



United Nations Convention Against Corruption (UNCAC) Participatory and Representative Self- Assessment in Chile

Chapter II and V Review

June 2013



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General Introduction

The “United Nations Convention against Corruption (UNCAC)¹ Participatory and Representative Self-Assessment” project in Chile is a joint effort carried out by the Office of the Comptroller General of the Republic (CGR) and the United Nations Development Program (UNDP). The objective of the project was to assess preventive anti-corruption policies in Chile with regard to requirements established under Chapter II Preventive Measures of the UNCAC.

The UNCAC is one of the most important international instruments in the fight against corruption given the issues addressed therein. It represents a milestone in the global fight against corruption and implementation of regulations applicable to transparency, corruption prevention, recovering assets obtained through corruption, measuring public policies put into place, applying preventive measures in the private sector, promoting social control through citizen participation and fostering international cooperation. Moreover, it complements other international agreements on the matter such as the Organization of American States (OAS) Inter-American Convention Against Corruption (IACAC) and the Organisation for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business.

Project

The “UNCAC Participatory and Representative Self-Assessment” project began in March 2012, framed within the program entitled “Strengthening Transparency and Probity in Public Administration in Chile through International Cooperation and Follow-up on the UNCAC,” which was also jointly conducted by the CGR and UNDP more than three years ago.

The project is intended to perform the first participatory review in Chile on compliance with Chapters II and V of the Convention. The first part of the project focused on conducting a review of Chapter II, including an assessment of where the country stands concerning corruption prevention, along with proposals to improve anti-corruption legislation and public policy in Chile. At the same time, and with a view to progressing at a quicker pace, several good practices were identified for use on the actual project itself, such as online publication of authorities’ agenda with detailed information on meetings (participants, companies/institutions and reasons for holding meetings). The same methodology was employed for the Chapter V review with a similar outcome.

¹ The UNCAC was signed on 9 December 2003 in Mérida, Mexico, welcoming the entry into force on 14 December 2005. The Convention has been signed by 160 countries and acceded to by 140, including Chile (on 13 September 2006).



The process is considered innovative because of its participatory approach, in which stakeholders from the public sector, private sector and organized civil society had the opportunity to speak their minds and submit proposals during eleven working group discussions (for a total of approximately 42 hours)². Additionally, participatory exercises such as this one build trust among stakeholders, thereby increasing cooperation and coordination opportunities in the long run.

Start up of the “UNCAC Participatory and Representative Self-Assessment” project was made public on 10 May 2012 at an event presided over by the Comptroller General of the Republic, Mr. Ramiro Mendoza, and the Coordinator of the UN System in Chile and UNDP Resident Representative, Mr. Antonio Molpeceres. Practical steps taken to conduct stakeholder working groups are described in detail in Annex I Methodology.

This report provides a description of the key outcomes of discussions held at the aforementioned working groups.

² This also sets this process apart from other international initiatives, because according to comparative research, interest groups meet only a few times as spectators and there is not as much time for debating among stakeholders.



Chapter II of the UNCAC

Article 5 of the UNCAC

Article 5 describes the activities related to preventive anti-corruption policies and practices that each State Party shall carry out, for example, States Parties shall develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of a large number of social sectors in anti-corruption activities; set up effective anti-corruption practices; evaluate relevant corruption fighting measures; and collaborate with each other and with relevant international and regional organizations.

Publication of the Freedom of Information Law in Chile, better known as the Transparency Law³ was highlighted by the public sector working group. Stakeholders agreed that the Transparency Law represents major progress for the country and that probity has been bolstered through greater transparency. The role of the Transparency Council, as an oversight body for the right to access public information, was also underscored; however, the fact that citizens are unfamiliar with the aforementioned Transparency Law is a drawback, which is why it is necessary to design a mechanism to make society familiar with the legislation, and appropriately understand its intended use and benefits.

The CGR, in turn, in its role as a preventive body, complies by overseeing the legality of administrative acts (personnel appointments, application of disciplinary measures, promotions, zoning laws, administrative tendering rules, etc.), issuing rulings and conducting audits.

Additional highlights include publication of the Procurement Law⁴, and the framework for the Collaboration Agreement with the CGR by way of which the online *ChileCompra*⁵ module was set up to receive complaints regarding overdue payments or possible irregularities in purchasing processes⁶. Likewise, the Public-Private Council for the Integrity of Public Market Suppliers was

³ The Transparency Law (Law No. 20,285) went into effect on 20 April 2009, since the Law's transitional article stipulated that it must enter into force eight months after being published in the Official Gazette.

⁴ Law No. 19,886, Procurement Law, is available online at: <http://www.leychile.cl/Navegar?idNorma=213004&buscar=19886>. In 2011, there were more than US\$8 billion of transactions conducted on the public market, nearly US\$2 billion of which were annual purchase orders issued by the 900 government agencies using this public purchasing system (Source: Public Purchasing Office).

⁵ ChileCompra is the *Dirección de Compras y Contratación Públicas* is the on line compulsory procurement system of the Government of Chile. The link for the Probity in Public Purchasing Module is available online at: http://www.chilecompra.cl/index.php?option=com_content&view=article&id=563&Itemid=444

⁶ Out of all complaints lodged (2,856) in the second quarter 2012, 52.56% (1,501) were related to potential irregularities while 47.44% (1,355) were related to overdue payments. Source: *Chile Compra*. Complaint-related information is available online at: www.analiza.cl.



set up in December 2011 with a view to submitting draft actions to reinforce integrity practices among vendors doing business with the State.

Participants in the private sector working group broadly acknowledged efforts put forth by the Chilean State in recent years to promote transparency, namely the Transparency Law, yet also remarked on how treatment of anti-corruption and corruption-related issues on the public agenda is inconstant.

The mixed working group held in-depth discussions on the need to have a single anti-corruption organization, ultimately concluding that the latter is simply not feasible given the Chilean legal framework, the existence of sundry independent corruption prevention and fighting agencies and the varying roles each agency plays. As a result, civil society representatives proposed that one agency should take the lead in coordinating the lot in order to better harmonize actions taken by government institutions, private sector and civil society, citing as an example, setting up a committee similar to the one set up for this project, that would meet quarterly to exchange information and coordinate corruption-prevention activities. Stakeholders also agreed on the need to draw up a map of all anti-corruption institutions specifying the regulations, powers and duties of each body and their specific role in these matters⁷.

Another issue discussed at great length was the need to implement a National Agenda on Probity—but not as a mere reaction to a specific crisis—underscoring the need for a long-term approach including municipal governments. This discussion also touched upon the important role citizens play in raising issues worthy of inclusion on the public agenda, while defining priorities and joint actions. Group members emphasized the need to broadly publicize the agenda so that all citizens may become familiar with it and actively involved.

There was also a dialogue of the need to promote civil servant induction and training programs in matters pertaining to transparency and probity, thereby systematizing standards for real learning that could be subject to review by way of annual exams.

The discussion included how citizen awareness is of paramount importance in preventing corruption, and, as such, greater support should be given to the Ministry of Education in its efforts to continue distributing material created by *Chile Transparente* to the 1,377 government-subsidized high schools in order to encourage and support Civics. Stakeholders suggested launching a short-term campaign highlighting the unethical behaviour of citizens in their daily lives, followed by an educational campaign aimed at children. A dissemination campaign, explained in greater detail in Annex 3, was launched as part of this overall process.

⁷ This tool will be one of the outcomes of this process.



Finally, the UNCAC provides for the need to measure the outcome of preventive actions carried out. To this end, a proposal was put forth to develop hard indicators instead of perception based ones. Several institutions made a commitment to providing underlying data for this task. In spite of the above, during the discussion stakeholders remarked on the relevance of the human factor in the data entry involved in processing the numerous institutional forms, and, accordingly, it was suggested that in addition to developing indicators there should also be training on correct data collection techniques. Within the framework of this project, a working group made up of participants from the various other working groups proposed gathering statistics to follow up on implementation of the UNCAC and other international instruments. Annex 2 contains a description of these procedures.

Article 6 of the UNCAC

This article provides for the creation or maintaining of an independent body or bodies, in charge of preventing corruption in accordance with the fundamental principles of the State Party's legal system. States Parties shall promote the participation of society and foster its awareness as to the existence of the anti-corruption entity or entities. Likewise, the body or bodies shall have the necessary material resources to conduct the training required by specialized staff in corruption prevention and fighting. Finally, the body or bodies shall oversee and coordinate the implementation of anti-corruption measures.

Both the public and private sector working groups acknowledged the existence of several anti-corruption bodies in Chile, however, they did not perceive any clear leadership in the field, as mentioned in the paragraph above. They remarked on the dearth of actions aimed at fostering citizen awareness in matter of transparency, probity and corruption prevention, in addition to citizens' limited knowledge on legislation, agencies involved and what steps to take when probity is violated.

Moreover, the group cited several inter-government agency agreements in place to foster probity and transparency⁸.

Mention was also made of the project undertaken by the CGR entitled "Comptroller and Citizens," which is aimed at fostering citizen participation in administrative aspects related to the

⁸ Agreement between the Office of the General Comptroller and the National Prosecution Service Agreement-Some of the cooperation-related activities included under the Convention are: corruption training workshops for CGR staff members; creating a model format for receiving criminal complaints related to corruption; accessing public officials' statements of net worth and interests when requested by the National Prosecution Service, etc. The Agreement is available online at: http://www.contraloria.cl/NewPortal2/portal2/ShowBinary/BEA%20Repository/English/News/Archivos/ARC_150701_01



Comptroller's External Oversight Function by gathering and examining online complaints and audit suggestions. The number of complaints lodged on the Website created for this purpose has increased since the site was launched in September 2012, amounting to a total of 1,070 complaints and 200 audit suggestions as of April 2013.

