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Agenda Item: 10

Anti-Corruption and Transparency Reporting Template – New Zealand

Purpose: Information
Submitted by: New Zealand



APEC
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**19th Anti-Corruption and Transparency
Experts' Working Group Meeting
Beijing, China
13 August 2014**

APEC ANTI-CORRUPTION AND TRANSPARENCY (ACT) REPORTING TEMPLATE

ECONOMY: New ZealandCALENDAR YEAR: 2014LAST UPDATED: 2012**LEADERS' AND MINISTERS' COMMITMENTS**

- **2010:** We agreed to enhance our efforts to improve transparency and eliminate corruption, including through regular reporting via ACT and other relevant fora on economies' progress in meeting APEC Leaders' commitments on anti-corruption and transparency.
- **2006:** Ministers endorsed APEC 2006 key deliverables on Prosecuting Corruption, Strengthening Governance and Promoting Market Integrity and encouraged member economies to take actions to realize their commitments. Ministers also encouraged all economies to complete their progress reports on the implementation of ACT commitments by 2007. Ministers welcomed APEC efforts to conduct a stocktaking exercise of bilateral and regional arrangements on anti-corruption in cooperation with relevant international and regional organizations, and encouraged member economies to fully participate in the stocktaking activities.

Objective: Where appropriate, to self-assess progress against APEC Leaders' and Ministers' commitments on anti-corruption, transparency, and integrity and to identify capacity building needs to assist the ACT to identify priority areas for future cooperation.

EXECUTIVE SUMMARY

1. Summary of main achievements/progress in implementing the commitments of APEC Leaders and Ministers on anti-corruption, transparency, and integrity since 2004.

New Zealand has made good progress in implementing the commitments of APEC leaders since 2004. Most notably, New Zealand has passed two significant pieces of legislation that improve our anti-corruption and transparency legal framework: the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ("AML/CFT Act") and the Criminal Proceeds (Recovery) Act 2009 ("CPRA").

The AML/CFT Act puts into place a comprehensive domestic regulatory and supervisory regime for financial institutions including banks, financial institutions, trust and company service providers and casinos. The regime includes requirements for customer due diligence, beneficial owner identification, record-keeping and the reporting of suspicious transactions. The AML/CFT Act contributes to public confidence in New Zealand's financial system, and will assist in the detection and deterrence of money laundering and terrorist financing. The Act came into force on 30 June 2013.

The CPRA establishes a civil forfeiture regime that enables New Zealand authorities to register restraining and forfeiture orders in relation to criminal proceeds. The CPRA regime is also accessible by foreign jurisdictions through a mutual assistance request. CPRA has been in force in New Zealand

The Bill puts in place many of the measures at the heart of the ongoing 'All of Government Response to Organised Crime' strategy. The Bill includes measures to tackle crimes such as money laundering, identify theft, human trafficking and corruption.

3. Summary of capacity building needs and opportunities that would accelerate/strengthen the implementation of APEC Leaders' and Ministers' commitments by your economy and in the region.

New Zealand is an active participant in international fora such as the OECD Working Group on Bribery, the Financial Action Taskforce ("FATF"), and the Asia/Pacific Group on Money Laundering. New Zealand will continue to participate in these international organisations to enhance transparency and anti-corruption measures within the region.

since 1 December 2009.

The State Services Commission issued a new Code of Conduct on Integrity and Ethics in 2007. The code sets out 16 standards, grouped under the headings Fair, Impartial, Responsible and Trustworthy, with which State servants must comply. The State Services Commissioner has applied this code to all Public Service Departments and most Crown Entities.

New Zealand has also implemented measures that enhance transparency. Since 2006 MPs have been required to register certain personal interests in the Register of Pecuniary and Other Specified Interests. These interests include company directorships and controlling interests, interests in companies and business entities, interests in trusts, real property, debtors, creditors, and gifts. Likewise, MP's expenses are disclosed to the public through the Parliament website. In 2010 the State Services Commissioner introduced a disclosure regime for chief executive expenses, gifts and hospitality. Chief executives of Public Service departments and most Crown entities are expected to disclose their expenses every six months and make this information publicly available on their agency's website and data.govt.nz.

In 2009 the New Zealand Government launched a four-year Government Procurement Reform Programme to promote better value for money. One of the aims of the reform was to improve governance, oversight and accountability of public sector procurement, while also achieving costs savings, building professional procurement capability, and enhancing competitive New Zealand business participation. Implementation of the procurement reforms is accompanied by a training and education programme to increase professional capability and capacity of government procurement practitioners. Updated policy and good practice guides for procuring agencies have been published, covering all stages of the procurement cycle such as procurement planning, contract and relationship management, standards of integrity and conduct, managing conflicts of interest, use of probity auditors, and supplier feedback and complaints. Transparency of tender opportunities and contract awards is facilitated by the Government Electronic Tenders Service. Good practice is also encouraged through Mandatory Rules for Procurement by Departments, and the development of Government Model Contracts and tender document templates.

2. Summary of forward work program to implement Leaders' and Ministers' commitments.

In 2011, the New Zealand Government agreed to an All of Government Response to Organised Crime ("AGROC"). This Response contains a number of projects that are currently underway that will further implement Leaders' and Ministers' Commitments, including:

- Development of a National anti-corruption policy
- Review of New Zealand's mutual legal assistance framework to ensure New Zealand is able to provide the widest measures of mutual legal assistance to foreign states

In addition, the Government expects to introduce the Organised Crime and Anti-Corruption Legislation Bill to Parliament shortly.

I. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO UNCAC PROVISIONS**LEADERS' AND MINISTERS' COMMITMENTS****Santiago Commitment/COA: Take All Appropriate Steps Towards Ratification of, or Accession to, and Implementation of the UNCAC:**

- Intensify our efforts to combat corruption and other unethical practices, strengthen a culture of transparency, ensure more efficient public management, and complete all appropriate steps to ratify or accede to, and implement the UNCAC.
- Develop training and capacity building efforts to help on the effective implementation of the UNCAC's provisions for fighting corruption.
- Work to strengthen international cooperation in preventing and combating corruption as called for in the UNCAC including extradition, mutual legal assistance, the recovery and return of proceeds of corruption.

I.A. Adopting Preventive Measures (Chapter II, Articles 5-13)

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RELEVANT UNCAC PROVISIONS

Chapter II, Articles 5-13 including:

- Art. 5(2) Establish and promote effective practices aimed at the prevention of corruption.
- Art. 7(1) Adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials that:
 - Are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
 - Include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
 - Promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
 - Promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions.
- Art. 7(4) Adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.
- Art. 8(2) Endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
- Art. 8(5) Establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials. Art. 52(5)/(6) [sharing the information on the financial disclosures that should be in place]
- Art. 10(b) Simplify administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities.
- Art. 12(2)(b) Promote the development of standards and procedures designed to safeguard the integrity of private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State.
- Art. 12(2)(c) Promote transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities.

- Art. 13(1) Promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Intensify our efforts to combat corruption and other unethical practices, strengthen a culture of transparency, ensure more efficient public management, and complete all appropriate steps to ratify or accede to, and implement the UNCAC.

New Zealand has a number of measures aimed at combating corruption and other unethical practices, strengthening a culture of transparency, and ensuring more efficient public management.

1. Efforts to combat corruption and other unethical practices

New Zealand combats corruption and other unethical practices through a variety of means, including objective and fair recruitment requirements, policy and systems to promote the high standards of integrity and behaviour of officials, prosecutors, and judges, and measures to prevent corruption in the public sector.

Integrity systems in the public sector

Recruitment: The State Sector Act 1988 sets out certain provisions relating to the employment of State Sector personnel, including appointment on merit, obligation to notify vacancies and equal employment opportunities (<http://www.legislation.govt.nz/act/public/1988/0020/latest/whole.html>). The selection, training, and remuneration of individual State servants is the responsibility of the Chief Executive of each State sector agency, who must operate within the bounds of the Act. The Act specifically requires Chief Executives to act independently in individual employment decisions affecting staff, which avoids political interference and upholds the political neutrality of the State Services. A central government agency, the State Services Commission, issues expectations and guidance on integrity and conduct, workforce strategy setting, and monitors wage and salary movements across the public and private sectors.

Standards of Integrity and Conduct: The State Services Commission issues guidance and resources (for example, "Understanding the Code", SSC's Political Neutrality guidance) to enable State servants to meet their obligations under the State service Commissioner's Standards of Integrity and Conduct ("the Code"). State servants must conduct themselves according to the standards of integrity and conduct set out in the Code for the State services (see: <http://www.ssc.govt.nz/code>). The State Services Commissioner has applied the Code to all Public Service Departments and most Crown Entities under s 57 of the State Sector Act. The Code sets out 16 standards, grouped under the headings Fair, Impartial, Responsible and Trustworthy, with which State servants and contractors who work in the business of the agency must comply. State services agencies' policies must

give effect to the Standards.

The State services includes not only public service departments but also Crown Entities. The Crown Entities Act codifies various ethical requirements including the disclosure and management of conflicts of interest. The State Services Commission also provides ethical guidance to Boards of Crown Entities in its "Board Appointment & Induction Guidelines". Good practice guidance in relation to conflicts of interest for the whole of the public sector has been issued by the Office of the Auditor-General: *Managing conflicts of interest: Guidance for public entities (2007)*. Many agencies may also have policy that addresses conflicts of interest in the agency. Ministers of the Crown must conduct themselves according to the standards in the New Zealand Cabinet Manual (see: <http://www.cabinetmanual.cabinetoffice.govt.nz/>).

The Code is supplemented by a number of Good Practice Guides issued by the Office of the Auditor-General, an independent Officer of Parliament. The Good Practice Guides include:

- Managing conflicts of interest: Guidance for public entities: This Guide sets out good practice in the public sector, discussing what constitutes a conflict of interest and provides an approach for dealing with particular issues (issued in 2007).
- Controlling Sensitive Expenditure: Guidelines for public entities: This Guide outlines principles for "sensitive expenditure" – spending by a public entity that could be seen to give some private benefit to an employee, such as travel and accommodation. It provides an organisational approach that embraces leadership from the top of organization and having suitable sensitive expenditure policies and procedures, and also provides practical guidance on specific types of sensitive expenditure (issued in 2007).
- Guidance for members of local authorities about the Local Authorities (Members' Interests) Act 1968: This provides guidance to local authority members on the Act, which aims to preserve the integrity of local authority decision-making by ensuring that people are not affected by personal motives when they participate in local authority decision-making, and cannot use their position to obtain preferential access to contracts (issued in 2010).

Measuring Integrity and Conduct

The State Services Commission has conducted a regular survey of perceptions of integrity and conduct of State servants in 2007, 2010 and 2013. In 2013, over 13,000 State servants from 40 agencies participated in the main survey. The survey results are reported publicly and are taken into account in the SSC Integrity team's work programme. In addition to surveying State servants, the Commission also surveys members of the public on a quarterly basis in the Kiwis Count survey.

In addition, the Protected Disclosures Act 2000 facilitates the disclosure and investigation of serious wrongdoing by providing some protections to past or current employees who make disclosures under the Act. The Act applies to both the private and the public sector and in 2007 the Ombudsman was given enhanced powers in relation to public sector organizations. Under the Act, organizations must establish internal procedures for receiving and

dealing with information about serious wrongdoing within the organisation, and to publish these widely in the organisation.

In the last few years, the State Services Commission has engaged in various promotions of the Protected Disclosures Act, including bringing international expert, Prof A J Brown, to New Zealand in 2012; arranging a workshop in 2014.

2. Efforts to strengthen a culture of transparency

Transparency in the public sector is important in New Zealand. Among measures to enhance transparency are:

- Official Information Act 1982: This Act aims to increase the availability of official information to the public and provides a framework for the request and provision of official information. The Local Government Official Information and Meetings Act 1987 is a complementary piece of legislation that applies to local authorities.
- Public Audit Act 2001: This Act establishes the Controller and Auditor-General as an officer of Parliament and reforms and restates the law relating to the audit of public sector organisations.
- Public Finance Act 1989: This Act provides a framework for Parliamentary scrutiny of the government's expenditure and management of assets and liabilities. This contains provisions and obligations for Departments, the Offices of Parliament (Parliamentary Commissioner for the Environment, Office of the Ombudsmen, and the Auditor-General), and various entities listed in Schedule 4 of the Act.
- Crown Entities Act 2004: This Act, among other things, sets out the reporting and accountability requirements for Crown Entities, including the preparation of Annual Reports and Annual financial statements. It also contains conflicts of interest reporting requirements on "members".

Since 2006 MPs have been required to register certain personal interests in the Register of Pecuniary and Other Specified Interests. These interests include company directorships and controlling interests, interests in companies and business entities, interests in trusts, real property, debtors, creditors, and gifts. Likewise, MP's expenses are disclosed to the public through the Parliament website.

In 2010 the State Services Commissioner introduced a voluntary disclosure regime for the reporting of chief executive expenses, gifts and hospitality. Chief executives of Public Service departments and most Crown entities are expected to disclose their expenses on a regular basis and at least 12 monthly and make this information publicly available on their agency's website and data.govt.nz. The code of conduct requires that all State servants "decline gifts or benefits that place us under any obligation or perceived influence". To give effect to this State services agencies are encouraged to run a 'gifts and benefits' register, on which all gifts, benefits and hospitality offered are declared.

Since 2012, the following efforts have strengthened a culture of transparency in New Zealand.

- **Open Government Partnership:** The New Zealand government accepted an invitation to participate and will join the Open Government Partnership in July 2014. Joining the Open Government Partnership involves implementing a plan of action which will be carried out over the next several years.

Transparency among private entities

The Companies Office has developed a risk assessment framework to identify risks across all registers it administers with a particular focus on the companies, limited partnerships and financial service providers registers. This framework now forms a key component of the daily work of the Companies Office Registry Enforcement and Integrity Team (REIT).

The companies register the Companies Offices' highest priority register in terms of maintaining integrity. As an example, activity establishing or maintaining information on the companies register is managed by risk assessment using a matrix of agreed criteria. These criteria include whether:

- All of the directors are resident overseas;
- NZ directors are known to use company formation agents or virtual office addresses; and
- An application for incorporation of a company includes any address or person that according to open source information has been linked to fraud or money laundering

Where a risk is identified REIT will require additional evidence regarding the proposed directors and/or shareholders prior to the Companies Office processing applications.

This additional evidence may include:

- Certified copy of director's consent form signed by every person named as a director of the proposed company.
- Certified copy of shareholder's consent form signed by every person named as a shareholder of the proposed company.
- Proof of residency for every person named as a director of the proposed company such as power, gas or phone bills, or a local municipal rates demand.
- Proof of identity such as certified copy of that person's passport."

Transparency of Integrity, Behaviours and Trust in the State services

- The State Services Commission continues to operate the following two important surveys, to provide transparent, regular measures of how well the New Zealand State services are performing in serving the government and the public.:

- Integrity and Conduct Survey: In 2013 SSC upgraded this survey to capture more comprehensive and useful information about integrity behaviours, systems and leadership. Aggregate results of forty agencies will be published in 2014.
- Kiwis Count Survey: The Kiwis Count, which measures the public's trust in New Zealand State services, is now run and reported quarterly. The *Kiwis Count* survey shows that, in contrast to similar surveys overseas, New Zealanders' satisfaction with public services has increased over the last five years.

Maintaining and sustaining momentum for improvements in New Zealand's Transparency - Bribery and Corruption Assessments

- Corruptions Perceptions Index: New Zealand, along with Denmark, was again rated at the top Transparency International *Corruptions Perceptions Index* results in 2013 of 182 countries, with a score of 91 out of 100. New Zealand improved its ranking from 90 in 2012, when New Zealand was also ranked first.
- In 2013, New Zealand was assessed by the OECD for its compliance with the Anti-Bribery Convention (Bribery of Officials in Foreign Countries) and is taking appropriate actions. OECD follow-up evaluations will take place in October 2014 and October 2015.
- A new regime to detect and deter money laundering came into force in 2013. The **Anti-Money Laundering and Counter Financing of Terrorism Act** is designed to help detect and deter money laundering and terrorism financing by requiring greater transparency. Under this law all financial institutions in New Zealand are required to do more to verify a customer's identity and, in some cases, account activity in order to protect New Zealand from financial crime, improve our financial reputation overseas, and meet international expectations.
- Justice now maintains statistics on the number of persons charged with corruption offences, the number convicted and the penalties imposed.
- Open Data Barometer: In 2013 New Zealand, along with the USA, Sweden, Denmark and Norway (tied) was placed in the top five in the *Open Data Barometer*.

Financial/Economic

Open Budget Survey: New Zealand was ranked first in the International Budget Partnership's biannual *Open Budget Survey* with a score of 92 for 2012. New Zealand improved its rating from 91 (for 2010) to 92 and from second to first place.

World Bank Assessment: New Zealand is rated highly by the World Bank's assessment of government's regulation of commerce (placing New Zealand third in 2013 (of 183 economies) in the world.

Judiciary/Legal

- Rule of Law Index: The World Justice Project's Rule of Law Index placed New Zealand 6th of 99 countries, maintaining its place in the top 10 in the world for the eight dimensions measured by the Index.
- New Zealand Court decisions are now available to the public online (Cab decision in Sept 2013 – new Court legislation presumes that Court decisions will be published unless a good reason not to [SOC Min(13)22/3]);
- In 2013 the Chief High Court Judge published an annual Report on the activities of the Judiciary.
- In 2013 the Chief District Court Judge has now published a Report on the activities of the District Court Judiciary.
- In 2013 the Attorney-General published a protocol on the appointment of Judges to higher Courts in New Zealand.
- The process for appointment of District Court Judges is now published on the Ministry of Justice website.

TI National Integrity System Report 2013

- The National Integrity System Assessment Report 2013 acknowledged the operation of some key initiatives introduced in the last five years that have increased transparency around performance and results achieved by State service agencies. These included the operation of the **Performance Improvement Framework** ("PIF") and Better Public Services. The PIF provides a transparent, publicly reported, measure of how individual agencies are performing against a range of performance criteria. As at April 2014, twenty nine PIF reviews have been published.
 - NIS Report 2013 – New Zealand's public sector is one of the world's most transparent;
 - NIS Report 2013 - legal provisions for public sector accountability are comprehensive.
 - NIS Report 2013 recognised major improvements in the transparency of MPs pay and conditions;
 - NIS Report 2013 recognised Parliament's budgeting and reporting process, accountability of Cabinet and individual Ministers and effective oversight of Cabinet.
 - NIS Report 2013 – New Zealand Judiciary meets high standards of independence, accountability and integrity;

Official Information

Cabinet has agreed to a forward work programme for a centralized approach to the systematic, proactive release of official information, including Cabinet papers, by all public entities [SEC Min 13(11)/1 refers].

Accountability

New Zealand has a number of important accountability mechanisms. For instance, the Office of the Ombudsman (independent Officers of Parliament) may investigate public complaints about administrative acts by central and local government employees. Likewise, the Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004 aims to enhance public confidence in the judicial system, and to promote its impartiality and integrity. It does so by establishing an independent Judicial Conduct Commissioner and sets out a process by which the Commissioner will investigate complaints against judges. To preserve the independence of the judiciary, complaints may be made about the conduct of a Judge, not the judicial decision itself.

Awareness raising

In 2006 the Ministry of Foreign Affairs and Trade sent a cable to all of its Posts setting out the procedures that must be followed in the event that the Post receives information about New Zealanders or New Zealand companies who may be engaged in bribery. These instructions were re-circulated in 2007 along with copies of the Ministry of Justice brochure on bribery and corruption.

3. Ensure more efficient public management

Recognising that efforts to improve value for money in public procurement should go hand in hand with measures to enhance transparency, accountability and integrity, New Zealand supports the OECD Recommendation on Enhancing Integrity in Public Procurement, adopted by the OECD Council in October 2008. This is based on Principles developed by the OECD Public Governance Committee to help governments promote good governance and prevent risks of waste, fraud and corruption in public procurement. The OECD Principles guide the entire procurement cycle from needs assessment through award to contract management and payment. The ten Principles are structured around four pillars: transparency; good management; prevention of misconduct; and accountability and control. The OECD has also developed an on-line Toolbox to help countries put the Principles into practice.

Accordingly, when the New Zealand Government in 2009 launched a four-year Government Procurement Reform Programme to promote better value for money, one of the aims of the reform was to improve governance, oversight and accountability of public sector procurement, while also achieving costs savings, building professional procurement capability, and enhancing competitive New Zealand business participation. The reform programme is led by the Government Procurement Solutions group in the Commercial Solutions Branch of the Ministry of Economic Development. The Cabinet's Expenditure Control Committee (EEC) is overseeing implementation of the programme.

