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G20 Anti-Corruption Working Group

**REPORT OF DELEGATIONS' RESPONSES
REGARDING INTERNATIONAL COOPERATION IN
CIVIL AND ADMINISTRATIVE PROCEDURES
RELATING TO CORRUPTION**

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DISCUSSION ON DELEGATIONS' ANSWERS TO THE TEMPLATE DEVELOPED BY G20 TO OBTAIN INFORMATION ON INTERNATIONAL COOPERATION IN CIVIL AND ADMINISTRATIVE PROCEDURES RELATING TO CORRUPTION

Document prepared by the Brazilian Delegation

I. BACKGROUND

International Cooperation is an important component of the current G20 ACWG Action Plan 2013-2014 which establishes in item 8 that G20 members should “strengthen international cooperation to assist our own and others efforts to tackle corruption and bribery and facilitate asset recovery”. The Action Plan recognises that international cooperation is one of the main challenges for the effectiveness of the fight against corruption and the recovery of the stolen assets.

The article 43 (1) of UNCAC provides that, “where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption”.

Moreover, the OECD Anti-Bribery Convention establishes that Parties “shall, to the fullest extent possible under its laws and relevant treaties and arrangements, provide prompt and effective legal assistance to another Party for the purpose of criminal investigations and proceedings”, and also “for non-criminal proceedings within the scope of this Convention brought by a Party against legal person”.

This very same issue was the content of two resolutions approved in the last Session of the Conference of State Parties to the UNCAC held in Panama (CoSP V). In that opportunity, it was decided that States Parties should be encouraged “to afford one another, when feasible, international cooperation in civil and administrative proceedings for the detection of corruption offences, in accordance with article 43, paragraph 1, of the Convention.”

The CoSP V also decided to encourage “States Parties to afford one another, when feasible, international cooperation, including mutual legal assistance as appropriate, in civil and administrative proceedings for the identification, freezing and confiscation of assets, in accordance with article 43, paragraph 1, and article 46, paragraph 3, of the Convention.”

In this regard, the CoSP V requested the Secretariat to invite States parties to provide information, to the extent possible, on civil and administrative proceedings in place within their jurisdictions so as to identify the scope of assistance that could be provided in relation to them. That information is expected to be submitted to the meeting of experts to enhance international cooperation to be held during the sixth session of the



Conference of the States Parties and to the Open-ended Intergovernmental Working Group on Asset Recovery.¹

On the same direction, according to the current G20 Anti-Corruption Action Plan 2013-2014, countries are required to “strengthen international cooperation to assist our own and others’ efforts to tackle corruption and bribery and facilitate asset recovery” and, to this end, will “consider the current use of civil and administrative channels for international cooperation in corruption and asset recovery cases.”

Based on the discussions in G20 ACWG meeting held in Sydney on February 2014 and taking into account debates held during CoSP V as an example, a “Template on International Cooperation in Civil and Administrative Procedures Relating to Corruption” was presented, discussed and approved with the purpose of facilitating the gathering of pertinent information by member states and bringing effectiveness to the current Action Plan.

The importance of this work consists in the recognition of the fact that countries will only be able to consider the current use of civil and administrative channels for international cooperation in corruption and asset recovery cases, when civil and administrative proceedings to combat corruption, according to countries’ national laws, are gathered, compiled and diffused. In this sense, G20 countries were invited to fulfill the referenced template that contains relevant information on the civil and administrative procedures undertaken by countries to counter corruption, and the scope and modalities of international cooperation that can be provided in relation to them.

As agreed in the above-mentioned G20 ACWG meeting, delegations were requested to fulfill the template until 11 July 2014, and return the responses to Brazil, which took the responsibility to present a compilation of responses, and distribute the document for discussion, on October 2014 ACWG meeting.

The current paper is the result of this compilation work.

