

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

UPDATE OF THE RESPONSE

OF THE ORIENTAL REPUBLIC OF URUGUAY

**OF ON PROVISIONS SELECTED BY THE COMMITTEE OF EXPERTS FOR REVIEW
WITHIN THE FRAMEWORK OF THE FIRST ROUND**

I. BRIEF DESCRIPTION OF THE INSTITUTIONAL LEGAL SYSTEM

The institutional system in effect in Uruguay is based on the 1830 Constitution, which has been amended several times through universal suffrage. Respect for the Constitution is a constant in the life of the country and the entire institutional political system revolves around it. Uruguay is a democratic republic (Article 82 of the Constitution), and thus the representative bodies derive directly from the exercise of popular sovereignty in the election of the President and Vice President of the Republic, national and municipal legislators and municipal mayors, and indirectly for the three branches (Executive, Legislative and Judicial) under the principle of separation, without detriment to the powers of bodies in the constitutional hierarchy that exercise specific functions with respect to external oversight of expenditures and payments (Accounts Court), jurisdictional oversight of the legality of administrative actions (Administrative Court) and electoral justice (Electoral Court).

The voting system for the election of the President and Vice President of the Republic includes a run-off when an absolute majority is not exceeded in the first round. The President of the Republic is both Chief of State and Head of Government. The President, acting with one or more Ministers or with the Cabinet Council, exercises executive power. Ministerial appointments must be confirmed by a majority of the legislature and ministers may be censured by the legislature. The term of government is five years for both the national government and municipal governments, although elections for municipal mayor and departmental council members do not coincide with the election of national authorities.

The members of the Supreme Court of Justice, the Electoral Court, the Administrative Court and the Accounts Court are appointed by a decision of the General Assembly (joint session of the Senate and House of Representatives) with special majorities. Both the Judicial Branch and each of these bodies in the constitutional hierarchy, in their sphere, are independent in the exercise of their respective functions.

The national budget is a five-year budget with annual reporting, at which time the legislature considers approval of the accounts and may introduce any changes it considers essential in the budgetary rules. The budget initiative is the responsibility of the Executive Branch, except for budgets relating to bodies in the constitutional hierarchy (Judicial Branch, Administrative Court, Electoral Court and Accounts Court) and the budgets of autonomous entities and decentralized services that are neither industrial or commercial (Article 220 of the Constitution), which may also formulate their own initiatives and submit them to the Executive Branch. The Executive Branch then makes any changes it deems appropriate and incorporates the budgets in the National Budget Bill, which then awaits the decision of the General Assembly in the context of ratification of the Special Budget Law. Each legislative chamber approves its own budget and reports it to the Executive Branch for inclusion in the National Budget (Article 108 of the Constitution).

The legislature is made up of three bodies: the Senate, the House of Representatives and the General Assembly. The Vice President of the Republic is the President of the Senate, which has thirty-one members. The House of Representatives has ninety-nine representatives. The electoral system establishes comprehensive proportional representation, with some exceptions.

Each of the nineteen departments into which the territory of the Republic is divided is governed and administered by a Departmental Board and a Superintendent elected by popular vote, with the exception of the security services. The Departmental Board is made up of thirty-one members—called council members—and exercises legislative and oversight functions in municipal matters within the territory of the Department. The Superintendent has municipal executive and administrative functions in that territory. The Departmental Board approves its own budget of salaries and expenditures and that of the Superintendency, as projected by the latter. Both budgets are five-year budgets and changes may be made each year at the time of annual reporting.

The public spending process is subject to internal oversight by the bodies that issue each budget and to external oversight by the Accounts Court. In the central government—which includes all Executive Branch agencies—the Internal Audit Office provides internal oversight and the General Accounting Office audits the spending process. In the area of oversight of public investments, the competent body is the Office of Planning and Budget of the Office of the President of the Republic, with the Accounts Court being responsible for oversight with respect to legality. A mandatory Executive Branch initiative is required to approve taxes, create government positions, and establish retirement benefits and monetary compensation (Article 86 of the Constitution).

The government's industrial and commercial activity is carried out by entities with a degree of decentralization as determined by law. These are called autonomous entities and decentralized services. They plan their budgets, which are approved by decree of the Executive Branch in a complex procedure, with the intervention of the Accounts Court, the Office of Planning and Budget and potentially the General Assembly (Article 221 of the Constitution). There are also autonomous entities that carry out public educational activities at the university level and in primary, secondary and technical education. The text of the Constitution now in effect can be found at www.presidencia.gub.uy.

II. QUESTIONNAIRE CONTENT

CHAPTER ONE

MEASURES AND MECHANISMS REGARDING STANDARDS OF CONDUCT FOR THE CORRECT, HONORABLE AND PROPER FULFILLMENT OF PUBLIC FUNCTIONS (ARTICLE III, 1 AND 2 OF THE CONVENTION)

1. General standards of conduct and mechanisms.

- a) Are there standards of conduct in your country for the correct, honorable and adequate fulfillment of public functions? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

Various constitutional, legal and regulatory provisions govern integrity in the performance of public functions. Concern for integrity in governmental functions is the responsibility of each government agency in the context of its own system of powers.

i) Integrity in the Civil Service Statute.

The principle of integrity in civil service is embodied in the Constitution (Article 59), which stipulates that the law shall establish a Civil Service Statute with “the fundamental basis that the civil servant exists for the office and not the office for the civil servant.” The principle is regulated in Article 20 of Law 17.060 of December 23, 1998, which establishes that in the performance of public office the public interest must prevail over any other interest, and in the definition of the proper conduct of civil servants as established in Decree 30/003 of January 23, 2003.

ii) Legal provisions governing conflicts of public and private interests.

Some legal provisions prohibit those who have specific public responsibilities from engaging in private activity. However, the legislature wanted to expand on this principle of integrity in public office by entrusting to an Honorary Commission (Article 25 of Law 17.060) the submission of more exhaustive regulations governing this type of conflict of interest between public and private activity. That commission issued a bill that was submitted to the consideration of the Executive Branch.

The criminal penalty for violating this principle of public action has been covered in the offense of the conjunction of public and private interests, which has gone from a simply penalty of disqualification for the exercise of public office to a complex penalty consisting of imprisonment, special disqualification and a fine (Article 161 of the Penal Code as per the text appearing in Article 8 of Law 17.060).

iii) The duty of probity in public office.

Probity in the performance of public office is every civil servant’s legal obligation. This involves not only administrative morality but also a legal duty of the civil servant defined as “honest functional conduct in the performance of his or her position with the public interest taking precedence over any other interest” (Article 20 of Law 17.060). The law stipulates that refusing to provide information or documentation requested in accordance with the law, taking advantage of ones position to influence someone so as to obtain a direct or indirect benefit for oneself or a third party, borrowing the money or assets of the institution, intervening in decisions bearing on matters in which one has participated as an expert, or using for ones own benefit or that of a third party confidential or privileged information one may learn about in the exercise of ones duties are stipulated as constituting conduct contrary to probity (Article 22 of Law 17.060).

iv) Principles of conduct of civil servants.

It is the duty of public officials to observe the principles of respect, impartiality, rectitude and competence, to avoid any conduct that involves abuse, excess or diversion of power and the improper use of their position or involvement in matters that may benefit them financially or benefit persons directly related to them. Violation of these principles shall lead to administrative, civil or criminal liability (Articles 20 and 21 of Law 17.060). In this respect, the civil responsibility established in Article 119 of the Amended Text of the Law on Government Accounting and Financial Administration [*Texto Ordenado de Contabilidad and Administración Financiera del Estado* – known by the acronym TOCAF] (a compendium of legal provisions and attached as Annex 2) for those who violate government accounting regulations should also be taken into account.

v) Guarantees of irremovability of public officials and due process in their disciplinary system.

A guarantee of integrity in civil service to protect public officials from political pressures is contained in the constitutional language on the principle of the irremovability of budgeted officials of the central government (Article 60 (2) of the Constitution), whereby the disciplinary procedures that culminate in

removal from office require the consent of the Senate (Article 168 (10) of the Constitution). Another guarantee embodied in the Constitution and properly governed through the system of summary proceedings and appeals against administrative actions is the guarantee of due process, whereby no investigation of an official shall be considered concluded as long as he or she has not had the opportunity to present a response and articulate a defense (Article 66 of the Constitution).

vi) Measures to train public officials, auditors and students in general.

Government agencies are required to have training programs for personnel entering civil service, which shall be repeated every three years. Training courses must deal with aspects of administrative morality, incompatibilities, prohibitions and conflicts of interest (Article 28 of Law 17.060). The preparation of teaching materials for these courses as well as the proper dissemination of directives from public agencies on the rights and duties of civil servants vis-à-vis the administration represent preventive measures required by law.

The country has the Doctor Aquiles Lanza School for Public Officials, which is an agency of the National Civil Service Office, a body within the hierarchy of the Office of the President of the Republic. The training of public officials is being regularly and systematically carried out based on performance of an agreement with the UNDP of May 1970, officially approved by Decree 278/970 of June 11, 1970. Based on Decree Nos. 902 and 903 of 1973 on the regulation of administrative careers in civil service, training has become essential as a prerequisite for the promotion of senior administrators. From 1986 on, emphasis has been placed on training for future senior executives in civil service and annual in-service training for managers in decentralized and autonomous administration through senior management seminars. Decree Nos. 157 and 158 of April 20, 1992 encourage the presentation of seminar-workshops and analysis and dissemination sessions designed to update technical and specialized personnel. In summary, between 1970 and 2000, the National Civil Service Office provided training courses for a total of 18,000 civil servants, particularly courses of instruction on various topics indicated in Law 17.060, including the rights and duties of citizens vis-à-vis the administration and the responsibilities of government authorities and officials, administrative morality, incompatibilities, prohibitions and conflicts of interest in public office. Civil servants are required to attend these courses and the time spent is allocated to their working hours (Articles 27 and 28 of Law 17.060). Verbal reports gathered at the School for Public Officials indicate that courses have been given to 1,000 officials per year in the last two years.

Training for government auditors is administered by the Government Auditing School that was created within the orbit of the Accounts Court to strengthen the personnel training process and contribute to improvements and transparency in government administration. The mission of this school, *inter alia*, is to include in its Training and Update Program for Government Auditors modern techniques for the prevention, detection and correction of fraud and administrative corruption in the public sector (Articles 9, 10 and 11 of Law 17.292 of January 15, 2001).

The Ministry of Education and Culture is responsible for coordinating efforts with teaching institutions on the implementation of courses of instruction on the rights and obligations of citizens vis-à-vis the administration and the responsibilities of government authorities and officials (Article 27 of Law 17.060). In this context, the Ministry of Education and Culture asked the Advisory Board to present to the Coordinating Committee for Instruction, for transmission to the various government teaching institutes, the idea that instruction must be provided from the early stages of a student's education on the fundamental concepts of democracy and administrative morality as well as the responsibilities of public service.

b) Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.

At the time of the response to this questionnaire, the country has an Amended Text of the Law on Civil Servants (*Texto Ordenado sobre Funcionarios Públicos* --TOFUP, attached as Annex 3) authorized by Executive Branch Decree of June 18, 1997, which compiles the constitutional, legal and regulatory provisions applicable to civil servants in the central government, with the exception of the military, police, diplomats and government attorneys. It is a true Civil Service Law that refers to the statutory provisions regarding the life of civil servants in the central government. Also applicable here are the regulations on government accounting and financial administration, which consist of a compilation of legal provisions relating to this subject and brought together in Decree 194/997 of June 10, 1997 called the Amended Text of the Law on Accounting and Financial Administration (*Texto Ordenado de Contabilidad y Administración Financiera* -- TOCAF), which has been changed in some respects by Law 17.213 of September 24, 1999 and by Articles 478 to 482 of Law 17.296 of February 21, 2001.

In addition, in the context of Article III (1) of the Inter-American Convention against Corruption establishing the States Parties' obligation to provide measures, within their own institutional systems, to create, maintain and strengthen standards of conduct for the correct, honorable, and proper fulfillment of public functions, the Government Advisory Board on Economic and Financial Issues prepared a draft of "Standards of Conduct in Public Office," that was approved by the Executive Branch under Decree 30/003 of January 23, 2003. That set of rules establishes a sphere of general application via the powers granted by the Constitution, particularly with respect to the concept of the good administrator (Articles 311, 58, 59, 60 and 181 (6)), the regulatory jurisdiction of the Executive Branch (Article 168 (4)) and the imposition of duties on government authorities with respect to standards of conduct (Article 332), also applying the provisions of Law 17.060, with particular reference to the provisions of Articles 6 and 28 thereof.

These standards of conduct apply to anyone who performs functions in any agency governed by public law, regardless of its legal status.

Article 45 of that decree entrusts to the Advisory Board the dissemination of that compendium of rules so that public officials will know, with greater certainty, the scope of proper conduct, how to identify and resolve conflicts of public and private interests, as well as corrupt practices they must avoid. The text of this decree can be consulted at the Advisory Board's web site (www.jasesora.gub.uy) and is attached as Annex 14.

