority is played by the Department of International Legal Cooperation, Directorate of Legal Affairs (DIJUR), of the Ministry. The Ministry of Foreign Affairs is also the central authority in most other international treaties ratified by Chile.

Article 46. Mutual Legal Assistance - Paragraph 14
At the time of depositing its Convention ratification instrument - 13 September 2006 – Chile informed the Secretary General of the United Nations that Spanish is the accepted language for the purposes of requests.
In urgent cases, informal requests are accepted, such as by fax and email; however, they must always be formalized by means of an official communication.

Article 46. Mutual Legal Assistance - Paragraph 15
Chile has complied with all the requirements of paragraph 15, Article 46, in its requests for mutual legal assistance. Consequently, it requires that any requests made to it also comply with them.

Article 46. Mutual Legal Assistance - Paragraph 16
Chile requests all such additional information as is necessary for the full and proper execution of the request for international legal assistance. Chile constructs international cooperation in legal matters broadly, facilitating and easing its relations with other States. There are no specific regulations or deadlines for the execution of the request for additional information.

Article 46. Mutual Legal Assistance - Paragraph 17

Chilean laws afford individuals certain rights, such as freedom of movement and respect for privacy, which cannot be restricted or affected without the authorization of a Chilean court of jurisdiction. In this regard, if a request for international legal assistance asks for the taking of a step that might affect such rights, it cannot be processed by the administrative channels as originally required, unless with a Chilean court decree expressly authorizing such step.
For example, international warrants of arrest issued by a foreign court, Prosecutor's Office or bye the Red Flag mechanism of Interpol, are not self-executing in Chile, and must first be subject of a court warrant authorizing its enforcement. In these cases, the Chilean Prosecutor's Office is responsible for seeking such decree from the Chilean courts.

Article 46. Mutual Legal Assistance - Paragraph 18
Chile has the legal and material possibility of conducting hearings by means of an international videoconference in criminal proceedings in Chile, and take part in a criminal action abroad by means of a videoconference.

Article 46. Mutual Legal Assistance - Paragraph 19
Chile strictly adheres to the principle of specialty enshrined in this paragraph. Concerning the elements acquitting an accused person, Chilean laws impose an obligation by the prosecuting agency, in a criminal action, to act under the principle of objectivity, that is, investigating the circumstances that establish both the guilt and the innocence of an individual. In this regard, should there be any means of proof or background information to lessen his/her guilt or innocence, it is the duty of the Prosecutor's Office to transmit this information to the competent authorities.

Article 46. Mutual Legal Assistance - Paragraph 20
Although there is are no express regulations of the principle of confidentiality about the existence and contents of a request, this principle would apply pursuant to the Convention.

Article 46. Mutual legal assistance Paragraph 21, 22 and 23
According to the above, the grounds for refusal of mutual legal assistance by Chile are restricted to the grounds contained in bilateral or multilateral mutual legal assistance treaties and cases in which the proceedings are contrary to the Chilean domestic law. The refusal is decided by the institution responsible for the execution of the request.

Article 46. Mutual Legal Assistance - Paragraph 24
Chilean internal laws fail to contain specific provisions on deadlines for the enforcement of a request; however, experience proves that they are expeditiously processed, even omitting unnecesary formalities. The Convention, on the other hand, is a legal basis to timely process a request.

Article 46. Mutual Legal Assistance - Paragraph 25
Chilean laws or rules applicable treaties fail to establish a peremptory deadline to reply; so the time or opportunity to answer may vary depending on the circumstances of the case.

Article 46. Mutual Legal Assistance - Paragraph 26

Chile does not deny requests for legal assistance in criminal matters, unless expressly contrary to general principles of international law.

Article 46. Mutual Legal Assistance - Paragraph 27 and 28
Without prejudice to the Convention being the legal basis for enforcing these provisions, Chile signed the "Agreement on Mutual Legal Assistance in Criminal Matters between the Member States of MERCOSUR, the Republic of Bolivia and the Republic of Chile", which Article 19 ("Transfer of persons subject to criminal proceedings") contains rules similar to those of these paragraphs.

In the absence of a specific treaty, the general rules of the Convention apply.

