

QUESTIONNAIRE

Country self-assessment report on implementation and enforcement of G20 commitments on foreign bribery

G20 countries are invited to complete the questionnaire, below, on the implementation and enforcement of G20 commitments on foreign bribery.

Part I questions are drafted directly from the principles outlined in the G20 Guiding Principles on Enforcement of the Foreign Bribery Offence endorsed by G20 Leaders in St. Petersburg, and its background note on Enforcement of Foreign Bribery Offences. Part II questions are drafted from the G20 Anti-Corruption Action Plan and the St. Petersburg Leaders' Declaration.

Responses to this questionnaire could be compiled into a summary on the "state of play" in G20 countries on steps taken to date to implement the aforementioned commitments, as well as plans for future actions in this area.

I. Implementation of the Guiding Principles on Enforcement of the Foreign Bribery Offence in G20 Countries

Note 1: This section of the questionnaire is drafted from the principles outlined in the G20 Guiding Principles on Enforcement of the Foreign Bribery Offence and the background note on Enforcement of Foreign Bribery Offences.

A. A robust legislative framework

In your jurisdiction:

1. Is there a clear and explicit foreign bribery offence that covers the key elements of the internationally agreed definition for foreign bribery, including offering, promising or giving of a bribe, bribery through intermediaries, and bribes paid to third party beneficiaries?

- *If your jurisdiction criminalises foreign bribery, please provide references to the relevant provisions and/or the full text, if possible.*
- *If your jurisdiction does not have a foreign bribery offence:*
 - Please note whether an offence has been "drafted", "submitted for government review", or "adopted but not yet entered into force".
 - Please provide a timeline for the entry into force of draft legislation, where applicable.

Response:

Law 25.188 of 1999 introduced the foreign bribery offence in art. 258 bis of the Penal Code (PC). A year later (on 18 October 2000), Argentina approved the OECD Anti-Bribery Convention by Law N 25.319 without making any further change to domestic law. In 2003, in an effort to address the concerns identified by the WGB in the Phase 1 evaluation, Argentina enacted Law 25.825 modifying art. 258 bis PC. The current text stays:

Article 258 bis: Any person who, directly or indirectly, offers or gives a public official from a foreign State or from an international public organization, for this official's benefit or for the benefit of a third party, money or any object of

pecuniary value, or other compensations, such as gifts, favours, promises or advantages, for the purpose of having such official do or not do an act in related to the performance of his official duties, or to use the influence derived from the office he holds, in a matter linked to a transaction of an economic, financial or commercial nature, shall be punished with reclusion from one (1) to six (6) years and special disqualification for life in respect of the exercise of any public office.

Note 2: For questions 2 through 11, jurisdictions without a foreign bribery offence should include updates on plans to address the following issues in efforts to establish the criminalisation of foreign bribery and a framework for enforcing this offence.

2. What is the statute of limitations for investigating and prosecuting foreign bribery? Please indicate the criteria for suspension, interruption or extension of the statute of limitations?

Response:

Currently, according to article 62 section 2), of the Penal Code, the statute of limitations for foreign bribery is six years.

“ARTICLE 62: The statute of limitations for criminal actions shall expire:

- 1) Fifteen years after the offence, for offences punishable by life reclusion or imprisonment;*
- 2) After the maximum term of the sanction applicable to the offence has elapsed, for offences punishable by reclusion or imprisonment; however, the statute of limitations may not be longer than twelve years or shorter than two years;*
- 3) Five years after the offence, for offences punishable only by permanent disqualification;*
- 4) One year after the offence, for offences punishable only by temporary disqualification;*
- 5) Two years after the offence, for offences punishable by fine.”*

Nevertheless, it is also important to take into account the provisions of article 67 of the Penal Code, after the modification introduced by Law 25.990 in 2005, which establishes that prescription time will be interrupted only for the following reasons: a) the commission of another crime; b) the first summoning made to a person within the framework of a legal proceeding in order to receive the investigatory statements for the crime under investigation (declaración indagatoria); c) the accusing requirement to open or bring to trial, performed in the manner stated by the relevant procedural legislation (requerimiento de elevación a juicio); d) the writ of summons for trial or similar procedural act (citación a juicio); and e) judgment of conviction rendered, although it is not final. In case of interruption, the time already passed is not considered for the calculation of the new statute of limitations time.

Besides, prescription is also suspended in the cases of crimes committed while holding public office, for all of the perpetrators, for the time during which any of them remains holding such office.