Analysis of the specific provisions relating to the conduct of public officials and the mechanisms established for their implementation will be grouped according to the various applicable concepts:

- i) (Officials covered). Article 2 of Law 17.060, Article 175 of the Penal Code as per the text provided in Article 8 of Law 17.060, and Article 2 of Decree 30/003 define as a public official anyone who carries out a position or performs a function, whether paid or unpaid, permanent or temporary, whether legislative, administrative or judicial in nature, in a municipality or in any state entity or non-state public person, i.e., anyone who performs functions in any entity governed by public law, regardless of its legal status.
- ii) (Scope of application). Article 1 of Law 17.060 and Article 3 of Decree 30/003 extend the requirement to apply the standards of conduct in public office to public officials belonging to the:
 - A) Legislative, executive and judicial branches.
 - B) Accounts Court.

- C) Electoral Court.
- D) Administrative Court.
- E) Government departments.
- F) Autonomous entities and decentralized services.
- G) Generally, all government bodies, services or entities, as well as non-state public persons.

Without detriment to the application of special laws or laws establishing more stringent requirements than those contained in Law 17.060, Article 24 (2) of said law establishes that its standards shall also constitute interpretive criteria governing the actions of government agencies in their areas of jurisdiction.

- iii) (General standards and specific standards). The duties, prohibitions, impediments, recusals, recusations, responsibilities and incompatibilities in effect are applicable without exception to all covered public officials, without detriment to any specific provisions directed to a specific public official or group of public officials as established by the competent authority and consistent with the institutional system in effect. The standards of conduct in office are applicable in all cases, although they are no obstacle to the effect of such provisions as may prescribe special requirements or more stringent requirements than those stipulated in the regulations.

The issuance of service directives or orders with respect to the standards of conduct in each agency is the responsibility of the senior division within its jurisdictional sphere (Article 24 of Law 17.060 and Article 4 of Decree 30/003).

- iv) (Responsibilities in the application of the standards of conduct in office). The respective heads in each unit or division of a government agency are responsible for overseeing the application of the standards of conduct in office. These heads have a duty to respond within a reasonable amount of time to any query presented by any civil servant subordinate to them with respect to the application of the standards of conduct in effect in the agency (Article 5 of Decree 30/003).
- iv bis) (Release from administrative responsibility). A civil servant who in good faith acts in accordance with the specific instructions of his or her superior shall be relieved of administrative responsibility for violating regulatory provisions, with the exception of cases constituting criminal offenses (Article 6 of Decree 30/003).
- v) (Principles of official conduct). Official conduct is governed by the following principles of behavior:
 - I) (**Preeminence of public service**). Official conduct shall be fundamentally based on the principle that the civil servant exists for the position and not the position for the civil servant (Article 59 of the Constitution and Article 8 of Decree 30/003).
 - II) (**Public interest**). In the exercise of his or her duties, a public official must always act with consideration for the public interest (Article 9 of Decree 30/003), in accordance with the provisions issued by competent agencies, pursuant to the standards expressed in the Constitution (Article 82 (1) and (2) of the Constitution). Some ways in which the public interest is expressed are satisfaction of collective needs on a regular and ongoing basis, good faith in the exercise of power, impartiality in decisions made, performance of official powers and obligations, rectitude in office and proper management of public resources (Article 20 of Law 17.060 and Article 9 of Decree 30/003). The satisfaction of collective needs must be compatible with the protection of individual rights, the intrinsic rights of humans or those rights that derive from the republican form of government (Articles 7 and 72 of the Constitution and Article 9 of Decree 30/003).

- III) (**Probity**). A public official's conduct must (Article 11 of Decree 30/003) be honest, fair and upright and he or she must reject any benefit or advantage of whatever kind obtained by him or herself or by an involved party, for him or herself or for third parties, in the performance of his or her duties, with the public interest having precedence over any other interest (Articles 20 and 21 of Law 17.060), and must avoid any action in the performance of public office that would give the appearance of violating the Standards of Conduct in Public Office.
- IV) (**Actions contrary to probity**). Actions contrary to probity in public office (Article 22 of Law 17.060 and Article 12 of Decree 30/003) include:
- A) Refusing to provide information or documentation that has been requested in accordance with the law.
 - B) Using one's position to influence someone so as to obtain a direct or indirect benefit for oneself or a third party.
 - C) Borrowing or taking in any other way money or assets of the institution, except as expressly authorized by law.
 - D) Intervening in the decisions that bear on matters in which one has participated privately as an expert.
 - E) Using for one's own benefit or that of third parties confidential or privileged information learned about in the exercise of one's duties.
- V) (**Good faith and loyalty**). A public official must always act in good faith and with loyalty in the performance of his or her duties (Article 20 of Law 17.060 and Article 13 of Decree 30/003).
- VI) (**Legality and obedience**). A public official must know and comply with the Constitution, laws, decrees and resolutions governing his or her conduct in office and must comply with orders given to him or her by hierarchical superiors in the area of their competence, within the limits of due obedience (Article 21 of Law 17.060 and Article 14 of Decree 30/003).
- VII) (**Respect**). A public official must respect other officials and those with whom he or she must deal in the performance of his or her position and must avoid any type of disrespect (Article 21 of Law 17.060 and Article 15 of Decree 30/003).
- VIII) (**Impartiality**). A public official must exercise his or her powers impartially (Article 21 of Law 17.060 and Article 16 of Decree 30/003), which means providing equal treatment under equal circumstances to other representatives of the administration and to anyone to whom his or her official actions refer or are directed. Said impartiality includes the duty to avoid any preferential treatment, discrimination, or abuse of power or authority with respect to any person or group to whom his or her public actions relate (Article 8 of the Constitution and Article 24 of the American Convention on Human Rights, ratified by Article 15 of Law 15.737 of March 8, 1985). Public officials must recuse themselves or may be recused when there is any circumstance that could affect their impartiality, observing the decisions of his or her superior (Article 21 of Law 17.060, Article 2 (a) and Article 3 (1) of Decree 500/991 and Article 16 of Decree 30/003).
- IX) (**Impediments**). A public official must distinguish and strictly separate personal interests and public interests (Articles 21 and 22 (4) of Law 17.060 and Article 17 of Decree 30/003). By virtue of this, he or she must take all steps available to prevent or avoid conflicts of interests in the performance of his or her duties. If he or she feels that a

conflict between the public interest and his or her own personal interest is at issue, a public official must so inform his or her superior so that the latter can make the appropriate decision (Article 22 (4) of Law 17.060 and Article 17 of Decree 30/003). For reasons of decorum or delicacy, a public official may ask his or her superior to excuse him or her from the case, observing what the superior decides (Article 17 of Decree 30/003).

- X) **(Transparency and publicity)**. A public official must act transparently in the performance of his or her duties. Actions, documents and other items relating to public office may be freely divulged, except when their nature requires that they be kept confidential or secret or when they have been declared as such by law or well-founded decision, in all cases with the responsibility as may apply under the law (Article 7 of Law 17.060, Article 21 of Decree 354/999 and Article 80 of Decree 500/991). The foregoing provisions include the duty to guarantee to those interested parties who seek information arising from the use and application of computer and data transmission media in the activities of government and the exercise of its powers (Article 694 of Law 16.736 of January 5, 1996 and Article 14 of Decree 500/991). The content of this principle was reproduced in Article 18 of Decree 30/003.
- XI) **(Effectiveness and efficiency)**. Public officials shall use suitable means to achieve the public interest purpose for which they are responsible, seeking to achieve maximum efficiency in their activities (Article 60 (1) of the Constitution and Article 19 of Decree 30/003).
- XII) **(Efficiency in contracting)**. Public officials have the obligation (Article 659 (VI) of Law 16.170, Article 131 of the TOCAF and Article 2 of Decree 500/991) to strictly observe the contracting procedures applicable in each case and to adapt their behavior in this area to the following general principles: a) Flexibility. b) Delegation. c) Absence of red tape. d) Substance over form. e) Assumption of truthfulness in the absence of proof to the contrary. f) Equality among bidders, competitiveness in all procedures for inviting and selecting bids and broad disclosure of goods purchased and contracted services (Articles 5 of Law 17.060, Article 11 (H) of Decree 354/999 and Article 20 of Decree 30/003).
- XIII) **(Justification for decisions)**. A public official must justify his or her administrative actions, explaining the *de facto* and *de jure* reasons on which they are based. General justification formulas are not admissible. Rather, the public official must make a direct and concrete presentation of the facts of the specific case, and also explain the reasons with respect to the specific case that justify the decision made. In the case of discretionary actions, there must be a clear identification of the motives underlying the choice based on the public interest (Article 2 (I), Article 123 of Decree 500/991 and Article 21 of Decree 30/003).
- XIV) **(Qualification and training)**. Observance of appropriate conduct requires that a public official remain qualified to adequately perform the public duties for which he or she is responsible (Article 21 of Law 17.060). Public officials shall be required to train themselves to act with full knowledge of the matters submitted for their consideration and, in particular, they must attend refresher courses relating to administrative morality, incompatibilities, prohibitions and conflicts of interest in public office as determined by the provisions governing the service or as provided by the competent authorities (Article 28 of Law 17.060). Article 22 of Decree 30/003 includes similar language.

XV) **(Good financial administration)**. All public officials with duties relating to the management of property belonging to the state or non-state public entities must act in accordance with the applicable standards of financial management, planned objectives and goals, and the principles of good administration with respect to the handling of public monies or assets and the safekeeping or management of the assets of government agencies. Violations constitute administrative failings even when they do not lead to economic damages (Articles 119 *et seq* of the TOCAF and Article 23 of Decree 30/003).

XVI) **(Rotation of public officials in financial tasks)**. Public officials who carry out duties in divisions charged with the procurement of goods and services must rotate periodically (Article 23 of Law 17.060). This rotation must take effect after every period of 30 consecutive months in the performance of that function. The division head may extend the assignment in exceptional cases, based on the needs of the service or the lack of human resources in the agency, provided that the result of the performance evaluation in the period does not yield any objections regarding management. Article 24 of Decree 30/003 makes similar provision in this regard.

vi) **(Prohibitions)**. The principal prohibitions on actions in public office are summarized below.

I) **(Prohibition on contracting)**. Public officials are prohibited from contracting with the agency to which they belong and from maintaining ties through management or employment with firms, companies or entities that submit bids to perform contracts with that agency. However, in this latter case, public officials who have no involvement in the contracting process in the government agency in which they serve are exempt from this prohibition, provided they inform their superior in writing and without hesitation (Article 43 (1) of the TOCAF and Article 301 of the TOFUP). If such a situation is present or could arise at the time a public official enters civil service, he or she must so report in writing and without hesitation (Article 22 (4) of Law 17.060). This prohibition extends to contracts performed at the request of the administration to which the official belongs by international organizations or through the performance of projects by third parties. Public officials and the administrations to which they belong are prohibited from entering into or seeking from third parties service or works projects the purpose of which is for those same officials to carry out the tasks associated with their official position or similar tasks or tasks to be completed during the working hours of the respective agency. The content of these prohibitions on contracting is reproduced in Article 25 of Decree 30/003.

II) **(Prohibition on intervention due to kinship)**. Public officials with spending powers are prohibited from intervening when they are related up to the fourth degree by blood and the third degree by kinship or marriage to a party contracting with the agency to which they belong (Article 508 of Law 15.903, Article 653 of Law 16.170, Article 300 of the TOFUP and Article 26 of Decree 30/003).

III) **(Prohibition on associations with controlled activity)**. Public officials with senior management, inspection or advisory functions are prohibited from being employees, advisors, auditors, consultants, partners or directors of individuals or legal entities, whether public or private, that are subject to the control of the offices to which they belong. They are also prohibited from receiving payments, commissions or fees of any type from such persons (Article 152(1) and (2) of Law 13.420, Article 1 of Law 17.060 and Article 296 of the TOFUP). The prohibition established above extends to all service or works contracts performed at the request of the controlling administration by

international organizations or through the performance of projects by third parties. Article 27 of Decree 30/003 contains similar provisions.

- IV) **(Prohibition on relations with associated activity).**- Public officials are prohibited from exercising their duties with respect to the private activities with which they are associated (Article 140(1) and (2) of Law 12.802 and Article 297 of the TOFUP). That prohibition extends to all service and works contracts performed at the request of all governmental, departmental or quasi-governmental agencies, by international agencies or through the performance of projects by third parties. Article 28 of Decree 30/003 contains a similar provision.
- V) **(Sworn statement of impediments).** Public officials who are involved in one of the prohibited activities established above must submit, within no more than seventy days of their involvement, a sworn statement in which they establish what type of connection or activities they have from among those provided in the aforementioned circumstances, individually identifying the persons or companies and the type of relationship or interest they have with them, awaiting the decision of the respective superior. Said sworn statement must be submitted openly to the head of the office where the public official serves. Any new situation covered by the aforementioned prohibitions must be reported within seventy days of its occurrence and shall be subject to the decision of the respective division head (Article 22 (4) of Law 17.060, Article 297 of the TOFUP, Article 140 of Law 12.802 and Article 29 of Decree 30/003).
- V bis) **(Duty to report questionable or surviving impediments).** If when entering public service or during the performance thereof the existence of one of the aforementioned prohibitions is in doubt or questioned, a public official must immediately submit a detailed written report of this to his or her hierarchical superior, who must reach a well-founded decision on the matter and, if applicable, on the public official's continued service (Article 30 of Decree 30/003).
- VI) **(Prohibition on receiving gifts and other benefits).** Public officials are prohibited from seeking or accepting money, donations, benefits, gifts, favors, promises or other advantages, directly or indirectly, for themselves or for third parties, so that they will execute, speed up, delay or omit an action in their job, or act contrary to their duties or for an action they have already taken. Public officials are also prohibited from seeking contributions from other officials to make gifts to their superiors, for subscriptions or collections of any nature, and from authorizing withholding from their salary or any part thereof for any partisan group or any person or entity, except as expressly authorized by law (Article 28 (1) and Article 34 of Decree Law 10.388, Articles 169, 289 and 292 of the TOFUP, Article 1 of Decree [?] of January 31, 1939) They are also prohibited from seeking or accepting such benefits for the office in which they serve, unless expressly authorized and unless a written record is made thereof. With respect to all these prohibitions, for the applicable purposes, particular attention shall be given to whether the gift or benefit comes from a person or entity that:
 - A) carries out activities regulated or supervised by the agency or entity in which the official serves;
 - B) Manages or operates concessions, authorizations, privileges or franchises granted by the agency or entity in which the official serves;
 - C) is a contractor or supplier of goods or services to a government agency or is involved in a bidding procedure; and

D) has interests that could be significantly affected by the decision, action, acceleration, delay or omission of the agency or entity in which the official serves. The content of the aforementioned prohibitions appears in Article 31 of Decree 30/003.