Implementation of the procurement reforms is accompanied by a training and education programme to increase professional capability and capacity of government procurement practitioners. Updated policy and good practice guides for procuring agencies have been published, covering all stages of the procurement cycle such as procurement planning, contract and relationship management, standards of integrity and conduct, managing conflicts of interest, use of probity auditors, and supplier feedback and complaints. Transparency of tender opportunities and contract awards is facilitated by the Government Electronic Tenders Service. Good practice is also encouraged through Mandatory Rules for Procurement by Departments, and the development of Government Model Contracts and tender document templates. A complete list of guides and templates is available at <http://www.business.govt.nz/procurement/for-agencies/guides-and-tools/A-to-Z-guides-tools-templates/>

As further guidance specifically aimed at avoiding collusion in tendering, the New Zealand Commerce Commission has published "Guidelines for Procurers - How to Deter Bid Rigging" www.comcom.govt.nz/guidelines-for-procurers-how-to-recognise-and-deter-bid-rigging This draws on similar guidelines published by the OECD.

Also, see responses above. **Work to strengthen international cooperation in preventing and combating corruption as called for in the UNCAC including extradition, mutual legal assistance, the recovery and return of proceeds of corruption.**

New Zealand has a broad mutual assistance and international cooperation framework. This framework permits New Zealand to receive requests for extradition, assistance, and the restraint or forfeiture of assets from foreign states, regardless of whether or not New Zealand has a formal treaty relationship with the requesting state. The framework comprises:

- The Extradition Act 1999 which permits New Zealand to make and receive extradition requests from all states (though treaty partners and countries with which New Zealand has a close relationship have somewhat simplified procedures).
- The Mutual Assistance in Criminal Matters Act 1992 (MACMA) which provides for requests for assistance in criminal matters (including investigations and proceedings) to be made to and from New Zealand. The Acts permits a range of assistance to be requested, including assistance in locating individuals, obtaining evidence and serving documents.
- The Criminal Proceeds (Recovery) Act 2009 which includes a section permitting foreign restraining or forfeiture orders to be registered in New Zealand. This section links to MACMA and allows New Zealand authorities to assist foreign states by freezing or recovering the proceeds of crime (including corruption).

The measures listed above assist New Zealand's compliance with Articles 5, 7, 8, 9, 10, 11, 12, 13, 33, 43, 44, 46, 48, 52, 53, 54, 55, and 57 of UNCAC.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

AGROC contains a number of relevant projects:

- A review of New Zealand's mutual assistance framework in order to further improve international cooperation. The project will review the domestic mutual assistance systems and ensure they are sufficiently efficient and effective.
- A project which aims to further reduce the misuse of New Zealand legal arrangements and increase legal person transparency.
- The development of a national Anti-Corruption Strategy that covers both the public and private sector.

New Zealand is also currently undertaking a number of actions to improve protections of New Zealand legal persons as required by article 12 of UNCAC:

- The Companies Office and Inland Revenue are currently working on a joint initiative to review the existing process where companies are removed from the companies register due to failing to meet their filing obligations under the Companies Act 1993.
- Legislation is in the process of being amended to require New Zealand companies to either have a New Zealand resident director or a resident agent. This legislation will also provide for improved ability to de-register registered companies and limited partnerships for overseas criminality.
- Phase II AML/CFT will consider introducing AML/CFT obligations for other businesses and professions, such as lawyers, accountants, conveyancing practitioners, real estate agents and businesses that deal in high-value goods, such as auctioneers and bullion dealers. It is expected that this second phase will be complete in 2016/17.
- The Serious Fraud Office ("SFO"), an agency responsible for the investigation and prosecution of bribery and corruption in conjunction with Police, recently launched a training package for both public and private sectors, educating them to the issue of corruption both domestically and internationally. The training programme, was developed alongside Transparency International New Zealand and provides a comprehensive anti-corruption training designed by leading experts in the field, and enables organisations to provide training for their personnel. As part of the launch, the SFO, in conjunction with Business NZ and leading law firms will be promoting the training throughout the country.

The training programme can be found at www.sfo.govt.nz/anti-corruption-training.

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CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

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I. B. Criminalization and Law Enforcement (Chapter III)

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RELEVANT UNCAC PROVISIONS

- Art. 15 Adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:
 - The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;
 - The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.
- Art. 16(1) Adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.
- Art. 17 Adopt measures to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.
- Art. 20 Adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.
- Art. 21 Adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:
 - The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;
 - The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.
- Art. 27(1) Adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Domestic bribery offences

Article 15 of UNCAC requires the creation of domestic bribery offences.

New Zealand's bribery and corruption offences are contained in ss 99-105 of the Crimes Act 1961. Section 105 is the offence of general application relating to officials. It makes it an offence for an official to accept or obtain, or agree to accept or obtain, any bribe for themselves or another person to do, or not to do, any act in their official capacity. It also covers the person who proffers the bribe, making it an offence for any person to give or offer to give a bribe to any person with intent to influence any official in an act or omission by them in their official capacity. A bribe is defined very broadly, and covers both indirect and direct benefits such as money, valuable consideration, office, or employment, or any other benefit. The offence is complete at an early stage. It is not necessary for the official to actually receive the bribe, only that they have agreed to do so. Likewise, the offence is committed even before the official actually does, or omits to do, the act agreed to. The maximum penalty for both offences is 7 years imprisonment.

The Crimes Act also contains a number of other specific complementary bribery and corruption offences, namely:

- **Judicial corruption:** It is an offence punishable by 14 years imprisonment for a Judge to accept or obtain, or agree to accept or obtain, a bribe for themselves or any other person to do, or not to do, any act in their judicial capacity. There is a lesser penalty of 7 years imprisonment where the bribe relates to an act or omission by a Judge in their official, rather than judicial, capacity. This second offence also applies to Registrars. A person who proffers a bribe to a Judge or Registrar likewise commits an offence; this offence is punishable by 7 years imprisonment.
- **Corruption and bribery of Minister of the Crown:** It is an offence punishable by 14 years imprisonment for a Minister of the Crown to accept or obtain, or agree to accept or obtain, a bribe for themselves or for any other person to do, or not to do, any act in their capacity as a Minister or as a member of the Executive. A person who proffers such a bribe likewise commits an offence punishable by 7 years imprisonment.
- **Corruption and bribery of member of Parliament:** It is an offence punishable by 7 years imprisonment for a member of Parliament to accept or obtain, or agree to accept or obtain, a bribe for themselves or for any other person to do, or not to do, any act in their capacity as a member of Parliament. A person who proffers such a bribe likewise commits an offence punishable by 7 years imprisonment.
- **Corruption and bribery of law enforcement officer:** It is an offence punishable by 7 years imprisonment to accept or obtain, or agree to accept or obtain, a bribe for themselves or for any other person to do, or not to do, any act in their official capacity. A person who proffers such a bribe likewise commits an offence punishable by 7 years imprisonment.

Administration of justice offences

Article 25 contains the requirement to create offences of witness intimidation and intimidation of justice and law enforcement officials in relation to UNCAC offences

Under sections 116-117 of the Crimes Act, it is an offence punishable by 7 years imprisonment for a person to:

- conspire to obstruct, prevent, pervert, or defeat the course of justice in New Zealand or the course of justice in an overseas jurisdiction;
- dissuade or attempt to dissuade a person, by threats, bribes, or other corrupt means, from giving evidence in any cause or matter (whether civil or criminal, and whether tried or to be tried in New Zealand or in an overseas jurisdiction); or
- influence or attempt to influence, by threats or bribes or other corrupt means, a member of a jury in his or her conduct as such (whether in a cause or matter tried or to be tried in New Zealand or in an overseas jurisdiction, and whether the member has been sworn as a member of a particular jury or not); or
- accept any bribe or other corrupt consideration to abstain from giving evidence (whether in a cause or matter tried or to be tried in New Zealand or in an overseas jurisdiction); or
- accept any bribe or other corrupt consideration on account of his or her conduct as a member of a jury (whether in a cause or matter tried or to be tried in New Zealand or in an overseas jurisdiction, and whether the member has been sworn as a member of a particular jury or not); or
- wilfully attempt in any other way to obstruct, prevent, pervert, or defeat the course of justice in New Zealand or the course of justice in an overseas jurisdiction.

Secondary liability

Article 27 contains the requirement to create secondary liability offences.

New Zealand has a comprehensive secondary liability regime. Inchoate offence provisions of general application relating to parties to offences (such as aiding or abetting), incitement, attempts and conspiring to commit offences complement existing UNCAC offences within New Zealand's legislative framework.

Foreign bribery offences

Article 16 of UNCAC contains the requirement to create a foreign bribery offence.

New Zealand's foreign bribery offence is contained in the Crimes Act. Under section 105C it is an offence for a person to give, offer, or agree to give a bribe to a person with intent to influence a foreign public official in respect of any act or omission by them in their official capacity in order to: obtain or retain business; or obtain any improper advantage in business. The maximum penalty for this offence is 7 years imprisonment. The offence applies whether or not the act or omission requested is actually within the scope of that foreign official's authority. There is an exception for facilitation payments, where the benefit is small, and the act or omission relates to a routine government action (eg, simply to expedite a routine decision).

Embezzlement and misappropriation offences

Article 17 of UNCAC contains the requirement to establish embezzlement and misappropriation offences by public officials.

A number of Crimes Act offences of general application cover this conduct:

- Section 219 and 220 contain offences of theft and theft by person in a special relationship respectively. The maximum penalty for this offence depends on the value of the property stolen, but ranges from terms of imprisonment of 3 months to 7 years. Fines are also available as a penalty, ranging from \$500 to \$1000.
- Section 228 contains an offence of dishonestly taking or using a document in order to obtain any property, service, or pecuniary advantage. The maximum penalty is 7 years imprisonment.
- Section 240 makes it an offence for someone to obtain any property, privilege, service, pecuniary advantage benefit or valuable consideration through deception. The maximum penalty depends on the value of the benefit, but ranges from terms of imprisonment of 3 months to 7 years. Fines are also available as a penalty, ranging from \$500 to \$1000.
- Sections 249, 250 and 252 make it an offence to access a computer system for a dishonest purpose, damage or interfere with a computer system, and access a computer system without authorisation. The maximum penalties for these offences range from 2 – 10 years imprisonment.
- Sections 256 – 259 contain offences relating to forgery which are punishable by 10 years imprisonment
- Section 260 makes false accounting an offence punishable by 10 years imprisonment

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

New Zealand is currently developing the Organised Crime and Anti-Corruption Bill (“OCAC Bill”). This will further enhance our compliance with UNCAC by:

- creating a new criminal offence of the acceptance or solicitation of a bribe by a foreign public official
- creating a new criminal offence where a person solicits or accepts a bribe to use his or her real or supposed influence to influence an official
- increasing the penalty for private sector bribery offences under the Secret Commissions Act 1910
- listing UNCAC in the Mutual Assistance in Criminal Matters Act 1992.

It is expected that the Bill will be introduced to Parliament shortly.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

I.C. Preventing Money-Laundering

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RELEVANT UNCAC PROVISIONS

Article 14

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Art. 14(1) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons, that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering.

New Zealand's current anti-money laundering and countering financing of terrorism (AML/CFT) measures are implemented primarily through the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the AML/CFT Act). The Act was enacted in 2009 and came into force on 30 June 2013. The AML/CFT Act is accompanied by five sets of regulations.

The AML/CFT Act builds on obligations under the Financial Transactions Reporting Act 1996 (FTRA) which obligates financial institutions, casinos and other businesses (eg. accountants, lawyers) to carry out due diligence on their customers and report any suspicious transactions to the New Zealand Police Financial Intelligence Unit. The AML/CFT Act introduced enhanced AML/CFT risk management obligations on financial institutions, casinos, trust and company service providers (collectively referred to as "reporting entities", along with a comprehensive regulatory and supervisory regime for banks, non-bank financial institutions and casinos. In particular, customer due diligence and account monitoring obligations are significantly enhanced through this piece of reform. A comprehensive suite of regulations were promulgated in June 2011 and were later amended in June 2013 comprising of the final set of regulations (the Anti-Money Laundering and Countering Financing of Terrorism Regulations 2011). These regulations largely finalise the regulatory framework for phase one of the New Zealand AML/CFT regime.

Art. 14(2) Implement feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders.

The AML/CFT Act sets out obligations to report cross border transportation of cash. The obligations came into force on 16 October 2010. The Anti-

Money Laundering and Countering Financing of Terrorism (Cross-border Transportation of Cash) Regulations 2010 set the cash reporting threshold at NZ\$9,999.99 (approximately equivalent to US\$8000). Relevant offences in the AML/CFT Act are: failure to report cash, structuring of transactions to avoid application of AML/CFT requirements and providing false or misleading information in connection with a cash report. The movement of cash in breach of any requirement in the AML/CFT Act may be considered an offence under the Customs and Excise Act 1996 (importation or exportation of a prohibited good).

Art. 14(3) Implement appropriate and feasible measures to require financial institutions, including money remitters, to:

- (a) include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;
- (b) maintain such information throughout the payment chain; and
- (c) apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

The AML/CFT Act requires reporting entities to meet certain customer due diligence obligations in respect of domestic and international wire transfers. A reporting entity that is an ordering institution must identify the originator of an international wire transfer that is over the applicable threshold of \$1,000 by obtaining the originator's full name, account number (or other identifying information that may be prescribed through regulation) and one of the following: originator's address, originator's national identity number, originator's customer identification number, originator's place and date of birth, and any information prescribed by regulations. The ordering institution must also identify and verify the identity of the beneficiary of the wire transfer either by obtaining their name, account number or any unique transaction reference that allows the transaction to be traced. There are also obligations in respect of domestic wire transfers.

Pursuant to the AML/CFT Act, any originator information must be maintained by a reporting entity that is an intermediary institution. Beneficiary institutions must use effective risk-based procedures for handling wire transfers that are not accompanied by all of the originator information required by the AML/CFT Act and consider whether the wire transfers constitute a suspicious transaction

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

One of the Projects within AGROC is to extend the AML/CFT regime to Designated Non-Financial Businesses and Professions, such as lawyers and accountants. This work is expected to be completed in 2016/17. In the interim these entities will continue to be covered by the current FTRA obligations.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

II. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO APEC INTEGRITY STANDARDS (CROSS CHECK WITH I.A. ABOVE)

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LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Strengthen Measures to Effectively Prevent and Fight Corruption and Ensure Transparency by Recommending and Assisting Member Economies to:

- Establish objective and transparent criteria that assure openness for merit, equity, efficiency for the recruitment of civil servants, and promote the highest levels of competence and integrity;
- Adopt all necessary measures to enhance the transparency of public administration, particularly with regard to organization, functioning and decision-making processes;
- Develop and implement appropriate public financial disclosure mechanisms or codes of conduct for senior-level public officials [SOM III: Guidelines];

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Santiago Commitment/COA: Strengthen Measures to Effectively Prevent and Fight Corruption and Ensure Transparency by Recommending and Assisting Member Economies to:

Establish objective and transparent criteria that assure openness for merit, equity, efficiency for the recruitment of civil servants, and promote the highest levels of competence and integrity;

The New Zealand State Services Commission administers the State Sector Act, has an oversight role on general human resources management practices, and provides advice and assistance on these matters to agencies in the State services. However, it is the responsibility of the Chief Executive of each State Services agency to develop and implement specific human resources policies. State servants have access to employment relations services through the Department of Labour and can lodge claims against their employers which may be dealt with independently of government.

i. Access to the public service through a merit-based system.

In appointing employees, agencies must comply with the provisions in the State Sector Act 1988, which requires an employer to give preference to the person who is best suited to the position (State Sector Act 1988, s 77G).

ii. Advertisement for the selection of public servants, indicating the qualifications for selection.

In appointing employees, agencies must comply with the provisions in the State Sector Act 1988, which requires chief executives intending to fill a position that is vacant, or is to become vacant, to, wherever practicable, notify the vacancy or prospective vacancy in a manner sufficient to enable suitably qualified persons to apply for the position (State Sector Act, s61). In practice, a large proportion of State sector jobs are advertised on a dedicated "NZ Government Jobs" website: <https://jobs.govt.nz/>.

iii. Ways to challenge a decision made in the selection system.

The State Sector Act requires all chief executives to put into place for their agency a procedure for reviewing appointments made within the agency that are the subject of any complaint by an employee of that department (State Sector Act, s 65).

The State Sector Act 1988 sets out certain provisions relating to the employment of State Sector personnel, including obligations relating to appointment on merit, the notification of vacancies, and equal employment opportunities (see <http://www.legislation.govt.nz/act/public/1988/0020/latest/whole.html>)

The recruitment of individual State servants, however, is the responsibility of the Chief Executive of each State sector agency, who must operate within the bounds of the Act. The code of conduct for the State services requires all State servants operate with the highest levels of competence and integrity (see: <http://www.ssc.govt.nz/code>).

Adopt all necessary measures to enhance the transparency of public administration, particularly with regard to organization, functioning and decision-making processes;

The State Services Commission has oversight of the integrity system, undertaking reviews to ensure appropriate bodies and officers are in place, and adequate checks and balances are in place across the system, for example an Independent Police Complaints Authority, Judicial Complaints Commissioner, Ombudsmen, Privacy Commissioner etc. It runs a "helpdesk" accessible to State servants who may wish to seek advice or guidance on matters of integrity and conduct. It also investigates allegations of breaches of standards of integrity.

Develop and implement appropriate public financial disclosure mechanisms or codes of conduct for senior-level public officials [SOM III: Guidelines];

See response above at I.A

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

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CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

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III. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO SAFE HAVENS (CROSS CHECK WITH I.C. ABOVE):

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 Telephone Number: +64 4 494 9867 Fax Number: _____ Email Address: emma.scott@justice.govt.nz

LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Deny safe haven to officials and individuals guilty of public corruption, those who corrupt them, and their assets:

- Promote cooperation among financial intelligence units of APEC members including, where appropriate, through existing institutional mechanisms.
- Encourage each economy to promulgate rules to deny entry and safe haven, when appropriate, to Officials and individuals guilty of public corruption, those who corrupt them, and their assets.
- Implement, as appropriate, the revised Financial Action Task Force (FATF) 40 Recommendations and (Santiago Course of Action)
- Work cooperatively to investigate and prosecute corruption offenses and to trace freeze, and recover the proceeds of corruption (Santiago Course of Action)
- Implement relevant provisions of UNCAC. These include:
 - Art. 14 (Money laundering)
 - Art. 23 (Laundering of Proceeds of Crime)
 - Art. 31 (Freezing, seizure and confiscation)
 - Art. 40 (Bank Secrecy)
 - Chapter V (Asset Recovery)

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Santiago Commitment/COA: Deny safe haven to officials and individuals guilty of public corruption, those who corrupt them, and their assets:

Promote cooperation among financial intelligence units of APEC members including, where appropriate, through existing institutional mechanisms.

Through the SFO, New Zealand's relationships with other international specific anti-corruption bodies are growing, leading to greater cooperation and sharing of financial intelligence where this is appropriate.

The SFO continues to build on relationships with international anti-corruption bodies through formal liaison on matters of interest (potential

investigations) and also informally. Further the SFO attends and speaks at conferences such as the Hong Kong ICAC Corruption Symposium, and the Australian Public Sector Anti-Corruption Conference. This allows us to share our experiences, learning as well from other agencies, and also developing informal as well as formal networks on which to base future queries and assistance.

The Serious Fraud Office Act (section 51) also specifically allows the SFO to enter into intelligence and information sharing agreements with other like bodies:

a. Agreements with overseas agencies

(1) The Director may enter into any agreement or agreements with any person in any other country whose functions are or include the detection and investigation of cases of fraud or the prosecution of any proceedings which relate to fraud, if—

(a) the agreement relates to a particular case or cases of fraud; and

(b) in the case of an agreement providing for the supply of information by the Serious Fraud Office,—

(i) the Director is satisfied that compliance with the agreement will not substantially prejudice the performance of the Serious Fraud Office's functions in relation to any other investigations; and

(ii) the Director has recommended to the Attorney-General that the agreement be entered into and the Attorney-General has accepted the recommendation.

The SFO uses these provisions when required.

Encourage each economy to promulgate rules to deny entry and safe haven, when appropriate, to Officials and individuals guilty of public corruption, those who corrupt them, and their assets.