II. SUMMARY OF INFORMATION THAT WERE SUBMITTED ON THE TEMPLATE REGARDING INTERNATIONAL COOPERATION IN CIVIL AND ADMINISTRATIVE PROCEDURES RELATING TO CORRUPTION

Nine delegations responded to the request for information on International Cooperation in Civil and Administrative Procedures Relating to Corruption. Argentina, Canada and Korea informed that these countries do not have civil or administrative procedures to combat corruption and for that reason they cannot provide assistance for foreign requests based on civil or administrative anti-corruption cases. Australia, Brazil, France, Germany, South Africa and United Kingdom submitted a considerable amount of information by using the template. All documents are available to delegations/delegates. In order to facilitate a better

¹ The Commission on Crime Prevention and Criminal Justice also approved a Resolution that encourages Member States, in accordance with their national laws, to afford one another, where feasible, mutual legal assistance in civil and administrative proceedings in relation to the offences for which cooperation is afforded, including in accordance with article 43, paragraph 1, of the Convention against Corruption.”



understanding of the compilation work, we will present the most significant outcomes, according to answers of the charts of the Template.

AUSTRALIA

Australia reported procedures available in response to a mutual legal assistance request (MLA) which are regulated by the Mutual Assistance in Criminal Matters Act 1987 (Commonwealth of Australia) (the MACMA). Australia exposed that while proceeds of crime action is a civil proceeding and endeavors both natural and legal persons under the MACMA Australia can only register a foreign request that relates to criminal offences.

In relation to corruption practices as described in article 15 to 25 of the UNCAC, Australia reported a broad range of practices for which civil liability exists. It is possible to impose monetary sanctions consisting on forfeiture of proceeds of a corruption practice and/or forfeiture of property, equipment or other instrumentalities used in or destined for use in corruption practices.

Australia clarified that the ‘monetary sanctions’ available under MACMA are limited to the identification, restraint and forfeiture (and in certain circumstances, return) of proceeds of crime. Also, registration and enforcement of foreign orders can only be made under Australia’s Proceeds of Crime Act 2002 (Commonwealth of Australia) (POCA).

In terms of active international cooperation, Australia reported a broad range of modalities of cooperation that it can request, including mutual legal assistance for the purposes set forth in article 46, paragraph 3, of the UN Convention against Corruption, hearing witness testimony through videoconference, law enforcement cooperation, cooperation for confiscation or forfeiture purposes and for the return and disposal of assets.

In terms of the purposes of active international cooperation, as described in article 48(1)“b”, “c” and “f” of the UNCAC, Australia is in a position to request identity, whereabouts and activities of persons suspected of corruption practices, items or quantities of substances for analytical or investigative purpose. On the same hand, it can request information on the movement of proceeds of crime or property derived from, used or intended for use in corruption practices and for early identification of corruption practices.

In respect to giving effect to an order issued by a court in a requesting State, Australia explained that there is no mechanism for enforcing civil and administrative sanctions under the MACMA. However, the Australian authorities can identify, restrain and forfeit property under the POCA, and register and enforce orders issued in the requesting State under the same regulation.

Australia also explained that under the MACMA procedures Australia can request assistance to any country and can receive a request from any country in relation to criminal matters. Therefore, the MACMA applies only to procedures intended to investigate a conduct that constitutes a criminal offence. Under section 8 of the MACMA, the Minister has discretion to refuse a request for assistance if the relevant conduct would not



constitute an offence according to the Australian criminal law.²

The agencies involved in the provision of international cooperation include the Crime Cooperation Central Authority (ICCCA) of the Australian Attorney General's Department, the Australian central authority for MLA in criminal matters, POCA action is managed by the Australian Federal Police (AFP) led CACT (POCL) and Courts in Australia register foreign orders.

BRAZIL

Brazil reported the following civil and administrative procedures relating to corruption:

(a) **Procedures based on the civil and administrative liability of legal persons for acts against the public administration (Law 12.846)**. In relation to corruption practices as described in article 15 to 25 of the UNCAC, Brazil reported some practices for which civil and administrative liability exists, in special bribery of foreign public officials, bribery of officials of public international organizations, bribery of national public officials and trading in influence committed by legal entities. Under the procedures regulated by Law 12.846, it is possible to impose monetary sanctions, annulment or rescission of a contract, debarment from doing business with the State, forfeiture of proceeds of a corruption practice and/or forfeiture of property, equipment or other instrumentalities used in or destined for use in corruption practices, disgorgement of profits, fine or penalty and compensation. In the civil procedure under this law, public attorneys and prosecutors can enforce the measures. Under the administrative procedure, the Office of the Comptroller General of the Union (CGU) is in charge of the respective enforcement.