- VI bis.) **(Allowable gifts or benefits)**. The following cases are understood as not being included in the prohibition established in VI) above: A) Ceremonial gifts received from governments, international organizations or non-profit entities under circumstances in which law or custom allows such benefits; B) travel and per diem expenses received from governments, teaching institutions or non-profit entities for presenting conferences, courses or academic or cultural activities, or participating in them, provided that this is not incompatible with ones duties or prohibited by special rules; and, C) courtesies from a reasonable entity received on the occasion of traditional festivals under conditions allowed by usage and custom (Article 32 of Decree 30/003).
- VII) **(Prohibition on telephone communications and use of cellular phones)**. Public officials are prohibited from using telephones to make personal long distance calls. Cellular phones contracted by government offices are restricted to authorized superiors. Other cases allowed for reasons of service shall be limited to the use of a minimum cost monthly card (Decree Nos. 200/975 and 232/2000 and Article 33 of Decree 30/003).
- VIII) **(Prohibition on the improper use of funds)**. Public officials are expressly forbidden to handle funds in a manner other than that legally authorized and are responsible for payment when they commit for any outlay without being authorized to do so. A public official is required to provide a documented and verifiable accounting of the transfer, utilization or management of funds received (Articles 460, 462 and 478 of Law 15.903, Articles 11 and 32 of the TOCAF and Article 298 of the TOFUP as well as Article 567 of Law 15.903 and Article 114 of the TOCAF and Article 34 of Decree 30/003).
- IX) **(Prohibition on serving in the same office because of kinship)**. A public official who is related to the head of a division or office to the second degree by blood or marriage or is his or her spouse is prohibited from serving in that same division or office. If a public official with such ties enters the office, the competent authority has a duty to arrange the necessary transfers, without prejudicing the grade level of any public official. Similarly, public officials who together present any of the impediments established in the first sentence herein are prohibited from remaining in the same office or section (Article 6 of Decree Law 10.338, Article 87 of Decree Law 9461 as per the text appearing in Law 9539, Article 303 of the TOFUP and Article 35 of Decree 30/003).
- X) **(Prohibition on improper use of public assets)**. Public officials must use movable and immovable assets belonging to their government agency or allocated to its use or consumption exclusively for the operation of the services for which they are responsible. Public officials are forbidden to use transport, fuel, replacement parts and repair services administered by any source of public funds, beyond what is strictly necessary for the performance of their duties. In no case may the performance of a public office entail the free availability of a vehicle belonging to any agency or allocated for its use beyond the requirements of the service *strictu sensu*, except as otherwise legally provided. Vehicles belonging to a government agency or allocated for its use must be driven by staff with qualifying licenses and may not be assigned for private uses, except in exceptional cases duly justified by the competent authority (Articles 528 and 529 of Law 15.903 of November 10, 1987, Article 153 of Law 16.170, Article 70 and Article 71(1) of the TOCAF, Article 31 of Law 16.170, Article 377 of Law 16.226 and Article 36 of Decree 30/003).

XI) **(Prohibition on proselytizing of any type)**.- Public officials serve the nation and not a political faction. Any activity not consistent with public office is prohibited at worksites and during work hours, and activity directed to proselytizing of any type is considered illegal. Public officials may not form groups for the purpose of proselytizing, using the names of government divisions and invoking the ties that connect those in public service (Article 58 of the Constitution and Article 37 of Decree 30/003).

vii) (Application of standards of conduct). The following standards guarantee the application of the preceding requirements for public officials:

- I) **(Disciplinary failures and sanctions)**. The national legal system, ratified by Article 38 (1) of Decree 30/003, establishes the principle that failure to fulfill the duties described as standards of conduct and the violation of the prohibitions summarized above constitute disciplinary failures. As such, they shall be subject to penalties in proportion to their seriousness, following substantiation in the respective disciplinary proceeding, in which the guarantee of a defense shall be assured (Article 66 of the Constitution). This is without prejudice to the administrative, civil or criminal responsibility provided by the Constitution and the law (Article 21 (2) of Law 17.060 and Article 38 (2) of Decree 30/003 as cited above).
- II) **(Disciplinary power and criminal jurisdiction)**. A public official's submission to criminal justice is not an obstacle to the necessary exercise of the power of the respective agency, independently of the judicial branch, to conduct internal procedures and adopt the appropriate decisions regarding disciplinary failures that are substantiated through the administrative route in accordance with the law (Decree 500/991, Articles 168 to 231, Articles 1051 to 1127 of the TOFUP and Article 39 of Decree 30/003).
- III) **(Report of irregularities or corrupt practices)**. All public officials are required to report irregularities they become aware of in the course of their duties, irregularities committed in their division or whose effects are felt by their division in particular (Article 175 of Decree 500/991). If they fail in their obligation to report offenses, they commit the crime of failing to proceed with the reporting of offenses (Article 177 of the Penal Code as per the text appearing in Article 8 of Law 17.060). In addition, they must receive and process reports made to them in this regard. In either case, they shall make them known to their hierarchical superiors (Article 175 of Decree 500/991). In the case of irregularities that could cause economic damages, a public official is required to communicate them in writing to his or her hierarchical superior and to the Accounts Court (Articles 103 of the TOCAF and Article 278 of the TOFUP). The content of this obligation is reproduced in Article 40 of Decree 30/003).
- IV) **(Reporting of offenses)**. The division head who is responsible for ruling on internal investigations that could result in a finding of an offense has the duty to arrange for the immediate police report or judicial order (Article 177 of the Penal Code as per the text appearing in Article 8 of Law 17.060 and Article 41 of Decree 30/003).
- V) **(Reports against specific public officials)**. Reports for offenses against government administration (Title IV, except for Chapters IV and V, of the Penal Code and Articles 8, 9 and 30 of Law 17.060) or against the Economy and Public Treasury (Title IX of the Penal Code) with respect to public officials required to submit sworn statements of assets and income (Articles 10 and 11 of Law 17.060) must be submitted to the competent

judicial body, the Office of the Attorney General, the National Police or other authorities with police functions, as applicable according to the procedural system at the time of their formulation (Article 4 (3) of Law 17.060, Article 14 of Decree 354/999 and Article 42 of Decree 30/003).

- VI) **(System of protection for witnesses and accusers)**. Anyone or any public official who in good faith reports an act of public corruption is also covered by the witness protection benefit established by current regulations (Article 36 of Law 16.707 of July 12, 1995, Decree 209/2000 of July 25, 2000, Article III (8) of the Inter-American Convention against Corruption and Article 43 of Decree 30/003).
- VII) **(Oversight Body)**. Article 334 of Law 17.296 of February 21, 2001 designates the Government Advisory Board on Economic and Financial Issues as the oversight body under the terms established by Article III (9) of the Inter-American Convention against Corruption.
- VIII) **(Dissemination and presumption of knowledge)**. Article 6 of Law 17.060 entrusts to the Executive Branch, as proposed by the Government Advisory Board on Economic and Financial Issues, the dissemination of the standards of conduct in office. Article 45 of Decree 30/003 mentioned above assigns to that oversight body the duty to disseminate the “Standards of Conduct in Public Office,” the criminal provisions contained in Law 17.060 and other provisions that define offenses whose active subject is a public official, as well as the legal and regulatory provisions relating to sworn statements of assets and income. In this respect, twenty thousand copies of those provisions were released for distribution. The obligation of each public official to know these Standards of Conduct in Public Office and their amendments, assuming their knowledge thereof (Article 7 of Decree 30/003) is established. The dissemination of that compendium of provisions seeks to ensure that public officials know, with as much certainty as possible, the scope of proper conduct, how to identify and resolve conflicts of public and private interests, as well as corrupt practices they must avoid, all of which becomes more important in the case of the public officials listed in Articles 10 and 11 of Law 17.060.
- IX) **(Workshops on the implementation of standards)**. As provided by Article 45 of Decree 30/003 cited above, the Advisory Board is organizing the dissemination of these standards through an initial workshop for responsible officials in all national, departmental and quasi-governmental public agencies in order to analyze practical cases and define uniform criteria.

In the criminal arena, [in] Title IV (Offenses against the Administration) of the Penal Code (Law 9.155 of December 4, 1933 with effect as of August 1, 1934) corruption was not defined as a separate offense, even when it constituted bribery or extortion. The new definitions, aggravating circumstances and increased penalties based on the approval of the aforementioned Law 17.060 should be kept in mind. The concept of corruption is defined, *inter alia*, as the improper use of public power or public office to obtain an economic benefit for oneself or for another whether or not damage to the State has resulted (Article 3 of Law 17.060 and Article 10 of Decree 30/003).

- c) **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

There are no systematic measurements as to whether the country’s existing standards and mechanisms to combat corruption have had any effect on changing the indicators of corruption levels.

Nonetheless, we report:

- 1) a measurement based on an opinion survey conducted in the cities of Montevideo and Canelones by the Citizen Safety Program of the Ministry of the Interior and financed by the Inter-American Development Bank in December 2001, which contains some general measurements regarding the evolution of corruption in the Uruguay's public sector (Annex 20);
- 2) Considering the absence of a diagnosis at the national level with respect to the existence and complexity of the corruption phenomenon, the Advisory Board contracted for a survey to be conducted by the University of the Republic for the purpose of generating a series of informative inputs that would be useful for a diagnosis of corruption in our country.

The university produced a report called "Panoramic Study of the Phenomenon of Corruption in Uruguay." It includes: i) Results from surveys of public officials, users of public services and entrepreneurs regarding government operations and corruption; ii) Direction of the institutionalization of the fight against corruption in Uruguay and a summary of current discussions regarding the powers and institutional location of the Government Advisory Board on Economic and Financial Issues; iii) Analysis of the subject of corruption in Uruguay from three vantage points: corruption in the public agenda, performance in the area of the Judicial Branch, and the study of irregularities in government spending based on information provided by the Accounts Court of the Republic.

The results of the surveys of public officials, users of public services, and entrepreneurs point to a series of conclusions that the report summarizes as follows: "First, we note that for the three population segments corruption seems to be a particularly serious problem in our country and its extent is perceived as relatively significant in practically all areas of government. The only government sector that partially escapes this rating is precisely the Judicial Branch, in which only 20% of public officials and slightly more than 30% of entrepreneurs believe there is quite a bit or a lot of corruption and an absolute majority maintains that there is little or no corruption.

However, it is important to note that these perceptions seem to be based more on prejudices than on concrete experiences. On one hand, the percentage of public officials who deny that bribes are paid specifically in their own departments is significant and those who considered it to be a widespread practice represent a minority. In turn, it is worth noting that within the Judicial Branch a resounding absolute majority denies the existence of improper payments. In addition, a majority of users consider themselves satisfied with the operation of the office where they were intercepted and practically 90% denies having to pay some bribe in the last year. Finally, more than 80% of the entrepreneurs say they have not had to pay any bribe in the last year and between 75% and 90%, depending on the case, assert that they have never been asked for or had to make improper payments in different areas of government. Consequently, although it seems obvious that corrupt practices exist in Uruguay, an analysis of the responses received suggests that such practices are not widespread and occur differently in specific areas."

The executive summary of this study is available on the Advisory Board's web site (www.jasesora.gub.uy). The complete study is attached in Annex 16.

Information is available on proceedings and convictions relating to the offenses against Public Administration: a) gathered up to May 2001 (Annex 17) and b) for the period between January 1 and December 31, 2002, provided by the Office of the Court Prosecutor and the Office of the General Prosecutor (Annex 18). This involves the total number of cases processed in the jurisdiction of the Criminal

Courts in the year 2002. There are 81 filings, most of them in the capital, representing 126 persons under investigation. Fifty-two prosecutions resulted from the filings, with 87 people receiving prison terms and 29 persons receiving no prison terms. The most frequent offenses are extortion, embezzlement, fraud, graft, bribery and abuse of powers.

Finally, information from the Forensic Technical Institute, a division of the Supreme Court of Justice, is attached, reporting that during the period 1991 to 2001 there were a total of 1356 prosecutions and 655 convictions relating to such offenses. (Annex 19).

- d) If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct for the correct, honorable and proper fulfillment of public functions, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.**

Not applicable based on responses given above.