Implement, as appropriate, the revised Financial Action Task Force (FATF) 40 Recommendations and (Santiago Course of Action)

The New Zealand Government is to consider the implications of the recent revisions to the FATF Recommendations for New Zealand's AML/CFT regime. Further reform of the AML/CFT regime will be progressed from 2013 for implementation in 2016/17.

Work cooperatively to investigate and prosecute corruption offenses and to trace freeze, and recover the proceeds of corruption (Santiago Course

of Action)

The SFO has a remit to investigate and prosecute offences, but not to freeze and recover assets. This is carried out by the Asset Recovery Unit of the NZ Police. The SFO and the Asset Recovery Unit work collaboratively on issues. Current and recent cases include:

- An instance where both the bribe and profits arising from the related transaction were recovered as assets and returned to the Crown.
- An SFO joint investigation with an overseas agency, resulting in assets being frozen in both New Zealand and another jurisdiction.
- A current live investigation whereby the SFO, Asset Recovery Unit and other agencies are working very closely to maximize the output from the investigation including both criminal charges and likely recovery of assets.

Implement relevant provisions of UNCAC. These include:***a. Art. 14 (Money laundering)***

See above at I.C.

New Zealand's Financial Intelligence Unit (FIU), housed in the Police, receives suspicious transaction reports from businesses regulated under the AML/CFT Act and FTRA, undertakes analysis, and disseminates information to domestic authorities regarding potential money-laundering. It is also a full member of the Egmont Group and the information sharing arrangements of that group. New Zealand also receives and provides information via Interpol and various agency bilateral arrangements, as well as through formal mutual legal assistance arrangements.

The Ministry of Justice is the agency responsible for development of the AML/CFT regulatory regime in New Zealand. There are three statutory supervisors under the AML/CFT Act; the Reserve Bank of New Zealand, the Financial Markets Authority and the Department of Internal Affairs. The FIU and the New Zealand Customs Service are also competent authorities under the AML/CFT Act. The AML/CFT requires a co-ordination committee comprising the agencies to be led by the Chief Executive of the Ministry of Justice. The National Coordination Committee ensures that the necessary connections between the AML/CFT supervisors, New Zealand Police and the New Zealand Customs Service are made in order to ensure consistent, effective and efficient operation of the AML/CFT regulatory system in New Zealand.

Since June 2013, the AML/CFT Act has required information on international and domestic wire transfers to be collected, and increased scrutiny of transactions which do not meet such requirements, by reporting entities regulated under the Act. The OCAC Bill will require reporting entities subject to the AML/CFT Act to report on all international wire transfers over the threshold of \$1,000 and large physical cash transactions of \$10,000 or more to the FIU. This will improve the intelligence and analytical capability of the FIU to effectively detect money laundering and terrorist financing and

increases public confidence in the financial system.

b. Art. 23 (Laundering of Proceeds of Crime)

New Zealand has criminalised money laundering under s 243 of the Crimes Act. The offence covers the conversion or transfer, concealment or disguise, possession and acquisition of property. It is not necessary that a person be convicted of a predicate offence to establish that assets are the proceeds of a predicate offence and convict someone of laundering such proceeds. The OCAC Bill will also remove the requirement that laundering is conducted in relation to the proceeds of a *serious* offence (being any offence punishable by 5 or more years' imprisonment). This will therefore remove the need for the prosecution to establish a specific offence from which the funds were derived.

The money laundering offence also currently applies to serious offences committed outside of New Zealand, subject to double criminality requirements being satisfied. The same changes described above will apply with respect to serious offences committed outside of New Zealand via the OCAC Bill. Liability for money laundering extends to both natural and legal persons and the requisite intentional element may be inferred from objective factual circumstances. The money laundering offence is punishable by imprisonment for up to seven years for natural persons.

c. Art. 31 (Freezing, seizure and confiscation)

New Zealand enacted CPRA in 2009 to replace the Proceeds of Crime Act 1991. The 2009 Act introduces a civil forfeiture regime for recovering assets and profit obtained from significant criminal activity, where the activity amounts to a criminal offence punishable by 5 years' imprisonment or more, or from which a profit of \$30,000 or more has been acquired. This includes UNCAC bribery and corruption offences, as well as the money-laundering offence.

In compliance with Art 31 UNCAC, CPRA allows the New Zealand Police to apply to restrain and forfeit either:

- property acquired as the result of significant criminal activity; or
- property (including legitimately obtained assets) to the value of the profit obtained from significant criminal activity.

Under the CPRA regime a restraining or forfeiture order may be pursued regardless of whether or not a conviction has been obtained in relation to the alleged offending. The Crown is required to prove on the balance of probabilities (i.e. that it is more likely than not) that the property is the proceeds of serious crime or the individual has benefited from significant criminal offending.

d. Art. 40 (Bank Secrecy)

There is no general financial secrecy provision in New Zealand legislation. Moreover, New Zealand enacted the Search and Surveillance Act in 2012,

which provides for enhanced search and surveillance powers to investigate offending.

e. Chapter V (Asset Recovery)

The Mutual Assistance in Criminal Matters Act 1992 and the CPRA allow a foreign country to apply to the New Zealand authorities to enforce a foreign restraining or forfeiture order. A forfeiture order will allow authorities to seize any proceeds of crime, or assets equivalent to the value of the profit obtained from the crime. As explained above, such an order does not require a conviction to have been obtained in the requesting country; rather it simply requires the Crown to prove it is more likely than not that the assets are criminal proceeds. This regime enables New Zealand, acting to assist the requesting state, to recover assets that have been improperly obtained.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

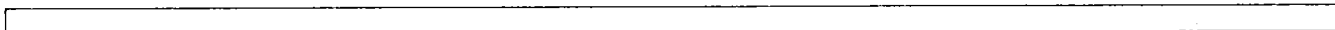
As part of the AGROC, the OCAC Bill will:

- Improve the interchange with overseas law enforcement agencies to gather information on techniques, methodologies, resources and enforcement approaches for dealing with criminal groups and offending;
- Ensure more efficient and broader mutual legal assistance.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

New Zealand actively participates in a number of international bodies with an aim to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering. As stated above, New Zealand is a member of the FATF and the Asia/Pacific Group on Money Laundering. New Zealand also participates in activities carried out by the International Co-operation Review Group through participation in the APG Regional Review Group. New Zealand is also involved in a number of other international fora relevant to anti-money laundering and countering terrorist financing, including the Global Counter-Terrorism Forum (GCTF), APEC Counter-Terrorism Task Force (CTTF), UN Counter-Terrorism Executive Directorate (UN CTED) and the Pacific Working Group on Counter-Terrorism (WGCT).

2014



IV. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO PRIVATE SECTOR CORRUPTION:

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LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Fight both Public and Private Sector Corruption:

- Develop effective actions to fight all forms of bribery, taking into account the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or other relevant anticorruption conventions or initiatives.
- Adopt and encourage measures to prevent corruption by improving accounting, inspecting, and auditing standards in both the public and private sectors in accordance with provisions of the UNCAC.
- Support the recommendations of the APEC Business Advisory Council (ABAC) to operate their business affairs with the highest level of integrity and to implement effective anticorruption measures in their businesses, wherever they operate.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Santiago Commitment/COA: Fight both Public and Private Sector Corruption:

Develop effective actions to fight all forms of bribery, taking into account the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or other relevant anticorruption conventions or initiatives.

Since 2012, the New Zealand Export Credit Office (NZECO) has reviewed and updated its Anti-Bribery Policy and website to be consistent with best practice initiatives (including those of other OECD export credit agencies) that encourage the combating of bribery in international business transactions, such as the OECD Action Statement on Bribery and Officially Supported Export Credits. NZECO has also provided training to its entire staff on identifying and combating bribery (via online training at <http://www.doingbusinesswithoutbribery.com/newzealand.html>), and NZECO's internal processes in the event of suspicion or credible evidence of bribery.

For example, as part of the application process for a NZECO product, all applicants are required to sign a Declaration of Anti-Bribery. This includes:

- an acknowledgement of NZECO's Anti-Bribery initiatives which encourage exporters to have and apply internal policies to combat bribery and corruption, and they are referred to NZECO's website: <http://www.nzeco.govt.nz/antibribery/policy>
- informing applicants about the consequences of breaking the law against bribery by summarising the relevant New Zealand legislation regarding bribery (contained in the New Zealand Crimes Act 1961 and the New Zealand Secret Commissions Act 1910), and pointing them to

further information at: www.justice.govt.nz/bribery-corruption/index.html; and

- requiring the applicant to declare that they, nor anyone acting on their behalf or acting with its consent or authority (including any of the Applicant's employees, agents or subcontractors):
 - have not been engaged, or will engage, in any corrupt conduct including bribery while conducting the export transaction referred to in the NZECO application; or
 - are not currently under charge in a national court, or within a five year period preceding the date of this declaration have been convicted in a national court or been subject to equivalent national administrative measures for violation of laws against bribery of foreign public officials of any country; or
 - are not listed on the publicly available debarment list of the World Bank Group or any similar international financial institution.

If there is credible evidence of bribery in the award of the export contract, the NZECO will refuse to approve credit, cover or other support. If after credit, cover or other support has been approved and an involvement in bribery by the applicant or other beneficiary is proved, the NZECO will take whatever action it deems appropriate including the denial of payment or indemnification, seeking repayment of sums paid out and/or referral of evidence of such bribery to the appropriate authorities both in New Zealand and in any other relevant jurisdiction.

New Zealand has a variety of mechanisms to identify and prevent or manage conflicts of interest in the private sector in New Zealand. Many of these are contained in primary or secondary legislation. An important example is the provisions in the Companies Act 1993 governing the disclosure and avoidance of transactions in which the director of a company may be interested. There are also regulatory regimes that cover occupations where there is potential for conflicts of interest. For instance, the Real Estate Agents Act 2008 requires a real estate agent to disclose information concerning conflicts of interest (such as the benefits they stand to gain from the transaction) and creates a criminal offence for failure to disclose that information. Other occupations include provisions in their Code or Rules of Conduct which would trigger disciplinary action if breached.

An important source of law to manage conflicts of interest is the common law (judge made law) in its application to those acting in a fiduciary capacity. A fiduciary is someone who holds a special position of trust and confidence in relation to another person. Fiduciary relationships include trustee/beneficiary, agent/principal, director/company and solicitor/client.

A fiduciary must not enter into arrangements that might give rise to a conflict between their personal interests and those of the person for whom they are a fiduciary. Remedies are available for breach of that duty through the courts. Potential remedies include an account of profits, compensation or creating of a constructive trust in respect of assets the fiduciary received as a result of their breach. The duty and the availability of remedies for breach incentivise appropriate behaviour by those acting as a fiduciary.

Adopt and encourage measures to prevent corruption by improving accounting, inspecting, and auditing standards in both the public and private

sectors in accordance with provisions of the UNCAC.

The New Zealand Aid Programme provides financial support to the Pacific Association of Supreme Audit Institutions (PASAI) for its delivery of the Pacific Regional Audit Initiative (PRAI). The Ministry of Foreign Affairs and Trade also funds the NZ Office of the Auditor-General through the New Zealand Aid Programme to provide support to the PASAI secretariat.

The intended outcome of the PASAI is transparent, accountable and effective use of public sector resources in the Pacific, the PRAI being the means to these ends. The PRAI itself has four strategic goals: (1) strengthening regional cooperation, (2) building and sustaining public auditing capacity, (3) conducting cooperative financial and performance audits, and (4) strengthening communications and advocating transparency and accountability. Annual stakeholder surveys are used to show improvements in transparency and accountability.

Progress towards these goals is being made. However, there is a backlog of audits across the region. Clearing these would be a major achievement for PASAI and the region and would allow the PASAI and its members to focus their work on the other strategic goals of the PRAI. Work towards clearing the backlog is ongoing.

Support the recommendations of the APEC Business Advisory Council (ABAC) to operate their business affairs with the highest level of integrity and to implement effective anticorruption measures in their businesses, wherever they operate.

See response to I.A. above.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

AGROC contains a project to develop a National Anti-Corruption Strategy covering both the public and private sector. The strategy is intended to cover prevention, detection, investigation and remedy of corruption. Work on the strategy is ongoing.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

V. ENHANCING REGIONAL COOPERATION

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LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Strengthen Cooperation Among APEC Member Economies to Combat Corruption and Ensure Transparency in the Region:

- Promote regional cooperation on extradition, mutual legal assistance and the recovery and return of proceeds of corruption.
- Afford one another the widest measure of mutual legal assistance, in investigations, prosecutions and judicial proceedings related to corruption and other offences covered by the UNCAC.
- Designate appropriate authorities in each economy, with comparable powers on fighting corruption, to include cooperation among judicial and law enforcement agencies and seek to establish a functioning regional network of such authorities.
- Sign bilateral and multilateral agreements that will provide for assistance and cooperation in areas covered by the UNCAC. (Santiago Course of Action) These include:
 - Art. 44 – Extradition
 - Art. 46 – Mutual Legal Assistance
 - Art. 48 – Law Enforcement Cooperation
 - Art. 54 – Mechanisms for recovery of property through international cooperation in confiscation
 - Art. 55 – International Cooperation for Purposes of Confiscation
- Work together and intensify actions to fight corruption and ensure transparency in APEC, especially by means of cooperation and the exchange of information, to promote implementation strategies for existing anticorruption and transparency commitments adopted by our governments, and to coordinate work across all relevant groups within APEC (e.g., SOM, ABAC, CTI, IPEG, LSIF, and SMEWG).
- Coordinate, where appropriate, with other anticorruption and transparency initiatives including the UNCAC, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, FATF, the ADB/OECD Anticorruption Action Plan for the Asia Pacific region, and Inter-American Convention Against Corruption.
- Recommend closer APEC cooperation, where appropriate, with the OECD including a joint APEC-OECD seminar on anticorruption, and similarly to explore joint partnerships, seminars, and workshops with the UN, ADB, OAS, the World Bank, ASEAN, and The World Bank, and other appropriate multilateral intergovernmental organizations.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Promote regional cooperation on extradition, mutual legal assistance and the recovery and return of proceeds of corruption.

New Zealand is party to a number of extradition and mutual legal assistance treaties:

- New Zealand has entered into four extradition treaties with Korea, Hong Kong, Fiji and the United States.
- New Zealand may also be bound (depending on extradition partners' views as to whether the extradition treaty remains extant) as a successor state to 50 extradition treaties concluded on its behalf by the United Kingdom prior to independence. These include treaties with Albania, Chile, the Netherlands, Austria, Spain, Thailand, Brazil, Russia and Mexico, amongst many others.
- New Zealand is a party to mutual legal assistance treaties with China, Korea and Hong Kong.

Both the Extradition Act 1999 and the Mutual Assistance in Criminal Matters Act 1992 (which permits assistance in restraining or forfeiting criminal proceeds) allow for ad hoc requests from countries with which New Zealand does not have a formal treaty relationship. This permits any foreign states to apply to make an extradition or mutual legal assistance request.

Afford one another the widest measure of mutual legal assistance, in investigations, prosecutions and judicial proceedings related to corruption and other offences covered by the UNCAC.

New Zealand's mutual legal assistance framework allows New Zealand to receive and execute requests for assistance in criminal matters. The Mutual Assistance in Criminal Matters Act 1992 permits assistance to be provided or sought in relation to both criminal investigations and criminal proceedings. The Act provides for a range of assistance to be requested or sought, including assistance in locating or identifying persons, obtaining evidence, articles, or things, serving documents and enforcing restraining or forfeiture orders.

All requests must be made in connection with either an investigation into an offence or a prosecution for an offence). If the request is an ad hoc request, it may relate to any offence (within certain limitations, e.g. the request may be denied if the offence is trivial, political or a military offence). In general, New Zealand authorities will offer assistance provided the request is adequate in form and the provision of assistance is not contrary to certain humanitarian grounds and fundamental legal principles.

Designate appropriate authorities in each economy, with comparable powers on fighting corruption, to include cooperation among judicial and law enforcement agencies and seek to establish a functioning regional network of such authorities.

The SFO is the designated authority, in cooperation with other agencies in this regard.

Sign bilateral and multilateral agreements that will provide for assistance and cooperation in areas covered by the UNCAC. (Santiago Course of Action) These include:

- **Art. 44 – Extradition**
- **Art. 46 – Mutual Legal Assistance**
- **Art. 48 – Law Enforcement Cooperation**
- **Art. 54 -- Mechanisms for recovery of property through international cooperation in confiscation**
- **Art. 55 – International Cooperation for Purposes of Confiscation**

New Zealand has signed and entered into a number of agreements and arrangements with other countries. For instance:

- Agreement between New Zealand and the Government of the Hong Kong Special Administrative Region of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income
- Agreement Risk Assessment between New Zealand and the Government of Turkey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income
- Memorandum of Cooperation between the United States Department of Homeland Security, US Customs and Border Protection and the NZ Customs Service regarding the Automated Targeting System-Global (ATS-G) Pilot for Passenger
- Smartgate Integration Arrangement between the New Zealand Customs Service and the Australian Customs and Border Protection Service
- Memorandum Of Understanding between the Department of Defence of the United States of America Represented by the National Geospatial-Intelligence Agency and the New Zealand Defence Force Represented by the Geospatial Intelligence Organisation Concerning Loan of GEOINT Application Software
- Joint Statement between the New Zealand Department of Labour and the US Department of Homeland Security on Combating Trafficking in Persons in the Pacific Island Region
- Joint Statement between New Zealand and the United States to Strengthen Border Security, Combat Transnational Crime and Facilitate Legitimate Trade and Travel
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Work together and intensify actions to fight corruption and ensure transparency in APEC, especially by means of cooperation and the

exchange of information, to promote implementation strategies for existing anticorruption and transparency commitments adopted by our governments, and to coordinate work across all relevant groups within APEC (e.g., SOM, ABAC, CTI, IPEG, LSIF, and SMEWG).

Coordinate, where appropriate, with other anticorruption and transparency initiatives including the UNCAC, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, FATF, the ADB/OECD Anticorruption Action Plan for the Asia Pacific region, and Inter-American Convention Against Corruption.

As provided in the response to III above, New Zealand actively participates in a number of international bodies with an anti-corruption focus, including the OECD Working Group on Bribery, the FATF and the Asia Pacific Group on money laundering.