Article 46. Mutual Legal Assistance - Paragraph (a) of Paragraph 29
In the light of the foregoing, Chile provides all information available in accordance with its domestic laws.

Article 46. Mutual Legal Assistance - Paragraph 30
As noted above, Chile is a State party to several bilateral and multilateral agreements on mutual legal assistance.

Article 48. Cooperation in law enforcement - Paragraph 1

(1) Public Prosecutor's Office

The Public Prosecutor's Office (PPO) is a constitutional independent organism in charge of investigating and prosecuting criminal cases, providing victims and witness care and protection.[7] The PPO does not have jurisdictional powers. It is headed by the National Prosecutor, nominated by the President of the Republic, from a list of candidates provided by the Supreme Court, and finally appointed by the Senate. Therefore the three State Powers intervene in the designation ensuring independence.
To fulfill its functions, the PPO is allowed to conduct investigations addressing instructions to the the police (Carabineros and Policía de Investigaciones de Chile) and to require any information from all public bodies as appropriate.
Article 20 bis of the Criminal Procedure Code states that "requests for competent authorities of a foreign country, how to practice proceedings in Chile, will be forwarded directly to the Public Prosecutor's Office, who will request for the judicial intervention to practice the required proceedings, in accordance with the provisions of Chilean law.
"Article 443 of the Criminal Procedure Code, provides that "The Public Prosecutor's Office shall represent the interests of the requesting State in the process of passive extradition."

The PPO is directly involved in the American Association of Public Prosecutors (AIAMP), in the Special Meeting of Public Prosecutor of MERCOSUR (REMP), in the Meeting of Ministers of Justice and Public Prosecutors of the OAS (REMJAs) and IBER -RED (grouping Public Ministry in Latin America, Spain , Portugal and

[7] It has a special legislation ruled in the Constitution and the Constitutional Law No. 19,640.

Andorra).
The international relations of the PPO are coordinated through the Unit for International Cooperation and Extradition (UCIEX). This unit provides: a) support and advise to the the Chilean prosecutors that need international cooperation from abroad; b) advise to prosecutors on domestic and international rules and procedures in applications for international criminal assistance and extradition that should be performed; c) It centralizes the reception and response of international requests for mutual assistance in criminal matters that are made to the Public Prosecutor, in accordance with Article 20 bis of the Criminal Procedure Code ; d) Represent or advise the PPO officials while they represent the requesting States' interests in passive extradition procedures, pursuant to Article 443 of the Criminal Procedure Code ; e) Work as contact point in the international networks of mutual assistance in criminal matters involving the PPO, in order to accelerate such cooperation; f) Strengthen the relationship between the PPO and the various domestic and international organizations related to international cooperation in criminal matters and extradition; g) To Prticipate and organize conferences, seminars and meetings on international cooperation in criminal matters, extradition and other issues of international law relating to the prosecution; h) Manage projects and technical cooperation programs to aid agencies , foreign governments or agencies in criminal matters.