In terms of international cooperation under procedures of Law 12.846, Brazil can request and provide a broad range of modalities of cooperation, including mutual legal assistance for the purposes set forth in article 46, paragraph 3, of the UN Convention against Corruption, hearing witness testimony through videoconference, law enforcement cooperation, cooperation for confiscation or forfeiture purposes and for the return and disposal of assets. (b) **Civil procedure on administrative improbity (Law 8.429)**. In relation to corruption practices as described in article 15 to 25 of the UNCAC, Brazil reported some practices for which civil liability exists in the procedure regulated by Law 8.429, such as bribery of national public officials, misappropriation or other diversion of property by a public official, trading in influence, abuse of functions and illicit enrichment. Within such procedure, Brazil reported a broad range of sanctions that can be applied. Public attorneys and prosecutors can enforce the measures.

In terms of international cooperation, under this procedure Brazil can request and provide a broad range of modalities of cooperation, including mutual legal assistance for the purposes set forth in article 46, paragraph 3, article 48(1)“b”, “c” and “f” of the UN Convention against Corruption, including determination of identity, information on the movement of proceeds of crime, providing items for investigative purpose and information for early identification of corruption practices.

² Australia also reported 29 bilateral MLA agreements and is a party to a number of multilateral conventions including the UN Convention Against Corruption.



(c) **Administrative Disciplinary Procedure (Law 8.112).** This process is based on the administrative liability for natural persons for acts committed against public administration. In relation to corruption practices as described in article 15 to 25 of the UNCAC, Brazil reported some practices for which liability exists within procedure regulated by Law 8.112 such as bribery of national public officials, misappropriation or other diversion of property by a public official, trading in influence and abuse of functions. Within this procedure, Brazil reported a range of sanctions that can be applied in special: monetary sanctions (fine), disqualification from holding public office and disqualification from holding office in an enterprise owned in whole or in part by the State. Every Ministry and agency can conduct an administrative disciplinary procedure.

In terms of international cooperation, under this procedure Brazil can request and provide mutual legal assistance and law enforcement cooperation, including mutual legal assistance for the purposes set forth in article 46, paragraph 3, article 48(1)“b”, “c” and “f” of the Convention against Corruption, including determination of identity, information on the movement of proceeds of crime, providing items for investigative purpose and information for early identification of corruption practices.

(d) **Enforcement of Decisions in Special Assessment of Public Accounts (Law 8.443/1992).** This process is based on civil liability for legal and natural persons. In relation to corruption practices as described in article 15 to 25 of the UNCAC, Brazil reported some practices for which liability exists in this procedure, in special: bribery of national public officials, misappropriation or other diversion of property by a public official, trading in influence and abuse of functions. In this procedure, Brazil reported a range of sanctions that can be applied in special: monetary sanctions (fine), disqualification from holding public office and annulment or rescission of a contract, debarment from doing business with the State, and suspension or revocation of political rights. Auditors within the Court of Accounts of the Union and public attorneys can enforce the measures.

In terms of international cooperation, under this procedure Brazil can request and provide mutual legal assistance, law enforcement cooperation and international cooperation for the return and disposal of assets, including mutual legal assistance for the purposes set forth in article 46, paragraph 3, article 48(1)“b”, “c” and “f” of the Convention against Corruption, including determination of identity, information on the movement of proceeds of crime, providing items for investigative purpose and information for early identification of corruption practices.