Recommend closer APEC cooperation, where appropriate, with the OECD including a joint APEC-OECD seminar on anticorruption, and similarly to explore joint partnerships, seminars, and workshops with the UN, ADB, OAS, the World Bank, ASEAN, and The World Bank, and other appropriate multilateral intergovernmental organizations.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

As provided in the response to III above, New Zealand's mutual assistance framework is currently being reviewed.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

VI. OTHER APEC ACT LEADERS' AND MINISTERS' COMMITMENTS

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

- **2005:** Ministers encouraged all APEC member economies to take all appropriate steps towards effective ratification and implementation, where appropriate, of the United Nations Convention against Corruption (UNCAC). Ministers encouraged relevant APEC member economies to make the UNCAC a major priority. They urged all member economies to submit brief annual progress reports to the ACT Task Force on their APEC anti-corruption commitments, including a more concrete roadmap for accelerating the implementation and tracking progress. (See Section I Above, UNCAC)
- **2006:** Ministers underscored their commitment to prosecute acts of corruption, especially high-level corruption by holders of public office and those who corrupt them. In this regard, Ministers commended the results of the Workshop on Denial of Safe Haven: Asset Recovery and Extradition held in Shanghai in April 2006. Ministers agreed to consider developing domestic actions, in accordance with member economy's legislation, to deny safe haven to corrupt individuals and those who corrupt them and prevent them from gaining access to the fruits of their corrupt activities in the financial systems, including by implementing effective controls to deny access by corrupt officials to the international financial systems.
- **2007:** We endorsed a model Code of Conduct for Business, a model Code of Conduct Principles for Public Officials and complementary Anti-Corruption Principles for the Private and Public Sectors. We encouraged all economies to implement these codes and welcomed agreement by Australia, Chile and Viet Nam to pilot the Code of Conduct for Business in their small and medium enterprise (SME) sectors. (AELM, AMM)
- **2008:** We commended efforts undertaken by member economies to develop comprehensive anti-corruption strategies including efforts to restore public trust, ensure government and market integrity. We are also committed to dismantle transnational illicit networks and protect our economies against abuse of our financial system by corrupt individuals and organized criminal groups through financial intelligence and law enforcement cooperation related to corrupt payments and illicit financial flows. We agreed to further strengthen international cooperation to combat corruption and money laundering in accordance with the Financial Action Task Force standards. International legal cooperation is essential in the prevention, investigation, prosecution and punishment of serious corruption and financial crimes as well as the recovery and return of proceeds of corruption. (AELM, AMM)
- **2009:** We welcome the Anti-Corruption and Transparency Experts' Task Force's Singapore Declaration on Combating Corruption, Strengthening Governance and Enhancing Institutional Integrity, as well as the APEC Guidelines on Enhancing Governance and Anti-Corruption. We encourage economies to implement measures to give practical effect to the Declaration and Guidelines. (AMM)
- **2010:** We agreed to leverage collective action to combat corruption and illicit trade by promoting clean government, fostering market integrity, and strengthening relevant judicial and law enforcement systems. We agreed to deepen our cooperation, especially in regard to discussions on achieving more durable and balanced global growth, increasing capacity building activities in key areas such as combating corruption and bribery,

denying safe haven to corrupt officials, strengthening asset recovery efforts, and enhancing transparency in both public and private sectors. We encourage member economies, where applicable, to **ratify the UN Convention against Corruption and UN Convention against Transnational Organized Crime and to take measures to implement their provisions, in accordance with economies legal frameworks to dismantle corrupt and illicit networks across the Asia Pacific region.** (AELM, AMM)

- **2011:** We will also take the following steps to increase convergence and cooperation in our regulatory systems: **Ensure implementation of our APEC anti-corruption and open government commitments by 2014 through deeper cooperation in APEC.** (AELM)
- **2012:** We strongly commit to fight against corruption to ensure openness and transparency in APEC. Acknowledging that corruption fuels illicit trade and insecurity and is a tremendous barrier to economic growth, the safety of citizens, and to the strengthening of economic and investment cooperation among APEC economies, **we endorse commitments on Fighting Corruption and Ensuring Transparency** (see Annex E). (AELM)
- **2013:** On Sustainable Growth with Equity: We agreed to take further steps toward empowering, engaging and opening opportunities for our stakeholders to fully participate in our economic growth, by considering the following concrete actions: **(f.) advance greater collaboration among law enforcement authorities, in combating corruption, bribery, money laundering, and illicit trade, through the establishment of an APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies (ACT-NET) that will strengthen informal and formal regional and cross-border cooperation.** (AELM).

Fighting Corruption and Ensuring Transparency (AMM 2013). We reaffirmed the importance and the need to enhance prevention and enforcement in addressing corruption, bribery and other financial crimes and illicit trade that imperil our security and prosperity agenda, including the safeguarding of public assets, natural resources, and human capital. We also reaffirmed our commitment to create ethical business environments that support sustainable economic growth, in particular by strengthening ethical standards, and we encouraged all stakeholders to implement APEC's high standard principles for codes of business ethics. We applauded the Anti-Corruption and Transparency Working Group (ACTWG)'s continued leadership in collaborating with other APEC fora. We further committed to establish among member economies an "APEC Network of Anti-Corruption Authorities and Law Enforcement Authorities (ACT-NET)", under the auspices of ACTWG to promote networking and foster relationship-building among anti-corruption and law enforcement officials who can assist one another in detecting, investigating and prosecuting corruption and domestic and foreign bribery, money laundering, and illicit trade cases; to provide a forum that can facilitate bilateral and multilateral discussions of such cases, as appropriate; and to facilitate the sharing of expertise and experiences in detecting, investigating and prosecuting such cases (see Annex D).

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Take all appropriate steps towards effective ratification and implementation, where appropriate, of the United Nations Convention against Corruption (UNCAC)

New Zealand is actively working towards ratification of UNCAC. The Treaty was referred to a Parliamentary Select Committee for consideration in 2009. The Committee reported back on the Treaty in May 2012. The OCAC Bill, which is expected to be introduced to Parliament shortly, will enable

New Zealand to ratify UNCAC.

Prosecute acts of corruption, especially high-level corruption by holders of public office and those who corrupt them

The SFO and the Police are committed to the investigation and prosecution of acts of corruption. The SFO, in particular, are active where people in public office are involved, and have brought successful prosecutions in this regard when such offices are identified. Most recently this has involved a public official receiving a bribe of \$160,000 in relation to a decision made by him in his role in public office. Both he and the individual paying the bribe have been successfully prosecuted.

Implement Code of Conduct for Business, a model Code of Conduct Principles for Public Officials and complementary Anti-Corruption Principles for the Private and Public Sectors

The State Services Commissioner has, under s57 of the State Sector Act 1988, applied a code of conduct for the State services to all Public Service Departments and most Crown Entities.

New Zealand is a signatory to the OECD Guidelines for Multinational Enterprises, which set expectations for the behavior of firms in foreign markets with respect to rule of law, anti-bribery and corruption, etc.

Dismantle transnational illicit networks and protect our economies against abuse of our financial system by corrupt individuals and organized criminal groups through financial intelligence and law enforcement cooperation related to corrupt payments and illicit financial flows

As above, the Serious Fraud Office and the Police are committed to the investigation and prosecution of acts of corruption.

Implement measures to give effect to the Declaration on Combating Corruption, Strengthening Governance and Enhancing Institutional Integrity, as well as the APEC Guidelines on Enhancing Governance and Anti-Corruption

Ratify the UN Convention against Corruption and UN Convention against Transnational Organized Crime and to take measures to implement their provisions, in accordance with economies legal frameworks to dismantle corrupt and illicit networks across the Asia Pacific region

New Zealand signed the United Nations Convention Against Transnational Organised Crime in 2000 and ratified it in 2002.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

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CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

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**Asia-Pacific
Economic Cooperation**

2014/SOM3/ACT/021
Agenda Item: 10

Anti-Corruption and Transparency Reporting Template - Russia

Purpose: Information
Submitted by: Russia



APEC
CHINA 2014

**19th Anti-Corruption and Transparency
Experts' Working Group Meeting
Beijing, China
13 August 2014**

APEC ANTI-CORRUPTION AND TRANSPARENCY (ACT) REPORTING TEMPLATE

ECONOMY:

RUSSIAN FEDERATION

CALENDAR YEAR:

2014

LAST UPDATED:

JULY 2014

LEADERS' AND MINISTERS' COMMITMENTS

- **2010:** We agreed to enhance our efforts to improve transparency and eliminate corruption, including through regular reporting via ACT and other relevant fora on economies' progress in meeting APEC Leaders' commitments on anti-corruption and transparency.
- **2006:** Ministers endorsed APEC 2006 key deliverables on Prosecuting Corruption, Strengthening Governance and Promoting Market Integrity and encouraged member economies to take actions to realize their commitments. Ministers also encouraged all economies to complete their progress reports on the implementation of ACT commitments by 2007. Ministers welcomed APEC efforts to conduct a stocktaking exercise of bilateral and regional arrangements on anti-corruption in cooperation with relevant international and regional organizations, and encouraged member economies to fully participate in the stocktaking activities.

Objective: Where appropriate, to self-assess progress against APEC Leaders' and Ministers' commitments on anti-corruption, transparency, and integrity and to identify capacity building needs to assist the ACT to identify priority areas for future cooperation.

EXECUTIVE SUMMARY

1. Summary of main achievements/progress in implementing the commitments of APEC Leaders and Ministers on anti-corruption, transparency, and integrity since 2004.

Structural anti-corruption reforms have been carried out since 2008 in accordance with the National Anti-Corruption Plans approved by the President of the Russian Federation.

The institutional system of the Russian Federation aimed at preventing and fighting corruption consists of the following institutions and bodies tasked to fight corruption:

- The Anti-Corruption Council under the President of the Russian Federation;
- The Prosecutor General's Office of the Russian Federation;
- The Investigative Committee of the Russian Federation;
- The Ministry of Justice of the Russian Federation;

- The Ministry of Internal Affairs of the Russian Federation;
- The Federal Security Service of the Russian Federation,
- The Federal Financial Monitoring Service.
- Subdivisions of personnel services for the prevention of corruption and other offenses established in each federal public authority in accordance with Decree of the President of the Russian Federation of September 21, 2009 No. 1065.

The President of the Russian Federation determines the main areas of the anti-corruption state policy, defines competence of the federal executive authorities which are under his supervision in the field of anti-corruption activity.

The Federal Assembly of the Russian Federation within its competence ensures elaboration and adoption of the anti-corruption federal laws and supervises the activity of executive authorities.

The Government of the Russian Federation distributes anti-corruption responsibilities among the federal executive authorities which are under its supervision.

The federal public authorities, those of the constituent entities of the Russian Federation and local authorities are engaged in combating corruption within their competence.

The Prosecutor General of the Russian Federation and his subordinate prosecutors within their competence coordinate the work of the internal affairs authorities of the Russian Federation, the federal security service bodies, the customs authorities of the Russian Federation and other law-enforcement agencies aimed at fighting corruption and fulfill other anti-corruption responsibilities established by the federal laws.

The Audit Chamber of the Russian Federation within its competence counteract corruption in accordance with Federal Law of January 11, 1995 No. 4-FZ "On the Audit Chamber of the Russian Federation".

The Anti-Corruption Council under the President of the Russian Federation was established by Decree of the President of the Russian Federation of May 19, 2008 No. 815 "On Anti-corruption Measures".

The commissions for official conduct requirements to be complied with by public officials and settlement of the conflict of interest cases and the councils for settlement of anti-corruption issues were established in the public authorities at the regional level.

2. Summary of forward work program to implement Leaders' and Ministers' commitments.

Advancement of the Anti-Corruption Charter of the Russian Business and the "road map" for its implementation, and the study of the initiative proposed by the business associations to elaborate anti-corruption conduct standards for the business community that will be further implemented in the framework of the Anti-Corruption Charter of the Russian Business. While preparing the draft Charter, the business associations took into account the international experience relating to setting international standards for corporate responsibility.

3. Summary of capacity building needs and opportunities that would accelerate/strengthen the implementation of APEC Leaders' and Ministers' commitments by your economy and in the region.

I. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO UNCAC PROVISIONS

LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Take All Appropriate Steps Towards Ratification of, or Accession to, and Implementation of the UNCAC:

- Intensify our efforts to combat corruption and other unethical practices, strengthen a culture of transparency, ensure more efficient public management, and complete all appropriate steps to ratify or accede to, and implement the UNCAC.
- Develop training and capacity building efforts to help on the effective implementation of the UNCAC's provisions for fighting corruption.
- Work to strengthen international cooperation in preventing and combating corruption as called for in the UNCAC including extradition, mutual legal assistance, the recovery and return of proceeds of corruption.

I.A. Adopting Preventive Measures (Chapter II, Articles 5-13)

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

RELEVANT UNCAC PROVISIONS

Chapter II, Articles 5-13 including:

- Art. 5(2) Establish and promote effective practices aimed at the prevention of corruption.
- Art. 7(1) Adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials that:
 - Are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
 - Include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
 - Promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
 - Promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions.
- Art. 7(4) Adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.
- Art. 8(2) Endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
- Art. 8(5) Establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials. Art. 52(5)/(6) [sharing the information on the financial disclosures that should be in place]
- Art. 10(b) Simplify administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities.
- Art. 12(2)(b) Promote the development of standards and procedures designed to safeguard the integrity of private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State.
- Art. 12(2)(c) Promote transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities.

- Art. 13(1) Promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Countering corruption is one of the most important domestic policy goals of the modern Russian state.

Moreover, special attention is paid to material and social incentives for law enforcement officers (Federal Law No. 247-FZ “On Social Guarantees for Employees of Law Enforcement Bodies of the Russian Federation” dated July 19, 2011, and Federal law No. 342-FZ “On Service in Law Enforcement Bodies of the Russian Federation” dated November 30, 2011). Better and stronger social protection should eliminate corruption and make the enforcement officers diligently fulfill their duties.

Law-enforcement officers are required to follow the Model Code of Ethics and Official Conduct for Officials of State and Municipal Agencies of the Russian Federation, adopted by the Presidium of the Council of the President of the Russian Federation for Countering Corruption on 23 December 2010.

At the same time, anti-corruption issues fall within the scope of the civil society institutions, including business community, among others. One of the elements of the ongoing work carried out by the Russian Federation within the framework of implementation of the requirements of Chapter II of the UN Convention against Corruption, which addresses measures to prevent corruption, is to promote dialogue between business community and public authorities on issues of combating corruption and establishing effective mechanisms of anti-corruption cooperation.

These issues fall within the scope of the Working Group on issues of joint participation in countering corruption between representatives of the business community and State agencies, created in October 2011 by the decision of the Presidium of the Council of the President of the Russian Federation for Countering Corruption, which is chaired by the Minister of Economic

Development of the Russian Federation.

At the same time, the Working Group's main action area is the development of anti-corruption measures in the areas of business and investment, which allows the business community to contribute to the anti-corruption objectives, including those on addressing corruption risks arising during business operations.

The Working Group includes representatives of the "four leaders" of the Business Associations: the Chamber of Commerce of the Russian Federation, the Russian Union of Industrialists and Entrepreneurs, the Delovaya Rossiya public organization, the Opora Rossii nationwide organization of small and medium-sized enterprises.

In accordance with the action areas, defined according to the schedule of the Working Group meetings, each business associations should study its own issues and make relevant proposals. At the same time, in order to come up with a consolidated position the association, responsible for the proposals in its respective area, shall consider the perspectives of other business associations and interact with interested Working Group members while studying the issue in detail.

The roadmaps include meetings with representatives of Russian companies operating abroad and targeted anti-corruption training for foreign missions' staff and business community representatives. Besides, it is worth noting the activities of the Public Procedures Center "Business against Corruption", created at the initiative of the Russian public organization "Business Russia" to protect the business representatives from raiding and corruption pressure and to facilitate the resolution of corporate disputes involving raider and corruption schemes.

Law-enforcement agencies also regularly interact with civil society institutions in the framework of ongoing anti-corruption campaigns.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

Concrete proposals to be developed to update the legislation of the Russian Federation with standards of regulating the interaction between the government and representatives of public organizations, individual entrepreneurs and their representatives, as well as commercial companies, including foreign ones.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

I. B. Criminalization and Law Enforcement (Chapter III)

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

RELEVANT UNCAC PROVISIONS

- Art. 15 Adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:
 - The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;
 - The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.
- Art. 16(1) Adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.
- Art. 17 Adopt measures to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.
- Art. 20 Adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.
- Art. 21 Adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:
 - The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;
 - The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.
- Art. 27(1) Adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

As to the criminalization of an offer of a bribe, the law of the Russian Federation gives priority to the approach that suggests that a passive offer reveals intent but does not entail criminal liability until it becomes an action creating conditions for the transfer of the bribe by the bribe-giver in the future or an actual attempt to transfer the object of the bribe to the bribe-taker.

If the described offer was followed by an actual bribe, the said actions are treated as a completed crime, under Articles 204 or 291 of the Criminal Code of Russia. If the bribe never occurred for reasons beyond the control of the persons involved in the attempted bribe, their actions should be treated as attempted bribe-giving or bribe-taking, or attempted illegal compensation in a profit-making organization.

An offer of a bribe can also be viewed as mediation in bribery. According to Federal Law of 4 May 2011 No. 97-FZ, mediation in bribery is direct transfer of a bribe on the instructions of the bribe-giver or bribe-taker or other kind of assistance to the bribe-giver and/or bribe-taker in achieving or implementing of an agreement between them on taking or giving a bribe (Article 291.1 of the Criminal Code (CC) of Russia).

Article 160 of the Criminal Code of Russia provides for criminal liability for misappropriation or embezzlement of other people's property entrusted to the offender. Criminal liability for the same deeds committed by a person through his or her official position is provided for by paragraph 3 of Article 160 of the CC of Russia. For the purpose of implementation of the indicated provision of the UN Convention against Corruption, Article 285.1 of the CC ("Unlawful Diversion of Budgetary Funds") and Article 285.2 of the CC ("Spending Assets of State Non-Budgetary Funds for Non-Specified Purposes") are applied.

In paragraph 1 of Article 1 of Federal Law of 8 March 2006 No. 40-FZ "On the Ratification of the United Nations Convention against Corruption", Russia declared that its jurisdiction, that is the effect of its law within its geographical boundaries, does not cover Article 20 of the Convention.

Article 204 of the CC of Russia ("Bribery in a Profit-making Organization") provides for criminal liability for illegal transfer of money, securities, or any other assets to a person who discharges the managerial functions in a profit-making or any other organization, and likewise the unlawful rendering of property-related services to him/her for the commission of actions (inaction)

in the interests of the giver, in connection with the official position held by this person.

Article 27(1) of the Convention is implemented based on the complicity provision of Chapter 7 of the CC of Russia. Complicity in a crime is defined in Article 32 of the CC as intentional joint participation of two or more persons in the commission of a deliberate crime. The perpetrator, the instigator and the accomplice are charged in accordance with the Special part of the Criminal Code that provides for punishment for the committed crime, and under parts three, four or five of Article 33 of the CC respectively.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

The General Prosecutor's Office of the Russian Federation and the Ministry of Justice are considering possible amendments to the current law providing for criminal liability in case of bribe-giving or bribe-taking as well as of bribery in a profit-making organization when the undue advantage is meant for a third party. Paragraph 11 of Ruling No. 6 of the Supreme Court of Russia "On Court Practices in Bribery-related Cases" states that an explicit intention, i.e. a "promise", by a person to give (or receive) a bribe cannot constitute the crime of attempted bribery. Such actions are treated as preparations for a crime (Part 1 of Article 30 of the CC of Russia "Preparations for a Crime, and Attempted Crimes"). In the Legislative Guide for the Implementation of the United Nations Convention against Corruption, a promise means an agreement on the transfer (or receipt) of a bribe. In the law of the Russian Federation, such actions are termed "conspiracy" and are viewed as a special case of preparations for a crime.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

I.C. Preventing Money-Laundering

Contact Point: Name: _____ Title: _____
 Telephone Number: _____ Fax Number: _____ Email Address: _____

RELEVANT UNCAC PROVISIONS

- Art. 14(1) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons, that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering.
- Art. 14(2) Implement feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders.
- Art. 14(3) Implement appropriate and feasible measures to require financial institutions, including money remitters, to:
 - (a) include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;
 - (b) maintain such information throughout the payment chain; and
 - (c) apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

In 2013, the prosecutors detected about 2,500 violations in credit and financial sphere, against which various measures were taken. More than 600 prosecutorial acts were submitted, about 1,000 guilty persons received administrative and disciplinary punishments and more than 100 criminal proceedings were initiated following the prosecutorial inspections.

In addition, in 2013 the "Rules on Communications between the Bank of Russia, the General Prosecutor's Office, Law-Enforcement and Other Federal Public Authorities of the Russian Federation in Identifying and Suppressing the Illegal Financial Operations of Credit Institutions and Their Clients" were approved and are being actively implemented.

Lately, the Bank of Russia has been actively applying such form of response to violations as the withdrawal of licenses for banking operations from credit institutions.

Federal Law No. 134-FZ "On Amending Certain Legal Acts of the Russian Federation with relevance to Combating Illicit Financial Transactions" of June 28, 2013, enacted new wordings of Article 174 ("The Legalization (Laundering) of Funds and

Other Property Acquired by Other Persons Illegally”) and Article 174.1 (“The Legalization (Laundering) of Monetary Funds or Other Property Acquired by a Person as a Result of an Offence Committed by Him/Her”) to the Criminal Code of the Russian Federation.

Also, according to the above mentioned Federal Law, Article 26 of the Federal Law No. 395-1-FZ "On Banks and Banking Activities" of December 2, 1990, was supplemented by the provision that account statements of legal entities and individual entrepreneurs, as well as account statements and statements of deposit of private entities shall be issued pursuant to court order of the credit institutions to the officials of those authorities that are responsible for the operational-search activity, if they perform their responsibilities related to detection, prevention and suppression of crimes, upon their requests delivered to the court as set forth by Article 9 of Federal Law No. 144-FZ "On Operational and Search Activities" of August 12, 1995, should there be any information on the signs, showing that an unlawful act is being prepared or committed, or has been perpetrated, as well as on the persons, who are preparing or committing it or have perpetrated it, if the information is insufficient to resolve the issue of instituting a criminal case.