Stakeholders in the mixed working group agreed on the need to reinforce civil servant training on probity and transparency, while also mentioning the letter of commitment that must be signed by all individuals working for the Executive branch, in keeping with responsibilities taken on by Chile under the Open Government Partnership (OGP). Despite the latter, civil society representatives argued that a signature is not proof enough of an understanding of the various regulations governing probity and transparency. Instead, they suggested the possibility of holding an annual exam to determine the real knowledge of civil servants—a practice employed by other countries and some companies. An additional proposal entailed creating a code of general principles, yet specific enough to include the sundry challenges a civil servant may encounter on the job and in any specific unit. One issue warranting further scrutiny is the possibility of making probity and transparency training mandatory for all individuals hired under a fee-based contract.

Group members suggested holding a public campaign on probity and transparency with a view to encouraging citizen participation and control. In addition to institutionalize citizen awareness/civics course on the national curriculum in order to disseminate knowledge on the rights to transparency and ethical behaviour.

Civil society proposed conducting a review on the integration and independence of the ethics and transparency commissions of both houses of the Chilean National Congress, citing as an example, a parliamentary committee whose members are chosen independently, who are neither senators nor house representatives currently in office—given the conflicts of interests this would entail—, and who would enjoy enough autonomy⁹.

Article 7 of the UNCAC

This article provides that the States Parties shall adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials, the systems should be based on merit, equity and aptitude; and that include adequate procedures for the selection and training of individuals for public positions

⁹ Similar to the model employed by the United States House of Representatives.



considered especially vulnerable to corruption, and the rotation of this positions where appropriate, of such individuals to other positions. It further declares that the States Parties shall consider adopting measures aimed at prescribing criteria concerning candidature for and election to public office; shall take measures to enhance transparency in the funding of candidature for elected public office and political parties; shall adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest; and oversee and articulate the measures adopted.

The mixed working group pointed out that although there are regulations designed to foster transparency in the systems for the recruitment, hiring and retention, etc., there is not full compliance with these regulations. It was therefore suggested that standardized and transparent criteria be designed.

Moreover, they agreed on the need to include other services (municipalities, programs to manage public funds, etc.) within the System of High-Level Public Office (SADP).

They discussed that although the SADP needs improvement, if well utilized it can guarantee that when individuals meet their employment goals effectively, they will not be let go or requested to retire due to administration changes. Furthermore, it is necessary to have greater transparency regarding positions for which applicants are screened on the basis of “trust,” and do away with unnecessary screening for other positions, with a view to fostering a merit-based career civil service system. Similarly, the group suggested that the “provisional or transitory nature” of the System of High Level Public Office be eliminated for positions of “trust” since it discourages other prospective applicants from applying because the individual holding the post transitorily is already thought to have earned the trust of his or her superior.

According to stakeholders, there is very little “revolving door” regulation in Chile between public services and private corporations and vice versa. The latter is only applicable to supervision and control civil servants (who cannot work for more than a six-month stretch in oversight entities); however, there is no evidence of this regulation actually being applied. Comparative studies have shown that post-employment constraints are designed to prevent conflicts of interest, undue influence, and the use of privileged and confidential information. The mixed working group proposed seeking mechanisms to counteract these practices, such as a post-government employment registry managed by the Office of the Comptroller General¹⁰, containing a special form and the most recent financial and interest’s disclosure, and also, providing information on the new roles in the private sector of the former civil servants; the system would subsequently

¹⁰ Since the Office of the Comptroller General would be responsible for verifying the accuracy of financial and interest’s disclosure according to the Probity Bill, it would stand to reason that it would also keep post-employment records of public officials.



verify uploaded data against individual tax returns, while also provide for penalties for misrepresentation of information, e.g., temporarily banning private offenders from holding public office or corporate offenders from participating in public tenders. Concerning newly-appointed civil servants crossing over from the private sector, their statements of net worth and interests (including previous employment) may be cross-referenced in order to expose any real, apparent or potential conflicts of interests. In conclusion, these types of tools and processes—that are designed to expose and handle conflicts of interests—are fundamental in preventing corruption and furthering society’s trust in civil service.

With a view to building a culture of transparency and accountability among civil service agencies, the group suggested applying transparency and accountability indicators/criteria to individuals appointed under the System of High-Level Public Office (SADP), and tying them to contracts and performance agreements.

Regarding political funding, the group came to the conclusion that legislation is weak and not very transparent, also citing a lack of political party oversight, which necessitates enhancing regulations and oversight activities applicable to the funding of candidatures to prevent the misuse of public funds and excessive electoral spending, as evidenced in studies conducted in Chile. It is therefore necessary to arrive at greater transparency in political funding, particularly of candidatures. The group also proposed establishing that funding be transparent, public and only for natural persons, with caps on donations to prevent nepotism.

It was also considered necessary to further refine the Constitutional Organic Law governing the Election Agency so that the agency may become an active, robust and autonomous supervisory body with resources to revamp its technology, conduct exhaustive inspections and apply penalties as required.

In terms of conflicts of interest, there has to be a clear definition of what they are and what they imply, and this definition should be made known through a manual and training. Transparency-related practices governing financial and interest’s disclosure must also be enhanced by requiring more rigorous data on forms, stepping up penalties for non-compliance with this regulation, and publishing a list of non-compliant civil servants. Civil society recognized that the financial and interest’s disclosures do constitute a good tool; however, they must be published in a format that can be processed to allow for subsequent oversight and social control. The latter would also facilitate verification of their content by allowing for several databases to be cross referenced while also serving as an automatic early warning tool. Furthermore, this mixed working group highlighted the need to make it mandatory for individuals in public office to



submit their statements prior to taking office, while also making an exit statement a mandatory condition for receiving their final pay.

Civil society believes that regulations governing parliamentarians are ripe with shortcomings given that their tendency to self-regulate undermines legislation applicable to them, which in and of itself is a conflict of interest. For instance, penalties applicable to financial and interest's disclosure or passive transparency as enshrined under the Transparency Law are lighter for parliamentarians or even inapplicable to them.

Finally, the group pointed out that implementation of the politically exposed persons list (PEP) in Chile was spearheaded by the Financial Analysis Unit in conjunction with the Office of the Superintendent of Banks and Financial Institutions, banks and other institutions for which using list is mandatory. Stakeholders also remarked on how it constitutes a stepping stone in the implementation of customer familiarity policies, which according to comparative experience, have proven to be a remarkable anti-corruption measure.

Article 8 of the UNCAC

This article promotes integrity, honesty and responsibility among public officials by way of codes and standards. It also provides for the implementation of measures and systems to facilitate the reporting by public officials of acts of corruption, when such acts come to their notice in the performance of their functions, and taking disciplinary or other measures against public officials who violate the rules established.

There was agreement among members of the mixed working group that although there are policies and regulations in place to foster integrity, honesty and responsibility among public officials in the performance of their functions, they are often lacking in clarity, relevance and consistency, thus rendering it difficult for them to be understood and applied in practice. Members mentioned that certain mandatory procedures applicable to public officials under circumstances governed by the Probity Law and other similar laws are not very clear, e.g., procedures for disclosing conflicts of interests or lodging complaints. One of the proposals tabled entails compiling a guide of the sundry regulations governing probity in a user-friendly Code of Conduct for public officials, including examples of good and bad practices. They discussed the possibility of making this guide available online for consultation, with a view to fostering corruption prevention. Along these same lines, members discussed the need to provide induction or training to prepare public officials on how to handle situations in which



transparency and probity are jeopardized, in conjunction with an annual exam testing their knowledge.

Although Chile does have a whistleblower protection law (*Ley de Protección al Denunciante*), it is quite inadequate and would fall short when it comes to encouraging disclosure and protecting whistleblowers. It would neither cover all public officials nor would it meet international standards for whistleblower protection laws. Furthermore, several contradictions were identified in the system, for example, at the municipal level complaints must be submitted to the Mayor, resulting in insufficient guarantees for public officials lodging complaints. The group also discussed the possibility of having an anonymous complaint system, airing both the pros and cons of this type of system without reaching a consensus. Group members did agree, however, that more protection should be afforded to informants before cases become criminal matters, at which point whistleblowers may request that their identity remain confidential. Moreover, legislation should also guarantee protection for private informants.

The group agreed on the need to correct disparities in protection provided to public officials turned whistleblowers, since said protection is only afforded to full-time government sector employees and does not extend to all civil servants in the government sector. Likewise, once the investigation is complete, informants should be notified when an indictment has not been issued, so that informants will trust that the cases are actually investigated. Unless the aforementioned changes are implemented, it will be difficult to encourage whistleblowers to speak out, much less provide them protection.

Members of the private sector working group and civil society tabled a proposal to design and implement an awareness campaign to promote citizen participation and social control, while continuing to reward individuals for following best practices (those that are truly followed in practice and not just on paper) throughout the entire government sector, including public officials, with a view to acknowledging, spreading and encouraging these practices.

The mixed working group proposed the need for ongoing, permanent coordination of all government sectors in order to better publicize pro-transparency or pro-probity actions taken, while simultaneously creating joint initiatives, because it is common knowledge that exercises such as the one carried out within the scope of this process will set the stage for a comprehensive vision and approach on this matter. Group members also argued for the need to encourage dissemination of all actions taken in these areas since the population at large is not abreast of the goings on. They suggested creating a Web site as a venue to post this information.



Moreover, organized civil society appealed to the legislature to take part in the working groups underway with a view to enriching the debate and furthering citizen participation.

Article 9 of the UNCAC

States shall take appropriate measures to promote transparency and accountability in the management of public finances. To this end, the awarding of public contracts must include clear, well-defined award criteria and tendering rules. Similar standards must also be applied to the signing of contracts and tenders procedures, establishing, in advance, conditions for participation, including selection and award criteria and tendering rules, and their publication. The article provides for the need to have an internal account system, and effective management, auditing and control mechanisms. When appropriate, it is necessary to take corrective actions in the case of failure to comply with these requirements.

In its assessment, the mixed working group emphasized Chile's public purchasing process, stating that Chile has sound legislation in this realm providing for transparent acquisitions and tenders and the ability to conduct online monitoring. The public purchasing system contributes to corruption prevention, and provides a mechanism to investigate and control operations performed by public officials.