International cooperation provided by Brazil for civil and administrative procedures in a foreign State with similar scope

With regard to international cooperation, Brazil is in a position to support foreign investigations, prosecutions and judicial proceedings by providing types of assistance described in article 46 of the UN Convention against Corruption. Law enforcement cooperation, in its different types and purposes, is also facilitated. Brazil further provides cooperation as described in articles 54 and 55 of the UN Convention against Corruption. It is possible to give effect to an order issued by a foreign court for penalties such as monetary sanctions, annulment or rescission of a contract and the sanction of publishing an conviction in the media;



When it comes to domestic administrative procedures relating to corruption, the Office of the Comptroller General of the Union, through its Directorate of Integrity, International Cooperation and Agreements (DIACI, in its acronym in Portuguese), has a key role. The Department of Asset Recovery and International Legal Cooperation of the Ministry of Justice is competent for issues pertaining to mutual legal assistance and international cooperation. With regard to pre-mutual legal assistance requests and law enforcement cooperation, the identification of competence depends on the authority responsible for conducting a similar procedure in Brazil.

Requests for mutual legal assistance, international cooperation for confiscation/forfeiture and for the return and disposal of assets shall be transmitted through the Ministry of Justice.

FRANCE

In France, corruption is a criminal offence; consequently, no civil or administrative procedures apply as such. Nevertheless, France accepts and responds to MLA requests concerning foreign civil and administrative procedures, provided that some conditions are met, as described in Chart II.

According to its answers, France usually responds to MLA requests based on convictions and definitive criminal sentences.

Nevertheless, requests for mutual assistance in the execution of confiscation measures not based on a criminal conviction can be considered valid under two strict conditions:

- 1) The decision for which the enforcement is requested shall be legally binding in a final judgment;
- 2) The forfeited property under consideration shall be in a situation where under the French law the confiscation would also be possible.

France also reported an exemplificative case in which the *Cour de Cassation* (French Supreme Court) allowed for the first time the seize property for forfeiture based on a civil decision.

GERMANY

Germany reported an administrative procedure for the liability of legal persons under the Administrative Offences Act.

In relation to corruption practices as described in article 15 to 25 of the UNCAC, Germany reported a broad range of practices for which liability exists. It is possible to impose monetary sanctions consisting on forfeiture of proceeds of a corruption practice and/or forfeiture of property, equipment or other instrumentalities used in or destined for use in corruption practices, disgorgement of profits, fine or penalty.

Germany also reported that in the German system there are no additional sanctions that can be imposed to



legal entities by the prosecutor or the court together with the administrative fine. However, there are means at the disposal of different government bodies that may produce similar effects.³

Besides these legal sanctioning powers, public procurement law also includes powers to react to criminal offences. In the event of previously committed acts of bribery, companies are regarded as unreliable and, therefore, have to be debarred from the awarding of public contracts.

In terms of international cooperation, Germany reported a broad range of modalities of cooperation that can be requested and granted, including mutual legal assistance for the purposes set forth in article 46, paragraph 3, of the Convention against Corruption, hearing witness testimony through videoconference, law enforcement cooperation, cooperation for confiscation or forfeiture purposes and for the return and disposal of assets.

In terms of the purposes of either cooperation possibly sought or cooperation that can be granted as described in article 48(1)“b”, “c” and “f” of the UNCAC, Germany can request and provide identity, whereabouts and activities of persons suspected of corruption practices, items or quantities of substances for analytical or investigative purpose. On the same hand, Germany can ask and gather information on the movement of proceeds of crime or property derived from, used or intended for use in corruption practices and for early identification of corruption practices.

In respect to giving effect to an order issued by a court in the requesting State, Germany responded that it can give effect to a foreign order of freezing, seizure, forfeiture and other monetary sanctions. The agencies involved in the provision of international cooperation include the Foreign Office and the Federal Office of Justice.