Chapter 15.1 "Confiscation of Property" of the Criminal Code of the Russian Federation consists of three articles: 104.1, 104.2 and 104.3, which determine the order of the confiscation of property, confiscation of an amount of money and compensation for damage inflicted. In conformity with Section VI "Other Measures of a Criminal-Law Nature" of the Criminal Code of the Russian Federation, confiscation is a measure of a criminal-law nature, cannot be regarded as punishment and shall not affect the sentence. According to Article 104.1 of the Criminal Code, confiscation means forced gratuitous withdrawal without compensation, and conversion to ownership of the State under a judgment of conviction.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

A provision should be incorporated in the legislation that the Bank of Russia with the law-enforcement and regulatory authorities make a list of individuals with a dubious business reputation at the banking market.

In addition, it seems necessary to introduce to the Criminal Code an additional qualifying element, i.e. "a crime committed with the aid of an unlawfully established legal entity".

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

II. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO APEC INTEGRITY STANDARDS (CROSS CHECK WITH I.A. ABOVE)

Contact Point: Name: _____ Title: _____
 Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Strengthen Measures to Effectively Prevent and Fight Corruption and Ensure Transparency by Recommending and Assisting Member Economies to:

- Establish objective and transparent criteria that assure openness for merit, equity, efficiency for the recruitment of civil servants, and promote the highest levels of competence and integrity;
- Adopt all necessary measures to enhance the transparency of public administration, particularly with regard to organization, functioning and decision-making processes;
- Develop and implement appropriate public financial disclosure mechanisms or codes of conduct for senior-level public officials [SOM III: Guidelines];

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Federal law No. 230-FZ of December 3, 2012 "On Control over Expenses to Incomes Compliance of the Persons, Filling the State Positions and of the Other Persons" establishes the responsibility of the persons filling the certain positions to provide the information about his or her incomes and about incomes of his/her spouse and minor children in respect of each transaction related to acquisition of property if amount of the transaction is greater than total income of the person and of his/her spouse for the last three years preceding the transaction and about sources of the funds used for the transaction. Prosecution bodies are entitled to file a lawsuit in court seeking reversion of the property, in respect of which the information confirming their acquisition using lawful incomes was not provided, to the Russian Federation.

The transparency of the public administration is also ensured by Federal law No. 44-FZ of April 5, 2013 "On the Contract System in State and Municipal Procurement of Goods, Works, and Services" and Federal law No. 79-FZ of May 7, 2013 "On Ban of Particular Categories of Citizens to Open and to Own Accounts (Deposits), to Save Cash and Values in Foreign Banks,

Located Outside the Territory of the Russian Federation, to Own and (or) to Use Foreign Financial Instruments".

Also, with a view to implementing orders of the President of the Russian Federation, including those contained in Presidential Decree No. 601 of May 7, 2012 "On Major Directions for State Governance Improvement", even in 2012 the Government of the Russian Federation established a system of disclosing information by the federal executive bodies on preparation of draft regulations and the results of their public discussions. The system, which has been in full operation since April 2013, not only obliges all federal executive bodies to publish their draft regulations at the "regulation.gov.ru" portal but also enables the business society representatives to submit their feedback and proposals. A federal executive body which prepared a certain draft must consider all proposals received during the public discussion and to publish their position at the "regulation.gov.ru" portal.

Besides, to avoid regionalism, development of corruptive ties, and interpenetration with local authorities, regular rotation of the heads of local offices of law-enforcement bodies is ensured according to paragraph 12 of Article 30 of Federal law No. 342-FZ.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

III. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO SAFE HAVENS (CROSS CHECK WITH I.C. ABOVE):

Contact Point: Name: _____ Title: _____
 Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Deny safe haven to officials and individuals guilty of public corruption, those who corrupt them, and their assets:

- Promote cooperation among financial intelligence units of APEC members including, where appropriate, through existing institutional mechanisms.
- Encourage each economy to promulgate rules to deny entry and safe haven, when appropriate, to Officials and individuals guilty of public corruption, those who corrupt them, and their assets.
- Implement, as appropriate, the revised Financial Action Task Force (FATF) 40 Recommendations and FATF's Special Recommendations (Santiago Course of Action)
- Work cooperatively to investigate and prosecute corruption offenses and to trace freeze, and recover the proceeds of corruption (Santiago Course of Action)
- Implement relevant provisions of UNCAC. These include:
 - Art. 14 (Money laundering)
 - Art. 23 (Laundering of Proceeds of Crime)
 - Art. 31 (Freezing, seizure and confiscation)
 - Art. 40 (Bank Secrecy)
 - Chapter V (Asset Recovery)

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

According to Section VI of the Criminal Code of the Russian Federation "Other Criminal-Law Measures", confiscation is a criminal-law measure that cannot be considered a penalty and does not influence the character of the criminal sentence. According to Article 104.1 of the Criminal Code of the Russian Federation, confiscation is only possible after the defendant has been convicted. Confiscation in the absence of criminal proceedings is not possible. In addition, "procedural confiscation" of instruments of crime and criminal proceeds (both direct or indirect) is possible in accordance with Article 81 of the Criminal-Procedural Code of the Russian Federation for purposes of using as evidence.

Measures to reveal, freeze or arrest evidence are stipulated in the Criminal-Procedural Code of the Russian Federation. Article 115 of the Criminal-Procedural Code of the Russian Federation provides for provisional measures (arrest) for the probable

confiscation of property gained as a result of criminal actions or acquired in a criminal way. Moreover, according to Article 116 of the Criminal-Procedural Code of the Russian Federation in order to guarantee the probable confiscation of property indicated in Part One of Article 104.1 of the Criminal Code of the Russian Federation or to recompense the damage caused by the crime, the securities or their certificates shall be put under arrest at the location of the property or at the place of registering the rights of the owner of the securities, while observing the requirements of Article 115 of the Criminal-Procedural Code of the Russian Federation. The Federal Law No. 115-FZ of August 7, 2001, "On Countering Money Laundering and the Financing of Terrorism" (Articles 7 and 8) provides for administrative freezing (suspension of operations in money and any other assets) for up to 30 days.

Money, valuables and other property gained as a result of criminal actions as well as the proceeds from this property that have been partly or fully converted or transformed (indirect confiscation) can be subject to confiscation. If the property gained as a result of criminal actions and/or the proceeds from this property are attached to the lawfully gained property, part of the property that corresponds in value to the attached property and proceeds from it should be subject to confiscation.

Federal Law No. 115-FZ contains the norms aimed to ensure that provisions of the law on the protection of confidential information do not impede the realization of the FAFT Recommendations. According to Paragraph 8 of Article 7 of Federal Law No. 115-FZ, the submission to the authorized body by the employees of the organizations carrying out operations in money or any other assets of information and documents on these operations for the purposes and in the order provided for by the present Federal Law shall not be a violation of service, banking, tax and commercial secrecy and the secrecy of communication (in respect to information on postal transfers of money). Article 9 of Federal Law No. 115-FZ stipulates that the provision of information and documents on the request of the authorized body by governmental bodies of the Russian Federation and the Central Bank of the Russian Federation for the purposes and in the manner specified in the present Federal Law shall not be

deemed as a breach of secrecy. Part 6 of Article 26 of the Federal Law "On Banks and Banking Activities" stipulates that the banking secrecy does not cover the information about the operations of legal entities, individual entrepreneurs and physical persons submitted to the authorized body by credit organizations in cases, for the purposes and in the order provided for by the Federal Law No. 115-FZ.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

IV. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO PRIVATE SECTOR CORRUPTION:

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Fight both Public and Private Sector Corruption:

- Develop effective actions to fight all forms of bribery, taking into account the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or other relevant anticorruption conventions or initiatives.
- Adopt and encourage measures to prevent corruption by improving accounting, inspecting, and auditing standards in both the public and private sectors in accordance with provisions of the UNCAC.
- Support the recommendations of the APEC Business Advisory Council (ABAC) to operate their business affairs with the highest level of integrity and to implement effective anticorruption measures in their businesses, wherever they operate.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

At the political level state policy in that area is being adjusted by the Presidential Council for Countering Corruption, a special anti-corruption body established by Decree of the President of the Russian Federation of 19 May 2008 No. 815 "On Anti-Corruption Measures". The main tasks of the Council are to develop and implement state anti-corruption policy and coordinate anti-corruption activities of public authorities.

Furthermore, in the Russian Federation the Presidential Commissioner for Entrepreneurs' Rights began its work in 2012.

In 2013, the Office of the Prosecutor General of the Russian Federation in cooperation with the Civic Chamber of the Russian Federation published a "Citizen's Anti-Corruption Handbook" to advise a citizen how to act in case of bribe solicitation by a public official.

The number of organizations that focus on fighting corruption is rather high to include: the National Anti-Corruption Committee, the INDEM foundation, the Association of Russian Lawyers, the Chamber of Commerce and Industry of the Russian Federation, the All-Russian Public Organization of Small and Medium Enterprises "OPORA Rossii", the All-Russian Public

Organization "Delovaya Rossiya", the "Transparency International Russia", the National human rights association "Chelovek & Zakon", etc. The said organizations, among others, monitor corruption offences on a regular basis and address violations of citizens' rights which are often based on corruption practices.

One of the key measures to prevent negative impact of corruption on human rights is an anti-corruption examination of regulatory legal acts and their drafts in order to identify and eliminate factors that encourage corruption.

Taking into account the provisions of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions acceded by Russia in 2012, the Anti-Corruption Charter of the Russian Business prohibits businessmen from bribing any public official under any circumstances, including bribery of foreign public officials by Russian entrepreneurs in international business transactions.

In 2013, in order to comply with the provisions of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, activities with a view to consistently applying provisions of the Convention and Russian legislation on fighting corruption were initiated in diplomatic missions and trade representations of the Russian Federation.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

V. ENHANCING REGIONAL COOPERATION

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

Santiago Commitment/COA: Strengthen Cooperation Among APEC Member Economies to Combat Corruption and Ensure Transparency in the Region:

- Promote regional cooperation on extradition, mutual legal assistance and the recovery and return of proceeds of corruption.
- Afford one another the widest measure of mutual legal assistance, in investigations, prosecutions and judicial proceedings related to corruption and other offences covered by the UNCAC.
- Designate appropriate authorities in each economy, with comparable powers on fighting corruption, to include cooperation among judicial and law enforcement agencies and seek to establish a functioning regional network of such authorities.
- Sign bilateral and multilateral agreements that will provide for assistance and cooperation in areas covered by the UNCAC. (Santiago Course of Action) These include:
 - Art. 44 – Extradition
 - Art. 46 – Mutual Legal Assistance
 - Art. 48 – Law Enforcement Cooperation
 - Art. 54 – Mechanisms for recovery of property through international cooperation in confiscation
 - Art. 55 – International Cooperation for Purposes of Confiscation
- Work together and intensify actions to fight corruption and ensure transparency in APEC, especially by means of cooperation and the exchange of information, to promote implementation strategies for existing anticorruption and transparency commitments adopted by our governments, and to coordinate work across all relevant groups within APEC (e.g., SOM, ABAC, CTI, IPEG, LSIF, and SMEWG).
- Coordinate, where appropriate, with other anticorruption and transparency initiatives including the UNCAC, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, FATF, the ADB/OECD Anticorruption Action Plan for the Asia Pacific region, and Inter-American Convention Against Corruption.
- Recommend closer APEC cooperation, where appropriate, with the OECD including a joint APEC-OECD seminar on anticorruption, and similarly to explore joint partnerships, seminars, and workshops with the UN, ADB, OAS, the World Bank, ASEAN, and The World Bank, and other appropriate multilateral intergovernmental organizations.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

The Russian Federation is a party to a number of multilateral international treaties which enable international anti-corruption cooperation, to which APEC member states also belong:

- United Nations Convention against Transnational Organized Crime of 2000;
- United Nations Convention against Corruption of 2003;

- Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 1997;
- European Convention on Extradition of 1957;
- European Convention on Mutual Legal Assistance in Criminal Matters of 1959;
- Agreement between the Governments of the Member States of the Shanghai Cooperation Organization on cooperation in combating crime, which includes, inter alia, anti-corruption cooperation.

In recent years the Prosecutor General's Office of the Russian Federation intensified its international cooperation to provide legal assistance in criminal matters with competent authorities of the countries of the Asia-Pacific region.

Requests to provide legal assistance in criminal matters involving corruption crimes investigated by the officers of the Investigative Committee of the Russian Federation are forwarded through the Prosecutor General's Office of the Russian Federation in accordance with the European Convention on Mutual Legal Assistance in Criminal Matters (Strasbourg, 20 April 1959), the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (Minsk, 22 January 1993) and bilateral international treaties ratified by the Russian Federation.

The Investigative Committee concluded interagency agreements on cooperation with competent authorities of the United States and China, and combating corruption is among the areas of their interaction.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

VI. OTHER APEC ACT LEADERS' AND MINISTERS' COMMITMENTS

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

- **2005:** Ministers encouraged all APEC member economies to take all appropriate steps towards effective ratification and implementation, where appropriate, of the United Nations Convention against Corruption (UNCAC). Ministers encouraged relevant APEC member economies to make the UNCAC a major priority. They urged all member economies to submit brief annual progress reports to the ACT Task Force on their APEC anti-corruption commitments, including a more concrete roadmap for accelerating the implementation and tracking progress. (See Section I Above, UNCAC)
- **2006:** Ministers underscored their commitment to prosecute acts of corruption, especially high-level corruption by holders of public office and those who corrupt them. In this regard, Ministers commended the results of the Workshop on Denial of Safe Haven: Asset Recovery and Extradition held in Shanghai in April 2006. Ministers agreed to consider developing domestic actions, in accordance with member economy's legislation, to deny safe haven to corrupt individuals and those who corrupt them and prevent them from gaining access to the fruits of their corrupt activities in the financial systems, including by implementing effective controls to deny access by corrupt officials to the international financial systems.
- **2007:** We endorsed a model Code of Conduct for Business, a model Code of Conduct Principles for Public Officials and complementary Anti-Corruption Principles for the Private and Public Sectors. We encouraged all economies to implement these codes and welcomed agreement by Australia, Chile and Viet Nam to pilot the Code of Conduct for Business in their small and medium enterprise (SME) sectors. (AELM, AMM)
- **2008:** We commended efforts undertaken by member economies to develop comprehensive anti-corruption strategies including efforts to restore public trust, ensure government and market integrity. We are also committed to dismantle transnational illicit networks and protect our economies against abuse of our financial system by corrupt individuals and organized criminal groups through financial intelligence and law enforcement cooperation related to corrupt payments and illicit financial flows. We agreed to further strengthen international cooperation to combat corruption and money laundering in accordance with the Financial Action Task Force standards. International legal cooperation is essential in the prevention, investigation, prosecution and punishment of serious corruption and financial crimes as well as the recovery and return of proceeds of corruption. (AELM, AMM)
- **2009:** We welcome the Anti-Corruption and Transparency Experts' Task Force's Singapore Declaration on Combating Corruption, Strengthening Governance and Enhancing Institutional Integrity, as well as the APEC Guidelines on Enhancing Governance and Anti-Corruption. We encourage economies to implement measures to give practical effect to the Declaration and Guidelines. (AMM)
- **2010:** We agreed to leverage collective action to combat corruption and illicit trade by promoting clean government, fostering market integrity, and strengthening relevant judicial and law enforcement systems. We agreed to deepen our cooperation, especially in regard to discussions on achieving more durable and balanced global growth, increasing capacity building activities in key areas such as combating corruption and bribery, denying safe haven to corrupt officials, strengthening asset recovery efforts, and enhancing transparency in both public and private sectors. We encourage member economies, where applicable, to ratify the UN Convention against Corruption and UN Convention against Transnational Organized Crime and to take measures to implement their provisions, in accordance with economies legal frameworks to dismantle corrupt and illicit networks across the Asia Pacific region. (AELM, AMM)
- **2011:** We will also take the following steps to increase convergence and cooperation in our regulatory systems: **Ensure implementation of our APEC anti-corruption and open government commitments by 2014 through deeper cooperation in APEC.** (AELM)
- **2012:** We strongly commit to fight against corruption to ensure openness and transparency in APEC. Acknowledging that corruption fuels illicit trade and insecurity and is a tremendous barrier to economic growth, the safety of citizens, and to the strengthening of economic and investment cooperation among APEC economies, **we endorse commitments on Fighting Corruption and Ensuring Transparency** (see Annex E). (AELM)
- **2013:** On Sustainable Growth with Equity: We agreed to take further steps toward empowering, engaging and opening opportunities for our stakeholders to fully participate in

our economic growth, by considering the following concrete actions: (f) advance greater collaboration among law enforcement authorities, in combating corruption, bribery, money laundering, and illicit trade, through the **establishment of an APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies (ACT-NET)** that will strengthen informal and formal regional and cross-border cooperation. (AELM).

Fighting Corruption and Ensuring Transparency (AMM 2013). We reaffirmed the importance and the need to enhance prevention and enforcement in addressing corruption, bribery and other financial crimes and illicit trade that imperil our security and prosperity agenda, including the safeguarding of public assets, natural resources, and human capital. We also reaffirmed our commitment to create ethical business environments that support sustainable economic growth, in particular by strengthening ethical standards, and we encouraged all stakeholders to implement APEC's high standard principles for codes of business ethics. We applauded the Anti-Corruption and Transparency Working Group (ACTWG)'s continued leadership in collaborating with other APEC fora. We further committed to establish among member economies an "APEC Network of Anti-Corruption Authorities and Law Enforcement Authorities (ACT-NET)", under the auspices of ACTWG to promote networking and foster relationship-building among anti-corruption and law enforcement officials who can assist one another in detecting, investigating and prosecuting corruption and domestic and foreign bribery, money laundering, and illicit trade cases; to provide a forum that can facilitate bilateral and multilateral discussions of such cases, as appropriate; and to facilitate the sharing of expertise and experiences in detecting, investigating and prosecuting such cases (see Annex D).

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

As of today, the Russian Federation has developed the necessary anti-corruption legal framework.

The National Anti-Corruption Strategy representing a set of measures aimed at eliminating the root causes of corruption in the society was approved by Decree of the President of the Russian Federation No. 460 dated 13 April 2010.

The aims and objectives of the National Anti-Corruption Strategy include:

- developing anti-corruption legislative framework;
- enforcing relevant legislation;
- creating environment which prevents possible corrupt conduct and reduces corruption.

Anti-corruption measures are also addressed in the Russian Federation's Concept of Public Safety approved by the President of the Russian Federation on 14 November 2013.

Federal Law "On Corruption Counteraction" No. 273-FZ dated 25 December 2008, which is a cornerstone of the system of laws and regulations in this area, contains definitions of the basic concepts of corruption and corruption counteraction. It enshrines measures to prevent corruption which include:

- special requirements to candidates for public offices at the federal or local level, or of a state or municipal service;
- development of public and parliamentary control institutions;
- anti-corruption assessment of legal acts and their drafts;
- obligation of federal and local government officers to notify cases of being induced to commit corruption offenses.

In order to create a mechanism of responsibility of legal entities, including foreign ones, for corruption offenses, the Federal Law "On Corruption Counteraction" establishes the general rule, according to which a legal entity could face sanctions in accordance with the law if corruption offenses are organized, prepared for, or committed on behalf of or for the benefit of that legal entity.

For crimes such as paying or receiving bribes, and commercial bribery, the Criminal Code of the Russian Federation, in addition to the restriction of liberty and imprisonment, establishes a new form of criminal punishment – that is a fine of up to one hundred times the amount of commercial bribery or bribe. Criminal liability is differentiated depending on the amount of bribes, which are classified into ordinary, significant, large and extremely large bribes.

Criminal liability has been introduced for mediation in bribery – that is for the actual handing-over of a bribe under the instruction of a bribe-giver or bribe-taker, or other way of assisting him/her in reaching or implementing the agreement on receiving or paying a significant (large, extremely large) bribe, as well as for promising or offering mediation in bribery.

The period of limitation for the institution of administrative proceedings for breaching anti-corruption law, as provided for by the Russian Federation's Code of Administrative Offences, has been increased from 1 year to 6 years from the date of an administrative offense. In addition, administrative liability has been introduced not only for illegal handing-over, but also for illegal offer or promise to an official, on behalf of or for the benefit of a legal entity, of money, securities, or other property, for

providing him/her with property services and property rights for taking/failure to take any action associated with his/her official position.

Decree by the President of the Russian Federation No. 309 dated 2 April 2013 provides for measures to protect persons who report corruption.