The system, however, remains vulnerable, with the human factor as one of its weakest links. As a corrective measure, administrative and technical employees are undergoing training to gain accreditation in operational and legal aspects of the system. Accreditation is valid for two years and includes probity-related issues. One of the desired outcomes of this program is to prevent tendering rules from being tailor-made to the needs of certain suppliers and the repetition of tendering rules used previously in the past. This will supposedly encourage companies to actually compete with each other to submit the best bid to the State.

The private sector made it clear that appropriate information on proposal criteria must be provided, and pointed out that close to 90% of all technical tender rulings are made public yet when they are not it is because the institution expressly requests that they remain confidential. Furthermore, group members pointed out that for all public tenders exceeding 1,000 UTM an appraisal committee made up of government and private officials takes part in the process. Additionally, anyone can access data uploaded to the Analiza.cl platform.

This group emphasized that when a potential irregularity is identified in the Public Purchasing System one can turn to the Public Hiring Tribunal. What's more, there is a Web platform where claims are remitted directly to the head of services and the most serious ones are sent to the Regional Office of the Comptroller General for processing.



Participants discussed how the system would be more robust if appraisers were made to sign a confidentiality agreement in addition to a verifiable statement of interests as a means to prevent acts of corruption. Because there are much more publicly available data in this field, citizen control must be encouraged as a way to inspect and supervise tender rulings, awarding and other key steps in the bidding process.

Article 10 of the UNCAC

Article 10 provides that States Parties shall take measures to enhance transparency in their public administration. In order to comply with this requirement, they must publicly report on the organization, functioning and decision-making process of their public administration and, with due regard for the protection of privacy of persons involved, appropriately inform the general public on decisions and legal acts. States must facilitate public access to information, seeking mechanisms to simplify the content published.

Members of the mixed working group agreed that Chile does have regulations and measures that contribute to the transparency of public administration. Under the Chilean model, the right to access public information is enshrined in Article 8 of the Constitution and Law 20,285. The Chilean Transparency Council is the guarantor body that decides whether information must be provided in response to a claim and applies penalties to parties unwilling to hand over information deemed public. Nonetheless, critics complain that this guarantee only applies to the Executive and not the Legislature or Judiciary because these two branches of government have their own claim-processing bodies.

One of the problems identified was the lack of uniform compliance with standards by the various government bodies. The central government's degree of compliance hovers around 96% while, on average, the municipal government compliance level is less than 30%. There is also a great deal of asymmetry at the municipal level since some local governments boast a high level of regulatory compliance contrary to others that do not even have a Web site. With a view to solving these asymmetries, 50 municipal governments are working on administrative models to produce tools and strengthen their capacity to boost compliance levels.

Moreover, as an effort to close the gap between the various public agencies, the government is working on the Chilean Government's Transparency Portal, providing an easily-accessible and efficient place to post all information relative to State institutions.

Another problematic area is public records management and storage, highlighting the need to issue a public policy addressing the matter. One of the proposals submitted by the mixed



working group entailed eliminating “missing file” or “not found in data base” as grounds for denying access to public records; however, until there are laws governing this area, institutions must uphold the good practice of having the necessary tools to facilitate access to information.

As far as the need to apply new transparency standards is concerned, government institutions are encouraged to follow them as they would good practices, and add active publication of the most requested information to their list of good practices, thereby facilitating access to citizen’s demands and optimizing internal resources.

The mixed working group disagreed on the divergent interpretations of the meaning of “public information.” Organized civil society claimed that this right must be enshrined in the Constitution, so that it would not be subject to legal interpretation; whereas Executive Power representatives pointed out the need to reconcile the right to access information with the right to privacy, concluding that the current legal framework is sufficient.

Article 11 of the UNCAC

This article provides that each State Party shall take measures to strengthen integrity and to prevent corruption among members of the judiciary and the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service. Proposals herein include regulatory standards applicable to appointments and conduct of officials and members, in addition to accountability mechanisms. Functional constraints are also included in cases where members of the judiciary enjoy immunity, to prevent said immunity from lasting indefinitely.

The assessment praised the active transparency policy developed by the Judiciary, and pointed out that although the Judiciary is a branch of the government, and, as such, constitutionally independent, it chose to participate in the Public Purchasing System, moving one step closer to transparency and corruption prevention.

Concerning access to public information, a Transparency Committee was set up to facilitate access to and process information requested and has fulfilled its mission thus far. The assessment emphasized the need to improve certain information publication standards given the difficulties the general population has accessing information. There was also concern expressed about the conflict between the right to total transparency and respect for privacy, because in the case of trials there is a great deal of private information involved and, at present there are not any systems available that can automatically delete it. The Judiciary is currently addressing this matter in order to strike a balance between the right to have all the information



while also safeguarding individuals' privacy. Although in practice the goal is to shorten the time required to provide information, technology makes progress in this direction a challenge

The assessment also highlights the importance of amending legislation stipulating that some documents must be submitted in hard copy. These cannot be digitalized and as a result create a bottleneck in the system.

There have been, however, significant improvements in information technology and access which have strengthened interconnections and the exchange of information between police departments and prosecutor offices, thereby facilitating collaboration.

As far as conflicts of interest are concerned, certain positions are being added to regulations governing statements of net worth, which are in fact verified in great detail in order to ensure that information contained therein is accurate and up-to-date.

Judicial appointments are regulated quite well under a rigorous scheme. In the event of concerns regarding procedures, the Office of the Comptroller General orders an administrative hearing and appoints a prosecutor and an actuary to conduct the investigation. Penalties are applied pursuant to regulations, and when a crime is committed the case is referred to the prosecution service.

In the battle against corruption, the Judiciary conducts external audits on its financial statements, in addition to taking physical inventories, which are then compared to theoretical inventories.

Article 12 of the UNCAC

Regarding corruption prevention measures in the private sector, the UNCAC encourages States Parties to play a leading role by way of adopting measures to enhance accounting and auditing standards in the private sector, and provide effective civil, administrative or criminal penalties where appropriate. States Parties shall promote the development of standards and procedures designed to prevent corruption, such as codes of conduct and good commercial practices. Likewise, they shall promote guidelines designed to prevent conflicts of interest, detect them when they arise, and discern between admissible and inadmissible procedures in those cases.

The mixed private and government sector working group agreed on the need to institute transparency and integrity practices in the private sector, stating that self-regulation practices such as codes of ethics and compliance systems are not enough to prevent corruption, therefore necessitating both support and guidance from the government and its oversight bodies to



ensure real compliance and foster good practices. It was suggested, for example, that tender ruling indicators include some references to integrity, thereby rewarding companies that have properly working compliance systems with a higher score over those that do not have such a system.

Moreover, it was shown that there is a different level of compliance with the Criminal Liability of Legal Persons Law since it contains some provisions that are more easily met by large companies. Accordingly, measures must be taken to urge smaller companies to implement compliance systems, to which end the group proposed raising national and international funds in an attempt to institute these integrity practices in SMEs.

The government and private sector working group agreed that Law 20,393 (Criminal Liability of Legal Persons Law) represents progress; nonetheless, the list of crimes included under the law must be expanded and its practical application assessed. It was also pointed out that the Office of the Superintendent of Securities and Insurance does not have the authority to oversee prevention models or certifying companies. Instead, its purview is limited to registering certifying companies, resulting in a wide gap in oversight.

Working groups agreed that implementation of these models does not have to clash with workers' rights, alleging there are international examples.

Article 13 of the UNCAC

The UNCAC states that active participation of society is necessary to effectively fight against corruption, calling for States Parties to take appropriate measures to promote the participation of civil society, non-governmental organizations and community-based organizations. Article 13 provides that States shall enhance the existing transparency in the government; promote the real participation of the public in decision-making processes; and ensure and protect citizens' rights to seek, receive, publish and disseminate information concerning corruption. In addition, States shall undertake public information activities that contribute to the non-tolerance of corruption, as well as public education programs, including school and university curricula.

In the mixed working group the progress made by the Partnership for Open Government was underscored given the successful discussion groups held with participation by social organizations within the working plan defined by the Executive.

Concerning citizen participation, group members also mentioned the importance of actually implementing the Participation Law and having clear mechanisms to involve society in public policy debates.



Once again, one of the most talked about issues was the noteworthy headway made under the Transparency Law and creation of the Transparency Council, in addition to activities held by the Council to enhance access to information and develop more transparent governmental practices.

Concerning whistle blower protection, the group specified that the “Comptroller and Citizens” Web site requests that whistle blowers identify themselves, without prejudice to identity confidentiality and protection. Oversight suggestions may be submitted to the Web site anonymously.

There was also an agreement among members to work on an awareness campaign aimed at children while concurrently fostering the inclusion of good citizen practices in education programs. Bearing in mind that society’s know-how in citizen participation and control is relatively recent, it would be appropriate to reinforce this experience through education programs. Finally, a proposal was submitted to launch a long-term education campaign as part of this project.

Article 14 of the UNCAC

Article 14 of the UNCAC is dedicated to combating money-laundering, thereby providing measures that seek to prevent these activities. This article also aims to ensure collaboration with financial entities and other related institutions to prevent funds originating from corruption from entering the financial system. This article address implementation of regulatory and transparency measures in the banking system, as well as cooperation among government institutions and the States in money-laundering related cases.

During the mixed working group emphasis was placed on regulations in existence in Chile to prevent and investigate money-laundering crimes.

Even though Chile is not impervious to money-laundering, there is seemingly little information on this crime. For instance, the private sector tends to believe that it is an unlikely victim of money-laundering or terrorism funding, and this perception has held back implementation of prevention systems or compliance with provisions established under Law 20,393.

Moreover, the group underscored the coordination of the Financial Analysis Unit (FAU) with subjects who are bound by the open-door and continuous dissemination policy to report suspicious transactions. There was also mention of an FAU project implemented with support from the United Nations Office on Drugs and Crimes (UNDOC) with a view to train subjects bound or regulated by law.



Concerning Politically Exposed Persons, the discussion emphasised the need to have a record with the minimum charges that are to apply under that regime.