SOUTH AFRICA

South Africa reported three procedures: a) Non-conviction based asset recovery, b) Endorsement of the Register for Tender Defaulters and c) Investigations by Special Investigating Unit with a view to recover and prevent financial losses to the state caused by acts of corruption.

a) **Non-conviction based asset recovery.** Procedures based on the civil liability of natural and legal persons for a broad range of corruption practices as describe in article 15 to 25 of the UNCAC. This procedure allows prosecutors to, if proved in a civil court that property was bought with the proceeds of corruption,

³ In this sense, where the legal person is a joint-stock company, Section 396 of the German Stock Corporation Act (*Aktiengesetz, AktG*) makes provision for the possibility of judicial dissolution if due to unlawful conduct by its directors the company jeopardises public welfare and the supervisory board and the shareholders’ meeting do not ensure dismissal of the directors. Unlawful conduct here includes cases of foreign bribery. Judicial dissolution proceedings require a petition to the highest competent authority in the Land in which the company has its registered offices.

In the case of a limited liability company (*Gesellschaft mit beschränkter Haftung, GmbH*), Section 62 of the Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung, GmbHG*) allows the competent administrative authority to effect dissolution of the company by means of an administrative act. Section 62 of the Limited Liability Companies Act can be applied where a company jeopardises public welfare in that its shareholders adopt unlawful resolutions or knowingly allow the directors to take unlawful actions. In order to be considered as unlawful actions of the directors and shareholder resolutions have to contravene the statutory provisions, Therefore cases of foreign bribery come under consideration here. If the shareholders deliberately turn a blind eye on such activity, this is equivalent to having knowledge.



fraud and money laundering, freeze of the assets and later forfeit the property. The agency involved in this procedure is Asset Forfeiture Unit within the National Prosecuting Authority of South Africa.

b) **Endorsement of the Register for Tender Defaulters.** Procedures based on the administrative liability of natural and legal persons for bribery of foreign public officials, for bribery of officials of public international organizations and for bribery of national public officials as describe in article 15 to 25 of the UNCAC. The possible sanctions allowed in this procedure includes: annulment or rescission of a contract, debarment from doing business with the State and suspension or revocation of a public concession. This procedure can be enforced by prosecutor, presiding officers, magistrates and judges.

c) **Investigations by Special Investigating Unit with a view to recover and prevent financial losses to the State caused by acts of corruption.** Procedures based on the civil or administrative liability of natural and legal persons for a broad range of corruption practices as describe in article 15 to 25 of the UNCAC. The possible sanctions allowed in this procedure includes: annulment or rescission of a contract, debarment from doing business with the State, suspension or revocation of political rights, suspension or revocation of a public concession and disciplinary sanctions. SIU investigators and lawyers can enforce this procedure.

International cooperation provided by South Africa for civil and administrative procedures in a foreign State with similar scope

With regard to international cooperation, South Africa informed that mutual legal assistance is limited solely to criminal matters and asset forfeiture connected therewith. The South African authorities are bound by the International Co-operation in Criminal Matters Act, 1996 (Act 75 of 1996) (ICCMA). The ICCMA provides for the rendering of the following assistance in criminal proceedings: provision of evidence (section 7); execution of sentences and compensatory orders (sections 15 to 18); registration of confiscation orders (sections 20 to 22) and restraint orders (sections 24 to 26).

“Criminal proceedings” include criminal investigations, prosecutions and proceedings related thereto, including asset recovery proceedings. The provisions of the Prevention of Organized Crime Act, 1998 (Act No. 32 of 1998) (POCA) are invoked to assist with asset recovery. The POCA provides for, inter alia, the civil (non-conviction based) recovery of property. Sections 38 and 48 of Chapter 6 of the POCA, respectively, provides for preservation of property orders and forfeiture orders. However, the State must prove that the property concerned is an instrumentality of certain offences set out in a Schedule, the proceeds of unlawful activities or associated with terrorist and related activities.

When a request for assistance is submitted to the Department, the provisions of the ICCMA must be met before the request can be forwarded to the National Prosecuting Authority for assistance with the execution thereof. Thus, it must appear from the contents of the letter of request that it relates to criminal proceedings.