2. Conflicts of interest.

- a) **Are there standards in your country regarding the prevention of conflicts of interest in the performance of public functions? If yes, briefly describe them, indicating aspects such as to whom they apply and the concept on which they are based, and list and attach a copy of the related provisions and documents.**
- i) Senators and Representatives, after joining their respective houses, may not receive paid employment from the branches of government, from departmental governments, autonomous entities, decentralized services or any other government agency nor may they provide services paid for by such entities in any way without the consent of the house to which they belong, and in all cases must have been out of office for one year when they receive employment or provide service (Article 122 of the Constitution), unless they have the express authorization of the respective house of Congress (Article 125 of the Constitution). In addition, during their term of office they may not: 1) participate as directors, administrators or employees in companies that contract for works or services with the government, departmental governments, autonomous entities, decentralized services or any other government agency; or 2) negotiate or direct third party matters with the central government, departmental governments, autonomous entities and decentralized services. Failure to observe the provisions of this article shall lead to the immediate loss of their position in the legislature (Article 124 of the Constitution).
- ii) Ministers shall be covered by the same incompatibilities and prohibitions as the senators and representatives to the extent applicable (Article 178 of the Constitution).
- iii) Members of the Accounts Court are also covered by the same system of incompatibilities and prohibitions as senators and representatives (Article 208 of the Constitution).
- iv) Members of the Boards of Directors or General Directors of autonomous agencies or decentralized services may not be appointed to positions or even honorary positions that directly or indirectly answer to the institute of which they are a part, except for advisors or directors of teaching services, who may be reappointed as department heads or professors and assigned to serve as dean or hold honorary teaching positions. The restriction shall continue for one year after termination of the position that caused the restriction, regardless of the reason for termination, and extends to any mission, professional or otherwise, even though it may not be permanent in nature or involve fixed

compensation. In addition, members of the Boards of Directors or General Directors of autonomous entities or decentralized services may not at the same time engage in professions or activities that, directly or indirectly, are related to the institutions to which they belong. The provisions of the preceding two paragraphs do not extend to teaching functions (Article 200 of the Constitution). Article 26 of Law 17.060 establishes that the Directors or General Directors of autonomous entities and decentralized services may not participate as directors, administrators or employees of companies that contract for works or supplies with the autonomous entity or decentralized service where they serve on the board or in general management.

- v) The position of Municipal Mayor is incompatible with any other public position or employment, with the exception of teaching, and is incompatible with any personal situation that entails receiving a salary or compensation for services from companies that contract with the municipality. A mayor may not contract with the departmental government (Article 289 of the Constitution). The employees of departmental governments or those who receive a salary or compensation for services from private companies that contract with the departmental government may not be part of departmental boards and local boards (Article 290). In addition, during their term of office, mayors, members of departmental boards and local boards may not: 1) participate as directors or administrators in companies that contract for works or supplies with the departmental government, or with any other public agency that has a relationship with it; 2) negotiate or direct their own or third party matters with the departmental government (Article 291 of the Constitution). Failure to observe the provisions of the preceding articles shall lead to the immediate loss of ones position (Article 292 of the Constitution).
- vi) Positions with the Judiciary are incompatible with any other paid government office, except for teaching positions in higher public education in the area of law, and incompatible with any other permanent honorary government office, except those especially connected to judicial office (Article 251 of the Constitution). Judges and all other employees in the internal offices of the Supreme Court, Tribunals and Courts are prohibited, under penalty of immediate removal from office, from directing, defending, or handling judicial matters or intervening in such matters in any way, outside of their official obligations, even though jurisdiction may be voluntary. The prohibition ceases only in the case of a public official's personal matters or those of his or her spouse, children and forebears (Article 252 of the Constitution).

Article 27 of Decree Law No 15.365 of December 30, 1982 establishes a prohibition on the positions of prosecutors and professional experts with the Office of the Attorney General and the Prosecutor's Office. That prohibition covers the exercise, paid or not, of the professions of attorney, clerk of the court, accountant or prosecutor, in conjunction with the performance of any other paid public office, except for teaching positions in higher public education in the area of law.

- vii) (Prohibitions). The prohibitions appearing in section vi) Prohibitions in response to question b) above should be considered repeated here. Also the response to the question on impediments (Article 17 of Decree 30/003). Developed in b) Principles of official conduct number VIII Impartiality corresponding to question b) of number 1 Standards of Conduct in this report. Also the issue of questionable or surviving impediments (Article 30 of Decree 30/003) that assumes the requirement to report impediments when entering civil service. Finally, the strict applicability of the impediment covering former legislators for one year from the time they leave office is underlined (Article 125 of the Constitution). Regulations are not required for any constitutional provision that establishes the duties of public officials (Article 332 of the Constitution).

b) Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.

The offense of the intersection of public and private interests is committed by a public official who, with or without deception, directly or through an intermediary, takes an interest in any action or contract in which he or she must intervene by reason of his or her position for the purpose of obtaining an improper benefit for him or herself or for a third party, or fails to report any circumstance that connects him or her personally to the person interested in that action or contract. This offense shall be punished by a prison term of six months to three years, special disqualification for two to four years and a fine of 10 to 10,000 readjustable units. It is considered a special aggravating circumstance when the offense is committed to obtain a financial benefit for oneself or for a third party (Article 161 of the Penal Code as per the text appearing in Article 8 of Law 17.060). The seriousness of the commission of such an offense is grounds for removal from office (Article 168 (10) and Article 275 (5) of the Constitution). It is also considered an aggravating circumstance when the active subject has been enriched (Article 163 ter of the Penal Code as per the text appearing in the same article and related laws).

The requirement regarding sworn statements of impediments mentioned in section vi) Prohibitions from question b) above, constitutes a mechanism to enforce standards of conduct in terms of identifying a presumed conflict of interests. This is also true of the mechanism provided in Article 22 (4) of Law 17.060, which establishes the requirement that public officials must make their hierarchical superiors aware of their involvement in decisions bearing on matters in which they have participated as experts.

A public official has the duty to report, when entering public service or during the performance thereof, any doubtful or surviving impediment relating to the prohibitions on contracting, on intervening in public spending because of familial ties, on involvement in controlled activities or associated activities. The duty to report must be effective immediately, with a detailed written report to be submitted to ones hierarchical superior, who must reach a well-founded decision on the matter and, as applicable, on the public official's continued service (Article 30 of Decree 30/003).

c) Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.

Most of the aforementioned standards of conduct that are designed to prevent conflicts of interest have a long tradition in this country. Article 221 of Decree 500/991 establishes the requirement to communicate resolutions bearing on administrative inquests to the General Registry of Administrative Inquests that is administered by the National Civil Service Office of the Office of the President of the Republic.

In the 10-year period between 1991 and 2001, there were 10 prosecutions for the offense of the intersection of public and private interests, on which no final decision was reached (see attached information from the Forensic Technical Institute in Annex 19).

d) If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct intended to prevent conflicts of interest, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.

Response not applicable.

3. Conservation and proper use of resources entrusted to public officials in the performance of their functions.

- a) **Are there standards of conduct in your country that govern the conservation and proper use of resources entrusted to public officials in the performance of their functions? If yes, briefly describe them, indicating aspects such as to whom they apply and to what resources they refer, and list and attach a copy of the related provisions and documents.**
- i) Public officials must use movable and immovable assets belonging to the government agency in which they serve or those allocated to its use or consumption exclusively for the operation of the services for which they are responsible. Public officials are forbidden to use transport, fuel, replacement parts and repair services administered by any source of public funds, beyond what is strictly necessary for the performance of their duties. In no case may the exercise of public office entail the free availability of a vehicle belonging to any agency or allocated for its use beyond the requirements of the service *strictu sensu*, except as otherwise legally provided. Vehicles belonging to a government agency or allocated for its use must be driven by staff with qualifying licenses and may not be assigned for private uses, except in exceptional cases duly justified by the competent authority (Articles 528 and 529 of Law 15.903 of November 10, 1987, Article 153 of Law 16.170, Articles 70 and 71 (e) of the TOCAF, Article 31 of Law 16.170 and Article 377 of Law 16.226).
- ii) public officials with tasks or functions associated with the management of government assets are administratively responsible in accounting and financial matters. That responsibility also extends to superiors and employees of entities or non-state public persons that improperly use public funds, or improperly manage the government's assets. The inexcusable deviation from the principles and procedures of good management with respect to the handling of public monies or assets and the safekeeping of government assets constitutes an administrative failure even when it does not cause economic damages to the government (Articles 119 and 120 of the TOCAF and Article 308 of the TOFUP).
- b) **Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

The legal powers summarized above in the area of government accounting and the use of government assets makes it possible to identify those situations that are irregular in this regard. Currently the country's Internal Audit Office is publishing audits conducted during the year that make evident the improper use of public assets.

The web site of the Office of the President of the Republic has an area for reporting cases of improper use of government vehicles, with identification of the vehicles' license plates.

- c) **Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

There is no statistical information in this regard.

- d) **If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct intended to ensure the proper conservation and use of resources entrusted to public officials in the performance of their functions, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.**

Not applicable.

4. 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.

a. **Are there standards of conduct in your country that establish measures and systems governing the requirement that public officials report to appropriate authorities acts of corruption in public office of which they are aware? If yes, briefly describe them, indicating aspects such as to whom they apply and if there are any exceptions, and list and attach copy of the related provisions and documents.**

i) (Reports of irregularities or corrupt practices). In this case we repeat what was stated in section vii) above (implementation of standards of conduct) and the provisions of Articles 1057 to 1061 of the TOFUP.

b. **Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

i) Legislative oversight acts as a system in which the mechanism is put into operation at the initiative of a legislator.

a) Articles 118 to 121 of the Constitution establish the legislators' prerogative to act to provide oversight of the administration.

b) The request for reports enables a legislator to seek data and reports from administrative hierarchies, except those relating to jurisdictional matters (Article 118 of the Constitution).

c) Calling a session (Article 119 of the Constitution) to ask for and receive reports from the Ministers is a prerogative of each house of the legislature.

d) Finally, the legislature can appoint legislative committees to investigate or provide data for legislative purposes (Article 120 of the Constitution). Law 16.698 of April 25, 1995 regulated the operation of the investigating committees, which are defined as multi-person bodies with the mission of advising the legislative body that appointed them in their exercise of its legal powers (Article 1). The appointment of investigating committees (Article 2 (S)) by the legislative body is only admissible "when in the situations or matters to be investigated there have been well-founded reports of the existence of irregularities or illegal activities." (Article 6). It is expressly stated that these committees have neither legislative nor adjudicatory powers (Article 8). The investigations that these committees conduct may encompass criminal actions, in which case Article 66 of the Constitution prohibits them from concluding their investigations until the accused public official has had the opportunity to present his or her answer and articulate his or her defense. The scope of the decisions resulting from these legislative committees (Article 121 of the Constitution) is solely to exercise legal powers of administrative oversight or to enforce the responsibility of public officials who are subject to impeachment (Article 13 of Law 16.698). If the investigation results in a presumption of crimes, the committee shall advise that the files be handed over to the criminal courts for appropriate action (Article 28). Investigations relating to matters that are within the area of competence of the Ministries of Foreign Relations, National Defense, the Interior, or Economics and Finance may be declared as confidential in that these Ministries belong to the Executive Branch (Article 15 (2)). With respect to secrecy involving the actions of legislative committees, Law 16.758 of June 26, 1996 amended Article 31 of Law 16.698 to the effect that such committees may declare some of their actions, testimony or documents received to be secret when there is sufficient merit for such secrecy. When adopting a resolution, the legislative body shall rule on the total or

partial disclosure of what has been done. Witnesses who provide testimony are guaranteed that their identity shall remain secret. Violation of secrecy is criminally penalized. A criminal penalty is also imposed on an expert who testifies falsely, denies what is true or maliciously conceals all or part of the truth (Article 33).

- ii) Powers of the Accounts Court. Any external oversight body has the inherent power to report to the appropriate person or body any irregularities in the handling of public funds and violations of budgeting and accounting laws. In this respect, this power is conferred upon the Accounts Court in its capacity as an external oversight body pursuant to Article 211 (E) of the Constitution of the Republic and Article 123 of the TOCAF. In addition, the Accounts Court may mark as needing urgent consideration and communicate to the national or departmental legislatures as applicable resolutions relating to objections raised regarding expenditures lacking available funds or legal authorization when the amount thereof significantly exceeds the respective budget heading or bill, or actions and contracts performed in clear violation of legal provisions, repetition of expenditures questioned, on a continuous or permanent basis, not handled by the organizations to which they are directed or repetition of expenditures and payments questioned or continuation of procedures when the administrative action was not duly justified (Article 476 Law No. 17.296). The Accounts Court also has the power to issue a ruling on reporting and fiscal years of all agencies of the state, departmental governments, autonomous entities and decentralized services and the corresponding actions in the case of responsibility or reports of irregularities in the handling of public funds and violations of budget and accounting laws of such agencies based on the provisions of Article 211 (C) and (E) of the Constitution of the Republic.
- iii) In terms of oversight in the central government, the Internal Audit Office, the central comptrollers and the Accounts Court are responsible for conducting investigations or checks in financial and accounting matters (Articles 99 and 102 of the TOCAF). In the departmental governments, this oversight falls to the Office of the General Municipal Comptroller (Article 91 of the TOCAF) or the Accounts Court, as applicable.