Federal Law No. 44-FZ dated 5 April 2013 is designed to facilitate the implementation of a uniform transparent mechanism to form and place public procurement orders, and execute public contracts. Procurement planning is aimed at ensuring transparency and predictability of activities in this area by publishing procurement plans and procurement schedules through an integrated information system.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION



**Asia-Pacific
Economic Cooperation**

2014/SOM3/ACT/022
Agenda Item: 10

Anti-Corruption and Transparency Reporting Template - Singapore

Purpose: Information
Submitted by: Singapore



**19th Anti-Corruption and Transparency
Experts' Working Group Meeting
Beijing, China
13 August 2014**

DRAFT APEC ANTI-CORRUPTION AND TRANSPARENCY (ACT) REPORTING TEMPLATE

ECONOMY:

SINGAPORE

CALENDAR YEAR:

2014

LAST UPDATED:

2014

LEADERS' AND MINISTERS' COMMITMENTS

- **2010:** We agreed to enhance our efforts to improve transparency and eliminate corruption, including through regular reporting via ACT, and other relevant fora on economies' progress in meeting APEC Leaders' commitments on anti-corruption and transparency.
- **2006:** Ministers endorsed APEC 2006 key deliverables on Prosecuting Corruption, Strengthening Governance and Promoting Market Integrity and encouraged member economies to take actions to realize their commitments. Ministers also encouraged all economies to complete their progress reports on the implementation of ACT commitments by 2007. Ministers welcomed APEC efforts to conduct a stocktaking exercise of bilateral and regional arrangements on anti-corruption in cooperation with relevant international and regional organizations, and encouraged member economies to fully participate in the stocktaking activities.

Objective: Where appropriate, to self-assess progress against APEC Leaders' and Ministers' commitments on anti-corruption, transparency, and integrity and to identify capacity building needs to assist the ACT to identify priority areas for future cooperation.

EXECUTIVE SUMMARY

Summary of main achievements/progress in implementing the commitments of APEC Leaders and Ministers on anti-corruption, transparency, and integrity since 2004.

- Singapore assumed Chairmanship of APEC-Anti-Corruption and Transparency Task Force in 2009 and in this connection presided over the ACT's agreement on the following documents: (a) the Singapore Declaration on Combating Corruption, Strengthening Governance and Enhancing Institutional Integrity; (b) APEC Guidelines On Enhancing Governance and Anti-Corruption. Our 2009 Chairmanship also saw the Corrupt Practices Investigations Bureau (CPIB) of Singapore organising a workshop on 'Governance and Anti-Corruption' for more than 100 participants.
- CPIB/Singapore sees the current applicable and accepted global anti-corruption standard/norms as those agreed upon and enshrined under UNCAC. Singapore signed the UNCAC on 11th November 2005. With the legal and procedural framework in place to implement the Convention, Singapore ratified the UNCAC on 6th November 2009 and the UNCAC took effect for Singapore as of 5th December 2009.
- Singapore is a regular participant at various UNCAC meetings and processes, including the UNCAC Implementation Review mechanism. In this regard, Singapore was a reviewing state party for Argentina in the first year (10/11) of the current cycle of the UNCAC review mechanism.

and is also a reviewing state party for El Salvador in the second year (11/12).

- Singapore is currently undergoing a review of our implementation of obligations under Chapters III (Criminalisation and Law Enforcement) and IV (International Cooperation) of the UNCAC in the current review cycle (13/14). The CPIB of Singapore is working closely with our Attorney General's Chambers on completing the self-assessment checklist which will be submitted to the UNODC Secretariat soon. Acknowledging the importance of the UNCAC review process in contributing to the efficiency of States Parties in the global anti-corruption fight, Singapore looks forward to an engaging and fruitful review which will likely incorporate a country visit by reviewing States Parties (Lebanon and Swaziland).

2. Summary of forward work program to implement Leaders' and Ministers' commitments.

To effectively combat corruption, Singapore continues to undertake the following:

- Enhance the effectiveness of the anti-corruption enforcement agency, i.e., the CPIB, which was founded in 1952. The CPIB investigates and recommends the prosecution of corruption offences in both the private and public sectors;
- Periodically review the effectiveness of its law for the investigation and prosecution of corruption offences;
- Maintain and ensure an effective judicial system. In appropriate cases, Deputy Public Prosecutors from the Attorney-General's Chambers (AGC) address our courts on sentencing, including the need to mete out sentences sufficient to deter corrupt practices;
- Maintain an effective and efficient public administration by bringing continuous improvement to public services. Government departments continue to streamline its process and cut down on red-tape. As public administration is made more transparent and efficient (like going electronic), opportunities for corruption are reduced. In addition the Government takes appropriate administrative measures to ensure that the public service maintains a high degree of integrity;
- Public education efforts pertaining to corruption prevention. In this regard, CPIB conducts anti-corruption talks to business chambers (Singapore Business Federation being the apex) and key industry associations & public sector agencies, as well as outreach programmes to schools/educational institutions, grassroots organisations and other communities (like sports) to educate them on the importance of maintaining a strong anti-corruption ethos in Singapore.

3. Summary of capacity building needs and opportunities that would accelerate/strengthen the implementation of APEC Leaders' and Ministers' commitments by your economy and in the region.

CPIB contributes to regional capacity building on anti-corruption capabilities by co-organising Anti-Corruption Expertise (ACE) Workshops with the Ministry of Foreign Affairs of Singapore, with sponsorship for some countries.

- The 1st ACE Workshop was held in 2006 over 3 days involving more than 50 participants from Asian countries on the theme “Excellence In Investigation”; the 2nd ACE Workshop was held in 2007 on “Excellence in Computer Forensics”; the 3rd ACE Workshop was held in October 2008 and the theme was “Excellence in Management of Anti-Corruption Agencies”.
- In June 2013 the ACE Programme was organised over a 2-week period for mid-level anti-corruption investigators with the objective for the participants to discuss the diverse challenges faced by the corruption investigation agencies. Agencies from APEC economies who participated in the Programme include Malaysia, Indonesia, Hong Kong, Brunei and Thailand.

CPIB extends invitations to the Anti-Corruption Bureau of Brunei, Anti-Corruption Commission of Timor-Leste and the Corruption Eradication Commission of Indonesia to participate in the longer 4-month in-house training course that CPIB runs for our trainee investigation officers.

I. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO UNCAC PROVISIONS

LEADERS' AND MINISTERS' COMMITMENTS

- **Santiago Commitment/COA: Take All Appropriate Steps Towards Ratification of, or Accession to, and Implementation of the UNCAC:**
 - Intensify our efforts to combat corruption and other unethical practices, strengthen a culture of transparency, ensure more efficient public management, and complete all appropriate steps to ratify or accede to, and implement the UNCAC.
 - Develop training and capacity building efforts to help on the effective implementation of the UNCAC's provisions for fighting corruption.
 - Work to strengthen international cooperation in preventing and combating corruption as called for in the UNCAC including extradition, mutual legal assistance, the recovery and return of proceeds of corruption.

I.A. Adopting Preventive Measures (Chapter II, Articles 5-13)

Contact Point:

Name: _____ Title: _____ Phone/Fax : _____ Email Address: _____

RELEVANT UNCAC PROVISIONS

- Chapter II, Articles 5-13 including:
- Article 5(2) Establish and promote effective practices aimed at the prevention of corruption.
- Art. 7(1) Adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials that:
 - are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
 - include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
 - promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
 - promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions.
- Art. 7(4) Adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.
- Art. 8(2) Endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
- Art. 8(5) Establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials. Art. 52(5)/(6) [sharing the information on the financial disclosures that should be in place]
- Art. 10(b) Simplify administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities
- Art. 12(2)(b) Promote the development of standards and procedures designed to safeguard the integrity of private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State.
- Art. 12(2)(c) Promote transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the

establishment and management of corporate entities.

- Art. 13(1) Promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Article 5(2) Establish and promote effective practices aimed at the prevention of corruption.

Singapore adopts a zero-tolerance attitude towards corruption. The CPIB is the sole authority in Singapore to investigate into corrupt practices both in the private and public sectors and other related offences. The Prevention of Corruption Act (Chapter 241) was enacted in June 1960 to provide for the effective prevention of corruption. The law also empowers CPIB officers to investigate and arrest corrupt offenders. Public leaders show strong commitment to its implementation with tough enforcement and discipline to ensure that wrongdoers are held accountable for their actions.

Art. 7(1) Adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials that:

- are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
- include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
- promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
- promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions.

The Civil Service recruitment policies and processes are designed based on the following principles:

- (a) Meritocracy: The best person is recruited for the job through open competition on the basis of merit; and
- (b) Impartiality and incorruptibility: Selection is based on objective and defensible criteria, and all candidates who meet its requirements should be considered for appointment

Selection of candidates is a collective decision by an interview panel that comprises at least 2 officers who are impartial, independent and unrelated to the candidates.

The appraisal system for civil servants is designed bearing in mind the need to be fair, rigorous and objective. The Ministry ranks and assesses the officers' potential and performance and recommends deserving officers for promotion. There is also an appeals mechanism in place as a further check that the decisions of the promotion authorities are fair. The remuneration of civil servants are reviewed regularly, and benchmarked to the private sector, for purposes of talent attraction and retention.

Anti-corruption education and outreach efforts are spearheaded by CPIB who give preventive talks on corruption to various agencies. Anti-corruption messages are also embedded in induction programmes for new officers joining the Civil Service, and in programmes that deal with the ethos and values of the Civil Service.

Art. 7(4) Adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Civil Servants are guided by a Code of Conduct, which is based on the fundamentals of incorruptibility, impartiality, integrity and honesty.

Among others, the Code of Conduct specifies that an officer must not act in a way that gives rise to perception that he has obtained special advantage through his official position.

For example, there should be no conflict of interest between an officer's official duties and his personal interests. An officer has a duty to exercise care to preserve his ability to be fair and impartial in carrying out his official duties. In the course of an officer's work (e.g. any meeting or deliberation), when decisions are taken on issues which an officer has, or may be deemed to have a personal interest in, the officer must declare his interest. Other supporting policies include those on acceptance of gifts / entertainment and a framework for internal disclosures.

In 2013, new measures were introduced to reduce the risk of fraud and corruption in the Public Service. All public officers are now required to declare within 7 days whenever they visit the local casinos more than 4 times a month or if they purchase an annual entry pass to the local casinos. Tighter rules apply for certain groups of officers, e.g. those who enforce operations in the local casinos or regulate the activities of or negotiate business arrangements with the local casino operators. Mandatory job rotation and block leave were also introduced for officers holding positions more susceptible to being suborned and exploited if the incumbent were to remain in the same job for too long.

Art. 8(2) Endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

The Civil Service is governed by a Code of Conduct based on the fundamentals of incorruptibility, impartiality, integrity and honesty. The Code articulates the key principles and expectations governing the behaviour of public officers. All officers are expected to maintain a high standard of conduct by upholding the integrity of the Public Service and public confidence in it. Corruption, which is an abuse of position and trust, is not tolerated.

All criminal offences are rigorously pursued by the relevant authorities and the ultimate decision on whether prosecutions, including of civil servants, take place rests with the Attorney-General (AG) who is also the Public Prosecutor (PP). If a civil servant has not engaged in illegal activities but is deemed to have violated the code of conduct, that civil servant may be subject to disciplinary measures, including dismissal.

Art. 8(5) Establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials. Art. 52(5)/(6)

Some related requirements under the Code of Conduct for the Civil Service include:

Participation in outside activities

All officers are required to seek prior permission before taking part in outside activities which are related to their official work or duties. Officers are required to ensure that there will be no conflicts of interest between their official duties and outside activities.

Participation in outside employment

Before taking up employment with another employer other than the Government, officers must seek prior permission, and ensure that there will be no conflicts of interest between their official duties and outside employment.

Declarations of Investment, Properties or Indebtedness

All officers are required to make a declaration of their investments (e.g. shares, properties) and indebtedness when they are first appointed into the Service. A fresh declaration is done annually thereafter. In making personal investments, officers must not take up concessions if the offers arose on account of dealings or acquaintanceship in an official capacity.

Gifts and Entertainment

Officers must not offer or accept any favours or special concessionary treatment, or become obligated to any party. This includes not accepting or soliciting any gifts, benefits or entertainment from those who have official dealings with them. Where it is inappropriate to decline, they must declare

such gifts promptly to their agency.

Art. 10(b) Simplify administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities

The Singapore Civil Service constantly seeks to improve service quality and service delivery to the members of the public. Embodying this is the PS21 movement which was launched in 1995 to promote change, work improvement and innovation, and ensure that the Public Service remains relevant to its stakeholders.

The PS21 movement aims to build a change-ready Public Service through the inculcation of 5 key cultural behaviours - Critical Thinking, Continual Learning, Customer-Centricity, Collaboration and Effective Communication. The 5Cs are critical capabilities and capacities that the Public Service needs to develop in order to drive Public Service Transformation, as well as a culture of change and improvement amongst our public officers.

Centrally the government maintains a multi-tier platform to facilitate access to the government by members of the public. At the whole-of-government level, the government solicits feedback from and engages the Citizenry in its policy making and review process. These are done through programmes such as REACH programme, cut-waste panel, etc.

Government Departments and Statutory Boards are also required to maintain active feedback channels for members of the public. Senior officers are appointed as Quality Service Managers so that members of the public can have access to senior management of each department should they feel aggrieved by any decision made by any public officers.

Art. 12(2)(b) Promote the development of standards and procedures designed to safeguard the integrity of private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State.

Where necessary, Singapore regulates the various industries through regulation and regulatory bodies. Various professional bodies are accorded disciplinary/administrative power according to legislations to sanction improper performance of business.

Procurement and contractual relations between the State and private business entity are governed by the Government Procurement Act, Chapter 120 and its four subsidiary legislations namely:

- Government Procurement (Challenge Proceedings) Regulations

- Government Procurement Regulations,
- Government Procurement (Application) Order and
- Government Procurement Act (commencement) Notification 2002.

In addition, there is a Government Instructions Manual on procurement procedures and this is publicly available on the Singapore Government Internet Portal for Procurement: <http://www.gebiz.gov.sg>. All government officials are required to declare conflict of interests, if any, at any stage of the procurement process. This is to ensure integrity in carrying out the procurement process.

The Auditor-General is mandated by the Constitution of the Republic of Singapore and the Audit Act to carry out audits and report to the President and Parliament on the proper accounting of public moneys and use of public resources to enhance accountability.

In this regard, the Auditor-General's Office may in the course of its audits of public sector entities, make recommendations for improvements in areas (e.g. procurement) where lapses or weaknesses had been found.

Art. 12(2)(c) Promote transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities.

The Accounting and Corporate Regulatory Authority (ACRA) administers the Accountants Act, the Business Registration Act, the Companies Act, the Limited Liability Partnerships Act and the Limited Partnerships Act. These Acts govern auditors, sole proprietorships, partnerships, companies, limited liability partnerships and limited partnerships. They require the various entities to notify ACRA of the persons managing the entities (eg. directors for companies, managers of limited liability partnerships etc) and any changes to such persons or their details.

ACRA oversees the general compliance in the disclosure of corporate information of the above entities (and financial information of certain entities), raising of stakeholders' competence with targeted training and creating awareness of relevant rules through public education. One of ACRA's key strategies is to achieve voluntary compliance through its initiatives and programmes. However, ACRA will take enforcement action in appropriate cases.

In addition, the ACRA Act has been amended to require corporate service providers who assist in incorporating these entities to identify and verify the identities of their customers and the beneficial owners of these customers, so as to promote transparency.

Art. 13(1) Promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption

Singapore has a range of public education efforts pertaining to corruption prevention targeted at different segments of the population. CPIB conducts anti-corruption talks to business chambers (Singapore Business Federation being the apex) and key industry associations & public sector agencies, as well as outreach programmes (like learning journeys, roadshows and exhibitions) to schools/educational institutions, grassroots organisations and other communities (like sports) to educate them on the importance of maintaining a strong anti-corruption ethos in Singapore. From January 2011 to date, CPIB has conducted close to 200 corruption prevention talks for a total audience of approximately 25,000.

Operationally CPIB makes available every possible means for members of the public to provide information relating to possible corruption offences committed.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

I. B. Criminalization and Law Enforcement (Chapter III)

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

RELEVANT UNCAC PROVISIONS

- Art. 15 Adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:
 - The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;
 - The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.
- Art. 16 (1) adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.
- Art. 17 Adopt measures to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.
- Art. 20 Adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.
- Art. 21 Adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:
 - The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;
 - The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.
- Art. 27 (1) Adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Art. 15 Adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally,

- The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;
- The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

Relevant sections of the Prevention of Corruption Act establishes such acts as offences:

- Corruptly giving, promising or offering gratification as an inducement or reward is an offence under section 5(b) and 6(b) of the PCA. In addition, under section 8 of the PCA, where gratification is offered to a person in the employment of the government department or public body from a person who has or seeks to have any dealing with the government department or public body, that gratification is deemed to have been paid corruptly unless the contrary is proved.
- Corruptly soliciting, receiving or agreeing to receive of gratification as an inducement or reward is an offence under section 5(a) and 6(a) of the PCA. In addition, under section 8 of the PCA, where the gratification is received by a person in the employment of the government department or public body from a person who has or seeks to have any dealing with the government department or public body, that gratification is deemed to have been paid corruptly unless the contrary is proved.

Art. 16 (1) adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

Extraterritorial jurisdiction of corruption offences is covered under section 37(1) of the PCA which states that the provisions of the PCA have effect, in relation to citizens of Singapore, outside as well as within Singapore; and where an offence under the PCA is committed by a citizen of Singapore in any place outside Singapore, he may be dealt with in respect of that offence as if it had been committed within Singapore.

If the bribery of the official of the foreign country takes place within Singapore, then both parties to the bribe can be prosecuted in Singapore under the PCA.

Art. 17 Adopt measures to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

Under section 409 of the Penal Code, public officials are liable for criminal prosecution for misappropriating/embezzlement/diversion of public resource for personal use. Public servants guilty of converting to his own use any public resources or dishonestly uses or dispose of any property in violation of any law can be punished with imprisonment for life, up to 10 years' imprisonment and also liable to fine.

Under Section 410 of the Penal Code, it is also an offence to receive stolen property and anyone who dishonestly receives stolen or misappropriated government or public funds can be held liable for an offence under this section.

Art. 20 Adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

Under section 24 of the Prevention of Corruption, pecuniary resources or property disproportionate to one's known wealth or source of income can be taken into account by a court as corroborating the evidence of a witness in a corruption trial.

Art. 21 Adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

- The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

- The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

Corruptly giving, promising or offering gratification as an inducement or reward is an offence under section 5(b) and 6(b) of the PCA and is also applicable to economic and commercial activities. Corruptly soliciting, receiving or agreeing to receive of gratification as an inducement or reward is an offence under section 5(a) and 6(a) of the PCA and is also applicable to economic and commercial activities.

Art. 27 (1) Adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

Under Section 30 of the Prevention of Corruption Act, anyone who abets a corruption offence is deemed to have committed a corruption offence.

Under Section 104 of the Penal Code, a person is culpable of abetting any offence when he carries out any of the following :

- Instigates a person to commit an offence;
- Intentionally aids, either by an act or illegal omission, the doing of an offence; or
- Engage with one or more person in a conspiracy to the doing of a thing

Under Section 31 of the Prevention of Corruption Act, any person who is a party to a criminal conspiracy to commit a corruption offence is also liable to be punished with the punishment provided for the corruption offence. A person is deemed to be a party to a criminal conspiracy when, he and another person or more, agrees to do or cause to be done a corrupt act.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION



I.C Preventing Money-Laundering

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

RELEVANT UNCAC PROVISIONS

- Art. 14(1) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering.
- Art. 14(2) Implement feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders.
- Art. 14(3) Implement appropriate and feasible measures to require financial institutions, including money remitters, to: (a) include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator; (b) maintain such information throughout the payment chain; and (c) apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Art. 14(1) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering.

The Monetary Authority of Singapore (MAS) is the central bank and integrated regulator of the financial sector. MAS exercises supervisory oversight responsibilities over the banking, insurance, securities and futures industries, money changers, remittance businesses, stored-value facilities and trust companies through the Monetary Authority of Singapore Act, Banking Act, Finance Companies Act, Insurance Act, Securities and Futures Act, Financial Advisers Act, Money-Changing and Remittance Business Act, Payment Systems (Oversight) Act and Trust Companies Act. MAS is empowered under Section 27B of the MAS Act to issue directions to financial institutions, including the legal obligations to take preventive measures to mitigate the risks of money laundering and terrorist financing through Singapore's financial system. Any such directions or regulations apply to all entities and institutions that are subject to MAS supervision and regulation.