(2) Financial Analysis Unit (UAF)
Letter (g) of Law 19,913 (http://www.leychile.cl/Navegar? idNorma=219119&buscar=19913) empowers UAF to exchange information with their counterpartiess abroad, on the basis of reciprocity, such information not being used purposes other than those provided for. The Art. 2, letter (g), of Law No. 19,913 states: "To exchange information with their counterparties abroad. To this end, the unit shall ensure that such information is not used for different purposes and that the requesting entity act in reciprocity should information be requested from it." Exchange of information is formalized by the subscription of a Memorandum of Understanding, a legal instrument establishing the conditions and requirements to be met every time information is requested from FIU. Information obtained by the UAF in the discharge of its duties shall abide by the provisions of Art. 2, paragraph 2, Law No. 19,913: "In no respect, the Financial Analysis Unit may exercise powers proper to the Pubic Prosecutor's Office or the courts of justice. Additionally, it can only use the information received for the purposes stated in this law, and, in no case, will it disclose it to agencies or services other than the Public Prosecutor."
To date, this Financial Analysis Unit hase entered into 39 Memoranda of Understanding (MOU in English) with foreign counterparties, namely Peru, Cayman Islands, Paraguay, Aruba, Bolivia, Netherlands Antilles, Argentina, Cyprus, Australia, Liechtenstein, Guatemala, United Kingdom, The Netherlands, Brazil, Bermuda, Spain, Belgium, Poland, Saint Vincent and the Grenadines, Slovenia, Malaysia, Korea, Ecuador, Mexico, El Salvador, Panama, Luxembourg, France, Thailandia, Romania, Gibraltar, Switzerland, Colombia, Guernsey, Venezuela, Canada, Japan, and Germany).
The UAF has a database, adequately protected, on suspicious transactions reports received, reports on cash transactions and statements of cash transported through border posts. UAF may receive from its foreign counterparties requests for information available in its database, using the secure network for information exchange - Egmont Group, for member countries and jurisdictions. (UAF is a member of the Egmont Group since October 2004) - or, if the other institution is not a member of the Egmont Group, by means of a request transmitted on the basis of a signed bilateral MoU. During 2011, UAF received 57 requests, 15 of which were not from Egmont members, but came from Bolivia. In 2012, 9 requests have been received so far, 8 of via Egmont and one from Bolivia, under the MoU signed between both Units. With regard to the Chilean UAF's, in 2011, 66 requests for information were made to its counterparties abroad and in 2012, to this date, 24 requests have been filed, mainly to neighboring countries and the United States.

(3) National Coordination to Prevent and Combat Money Laundering
At the Commission's level, several agreements on cooperation were concluded between the Commission of Banks and Financial Institutions and supervisory

agencies in Spain, Argentina and three supervisors in the United States. The Commission is also a member of "Asociación de Supervisores de Bancos de las Américas" (ASBA) and has an active, direct relation with the Basil Committee. **The Commission of Securities and Insurance** has signed cooperation agreements with Peru, Colombia, Mexico, Argentina, Costa Rica, Paraguay, Spain, Ecuador, Thailand, Brazil, Quebec, United Kingdom, El Salvador, Malaysia, South Africa, Chinese Taipei, France, Bolivia, Portugal, United States, Dominican Republic, Panama, and Luxembourg. The Memoranda of Understanding are agreements on cooperation and technical assistance, information exchange and consultation between securities regulators. The Commission is also an active member of international bodies setting supervision and control standards of securities and insurance markets, namely IOSCO (International Organization of Securities Commissions), IIMV (Institutio Iberoamericano de Mercados de Valores), COSRA (Council of Securities Regulators of the Americas), IAIS (International Association of Insurance Supervisors); ASSAL (Association of Supervisors) and OECD Working Groups and others.

(4) Customs: Internationally, Chilean Customs exchanges information with third countries Customs as part of the commitments made in agreements signed by Chile: (1) RILO (Regional Intelligence Liaison Office). RILO network – which South American headquarters are located in Chile (Valparaiso) - has 11 offices (Western Europe, Middle East, Asia/Pacific, CIS Countries, Russia, Central Africa, Eastern Europe), whose primary object is to generate customs intelligence and analysis, at a global level, to prevent customs offenses of all kinds, including money laundering; (2) Customs Enforcement Network (CEN) is a non-nominal database for information exchange between Customs. It also enables a customs service to exchange information, whether nominal or specific, with one or more customs, where so agreed. The Chilean customs has taken part in several joint exercises or operations, inter alia, on drug matters; (3) Additionally, Chile is a State party to bilateral and multilateral customs cooperation agreements, inter alia, with Mercosur, the European Community, Ecuador, Bolivia, Peru, the Republic of Korea, The Netherlands, the Russian Federation and Poland.

(5) Chilean Investigative Police (PDI): The Chilean Investigative Police conducts investigations in conjunction with the police in other countries, within the framework of international cooperation to combat illicit drug trafficking and the organized crime, sharing diverse feedback mechanisms and expanding knowledge for future money laundering investigations. In this area, by way of illustration, some investigations conducted by the Money Laundering Investigation Squad (BRILAC in Spanish) are mentioned, which required international exchange and cooperation from the police and other authorities, the results of which were made public both nationally and internationally ("European Sigh" case - Clan MAZZA - Money Laundering, between DEA (USA), National Police (Colombia), National Police (Peru); "Samex" case - Patricio Galmez - Money Laundering, between BKA (Germany) and the Netherlands Police.) The Police Unit cooperates by maintaining permanent contact with Interpol.