In financial and accounting matters, the Accounts Court, the Internal Audit Office (within the central government) and the Central Comptrollers' Offices are responsible for the inspection, verification, review, control and periodic cash audits, for which purpose government agency divisions must have records and documentation available. In the departmental governments, this oversight function falls to the Offices of the General Municipal Comptrollers and the Accounts Court (Articles 99 and 102 of the TOCAF). Failure to fulfill this requirement, with respect to the Accounts Court, shall make the public official administratively responsible, (Article 119 to 127 of the TOCAF), after application of the rules governing due administrative process (Article 66 of the Constitution, Article 99 (4) of the TOCAF and Decree 500/991 on administrative procedure), without limiting any civil or criminal liabilities that may be applicable.

- iv) Any person or public official who in good faith reports one of the public corruption offenses is also covered by the witness protection benefit established by legal provisions in effect (Article 36 of Law 16.707 of July 12, 1995, Decree 209/2000 of July 25, 2000 and Article III (8) of the Inter-American Convention against Corruption of March 29, 1996).

c. Briefly states the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.

There is no available statistical information on the implementation of the above standards and mechanisms. Nonetheless, as a result of the public dissemination of several of these mechanisms, topics relating to official corruption were taken up in articles in the press. A survey of data held by the Congressional Library

between January 1993 and December 2001 indicated that there were 4,963 articles on corruption and a spectacular increase in such publications in 1995 and 1996. Annex 19 shows the data relating to prosecutions and sentences handed down in the area of crimes involving corruption.

- d. If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct that establish measures and systems governing the requirement that public officials report to appropriate authorities acts of corruption in public office of which they are aware, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.**

Not applicable.

CHAPTER TWO

SYSTEMS FOR REGISTERING INCOME, ASSETS AND LIABILITIES (ARTICLE III, 4)

- a) Are there regulations in your country establishing methods for registering the income, assets and liabilities of those who perform public functions in certain posts as specified by law and, where appropriate, for making such disclosures public? If yes, briefly describe them, indicating aspects such as to whom they apply and when the declaration must be presented, the content of the declaration, the evaluation criteria and how the information given is verified, accessed, and used. List and attach copy of the related provisions and documents.**

Law 17.060 of December 23, 1998 gives the Government Advisory Board on Economic and Financial Issues the task specified in Article 4 (5) (B) thereof of receiving the sworn statements of assets and income of any type belonging to the public officials mentioned in Articles 10 and 11 of the law. These articles provide a list of positions and public offices based on their importance by hierarchy, function or subject agency. The list currently includes 3,959 positions that are identified at the web site www.jasesora.gub.uy.

This led to the implementation of a Registry of Sworn Statements for the purpose of organizing, receiving, filing, safeguarding, and administering such sworn statements and issuing the certificates confirming that this legal requirement has been met.

A covered public official must submit a sworn statement containing an accurate and well-documented list of the assets that comprise his or her assets, the obligations that comprise his or her liabilities, as well as any income received from rents, wages, salaries or benefits of any type. He or she must also declare the assets, liabilities and income of his or her spouse; their assets, liabilities and income as a couple; and the assets, liabilities and income of persons subject to his or her parental authority, guardianship or curatorship (Article 12 of Law 17.060 and Article 28 of Decree 354/999). The breakdown of assets, liabilities and income must cover those held in the country as well as overseas. He or she must submit the initial sworn statement to the Advisory Board in a sealed envelope within thirty days of completing seventy days of uninterrupted service in the position or function. Updates shall be made every two years from the date of assuming office. Whenever a public official leaves office, he or she must submit a final statement within thirty days thereof. The Advisory Board shall keep the envelopes for a period of five years from the time the official leaves office. The only exception to the general rule on keeping the envelope is the exception relating to the sworn statements of the President and Vice President of the Republic, whose envelopes are opened by the Advisory Board, with the content thereof published in the Official Gazette.

The law considers the failure to submit the sworn statement to be serious administrative noncompliance with the inherent duties of public office and orders that the names of those not in compliance be published in the Official Gazette and in another nationally circulated daily newspaper. The Advisory Board is responsible for the safekeeping of the sworn statements received in sealed envelopes and shall only proceed to open them under the circumstances provided in Article 15 of Law 17.060, i.e., at the request of the interested party him or herself, under a well-founded decision of the criminal courts, or under a well-founded resolution of the Advisory Board.

b) Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.

On August 22, 2002, the Advisory Board had 17,398 sworn statements in sealed envelopes corresponding to 13,996 government positions and posts for which the law requires the submission of such a statement. Of these statements, 10,560 were from officials in the national government, public companies and quasi-governmental agencies and 3,436 were from public officials in the departmental governments. More than 30 envelopes have been opened by order of the criminal courts and about 10 have been opened at the request of interested parties. In both types of cases, the content of the envelopes was verified; in the first type, verification was the subject of court investigation and in one case of the second type, a newspaper report led to the opening of the sworn statement of a senior public official to check the scope of what was included in the sworn statement.

As of July 24, 2003, the relevant update indicates that the Advisory Board has 22,423 sworn statements corresponding to 14,171 government positions for which the law requires the submission of such a statement. Of these statements, 10,666 statements were for positions in the national government, public companies and quasi-governmental entities and 3,505 were for positions in the departmental governments. In the update period, there has been a high level of compliance on the part of those subject to this requirement who remain in service.

With respect to the results of the activities carried out by the Accounts Court concerning the three branches of government, for the year 2001 there are 4,421 objections involving 326,569 audits of expenditures and payments, which represents an objection percentage of 1.34%. In addition, for the same agencies, there are a total of 32 reports to the General Assembly relating to audits and investigations (Articles 94 and 125 of the TOCAF). Further information for the year 2001 can be consulted at the web site www.tcr.gub.uy and information for the year 2002 will soon be available at the same site.

The Bar Association of Uruguay suggests that we emphasize the fact that objections based on reasons of legality raised by the Accounts Court are sent to the legislature in accordance with the provisions of Articles 211 and 212 of the Constitution “without receiving any further treatment by the legislature and thus do not have any effect.”

In this regard, it should be noted that the Constitution does not give the General Assembly any special power in this case, and it should thus be kept in mind that the legislative oversight mechanisms include each legislator’s power to request reports (Article 118 of the Constitution), issuing summons (Article 119 of the Constitution), legislative committees to conduct investigations or supply data for legislative purposes (Article 120 of the Constitution) and impeachment (Articles 93, 102 and 103 of the Constitution). No information has been gathered that would make it possible to connect the implementation of such provisions to cases of objections raised by the Accounts Court and communicated to the General Assembly. Nonetheless, the legislature has ruled by categorizing some objections as serious (in this regard, see the reference to Article 476 of Law 17.296 dated February 21, 2001 in Chapter I (4) (b) (ii) of this report.

- c) **If no such regulations exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the regulations that establish methods for registering the income, assets and liabilities of those who perform public functions in certain posts as specified by law and, where appropriate, for making such disclosures public, in accordance with Article III (4) of the Convention.**

Not applicable.

CHAPTER THREE

OVERSIGHT BODIES

- a) **Are there oversight bodies charged with the responsibility of ensuring compliance with the provisions stated in Article III (1), (2), (4) and (11) of the Convention? If yes, list and briefly describe their functions and characteristics, and attach a copy of the related provisions and documents.**
- a) With respect to this question, the answer should be that the duties relating to compliance with Article III (1), (2), (4) and (11) of the Convention were assigned to the Government Advisory Board on Economic and Financial Issues.

The Government Advisory Board on Economic and Financial Issues is a public agency created by Article 4 of Law 17.060 of December 23, 1998, with technical independence in the exercise of its functions. Article 334 of National Budget Law 17.296 gives it an institutional location, for budgetary purposes, as an executing unit in paragraph 11 under the Ministry of Education and Culture, retaining its technical independence and establishes that the Government Advisory Board on Economic and Financial Issues is the oversight body indicated in Article III (9) of the Inter-American Convention against Corruption dated March 29, 1996 in Caracas and ratified by Law 17.008 of September 25, 1998.

Despite this formal classification as an oversight body, the Uruguayan institutional system wanted to preserve the principle that the disciplinary power to investigate and punish in administrative agencies lies with each senior official in the government agency and this is expressly ratified and confirmed by Article 5 of Decree 30/003 of January 23, 2003, subject to the jurisdictional control of the Administrative Court (Articles 307 to 313 of the Constitution of the Republic), allocating to the Advisory Board consultative powers under Article 44 of Decree 30/003 as indicated above, which establishes: "In the exercise of disciplinary power, the agencies whose officials are covered by this decree may seek the opinion of the Government Advisory Board on Economic and Financial Issues, in which case in order to depart from the ruling issued by that Board, one must proceed on a well-founded basis." In addition, with respect to the punishment of criminal conduct, the Uruguayan institutional system maintains that the jurisdictional power to investigate and punish remains in the judicial sphere (Articles 31 and 114 of the Code of Criminal Procedure) [and] in this case the Advisory Board participates as an expert at the request of the competent criminal court judge or the Office of the Attorney General (Article 4 of Law 17.060 and Article 11 (A) and (B) of Decree 354/999 of November 12, 1999).

The country's administrative sanctions for corrupt practices have no special system that is unique or different from the administrative disciplinary system with respect to other administrative offenses. In addition, in the area of criminal penalties, the investigation and prosecution procedure is not different from that applicable to other offenses. In effect, the detection and punishment of criminal conduct can only be carried out in accordance with the law, it being established that the proceedings are administered by judges belonging to the judicial branch based on a system of accusation at the exclusive initiative of

prosecutors that make up a technically autonomous body called the Office of the Attorney General, which is directed by the Court Prosecutor and the General Prosecutor.

Article 11 (E) of Decree 354/999 dated November 12, 1999 refers to the provisions regarding matters established in Article III (1) and (2) of the Convention in that it assigns to the Advisory Board the chairmanship of the Honorary Commission (Article 25 of Law 17.060) created for the purpose, *inter alia*, “of suggesting standards of conduct of public officials for: i) the correct, honorable and proper fulfillment of public functions (ethical codes)” and “drafting bills that define the occurrence of conflicts of interest in public office and methods whereby they can be avoided.” The Advisory Board completed this legal function when it proposed to the Executive Branch a Code of Official Conduct applicable to all public officials, which was approved by Decree 30/003 of January 23, 2003.

- ii) With respect to fulfillment of Article III (4) of the Convention, Articles 10 to 19 of Law 17.060 of December 23, 1998 and Articles 24 to 36 of Decree 354/999 of November 12, 1999 establish the Advisory Board’s power to administer the systems for the reporting of income, assets and liabilities by persons performing public functions.
- iii) Finally, with respect to Article III (11) of the Convention, the Advisory Board is competent as an oversight body (Article 334 of Law 17.296) and Article 12 of Decree 354/999 cited above authorizes the Advisory Board to join with nongovernmental organizations to eradicate conduct contrary to public probity.
- iv) The institutional organization of Uruguay has strengthened expert assistance in the criminal investigation of corrupt practices by entrusting to the Advisory Board, as an agency of the state, the role of providing assistance in the relevant phases of judicial investigation.

In order to unravel the elements of proof of corrupt practices, it has been considered necessary to require specialized expert support to assist and help in the detection of the facts underlying the criminal definitions of official corruption. The national legislature has deemed this particularly necessary in a criminal proceeding when administrative experience is more removed from those responsible for investigating events and, obviously, from full knowledge of specific regulations and correct administrative practices. This has led to the implementation of a system of optional advisory services for criminal court judges as an effective method of providing support in the fight against crime that is unique in cases of official corruption. If effect, the understanding has been that judicial investigations needs special assistance, when the criminal court itself so deems or when requested by the prosecutor, because these are cases in which the identification of evidence may be considered more complicated, given the specific nature of administrative actions and events. In addition, the legislature also felt that this advisory service should be provided, as determined by the judge, by a government agency that would bring technical independence to the investigation.

The preceding principles provided the justification (Article 4 of Law 17.060) for creating a government body with technical autonomy and advisory functions that would contribute its opinion in the judicial investigation process. This body is made up of members selected “from among persons who have recognized experience and are professionally and morally competent.” The appointment system is unique in that the Executive Branch sitting as the Cabinet Council is responsible for making the appointments, but Senate approval is required. That government body has three members.

The Advisory Board’s investigation work is done under the direction of the competent criminal court judge in the case. It acts with purely expert powers; the technical independence of the members of the board and its multi-person makeup will provide greater guarantees in the process of judicial investigation of the facts in question, particularly when those responsible for the reported actions are officials in the

political or administrative hierarchy as determined by law (Article 4 (1) and Articles 10 and 11 of Law 17.060). This means that as with the consideration of any other offense, corrupt practices are detected and punished based on the accusation of a prosecutor and a Judicial Branch judge supervises the handling of the court proceeding, with advice provided by the expert body, i.e., the Advisory Board.

- v) With respect to economic and financial oversight and the “proper user of resources entrusted to public officials in the performance of their functions” (Article III (1) of the Convention), the following oversight bodies should be mentioned:

Accounts Court

The system for external oversight of the economic and financial actions and management of all government agencies, including autonomous entities, decentralized services and departmental governments, is the responsibility of the Accounts Court (Section XIII, Articles 208 *et seq.* of the Constitution of the Republic, Articles 473 *et seq.* of Law 17.296 of February 21, 2001 and Articles 94 to 107 of the TOCAF), which oversees all the accounting, collections and payment offices of said government agencies (Article 212 of the Constitution). In addition, that oversight extends to non-state public persons and to services or private companies that receive public funds or administer government assets in terms of their reporting and submission of accounting statements, along with outside audit reports, to the Accounts Court for purposes of its approval and to the Executive Branch with copy to the Internal Audit Office (Articles 138 and 160 of the TOCAF). The oversight system does not apply to the quasi-governmental Social Security funds with respect to which the oversight systems provided in their respective organic laws are retained (Article 160 (3) of the TOCAF).