During the mixed working group's deliberations a point of contention arose between the private sector and organized civil society concerning the lifting of banking secrecy because the bill currently under consideration confers greater power to the FAU to request information from banks. It is quite challenging to make progress in the prevention of money-laundering while also ensuring that the prosecutorial and judicial systems continue to operate since, according to statistics, there has been a steady increase in Chile in the number of sentences and confiscations, revealing the need to have improved preventive mechanisms, sustain public/private sector coordination, fine tune intelligence analysis to provide prosecutors with quality information, and apply the regulatory and legal changes necessary to reinforce the FAU.



Chapter II Conclusions

Since publication in 2009 of a fragment of the laws making up the so-called Probity Agenda, institutions and processes within the Administration have been refined in favour of transparency, probity and the fight against corruption in Chile. In spite of the latter, it is still necessary to bolster certain areas in need of new regulatory frameworks. Some of these areas are addressed under several bills currently before Congress, including: a bill to govern lobbying and a public registry of international standards; regulation and transparency of political party and campaign funding; regulation of conflicts of interest and conflicts arising before or after employment in the government or private sector; strengthening civil service and overseeing and verifying statements of net worth and interests, among other issues addressed at working groups held throughout the project.

Along these same lines, it is also considered necessary to conduct a study on the application of current legislation and systematization of bills compared to international model legislation, and submit the study to the respective parliamentary committees currently considering the bills to strengthen the case.

As stated herein, several of the areas calling for reinforcement in order to make progress in compliance with the UNCAC may be addressed by developing good practices in the government, private and non-profit sectors. In fact, some of these good practices were identified during the project and published on the Web site. A fitting example of the latter is the good practice applicable to the implementation of integrity systems within government, public and civil society organizations, including, for example, dissemination campaigns and training strategies to promote a culture of ethical practices among members of these organizations. Those systems must include mechanisms to allow members to lodge complaints and provide protection to whistleblowers.

A resounding lesson learned from the entire process undertaken refers to the need to continue implementing public policies that encourage citizen control and participation in anti-corruption affairs and promote the study of civics in grade school and up, in conjunction with greater dissemination.

Finally, on a more organizational note, we believe it is essential that the public-private network—founded for the purpose of carrying out this project—continue in operation and allow its members to continue interacting. This calls for an agency that would coordinate or lead the network.



*Al servicio
de las personas
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CHAPTER V



Introduction to Chapter V

The World Bank has estimated the cost of corruption as equal to five percent of the annual World Gross Domestic Product. Accordingly, there must be a concerted, global effort to fight against this phenomenon, yet this is no easy task. Proceeds of corruption are transferred across countries, getting lost between organizations that “lend names” and “shell” companies that carry out hundreds of financial transactions and operations under a legitimate facade, preventing them from being traced. This is why international cooperation among countries is vital. Requesting information, aiding in investigations, finding and recovering assets, etc., are just some of the reasons why international cooperation is so crucial in the quest to secure guilty verdicts for perpetrators of this sort of illicit activity and confiscate the proceeds.

The United Nations Convention Against Corruption places emphasis on the importance of recovering assets obtained through corruption and returning them to the country from which they were stolen, insofar as it constitutes a powerful deterrent by eradicating the key incentive to corruption, dispossessing perpetrators of their assets and instruments they use to commit criminal acts, promoting the handing out of justice, and compensating for damage caused to victims and populations, thereby contributing to countries’ development.

For the first time ever, Chapter V of the UNCAC provides a more comprehensive and innovative framework for assets recovery and restitution. Despite these achievements, the road ahead in its implementation remains long and States Parties must develop and undertake endeavours that truly involve broad-based international cooperation and aid. A recent study published by the Stolen Asset Recovery Initiative (StAR)¹¹, including a review measuring the progress of countries in meeting their Aid for Development Effectiveness¹² commitments adopted in 2008, revealed that only four OECD countries (Organization for Economic Cooperation and Development) (Australia, Switzerland, United Kingdom and United States) repatriated US\$222 million to foreign countries victimized by corruption from 2006 to 2009, while France and Luxembourg did their part by freezing US\$1.2 billion. The aforementioned study pointed out the need to draft a follow-up plan so countries will take concrete assets-recovery measures, since 80% of donor counties have not made any progress on the matter (OECD-StAR, 2011). Moreover, assets recovery is not just a public sector responsibility. It requires support from

¹¹ In 2007, the World Bank and the UNODC jointly launched a program entitled the Stolen Asset Recovery Initiative (StAR), which was key in promoting the ratification and implementation of Chapter V of the UNCAC. Currently, StAR serves as an aid to countries victimized by corruption, helping them recover assets.

¹² On this occasion an action agenda was adopted setting forth a commitment for countries to fight against corruption and track down and recover stolen assets. The report was prepared for the Fourth High-Level Forum on Aid Effectiveness held in Busan, South Korea in November 2011.



financial institutions to verify the identity of their clients and end beneficiaries, in addition to reporting suspicious operations to respective agencies.

Some of the obstacles hindering assets recovery include anonymous transactions, a lack of technical expertise and resources, a lack of standardized regulations and procedures, poor cooperation and the fact that offenders must have a prior sentence as a prerequisite for recovery¹³. Leadership, collaboration among all entities involved and clearly defined results-based responsibilities are of paramount importance to an effective asset recovery process. Some countries have resolved these concerns by setting up inter-institutional teams on a case-by-case basis or as standing organizations devoted to asset recovery operations¹⁴.

Additionally, resolution 4/4 of the Marrakesh Declaration entitled “International Cooperation in Asset Recovery,” urges States Parties to designate a central authority to spearhead respective process, and to take a proactive approach to international cooperation in asset recovery by making full use of mechanisms outlined under Chapter V of the UNCAC. Furthermore, there is an Open-ended Intergovernmental Working Group on Asset Recovery focused on examining existing impediments and setting up a global network of asset recovery focal points.

Role of Public Institutions in Chile in Asset Recovery

State Defence Council (CDE)

The CDE is a decentralized public agency under direct supervision of the President of the Republic. The CDE legally defends and represents the State, taking criminal and civil actions concerning deeds and acts that could economically jeopardize the State. It was proposed during the discussion groups that the CDE take on the role of representing the State in executing sentences for real-estate property registered in the State’s name for subsequent sale in public auctions by the General Directorate of Collateral Loans (DICREP).

Office of the Comptroller General of the Republic (CGR)

The CGR is a higher oversight body of the State Administration with constitutional autonomy. It is essentially a control body safeguarding the legality of acts committed by the State Administration; it scrutinizes the collection and expenditure of government funds by the State,

¹³ The World Bank and the UNODC, 2009

¹⁴ Idem, previous footnote.



municipalities, public welfare, and other state services as determined by law; approves and rejects revenue and investment accounts; and manages the Nation's General Accounting. It performs its accounting duties indirectly, however, by way of the Court of Accounts or the ordinary courts handling complaints, which are referred to the criminal justice when there are grounds to do so. It does not have an international role in these matters.

General Directorate of Collateral Loans (DICREP)

The General Directorate of Collateral Loans is an auxiliary body of the justice system with legal authority to determine whether items confiscated by the courts are to remain in custody, be auctioned off or destroyed.

Judiciary

Guarantee Courts have authority over some matters related to Chapter V herein, such as issuing precautionary measures, granting prior approval to prosecutors' orders, and ruling over the destination of confiscated items. Oral Criminal Tribunals, however, hand down sentences and issue rulings to confiscate sequestered items.

Financial Analysis Unit (FAU)

The FAU is a decentralized body connected to the President of the Republic through the Ministry of Finance. Its mission is to prevent and block use of the financial system and other areas of the economy for committing money-laundering (ML) and terrorism financing (TF) crimes. The FAU exercises its preventive role by issuing instructions, disseminating warning signals, training subjects bound to report suspicious ML or TF transaction to authorities, overseeing compliance with the regulations it issues and use of financial intelligence. In the event there are signs of ML or FT, the Unit forwards the case file to the National Prosecution Office. The FAU has authority to submit to a judge on the respective Court of Appeals requests for lifting the banking secrecy.

National Prosecution Service (PS)

The National Prosecution Service is a constitutionally autonomous body, exclusively in charge of leading investigations of events constituting crimes. This service adopts measures to protect victims and witnesses; stores under custody all items confiscated or seized during investigations; and takes necessary measures to prevent them from being altered in any way. When items seized during investigations into drug-related and money-laundering offences are industrial or commercial establishments, sown fields, farms or orchards, in general, the guarantee judge, upon request by the PS, may designate a provisional administrator who will be accountable to the National Prosecution Service. This service is also the competent authority designated to



receive requests for international legal assistance, and may subsequently request intervention by a guarantee judge assigned to the place where requested proceedings are to be conducted if they impinge upon the constitutional rights of the accused.

Chapter V of the UNCAC

This chapter addresses the recovery and restitution of property confiscated as a result of corruption-related crimes. Chapter II (Prevention) and Chapter IV (International Cooperation) of the UNCAC are both related to Chapter V, which provides detailed provisions and more concrete measures applicable to recovering assets originating from acts of corruption, and emphasizes the importance of assistance afforded by the private sector and financial institutions on these matters.

Chapter V describes procedures and conditions that must exist in the States Parties, including the facilitation of civil and administrative actions; acknowledgement of foreign confiscation orders and the adoption of measures taken on the basis of said orders; restitution of property to requesting countries, returning property to legitimate owners and compensation for victims.

It is essential to stress that the UNCAC amends the former principle that provided that the proceeds of a crime belong to the State that had confiscated them. Instead, the UNCAC promotes the restitution of property while also providing that restitution should be shared with the State that participated in the confiscation. Provisions provided under this Chapter often call for drafting new legislation and setting up an institutional structure to conduct confiscations, and administrate confiscated property and its subsequent restitution.

The following sections consist of a review of the articles contained in Chapter V under discussion and the main binding and elective principals that shall be implemented by States Parties, in addition to the assessment and proposals submitted by the working group.

Article 51

Article 51 of the UNCAC states that the return of assets is a fundamental principle of the Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard since kleptocratic practices affect all public policies, including those related to peace and security, economic growth, education, health care and the environment. This article states that the return of assets is a primordial rule of the Convention; therefore, any question as to the interpretation of asset restitution shall be resolved in favour of said restitution.

Concerning this article, Chile has been willingly to cooperate internationally with other countries. In practical terms, Chile has collaborated primarily on drug trafficking, money-



laundering and fraud cases, and does not have any experience with corruption cases. However, the working group concluded on the basis of the Chapter V assessment that there are some legal gaps, primarily when it comes to returning assets obtained from acts of corruption to the country from which they were stolen. An analysis of the latter is contained in the paragraphs below.

Article 52

This article refers to the prevention and detection of transfers of proceeds of crime and is related to Article 14 of the UNCAC. Included among the anti-corruption policies and practices that must exist in member countries are the following measures applicable to financial institutions to verify the identity of customers; take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value account; keep lists of Publicly Exposed Persons (local and foreign) and their family members and close collaborators; issue advisories regarding the subject in order to identify suspicious transactions; prevent the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group; share and disclose information on the financial interests and net worth of public officials, etc.

Concerning this article, Chile has adopted the necessary anti-corruption measures to be in compliance and performs practically all verifications cited therein. The FAU coordinates the National System for the Prevention of Money-Laundering and Terrorism Financing in conjunction with a broad spectrum of public and private institutions, to wit: the Central Bank, Ministry of the Interior, Ministry of Finance, Ministry of Foreign Affairs, Internal Tax Service, Offices of the Superintendents of Banks and Financial Institutions, Securities and Insurance, Casinos and Pensions, National Customs Agency, and the National Agency for the Prevention and Rehabilitation of Drug and Alcohol Use (SENDA), and the 34 economic sectors made up by companies and individuals bound by law to report to the Financial Analysis Unit. The National Prosecution Service, in turn, performs prosecutorial functions, and the Judiciary issues rulings and corresponding penalties.

The FAU has a register containing the names of over 4,116 natural and juridical persons who are bound by law to set up money-laundering and terrorism financing prevention systems; likewise, they must report to the FAU any suspicious transaction detected while performing their duties. The FAU performs financial intelligence analysis on the suspicious transaction reports it receives, and forwards the file to the National Prosecution Service when evidence of a crime exists. In 2011, the FAU sent 150 Reports of Suspicious Transactions (ROS) to the District Attorney's Office.



The working group believes that Law 20,393 on the Criminal Responsibility of Legal Persons makes up for certain legal gaps pertaining to bribery and money-laundering. Published in December 2009, this law is relatively new yet two companies and three universities have already been brought up on bribery charges since then. Moreover, an agreement was reached with a company for US\$2 million in reparations.

On 3 December 2012, the FAU published Bulletin 49 that stipulates the obligations of passive subjects (suspicious transaction report, cash operations report, creating and maintaining registers, due diligences, and familiarity with customers) and refers to regulations governing the fight against acts of corruption committed by senior Chilean and foreign public officials, therein defined as “Chileans or foreigners who perform or who have performed prominent public functions in a country, for up until at least one year after having ceased to exercise said functions.” The purpose of the register of transactions and Politically Exposed Persons (PEP) is to prevent and detect money-laundering acts resulting from possibly corrupt conduct. Agencies under FAU supervision must implement and execute their “due diligence” and gather knowledge on their clients while also setting up appropriate risk management systems to determine whether a prospective customer or final beneficiary is or is not a PEP or has become a PEP over the course of a prior business relationship; take reasonable measures to define the source of wealth, the source of funds belonging to customers and real beneficiaries identified as PEPs and the reason for the transaction; set up and follow continuous due diligence procedures and measures for commercial relationships entered into with a PEP; and record and report any suspicious transactions whatsoever with any PEP.

Although the working group agreed that Chile has appropriate financial disclosure systems for public officials pursuant to Article 57 and ensuing articles under Law 18,575 (Organic Constitutional Law of General Principles for State Administration) based on statements of net worth and interests (Art. 60A), penalties established therein are lenient and these statements are not always checked for veracity. Concerning publication of these statements, several of them are posted on agency Web sites and available to the general public, in keeping with good practices. The CGR receives 10,333 statements of net worth and 8,845 statements of interests¹⁵, which it keeps on storage and for inquiries. As previously suggested in the Chapter II Report herein, transparency practices applicable to these statements must be enhanced by being more precise in terms of what information must be disclosed on the forms and by increasing penalties for non-compliance with these regulations; a list of public officials who do not comply with this requirement should be made public and there should also be a system to verify and monitor

¹⁵ Source: Annual Address by the Office of the Comptroller General of the Republic, 2011



information disclosed therein. In spite of all of the above, the working group praised the bill currently before the National Congress granting the CGR oversight authority on information disclosed under the statements in question.

Concerning international cooperation, there was a general consensus that this requirement is met in Chile, since the National Prosecution Service's Special Unit for International Cooperation and Extraditions (UCIEX) processes these requests pursuant to that which is set forth under Article 20 bis of the Code of Criminal Procedure. An explanation was provided as to how international treaties, over time, have incorporated this indispensable regulation making cooperation operative and making it binding for States to give access to background information, evidence and other specific material involved in proceedings, for example. In Latin American countries, however, there are regional constraints resulting from jurisdictional issues or sovereignty matters, whereas in Europe cooperation is more forthcoming, giving way to planning and coordination on investigations and cooperation activities, which only further highlights the need to make additional progress on this matter in our region. Statistically speaking, the National Prosecution Service receives approximately 700 international criminal requests annually. Twenty-three percent of requests issued by Chile are for crimes of corruption (bribery and malfeasance).

The National Prosecution Service has also received requests for assistance from 28 countries, including Peru, Argentina, United States and Russia. Assistance requested generally refers to verification of criminal records, lifting of banking secrecy and other proceedings, such as taking sworn statements, subpoenas and disclosure of other records. Technology has also facilitated international cooperation since some proceedings today actually take place over international video conferences.

On this same matter, the Judiciary channels international cooperation requirements through a network, while also taking advantage of video conferencing equipment for certain proceedings involved in oral trials, such as taking witness statements.

The working group concluded that although it is generally agreed that Chile does meet requirements established under this article, there is one specific regulation governing requests for international assistance (Article 20 bis of the Code of Criminal Procedure which grants authority to the guarantee judge assigned to the place where proceedings are conducted) that somehow restricts the efficacy of the legal provision. In practice, the system has faced challenges regarding authority and deadlines, opening up a window of opportunity for the property acquired through the commission of acts of corruption to change hands, thereby preventing confiscation. The CDE provided an example of a good practice in these cases, to wit,



sending arrest warrants and requests for seizures at the same time in order to prevent property from being transferred to third parties.

To that end, the working group suggested enhancing regulations governing international cooperation in order to grant the State Party a wider scope of authority over the type of actions it may take. Likewise, the group proposed publishing a guideline for international cooperation in both Spanish and English, explaining the steps that should be taken, and amending the paragraph that corresponds to Article 53.

Article 53

This article refers to measures for direct recovery of property and provides that States Parties shall take measures as may be necessary to permit another State Party to initiate actions in local courts as the claimant to recover property acquired through the commission of acts of corruption (recovery), perform confiscations or as a victim for the purpose of restitution ordered by a court of law (compensation).

Concerning this subject, it is believed that there is a need to perfect the rules governing procedures applicable to property recovery. To this end the working group suggested that Article 16, paragraph 1, of the Civil Code be rewritten in order to comply with provisions set forth under the UNCAC:

Property located in Chile is subject to Chilean legislation, even when owners of said property are foreigners and do not reside in Chile; the latter shall apply without prejudice to that which is provided for under international treaties and agreed to under international contracts.

The working group also pointed out that Article 20 bis of the Code of Criminal Procedure should be amended as long as there is no law or agreement governing international cooperation, and therefore proposes the article be amended as follows:

“Procedures for Requests for International Assistance. Requests issued by competent authorities of a foreign country for proceedings to be conducted in Chile shall be submitted directly to the National Prosecution Service, which shall in turn request intervention by the guarantee judge assigned to the place where the proceedings shall take place, when the nature of the proceedings makes it necessary pursuant to Chilean legislation. Requests for international assistance issued by the National Prosecution Service shall be submitted directly to the Ministry of Foreign Affairs, without being subject to provisions set forth under Article 76 of the Code of Civil Procedure.”

In this manner, Article 20 bis of the Code of Criminal Procedure would be harmonized with Article 47 of Law 20,000 on the illicit traffic in narcotic drugs and psychotropic substances, which provides that the *National Prosecution Service, directly and without being subject to that which*



is set forth under paragraph one and two of Article 76 of the Code of Civil Procedure, shall be able to request and grant international cooperation and assistance..." This regulation may also be applicable to money-laundering cases in which the underlying offence may be an act of corruption.

Finally, a proposal is submitted to enter into bilateral or multilateral cooperation agreements that describe the processes to be followed by States Parties when initiating civil actions listed under Article 53 of the UNCAC, so as to facilitate and speed up the procedures.

Articles 54, 55 & 56

These regulations shall be addressed as a whole in the following paragraphs since the subject matter they cover is quite similar, barring slight differences:

Article 54 refers to mechanisms for recovery of property through international cooperation in confiscation. The objective of this article is to ensure that States Parties have an unencumbered, solid property recovery system and may provide legal assistance, in accordance with their domestic law, by way of preventive freezing, seizure or subsequent confiscation. This article also provides that States Parties shall take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party; to permit its competent authorities to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offences as may be within its jurisdiction or by other procedures authorized under its domestic law.

Article 55 establishes obligations for supporting international cooperation as permitted by a State Party's domestic legal system, either by recognizing and giving effect to a foreign confiscation order or submitting a request to its competent authorities for the purpose of obtaining a domestic confiscation order on the basis of information provided by another State.

Article 56 refers to international cooperation without prior requests for information from another State Party, and introduces the concept of spontaneous cooperation, encouraging States to actively report to other States Parties if they consider that the disclosure of such information might assist in initiating or carrying out investigations or judicial proceedings and possibly recovering property.

As described hereinabove, Chilean legislation has a provision for providing international cooperation and regulations for carrying out confiscations. Article 157 of the Code of Criminal Procedure establishes the real precautionary measures applicable in Chile. Precautionary measures may be issued during the investigation stage upon request by the National Prosecution Service to the Guarantee Judge. They may be as follows: property seizure, naming



of an intervener, property embargo or the prohibition of entering into acts or contracts for property, etc. However, because confiscations are legally tied to criminal offences, it is not possible to grant legal assistance during the investigation stage because a guilty verdict is required from the requesting country in order to proceed. Therefore, when the foreign country has issued a verdict, that ruling may be applied pursuant to Article 13, final paragraph of the Code of Criminal Procedure, which establishes that *“the execution of foreign criminal verdicts shall be subject to that which is provided for under international treaties ratified by Chile and in effect.”*

Additionally, Law 20,000 governing the illicit traffic in narcotic drugs and psychotropic substances provides that confiscation is an accessory penalty to the main imprisonment sentence. Article 47 facilitates international cooperation, providing that the *National Prosecution Service, directly and without being subject to that which is stipulated under paragraphs one and two of Article 76 of the Code of Civil Procedure* (a process conducted by way of the Supreme Court of Justice and the Ministry of Foreign Affairs), *shall request and grant international cooperation and legal assistance intended to ensure the success of investigations into offences addressed under this law, pursuant to that which has been agreed to under international conventions or treaties, thereby being able to disclose specific information, even under circumstances provided for in the third paragraph of Article 182 of the Code of Criminal Procedure* (proceedings secrecy).

However, Chile is expected to be in compliance with the international cooperation aspect regarding confiscation in the mid-term since at present there is a bill which seeks to amend Law 19,913 and allow for confiscation of property for a sum equivalent to the amount related to the crime investigated; and when a guilty verdict is handed down the court shall rule in favour of confiscating other property that is also deemed proceeds of the crime.

Discussions were held during the working group on the need to have a mechanism that would efficiently administrate confiscated property in order to prevent it from deteriorating. This is common in other countries that have special agencies or funds to administrate this type of property. The discussion also touched on the concept of “early disposal” to prevent assets from being damaged or, in the case of assets not so readily handled due to their nature (animals, cars, farms, etc.), the group suggested selling the assets, and sales proceeds would be managed by the administrative mechanism. In the event the individual convicted were to be absolved of the crime, a sum equal to the value of the property, adjusted for inflation and with interest, would be returned to the individual. This would be feasible if Article 188 of the Code of Criminal Procedure were to be amended to include the *disposal of through direct sale or auction of*



property that is susceptible to deterioration or whose storage may be difficult or costly, which would also be in keeping with Article 40, paragraph 4 of Law 20,000.

Similarly, stakeholders remarked on the need to make headway regarding the disposal of confiscated property at public auction for the State, that has not been able to be auctioned off and remains in the hands of third parties or family members of perpetrators. A special session was held with the State Defence Council (CDE), General Directorate of Collateral Loans, National Prosecution Service and the Judiciary to address this matter. Stakeholders discussed the possibility of implementing a procedure allowing the CDE to request the registration of property in the name of the State so that DICREP may dispose of it later at auctions.

Concerning spontaneous cooperation, it was explained that there has been informal cooperation among States. However, it is still necessary to set up networks that would allow for seamless spontaneous disclosure among States Parties and provide information to States Parties as to what agencies should be contacted.

Article 57

This article does not allow States Parties a great deal of discretionary authority. It provides that States Parties shall adopt such legislative and other measures that ensure there are no barriers to returning property confiscated in corruption cases treated under the UNCAC, when a firm guilty verdict has been handed down (except for when perpetrators cannot be tried because of death, absence, fleeing, etc.), and when the requesting State Party reasonably establishes its prior ownership or recognizes damages caused. The requesting State may deduct reasonable expenses incurred. This restitution process shall be carried out in accordance with the fundamental principles of the requesting State's domestic law, taking into account the rights of bona fide third parties. When returning property, requested States shall also recognize prior legitimate owners or compensate victims of the offence.

Returning assets confiscated in cases of corruption to a requesting State is not regulated under Chilean law. Article 469 of the Code of Criminal Procedure provides that “*money and other confiscated assets shall be sent to the Administrative Corporation of the Judiciary*” and “*all other confiscated property shall be made available to the General Directorate of Collateral Loans for disposal of at public auctions or shall be destroyed if worthless*” and proceeds from sales shall be sent to the aforementioned Corporation. Likewise, other items retained and not confiscated under Article 470 shall be sold at public auction if not claimed by legitimate owners, and proceeds from the sale shall be sent to the Administrative Corporation of the Judiciary.



Furthermore, Article 46 of Law 20,000 also governs the disposal of confiscated property, providing that it shall be disposed of at public auctions held by the General Directorate of Collateral Loans, and the proceeds of sale shall be deposited in a special fund managed by the National Agency for the Prevention and Rehabilitation of Drug and Alcohol Use. Property confiscated in relation to money-laundering shall be disposed of similarly, in accordance with Law 19,913.

Article 58

This article provides that States Parties shall cooperate with one another and shall consider establishing an independent financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions. Financial institutions shall be protected so that they disclose information in good faith.

Chile is in full compliance with this article since its Financial Analysis Unit (UAF) is the body responsible for preventing money-laundering (ML) and terrorism financing (TF) in Chile. Accordingly, the UAF receives reports of suspicious transactions (ROS) from 4,116 natural and juridical persons. This institution employs financial intelligence procedures and has concluded assistance agreements with other institutions in order to broaden its access to information sources. The UAF exchanges information with counterpart financial intelligence units abroad. In 2011, the UAF sent the National District Attorney's Office 150 reports of suspicious transactions (ROS) related to money-laundering and terrorism financing.

The last paragraph in Article 3 of Law 19,913 (creating the financial analysis unit and amending several provisions concerning money-laundering), provides that natural and juridical persons bound by law to submit ROSs who submit information in good faith are exempt of all legal responsibility.

Article 59

Article 59 provides that States Parties shall consider concluding bilateral or multilateral agreements or arrangements taking into account the general principle of returning property obtained from offences subject to the UNCAC, to enhance the effectiveness of international cooperation.

This article is binding on all countries and is related to that which is set forth under Article 57, and, accordingly, there needs to be change in legislation governing asset return.



Chapter V Conclusions

As one may glean from this report, Chile has fostered international cooperation, information disclosure, the signing of cooperation agreements, bilateral processes between Member States and is joined by financial institutions in the fight against corruption.

Chile has appropriate legislation and, given bilateral processes, institutions are aware of the legislation of the country from which they are going to request support. This makes cooperation increasing efficient and speedy.

The National Prosecution Service and Judiciary have the necessary power and duties as required under the UNCAC. Moreover, there is a network of institutional representatives who exchange information on everyday experiences and attend gatherings where they can further expand their network and hone their knowledge and use of skills necessary for implementing Chapter V of the Convention.

Concerning the return of assets, current legislation may serve as a spring board for building the capacity required to fully implement the UNCAC article governing asset recovery and return.

Finally, once a few practical concerns are resolved pertaining to the administration of confiscated property, it would be recommended to begin designing a mechanism capable of administrating and managing confiscated property, to prevent it from deteriorating, and timely disposing of it when necessary.

Santiago, 26 June 2013



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ANNEX I

METHODOLOGY



Framework

The UNCAC Participatory Self-Assessment project conducted in Chile was intended to be a joint effort carried out by the public and private sector, organized civil society and academia with a view to undertaking a collaborative review of Chapter II (prevention measures) and Chapter V (asset recovery) of the UNCAC. Specific objectives outlined for this project were as follows: conducting an assessment on Chile's implementation of matters governed under Chapters II and V of the Convention; and proposing reforms or spearheading the use of good practices required to bring Chile into compliance with this International Agreement.

A benchmark study was conducted on participatory working group strategies in order to determine the most appropriate methodology for this process. This was the first exercise carried out in the Chilean project that brought together various stakeholders to work in the same group on anti-corruption issues.

The methodology ultimately selected was the participatory dialogue methodology since it seeks to stimulate collective debate and a consensus building process among the various stakeholders taking part in the process. This working methodology was presented at the initial stakeholder workshop held to launch the process. Participants' suggestions were collected as input.

Likewise, with a view to inducing debate, reports were sent to participants in advance containing the outcome of a review of national and foreign corruption-related documents, main issues addressed therein and a comparative review of issues addressed.

The methodology selected enhanced participation and involvement of several stakeholder institutions, which were able to work on a joint and sectoral basis in order to deliver a global view of the Chilean State's UNCAC compliance status, primarily regarding Chapter II compliance since there were fewer stakeholders involved in the Chapter V working group given the degree of technical expertise required for the discussion.

Activities and Stakeholders

The first event consisted of a breakfast meeting to present the process. The following stakeholders were invited: 20 trade organizations, 20 government agencies, nine non-profit organizations with experience in transparency and citizen participation issues, and six members of academia. Close to 40 institutions were represented at this meeting where the Comptroller General of the Republic and the Resident Representative of the UNDP presented the project.

An initial stakeholder workshop was launched with representatives from stakeholder institutions. The purpose of this workshop was to define objectives, determine the working methodology and agree to a working plan, all in a participatory fashion. Project coordinators drew up a first draft of the methodology proposed, including an agenda with meeting dates, and passed it around for stakeholders to view.

Work was divided into two parts: the first part consisted of a review of Chapter II of the UNCAC; and the second part entailed a review of Chile's compliance with Chapter V. It was also decided at this initial workshop that representatives would work in sectoral working groups to specify



the respective stances of the public sector, private sector, civil society and academia on the matters addressed in Chapter II of the UNCAC. These positions were subsequently revealed during a Mixed working group meeting, with an ensuing debate that eventually concluded with a topic-by-topic assessment and proposal agreed to by all. Group members also agreed that any disagreement should be reflected in the report.

During the meetings it was possible to verify that the methodological division of sectors was helpful in building trust among stakeholders to allow for debates concerning Chile's current status on corruption prevention in each area. This also gave way to dialogue in which participants acknowledged difficulties pointed out by each sector and subsequently drew up recommendations, reforms or ideas to promote good practices aimed at enhancing Chile's institutionality as required under the UNCAC.