UNITED KINGDOM

The United Kingdom has reported three different procedures: a) Regulatory sanctions by Financial Conduct Authority, b) Revenue Functions (part 6 of Proceeds of Crime Act 2002) and c) Civil recovery:



a) **Regulatory sanctions by Financial Conduct Authority.** Procedures based on the civil liability of natural and legal persons for a broad range of corruption practices as described in article 15 to 25 of the UNCAC. The FCA has a broad range of sanctioning powers. These include private or public censures; suspend, restrict, vary or cancel permissions; prohibit individuals or withdraw their approval; and impose unlimited financial penalties. In addition to these formal powers, the FCA works to improve compliance through other means. Examples include working with a firm to put appropriate remedial plans in place or requiring firms to commit to restricting business in areas of concern until deficiencies are fixed and attestations from senior staff that the work has been, or will be, carried out have been obtained.

The FCA is under a statutory duty to cooperate (s.354A FSMA) with domestic and overseas authorities fulfilling functions which correspond to those of the FCA. To that end, the FCA is able to share regulatory information it has about regulated firms and individuals with such authorities. It is also able to use its investigatory powers to assist such overseas authorities (s. 169) subject to certain conditions.

b) **Revenue Functions (part 6 of Proceeds of Crime Act 2002).** Procedures based on the civil liability of natural and legal persons for a broad range of corruption practices as described in article 15 to 25 of the UNCAC. While the sources of the income to which the Revenue Functions of POCA 2002 could be any of the above offences (or others), these powers are not applied on the basis of a court determining a criminal or civil case about an individual or assets. Rather, they allow the director of the relevant agency to exercise the functions and powers normally only available to HM Revenue and Customs. This is in respect of calculating and issuing tax assessments in relation to income, gains and profits arising or accruing from crime. The National Crime Agency, unlike HM Revenue and Customs, do not have to source the money or assets being taxed. Ordinarily these powers would only be used if a criminal prosecution or a civil recovery were not possible for whatever reason depending on the facts of the case. The Proceeds of Crime Act 2002 does not provide for the use of these powers in respect of external requests (in the way that part 11 of the Act relates to civil recovery). The UK authorities would therefore have to commence a domestic case using these powers themselves in response to, and using the information and/or evidence of, the external request.

c) **Civil recovery.** As reported, the UK legislation does not include the offence of illicit enrichment. However, the use of Civil Recovery does not require the assets in question to be linked to a specific crime. The statutory guidance⁴ states: “These proceedings are civil litigation and the civil standard of proof (the balance of probabilities) applies. The court, however, will still require cogent evidence in order to be satisfied that property is on balance more likely to be the proceeds of unlawful conduct than not. To prove that property was obtained through unlawful conduct, it is not necessary to prove the commitment of a particular criminal offence by a particular person on a particular occasion. It is sufficient to prove that the property was obtained through offending of a particular type (drug trafficking, fraud etc).

This cannot be done solely on the basis that the person holding the property has no identifiable lawful income to warrant their lifestyle. However, the absence of any evidence from the person to explain their lifestyle, or the giving of a false explanation, allows the court to infer that the source of the income was unlawful. As the action is against the property and not the person, the person who holds the assets which are

⁴ <https://www.gov.uk/asset-recovery-powers-for-prosecutors-guidance-and-background-note-2009>



the subject of the order might not be the person who carried out the unlawful conduct, and a civil recovery order is not a conviction or a sentence.

UK reported that this procedure of “Civil Recovery” can be used in respect of any property that is the product of “unlawful conduct”. Section 241 of the Proceeds of Crime Act 2002 defines “Unlawful conduct” as: (1) Conduct occurring in any part of the United Kingdom is unlawful conduct if it is unlawful under the criminal law of that part, (2) Conduct which—(a) occurs in a country outside the United Kingdom and is unlawful under the criminal law of that country, and (b) if it occurred in a part of the United Kingdom, would be unlawful under the criminal law of that part, is also unlawful conduct.

The agencies involved in the provision of international cooperation include the Home Office, the Serious Fraud Office, the Crown Prosecution Service and the National Crime Agency. Britain informed that requests for Civil Recovery should be sent in the first instance to the Home Office, who will pass the request to the appropriate body.

III. G20 COUNTRIES' RESPONSES

The responses of G20 countries provided useful information on the national approaches to deal with international cooperation for the detection of corruption related offences under non-criminal procedures, including for the identification, freezing and confiscation of assets acquired from such offences.

The consult was responded by nine countries. Three of them reported that there are no civil or administrative procedures against corruption within their jurisdictions and, for that reason, they cannot provide international cooperation in this matter. One country reported that, despite the fact that corruption is an exclusively criminal matter within its jurisdiction, it can gather international cooperation for non-criminal requests aimed at combating corruption.

Five countries answered affirmatively in the sense that they can count on non-criminal procedures to combat corruption. Most countries that responded affirmatively provided an overview of domestic civil and administrative procedures relating to corruption. From the five positive answers submitted, thirteen different procedures were described.

In terms of international cooperation, from five countries that reported the existence of non-criminal procedures against corruption under their system, only three are able to provide international cooperation for non-criminal procedures. The other two can only provide international cooperation when it relates to a criminal offence as well.

In relation to the corruption practices for which civil or administrative liability exists, in accordance with the general elements described in article 15 to 25 of the UNCAC, countries listed a wide range of corruption practices and all countries that submitted affirmative information described some domestic mechanism in relation to legal persons.

The most common sanction described in civil and administrative procedures are the monetary sanctions, but others sanctions as annulment or rescission of a contract or disciplinary sanctions were also listed. The



majority of the procedures listed are enforced by prosecutors, public attorneys, police officers and special units against corruption.

Most countries reported the need of international cooperation in all modalities listed in item 10 of Chart I (mutual legal assistance, law enforcement cooperation, international cooperation for confiscation/forfeiture, international cooperation for the return and disposal of assets). In relation to the purpose of international cooperation possibly sought as described in article 46(3), (10) and (18) of the UNCAC, the responses indicate the fundamental role of international cooperation for taking evidence or statements from persons, effecting service of judicial documents and identifying, tracing, freezing and recover illicit assets.

In the question related to the modalities of international cooperation that can be provided, most countries that cooperate for non-criminal matters answered that the majority of the mechanisms listed in item 1 of Chart II are available (mutual legal assistance, law enforcement cooperation, international cooperation for confiscation/forfeiture, international cooperation for the return and disposal of assets), depending on the respective legal basis. In relation to the purpose of international cooperation that can be granted, countries indicated a broad range of measures that can be provided especially in respect to taking evidences and statements from persons.

IV. CONCLUSIONS AND NEXT STEPS

The information provided by the delegations is a very valuable resource for understanding the general mechanisms available for G20 countries against corruption and the measures available for international cooperation for civil and administrative matters.

It seems, however, that the work of the G20 ACWG in this topic is still in a starting point. The effectiveness of cooperation for non-criminal matters between countries that have these procedures available will only be achievable when information on civil and administrative proceedings to combat corruption is adequately diffused and countries initiate the cooperation in practice.

The information received has shown some interesting examples of procedures in civil and administrative matters relating to corruption from different legal traditions, which offer the opportunity for a more in-depth analysis of these issues and the need for the maintenance of the efforts and discussion on the next steps.

In this sense, in order to have a wider sample of domestic procedures, we propose the recall of G20 member states to send and/or update information pursuant document "Template on International Cooperation in Civil and Administrative Procedures Relating to Corruption", as it proved to be a useful tool that enables the Group to focus on issues in an articulated manner at the domestic and international levels of implementation.

Additionally, it seems that the outcome of the present work can be enlarged, eventually by the adoption of flexible approaches in relation to the matter. The primary legal basis for that approach could be the existent bilateral treaties or the UN Convention against Corruption itself, which contains important provisions on domestic civil and administrative matters pertaining to corruption and offers a wide array of modalities of international cooperation.



We understand that the discussions held on the G20 ACWG can lead us to constructive measures that can effectively contribute to the promotion of international cooperation for non-criminal procedures against corruption. In these sense, some mechanisms can be deeper analysed, such as the formulation of general principles or guidelines in this area.

Brazilian delegation
02 October 2014.