The external oversight provided by the Accounts Court in the area of expenditures and payment consists of confirming the legality thereof, through preventive intervention, with the respective objections made as applicable. If the person ordering the outlay persists (repeats the expenditure), he or she shall communicate this to the Court without detriment to compliance.

If the Accounts Court persists in its objections, it will give a well-documented notice to the General Assembly, or to whoever is acting in this capacity, for appropriate action (Article 211 (B) of the Constitution).

In this regard, see ii) Powers of the Court in the response to question 4 (b) of this report.

The external oversight powers entrusted to the Accounts Court may be exercised directly by that body or through the intermediary of its own auditors appointed to act in the central government, the decentralized government, in the departmental governments or in the remaining public services (Article 96 of the TOCAF), and it may take over that oversight function at any time. In either case the objections raised shall be understood as having been made by the Accounts Court.

Internal Audit Office

The internal oversight system in the central government, responsibility for which lies with the Internal Audit Office and the internal audit units of the government entities mentioned in Articles 220 and 221 of the Constitution (Articles 92, 93, 93 I, 93 II, 93 III, 93 IV, 93 V) and Article 94 (6) of the TOCAF.

General Accounting Office.

This is the agency responsible for the national budget system in technical and operational terms. Its functions include issuing technical standards for the formulation, modification, monitoring and execution

of the national budget (Article 141 of the TOCAF). Central accountant's offices are located in each of the hierarchical agencies of the Executive Branch and are appointed by the General Accounting Office. When appointed, they receive compensation in addition to their pay based on the high level of responsibility; if the General Accounting Office revokes their appointment they shall cease to receive the additional compensation (Article 146 of the TOCAF).

There is a computer oversight system administered by the General Accounting Office that is called the Integrated Financial Information System or SIIF [*Sistema Integrado de Información Financiera*] (Article 89 of the TOCAF). This system ensures that attribution and availability in the use of public expenditures depends on the existence of legally authorized budgetary funds available on the credit side, through a computerized method put into operation under the name of the Expenditure Execution System [*Sistema de Ejecución del Gasto*] or SEG (Decree 395/998 of December 30, 1998). The General Accountant has the duty not to stop obligations arranged by the person ordering an expenditure in the event that there is no legally authorized budgetary credit available (Article 15 of the TOCAF).

General Treasury Office

This is the body responsible for the treasury system and as such it coordinates and controls the treasuries of the executing units of the central government (Article 155 of the TOCAF) and is the national government's central depository for the movement of funds and fulfillment of the payment orders it receives. The general treasury office of each departmental government and each body or entity that sets it up, as a result of the management function assigned to it by the Constitution and by law, carries out the same function as the General Treasury Office within its respective jurisdiction (Article 75 of the TOCAF).

General Accounting Office of Each Departmental Government.

Within each of the nineteen departmental governments, the internal oversight agency is the General Accounting Office, whose jurisdiction and functions are the same as those assigned to the General Accounting Office with respect to the central government, with the exception of those established in Article 89 (2), (5) and (6) of the TOCAF, with reference to the specific treasury where they act (the municipal treasury) and the reports and balance sheets each municipal mayor must prepare and submit to the General Accounting Office the information that it must consolidate (Article 91 (1) and (2) of the TOCAF). The General Municipal Accountant is prohibited from processing payment orders or allocations of expenses for which the documentation has not been audited (approved) by the Accounts Court (Article 91 (3) of the TOCAF and Article 211 (B) of the Constitution). The objections retained by the Accounts Court with repeat expenditures by the municipal heads must be reported to the General Assembly or, as applicable, to the Permanent Commission. Finally, the approval of the Accounts Court may be delegated to general municipal accountants who shall carry out such functions under the supervision of the Accounts Court (Article 211 (B) (3) of the Constitution).

General Accounting Offices of the Autonomous Entities and Decentralized Services.

In each of the autonomous entities and decentralized services (Articles 220 and 221 of the Constitution) not included in the national budget (Article 91 of the TOCAF) these offices shall carry out, in their respective spheres, the same functions as those assigned to the central government's General Accounting Office, with the exception of those established in Article 89 (2), (5) and (6) of the TOCAF, but with reference to the specific treasury of the public company or teaching agency in which they serve as well as in reporting.

- b) Briefly state the results that said oversight bodies have obtained in complying with the previous functions and characteristics, and attach a copy of the pertinent statistical information, if available.**

With respect to oversight in the area of conflicts of interest, the Government Advisory Board on Economic and Financial Issues has received the first case of a query filed in accordance with the Standards of Conduct (Decree 30/003), which is being processed.

With respect to the advisory services provided to the criminal justice system, this advice is being identified in the respective annual reports from the Advisory Board that are sent to the three branches of government and released to the public. It should be pointed out that in the year 2000 advisory services were provided with respect to a judicial system investigation of a municipal mayor. In the year 2001, there was a case involving a report filed by a senior customs official in the country's interior. In the year 2002, there were two cases, the first involving questions of financial management of the local autonomous and elective board of a department in the country's interior and the second involving the contracting of official advertising in a very long list of government agencies for a relatively prolonged period of time with measurements relating to preferences or discrimination applied to written print media. In the year 2003, there was a case involving the bidding procedures of a public company in which the public company accuses a provider and the provider in turn accuses the company's officials.

With respect to the oversight of sworn statements, we refer to what was stated in Chapter Two (b).

CHAPTER FOUR

PARTICIPATION BY CIVIL SOCIETY (ARTICLE III, NUMBER 11)

1. General questions on the mechanisms for participation

- a) Are there in your country a legal framework and mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption? If so, briefly describe them and list and attach a copy of the related provisions and documents.**
- i) The Constitution provides for a body called the National Economic Council, whose members represent the country's economic and professional interests. The Council is consultative and honorary and the Constitution gives the legislature the power to create this body (Article 206).
 - ii) Article 31 of the Constitution empowers any inhabitant of the Republic, and not just citizens, to exercise the right to petition any and all authorities of the Republic. Articles 117 to 119 of Decree 500/991 establish the mechanisms for executing said right of petition.
 - iii) In the case of questions regarding defense of the environment, cultural or historical values and generally values belonging to an indeterminate group of persons, the Office of the Attorney General, any interested party and institutions or associations of social interest that by law or in the judgment of the Court guarantee an adequate defense of the compromised interest shall be given legal standing without distinction to initiate the relevant process (Article 42 of the General Procedure Code, whose legal name is "Representation in the case of diffuse interests").
 - iv) Anyone has the right to make an arrest in the case of flagrant offenses (Articles 120 and 121 of the Code of Criminal Procedure, Decree Law 15.032 of July 7, 1980).

- v) Anyone who learns by any means of the commission of an officially prosecutable offense can report it to the judicial or police authority (Articles 105 to 110 Code of Criminal Procedure).
- vi) Under the chapter on “Social oversight,” the anticorruption law (Law 17.060) establishes some mechanisms to facilitate citizen oversight. First, the Executive Branch is required, at the suggestion of the Government Advisory Board on Economic and Financial Issues, to conduct periodic dissemination campaigns in the area of government transparency, the responsibility of public officials, and citizen oversight mechanisms (Article 6). Second, with respect to the procurement of goods and contracting of services, the requirement that government agencies publicize them widely is established (Article 5), and this was regulated by Article 11 (H) of Decree 354/999 as cited above, which empowers the Advisory Board to verify compliance with that public disclosure obligation. The mechanism used to publicize government procurements is the web site of the Office of the President of the Republic www.presidencia.gub.uy

Finally, in order to facilitate citizen oversight, the public disclosure of acts, documents and other items regarding public service is guaranteed, except when their nature requires that they remain confidential or secret or they have been declared as such by law or well-founded resolution (Article 7 of Law 17.060).

- vii) The law in any case establishes the participation of civil society in government agencies. The National Civil Service Commission, which is given important functions, includes a representative of government workers (Article 6 of Law 15.757 of July 15, 1985 as per the text appearing in Article 51 of Law 16.226 of October 29, 1991). The Honorary Commission appointed in the context of the anticorruption law to draw up proposals for updating and legislative and administrative organization in the area of transparency in government contracting and with respect to conflicts of interest in public office, includes among its six members a member appointed by the most representative organization of public employees (Article 25 of Law 17.060).
- viii) For the purpose of eradicating conduct contrary to public probity, the Government Advisory Board on Economic and Financial Issues may, as established by Article 12 of Regulatory Decree 354/999, join with nongovernmental organizations for the purpose of rules regarding: a) standards of conduct for public officials, transparency in government contracting, the occurrence of conflicts of interest in public office and mechanisms designed to prevent them; b) periodic dissemination campaigns in the area of government transparency and the responsibility of public officials, offenses, failures and administrative penalties for violations against public administration, citizen oversight mechanisms provided in the country’s institutional system; c) changes in the rules on matters relating to the jurisdiction of the Advisory Board; and d) verification of the public disclosure required of public agencies with respect to the procurement of goods and contracting of services.
- ix) In order for nongovernmental organizations and civil society organizations to organize and operate validly within national territory they must arrange to establish their legal status by qualifying with the Legal Entities Division of the Ministry of Education and Culture, which is the authority charged with processing legal status as required by Article 21 of the Civil Code.
- x) Special note should be made of the establishment and operation of the Commission to Combat Corruption “URUGUAY TRANSPARENTE,” which has provided the following report for purposes of this questionnaire:

This commission, founded in July 1995, is the only non-governmental organization at the national level in our country. Its founding members were individuals representing a broad spectrum of Uruguayan society. It was widely covered in all the mass media, was trusted by the society and was known to and respected by government institutions.

After its founding, the commission was recognized as the national chapter of the “Transparency International Global,” a nongovernmental organization created in Germany in May 1993 with the same goals.

On July 24, 1996, Transparency International Latin America and the Caribbean (*Transparencia Internacional Latinoamericana y del Caribe--TYLAC*) was established in Lima, Peru, with Uruguay Transparente appearing as a founding agency. Its mission is similar to that of the global institution and it is governed by its institutional principles.

Uruguay Transparente is not subject to a hierarchy; it operates in a context of solidarity, but with an independent viewpoint. Its organization is multidisciplinary as its Executive Committee is made up of nine members who are members of civil society from different sectors of social activity. Its mission is to promote and develop educational campaigns in defense of the ethical values of society, to suggest measures to combat the causes that create and facilitate corruption, to inform public opinion when irregularities have been proven and all related proceedings have been exhausted but the competent authorities have not adopted the corresponding remedies, assuming responsibility for this attitude.

It operates in all cases outside commitments of any type other than those arising from the very reason for its existence, the straightforward fight against corruption.

One of its fundamental principles is its technical, political and financial independence. The organization is guided only by the national Constitution, the domestic legal system, international instruments relating to human rights and the principles derived from the Inter-American Convention against Corruption. It requires that its member totally disregard their political, religious or racial creeds. In this sense, it has been able to maintain a healthy balance in considering, studying and resolving accusations brought by civil society, as well as in the handling of the topics discussed at conferences and seminars and in the selection of speakers, whose technical judgment is afforded total independence. Financially, it receives no individual contribution from its boards. Its technical advisors and secretarial and computer personnel participate entirely free of charge. External collaboration has taken the form of seminars, logistical support for which involves only the organizational costs administered by the donor agency. Transparency International has not given us any contributions, other than invitations to the organization's events.

Steps have recently been taken to reorganize the institution so as to achieve the direct participation of civil society in its effective governance.

The Reorganizational Assembly was established with 115 members at present. Registration remains open until July 25, 2003, so that those joining up to that date will be considered founding members. A new Executive Committee was elected and will serve until June 2004 with nine regular members, nine alternates and a supervisory committee of three regular members and three alternates, and a plenary session with 68 members that will act as an advisory and support body for management. A resolution was made to move ahead with formation of an Anticorruption Coalition with organizations with which it is already collaborating, particularly with the Magistrates', Court Clerks', and Accountants' Associations. Hundreds of cases of corruption were identified based on citizen initiatives channeled through Uruguay Transparente and correctly resolved by the proper authorities. Seven workshops and seminars on corruption brought together hundreds of academics, judges, prosecutors, politicians, journalists, ministers, attorneys, and legislators. Their results have been published in books widely distributed in the country and overseas.

The campaign in favor of the Inter-American Convention against Corruption was reflected in repeated radio and television presentations, while three of the seminars included excellent presentations on the detailed examination of the most important points in the Convention.

- b) Briefly state the results that have been obtained in implementing the above mechanisms, attaching the pertinent statistical information, if available.**

The country is in the initial phases of interacting with civil society organizations on the fight against corruption. However, there is highly productive cooperation with Uruguay Transparente and the media.

- c) If no such mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption, in accordance with Article III (11) of the Convention.**

This is not the case, given the preceding response.

2. Mechanisms for access to information

- a) Are there mechanisms in your country that regulate and facilitate the access of civil society and non-governmental organizations to information under the control of public institutions? If so, describe them briefly, and indicating, for example, before which entity or agency said mechanisms may be presented and under what criteria the petitions are evaluated. List and attach a copy of the related provisions and documents.**

Article 29 of the Constitution establishes that “in all areas the expression of thoughts in words, in private writings or in writing published in the press or any other method of dissemination is entirely free, with no need for prior censorship; the author and, as applicable, the printer or publisher, remains responsible for any abuses he or she commits, in accordance with the law.” This provision serves as a valuable protection allowing for the objective and responsible reporting of acts of corruption.