Article 48. Cooperation in law enforcement - Paragraph 2
The Chilean Prosecutor's Office has signed several instruments with similar institutions in other countries to further international legal cooperation. These instruments include agreements and Memoranda of Understanding with all the Public Prosecutor's Offices in Latin America and other States, pertaining to three categories: Inter-agency cooperation agreements, information exchange protocols, and protocols on surveilled deliveries in drug trafficking investigations.

Article 48. Cooperation in law enforcement - Paragraph 3
Other examples proving compliance with this provision include the exchange of information by UAF and the Investigative Police in safehouses provided by the Egmont Group and Interpol. Additionally, the UAF has recently improved its computer system (database and data analysis) to have a clearer view of money laundering and information networks.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

VI. OTHER APEC ACT LEADERS' AND MINISTERS' COMMITMENTS

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

- **2005**: Ministers encouraged all APEC member economies **to take all appropriate steps towards effective ratification and implementation, where appropriate, of the United Nations Convention against Corruption (UNCAC)**. Ministers encouraged relevant APEC member economies to make the UNCAC a major priority. They urged all member economies to submit brief annual progress reports to the ACT Task Force on their APEC anti-corruption commitments, including a more concrete roadmap for accelerating the implementation and tracking progress. (See Section I Above, UNCAC)
- **2006**: Ministers underscored their commitment **to prosecute acts of corruption, especially high-level corruption by holders of public office and those who corrupt them.** In this regard, Ministers commended the results of the Workshop on Denial of Safe Haven: Asset Recovery and Extradition held in Shanghai in April 2006. Ministers agreed to consider developing domestic actions, in accordance with member economy's legislation, to deny safe haven to corrupt individuals and those who corrupt them and prevent them from gaining access to the fruits of their corrupt activities in the financial systems, including by implementing effective controls to deny access by corrupt officials to the international financial systems.
- **2007**: We endorsed a model **Code of Conduct for Business, a model Code of Conduct Principles for Public Officials and complementary Anti-Corruption Principles for the Private and Public Sectors**. We encouraged all economies **to implement these codes** and welcomed agreement by Australia, Chile and Viet Nam to pilot the Code of Conduct for Business in their small and medium enterprise (SME) sectors. (AELM, AMM)
- **2008**: We commended efforts undertaken by member economies to develop comprehensive anti-corruption strategies including efforts to restore public trust, ensure government and market integrity. We are also committed **to dismantle transnational illicit networks and protect our economies against abuse of our financial system by corrupt individuals and organized criminal groups through financial intelligence and law enforcement cooperation related to corrupt payments and illicit financial flows**. We agreed to further strengthen international cooperation to combat corruption and money laundering in accordance with the Financial Action Task Force standards. International legal cooperation is essential in the prevention, investigation, prosecution and punishment of serious corruption and financial crimes as well as the recovery and return of proceeds of corruption. (AELM, AMM)
- **2009**: We welcome the Anti-Corruption and Transparency Experts' Task Force's Singapore **Declaration on Combating Corruption, Strengthening Governance and Enhancing Institutional Integrity, as well as the APEC Guidelines on Enhancing Governance and Anti-Corruption**. We encourage economies **to implement measures** to give practical effect to the Declaration and Guidelines. (AMM)
- **2010**: We agreed to leverage collective action **to combat corruption and illicit trade** by promoting clean government, fostering market integrity, and strengthening relevant judicial and law enforcement systems. We agreed to deepen our cooperation, especially in regard to discussions on achieving more durable and balanced global growth, increasing capacity building activities in key areas such as combating corruption and bribery, denying safe haven to corrupt officials, strengthening asset recovery efforts, and enhancing transparency in both public and private sectors. We encourage member economies, where applicable, to **ratify the UN Convention against Corruption and UN Convention against Transnational Organized Crime and to take measures to implement their provisions, in accordance with economies legal frameworks to dismantle corrupt and illicit networks across the Asia Pacific region**. (AELM, AMM)

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION