

**COMMITTEE OF EXPERTS OF THE MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST
CORRUPTION**

**REPORT ON IMPLEMENTATION IN ARGENTINA OF THE CONVENTION
PROVISIONS SELECTED FOR REVIEW IN THE FRAMEWORK
OF THE FIRST ROUND¹**

INTRODUCTION

1. Legal-institutional framework²

In its National Constitution (CN), Argentina has adopted a representative, republican form of Government, and a federal organization of the State (CN Article 1). As a consequence of the latter, the federal government co-exists with 24 districts, comprised of 23 provinces and the autonomous city of Buenos Aires.

At the federal level of government, there is a presidential system with a classic division of powers among the executive branch (PEN), the bicameral legislative branch (PL) composed of a House of Deputies and a Senate, and the judicial branch (PJ).

The Constitution divides authority between the federal and provincial governments, leaving to the latter any power not delegated to the federal government (CN Articles 121 and 126). The legislative branch is responsible for enacting the general laws of the nation (civil, commercial, penal, labor legislation codes and others within the purview of the federal government), which have national application, while the provincial governments are responsible for procedural legislation and other matters within their sphere of jurisdiction.

The executive branch is also involved in drafting and enacting laws, by virtue of the constitutional authority to veto all or part of a bill and return it to the legislative Houses for reconsideration of the legislative proposals that have not been signed.

The office of the Auditor General of the Nation, which is part of the legislative branch, is responsible for external control of the national public sector's property, economic, financial and operational aspects (CN Article 85) and the Public Defender's Office is charged with the defense and protection of civil rights guaranteed by the Constitution, international treaties, and laws concerning deeds, acts, or omissions of the Administration (CN Article 86).

The executive branch is empowered to promulgate regulations or decrees by executive power in those areas of administration or public emergency expressly authorized in the Constitution (CN Article 76) or on grounds of necessity and urgency when exceptional circumstances make it impossible to follow

¹ This report was approved by the Committee of Experts, in accordance with Articles 3 (g) and 26 of the Rules of Procedure, during the plenary session held on February 13, 2003, within the framework of its Third Meeting, held on February 10-13, 2003, at OAS Headquarters, Washington, D.C., United States of America.

² Response of Argentina to the questionnaire. On the request of Argentina, its response to the questionnaire, along with its respective appendixes and complimentary information, as well as the documents sent by civil society organizations, pursuant to the Rules of Procedure and Other Provisions, are found published at the following Internet website address: <http://www.oas.org/juridico/english/followup.htm>

normal procedures for enactment of laws and the rules do not deal with criminal matters, taxation, electoral matters or the political party structure (CN Article 99, paragraph 3). These decrees are essentially general regulations, but they rank below laws.

The PEN is also empowered to promulgate regulatory decrees needed for carrying out laws, cautiously not altering their spirit with regulatory exceptions (CN Article 99, paragraph 2), and autonomous decrees valid only within the executive branch, which the President issues being politically responsible for the country's administration (Article 99, paragraph 1).

As for the role of international treaties in the legal hierarchy, it should be noted that there is a body of federal legislation, outranking provincial government provisions, organized in the following manner:

1. The Constitution and international human rights treaties of constitutional rank (CN Articles 31 and 75, paragraph 22).
2. International treaties without constitutional rank, including those on regional integration and provisions for carrying it out. This level includes the Inter-American Convention against Corruption (CN Articles 31 and 75, paragraphs 22 and 24).
3. Laws enacted by Congress (CN Articles 31 and 75, paragraphs 22 and 24).
4. Executive Power Decrees (CN Article 76).
5. Executive Emergency Decrees (CN Article 99, paragraph 3).

The President carries out the duties of Head of State and Government, and is responsible for the administration of the country and commander-in-chief of the armed forces (CN Article 99, paragraphs 1 and 12). Under the President there are currently 10 ministries and a chief of staff, whose areas of responsibility are delineated in a law enacted by Congress. In the framework of the National Public Administration, under the structure of the ministries, there are many administrative entities that comprise the so-called National Public Sector (Article 8 of Law 24,156), which are responsible for the management, administration, and control of the government.

The judicial branch is entrusted with resolving conflicts that arise in judicial cases and upholding the Constitution. Control of the constitutionality of laws is exercised in a diffuse manner, by all the judges in the country, including provincial judges. Their decisions on the constitutionality of a law do not nullify the law, and affect only the parties to the case.

Connected to the judicial branch are the Magistrates' Council and the Trial Court for Magistrates of the Nation (CN Articles 114 and 115). The Council's main function is to intervene in the selection of candidates for lower court judges, administering the judicial branch, considering discipline of and charges against judges, in the Court just mentioned, which hears cases involving removal of lower court judges.

There is also an Attorney General's Office, composed of the Attorney General and Government Defender, which is responsible for representing the judicial branch in the defense of laws and the general interests of society (CN Article 120).

2. Ratification of the Convention and adherence to the Mechanism

The Argentine Congress on December 4, 1996, in Law No. 24,759, published in the Official Bulletin on January 17, 1997, approved the Convention. According to the official register of the OAS General Secretariat, Argentina deposited the instrument of ratification on October 9, 1997.

In addition, Argentina signed the Declaration on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption on June 4, 2001, on the occasion of the 31 Regular Session of the OAS General Assembly in San Jose, Costa Rica.

I. SUMMARY OF INFORMATION RECEIVED

1. Response from Argentina

The Committee wishes to acknowledge Argentina's cooperation in the entire review process, and especially the assistance of the Anticorruption Office of the Ministry of Justice, Security, and Human Rights -the coordination unit-, which was evident in its timely response to the questionnaire and its willingness to provide clarifications and supplementary information.

In its response, Argentina specified the agencies from which it requested information³. As such, Argentina stated that the Supreme Court of Justice has officially stated "that it is not required to reply to the Committee of Experts' questionnaire". Additionally, the Magistrates' Council did not reply to the notes sent requesting information, and the Court for Trial of Magistrates replied that since the requested information addressed institutional matters inherent to the operations of the judiciary, it had to be furnished by the Supreme Court of Justice.

The Republic of Argentina attached the provisions and documents that it deemed pertinent which are listed in the appendix of this report.

2. Document submitted by the Commission for Follow-up on Compliance with the Inter-American Convention against Corruption

The Committee also received the report submitted by the "Commission for Follow-Up on Compliance with the Inter-American Convention Against Corruption"⁴ which states that the Commission is "composed of a score of prestigious entities in civil society and some government agencies" and "has the general objective of taking the necessary steps to promote, disseminate, and verify compliance with the Convention" in Argentina.

³ Anticorruption Office of the Ministry of Justice, Security and Human Rights; the Honorable House of Deputies of the Nation; the Honorable Senate of the Nation; Auditor General of the Nation; Ministry of the Interior; Ministry of Foreign Affairs, International Trade and Worship; Office of the Attorney General; Office of the Public Defender; Supreme Court of Justice; Magistrates' Council; Court for Trial Magistrates; Department of International Affairs and Cooperation of the Ministry of Justice, Security and Human Rights; Department for the Strengthening of Management of the Secretariat for Public Administration of Office of the Chief of Staff; Office of Statistics of the Judicial Branch.

⁴ This report was transmitted with a note dated August 28, 2002, signed by the coordinator of the Commission, Angel Bruno.

II. REVIEW OF THE IMPLEMENTATION OF THE SELECTED PROVISIONS BY ARGENTINA

A. CONSIDERATIONS ON THE SCOPE OF REVIEW IN THE CASE OF ARGENTINA

As noted in the description of the legal-institutional framework, Argentina is a federal state, in which the federal government co-exists with 24 districts (23 provinces and the autonomous city of Buenos Aires).

As indicated in the preceding section, the information from the government and the Follow-up Commission deals with the federal government. In view of this circumstance, this review is limited to the federal government.

This review is therefore necessarily of limited scope in terms of the implementation of the selected provisions of the Convention in Argentina. This is evident from the fact that, for example, in accordance with the information provided by the Argentine Government⁵, in 2001 only 18.9 percent of all civil servants (affected by measures such as those in the standards of conduct or declaration of income, assets, and liabilities) were in national government, while 64.4 percent were in provincial government and 16.7 percent were in local government.

In this regard, it should also be noted that according to official information⁶, “in Argentina the system is established in such a way that the provinces are responsible for most of the public expenditures for goods and services while the national government collects most of the taxes.” Thus, for example, according to the same source, in accordance with the current system for federal tax sharing, 1 percent of the sum collected for certain taxes (capital gains, VAT, internal, fuel, etc.) goes to the national treasury, 42.34 percent goes for the federal government, and 56.66 percent for the provinces, not counting automatic transfers (created subsequently), which also go to the provinces for specific purposes and “include the National Housing Fund (FONAVI); the Fund for Electric Development in the Interior (FEDEI); the Highway Sharing fund; infrastructure works and the Educational Fund; designated and undesignated discretionary transfers with contributions from the national treasury.”

This fact underscores the importance of having data on the implementation of the Convention in the provinces and municipalities with regard to such measures as the standards of conduct to prevent conflicts of interest and to ensure the conservation and proper use of resources entrusted to public officials; and for oversight bodies concerning their work and mechanisms to encourage the participation of civil society and nongovernmental organizations to prevent corruption.

In particular, the Republic of Argentina recognizes its international obligation of implementing the Inter-American Convention against Corruption throughout its territory, irrespective of its status as a federal state.

⁵ Complimentary Information to the Argentine Republic’s response, p. 2.

⁶ “What is the co-participation between the central government and the provinces?” Information on “the Federal State” in the “Cristal” page on the Internet of the Council of Ministers:

www.cristal.gov.ar/front/elestado/coparticipacion.html

In consideration of the above, the Committee believes the Republic of Argentina should consider promoting, with the authorities of the provinces, and the autonomous city of Buenos Aires and municipalities, the relevant cooperation mechanisms to secure information under issues related to the Convention from those levels of governments and to provide technical assistance for the effective implementation of the Convention.

B. REVIEW OF THE IMPLEMENTATION BY ARGENTINA FEDERAL GOVERNMENT OF THE SELECTED PROVISIONS

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE COMPLIANCE (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)

1.1. CONFLICTS OF INTEREST

1.1.1. Existence of provisions in the legal framework and/or other measures and enforcement mechanisms

As noted in the government's reply to the questionnaire⁷ in the federal sphere Argentina has a set of standards of conduct for performance of public functions, which are found in various regulatory provisions. "Some are general in scope, applicable to all public officials, elected or appointed, while others are specialized in nature, applicable in certain kinds of bodies."⁸

These standards of conduct include provisions intended to prevent conflicts of interest, among them Law 25.188 "Public Ethics Law"; Decree 41/99, approving the "Ethics Code for Public Officials"; Law 25,164, which governs the policy of national public employment; and the Ministerial Law (Articles 24 and 25), in its text regulated by Decree 438/92.

In addition, "in the framework of the judicial branch and the Attorney General's Office, the Public Ethics Law 25.188 is supplemented by special rules for recusal in the codes governing judicial proceedings (Articles 14 to 32 of the Civil and Commercial Procedure Code, and Articles 55 to 64 of the Criminal Procedure Code)."⁹

Argentina also has, in the federal system, mechanisms to enforce measures to prevent conflicts of interest. Among them are the following:

- The first set of mechanisms in this field concerns the authorities that apply the standards of conduct, including those related to the prevention of conflicts of interest. This group of authorities includes the National Commission on Public Ethics,¹⁰ and for the national government administration, the Anticorruption Office of the Ministry of Justice, Security, and Human Rights¹¹.

⁷ Response of Argentina to the questionnaire, p. 4.

⁸ Ibid.

⁹ Response of Argentina to the questionnaire, p. 11.

¹⁰ Established by Article 23 of Law 25,188, "Public Ethics Law", www.jus.gov.ar/minjus/OAC/25.188.PDF

¹¹ Established by Law 25,233, Article 13, which amended the Ministerial Law www.jus.gov.ar/minjus/OAC/PDF/ley25233.pdf

- The second set of mechanisms in this field is the systems for administrative or disciplinary penalties for conflict of interest cases. In this regard, Argentina's response¹² describes the principal disciplinary penalties in force for cases of violation of the standards of conduct in the national public administration, the judicial branch, the Senate, the Attorney General's Office (Attorney General and Government Defender), Public Defender, Trial Court for Magistrates, and Auditor General.

- The third set of mechanisms that should be noted concerns the declarations on compliance with the conflict of interest rules, in accordance with the provisions of Law 25.188 and its regulatory decree 164/99.

1.1.2 Adequacy of the legal framework and/or other measures and enforcement mechanisms

The rules and mechanisms on conflicts of interest examined by the Committee, on the basis of the information at its disposal, are relevant for promotion of the objectives of the Convention. Nevertheless, the Committee wishes to comment on some aspects of them, and will make the appropriate recommendations in the final chapter of this report.

1.1.2.1 Comments on the adequacy of the legal framework and/or other measures

With regard to the general system, it is necessary to note that as a result of the amendments ratified in 1994, the Constitution provides in Article 34, final paragraph, that "Congress shall enact a public ethics law for officials." To carry out this Constitutional mandate, the Congress passed Law 25.188, "Public Ethics Law."¹³

Chapter I of this law, consisting of the first article, deals with its "object and subjects". Its text is as follows: "Article 1. This law on ethics in the performance of public functions establishes a set of duties, prohibitions, and incompatibilities applicable without exception to all persons who perform public functions at all levels and hierarchies, permanently or temporarily, by popular election, direct appointment, by competition or any other legal means, including all government magistrates, officials, and employees. Public function means any temporary or permanent, paid or honorary activity, performed by a natural person in the name of the State or in the service of the State or its institutions, at any level of its hierarchy."¹⁴

This law, composed of 11 chapters and 48 articles, regulates among other things the duties and standards of ethical conduct for "subjects covered by this law" (Chapter II); the "system for sworn declarations" (Chapter III); the declaration of employment background for "those officials who do not assume public functions through election" and "for the sole purpose of facilitating better control over possible conflicts of interest that may arise" (Chapter IV); the system for "incompatibilities and conflicts of interest" (Chapter V); the "rules for gifts to public officials" (Chapter VI); "summary prevention" (Chapter VII); it establishes the "National Commission on Public Ethics" (Chapter VIII); introduces amendments to the Penal Code (Chapter IX); establishes provisions on publicity and

¹² Response of Argentina to the questionnaire, pp. 6-8, 12-13.

¹³ This law was passed on September 29, 1999 and signed on October 26 of the same year:
www.jus.gov.ar/minjus/OAC/25.188.pdf

¹⁴ Note that this law literally transcribes the definition of "public function" contained in Article I of the Inter-American Convention against Corruption.

dissemination of the conclusions reached by the National Commission on Public Ethics and authorities who apply it, “on the conduct of an act that is considered an infraction of public ethics” (Chapter X); and it establishes provisions for “entry into force and transitory provisions”(Chapter XI).

As noted by the Anticorruption Office,¹⁵ “this law has been regulated by the executive branch (decree 164/99, of December 28, 1999) only as regards the centralized and decentralized national public administration, not the legislative branch, the Attorney General’s Office, nor the judicial branch, which shall adopt appropriate rules in their respective jurisdictions.”

Furthermore, according to the interpretation by the Senate,¹⁶ “Law 25.188 on ‘Ethics in the performance of public functions’ (November 1, 1999, regulatory decree 164/99 of December 12, 1999) regulates conflicts of interest of public officials only in the sphere of the national public administration, to the exclusion of the legislative branch, Attorney General’s Office, and the judicial branch.”¹⁷

In its report to this Committee, the “Commission for Follow-up on Compliance with the CICC”¹⁸ states, “although the Senate asserts that it is not subject to Law 25,188, this is not expressed in the text of that law.” In support of its assertion it quotes Article 1 of the law¹⁹ the fact that “Article 5 of Law 25.188 expressly includes federal senators and deputies among the subjects required to present the sworn declaration.”

In this regard, the Committee notes that pursuant to Article I of the Convention, “‘Public official’, ‘government official’, or ‘public servant’ means any official or employee of the State or its agencies, including those who have been selected, appointed, or elected to perform activities or functions in the name of the State or in the service of the State, at any level of its hierarchy.”

The Committee therefore wishes to note that, according to the information received, and notwithstanding the provisions on criminal responsibility, in practice there is no disciplinary system for conflicts of interest in the legislative branch. In view of this circumstance, the Committee will make an appropriate recommendation.

Furthermore, according to the “Semiannual Management Report 2002” of the Anticorruption Office,²⁰ “Since the effective application of the rules for public ethics, including the matter of conflicts of interest, the DPPT has encountered many regulatory problems. These problems were aggravated by the issuance of Executive Power Decree 862/02 (BO July 2, 2001), which amended Article 15 of Public Ethics Law 25,188, eliminating the post-employment ban for one year on doing any business with the agency in which they served. Although this Office recommended reforms of

¹⁵ Response of the Anticorruption Office to the “Commission for Follow-up on Compliance with the CICC in Argentina,” October 24, 2001, which is an annex to the Commission’s first report.

¹⁶ Response of the Senate to the “Commission for Follow-up of Compliance with the CICC in Argentina,” of November 23, 2001, which is annexed to the Commission’s first report.

¹⁷ The response of the Senate to the Commission for Follow-up of Compliance with the CICC in Argentina, cited in the previous footnote, states that “so far there are no regulations to cover this, although there are internal provisions to promote better operation of the institution and transparency in management.”

¹⁸ Report of the “Commission for Follow-up of Compliance with the CICC”, p. 19.

¹⁹ Article 1 of the law is transcribed in this section of this report, www.jus.gov.ar/minjus/OAC/25.188.PDF

²⁰ Anticorruption Office. Semi-annual Management Report, January-June 2002, p. 42.

www.jus.gov.ar/minms/oac/informes.htm

another kind, particularly with regard to the year after employment, as the enforcement authority it must apply and interpret the new rules”. To this respect, the Republic of Argentina notes that a review of the public ethics rules is currently underway; among the amendments will be the reintroduction of the post-employment ban contained in Law 25,188. In some special cases, such as in the Financial Information Unit for combating money laundering, it remains in force.

Taking this into account, the Committee will make an appropriate recommendation.

1.1.2.2 Comments on the adequacy of mechanisms for enforcement of measures to prevent conflicts of interest

The Committee wishes to make the following comments on the abovementioned mechanisms for enforcement of measures to prevent conflicts of interest.²¹

Regarding the first set of mechanisms (authorities responsible for applying the standards of conduct), it should be noted that Law 25.188 the “Public Ethics Law,”²² provides the following in Article 23: “in Congress there is hereby established the National Commission on Public Ethics, which shall operate as an independent body and have functional independence, to guarantee compliance with the provisions of this law.”

Article 24 of Law 25.188 stipulated that “the Commission shall be composed of 11 members, citizens with recognized credentials and public prestige, who may not belong to the body that appoints them and shall serve for four years, with the possibility of being reappointed for one more term. They shall be appointed in the following manner: a) one by the Supreme Court; b) one by the executive branch; c) one by the Attorney General’s Office; d) eight citizens selected by joint resolution of both houses of Congress by two-thirds of the members present, two of whom shall be: one recommended by the Public Defender and the other by the Auditor General.”

Article 25 of the same law specifies the Commission’s functions. They include the following: (a) receive complaints from individuals or legally registered intermediate bodies concerning unethical conduct of government officials or agents (...); (b) receive complaints of failure to act by enforcement bodies (...); (c) write ethics regulations for Congress (...); (f) register publicly administrative and judicial penalties imposed for violations of this law (...); (g) give advice and nonbinding opinions on the interpretation of situations covered by this law; (h) within 120 days after the entry into force of this law, recommend to Congress changes in current legislation to guarantee transparency in the State Contracting System and improve the System for Financing of Political Parties and Electoral Campaigns; (i) design and promote programs for training and dissemination of this law for staff covered by it; (j) solicit cooperation from the various offices of the national government, in their sphere of competence, to obtain necessary information for carrying out its duties (...); 1) prepare a public annual report on its work, ensuring its circulation.”

²¹ Section 1.1.1 of this section of the report identifies three groups of mechanisms to enforce compliance with measures for prevention of conflicts of interest.

²² www.jus.gov.ar/minjus/OAC/25.188.pdf

According to information received, although Law 25.188 was enacted on September 29, 1999 and signed on October 26 of the same year, the National Commission on Public Ethics has never been established. According to the report submitted by the “Commission for Follow-up on Compliance with the CICC,”²³ “the Argentine Senate, the organ which together with the House of Deputies makes up the legislative branch, reports before answering the questions that one of Congress’s pending tasks is the establishment of the National Commission on Public Ethics, pursuant to Articles 23 to 25 of Public Ethics Law 25,188. The report of the House of Deputies attached to Argentina’s response also states that this “is a pending task for Congress.”²⁴

As regards the national public administration, Law 25,233,²⁵ which amended the “Ministerial Law”, approved and signed on December 10, 1999, provides in Article 13 that: “An Anticorruption Office shall be established in the Ministry of Justice and Human Rights, which shall be responsible for preparation and coordination of programs in the fight against corruption in the national public sector, and together with the Administrative Investigations Office shall have the powers and duties established in Articles 26, 45, and 50 of Law 24,946”. The structure and functions of the Anticorruption Office were prescribed in Decree 102/99.²⁶

Therefore, as noted in Argentina’s response,²⁷ the Anticorruption Office is “the authority within the national public administration (APN) of the Executive branch that is responsible for applying the standards of conduct in the Public Ethics Law 25.188 and Decree 41/99”, among which are those intended to prevent conflicts of interest. In accordance with the Office, “in order to investigate possible violations of the rules of ethical behavior set forth in those legal provisions, it receives requests for information from officials and complaints from citizens, some of which are anonymous, which can be presented in person or by fax or e-mail.”

The Republic of Argentina points out that “the non-creation of the National Commission on Public Ethics does not prevent the government agencies in question”-the Legislative branch, the Judicial branch, the Attorney General’s office, the Auditor General, the Magistrates’ Council, and the Public Defender- “from enforcing the disciplinary penalties applicable to their employees through their discipline units.” In accordance with “the republican principle of the separation of powers, each agency has the power to enforce the terms of Law No. 25.188 within its own jurisdiction. For example, Argentina’s Supreme Court of Justice, in its Memorandum No. 1/2000, item 3, stated that “this Court shall be the authority for enforcing the regime set forth in Law 25,188”, and the executive branch set up the Anticorruption Office within its own sphere of influence”.²⁸

In accordance with the information at the Committee’s disposal, it is evident that the National Commission on Public Ethics not being established or operating has not been an impediment for the National Executive branch, through its National Anticorruption Office, to apply the provisions in Law No. 25,188. As regards other branches or organs, the Committee does not have sufficient information that permits its appraisal.

²³ Report of the “Commission for Follow-up of Compliance with the CICC,” p.18, and note from the Senate attached to the report.

²⁴ “House of Deputies: Report on Codes of Conduct and System for Presentation of the Sworn Declaration of Assets”, p.1. Attached to the response of Argentina to the questionnaire.

²⁵ www.jus.gov.ar/minjus/OAC/PDF/ley25233.pdf

²⁶ www.jus.gov.ar/minjus/OAC/102-99.pdf

²⁷ Response of Argentina to the questionnaire, p.5.

²⁸ Response of Argentina to the questionnaire, p.11.

Notwithstanding the above, the Committee wishes to communicate that each State Party is responsible, within their own institutional systems, to consider the applicability of measures to create, maintain or strengthen “enforcement mechanisms” in relation to standards of conduct as referred to in Article III, paragraph 2, of the Convention. In the event that there is a change of mind on the appropriateness of said mechanisms for the mentioned effects. States should consider eliminating or amending them through the manner in which they were created or established. Therefore, the Committee will make a recommendation.

With regard to the second set of mechanisms (systems of administrative or disciplinary penalties for cases of conflict of interest), as noted in Argentina’s response,²⁹ “the specific penalty established for acts done in a situation of conflict of interest is complete nullity (Article 17 of Law 25,188). For the responsible officials, there is no penalty provided in the specific chapter of Law 25.188 on conflicts of interest.” In these cases, according to interpretation that has been given to the provisions of Article 3 of that law, violators “shall be punished or fired according to procedures established in the regulations governing their specific office.”³⁰

According to the same reply, “the Ministerial Law (Ordered Text Decree 438/92), in Articles 24 and 25, provides that the officials appointed directly by the President (Chief of the Ministerial Cabinet, Ministers, Secretaries, and Deputy Secretaries) will have a special system for conflicts of interest to supplement the general rules in Law 25,188.³¹ However, “there are no implementing regulations for these standards, so no penalties are specified and no authority responsible for applying them. In cases in which possible situations of conflict of interest were detected on the bases of these standards, the Anticorruption Office notified the executive branch.”³² In view of this situation, the Committee will make a recommendation.

Finally, as regards the third set of mechanisms (declarations on compliance with the conflict of interest system), Article 12 of Law provides that “those officials whose access to public office is not through general election shall include their employment history in the sworn declaration solely to facilitate better control over possible conflicts of interest that may arise.”

Bearing in mind the definition of “public official,” “government official,” or “public servant” in Article I of the Convention, the Committee wishes to note that if the State Party adopts this type of declaration as one of the mechanisms for enforcement of the rules to prevent conflicts of interest, it may wish to consider covering all civil servants that are obligated to make sworn declarations and not just to one category of them. As such, the Committee will make a recommendation on this point.

1.1.3 Results of the legal framework and/or other measures and enforcement mechanisms

Taking into account the comments in the preceding section, and on the basis of the information received, the Committee wishes to note the results with regard to the authority responsible for application and objective data on penalties.

²⁹ Response of Argentina to the questionnaire, p.12.

³⁰ Article 3 of Law 25,188.

³¹ Response of Argentina to the questionnaire, p.11.

³² Response of the Anticorruption Office to the “Commission for Follow-up of Compliance with the CICC”, p.4, which is attached to the Commission’s report.

In the first place, as for the authorities responsible for application, the fact that the National Commission on Public Ethics created by Law 25.188 has not actually been installed means that there are no results in regard to the duties assigned by this law, concerning standards of conduct and prevention of conflicts of interest in the legislative and judicial branches and the Attorney General's Office. Among these duties³³ are to receive complaints concerning unethical public conduct; receive complaints of inaction by enforcement agencies; write the public ethics regulations for Congress, and make public administrative and judicial penalties applied to violators of the law. The Republic of Argentina points out that although the Commission has not been created, that does not prevent the lodging of complaints and the keeping of statistics by the individual government agencies.

Within the national public administration, according to the reply to the questionnaire³⁴ and a clarification that was submitted on a later date, a total of 26,500 public employees are subject to the obligation of submitting sworn declarations of assets. Of this figure, 1300 high-ranking government officials are required to present their sworn declarations -either at the start or conclusion of their employment, or every year during it- to the Anticorruption Office. The remaining public employees send their sworn declarations of assets to the human resource offices of the agencies to which they belong. The Anticorruption Office reviews the 1300 sworn declarations lodged with it each year.

Over its three years' existence, the Anticorruption Office has reviewed more than 3,900 sworn declarations, since some public officials lodged more than one (at commencement and conclusion of employment) in a given year, due to changes in the government. After reviewing these 3,900 sworn declarations, a total of 491 cases involving possible conflicts of interest or violations of the rule against having more than one paid government job (incompatibilities)³⁵ were opened. The most important cases in which violations were detected or it was deemed necessary to serve recommendations on officials in order to avoid conflicts of interest have been published on the website www.anticorruccion.gov.ar.

In another area, in the response to the questionnaire and the clarification thereof³⁶ it is noted that the Public Defender "has statistics, and shows no cases of conflict of interest since it was established by Law 24,284 of December 6, 1993"; the Auditor General's Office uses the sworn declarations and active follow-up of possible incompatibilities, which are registered, but "however, thus far, they have not been quantified"; and it states with regard to the judicial branch and the Attorney General's Office that possible causes of recusal include "few that are strictly conflicts of interest" and despite this statement, the Public Prosecutor and Defender General of the Attorney General's Office report they have no statistics on the subject.

Finally, the same response and clarification notes that "The Senate has reported that there are no statistics on the existence of conflicts of interest, which does not mean that there may not have been cases in which they were found"³⁷ and there are no data on specific results the Magistrates' Council,³⁸

³³ Law 25,188, Article 25.

³⁴ Response of Argentina to the questionnaire, pp. 13 and 14.

³⁵ In the complimentary information to the response to the questionnaire and to the draft preliminary report, Argentina provided detailed information regarding the broken down results with respect to the 491 conflict of interest and incompatibility cases that were considered up to June 2002. (These are broken down by origin as well if they are still in process or a final outcome has been determined).

³⁶ Complimentary information to the response of Argentina to the questionnaire, p. 4.

³⁷ Complimentary information to the response of Argentina to the questionnaire, p. 5.

³⁸ Response of Argentina to the questionnaire, p.15.

and Trial Court Magistrates,³⁹ because none of them submitted information to the national coordinating unit for the reply to the questionnaire. In relation with the House of Deputies it is reported that they sent replies to the questionnaire after the deadline, although the required objective results were not included.

1.2 STANDARDS OF CONDUCT AND MECHANISMS TO ENSURE THE PROPER CONSERVATION AND USE OF RESOURCES ENTRUSTED TO GOVERNMENT OFFICIALS

1.2.1 Existence of provisions in the legal framework and/or other measures and enforcement mechanisms

Argentina has a set of federal norms and mechanisms for the conservation and proper use of resources entrusted to public officials. The following ones should be noted:

The standards of conduct governing the national public administration are contained in Article 27 of Decree 41/99 (Public Ethics Code); Article 2, paragraph f of Law 25.188(Public Ethics Law), and Article 23, paragraph 1 of Law 25,164 (Civil Service Law).

Mechanisms are established in the provisions on financial management and oversight systems for the national public sector in Law 25,156.⁴⁰ Among these are the creation of the Inspector General's Office as an internal oversight body for the executive branch⁴¹ and the Auditor General as an external oversight body for the national public sector, responsible to Congress,⁴² as well as the system of responsibility established in it.⁴³

1.2.2 Adequacy of the legal framework and/or other measures and enforcement mechanisms

The standards and mechanisms for conservation and proper use of public resources that have been reviewed by the Committee, based on the information at its disposal, are relevant for the promotion of the purposes of the Convention.

However, the Committee considers it appropriate to highlight the following points based on the information at its disposal:

³⁹ Complimentary information to the response of Argentina to the questionnaire, p. 3.

⁴⁰ Legislative annex to the response of Argentina, chapter 1, point 3.

⁴¹ Title VI (Articles 96 to 115) of Law 24,156.

⁴² Article 85 of the Constitution and Articles 116 to 127 of Law 24,156.

⁴³ Article 3 of this law provides that "oversight systems include the internal and external control structures in the national public sector and the system of responsibility established in the requirement that officials be held accountable for their service." Articles 130 and 131 state: "Article 130. Any person working in jurisdictions or agencies within the competence of the Auditor General shall be held liable for damages resulting from fraud, error, or negligence in the performance of duties that affect the abovementioned bodies, unless subject to special systems of property accountability. Article 131. The statute of limitations for suits to enforce property accountability of all persons working in the sphere of the organs and other entities mentioned above in Articles 117 to 120 of this law is that of the periods stipulated in the Civil Code, counting from the moment of commission of the act causing the damage or the damage if it precedes the act, whatever juridical rules of property accountability are applicable to them."

1. According to the Inspector General,⁴⁴ “noncompliance with the provisions established in Law 24,156 and its regulations does not result in any penalty. The requirement to conduct oneself in a certain way is undermined when the juridical norm fails to establish a corresponding penalty for infractions. In this regard, some of the principles behind the law, such as the application of criteria of economy, efficiency, and effectiveness, become a mere statement of intent, with no operative meaning. This situation weakens the general framework for activities in the public sector, and especially the result of oversight activities. The Inspector General is developing draft rules to enable it to apply penalties for various infractions.”

This same agency states “over the years the Inspector General and the internal audit units have given senior officials of the jurisdictions and entities facts and relevant information for taking corrective action to reduce risk and improve the system of internal controls. There has been uneven implementation of measures to respond to auditors’ notes and recommendations, but each year more and more observations are in process or without correction. In the current legal framework, the authority receiving the recommendation is not even required to react to it, much less to implement it.”

2. As for the Auditor General, Article 85 of the Constitution of 1994 provides that “this technical assistance organ of Congress, with functional autonomy, will be structured in the manner prescribed by the law that regulates its establishment and operation, which must be approved by a majority of the members in both houses.” However, according to the information received, the law has still not been enacted⁴⁵ and the entity is still governed by Law 24,156 of 1992.
3. The Management Report for 2001 of the Anticorruption Office, suggests that some of the main forms of corruption can be found in the granting of subsidies.⁴⁶
4. In this same vein, the Anticorruption Office, in its Management Report for 2001, proposed the strengthening of systems for oversight and accountability by officials to ensure the conservation and proper use of public resources in areas where there appears to be great latitude in their disbursement, such as those in the reserved funds, intelligence funds, contributions from the national treasury and similar budget categories. According to its Management Report for 2001,⁴⁷ the Anticorruption Office sent the House of Deputies “a memorandum of comments on the intelligence bill (currently Law 25,520). In it the Office made recommendations to increase transparency in the management of intelligence funds through legislative and judicial oversight, the requirement for strict bookkeeping of expenditures and the establishment of clear rules on access to information. Although the law was enacted without taking these comments into account, it is possible to incorporate them in a supplemental law to improve record keeping and access to information.”

⁴⁴ Response of the Inspector General attached to the report of the “Commission for Follow-up of Compliance with the CICC,”

⁴⁵ Report of the “Commission for Follow-up of Compliance with the CICC,” p. 11.

⁴⁶ Anticorruption Office. Management Report, 2001, pp. 24-36.

⁴⁷ Anticorruption Office. Management Report, 2001, p. 13.

5. Finally, the Management Report for 2001 of the Anticorruption Office⁴⁸ states “the Investigations Unit of this Office pressed for the filing of civil suits for restitution of economic damages caused by certain acts of corruption to state property. The Prosecutors of the National Treasury determined that this Office has no authority to file civil suits; its authority is limited to reporting identified irregularities to the legal services of the agencies involved, so that they can file the corresponding suits for recovery of the assets. Therefore, the Office requested that the appropriate agencies file civil suits for approximately 113 million pesos.”

In view of the foregoing, the Committee will make a recommendation on this subject in the final chapter of this report.

1.2.3 Results of the legal framework and/or other measures and enforcement mechanisms

According to the information received, “the Inspector General has reported that it does not have statistics on charges filed that specify the type and number of measures adopted”⁴⁹ although data are submitted on the number of reports made. The same document⁵⁰ says that the Auditor General “did not have a systematic register of the parties to which the reports were sent” but “the Auditor General is taking the first steps to correct this deficiency” and submits a bar chart describing the progress.

Furthermore, the response to the questionnaire⁵¹ says that “no reply has been received on this point from the House of Deputies, the Supreme Court, the Magistrates’ Council, and the Government Defender of the Attorney General’s Office.”

This lack of information, and the limited nature of what is available, make it difficult to evaluate results in this field. In view of this circumstance, the Committee will make a recommendation.

1.3. MEASURES AND SYSTEMS REQUIRING GOVERNMENT OFFICIALS TO REPORT TO APPROPRIATE AUTHORITIES ACTS OF CORRUPTION IN THE PERFORMANCE OF PUBLIC FUNCTIONS OF WHICH THEY ARE AWARE

1.3.1 Existence of provisions in the legal framework and/or other measures and enforcement mechanisms

Argentina has rules that require public officials to report to appropriate authorities acts of corruption of which they are aware, among them Article 177 of the Penal Procedure Code and Article 31 of the Civil Service Ethics Code (Decree 41/99), applicable to the national government. Failure to report is penalized in Article 277 of the Penal Code with six (6) months to three (3) years in prison.

⁴⁸ Anticorruption Office. Management Report, 2001, p. 20: www.jus.gov.ar/minjus/oac/informes.htm

⁴⁹ Complimentary information to the response of Argentina to the questionnaire, p. 6.

⁵⁰ Complimentary information to the response of Argentina to the questionnaire, p. 7.

⁵¹ Response of Argentina to the questionnaire, p. 16.

Article 177 of the Penal Procedure Code was regulated in the national executive branch by Decree 1162/00, which prescribes that employees shall comply with their legal obligation by reporting presumed offenses to the Anticorruption Office. This Office is also tasked with “filing charges with appropriate judicial authorities regarding acts that, as a result of their investigation, may constitute offenses.”⁵²

1.3.2 Adequacy of the legal framework and/or other measures and enforcement mechanisms

The abovementioned provisions of the Penal Procedure Code and the Public Ethics Code, as well as the complaint function assigned to the Anticorruption Office in Article 2.f of Decree 102/99 are relevant for promotion of the purposes of the Convention.

1.3.3 Results of the legal framework and/or other measures and enforcement mechanisms

With regard to this point, the Committee notes the work of the Anticorruption Office in investigation and denunciation of possible acts of corruption. This work between December 1999 and the date of the Semi-Annual Management Report for 2002 included starting more than two thousand investigations, of which 615 resulted in criminal charges and 385 were referred to other public entities for application of the corresponding penalties.⁵³

As for application of administrative penalties for failure to report corruption, Argentina stated “it has not been possible to gather data on this point.”⁵⁴ The information received and reviewed also failed to include statistics on penalties imposed by judicial authorities for failure to denounce corruption, or on cases settled in the courts as a result of complaints by public officials.

This lack of information and the limited nature of the information available make it difficult to evaluate results in this field. In view of this circumstance, the Committee will make a recommendation.

2. SYSTEMS FOR REGISTERING INCOME, ASSETS AND LIABILITIES (ARTICLE III, PARAGRAPH 4, OF THE CONVENTION)

2.1 Existence of provisions in the legal framework and/or other measures

Argentina has a set of rules and procedures for declarations of income, assets, and liabilities in the federal sphere.

Law 25,188, Chapter III, offers complete regulations for “the system of sworn declarations” and specifies who is required to submit them (Article 5), opportunities for submission and updating them (Article 4), their contents (Article 6), deposit and transmittal of copies to the National Commission on Public Ethics (Article 7), consequences for noncompliance with submission requirements (Articles 8 and 9), and their dissemination and availability (Articles 10 and 11).

⁵² Decree 102/99, Article 2.f.

⁵³ Anticorruption Office, Semi-annual Management Report, January-June 2002, p.21.

⁵⁴ Complimentary information to the response of Argentina to the questionnaire, p.8.

Furthermore, as noted in Argentina's response⁵⁵ many other provisions of various types have been promulgated, among them those concerning the executive branch (e.g. Decrees 164/99; 808/00; Res. MJ y DH 1000/2000 and 10/2001; and Res. OA 6/2000); the judicial branch (Memorandum 1/2000); the Senate and House of Deputies (DP 1405/00; 419/02; and 950/02); the Auditor General (Rules 150/99 and 87/02 of the Auditors' Board); the Public Defender (Res. 289/00); the Prosecutor General (Resolutions PER 847/00 and 876/00; and PGN 81/00) and the Defender General (Res. DGN 436/99 and 1119/99).

2.2. Adequacy of the legal framework and/or other measures

While not making a detailed analysis of the many existing federal provisions and mechanisms on the subject of declarations of income, assets, and liabilities, the Committee offers the following comments:

1. The general system established in Law 25.188 is generally relevant for the promotion of the purposes of the Convention, but a detailed review of some of its specific provisions (which is beyond the scope of this report) could result in improvements. In this sense, the failure to set up and put into operation the National Commission on Public Ethics is noted.

The Republic of Argentina has stated that "the failure to set up the National Commission on Public Ethics has not prevented different government bodies from establishing specific regimes for the presentation of sworn declarations of assets in accordance with the terms of Law No. 25,188. Thus, pursuant to the republican principle of the separation of powers, the different regimes listed in item 2.1 above have been enacted.

2. The existence of so many provisions and specific systems with different characteristics for similar circumstances or conditions appears not to contribute to the clarity and simplicity needed for better promotion of the purposes of the Convention.
3. It should be noted that the system prescribed for sworn declarations in the executive branch and the duties assigned to the Anticorruption Office in this regard are relevant for compliance with the purposes of the Convention. This has made it possible, as noted by the Commission for Follow-up of Compliance with the CICC,⁵⁶ that "unlike other branches of government, the executive branch through the Anticorruption Office is fully complying with the obligation to collect and publicize sworn declarations of property and finances from its public employees. The system used is simple and dynamic, and the form designed for the declaration is comprehensive and user-friendly." The computerized system for presentation of property declarations is a step toward achievement of the objectives of the Convention.

In light of the foregoing, the Committee will make a recommendation on the subject in the final chapter of this report.

⁵⁵ Response of Argentina to the questionnaire, pp. 21-26.

⁵⁶ Report of the "Commission for Follow-up of Compliance with the CICC," p.22.

2.3 Results of the legal framework and/or other measures

Based on the information received, the Committee wishes to note the degree of compliance in the presentation of sworn declarations in the national executive branch and the progress to date in the follow-up and control of them by the Anticorruption Office.⁵⁷ According to that information, between December 1999 and the date of the Semi-Annual Management Report for 2002, the Office reviewed 247 declarations with evidence of failure to submit declarations (172 cases, equivalent to 70 percent), failure to include data in the declaration (10 cases, equivalent to 4 percent), and illicit enrichment (65 cases, equivalent to 16 percent). A review of these 65 declarations indicated that 77 percent were under study, 20 percent were shelved, and 3 percent gave rise to criminal charges. It should be noted that the percentage of declarations reviewed still seems quite limited, restricting the possibility that through its review illicit enrichment may be detected.

To this respect, the Republic of Argentina has expressed that “Sworn declarations of assets are a tool for ensuring that the citizenry has access to information about the net worth of its officials. The Anticorruption Office analyzes these declarations in order to keep tabs on the evolution of their net worth and detect their possible illegal enrichment. These technical analyses have to be supplemented with evidence to ensure that the complaints referred to the judiciary are duly grounded. It is also germane to point out that the publication of lists of those officials who comply with the obligation of submitting sworn declarations of their assets, together with lists of those who have not complied, has had an impact. It has encouraged the noncompliant ones to make the corresponding submissions: 1. Prior to publication: Compliant: 92.9% Noncompliant: 7.1% 2) following publication: compliant: 95.4% noncompliant: 4.6%

The objective results submitted in response to the questionnaire included the compliance percentages among affected officers in the legislative branch, the office of the Auditor General, the Public Defender, and the Attorney General’s Office; in many of these cases, compliance rates of 100% had been achieved. In contrast, there were no figures received from the judicial branch, from the Magistrates’ Council, or from the Court for Trial of Magistrates, which submitted no information.

In relation with the Branches of government and organs mentioned in the above paragraph, no information was presented on the review of declarations and results obtained, nor was information presented on the consultations that were requested by citizens.

This lack of information and the limited nature of the information available make it impossible to evaluate results in this field. In view of this circumstance, the Committee will make a recommendation.

⁵⁷ Response of Argentina to the questionnaire, pp. 26 and 27. Complimentary information to the response of Argentina to the questionnaire, pp. 9-13. Anticorruption Office. Semi-Annual Management Report 2002, pp. 26-28.

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4, AND 11, OF THE CONVENTION)

3.1 Existence of provisions in the legal framework and/or other measures

As noted in previous sections of this report, Argentina's federal government has a set of provisions and other measures to regulate the organization and operation of oversight bodies for the Convention provisions selected for review in the first round.

These provisions and measures include, in particular, those relating to the National Commission on Public Ethics⁵⁸, the Inspector General,⁵⁹ the Auditor General,⁶⁰ and the Administrative Investigations Office of the Prosecutor General.⁶¹ In the executive branch there is the Anticorruption Office.⁶²

3.2 Adequacy of the legal framework and/or other measures

Based on the information at its disposal, the Committee notes that Argentina has standards and measures in this area that are relevant for the promotion of the purposes of the Convention.

However, the Committee wishes to reiterate comments it made concerning problems of adequacy related, among others factors, to the failure to set up and in motion the National Commission on Public Ethics, and the limitations of the current system in regard to the Inspector General and the Auditor General.⁶³ In light of the foregoing explanation of Argentina in that "the National Commission on Public Ethics has not been set up does not prevent the individual agencies from enforcing the Public Ethics Law within their own jurisdictions".

The Anticorruption Office's Semi-annual Management Report for 2002 says that in December 2001 the Office and the Chief of the Ministerial Cabinet signed a "Program Agreement" in the framework of the National Plan for Government Reform and included a table that shows evaluation of compliance.⁶⁴ The table indicates that one of the problems encountered was "the inefficiency and/or weakening of the oversight bodies" and suggests as "strategies for solving the problem and specific actions" those involving "better coordination and cooperation between the Attorney General's Office, Administrative Investigations Office, Inspector General, Anticorruption Office, Auditor General, and Congressional committees," as well as "reform and/or strengthening of the oversight bodies, through: a) transparent and public mechanisms for selection, appointment, and removal of employees, b) continuous evaluation and follow-up of actions, c) political and social support for actions of the oversight bodies, d) greater autonomy for internal auditors, and e) independent status for the Anticorruption Office."⁶⁵ The Anticorruption Office is in communication with the offices of the Inspector General and the Auditor General in pursuit of improved collaboration on a range of issues.

⁵⁸ Law 25.188(Public Ethics Law): www.jus.gov.ar/minjus/OAC/25.188.PDF

⁵⁹ Law 24,156: www.sigen.gov.ar

⁶⁰ Law 25,156: www.agn.gov.ar

⁶¹ Law 24,956: www.mpf.gov.ar/leypagl.htm

⁶² Established by Law 25,233, Article 13, which reformed the Ministerial Law: www.jus.gov.ar/minius/OAC/PDF/lev25233.pdf

⁶³ See comments on these three oversight agencies in the same chapter of this report, in sections 1.1.2.2 and 1.2.2.

⁶⁴ Anticorruption Office. Semi-annual Management Report 2002, pp. 6-17.

⁶⁵ Anticorruption Office. Semi-annual Management Report 2002, p. 14.

In light of the foregoing, the Committee will make a recommendation on the subject in the final chapter of this report.

3.3 Results of the legal framework and/or other measures

The comments made in sections 1.1.3 and 1.2.3 above, concerning results with regard to the National Commission on Public Ethics, the Anticorruption Office, the Inspector General, and the Auditor General are equally valid and relevant in the framework of the subject reviewed in this section.

As regards the mechanism for penalties in the framework of the national public administration, the Committee wishes to note the work done by the Anticorruption Office in investigation of cases of possible violation of the rules on conflicts of interest. According to the Semi-Annual Management Report 2002 of that office, from December 1999 to the date of the report its Investigations Section had started 2003 investigations, of which 615 turned into criminal cases and 384 “were referred to other public bodies for application of the corresponding penalties.”⁶⁶ The same report describes the Office’s active role in some of the investigations, as plaintiff or through the periodic review of the way judges or prosecutors handled the cases. However, there is no information on the number or percentage of penalties imposed to date as a result of the investigations, which goes beyond the competence of the Office, which is only responsible for investigations and complaints.

On this point, the Committee wishes to note that stated in the introduction to the Management Report for 2001,⁶⁷ as follows: “effective investigation of irregularities has inherent value: indiscretions are not concealed by arbitrary shadows, the information is available for control of citizens, legislators, and judges. However, more is needed. Society demands more. To stamp out impunity, we need signals from the justice system that demonstrate impartiality and swift retribution. Until this occurs, the impression that we are not all equal before the law will continue to prevail. The fact that some judges and some members of the Attorney General’s Office still refuse the cooperation of this Office in judicial proceedings demonstrates the persistence of a static and stonewalling attitude with regard to ways of fighting corruption within the rules of due process. Another obstacle to justice is the fact that the same judges delay the judicial investigations.”

The Committee also considers it important to note the following statement by that official in the Semi-Annual Management Report for 2002:⁶⁸ “For effective exercise of oversight, it is necessary to abolish impunity. For that it is indispensable that after detection and denunciation of corrupt acts -as done by this Office through its Investigations Section- the judicial branch has the ability and will to process the cases expeditiously. Such an outcome is not favored by the fact that in the federal criminal courts in the capital, the primary jurisdiction, one third of the judgeships are vacant. The perpetuation of old procedural rules and cumbersome structures does not help.” The Committee will therefore make a recommendation on this point in the final chapter.

⁶⁶ Anticorruption Office. Semi-annual Management Report, January-June 2002, p. 21:
www.jus.gov.ar/minjus/oac/informes.htm

⁶⁷ Anticorruption Office. Management Report, 2001, p. 1: www.jus.gov.ar/minjus/oac/informes.htm

⁶⁸ Anticorruption Office. Semi-annual Management Report, January-June 2002, p. 1:
www.jus.gov.ar/minjus/oac/informes.htm

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11 OF THE CONVENTION)

4.1 GENERAL PARTICIPATION MECHANISMS

4.1.1 Existence of provisions in the legal framework and/or other measures

In the federal sphere Argentina has a variety of provisions and measures, differing in nature, characteristics, and scope, concerning the participation of civil society and nongovernmental organizations in public activities.

As noted in the government's reply,⁶⁹ among such measures are Articles 38, 42, and 43 of the Constitution, Laws 25,600, 24,240, and 16,986, Decrees 229/2000, 103/2001, and 357/2002 concerning the system for political parties, access of information for consumers and users, participation of associations of consumers and users, protection action, the "letter of commitment to the public" program, the National Plan for Government Reform, and establishment of the National Council for Coordination of Social Policies.

4.1.2 Adequacy of the legal framework and/or measures

Based on the information at its disposal, the Committee notes that Argentina has standards and measures such as those outlined in the preceding section concerning the involvement of civil society and nongovernmental organizations in public activities, which in theory encourages or has direct or indirect effect on promoting corruption prevention.

However, taking into account the classification in the methodology for review of implementation of Article III, paragraph 11 of the Convention,⁷⁰ regarding each of the respective sections, the Committee will make some comments and in the final chapter will offer some recommendations in this regard.

4.1.3 Results of the legal framework and/or other measures

With regard to the results of mechanisms for participation in general, the government's reply notes the mechanisms of the so-called "letters of commitment," the holding of public hearings in the framework of the civil service regulatory bodies, and the participation of civil society organizations in advisory councils and/or control of social plans.⁷¹ The Committee wishes to make the following comments with regard to these results:

According to public information on the subject, "a Letter of Commitment to the Public is a document in which each organization tells citizens their rights and obligations, informs them of services provided and how to access them, pledges to provide these services with specific levels of quality (standards), establishes mechanisms for presenting complaints and suggestions, and establishes or

⁶⁹ Response of Argentina to the questionnaire, pp. 30-31.

⁷⁰ Methodology for the review of the implementation of the provisions of the Inter-American Convention against Corruption selected within the framework of the first round. Chapter V.D.

⁷¹ Response of Argentina to the questionnaire, p. 32 and response of Argentina to the Secretariat's message, p. 13 and annexes thereto.

publicizes mechanisms for correction, appeal, and redress when the organization cannot fulfill the commitments made.⁷² This program was established in March 2000⁷³ and “about a score of ‘letters of commitment’ have been signed by public agencies.”⁷⁴ Although the Committee recognizes the significance of this program in the framework of the provisions of Article III, paragraph 11 of the Convention, perhaps because the program is still in its infancy at the time this report was prepared there is no information on the results of the letters of commitment that have been signed.⁷⁵

As regards public hearings, in its response to the questionnaire and subsequent clarifications sent to the Secretariat,⁷⁶ the Republic of Argentina have included statistics on hundreds of public hearings held under the aegis of the regulatory agencies responsible for different public services: ENARGAS (National Gas Regulatory Board), Communications Secretariat, ENRE (National Electricity Regulatory Board).

On the other hand, in clarifying its response,⁷⁷ Argentina expressed that due to the recent devaluation of Argentina’s currency, the executive branch established a Commission for Renegotiation of Public Works and Services Contracts, in the Ministry of Economy. This renegotiation process, prescribed by Law 25,561, affects 59 contracts or licenses in the areas of energy, water, transportation, and communications” and that “as part of the process, in accordance with the regulations in force, a series of public hearings will be held.” However, the government subsequently reported “on September 24, 2002 a federal administrative law judge ordered the suspension of public hearings as a temporary injunction while the case is considered.”⁷⁸

Finally to supplement its response, the government sent information from the “National Council for Coordination of Social Policies,” which “actively represents the Argentine government on the National Councils that implement national social programs.”⁷⁹ As for the results of these programs, it should be noted that, according to this document, “these programs have mechanisms for consultation by telephone hotline, Internet pages, or in person. Given its recent inauguration there are no statistics on its operation. However, the mechanisms have begun responding to questions and complaints concerning the programs or their use.”

The recent establishment of the abovementioned mechanisms, the transitory or limited nature of some of them, and the lack of much information on their specific results make it difficult to evaluate results in this field. In light of this circumstance, the Committee will make a recommendation.

⁷² www.cristal.gov.ar/front/metas/cartacompromiso/main.html

⁷³ Established by Decree 229/2000.

⁷⁴ Response of Argentina to the questionnaire, p. 32.

⁷⁵ The “status” section of the respective page on the Internet reports that “agencies must report their results” on dates indicated in 2001 and 2002. However, no information on these reports is given:

www.cristal.gov.ar/front/metas/cartacompromiso/estado_de_situacion.html

⁷⁶ Response of Argentina to the questionnaire and its complimentary information and related annexes.

⁷⁷ Complimentary information to the response of Argentina to the questionnaire, pp. 13-14.

⁷⁸ Complimentary information to the response of Argentina to the questionnaire.

⁷⁹ Document of the “National Council for Coordination of Social Policies”, included in the complimentary information to the response of Argentina to the questionnaire.

4.2 MECHANISMS FOR ACCESS TO INFORMATION

4.2.1. Existence of provisions in the legal framework and/or other measures

As the government says in its response, “in Argentina there is no federal law on Freedom of Information.”⁸⁰ However, there are “some regulations on the subject,”⁸¹ among which it cites the provisions mentioned in the previous section on the system for political parties, the right to information of consumers and users and their associations, and the personal privacy act.⁸²

Cited among other measures in this field are the dissemination of information on federal public management on several Internet sites,⁸³ information on public employment and the applicable rules from the National Office for Public Employment (ONEP), and the recent drafting and presentation to Congress of a federal bill on freedom of information.⁸⁴

4.2.2 Adequacy of the legal framework and/or other measures

On the basis of information at its disposal, the Committee notes that Argentina has standards and measures like those mentioned in the preceding section for access to information. However, the Committee wishes to encourage the Republic of Argentina to make further progress by the adoption of a comprehensive system for freedom of information, and considers it significant that a bill on the subject has been drafted and is under consideration in Congress.

4.2.3 Results of the legal framework and/or other measures

According to the government’s response, “in the absence of a federal law on access to information it is not possible to gather data on the number of citizen requests. However, it should be noted that requests are made pursuant to Article 13 of the American Convention on Human Rights and Article 24 of the Constitution.”⁸⁵

Absent both a law on the subject and information on specific results in this field, it is difficult to evaluate them. In light of this circumstance, the Committee will make a recommendation.

4.3. MECHANISMS FOR CONSULTATION

4.3.1. Existence of provisions in a legal framework and/or other measures

Argentina has provisions and mechanisms for consultation. Among them are those adopted in the regulatory framework of national public services, pursuant to Article 42 of the Constitution, which are listed by the government in its response.⁸⁶

⁸⁰ Response of Argentina to the questionnaire, p. 33.

⁸¹ Response of Argentina to the questionnaire, p. 32.

⁸² Article 43 of the Constitution and Law 25,326 on habeas data.

⁸³ Response of Argentina to the questionnaire, pp. 32 and 33.

⁸⁴ Response of Argentina to the questionnaire, p. 33.

⁸⁵ Response of Argentina to the questionnaire, p. 33.

⁸⁶ Response of Argentina to the questionnaire, p. 34.

Among the existing mechanisms, Argentina's reply mentions the holding in January 2002 of the so-called "Argentine Roundtable," as well as the establishment in March 2002 of the "Council for Monitoring Action for Political Reform," and in April 2002 of the "Advisory Council for Public Policy Planning."⁸⁷

4.3.2. Adequacy of the legal framework and/or other measures

On the basis of the information at its disposal, the Committee notes that Argentina has standards and rules on consultative mechanisms, such as those described in the previous section. However, some of them appear temporary and not part of a permanent comprehensive scheme. In light of this circumstance, the Committee will make a recommendation on the subject.

4.3.3. Results of the legal framework and/or other measures

No information was received on specific results of the abovementioned consultative mechanisms. The recent creation of some of them, and the fact that some of them seem temporary or limited, and the lack of much information on their specific results make it difficult to evaluate results in this field. In light of this circumstance, the Committee will make a recommendation.

4.4. MECHANISMS TO ENCOURAGE PARTICIPATION IN PUBLIC ADMINISTRATION

4.4.1. Existence of provisions in a legal framework and/or other measures

As part of the mechanisms in this field, Argentina's response mentions the so-called "procedure for participatory rule-making," used by the Anticorruption Office to draft bills on "publicizing management of interests" and "access to information,"⁸⁸ as well as preparation of a "draft decree to establish a public hearing program for transparency in management and involvement in rule-making," which were presented to the Ministry of Justice and Human Rights.⁸⁹

4.4.2. Adequacy of the legal framework and/or other measures

The Committee wishes to point out the relevance of the mechanism for "participatory rule making" for the achievement of the purposes set forth in Article III, paragraph 11 of the Convention, and the advisability of moving toward a permanent and comprehensive institutionalized mechanism with such characteristics.

4.4.3. Results of the legal framework and/or other measures

Although there is information on "participatory rule making" in the two draft bills, the procedure has not yet been formally regulated with general application. In this respect, the Committee will make a recommendation.

⁸⁷ Response of Argentina to the questionnaire, p. 35.

⁸⁸ Response of Argentina to the questionnaire, pp. 36 and 37.

⁸⁹ Anticorruption Office. Management Report 2001, p. 49.

4.5 MECHANISMS FOR PARTICIPATION IN THE FOLLOW-UP OF PUBLIC ADMINISTRATION

4.5.1. Existence of provisions in a legal framework and/or other measures

As part of these mechanisms, Argentina's response mentions information published on the "crystal" page on the Internet⁹⁰ and the support provided by the Anticorruption Office for the establishment of the "Commission for Follow-up of Compliance with the CICC."

4.5.2. Adequacy of the legal framework and/or other measures

Based on the foregoing information, which is what it had at its disposal, the Committee notes that the mechanisms mentioned are relevant for the promotion of the purposes of the Convention. However, they seem to be temporary and limited. In light of this circumstance, the Committee will make a recommendation.

4.5.3 Results of the legal framework and/or other measures

According to the information reviewed, one specific result in this field could be the report presented by the "Commission for Follow-up of Compliance with the CICC" that has been considered in drafting this report. Other than that, the lack of more information makes it difficult to evaluate specific results in this field.

5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)

5.1. MUTUAL ASSISTANCE

5.1.1 Existence of provisions in the legal framework and/or other measures

Argentina has a set of provisions and measures for mutual legal assistance as called for in Article XIV. 1 of the Convention, among them Law 24,767, the "Law for International Cooperation on Penal Matters," and many treaties on the subject, a list of which is attached to the response.⁹¹

5.1.2 Adequacy of the legal framework and/or other measures

The conclusion of the review is that taken together, Law 24,767 and the treaties signed by Argentina are relevant for promotion of the purposes of the Convention.

5.1.3 Results of the legal framework and/or other measures

In its reply, Argentina reported results to requests for active and passive mutual legal assistance that it has made in cases involving investigation of corrupt acts.⁹² Among them is a breakdown on the number of requests processed by the National Office of International Affairs and Cooperation of the Ministry of Justice, Security, and Human Rights, in compliance with treaties signed with the United States and Uruguay, as well as those received from foreign authorities and processed according to the provisions of Law 24,767.

⁹⁰ www.cristal.gov.ar

⁹¹ Legislative annex to the reply of Argentina to the questionnaire. Chapter 5.

⁹² Response of Argentina to the questionnaire, pp. 39-42.

As part of the specific results in this field it is also true that Argentina has “made two requests for assistance on subjects covered by the CICC, and based on the rules set forth therein (Article XIV and related ones in the Convention).”⁹³

5.2 MUTUAL TECHNICAL COOPERATION

5.2.1 Existence of provisions in the legal framework and/or other measures

Argentina has provisions and measures for providing mutual technical cooperation with other States Parties to the Convention, in accordance with the provisions of Article XIV, Paragraph 2 of the Convention. Among them are the agreements signed and cooperation activities mentioned in the government’s response⁹⁴ that have been carried out with the United States, Uruguay, Bolivia, Mexico, Chile, the Dominican Republic, and the network of government institutions for public ethics in the Americas.

5.2.2 Adequacy of the legal framework and/or other measures

The conclusion of the review is that taken together, the agreements signed and mutual technical cooperation activities undertaken by Argentina are relevant for promotion of the purposes of the Convention.

5.2.3 Results of the legal framework and/or other measures

In addition to signature of agreements for mutual technical cooperation, Argentina’s response reports activities or exchanges in compliance with the framework agreement with the United States and meetings with officials of the Government of Bolivia, as well as some areas in which mutual technical cooperation may be carried out. However, due probably to the recent nature of the agreements, there is no mention of other specific objectives achieved as a result of them.

The response also mentions technical cooperation received from international organizations such as the World Bank, the Inter-American Development Bank, and the Organization of American States.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

6.1. Existence of provisions in the legal framework and/or other measures

Argentina has designated the Ministry of Foreign Affairs, International Trade, and Worship as the central authority for the purposes of international assistance and cooperation established in the Convention.

6.2. Adequacy of the legal framework and/or other measures

Designation of the Ministry of Foreign Affairs, International Trade, and Worship is appropriate for promotion of the purposes of the Convention.

⁹³ Response of Argentina to the questionnaire, p. 41.

⁹⁴ Response of Argentina to the questionnaire, pp. 42-44.

6.3 Results of the legal framework and/or other measures

In addition to the specific results mentioned in section 5.1.3 of this chapter of the report, the Committee notes that according to Argentina's response,⁹⁵ "Argentina's Central Authority has sufficient resources and infrastructure to make and receive requests for assistance and cooperation as prescribed in the Convention. It has stable, trained, and experienced staff in the area of international legal assistance." In addition, the central authority has been entrusted with processing both requests for mutual assistance that are being processed under the Convention.

III. CONCLUSIONS AND RECOMMENDATIONS

Based on the review conducted in Chapter II of this report, the Committee offers the following conclusions and makes the following recommendations regarding the implementation, in Argentina, of the provisions contained in Articles III, (1) and (2), (standards of conduct and mechanisms to enforce them), Article III (4) (systems for registering income, assets and liabilities), Article III (9) (oversight bodies, exclusively in relation to their performance of functions in relation to compliance with the provisions provided for in paragraphs 1, 2, 4 and 11 of Article III of the Convention), Article III (11) (mechanisms for encouraging the participation of civil society and nongovernmental organizations in efforts to prevent corruption), Article XIV (assistance and cooperation), and Article XVIII (central authorities) of the Convention, all of which were selected for review within the framework of the first round.

A. ANTICORRUPTION ACTIVITIES AND PREVENTIVE MEASURES AT PROVINCIAL AND LOCAL LEVELS

As noted in section A of Chapter II of this report, based on the information at its disposal the Committee has reviewed the implementation of the selected provisions of the Convention by Argentina's federal government. Since there was no information on developments in the provinces and cities, they were not covered in this review.

However, as noted in the abovementioned section A, the fact that more than 80 percent of the civil servants are serving below the national level, and are responsible for spending most of the public resources, underscores the importance of having information on anti-corruption activities at those levels.

In light of the foregoing, the Committee makes the following recommendations:

1. That the Republic of Argentina should consider promoting with the provinces and the autonomous city of Buenos Aires and municipalities, the relevant cooperation mechanisms to secure information under issues related to the Convention from those levels of governments and to provide technical assistance for the effective implementation of the Convention.

⁹⁵ Response of Argentina to the questionnaire, p. 47.

B. CONCLUSIONS AND RECOMMENDATIONS FOR THE FEDERAL LEVEL

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE COMPLIANCE (ARTICLE III, PARAGRAPHS 1 AND 2, OF THE CONVENTION)

1.1. Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms

At the federal level, Argentina has considered and adopted measures intended to establish, maintain, and strengthen standards of conduct intended to prevent conflicts of interest and enforcement mechanisms, among them Law 25,188, the “Public Ethics Law,” and its regulations in the framework of the national public administration, including the establishment of the Anticorruption Office and the results it has obtained, as outlined in this report in Chapter II, part B, section 1.1.

In light of the comments made in that section, the Committee suggests that the Republic of Argentina consider the following recommendation:

- 1.1.1 Strengthening implementation of laws and regulatory systems concerning conflicts of interest so that they cover all government officials and employees so that they permit practical and effective application of the public ethics system.

In meeting this recommendation, the Republic of Argentina may wish to take into account the following measures:

- Ensuring more effective enforcement of Law 25.188 for all government employees and officials, including those of the legislative and judicial branches and the Attorney General’s office.
- Instituting appropriate post-employment restrictions (see section 1.1.2.1 of Chapter II).
- Resolving the discrepancy between the law establishing the National Commission on Public Ethics and the non-existence of this Commission; or restructuring the legal and regulatory system to provide for appropriate mechanisms to enforce standards of conduct, including conflict of interest restrictions, for all civil servants (see section 1.1.2.1 of Chapter II).
- Ensuring that officials appointed directly by the President are subject to appropriate, enforceable conflict of interest restrictions, as established by the specific conflict of interest regime contained in the Ministerial Law (see section 1.1.2.2 of Chapter II).
- Expanding the coverage of sworn declarations of elected officials to include employment history.
- Designing and implementing mechanisms to publicize and provide training on the standards of conduct, including those involving conflicts of interest, to all government officials and employees, and to provide further training or periodic updating regarding them.

1.2 Standards of conduct and mechanisms to ensure the proper conservation and use of resources entrusted to government officials in the performance of their functions and enforcement mechanisms

At the federal level, Argentina has considered and adopted measures intended to establish, maintain, and strengthen standards of conduct to ensure the conservation and proper use of resources entrusted to public officials in the performance of their functions, as indicated in Chapter II, section B, part 1.2 of this report.

In light of the comments made in that section, the Committee suggests that the Republic of Argentina consider the following recommendations:

- 1.2.1. Strengthening the internal and external control systems and utilizing effectively the information generated during audits.

In meeting this recommendation, the Republic of Argentina may wish to take into account the following measures:

- Ensuring that an effective control system exists for congressional oversight of the expenditure of public funds.
- Making public, where appropriate, the reports issued by control bodies.
- Establishing an effective enforcement system for violations of law or regulation found during the course of an audit.
- Ensuring the highest degree of stability and independence of internal auditors.

1.3 Standards of conduct and mechanisms concerning measures and systems requiring public servants to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware

At the federal level, Argentina has considered and adopted measures to establish, maintain, and strengthen standards of conduct and mechanisms concerning measures and systems requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware, as noted in section 1.3, Part B, of Chapter II of this report.

In light of the comments made in that section, the Committee suggests that the Republic of Argentina consider the following recommendation:

- 1.3.1. Strengthening the mechanisms that Argentina has for requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

In meeting this recommendation, the Republic of Argentina may wish to take into account the following measure:

- Training public officials concerning the existence and purpose of their responsibility to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

2. SYSTEMS FOR REGISTRATION OF INCOME, ASSETS, AND LIABILITIES (ARTICLE III, PARAGRAPH 4, OF THE CONVENTION)

At the federal level, Argentina has considered and adopted measures to establish, maintain, and strengthen systems for registration of income, assets, and liabilities of persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public as noted in section 2, Part B, of Chapter II of this report.

In light of the comments made in that section, the Committee suggests that the Republic of Argentina consider the following recommendation:

- 2.1. Improving the systems for the timely collection, use, and public release of the financial disclosure reports.

In meeting this recommendation, the Republic of Argentina may wish to take into account the following measures:

- Resolving the discrepancy between the law establishing the National Commission on Public Ethics and the non-existence of this Commission; or restructuring the legal and regulatory systems to provide for mechanisms to enforce effectively the systems for registration of income, assets, and liabilities.
- Using the financial disclosure reports for counseling public officials on how to avoid conflicts of interest as well as for detecting illicit enrichment.

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4, AND 11, OF THE CONVENTION)

At the federal level, Argentina has considered and adopted measures to establish, maintain, and strengthen oversight bodies for the effective compliance with the provisions selected for review in the first round (Article III, paragraphs 1,2, 4, and 11 of the Convention), as noted in Part B, Chapter II, Section 3 of this report.

In light of the comments made in that section, the Committee suggests that the Republic of Argentina consider the following recommendation:

- 3.1. Examining the feasibility of implementing the proposals contained in the Management Report for 2001 of the Anticorruption Office.⁹⁶

In meeting this recommendation, the Republic of Argentina may wish to take into account the following measures:

⁹⁶ See Section 3.2 of Chapter II of this report.

- Ensuring better coordination and cooperation among the Attorney General's Office, Administrative Investigations Office, Inspector General, Anticorruption Office, Auditor General and Congressional Committees.
- Reforming or strengthening the oversight bodies by such measures as transparent and public mechanisms for the selection, appointment, promotion and removal of career employees of such bodies; continuous evaluation and follow-up of actions; political and social support for actions of the oversight bodies; greater autonomy for internal auditors; and independent status for the Anticorruption Office.

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11 OF THE CONVENTION)

At the federal level, Argentina has considered and adopted measures intended to establish, maintain and strengthen mechanisms to encourage the participation of civil society and nongovernmental organizations in efforts aimed at preventing corruption, as discussed in Part B, Chapter II, Section 4 of this report.

In light of the comments made in this section, the Committee suggests that the Republic of Argentina consider the following recommendations:

4.1 Mechanisms for access to information:

- 4.1.1. Instituting legal norms supporting public access to government information.

In meeting this recommendation, the Republic of Argentina may wish to take into account the following measure:

- Developing procedures for acceptance of requests, for response to requests in a timely fashion, for appeal procedures in the case of denials, and for penalties concerning failure to comply with obligations to provide information.

4.2 Mechanisms for consultation

- 4.2.1. Instituting procedures, where appropriate, those provide an opportunity for public consultation prior to the final approval of legal norms.

In meeting this recommendation, the Republic of Argentina may wish to take into account the following measures:

- Publishing and disseminating the draft bills of legal norms, and elaborate transparent processes in order to allow the consultation of interested sectors in relation to the drafting of laws, decrees or resolutions within the Executive branch.
- Holding public hearings to provide for public consultation in areas other than those concerning the public services framework, which have already been considered in the law.

4.3 Mechanisms to encourage participation in public administration

- 4.3.1. Strengthening and further implementing mechanisms that encourage civil society and nongovernmental organizations to participate in public administration.

In meeting this recommendation, the Republic of Argentina may wish to take into account the following measure:

- Establishing mechanisms to encourage civil society and nongovernmental organizations to participate in efforts to prevent corruption and to develop public awareness of the problem; and promoting awareness of the mechanisms established for participation and explaining their use.

4.4 Mechanisms for participation in the follow-up of public administration

- 4.4.1. Strengthening and further implementing mechanisms that encourage civil society and nongovernmental organizations to participate in monitoring public administration.

In meeting this recommendation, the Republic of Argentina may wish to take into account the following measures:

- Promoting ways, where appropriate, for those who perform public functions to allow, facilitate, and assist civil society and nongovernmental organizations in developing activities to monitor their public acts
- Designing and carrying out programs to publicize mechanisms for participation in monitoring public administration; and, where appropriate, training and enabling civil society and non-governmental organizations to have the necessary tools to use the mechanisms

5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)

Argentina has adopted measures in relation to mutual assistance and technical cooperation, in accordance with the provisions of Article XIV of the Convention, as discussed in Part B, Chapter II, Section 5 of this report.

In light of the comments made in this section, the Committee suggests that Argentina consider the following recommendations:

- 5.1. Review comprehensively the specific areas in which Argentina might need or could usefully receive mutual technical cooperation to prevent, detect, investigate, and punish acts of corruption; and that based on this review, a comprehensive strategy be designed and implemented that would permit Argentina to approach other States Parties and non-parties to the Convention and institutions or financial agencies engaged in international cooperation to seek the technical cooperation it needs.
- 5.2. Continuing the efforts of providing cooperation in areas where Argentina is already providing it.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

The Committee wish to recognize with satisfaction that Argentina has complied with Article XVIII of the Convention by designating the Ministry of Foreign Affairs, International Trade and Cult as the central authority for purposes of the international assistance and cooperation prescribed in the Convention and it is operational, according to the information supplied by the government in its response.

7. GENERAL RECOMMENDATIONS

In light of comments made throughout this report, the Committee suggests that Argentina consider the following recommendation:

- 7.1. Developing, where appropriate and where they do not already exist, procedures for assessing the effectiveness of systems and mechanisms mentioned in this report.

8. FOLLOW-UP

The Committee will consider the periodic reports from Argentina on its progress in implementing the above recommendations in the framework of the Committee's plenary meetings.

It is further recommended that the Committee review the progress made in implementing the recommendations contained in this report, as provided in Articles 31 and, when appropriate Article 32 of the Rules of Procedure.

The Committee wishes to note Argentina's request, made to the Secretariat, to publish its country report on the Mechanism's Internet website or by any other means of communication, pursuant to Article 25 (g) of the Rules of Procedure and Other Provisions.