The principle of the unrestricted disclosure of all acts, documents and other items relating to official functions is embodied in Article 7 of Law 17.060. This principle allows of express exceptions only in the event such exceptions have been stipulated to through well-founded resolution under the legally applicable responsibility. Article 22 (1) of the same law establishes as official conduct contrary to probity in public office “the refusal to provide information or documentation that has been requested in accordance with the law.” In addition, Article 163 of the Penal Code as per the text appearing in Article 8 of Law 17.060 establishes the offense of revealing secrets: “A public official who, abusing his office, reveals facts, or publishes or disseminates documents he or she knows about or possesses by reason of his or her current or former employment, which should remain secret, or facilitates knowledge thereof, shall be punished with six months to two years of suspension and a fine of 10 UR (ten readjustable units) to 3,000 UR (three thousand readjustable units).”

Article 694 of National Budget Law 16.736 is also consistent with this principle of unrestricted disclosure in that it guarantees to administrators “full access to information of interest to them” that results from “the use and application of computer and data transmission media to carry out the activities of public agencies and the exercise of their powers.” The embodiment of this guarantee in terms of access in principle to information from computer media also represents a suitable instrument allowing for the participation of civil society in the operations of public administration.

The right of access to information given to administrators is the counterpart of the obligation to publicize administrative decisions and documents. It is an individual right derived from the republican form of government, as recognized in Article 72 of the Constitution, and Article 332 of the Constitution requires that this right be implemented in that it constitutes a duty of public agencies, even in the absence of regulations. This right of access to information is a principle embodied in Article 19 of the Universal Declaration of Human Rights. The right to investigate and receive information is established in Article 14

of the Pact of San Jose, Costa Rica (ratified by National Law 15.737 of March 8, 1985, Article 15) with respect to rectifying inaccurate or offensive information disseminated to the public in general.

A mechanism for providing information to civil society is the web site of the Office of the President of the Republic (www.presidencia.gub.uy).

This site disseminates news of general interest to the country, such as geographical location, constitutional provisions, decrees and resolutions. With respect to information on the public sector, the site contains the number of civil servants with a breakdown for each of the different areas of government, their different compensation levels, information regarding the authorities in each agency with their respective addresses, the information required for Central government purchases pursuant to Decree 66/002, which requires publication of the basic terms and specific conditions for each request for proposals as well as decisions made in this regard, information relating to the abuse of official vehicles with an e-mail address for reports in this regard (Decree 192/002). The site centralizes links with various government agencies, highlighting aspects of official activity. Notable among these is the link to the web site of the Government Advisory Board on Economic and Financial Issues -- www.jasesora.gub.uy. This web site has been very important for the news media, encouraging public debate on these issues.

Civil society has access to the operations of the external oversight body through the Accounts Court 's web site www.tcr.gub.uy.

b) Briefly state the results that have been obtained in implementing the above mechanisms, attaching the pertinent statistical information, if available.

- i) We know of no objective and systematic statistics on this subject.
- ii) However, seminars, workshops and other working sessions that have been held in recent years represent a positive contribution to public debate regarding standards and mechanisms to combat corruption in the country since the law ratifying the Inter-American Convention against Corruption and since issuance of the Anticorruption Law.

3. Mechanisms for consultation

- a) Are there mechanisms in your country for those who perform public functions to consult civil society and non-governmental organizations on matters within their sphere of competence, which can be used for the purpose of preventing, detecting, punishing and eradicating public corruption? If so, briefly describe them and list and attach a copy of the related provisions and documents.**

Answered in point 2 above.

- b) Briefly state the results that have been obtained in implementing the above mechanisms, attaching the pertinent statistical information, if available.**

No information is available.

4. Mechanisms to encourage active participation in public administration

- a) Are there mechanisms in your country to facilitate, promote and obtain the active participation of civil society and non-governmental organizations in the process of public policy making and decision making, in order to meet the purposes of preventing, detecting, punishing and eradicating acts of public corruption? If so, briefly describe them and list and attach the related provisions and documents.**

- i) Various seminars, workshops and working sessions promoted by civil society organizations, particularly Uruguay Transparente, both alone and in conjunction with other non-governmental organizations such as the Uruguayan Accounting and Budget Association, (*Asociación Uruguaya de Contabilidad and Presupuesto* – ASUCYP) and the Association of Judicial Magistrates of Uruguay and in conjunction with government agencies (Court Prosecutor and General Prosecutor, Internal Audit Office), et al. have provided settings where it has been possible to discuss some aspects of policy on the subject of combating corruption.

With respect to this question, the Office of the President of Uruguay Transparente states the following. This has been the fundamental objective of Uruguay Transparente – achieved in ongoing radio and television presentations and in seminars. The starting point is always the enforcement of human rights, international pacts in the area of human rights, the OAS Charter, the Inter-American Convention against Corruption ratified by National Law 17.008, and the Pact of San Jose, Costa Rica or American Convention on Human Rights, ratified by National Law No 15.737 of March 8, 1985.

- ii) A workshop on the subject of conflicts of interest in public administration with the participation of senior officials and organizations of university professionals as well as invitations issued to organizations representing civil society will provide an opportunity to define the implementation of public policies on the subject.
- b) Briefly state the results that have been obtained in implementing the above mechanisms, attaching the pertinent statistical information, if available.**

Not available

5. Participation mechanisms for the follow-up of public administration

- a) **Are there mechanisms in your country to facilitate, promote and obtain the active participation of civil society and non-governmental organizations in the follow-up of public administration, in order to meet the purposes of preventing, detecting, punishing and eradicating acts of public corruption? If so, briefly describe them, and list and attach a copy of the related provisions and documents.**

Not available

- b) **Briefly state the results that have been obtained in implementing the above mechanisms, attaching the pertinent statistical information, if available.**

There are none.

CHAPTER FIVE

ASSISTANCE AND COOPERATION (ARTICLE XIV)

1. Mutual Assistance

- a) **Briefly describe your country's legal framework, if any, that establishes mechanisms for mutual assistance in processing requests from foreign authorities that, in accordance with their internal law, have powers to investigate or prosecute acts of public corruption, for the purpose of obtaining evidence and carrying out other actions necessary to facilitate**

proceedings relating to the investigation or prosecution of acts of corruption. List and attach copy of the provisions that contain such mechanisms.

- i) Articles 34 to 36 of the Anticorruption Law (Law 17.060 cited above) establish the legal framework and the procedure for requests for international legal cooperation from foreign authorities empowered to investigate or prosecute acts of corruption.

The procedure begins when requests are received by the “Central Advisory Authority for International Legal Cooperation,” a division of the Directorate of International Legal Cooperation and Justice of the Ministry of Education and Culture. Requests are sent to the jurisdictional authorities or competent national administrative authorities for processing. With respect to requests for cooperation, judges are required to apply the laws of the Republic. In the case of simple processing and evidentiary steps, cooperation shall be provided without examining whether or not the conduct leading to the investigation or prosecution constitutes a crime under Uruguayan law. Requests relating to search, lifting of bank secrecy, seizure and delivery of any object shall be subject to the procedural and substantive law of the Republic.

Article 34 (5) expressly establishes that: “Requests may be rejected when they seriously affect the public order, as well as the security or other fundamental interests of the Republic.” For this purpose, the country’s Permanent Mission to the OAS appeared before the General Secretariat on August 7, 2001, and reported that, on the occasion of the legislative process to ratify the Convention, the Republic of Uruguay made “express reservation for the application of public order, when the cooperation sought substantively, seriously and obviously offends the standards and principles on which Uruguay bases its legal individuality.”

With respect to procedures for the crimes of drug trafficking, money laundering or crimes related thereto (Articles 54 to 61 of Decree Law 14.294 of October 31, 1974, as per the text provided in Article 5 of Law 17.016 of October 22, 1998) as well as when the material subject of some crimes are assets, proceeds or instruments derived from crimes classified by Uruguayan law on the subject of terrorism, contraband in excess of twenty thousand dollars, illegal trafficking of weapons, explosives, munitions or material intended for their production, illegal trafficking of organs, tissue and medications, illegal trafficking of men, women or children, extortion, kidnapping, procuring, illegal trafficking of nuclear materials, illegal trafficking or works of arts, animals or toxic substances (Article 81 of Decree Law 14.294 with the addition provided by the single article of Law 17.343 of May 25, 2001), the law provides a special mutual assistance and international cooperation procedure (Articles 75 to 80 of Decree Law 14.294 cited above, as per the text appearing in Article 5 of Law 17.016). That applicable legal system is as follows:

“ARTICLE 75.- Requests for international legal cooperation from foreign authorities empowered in accordance with the law of the requesting State to investigate or prosecute the crimes established in this law or related crimes, that refer to legal assistance for simple processing, evidence, precautions or freezing, confiscation, seizure or transfer of assets shall be accepted and processed by the Directorate for International Legal Cooperation and Justice of the Ministry of Education and Culture. That Directorate, in accordance with the respective international treaties in effect and domestic law on the subject, shall directly and without delay send the respective requests for international cooperation to the competent national jurisdictional or administrative authorities with jurisdictional function, according to the cases, for processing in accordance with the legal system of the Republic.

ARTICLE 76.- Requests for international legal cooperation and attached documentation received by the above-mentioned Directorate, through diplomatic or consular channels or directly, shall be exempt from the notarization requirement and must be accompanied, as applicable, by the respective translation to the Spanish language.

ARTICLE 77.- 1. National courts competent to provide the requested international cooperation will officially process such requests with the involvement of the Office of the Attorney General in accordance with the laws of the Republic and shall verify that the request: a) is properly submitted, b) identifies the requesting competent foreign authority by providing its name and address, and c) when applicable, is accompanied by a Spanish translation in accordance with national legislation on the subject.

- ii) Uruguayan national courts shall provide international criminal cooperation and the judge must examine whether or not the conduct leading to the investigation, prosecution or proceeding in the requesting State constitutes a crime in accordance with Uruguayan law.
- iii) In the case of requests for criminal cooperation involving searches, lifting of bank secrecy, seizure and delivery of any object, including, *inter alia*, documents, files or effects, the national court acting in the matter shall process the request if it determines that it contains all information justifying the measure sought. That measure shall be subject to the procedural and substantive law of the Republic.
- iv) Requests for international criminal cooperation may be rejected by the national courts charged with handling them, when they conclude that the requests seriously, concretely and obviously affect the public order as well as security or other fundamental interests.

ARTICLE 78. - Authorities or individuals belonging to the States requesting cooperation may not carry out in the territory of Uruguay procedures that, in accordance with national law, fall within the jurisdiction of Uruguayan authorities.

ARTICLE 79.- When the data required to carry out the request for international cooperation are insufficient or confusing, the court acting in the matter may ask the requesting foreign authority to expand on or clarify the data through the Directorate for International Legal Cooperation and Justice, which shall urgently transmit said request for expansion or clarification. In cases where the request for international cooperation is not carried out, totally or partially, this fact as well as the reasons for it, shall be communicated immediately by the acting court to the requesting foreign authority through the aforementioned Directorate of the Ministry of Education and Culture.

ARTICLE 80.- The internal legislation of the Republic shall govern potential liabilities for damages that may arise from actions taken by its authorities when providing international criminal cooperation at the request of foreign authorities.

The Republic of Uruguay reserves the right to bring action against the requesting States for potential indemnities that may arise from the processing of requests for international legal cooperation.

A request for international legal cooperation made by a foreign authority shall imply knowledge and acceptance by the authority of the principles stated in the preceding paragraph, all of which shall be made known to the requesting State through the aforementioned Directorate for International Legal Cooperation and Justice of the Ministry of Education and Culture, once it receives the respective request for cooperation.”

- v) Recently, Law 17.574 of October 29, 2002 ratified the Supplemental Agreement to the Protocol on Cooperation and Legal Assistance in Civil, Commercial, Labor and Administrative Issues, signed on June 19, 1997 by the States Parties of MERCOSUR in the city of Asuncion, Paraguay. This involves the approval of eleven model forms for processing legal requests, which are attached to the Supplemental Agreement. The documentation is attached as Annex 11.

- vi) In addition, National Law 17.145 of August 9, 1999 ratified the Protocol on Mutual Assistance in Criminal Matters signed between the governments of the member States of MERCOSUR in the city of San Luis, Argentina on June 25, 1996. This is attached as Annex 10.
- b) **Has your government presented or received requests for mutual assistance under the Convention? If so, indicate the number of requests that it has presented, explaining how many of them have not been answered and how many have been denied and for what reason; indicate the number of requests that it has received, explaining how many of them have not been answered and how many have been denied and for what reason; mention the average time it has taken your country to answer said requests and the average time in which other countries have responded, and indicate whether you consider these intervals reasonable.**

The government of Uruguay has participated in the exchange of requests for mutual assistance relating to the subject referred to by the question identified in number 1 of this fifth Chapter, and processed it accordingly.

The Central Advisory Authority for International Legal Cooperation has prepared a status report as of October 8, 2002, with a breakdown of the requests received by the Republic on the subject of corruption and money laundering from 2000 to that date. Of a total of 57 requests processed through the Central Authority, 22 have been answered, with the remainder still in process. Of these, 50 correspond to Argentina, 4 to the United States of America, 1 to Peru, 1 to Mexico, and 1 to Brazil. It can be concluded that the Central Authority has properly processed foreign requests made to competent national agencies. The most frequent requests are those relating to information on banking accounts and records.