Therefore, as six years remains the maximum sentence to be imposed for the foreign bribery offence, this means that in a period that is no longer than six years any person suspected of this offence must be summoned by a magistrate before limitation period expires. After this act has taken place another six years can follow before indictment for trial takes place. Then a similar period can go on before summoning for trial, and the same time before condemnation by a criminal tribunal. In conclusion, all investigations and judicial inquiries for corruption cases, including foreign bribery, can last much longer than six years without being affected by statute of limitations.

3. Please describe the form of jurisdiction available over the foreign bribery offence (i.e. territorial or nationality jurisdiction).

Response:

For the exercise of criminal jurisdiction, article 1 of the Penal Code establishes as a general rule the principle of territorial jurisdiction: *“This Code applies to: 1.- Crimes committed – or whose effects take place – in the territory of the Argentine Republic or in any place under its jurisdiction.”* Besides, in the second paragraph of the same article, a case of functional extraterritorial jurisdiction is included: *“2.- Crimes committed abroad by representatives or employees of Argentine authorities acting in their capacity as such.”*

The current Draft Bill for the Comprehensive Reform of the Penal Code, prepared by the Special Committee of Experts convened by the Executive through Decree 678/2012, provides a broad criterion regarding the extension of the criminal jurisdiction in cases committed abroad. For example, for those cases, the new draft article 2 provides the following rules: a) territoriality, when the action or its outcome takes place in the territory of Argentina or in places under its jurisdiction; b) real or of defense, when a legal right placed in the territory of Argentina is affected ; c) functional, when the crimes committed are committed abroad by agents or employees of national authorities in performance of their duties, as set out by the international law; d) universal, for cases committed abroad and when in accordance with international law they should or shall be judged by national courts; e) passive personality, in cases committed abroad against Argentine citizens, when their personal rights were affected and have not been judged in the place of commission, with prior consent of the Executive.

Regarding the principle of universal jurisdiction it has been said that it seeks to apply the criminal law regardless of where the crime was committed and the nationality of the entities or interests affected, and on the basis of accepting as something special the application of punitive justice. In that sense, the proposed rule would go even further than the wording of the Convention. The purpose of this principle is to pursue those offenses which usually arise from international agreements and affect international and universally recognized legal rights as is the case of the offense of transnational bribery established in the OECD, UN and OAS conventions.

4. Please indicate whether your jurisdiction has a corporate liability regime for the offence of foreign bribery.

If your jurisdiction does not have a corporate liability regime for the offence of foreign bribery, please provide a timeline for implementation of corporate liability.

Response:

In Argentina, the criminal liability of legal entities is currently not legislated in general terms; that is, it is not included in the General Section of the Penal Code. Nevertheless, it is legislated in certain specific regimes such as, for example, the Criminal Foreign Exchange Regime (restated in 1995 by Law No. 19359), the penalties provided for in the Law for the Protection of Competition (Law No. 25.156), the Law of Supply (Law No. 20680), the Penal Tax Regime (Law No. 24769) – with the reform of Law 26735, published in the Argentine Official Gazette on 28 December 2011 –, the Comprehensive Pension and Retirement Funds System (Law No. 24241), the Argentine Customs Code (Law No. 22415), the Law on Crimes related to the Laundering of Assets of Wrongful Origin (Articles 303 and 304 of the Penal Code, as per Law No. 26683); as well as in crimes involving the unlawful use of privileged information or the manipulation of negotiable instruments in the negotiation, quotation, purchase, sale, or liquidation of said financial instruments (Articles 307 to 313 of the Argentine Penal Code, as per Law No. 26733).

The current Draft Bill for the Comprehensive Reform of the Penal Code, prepared by the Special Committee of Experts convened by the Executive through Decree 678/2012, includes TITLE IX, “SANCTIONS ON LEGAL ENTITIES” into its General Part. This is an effort to systematize the criminal liability of private legal entities for the crimes committed by any of their parts or representatives acting for their benefit or in their interest. By virtue of this Draft Bill, where the crime is demonstrated, criminal sanctions may be imposed on legal entities even if the individual who participated in it is not sentenced. In addition, legal entities are deemed liable where the commission of the crime was possible due to the non-fulfillment of their management and supervision obligations.

Nevertheless, it is established that a legal entity may be exempted from liability where the relevant parts of the

entity or its representatives meet the following conditions: 1) they act exclusively for their own benefit; and 2) they create no benefit for the entity.

Finally, the bill establishes that in the event of the transformation, merger, acquisition, or break-up of a legal entity, the resulting entities will remain liable, as well as in the case of apparent dissolution of the legal entity (Cf. Article 59).

Without prejudice to the foregoing, and in connection with the crime of money laundering, Law No. 26683, published in the Official Gazette on 21 June 2011, introduced into Article 304 of the Argentine Penal Code the concept of Criminal Liability of Legal Entities for the Crime of Laundering of Assets of Wrongful Origin. Article 304 of the Argentine Penal Code establishes the following:

“Where the crimes punishable by the above Article are committed in the name, with the participation, or for the benefit of a legal entity, the entity will be punishable by the following sanctions, either jointly or alternatively:

1. *A fine equal to two (2) to 10 (ten) times the value of the goods involved in the crime.*
2. *Total or partial suspension of activities for a maximum term of ten (10) years.*
3. *Ban from participating in public calls for bids for public works or services, or in any other activities related to the Government, for a maximum term of ten (10) years.*
4. *Cancellation of legal entity status in the event that the corporation has been created for the sole purpose of committing the crime, or where said activities are the main activity of the entity.*
5. *Loss or suspension of any State benefits that may have been granted.*
6. *Publication of an excerpt of the conviction, to be paid by the legal entity.*

In order to determine the punishment to be imposed, the courts will take into consideration the infringement of internal rules and procedures, the lack of supervision over the activities of principal and accomplices, the extent of the damage caused, the amount of money involved in the commission of the crime, and the size, nature, and economic capacity of the legal entity.

Where it is of the essence to preserve the operational continuity of the entity or of a given work or service, the sanctions provided for in (2) and (4) above will not be applied.”

These rules would be applied in the event of a legal entity participating in the crime of the laundering of money obtained from the bribery of a foreign public official.

5(a) Please describe the sanctions and confiscation measures available for natural and legal persons for the crime of foreign bribery.

5(b) Please provide the number of criminal, administrative, and civil cases of foreign bribery that have resulted in a final disposition, and indicate (i) how many of these cases have resulted in a criminal conviction or acquittal, or similar findings under an administrative or civil procedure, and (ii) the number of natural and legal persons who have been convicted or otherwise sanctioned.

- *Where possible, please provide references to the relevant provisions and/or the full text, if possible.*

Response:

5(a)

For perpetrators, co-perpetrators, necessary participants and instigators of the crime, Article 258bis of the Penal Code provides for imprisonment (confinement), with a scale from one (1) to six (6) years and perpetual

disqualification to exercise public function.

It should also be noted that within the scales provided for each criminal offense, the Penal Code provides guidelines for the courts at the moment of fixing the sanction for a specific case. Thus, Article 40 of the Penal Code states that *"regarding graduated punishment due to time or amount, the courts shall determine the conviction according to the mitigating or aggravating circumstances relevant to each case and in compliance with the rules of the following article."*

Meanwhile, for the disqualification sanction, under the offense of transnational bribery, what matters is the expiration of a particular right or activity related to the crime. This sanction has two aspects: the privative, meaning the loss of employment, office, profession or right being exercising at the time of the crime and impeditive, reflected in the inability to get another one of the same qualification for the duration of the sentence.

As to the sanction of confiscation, article 17 of the National Constitution states that *"Confiscation of property is forever excluded from the Argentine Penal Code"*. However it has been said that the emphasis placed by the constituents to consecrate the abolition of the sanction of confiscation, responded to the use in the past was given to this punishment as a weapon of those in power to the detriment of his political enemies. However, the type of seizure referred to the Constitution is the takeover by the state of all assets of a convicted person. It is the general confiscation which is prohibited by the National Constitution. For this reason there is no constitutional impediment to the confiscation of the instruments and proceeds of crime; nor is of confiscatory nature the sanction of fines.

In this regard, article 23 of the Penal Code establishes that *"ARTICLE 23 - Where a sentence is imposed for the offences listed in this Code or in special criminal laws, the respective judgment shall provide whether the things that have been used to commit the offence and the things or profits that constitute the proceeds or gains from the offence are to be confiscated in favour of the federal, provincial or municipal government, without prejudice to the rights of the victim and of third parties to restitution and compensation."*

If the things constitute a threat to public security, confiscation may be ordered even if it affects third parties; provided, however, that innocent third parties shall be entitled to compensation.