Chapter II of the UNCAC was reviewed during the July-October 2012 period. Two public sector working groups, two private sector/civil society/academia working groups, and two mixed working groups (with 20-25 stakeholders in each group) were set up for this purpose. Each working group met for approximately four hours. The table below illustrates the number and type of stakeholders attending the working groups, and who also agreed to set up a new partnership entitled the Public-Private Anti-Corruption Network¹⁶:

Institution Type	Number of Representatives
Public Sector	14
Private Sector	5
Civil Society	4
Academia	1
International Organizations	1

¹⁶ The Office of the Comptroller General of the Republic and the United Nations Development Program are included in this figure.



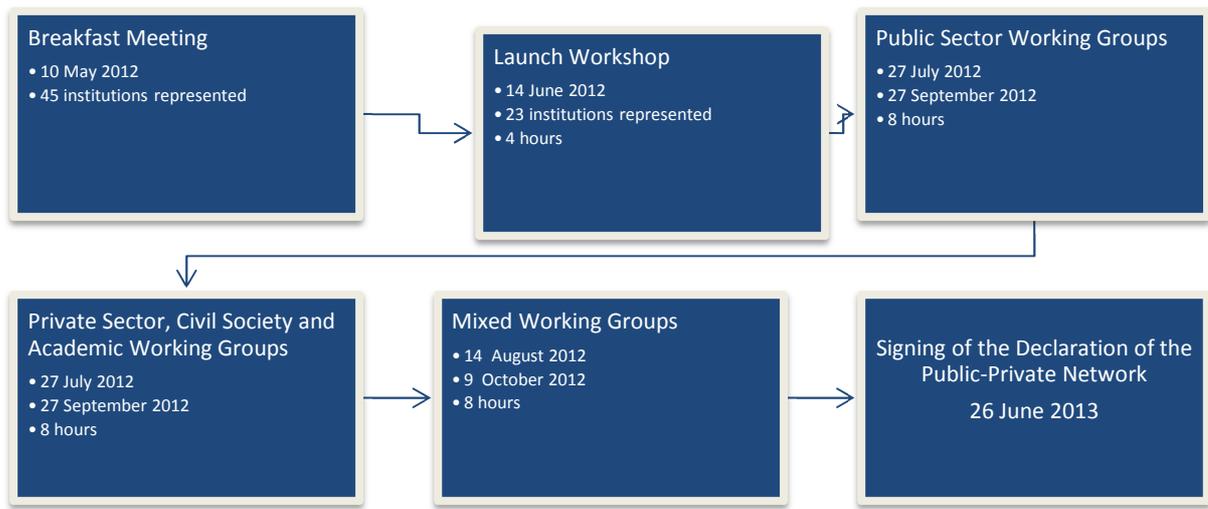
The following institutions make up the Public-Private Network against corruption:

1. Chilean Association of Municipalities
2. Public Purchasing Office (*Chile Compra*)
3. Transparency and Probity Commission
4. Office of the Comptroller General of the Republic
5. State Defence Council
6. Transparency Council
7. Administrative Corporation of the Judiciary
8. Ministry of Justice
9. National Prosecution Service (National District Attorney's Office)
10. Judiciary
11. Civil Service
12. Office of the Superintendent of Banks and Financial Institutions
13. Office of the Superintendent of Securities and Insurance
14. Financial Analysis Unit
15. Chilean Association of Insurance Companies (*Asociación de Aseguradores de Chile*)
16. Chilean Association of Banks and Financial Institutions (*Asociación de Bancos e Instituciones Financieras*)
17. Chilean Association of Electric Power Companies (*Asociación de Empresas Eléctricas A.G.*)
18. National Society for Mining (*Sociedad Nacional de Minería*)
19. Chilean Chamber of Construction
20. Chile Transparente, Chilean Chapter of Transparency International
21. Ciudadano Inteligente
22. Casa de la Paz
23. Proceso
24. Alberto Hurtado University
25. United National Development Program



Review Process

The following is a description of the UNCAC Chapter II review process, including names, dates and duration of activities held.



The following is a description of the UNCAC Chapter V review process. The same criteria were applied to the Chapter II and V reviews.



Working Group Methodology

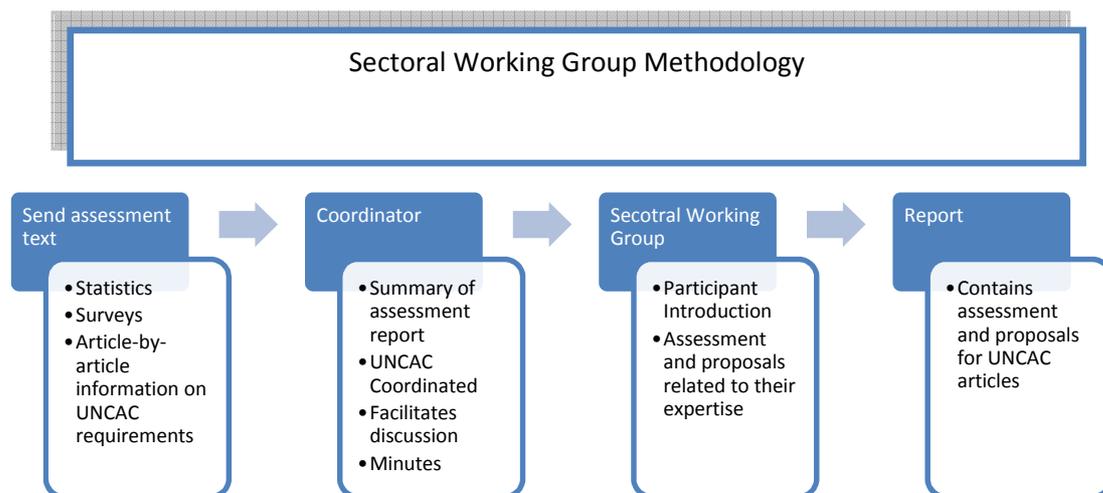
As previously mentioned, a report was sent out to all working group members two weeks prior to the first working group, as an aid for sectoral working group discussions. This document

contained information regarding surveys, statistics, and voluntary and mandatory requirements set forth under every article under review in Chapter II of the UNCAC. Regarding Chapter V of the UNCAC, the report provided background information as context for issues countries face regarding money-laundering of the proceeds of corruption, comparative experiences in asset recovery and administration, and voluntary and mandatory requirements established under every article in Chapter V.

Furthermore, the meeting schedule was determined in advance in order to encourage greater participation in the working groups.

Sectoral working groups were organized and led by process coordinators. Working group members received a summary of the review report; they studied the contents of each article in the chapters under review, followed by a debate to determine which points they were going to discuss. The outcome was a joint assessment of Chile’s compliance with each article and, in cases of non-compliance or partial compliance, the group came forward with proposals to bring those articles into compliance.

The figure below illustrates the process followed by sectoral working groups:



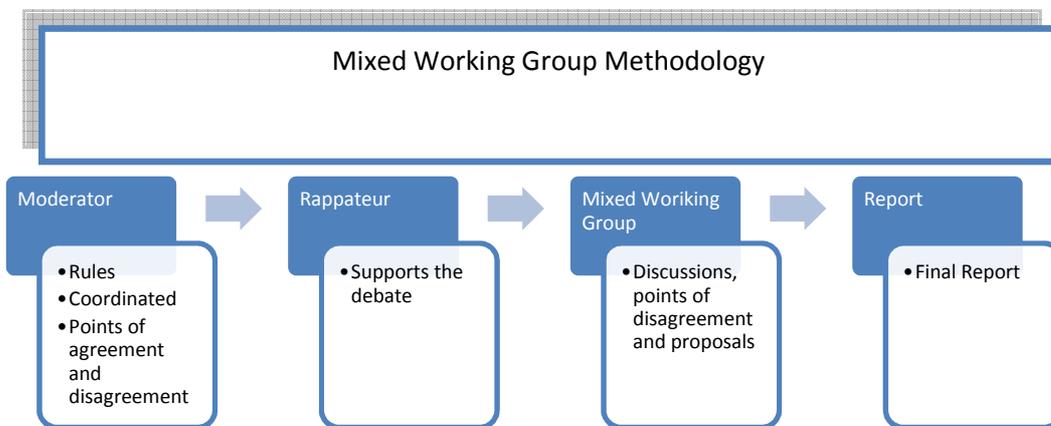
Furthermore, work undertaken by mixed working groups (public and private sectors, organized civil society, and academia) was guided by a moderator who explained the work dynamics, encouraged debate by posing questions leading to discussion, served as time keeper for participant remarks and offered closing remarks recapping the conclusions reached, following individual debates on each subject. Mixed working groups also received support from a rapporteur whose role was to briefly present contrary opinions, which were to serve as a springboard for discussion. There was also an assistant present who took notes to document the experience later.

These mixed discussions were quite effective in that they provided participants with the opportunity to express their opinions in front of the wide array of institutions and organizations present at the meeting. This of course was crucial to fostering dialogue and a free flow of ideas and experiences, which significantly aided in smoothing out differences previously existing because of a lack of communication. Moreover, participants submitted

proposals agreed to by all on previously contentious matters. Information provided by mixed working groups served as input for the Chapter II Final Report which was submitted to the institutions in December 2012.

All working groups were conducted in keeping with a semi-flexible structure, involving a guideline to review UNCAC articles while also leaving room for participant remarks or changing the order in which articles were reviewed. Each four-hour meeting was divided into two, one and a half hour sessions approximately with respective breaks.

The figure below illustrates the process followed by mixed working groups:



Three mixed working groups were held to assess Chile’s compliance with Chapter V articles referring to asset recovery. Participants from both sectors took part in these meetings and it was neither necessary nor recommendable to hold sectoral working groups given the degree of technical expertise on this topic.

Participation by institutional representatives was conducive to fruitful discussions during which they set up an inter-institutional working network to link up the various stakeholders involved in the fight against corruption. There is every intention to keep the network afloat once this project is complete.