Directions and regulations issued under Section 27B of the MAS Act are legally enforceable. Institutions that fail or refuse to comply shall be guilty of an offence and liable on conviction to a fine not exceeding \$1million, and in the case of a continuing offence to a further fine of \$100,000 for everyday during which the offence continues after conviction.

Prevention of Money Laundering and Countering the Finance of Terrorism

All financial institutions, including money changers and remittance agents, operating in Singapore are required to implement rigorous anti-money laundering and countering the financing of terrorism ("AML/CFT") measures under the Notices on the Prevention of Money Laundering and Countering the Financing of Terrorism issued by MAS. These procedures, which are reviewed regularly, are aligned with international standards and best practices, and are applicable to all clients of financial institutions, regardless of whether they are individuals, companies, partnerships or trusts. Financial institutions are also required to thoroughly identify and know their customers, including the beneficial owners; identify the customers' source of funds to satisfy themselves that they are not proceeds of crime; conduct periodic reviews and ongoing transaction monitoring; and put in place adequate internal controls and processes.

Financial institutions also have to monitor and report all suspicious transactions if they know or have reasonable grounds to suspect that any transaction, including that related to property, is connected with money laundering or terrorist financing.

MAS continuously monitor financial institutions' compliance with the Notices through both on-site inspections and off-site reviews. Financial institutions found in breach of the Notices will be subject to regulatory sanctions.

In light of the changes to the international standards to combat money laundering and financing of terrorism and proliferation by the FATF in 2012, MAS has been reviewing its AML/CFT regime and will be proposing additional changes to strengthen the AML/CFT requirements for the financial sector.

Art. 14(2) Implement feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders.

Declaration system

Under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (CDSA), any person who moves into or out of Singapore, cash and bearer negotiable instruments (CBNI) above SGD 30,000 or its equivalent in a foreign currency must report such movement (section 48C). This requirement applies to travelers as well as those who move cash via courier companies, containerised cargo and post. Additionally, any person within Singapore who receives CBNI exceeding the threshold amount from overseas is required to file a report within five business days of receiving it (section 48E). Anyone found guilty of contravening the cash reporting requirements is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

All information collected through such cash reporting is sent to and stored securely with the Suspicious Transaction Reporting Office (STRO), the Financial Intelligence Unit (FIU) of Singapore. Such information is also made available to the relevant enforcement agencies such as the specialized

enforcement unit within CAD for the enforcement of the regime and the ICA etc., if required for their investigative needs.

Authorized officers and immigration officers are empowered under section 48F of the CDSA to require any traveller who is arriving in, or leaving Singapore to declare whether or not he is carrying any CBNI, to complete the Cross-Border Declaration Form, and to answer any questions with respect to the CBNI (e.g. the origin, source, destination and purpose). The traveller is obliged to complete the form and provide full and accurate information to the requesting officer. These measures allow the relevant officers to detect and monitor the movement of cash and appropriate negotiable instruments across their borders.

In cases where a false declaration is suspected, authorized officers and immigration officers have the powers under Section 48F of the CDSA to seize the CBNI, request and obtain further information from the carrier with respect to the CBNI in question. In cases where MI or TF is suspected, authorized officers, which include police officers deployed at the checkpoints, are authorised to investigate any suspicion of ML/TF offences pursuant to the CDSA and Terrorism (Suppression of Financing) Act (TSOFA). The authorized officers also have the power to seize the CBNI (section 35 of the Criminal Procedure Code) on suspicion of the commission of an offence.

Disclosure system

Complementing the declaration system is a disclosure system which is implemented on a targeted basis at border checkpoints. It is based on the integration of immigration officers and police officers, and their coordinated use of customs, immigration and general police powers.

Officers of the Immigration and Checkpoint Authority (ICA) have extensive powers under the Immigration Act and Customs Act to stop and check persons at the checkpoints to ensure that the movement of persons, goods and conveyance is legitimate. ICA acts on both intelligence and suspicion to conduct closer examinations of persons, goods and conveyances. It also employs data-mining and deploys sophisticated x-ray, scanning and other technological equipment to detect items of security interest, contraband and prohibited items. When a person has been referred for closer examination and a sizable amount of CBNI is found on the person, the person is questioned by the ICA officers with a view to determining the person's identity and/or intent.

Examples of the relevant powers exercisable by ICA officers include:

- Asking any person arriving or leaving Singapore questions concerning his/her identity, nationality, occupation, criminal history and means of support (section 28 Immigration Act), and examining goods (including CBNI) being brought into or taken out of the country (section 108 of Customs Act).
- Stopping, searching and seizing in relation to persons who are entering or leaving Singapore (section 109 and 110 of Customs Act).
- Arresting without a warrant, and searching any person, premises or vehicle if there is reason to believe that any evidence may be found of the commission of an offence under the Immigration Act (section 51) or Customs Act (section 112).

If a false statement is made or there is suspicion about the person and/or his intentions, ICA officers will refer the person to the police officers who are present and deployed at the checkpoints for further investigation.

Art. 14(3) Implement appropriate and feasible measures to require financial institutions, including money remitters, to: (a) include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator; (b) maintain such information throughout the payment chain; and (c) apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

MAS Notices 626, 1014 (banks, merchant banks) Para. 9.3; MAS Notice 824 (finance companies) Para. 8.3; MAS Notice 3001 (money changers and remittance agents) Para. 7.3 require ordering financial institutions to identify and verify the identity of the originator, and record adequate details of the wire transfer so as to permit its reconstruction. In addition to the identity of the originator, such details must include the date of the wire transfer; the type and amount of currency involved; the value date and details of the beneficiary of the transaction (i.e. the person to whom or for whose benefit the funds are being sent); and the beneficiary institution (i.e. the financial institution that will be receiving the funds on the account of the beneficiary).

In a cross-border wire transfer exceeding \$2,000, the ordering financial institution must include the following details in the message or payment instruction that accompanies or relates to the wire transfer: the originator's name, account number and the originator's address (or, alternatively, a unique identification number, or date and place of birth) [MAS Notices 626, 1014 (banks, merchant banks) Para. 9.4; MAS Notice 824 (finance companies) Para. 8.4; MAS Notice 3001 (money changers and remittance agents) Para. 7.4]

Financial institutions that are intermediaries in the wire transfer payment chain are required to maintain all the required originator information in passing the message or payment instruction. [MAS Notices 626, 1014 (banks, merchant banks) Para. 9.7; MAS Notice 824 (finance companies) Para. 8.7; MAS Notice 3001 (money changers and remittance agents) Para. 7.7]

Financial institutions that receive the funds on the account of the wire transfer beneficiary are required to implement appropriate internal risk-based policies, procedures and controls for identifying and handling in-coming wire transfers that are not accompanied by complete originator information. [MAS Notices 626, 1014 (banks, merchant banks) Para. 9.6; MAS Notice 824 (finance companies) Para. 8.6; MAS Notice 3001 (money changers and remittance agents) Para. 7.6]

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

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CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

Singapore agencies involved in the implementation of our cash courier regime, including the FIU and enforcement agencies, have shared our experience with other countries at various fora. Such fora include:

- APEC workshops on the cash courier regime in 2008 and 2009; and
- United Nations Counter Terrorism Committee Executive Directorate (UNCTED) Workshop on cash couriers in 2011;
- Study visit by Macau Customs to CAD on the cash courier regime in 2013

Singapore has also organized AML/CFT related workshops targeted at investigators from law enforcement agencies in the region. Such workshops include:

- International Economic Crime Course organized by CAD annually
- ASEAN AML/CFT Workshop which CAD organised in 2011.

Singapore had hosted and funded the APG/IMF FATF Revised Standards and National Risk Assessment workshop held in March 2013 where Singapore agencies shared our financial supervisory regime and National Risk Assessment experience at the workshop.

II. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO APEC INTEGRITY STANDARDS (CROSS CHECK WITH I.A. ABOVE)

LEADERS' AND MINISTERS' COMMITMENTS

- Santiago Commitment/COA: Strengthen Measures to Effectively Prevent and Fight Corruption and Ensure Transparency by Recommending and Assisting Member Economies to:
- Establish objective and transparent criteria that assure openness for merit, equity, efficiency for the recruitment of civil servants, and promote the highest levels of competence and integrity;
- Adopt all necessary measures to enhance the transparency of public administration, particularly with regard to organization, functioning and decision-making processes;
- Develop and implement appropriate public financial disclosure mechanisms or codes of conduct for senior-level public officials [SOM III: Guidelines];

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Establish objective and transparent criteria that assure openness for merit, equity, efficiency for the recruitment of civil servants, and promote the highest levels of competence and integrity;

Adopt all necessary measures to enhance the transparency of public administration, particularly with regard to organization, functioning and decision-making processes;

Develop and implement appropriate public financial disclosure mechanisms or codes of conduct for senior-level public officials [SOM III: Guidelines];

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Establish objective and transparent criteria that assure openness for merit, equity, efficiency for the recruitment of civil servants, and promote the highest levels of competence and integrity.

The Civil Service recruitment policies and processes are designed based on the following principles:

- Meritocracy: The best person is recruited for the job through open competition on the basis of merit; and
- Impartiality and incorruptibility: Selection is based on objective and defensible criteria, and all candidates who meet our requirements should be considered for appointment

Selection of candidates is a collective decision by an interview panel that comprises at least 2 officers who are impartial, independent and unrelated to the candidates.

The appraisal system for civil servants is designed bearing in mind the need to be fair, rigorous and objective. The Ministry ranks and assesses the officers' potential and performance and recommends deserving officers for promotion. There is also an appeals mechanism in place as a further check that the decisions of the promotion authorities are fair. The remuneration of civil servants is reviewed regularly, and benchmarked to the private sector, for purposes of talent attraction and retention.

Anti-corruption education and outreach efforts are spearheaded by CPIB who holds talks in various agencies. Anti-corruption messages are also embedded in induction programmes for new officers joining the Civil Service, and in programmes that deal with the ethos and values of the Civil Service.

Adopt all necessary measures to enhance the transparency of public administration, particularly with regard to organization, functioning and decision-making processes.

The Singapore Civil Service is governed by the Public Service Commission which consists of a Board of prominent non-civil servants appointed by the President. Under the Singapore constitution, it is responsible for the appointment, promotion, transfer, dismissal and exercise of disciplinary matters over public officers.

The Singapore Civil Service constantly seeks to improve service quality and service delivery to the members of the public. Embodying this is the PS21

movement which was launched in 1995 to promote change, work improvement and innovation, and ensure that the Public Service remains relevant to its stakeholders. The PS21 movement aims to build a change-ready Public Service through the inculcation of 5 key cultural behaviours - Critical Thinking, Continual Learning, Customer-Centricity, Collaboration and Effective Communication. The 5Cs are critical capabilities and capacities that the Public Service needs to develop in order to drive Public Service Transformation, as well as a culture of change and improvement amongst our public officers.

Centrally the government maintains a multi-tier platform to facilitate access to the government by members of the public. At the whole-of-government level, the government solicits feedback from and engages the Citizenry in its policy making and review process. These are done through programmes such as REACH programme, cut-waste panel, etc. Government Departments and Statutory Boards are also required to maintain active feedback channels for members of the public. Senior officers are appointed as Quality Service Managers so that members of the public can have access to senior management of each department should they feel aggrieved by any decision made by any public officers.

Develop and implement appropriate public financial disclosure mechanisms or codes of conduct for senior-level public officials [SOM III Guidelines];

Under the Code of Conduct, all civil Servants are required to declare their assets on a yearly basis. These include properties which are not owner-occupied, and shares in private and non-listed companies belonging to the civil servant, his or her spouse and children. In addition, Civil Servants are required to submit a declaration of indebtedness on a yearly basis. These are to be submitted to their respective organizations and Heads of Department. All heads of Government ministries, agencies and Statutory Boards are required to declare each and every visit to the local casinos.

Under the Parliament (Privileges, Immunities and Powers) Act, an elected Member of Parliament shall not participate in the discussion of any matter in the House in which he has a direct personal pecuniary interest without disclosing the extent of that interest first. In addition, he cannot vote on such a matter. There are other provisions relating to the offer of gifts, fees and compensation, abuse of privilege and dishonourable conduct.

The Political Donations Act also prescribes rules requiring candidates standing for political election to declare donations they receive.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

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III. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO SAFE HAVENS(CROSS CHECK WITH I.C. ABOVE):

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

- **Santiago Commitment/COA: Deny safe haven to officials and individuals guilty of public corruption, those who corrupt them, and their assets:**
- Promote cooperation among financial intelligence units of APEC members including, where appropriate, through existing institutional mechanisms.
- Encourage each economy to promulgate rules to deny entry and safe haven, when appropriate, to Officials and individuals guilty of public corruption, those who corrupt them, and their assets.
- Implement, as appropriate, the revised Financial Action Task Force (FATF) 40 Recommendations and FATF's Special Recommendations (Santiago Course of Action)
- Work cooperatively to investigate and prosecute corruption offenses and to trace freeze, and recover the proceeds of corruption (Santiago Course of Action)
- Implement relevant provisions of UNCAC. These include:
 - Art. 14 (Money laundering)
 - Art. 23 (Laundering of Proceeds of Crime)
 - Art. 31 (Freezing, seizure and confiscation)
 - Art. 40 (Bank Secrecy)
 - Chapter V (Asset Recovery)

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Promote cooperation among financial intelligence units of APEC members including, where appropriate, through existing institutional mechanisms.

As a member of the Financial Action Task Force (FATF), the Asia/Pacific Group on Money Laundering (APG) and the Egmont Group of FIUs, Singapore has been actively playing our part to promote international cooperation. [MAS] Our FIU, STRO, participates regularly and actively in discussions at FATF, APG and Egmont. In July 2010, Singapore also hosted the 13th Annual Meeting and 9th Annual Technical Assistance and Training Forum of the APG. The meeting provided a platform for high-level discussion amongst relevant national authorities, including FIUs, on how to fight the ML/TF threats.

STRO disseminates financial intelligence to its foreign counterparts, both spontaneously and upon request, to support their investigations into possible foreign predicate offences and establish any associated money laundering offences in Singapore. This is permissible under Section 41 of the CDSA. To facilitate and legally allow for such exchanges of information with its foreign counterparts, STRO devotes resources towards negotiating and signing of Memoranda of Understanding (MOU) with other FIUs. As of 2013, STRO has concluded MOUs with FIUs of 11 APEC member economies (Australia, Canada, People's Republic of China, Hong Kong, Indonesia, Japan, South Korea, Malaysia, Mexico, Russia and the United States).

Encourage each economy to promulgate rules to deny entry and safe haven, when appropriate, to Officials and individuals guilty of public corruption, those who corrupt them, and their assets.

Those convicted of public corruption are considered "prohibited immigrants" under the Immigration Act if they satisfy the definitions under section 8(3). In particular, section 8(3)(d) lists the following as a prohibited immigrant:

"any person who —

- (i) has been convicted in any country or state of an offence for which a sentence of imprisonment has been passed for any term;
- (ii) has not received a free pardon; and
- (iii) by reason of the circumstances connected with that conviction is deemed by the Controller to be an undesirable immigrant".

Prohibited immigrants under the Immigration Act are denied from entering Singapore, subject to any exemption granted under section 56 of the Act or unless he is in possession of a valid pass in that behalf issuable to a prohibited immigrant under the regulations. Section 8 of the Act allows ICA to deem a foreigner as a prohibited immigrant and remove a person from Singapore. A person who has been removed from Singapore would be required to seek the written permission of ICA before he can re-enter Singapore. These persons would also be refused entry into Singapore should they attempt to enter Singapore subsequently without ICA's permission. In addition, pursuant to section 9(1)(a)(i) of the Act, the Minister of Home Affairs may by order prohibit, either for a stated period or permanently, the entry or re-entry into Singapore of any person or class of persons where he thinks it expedient to do so in the interests of public security or by reason of any economic, industrial, social, educational or other conditions in Singapore.

Implement, as appropriate, the revised Financial Action Task Force (FATF) 40 Recommendations and FATF's Special Recommendations (Santiago Course of Action)

Singapore has always maintained a strong stance against financial crime. As an international financial centre, we operate a strict regime that is in line with FATF standards and international best practices.

Singapore fared well in the last FATF assessment in 2008, receiving Compliant or Largely Compliant for 43 out of the 49 FATF Recommendations and Special Recommendations.

We had participated actively in the recent revision of the FATF Standards in 2012 and remain committed to maintaining the rigor in our regime. We are currently reviewing our AML/CFT regime and will continue to implement the appropriate changes in light of FATF's revised recommendations.

Work cooperatively to investigate and prosecute corruption offenses and to trace freeze, and recover the proceeds of corruption (Santiago Course of Action)

Corruption investigation and the recovery of corrupt proceeds are handled by the CPIB. The Mutual Assistance in Criminal Matters Act (MACMA) contains detailed provisions on MLA. All request to Singapore for MLA should be directed to the Attorney-General, our Central Authority.

Implement relevant provisions of UNCAC. These include:

- Art. 14 (Money laundering)
- Art. 23 (Laundering of Proceeds of Crime)
- Art. 31 (Freezing, seizure and confiscation)
- Art. 40 (Bank Secrecy)
- Chapter V (Asset Recovery)

Article 14(2) on measures to detect and monitor movement of CBNI
See above response for Article 14(2)

Article 14(b) – establishment of FIU

The FIU of Singapore, STRO, was established in 2000 as a national centre to collect and analyze financial intelligence related to money laundering, associated predicate offences and terrorist financing, and disseminate the results of the analysis to competent authorities for the purpose of investigation.

Article 14(5) - develop and promote global, regional, subregional and bilateral cooperation among law enforcement authorities

CAD contributes actively to discussions amongst law enforcement agencies on how to fight the money laundering threats at various fora, including meetings of the Financial Action Task Force (FATF) and the Asia/Pacific Group on Money Laundering (APG). Singapore's FIU, the Suspicious Transactions Reporting Office (STRO) under CAD, also regularly attends meetings of the Egmont Group. In July 2010, Singapore hosted the 13th Annual Meeting and 9th Annual Technical Assistance and Training Forum of the APG. The meeting provided a platform for high-level discussion amongst relevant national authorities, including law enforcement agencies and FIUs, on how to fight the ML/TF threats.

At the bilateral level, CAD proactively exchanges information with its foreign counterparts to detect and investigate money laundering. CAD has access to the mechanisms of the International Criminal Police Organisation (Interpol), of which the Singapore Police Force (SPF) is an active member, to exchange information with its foreign counterparts. In this respect, a key conduit is the I-24/7 system which facilitates communication amongst Interpol's member states on matters related to criminal investigations, training and conferences. In addition, STRO is able to exchange information spontaneously with its MOU partners and does so on a regular basis. As of Jan 2012, STRO has concluded MOUs with FIUs of 9 APEC member economies (Australia, Canada, Hong Kong, Japan, South Korea, Malaysia, Mexico, Russia and the United States).

STRO disseminates financial intelligence to its foreign counterparts, both spontaneously and upon request, to support their investigations into possible foreign predicate offences and establish any associated money laundering offences in Singapore. This is permissible under Section 41 of the CDSA. To facilitate and legally allow for such exchanges of information with our foreign counterparts, STRO devotes resources towards negotiating and signing of Memoranda of Understanding (MOU) with other Financial Intelligence Units (FIUs). As of 2013, STRO has concluded MOUs with FIUs of 11 APEC member economies (Australia, Canada, People's Republic of China, Hong Kong, Indonesia, Japan, South Korea, Malaysia, Mexico, Russia and the United States).

Art. 23 (Laundering of Proceeds of Crime)

Singapore's main anti-money laundering legislation is the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (CDSA). Under The CDSA, the following constitute ML offences:

Under section 46 (1), 46(2), 47(1) and 47(2), any attempts to conceal or disguise any property which (in whole or in part, directly or indirectly) represents benefits from drug trafficking or from criminal conduct; or attempts to convert or transfer that property or remove it from Singapore is an offence.

Under sections 46(3) and 47(3) of the CDSA, any person who, knowing or having reasonable grounds to believe that any property (in whole or in part, directly or indirectly) represents another person's benefits from drug trafficking or criminal conduct, acquires that property is also guilty of an offence.

The list of offences which constitutes a criminal conduct (or 'predicate offence') is found in schedule 2 of the CDSA. Offences under the Prevention of Corruption Act are deemed to be 'criminal conduct'. In line with FATF's revised recommendations, tax offences are included in the list of predicate offences.