Whenever the perpetrator or any co-perpetrators have acted as agents for someone or as organs, members or managers of an artificial person, and the proceeds of the offence have benefited the principal or artificial person, confiscation will be imposed against them.

Where the proceeds of an offence have benefited a third party for no consideration, confiscation will be ordered against such third party.

If the assets confiscated are worthy of use or have cultural value for an official institution or may further the public good, the respective federal, provincial or municipal authority may cause such assets to be transferred to those institutions. Otherwise, if the assets have commercial value, any such authority may cause them to be disposed of. If they have no lawful value, the assets shall be destroyed.

If a sentence is imposed for any of the offences provided for in Articles 125, 125 bis, 127, 140, 142 bis, 145 bis, 145 ter or 170 of this Code, the assets to be confiscated shall include any real or personal property where the victim is held. Any asset confiscated by reason of such offence, in accordance with the terms of this article, and the proceeds of the fines imposed, shall be assigned to programmes for the assistance of the victim. (Paragraph replaced by article 20 of Law No 26,842, Official Gazette of 27/12/2012)

In case of crimes under section 213 ter and quater and under Title XIII of the Second Book hereof, the assets shall be definitely forfeited, irrespective of the existence of a criminal conviction, whenever illegality of their origin or of the material fact they are related to has been proved and the charged person could not be brought to trial in virtue of death, escape, prescription or any other reason for suspending or extinguishing the criminal action, or when the charged person has admitted the illicit origin or use of the assets. (Paragraph incorporated by article 6 of Law No. 26,683, Official Gazette of 21/06/2011)

Any claim or action on the origin, nature or ownership of the assets shall be brought through a restitution administrative or civil action. Should the assets have been sold at an auction, their monetary value can only be

claimed. (Paragraph incorporated by article 6 of Law No. 26,683, Official Gazette of 21/06/2011)

The judge may adopt, from the commencement of the court proceedings, such precautionary measures as may be expedient for ensuring the confiscation of the assets, going concerns, deposits, transports, IT, technical and communication items, and any other asset or property right that might presumably be confiscated on account of the fact that they constitute instrumentalities or effects related to the offences investigated.

Precautionary measures aimed at putting an end to the commission of the offence or its effects, or at preventing that such offence bring benefits or at hindering the impunity of perpetrators may have the same scope. In all cases, the rights of the victim and of third parties to restitution or compensation must be observed.”

5(b)

In Argentina so far there were no convictions on this crime. Currently there are three on-going investigations related to cases of foreign bribery and two discontinued.

B. Effective detection and domestic coordination

In your jurisdiction:

6. What steps have been taken to engage with relevant agencies, such as overseas missions, broader tax administrations, trade promotion, public procurement and export credit agencies, as well as with the private sector, on issues related to implementation and enforcement of the foreign bribery offence? Where possible, please cite specific examples.

Response:

The Ministry of Foreign Affairs and Worship is involved in awareness raising and training activities, including a yearly seminar at the Foreign Service Institute (ISEN), diplomatic academy for Argentina’s future diplomats, dedicated to the fight against corruption in general with particular emphasis on the OECD Anti-Bribery Convention. The last seminar took place on October 24, 2013. Since 2014, the topics of international fight against corruption and the OECD Convention on Foreign Bribery were introduced as a specific unit at the program of the annual subject “International Law” for first year students of the ISEN. The objective of this unit is to raise awareness among future diplomats and provide them with updated information on the relevant provisions of the Convention and on the duties and responsibilities of the Foreign Service regarding the fight against foreign bribery.

Besides, the Ministry of Foreign Affairs and Worship continue sending on an annual basis to its internal departments and to all embassies, consulates and trade offices around the world guidelines about their duty to give advice, assistance and information to Argentine companies seeking businesses abroad about the fight against foreign bribery and reminding them of their obligation to report alleged offences of foreign bribery to competent authorities. The last reminder was sent on November 6, 2013.

The Ministry of Foreign Affairs and Worship prepared together with the Anti-corruption Office and Information Booklet on the OECD Convention which is published on the official websites Argentina Trade Net (www.argentinatradenet.gov.ar) and Fundacion Exportar (www.exportar.gov.ar). The booklet was updated on 2011, 2013 and 2014. Besides, since 2013, the booklet has been also published on the official website www.inversiones.gov.ar

All three websites are useful and well-known tools for diplomatic, consular and trade officials abroad as well as to Argentine companies that take part in trade missions and other promotional activities coordinated and organized by

the Ministry of Foreign Affairs and other agencies.

Besides, in order to promote the content of the Convention, the Federal Tax Administration (AFIP), has published on its website a document that describes: the criminalization of international bribery; the importance of fostering transparency in international business; a description of the OECD and the Convention; the regulatory framework in the Criminal Code of the Republic of Argentina; reflection in the tax rules; penalties established; and responsible persons that must comply with the convention.

On tax matters, also The General Instruction 794/07 (DI PYNF), amended by General Instruction 816/08 (DI PYNF), establishes the standards to detect bribery cases during the control and the actions conducted by the involved parties to deceive, hide and conceal situations that facilitated the bribery. It is a Guide for the tax officers to detect the international bribery when conducting their functions and if they confirm the illegal activity, to file the corresponding complaint with the legal authorities, as set forth by Section 177 of the Criminal Code.

The Anti-Corruption Office fostered the creation of the Argentine Association of Ethics and Compliance. Along with this association organized several events and developed a series of activities designed to collaborate with the private sector to promote business practices more ethical and responsible. Anticorruption Office also regularly participates in events organized by chambers of commerce, consulting firms, and business schools in Argentina.

On February 2014 the AO presented the results of the survey study of preventive measures on transparency and integrity implemented by the Argentine private sector. In this research, among other topics, companies were consulted about the existence and use in their organizations of codes of conduct, elements of compliance, internal controls, participation in collective initiatives that promote transparency in business, the scope of controls that apply in the relationship with suppliers and the public sector and in general, adherence to principles and procedures of social responsibility and corporate governance.

7(a) Are appropriate reporting channels available for whistleblowers in both the private and public sectors?

7(b) Are appropriate protections available for whistleblowers in both the private and public sectors?

Where possible, specific reference should be made to implementation of the G20 Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation.¹

Response:

7(a) Regarding the receipt of complaints, the Anti-Corruption Office (AO) has been established an agile channel agile and of easy access. Unlike complaints to the judiciary or the prosecution, a complaint before AO is needles of formal requirements. In order to facilitate their access, it has enabled various channels: (i) in person at the offices of the AO; (ii) through a common telephone line and another free (0800); (iii) through institutional website (www.anticorruccion.gov.ar), having implemented a new application that facilitates the user's task informing him about the different alternatives of complaint, offering payroll agencies involved in the control universe of AO, as well as enabling their specific and effective control over the complaints entered ; (iv) by email; and (v) by mail.

Moreover, one of the most important aspects to promote the effective participation of citizens reporting alleged corruption issues is that AO representing a secure channel to access the complaint.

In this regard, Article 1, paragraph a) of the Rules of the AO Investigations Directorate, approved by Resolution No. 1316/2008 is broad because it allows complainants to file complaints: (i) identifying themselves, informing their minimum personal data and/or contact information that serve to identify and posterior location, facilitating

¹ Available online here: <http://www.oecd.org/corruption/48972967.pdf>

research in so far as it is possible to consult or if further information be necessary to furnish timely ; (ii) under confidentiality of identity, in which case their data will be kept confidential and shall not be disclosed except a court order, this allows during the investigation, the complainant's identity is not known to the investigated, but they are able to be consulted in case of need to expand furnish timely information; and (iii) anonymously where this is reasonably detailed and plausible, when there is gravity on the facts alleged and reasonableness of the complainant's intention of anonymity. This type of complaint is received by any means without the author indicating data to be identified. This makes it impossible to extend the information provided in the complaint, if necessary. For AO ensure safety to report acts of corruption is essential as complaints are often people who have an employment or business relationship with the National Public Administration (employees, suppliers and contractors or employees of these suppliers and contractors, etc.).

7 (b) With regard to protection in the private sector, every worker enjoys the protection provided by the Labor Contract Law (Law No. 20744) against the abuses that may be committed by their employers. This law, for example, contains mechanisms that protect employees against arbitrary dismissal, guaranteeing the right to receive compensation and the possibility of a worker to invoke an indirect dismissal because of a substantial change in working conditions.

It is also necessary to point out that whenever any person gives notice of a crime related to organized crime, such as foreign bribery (see, art. 8.2 Convention against Organized Transnational Crime), he/she can be given protection under the Witness Protection Program of the Ministry of Justice, Human Rights and Security (law 25.764). Even though this Program is organized under the Ministry of Justice supervision, it can be carried out by an express petition submitted by a judiciary authority. It has demonstrated flexibility in order to grant protection against retaliation in different criminal cases.

Besides, the Criminal Procedure Code contains general rules (Articles 79 to 81) which compel the National State to ensure that victims and witnesses of crime are treated with dignity and respect by the competent authorities; the suffrage of the expenses to move to the place where the designated authority, the protection of the physical and moral integrity, including their family, and to be informed about the results of the procedural act which they have participated. Judges are the main responsible to ensure that rights. In this regard it can also be noted the safeguards to protect the safety of the complainants offered channels to lodge complaints with the AO.

If a foreign bribery case comes along, there is an adequate legal frame to grant protection to any witness who gives notice of this crime but, more important, there exists technical and material facilities in order to achieve this task with a better chance to avoid any harm or difficulties to a person involved in such a case.

C. Effective investigation and prosecution

In your jurisdiction:

8(a) Please describe the investigative powers granted to law enforcement authorities to proactively and effectively investigate and prosecute foreign bribery.

8(b) Please describe the specialized training on detecting, investigating and prosecuting foreign bribery provided and/or planned to be provided to law enforcement authorities.

Response:

According to Argentine legislation, criminal prosecution constitutes the State's prerogative and it is the Public Prosecutor's Office who exercises, exclusively, the accusatory or the prosecutorial role. Under the rules of the Federal Criminal Procedure Code, a prosecution may be initiated ex officio (Article 71 of the Criminal Code) or through a complaint before a judge, police authority or prosecutor (Articles 174, 175 and 181 of the Federal Criminal Procedure Code). It can also be promoted by the activity of the police or other security forces in

performance of their duties (Article 183 of the Federal Criminal Procedure Code). Finally, a judicial inquiry can be initiated by a tax agent or by the National Prosecutor's Office for Administrative Investigation (FIA), as well as by the Anti-Corruption Office, for specific cases of crimes against the public administration.

The principle of *ex officio* prosecution fails to apply to the circumstances in which the private complaint is a prerequisite for the prosecution of certain crimes –such is the case of crimes against sexual integrity, minor injuries and restraining orders for children who are minors against their non cohabitant parents).

Once an investigation is initiated or a complaint received, the intervening judge shall refer it to the Public Prosecutor and in case it considers that he/she is presumably facing a public offense, he/she requests the instruction (Articles 180 and 188 of the Federal Criminal Procedure Code). After the requirement is formulated the judge may refuse to order the filing of the proceedings when it considers that the alleged offense is not a crime (Article 195 of the Federal Criminal Procedure Code). But if the judge agrees on the criminal action then an inquiry starts and it can only be extinguished by the means established by law.

Finally, it is worth highlighting that since the Constitutional reform of 1994, the Public Prosecutor Office is an independent and autonomous organ (article 120 of the National Constitution), regarded as a true “extra power organ”. The independence of the Public Prosecutor Office entails its non subordination neither to the political power nor to the Supreme Court of Justice.

In that vein, for a quite a few years there has been noticeable unfolding both of the Public Prosecutor Office's autonomy, particularly as the one in charge of the public action, and of the distinction of its role from that of the Judges as warrantors of due process. This unfolding of functions portrays the legislative need to adjust the Criminal procedural system to one more in keeping with the Constitution and also more efficient.

Regarding prosecution, the Argentine Attorney General's Office has implemented since 2008 several measures aimed at improving the activities carried out by prosecutors in the investigation into and punishment of complex crimes, including corruption cases. From 2009 to date, a series of fundamental structural measures have been implemented in order to improve, support, and increase the effectiveness of investigations into financial and complex crimes.

In this respect, several internal resolutions have been issued emphasizing the need to have prosecutors conduct economic investigations that will enable the implementation of the precautionary measures required to ensure the recovery of the assets related to the crime in question (Resolutions No. 129/2009 and 134/2009 of the Argentine Attorney General's Office).

Moreover, several Units/Offices have been created and consolidated. For the sake of specificity, the following should be mentioned: the Division for Economic Crimes and Money Laundering (PROCELAC), created by Resolution No. 914/2012 of the Argentine Attorney General's Office, which establishes that “the complexity and sophistication of financial crimes imply a renewed risk for the legal framework regulating the economic system and the social goals thereof, by discrediting the trade of goods and its instruments, causing a loss of confidence in economic and financial agents, adversely affecting the rules of competition, destabilizing the capital market, and hindering the effect of the implementation of policies on the real economy, among other various consequences repeatedly observed by experts, which the Argentine Republic has engaged to protect.”

The Argentine Attorney General has recently issued resolutions No. 339/14 and 341/14 creating the Unit for the Recovery of Assets and the Office for Economic Research and Financial Analysis, respectively. The aim of the Public Prosecutor's Office is for both agencies to collaborate with the Divisions for Economic Crimes and Money Laundering (PROCELAC), Drug-related Crimes (PROCUNAR), Institutional Violence (PROCUVIN), Fight against Human Trafficking and Exploitation (PROTEX), and Crimes against Humanity.

One of the main reasons for the creation of these Divisions is related to the commitments that the Argentine Republic undertook at the international level in order to conduct actions aimed at identifying and recovering assets of wrongful origins.

9(a) Please describe the procedures in place for ensuring prompt and effective handling of outgoing and incoming

mutual legal assistance requests in relation to foreign bribery cases.

9(b) Please describe how informal assistance is encouraged, in conformity with your jurisdiction's legal system.

Where possible, specific reference should be made to implementation of the G20 High-Level Principles on Mutual Legal Assistance.²

Response:

9(a) In relation with MLA and extradition requests, additional personnel and equipments have been included at the Ministry of Foreign Affairs and Worship in order to expedite assistance and requests and to fully implement the obligations resulting from bilateral and multilateral agreements.

It should be also noted that the Direction on International Legal Assistance from the Ministry of Foreign Affairs and Worship, Argentina Central Authority on the matter, has created (by resolution N° 2871/2008) a new specific body in charge of the judicial international cooperation in criminal matters: the "Coordinación de Cooperación Internacional en Materia Penal".

Besides, since 2011, and due to the Presidential Decree n° 924/2011, the Direction on International Legal Assistance of the Ministry of Foreign Affairs and Worship was transferred from General Directorate of Legal Affairs to the Legal Adviser Office, organ that represents the Ministry at the WGB.

In relation with this question, it should be noticed that the Direction on International Legal Assistance from the Ministry of Foreign Affairs and Worship, Argentine Central Authority on the matter, has develop a website (www.cooperacion-penal.gov.ar), which contains:

- Information about all the MLA and Extradition treaties (bilateral and regional) and all the multilateral conventions that apply to a specific group of offences, such as the UN and OAS treaties and the OCDE Anti-Bribery Convention, which contains provisions related to international cooperation in criminal matters;
- Models of MLA and extradition requests;
- Jurisprudence from the Supreme Court of Justice;
- A concise and clear explanation on the main subjects related to international cooperation in criminal matters;
- An update of all the activities that the Central Authority carries out and all the news concerning international cooperation in criminal matters, such as the entry into force of new treaties;
- The possibility to contact officials from the "Coordinación de Cooperación Internacional en Materia Penal" in order to ask questions, clarify doubts or send by e-mail a project of a MLA or extradition request for its previous correction, before sending it by normal post.

Besides, it should be highlighted that since 2011 the Direction on International Legal Assistance is carrying out a whole Program of Seminars on International Cooperation in Criminal Matters.

This seminar takes place every year in Buenos Aires and is replicated in other cities of Argentina. In 2011 a seminar took place in the city of Salta, in 2013 in the city of Córdoba and a third is scheduled this year in the city of Tucuman.

Those seminars have the purpose to reach all actors involved in MLA and extradition requests, training them about the role of the Direction on International Legal Assistance and all the possibilities that the tools and available instruments grant to make the international cooperation in criminal matters a more efficient one.

The Argentine Central Authority has noted with satisfaction that the Seminars are a good opportunity to improve the coordination between the different actors in the fight against international corruption and other complex crimes

² Available online here: <http://www.oecd.org/g20/topics/anti-corruption/High-Level-Principles-on-Mutual-Legal-Assistance.pdf>

and that both initiatives, the website and the seminars, are significant ways to improve international cooperation in its qualitative and quantitative aspects.

The delay for answering an MLA request related to a foreign bribery case is similar to the delay for other offences and the range of legal assistance provided is the same for those cases as the provided for other offences. There are not time limits for responding requests for the various forms of MLA. Nevertheless, due to the efforts made to improve the cooperation on international legal matters, currently on average a request for assistance is processed in 3 months, although this may take only 1 week or up to 6 months, having been reduced in half since 2008.

9(b) Argentina's Central Authority usually uses two networks to facilitate and improve processing MLA and extradition requests. These two Networks are: the "Red Iberoamericana de Cooperación Jurídica Internacional (IberRed)" and the "Red Hemisférica de Cooperación Jurídica en Materia Penal (OEA)". Besides, Argentine authorities can transmit information concerning criminal matters to foreign authorities spontaneously. There are several cases of spontaneous transmission of information and, furthermore, in the new MLA treaties that Argentina is currently negotiating, there is a specific prevision for this type of exchange of information.

II. Implementation of Foreign Bribery Provisions in the 2012-2013 G20 Anti-Corruption Action and the St Petersburg Declaration

Note 3: This section of the questionnaire is drafted from the 2012-2013 G20 Anti-Corruption Action Plan and the St. Petersburg Leaders' Declaration. It also seeks updates from G20 countries on next steps for fighting foreign bribery.

10. Please specify next steps for continuing "efforts to adopt and enforce laws and other measures against foreign bribery".³

Response:

On the recent years, regarding changes in the legal framework, it is important to highlight, among others actions implemented by Argentina, the enacting of Laws No. 26683, 26733 and 26734 on AML/CFT measures and Law No. 26831 on Capital Markets; the updating of the assets disclosure system by public officials by Law No. 26857; Law No. 26047 for the creation of the National Register of Corporations; the adoption by the relevant national body of the international standards on accounting, external auditing and internal controls; the entry into force of several new treaties regarding MLA and extradition; the Presidential Decree 893/2012 on the procurement regime for the National Administration; and the Presidential Decree No. 826/2011 on the creation of the National Registry on Confiscated and Seized Assets. In relation with the institutional framework, there has been an important increase of human and financial resources allocated to investigations, prosecution, MLA and extradition and money laundering.

Regarding the incorporation in the Penal Code of an autonomous definition of foreign public officials, the extension of the criminal jurisdiction for bribery offenses committed abroad by an Argentine citizen or by any person with a legal residence in the country and liability of legal persons, the Argentine Executive Branch issued in 2012 Presidential Decree No. 678/2012, creating a new "Committee for the Drafting of a Bill to Reform, Update and Harmonize the Argentine Penal Code", with a view to creating a bill to comprehensively reform said code, and fully comply with the goals of OCDE Anti-Bribery Convention.

This Commission was composed of the most prestigious criminal specialists in the country belonging to different political sectors in order to address issues of concern in a broad frame, helping the Commission to gain a strong consensus and ensuring a feasible final adoption. It is to underscore, additionally, that the Commission was assisted

³ G20 Anti-Corruption Action Plan 2013 – 2014, Point 2.

by the relevant areas of the Ministry of Justice and Human Rights.

As a result of work performed by the Commission for approximately eighteen months, on February 13, 2014, the Argentine President received at the Government House the Draft Bill to Reform, Update and Harmonize the Argentine Penal Code, in a high level meeting attended by the members of the Commission, the Minister of Justice and Human Right, the Legal and Technical Secretary of the Presidency and the State Secretary of Justice. It is expected that the debate on the proposal will take place during the current year.

By Resolution No. 567/14, On April 21, 2014, the Ministry of Justice and Human Rights decided to submit the Draft Project to consideration of all public and private universities around the country, in a process starting that same day. After three months of consultations, observations will be presented to the Executive Branch who has 30 more days to consider modifications to the draft before sending it to the Congress.

11. Please specify next steps for engagement with the OECD Working Group on Bribery with a view to explore possible adherence to the OECD Anti-bribery Convention as appropriate.

Specifically and where applicable, please indicate any plans to:

- Attend meetings of the WGB in 2014;
- Co-organize or attend meetings on foreign bribery; and/or
- Engage in technical assistance activities on the issue of implementation and enforcement of the foreign bribery offence;
- Open discussion for Membership in the WGB, with a view to acceding to the OECD Anti-Bribery Convention.

Response:

Argentina has a strong involvement in the activities of the WGB including sending delegations to all of its meetings since the ratification of the Convention, appointing evaluators when requested, preparing and receiving on site visits from the WGB and supporting its work through political declarations in global and regional forums such as the G20 and CELAC (Community of Latin-American and Caribbean States). Besides, currently our country is undergoing the third evaluation round on implementation of the Convention and strongly involved in the process leading to the adoption of new recommendations by the WGB.