Lessons Learned

The positive lessons learned are as follows:

- The working methodology for the sectoral and mixed working groups was sufficient to lay the ground for well-founded and contemplative dialogue.
- Combining public and private sectors led to mutual learning.
- Making the agenda known with enough advance warning enhanced attendance and interest among participants throughout the ten months of work. This was facilitated by the fact that participants were notified of meeting dates well in advance and dialogue was enriched by participation of all members, making way for continuity.
- Expected outcomes known



- Good practices identified and developed following project execution, such as: cross-cutting commitment, participation of children and teenagers, dissemination strategy and use of innovative awareness-raising resources (theatre).
- Greater visibility was given to the Convention beyond the sphere of public stakeholders usually involved.

The following lessons learned should be taken into consideration when implementing a project of this type:

- It is wise to record all sessions.
- Be sure to have the right number of assistants taking notes.
- Set up an incentive system: according to literature, stakeholders need incentives to operate; they often act out of concrete interests and not necessarily for philanthropic reasons, hence the importance of drafting a general agenda with a description of activities and desired outcomes, based on a more detailed program that identifies specific interests and is focused on guiding group work so that it converges around various interests.



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ANNEX II

STATISTICS



Introduction

One of the purposes of this process was to gather statistics that would allow for measuring Chile's compliance with Chapter II of the UNCAC. The following section describes the statistics that some entities may be able to collect as a result of their activities or functions.

Chapter II of the UNCAC – Prevention Measures

Article 5

ID	UNCAC	Statistics
A.1	Draft, apply and keep in effect coordinated measures to promote the participation of a large number of social sectors in anti-corruption activities.	<p>Activities held during the year (#)</p> <p>Participants (#) and sector represented by each participant (# and % by sector)</p> <p>Public institutions involved – coordinators/collaborators (# and name)</p>
A.2	Set up effective anti-corruption practices .	<p>Transparency Law</p> <p>Requests for information (# and %)</p> <p>Complaints submitted to Transparency Council (CPLT) and penalties imposed (# and %)</p> <p>Good Practices</p> <p>Statements of Net Worth and Interests verified (%) or published (%); agenda of public authorities (by authority, #)</p>
A.3	Collaboration among States Parties and other international and regional organizations	<p>Number of requests submitted (annual comparison)</p> <p>Number of requests received (annual comparison)</p> <p>Rate of successfully-processed requests submitted/received</p>

Article 6

ID	UNCAC	Statistics
B.1	Have material resources and specialized personnel .	Entity's overall budget/budget for anti-corruption activities. (\$ and %)



B.2	Have resources to train personnel in charge of preventing and fighting against corruption.	Probity training coverage rate

Article 7

ID	UNCAC	Statistics
C.1	System for the recruitment, hiring, retention, promotion and retirement of civil servants that is based on merit, equity and aptitude.	Recruitment/Hiring (# and %) Recruitment/Abandoned Hiring Processes (# and %) Percentage and trends of positions using the SADP
C.2	Encourage appropriate remunerations and fair pay scales.	Salary trend (%) Comparing pay scale of other OECD countries (Adjusted for PPP)
C.3	Adopt systems aimed at promoting transparency and preventing conflicts of interest or upholding and enhancing said systems.	Probity Law Statements of Net Worth and Interests verified upon entering and leaving government positions (# and %) Office of the Comptroller General Complaints regarding conflicts of interest on Citizens Website (#)

Article 8

ID	UNCAC	Statistics
D.1	Implement measures and systems to facilitate the reporting by public officials of acts of corruption , when such acts come to their notice in the performance of their functions.	Requests to protect voluntary whistleblowers (#) Complaints investigated/punished (# and %)



Article 9

ID	UNCAC	Statistics
E.1	Publicly dissemination of information on government hiring processes and contracts , including disclosures on tenders and timely or relevant information on contract awarding in order to give prospective bidders enough time to prepare and submit bids.	Publishing tenders/Awards (#, \$, %) Outcome of supplier surveys
E.2	Effective internal analysis mechanism, including an effective appeals system, in order to guarantee legal recourse and remedies when rules and procedures set down are not followed.	Claims of irregularities/Total processes investigated and outcome (# and %) Public Hiring Tribunal Causes/Guilty verdicts (# and %)
E.3	Adopting measures to regulate issues that concern personnel in charge of government hiring, specifically statements of interests , for certain public hiring processes, pre-hiring procedures and training requirements.	Training undertaken/Test results (# and %) Statements of Interests/Abstentions (# and %)
E.4	Effective and efficient risk management and internal control systems . When appropriate, adopting corrective measures in case of non-compliance with stipulated requirements.	CGR Audits of tenders awarded (# and %) Audits with irregular outcomes (# and %) Audits/Penalties (# and %)

Article 10

ID	UNCAC	Statistics
F.1	Information on public administration: organizations, functions, decision-making process.	Trends in the Transparency Council's (CPLT) active transparency ranking Trends in degree of satisfaction with active CLPT information Compliance with OGP Program
F.2	Public information regarding legal proceedings and decisions with due respect for protecting privacy and personal information.	Requests for public information regarding legal decisions and proceedings/Claims (# and %) Requests for public information/requests for personal information transparency (# and %)



Article 11

ID	UNCAC	Statistics
G.1	<p>Accountability mechanisms set up by the Judiciary itself and National Prosecution Service, when appropriate.</p> <p>Objective: Effective policies and procedures</p>	<p>Requests for public information submitted to the Transparency Commission/Claims (# and %)</p> <p>Complaints or claims against judicial authorities/Penalties applied (# and %)</p> <p>Statements of Net Worth and Interests (# and %)</p> <p>Statement verification rate</p>

Article 12

ID	UNCAC	Statistics
H.1	Promote the drafting of rules and procedures, such as codes of conducts, transparency, guides to good commercial practices. Prevent conflicts of interest.	Promotion activities held (#)
H.2	Ensure private companies have good internal controls.	Oversight Activities/Penalties (# and %)



Article 13

ID	UNCAC	Statistics
I.1	Enhance transparency and promote citizen participation in decision-making processes.	Involvement of citizens in congressional committees (trend)
I.2	Hold public information activities to promote zero tolerance of corruption, in addition to public education programs at a school and university level. Respect, promote and protect the freedom to search for, receive, publish, and disseminate corruption-related information.	Ethics or civics programs at: Schools (# of programs, # of students, # of public and private schools and %) Universities (# of programs, # of students, # universities and %) Corruption-related news (# and trend)
I.3	Facilitate access to government body or bodies to lodge complaints on any incident or offence that may constitute an anti-probity offence or a crime subject to the Convention.	CGR's Citizen Complaint Portal Claims/Outcome (# and trend) National Prosecution Service Portal Idem

Article 14

ID	UNCAC	Statistics
J.1	Report all suspicious transactions to the financial intelligence unit or other designated authority.	ROS sent to DA's Office (# and %) PS Complaints /Terms (# and %)
J.2	Apply viable measures to detect and watch for cross border movement of cash and negotiable instruments.	Movements/Detections (#, \$ and %). Number of statements of freight and transport of cash vs. ROS sent to DA's Office regarding this matter
J.3	Apply measures to require that financial institutions collect information on individuals conducting electronic funds transfers.	Transfer reports/Incomplete or suspicious reports (# and %)
J.4	Set up and promote global, regional, sub regional and bilateral cooperation among competent authorities with a view to fighting against money-laundering.	Number of requests sent (annual comparison) Number of requests received (annual comparison) Rate of requests sent/successfully received and processed



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Annex III

DISSEMINATION CAMPAGIN



Having determined that it is necessary to promote the dissemination of information on transparency and probity to the general population, a sub-working group was set up to define the main points of a dissemination campaign.

The following organizations took part in this working group: Casa de la Paz, Chile Compra, Chile Transparente, Ciudadano Inteligente, State Defence Council, Transparency Council, Office of the Comptroller General of the Republic, Ministry of Justice, Ministry General Secretariat of the Presidency, United Nations Development Program, and the Financial Analysis Unit.

Group members decided that one of the objectives of the campaign should be making citizen aware that corruption is everyone's problem and responsibility, and how people are often actively and possibly inadvertently involved.

The campaign was broken down into three stages:

1. **Widespread dissemination to the public** by way of materials and posters, including the following activities:
 - Campaign “*No mancho mi conciencia. Vivo sin corrupción*” (I won't stain my conscience. I live corruption free) launched on 10 December 2012 in front of a crowd of more than 100 people. Campaign information is available online at:
 - i. Launch: http://www.youtube.com/watch?v=umFn_fhWsas&list=PLY-jfcATJJzuRmsYe7v1rUhzkVbFcxpXd
 - ii. Materials: http://www.contraloria.cl/NewPortal2/portal2/appmanager/portalCGR/v3ESP?_nfpb=true&_pageLabel=P18200239681286226265111
 - Five thousand comic books were distributed throughout Santiago and a few regions, showing examples of good and bad practices in everyday settings.
 - One thousand posters were printed and hung up in high-traffic public areas throughout Santiago and regions (Metro stations, bus stations, etc.).



- Large signs showing the campaign's logo and inviting people to access CGR's Citizens' Portal were hung up along Santiago streets with a great deal of pedestrian traffic.



- Web site has 817 hits monthly
 - Twitter with 600 followers
 - Facebook has a scope of roughly 20,355 people
2. Information on Law 20, 393 on Criminal Responsibility of Legal Persons was provided to the public at regional workshops.
- Two workshops were held—one in Iquique (50 people) and one in Punta Arenas (50 people)—with representatives from the State Defence Council.
3. Activities were held with sixth graders to educate them on certain values such as participation, transparency and fairness.
- The theatre group “Cultura Hilvanada” put on a play for 900 sixth graders at different middle schools, followed up by role-playing to illustrate values acted out during the play and contained in the Ministry of Education’s curriculum. Afterwards, assistants helped students create comic strip and stories focusing on the good and bad practices of everyday life at school; the top three will receive an award. Finally, the Likert scale was administrated to measure potential changes in the boys’ and girls’ attitudes.