However, one factor that makes it difficult to carry out the procedures in time is the fact that requests are not prepared in accordance with the required legal conditions. In particular, Article 77.1, reproduced in paragraph 2) of the response to the question identified with the letter a) of this section "1. Mutual Assistance" in this questionnaire, identifies precise formal conditions that are usually overlooked in the requests that reach our country. This response to the questionnaire notes that dissemination of the applicable Uruguayan regulations to the countries that have ratified the Convention would likely facilitate more rapid processing of requests, particularly those referring to bank secrecy. Bear in mind that the formal requirements as well as the evidentiary elements applicable for processing requests apply equally to Uruguayan judges and foreign judges. Thus, the dissemination of these legal requirements would probably facilitate more rapid processing of requests.

There is no information in the referenced report by the Central Authority regarding formal requests that have been made by national judges in the area of corruption and money laundering and have not been answered.

- c) **If no such mechanisms exist, briefly indicate how your State has implemented the obligation, in accordance with Article XIV (1) of the Convention.**

Not applicable.

2. Mutual technical cooperation

- a) **Does your country have mechanisms to permit the widest measure of mutual technical cooperation with other States Parties regarding the most effective ways and means of preventing, detecting, investigating and punishing acts of public corruption, including the exchange of experiences by way of agreements and meetings between competent bodies and**

institutions, and the sharing of knowledge on methods and procedures for citizen participation in the fight against corruption? If so, describe them briefly.

On December 3, 2001 the Anticorruption Office of the Ministry of Justice and Human Rights of the Republic of Argentina and the Government Advisory Board on Economic and Financial Issues of the Ministry of Education and Culture of Uruguay signed a memorandum on mutual assistance in the fight against corruption, the text of which is attached as Annex 21.

In addition, on June 14, 2002 and subject to the approval of the Executive Branch, Uruguay's Government Advisory Board on Economic and Financial Issues joined the Anticorruption Office of the Ministry of Justice and Human Rights of the Republic of Argentina, the General Audit Council of the Republic of Chile, the Office of Government Ethics of the United States of America, the Office of the Ethics Counsellor of Canada and the Office of Government Ethics of Puerto Rico in signing the instrument establishing the Network of Government Institutions for Public Ethics in the Americas. The purpose of the network is to promote assistance and the exchange of technical information and experience in order to enhance programs on transparency, combating corruption and strengthening public ethics and probity in the respective countries. The relevant text is attached.

This implements the provisions of Article XIV (2) of the Convention. The competent body and institution for providing mutual technical cooperation in the fight against corruption in Uruguay is the Government Advisory Board on Economic and Financial Issues (Articles 4 *et seq.* of Law 17.060 and Article 334 of Law 17.296). So that said government body can promote agreements and meetings with other competent bodies and institutions in other States Parties to the Convention, it is appropriate to apply the regulations regarding the internal competence of the Uruguayan State in the conduct of foreign policy. In this respect, the Executive Branch is competent to make the necessary decisions on the country's foreign policy, as applicable, authorizing prior to the Government Advisory Board on Economic and Financial Issues, executive agreements and conventions fulfilling international obligations undertaken by the State. In effect, drawing up and signing treaties is a power of the Executive Branch, that is, of the President of the Republic acting with the respective Minister or Ministers, in accordance with the provisions of Article 168 (20) of the Constitution. The Ministries of Foreign Relations and Education and Culture intervene as applicable, the latter because the Government Advisory Board on Economic and Financial Issues belongs to the Executive Branch and operates through the Ministry of Education and Culture. When international obligations are undertaken, legislative approval is required, as in the case of Law 17.008 with respect to the Inter-American Convention against Corruption. In the case of executive agreements on international obligations already assumed, legislative approval is not required. An unchallenged interpretation is that in order to approve the provision of mutual technical cooperation in the area of executive agreements between States Parties (for purposes of Article XIV (2) of the Convention), prior authorization of the Executive Branch with the Ministers of Foreign Relations and Education and Culture is sufficient.

Without detriment to prior authorization, the subsequent confirmation of the texts of agreements signed by the competent authority is also admissible, as happened in the two preceding cases of subsequent approval of the agreements with the Anticorruption Office of Argentina and the Public Ethics Network of the Americas that were signed subject to the approval of the Executive Branch.

The provision of mutual technical cooperation overseas requires the approval of an "Official Mission," which is authorized by resolution of the Executive Branch in accordance with the mechanisms indicated above. Applicable law on the subject includes: Article 19 of Law 15.809 of April 8 1986, Articles 53 and 54 of Law 16.170 of December 28, 1990, Article 23 of Law 16.226 of October 29, 1991, Article 29 of Decree Law 14.754 of January 5, 1978 as per the text appearing in Article 51 of Law 17.296 of February 21, 2001, Decree 266/989 of June 6, 1989, Decree 401/991 of August 5, 1991, Decree 89/000 of March 3, 2000, Decree 43/001 of February 7, 2001 and Decree 56/002 of February 19, 2002. (Annex 15)

- b) Has your government made requests to other States Parties or received requests from them for mutual technical cooperation under the Convention? If so, briefly describe the results.**

The Advisory Board received a visit from the Anticorruption Office of the Republic of Argentina for purposes of demonstrating the operation of the mechanism for computerizing the sworn statements of assets and income. In addition, an invitation has been received from that Office and from the Office of Government Ethics of Puerto Rico to participate in a workshop on conflict of interests in public service.

- c) If no such mechanisms exist, briefly indicate how your State has implemented the obligation, in accordance with Article XIV (2) of the Convention.**

Not applicable.

- d) Has your country developed technical cooperation programs or projects on aspects that are referred to in the Convention, in conjunction with international agencies or organizations? If so, briefly describe, including, for example, the subject matter of the program or project and the results obtained.**

Through the United Nations Development Program, a mission from the Spanish expert, Dr. Pablo García Mexía, was selected and supported. This expert produced a report evaluating the regulatory system and its implementation in the country with respect to combating corruption, including suggestions and comments after interviews with politicians, magistrates, journalists, public employees and senior officials. The report can be read at www.jasesora.gub.uy.

CHAPTER SIX

CENTRAL AUTHORITIES (ARTICLE XVIII)

1. Designation of Central Authorities

- a) Has your country designated a central authority for the purpose of channeling requests for mutual assistance as provided under the Convention?**

Article 35 of Law 17.060 creates the Section for International Legal Cooperation within the Central Advisory Authority for International Legal Cooperation, a division of the Directorate of International Legal Cooperation and Justice of the Ministry of Education and Culture. This is the Central Authority for purposes of Article XIV (1).

- b) Has your country designated a central authority for the purpose of channeling requests for mutual technical cooperation as provided under the Convention?**

Although the Government Advisory Board on Economic and Financial Issues has not been designated as the central authority for purposes of channeling mutual technical cooperation as provided by Article XIV (2), it carries out these functions because it has been designated to act as the oversight body under Article 334 of Law 17.296. As a result, it should be understood that this government agency carries out the functions of a Central Authority as provided under Article XIV (2) of the Convention.

- c) If your country has designated a central authority or central authorities, please provide the necessary contact data, including the names of the agency(ies) and the responsible**

official(s), the position that he or she occupies, telephone and fax numbers, and e-mail address(es).

-The Director of the Central Authority for International Legal Cooperation of Uruguay (Article XIV (1) of the Convention) is Dr. Eduardo Tellechea Bergman, telephone numbers (5982) 901 1633, 901 3990 and 901 7885, fax number 901 7885, and e-mail address tellechea@mec.gub.uy. The person carrying out the functions of the Director of the Central Authority (Article XIV (2) of the Convention) is the President of the Government Advisory Board on Economic and Financial Issues, Jorge Sambarino Cármine, telephone and fax number (5982) 917 04 07, and e-mail address secretaria@jasesora.gub.uy.

d) If no central authority or authorities have been designated, briefly indicate how your State will implement the obligation, in accordance with Article XVIII of the Convention.

Not applicable

2. Operation of Central Authorities

a) Do the central authorities have the necessary resources to make and receive requests for assistance and cooperation under the Convention? If yes, describe them briefly.

The Central Authority for International Legal Cooperation of Uruguay has highly qualified personnel in that its Director and Consulting Attorneys are university professors in International Private Law and International Legal Cooperation with broad background on the subject.

b) Have the central authorities, since their designation, made or received requests for assistance and cooperation under the Convention? If so, indicate the results obtained, whether there were obstacles or difficulties in handling the requests, and how this problem could be resolved.

The government of Uruguay has participated in the exchange of requests concerning mutual assistance on this subject, processing them appropriately. This information is now being surveyed through the Central Advisory Authority on International Legal Cooperation. Once this information is available, we will proceed to expand on the response to this question.

III. INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

Please provide the following information:

(a) State Party: Republic of Uruguay.

(b) The official to be consulted regarding the responses to this questionnaire is:

() Mr.: Jorge A. Sambarino Cármine.

Title / position: President of the Government Advisory Board on Economic and Financial Issues.

Agency / office: Government Advisory Board on Economic and Financial Issues

Mailing address: Rincón 528, Montevideo. Uruguay.

Telephone number: (598 2) 917.04.07

Fax number: (598 2) 917.04.07

E-mail address: secretaria@jasesora.gub.uy

ATTACHMENTS

PRESENTED BY THE ORIENTAL REPUBLIC OF URUGUAY TO THE QUESTIONNAIRE OF THE PROVISIONS OF THE CONVENTION SELECTED FOR REVIEW WITHIN THE FRAMEWORK OF THE FIRST ROUND

- ATTACHMENT 1) Constitution of the Republic
- ATTACHMENT 2) Amended Text on Financial Administration and Accounting (TOCAF)
- ATTACHMENT 3) Amended Text on Standards Concerning Public Servants (TOFUP)
- ATTACHMENT 4) Criminal Code of Uruguay
- ATTACHMENT 5) Law 17.008 dated September 25, 1998
- ATTACHMENT 6) Law 17.060 dated December 23, 1998
- ATTACHMENT 7) Law 17.292 dated January 25, 2001
- ATTACHMENT 8) Law 17.213 dated September 24, 1999
- ATTACHMENT 9) Law 17.296 dated February 21, 2001
- ATTACHMENT 10) Law 17.145 dated August 9, 1999 ratifying the Protocol of Mutual Reciprocal Assistance in Criminal Matters subscribed on June 25, 1996 in San Luis, Republic of Argentina.
- ATTACHMENT 11) Law 17.574 dated October 29, 2002 ratifying the Complementary Agreement to the Protocol for Jurisdictional Assistance and Co-operation in Administrative, Labour, Commercial and Civil Matters.
- ATTACHMENT 12) Decree 354/999 dated November 12, 1999.
- ATTACHMENT 13) Decree 500/991 dated September 27, 1991.
- ATTACHMENT 14) Decree 30/003 dated January 23, 2003
- ATTACHMENT 15) Regulations on Official Missions
- ATTACHMENT 16) Comprehensive Study on the Phenomenon of Corruption in Uruguay. Study conducted by the University of the Republic at the request of the Advisory Board.
- ATTACHMENT 17) Information from the Office of the Attorney General of the Republic for the period up to October 2001.
- ATTACHMENT 18) Information from the Office of the Attorney General of the Republic for the period from January 1, 2002 to December 31, 2002.

- ATTACHMENT 19) Information from the Forensic Technical Institute, an agency of the Supreme Court of Justice
- ATTACHMENT 20) Opinion survey carried out in the cities of Montevideo and Canelones in December 2001 that provides a number of general measurements concerning the evolution of corruption in the public sector in Uruguay.
- ATTACHMENT 21) Memorandum of Understanding with the Anti-Corruption Office of the Republic of Argentina.
- ATTACHMENT 22) Memorandum of Understanding on the establishment of a network of government institutions for public ethics in the Americas.
- ATTACHMENT 23) Note presented by Uruguay Transparente, a non-governmental organization.
- ATTACHMENT 24) Note presented by the Supreme Court of Justice.
- ATTACHMENT 25) Note presented by the Bar Association of Uruguay.
- ATTACHMENT 26) Note presented by the Association of Court Clerks of Uruguay.
- ATTACHMENT 27) Note presented by the Court of the Exchequer
- ATTACHMENT 28) Ley No. 14.859 Código de Aguas.
- ATTACHMENT 29) Artículo 42 de la Ley 15.982 Código General del Proceso.
- ATTACHMENT 30) Resolución 166/001 de 04/06/2001. Interdependencia Municipal de Río Negro.
- ATTACHMENT 31) Resolución 2.193/003 Interdependencia Municipal de Maldonado. 11/07/003.
- ATTACHMENT 32) Decreto Ley No. 10388 Estatuto del Funcionario.
- ATTACHMENT 33) Ley 15.637 que dicta normas para otorgar concesiones para la construcción de obras públicas.
- ATTACHMENT 34) Ley 16.011 Acción de Amparo. Publicada D.O. 29/dic/988 No. 22776.
- ATTACHMENT 35) Ley 16243 Refinanciación de Deudas. Publicada D.O. 20 mar/992 No. 23548.
- ATTACHMENT 36) Ley 16736 Presupuesto Nacional. Publicada DO 12 de enro/996 No. 24457.
- ATTACHMENT 37) Documents presented by organizations of the Civil Society.