Art. 31 (Freezing, seizure and confiscation)

Under section 15 & 16 of the CDSA, a court may issue a Restraint Order (or freezing order) to prohibit a person from dealing with any 'realisable property'. A Restraint Order may only be issued by the High Court where: (a) proceedings have been instituted against the defendant for a drug trafficking offence or a serious offence (ie Criminal Conduct); (b) the proceedings have not been concluded; and (c) the Court is satisfied that there is reasonable cause to believe that the defendant has derived benefits from a predicate offences.

Under Section 17-18 of the CDSA, the High Court may impose on Charging Order on a Realisable Property to prohibit any person from dealing with any realisable property. Under section 4,5 and 13 of the CDSA, a Confiscation Order is an order issued by the court when a person is convicted of a ML predicate offence, to confiscate the benefits derived by the defendant from these drug trafficking or serious offences.

Art 40 – Banking Secrecy

Banking secrecy law is expressly lifted for the combating of money laundering and terrorist financing. For instance, there is a duty to report the suspicion of ML (s.39(1) CDSA) regardless of whether the transaction was completed, and it is expressly provided that such reporting will not be treated as a breach of any restriction upon disclosure imposed by law (including financial institution secrecy law) (s.39(6) CDSA). There is also a duty to report the suspicion of FT (s.8(1) Terrorism (Suppression of Financing) Act – “TSOFA”) and it is expressly provided that no criminal or civil proceeding (including any proceeding arising from breach of financial institution secrecy law) will lie against a person for reporting on terrorist financing (s.8(5) TSOFA).

The FIU of Singapore, STRO, was established in 2000 to collect, analyse and disseminate financial intelligence.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

FATF revised its 40+9 Recommendations in February 2012.

Singapore is currently reviewing our AML/CFT regime and will put in place the appropriate legislation and policies to implement the revised FATF standards.

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

IV. IMPLEMENTATION OF ANTI-CORRUPTION COMMITMENTS RELATING TO PRIVATE SECTOR CORRUPTION:

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

- Develop effective actions to fight all forms of bribery, taking into account the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or other relevant anticorruption conventions or initiatives.
- Adopt and encourage measures to prevent corruption by improving accounting, inspecting, and auditing standards in both the public and private sectors in accordance with provisions of the UNCAC.
- Support the recommendations of the APEC Business Advisory Council (ABAC) to operate their business affairs with the highest level of integrity and to implement effective anticorruption measures in their businesses, wherever they operate.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Develop effective actions to fight all forms of bribery, taking into account the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or other relevant anticorruption conventions or initiatives

Under the Prevention of Corruption Act, CPIB is provided with extra-territorial power to investigate Singaporeans involved in overseas corruption. This includes Singaporeans from private sector enterprises involved in the bribing of foreign officials.

If the bribery of the official of the foreign country takes place within Singapore, then both parties to the bribe can be prosecuted in Singapore under the PCA.

Adopt and encourage measures to prevent corruption by improving accounting, inspecting, and auditing standards in both the public and private sectors in accordance with provisions of the UNCAC

With regard to the public sector, the Auditor-General's Office (AGO) carries out audits of government ministries and statutory boards. AGO's audit procedures are in line with requirements of international auditing standards.

In the private sector, the Corporate Governance Council carried out a comprehensive review of the Code of Corporate and on 22 November 2011 submitted its recommendations on proposed revisions to the Code to the Monetary Authority of Singapore for consideration.

Companies listed on the Singapore Stock Exchange are also required under the Singapore Exchange Listing Rules to disclose their corporate governance practices and give explanations for deviations from the Code in their annual reports for Annual General Meetings.

Under the Accountants Act, ACRA conducts a Practice Monitoring Programme on selected auditors. This is to ensure their audit work complies with the prescribed standards, methods, procedures and other requirements. Auditors who fail the review can be subject to a variety of sanctions, including

having their registration cancelled or suspended.

ACRA administers the Financial Reporting Surveillance Programme (FRSP) whereby selected financial statements are reviewed to determine whether they comply with the accounting standards and other financial reporting requirements in the Companies Act. Previously, ACRA had focused the efforts on the financial statements of listed companies with modified audit reports (i.e. when the independent auditor detected and reported material uncertainties in the financial statements, including breaches of the financial reporting standards). To further strengthen the integrity and quality of corporate financial reporting, ACRA is expanding the scope of the FRSP to include the financial statements of listed companies with clean audit opinions, as well as of unlisted companies of public interests with effect from 1 April 2014.

Support the recommendations of the APEC Business Advisory Council (ABAC) to operate their business affairs with the highest level of integrity and to implement effective anticorruption measures in their businesses, wherever they operate.

Since the 1960s Singapore's anti-corruption law has outlawed corruption in private businesses. The Singapore Courts also take a serious view of corruption in the private sector and where necessary, deterrent sentences are imposed on private sector cases as well. The Singapore Business Federation, the apex Business Chambers in Singapore, supports ABAC's call to operate their business with the highest level of integrity. The various trade federations and business chambers also adopt and subscribe to various codes of business conduct such as the International Chambers of Commerce and the United Nations Global Compact.

Corruption in commercial entities is listed as an offence punishable under the Prevention of Corruption Act, Cap 241.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION



V. ENHANCING REGIONAL COOPERATION

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

- **Santiago Commitment/COA: Strengthen Cooperation Among APEC Member Economies to Combat Corruption and Ensure Transparency in the Region:**
- Promote regional cooperation on extradition, mutual legal assistance and the recovery and return of proceeds of corruption
- Afford one another the widest measure of mutual legal assistance, in investigations, prosecutions and judicial proceedings related to corruption and other offences covered by the UNCAC.
- Designate appropriate authorities in each economy, with comparable powers on fighting corruption, to include cooperation among judicial and law enforcement agencies and seek to establish a functioning regional network of such authorities.
- Sign bilateral and multilateral agreements that will provide for assistance and cooperation in areas covered by the UNCAC. (Santiago Course of Action) These include:
 - Art. 44 – Extradition
 - Art. 46 – Mutual Legal Assistance
 - Art. 48 – Law Enforcement Cooperation
 - Art. 54 -- Mechanisms for recovery of property through international cooperation in confiscation
 - Art. 55 – International Cooperation for Purposes of Confiscation
- Work together and intensify actions to fight corruption and ensure transparency in APEC, especially by means of cooperation and the exchange of information, to promote implementation strategies for existing anticorruption and transparency commitments adopted by our governments, and to coordinate work across all relevant groups within APEC (e.g., SOM, ABAC, CTI, IPEG, LSIF, and SMEWG).
- Coordinate, where appropriate, with other anticorruption and transparency initiatives including the UNCAC, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, FATF, the ADB/OECD Anticorruption Action Plan for the Asia Pacific region, and Inter-American Convention Against Corruption.
- Recommend closer APEC cooperation, where appropriate, with the OECD including a joint APEC-OECD seminar on anticorruption, and similarly to explore joint partnerships, seminars, and workshops with the UN, ADB, OAS, the World Bank, ASEAN, and The World Bank, and other appropriate multilateral intergovernmental organizations.

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

Afford one another the widest measure of mutual legal assistance, in investigations, prosecutions and judicial proceedings related to corruption and other offences covered by the UNCAC.

Sign bilateral and multilateral agreements that will provide for assistance and cooperation in areas covered by the UNCAC. (Santiago Course of

Action) These include:

Art. 44 – Extradition

Art. 46 – Mutual Legal Assistance

Art. 48 – Law Enforcement Cooperation

Art. 54 – Mechanisms for recovery of property through international cooperation in confiscation

Art. 55 – International Cooperation for Purposes of Confiscation

Art. 44 – Extradition

Singapore subscribes to the London Scheme of Extradition between Commonwealth countries. Under this scheme, extradition to and from 40 declared Commonwealth countries and territories is possible, without the need for any treaty. Singapore also has bilateral extradition treaties with the USA, Hong Kong, Germany and Indonesia. The extradition treaty with Indonesia is not in force yet.

Art 46 Mutual Legal Assistance & Art 48 Law Enforcement Cooperation

Mutual Assistance in Criminal Matters Act (MACMA) was amended in 2006 to allow assistance to be provided to a foreign country, in the absence of a treaty, if the requesting country gives an undertaking that it will comply with a future request by Singapore for similar assistance involving a similar offence. Corruption offences are covered under MACMA and assistance may therefore be rendered to foreign countries with respect to corruption offences, subject to the provisions of the Act. All requests to Singapore for extradition and MLA are handled by the Attorney-General as the central authority for Singapore.

As part of the effort to combat trans-boundary financial crimes, Singapore has also amended its laws (s/n 376 and 377 of the Second Schedule to the CDSA) to include tax evasion offences as offences for which Singapore could provide mutual legal assistance

Art. 54 -- Mechanisms for recovery of property through international cooperation in confiscation

Art. 55 – International Cooperation for Purposes of Confiscation

The MACMA contains detailed provisions on MLA regarding the registration and enforcement of foreign confiscation orders. This includes foreign court orders made for the purpose of confiscating proceeds of crime. All requests to Singapore for MLA should be directed to the Attorney-General, our Central Authority.

The Singapore Government may realize confiscated property and return the proceeds to a requesting state (less expenses incurred during the recovery of the property).

Designate appropriate authorities in each economy, with comparable powers on fighting corruption, to include cooperation among judicial and law enforcement agencies and seek to establish a functioning regional network of such authorities

Work together and intensify actions to fight corruption and ensure transparency in APEC, especially by means of cooperation and the exchange of information, to promote implementation strategies for existing anticorruption and transparency commitments adopted by our governments, and to coordinate work across all relevant groups within APEC (e.g., SOM, ABAC, CFI, IPEG, LSIF, and SMEWG)

The Corrupt Practices Investigation Bureau (CPIB) is the only agency empowered to investigate corrupt offences in Singapore. CPIB is also an active member within the international anti-corruption community and regularly represents Singapore at various international anti-corruption platforms/agreements. These include:

- (a) UNCAC
 - Details listed in relevant sections of reporting template
- (b) APEC-ACT
 - Since the inception of the APEC ACT, Singapore has participated in all APEC sponsored workshops and when requested would lend its expertise and knowledge. In 2009, CPIB took on the Chairmanship of ACT and organised a workshop on 'Governance and Anti-Corruption'. It supports the work of the other APEC fora through the ACT and in particular work with ABAC.
- (c) G20 Anti-Corruption Working Group
 - CPIB/Singapore involved in working group as invited country
- (d) South-East Asia Parties Against Corruption (SEA-PAC)
 - Signatory to multilateral Memorandum of Understanding (MOU) for Combating and Preventing Corruption amongst anti corruption agencies in ASEAN
 - Part of the group as one of the founding members since 2004
- (e) ADB/OECD Anti-Corruption Initiative for Asia and the Pacific
 - Member of the steering committee
 - In 2008 Singapore hosted the 12th Steering Group meeting of the ADB/OECD Anti-Corruption Initiative for Asia and jointly conducted 6th Regional Anti-Corruption Conference for Asia and the Pacific Singapore with ADB and OECD.
 - Participation in thematic review on Criminalisation of Bribery in Asia and the Pacific (2009/2010) and the upcoming Thematic Review (in 2012-2013) on Corporate Compliance, Internal Controls, Ethics and Tax Deductibility of Bribes.
- (f) International Association of Anti-Corruption Authorities (IAACA)

- Director/CPIB is member of IAACA Executive Committee
- CPIB hosted IAACA Experts' Group meeting in January 2011 which met with the objective to formulate the IAACA work plan.
- (g) Economic Crime Agencies Network (ECAN)
- The Corrupt Practices Investigation Bureau/Singapore hosted the second meeting of the Economic Crime Agencies Network (ECAN) from 19-20 February 2014. The ECAN is a formal network of law enforcement agencies from various countries involved primarily in the investigation and prosecution of economic crimes.

Other examples of co-operation

- Signed bilateral MOU with Government Inspectorate of Vietnam in 2009 which has a generic scope for cooperation; covering the areas of training, exchange of best practices and technical assistance.
- Singapore has hosted a series of Anti-Corruption Expertise (ACE) workshops for anti-corruption practitioners around the world. The most recent was the 3rd ACE Workshop in 2008 which brought together more than 60 officials from 20 countries around the world.
- Participation in the FIFA/INTERPOL Initiative against match-fixing and corruption in football via our attendance at the Interpol Experts Meeting in January 2012 to share experiences and challenges in related areas and define possible training programme.
- Speaking engagements involving senior management in CPIB to exchange information/expertise; e.g., Director/CPIB's speaking engagement at the meeting of the International Corruption Hunters Alliance in Washington, D.C. in June 2012 and at the 7th Annual General Meeting and Conference of the International Association of Anti-Corruption Agencies in Panama City in November 2013.

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

VI. OTHER APEC ACT LEADERS' AND MINISTERS' COMMITMENTS

Contact Point: Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____ Email Address: _____

LEADERS' AND MINISTERS' COMMITMENTS

- **2005:** Ministers encouraged all APEC member economies to take all appropriate steps towards effective ratification and implementation, where appropriate, of the **United Nations Convention Against Corruption (UNCAC)**. Ministers encouraged relevant APEC member economies to make the UNCAC a major priority. They urged all member economies to submit brief annual progress reports to the ACT Task Force on their APEC anti-corruption commitments, including a more concrete roadmap for accelerating the implementation and tracking progress. (See Section I Above, UNCAC)
- **2006:** Ministers underscored their commitment to **prosecute acts of corruption, especially high-level corruption by holders of public office and those who corrupt them**. In this regard, Ministers commended the results of the Workshop on Denial of Safe Haven: Asset Recovery and Extradition held in Shanghai in April 2006. Ministers agreed to consider developing domestic actions, in accordance with member economy's legislation, to deny safe haven to corrupt individuals and those who corrupt them and prevent them from gaining access to the fruits of their corrupt activities in the financial systems, including by implementing effective controls to deny access by corrupt officials to the international financial systems.
- **2007:** We endorsed a model **Code of Conduct for Business, a model Code of Conduct Principles for Public Officials and complementary Anti-Corruption Principles for the Private and Public Sectors**. We encouraged all economies to implement these codes and welcomed agreement by Australia, Chile and Viet Nam to pilot the Code of Conduct for Business in their small and medium enterprise (SME) sectors. (AELM, AMM)
- **2008:** We commended efforts undertaken by member economies to develop comprehensive anti-corruption strategies including efforts to restore public trust, ensure government and market integrity. We are also committed to **dismantle transnational illicit networks and protect our economies against abuse of our financial system by corrupt individuals and organized criminal groups through financial intelligence and law enforcement cooperation related to corrupt payments and illicit financial flows**. We agreed to further strengthen international cooperation to combat corruption and money laundering in accordance with the Financial Action Task Force standards. International legal cooperation is essential in the prevention, investigation, prosecution and punishment of serious corruption and financial crimes as well as the recovery and return of proceeds of corruption. (AELM, AMM)
- **2009:** We welcome the Anti-Corruption and Transparency Experts' Task Force's **Singapore Declaration on Combating Corruption, Strengthening Governance and Enhancing Institutional Integrity, as well as the APEC Guidelines on Enhancing Governance and Anti-Corruption**. We encourage economies to implement measures to give practical effect to the Declaration and Guidelines. (AMM)
- **2010:** We agreed to leverage collective action to **combat corruption and illicit trade** by promoting clean government, fostering market integrity, and strengthening relevant judicial and law enforcement systems. We agreed to deepen our cooperation, especially in regard to discussions on achieving more durable and balanced global growth, increasing capacity building activities in key areas such as combating corruption and bribery, denying safe haven to corrupt officials, strengthening asset recovery efforts, and enhancing transparency in both public and private sectors. We encourage member economies, where applicable, to **ratify the UN Convention against Corruption and UN Convention against Transnational Organized Crime and to take measures to implement their provisions, in accordance with economies legal frameworks to dismantle corrupt and illicit networks across the Asia Pacific region**. (AELM, AMM)
- **2011:** We will also take the following steps to increase convergence and cooperation in our regulatory systems: **Ensure implementation of our APEC anti-corruption and open government commitments by 2014 through deeper cooperation in APEC**. (AELM)
- **2012:** We strongly commit to fight against corruption to ensure openness and transparency in APEC. Acknowledging that corruption fuels illicit trade and insecurity and is a tremendous barrier to economic growth, the safety of citizens, and to the strengthening of economic and investment cooperation among APEC economies, **we endorse commitments on Fighting Corruption and Ensuring Transparency** (see Annex E). (AELM)
- **2013:** On Sustainable Growth with Equity: We agreed to take further steps toward empowering, engaging and opening opportunities for our stakeholders to fully participate in

our economic growth, by considering the following concrete actions: (f) advance greater collaboration among law enforcement authorities, in combating corruption, bribery, money laundering, and illicit trade, through the **establishment of an APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies (ACT-NET)** that will strengthen informal and formal regional and cross-border cooperation. (AELM).

Fighting Corruption and Ensuring Transparency (AMM 2013). We reaffirmed the importance and the need to enhance prevention and enforcement in addressing corruption, bribery and other financial crimes and illicit trade that imperil our security and prosperity agenda, including the safeguarding of public assets, natural resources, and human capital. We also reaffirmed our commitment to create ethical business environments that support sustainable economic growth, in particular by strengthening ethical standards, and we encouraged all stakeholders to implement APEC's high standard principles for codes of business ethics. We applauded the Anti-Corruption and Transparency Working Group (ACTWG)'s continued leadership in collaborating with other APEC fora. We further committed to establish among member economies an "APEC Network of Anti-Corruption Authorities and Law Enforcement Authorities (ACT-NET)", under the auspices of ACTWG to promote networking and foster relationship-building among anti-corruption and law enforcement officials who can assist one another in detecting, investigating and prosecuting corruption and domestic and foreign bribery, money laundering, and illicit trade cases; to provide a forum that can facilitate bilateral and multilateral discussions of such cases, as appropriate; and to facilitate the sharing of expertise and experiences in detecting, investigating and prosecuting such cases (see Annex D).

MEASURES UNDERTAKEN TO IMPLEMENT COMMITMENTS

- CPIB/Singapore sees the current applicable and accepted global anti-corruption standard/norms are those agreed upon and enshrined under UNCAC. Singapore signed the UNCAC on 11th November 2005. With the legal and procedural framework in place to implement the Convention, Singapore ratified the UNCAC on 6th November 2009 and the UNCAC took effect for Singapore as of 5th December 2009.
- Singapore is a regular participant in various UNCAC meetings and processes, including the UNCAC Implementation Review mechanism. In this regard, Singapore was a reviewing state party for Argentina in the first year of the first cycle (2010/2011) of the UNCAC review mechanism and is also a reviewing state party for El Salvador in the second year of the current review cycle (2011/2012).
- Singapore is currently undergoing a review of our implementation of obligations under Chapters III (Criminalisation and Law Enforcement) and IV (International Cooperation) of the UNCAC in the current review cycle (13/14). The Corrupt Practices Investigation Bureau of Singapore is working closely with our Attorney General's Chambers on completing the self-assessment checklist which will be submitted to the UNODC Secretariat soon. Acknowledging the importance of the UNCAC review process in contributing to the efficiency of States Parties in the global anti-corruption fight, Singapore looks forward to an engaging and fruitful review which will likely incorporate a country visit by reviewing States Parties (Lebanon and Swaziland).

FURTHER MEASURES PLANNED TO IMPLEMENT COMMITMENTS (indicate timeframe)

CAPACITY BUILDING NEEDS AND OPPORTUNITIES THAT WOULD ACCELERATE/STRENGTHEN IMPLEMENTATION OF COMMITMENTS BY YOUR ECONOMY AND IN THE REGION

CPIB/Singapore contributes to regional capacity building by co-organising Anti-Corruption Expertise (ACE) Workshops with the Ministry of Foreign Affairs of Singapore, with sponsorship for some countries.

- The 1st ACE Workshop was held in 2006 over 3 days involving more than 50 participants from Asian countries on the theme "Excellence In Investigation"; the 2nd ACE Workshop was held in 2007 on "Excellence in Computer Forensics"; the 3rd ACE Workshop was held in October 2008 and the theme was "Excellence in Management of Anti-Corruption Agencies".
- In June 2013 the ACE Programme was organised over a 2-week period for mid-level anti-corruption investigators with the objective for the participants to discuss the diverse challenges faced by the corruption investigation agencies. Agencies from APEC economies who participated in the Programme include Malaysia, Indonesia, Hong Kong, Brunei and Thailand.

CPIB extends invitations to the Anti-Corruption Bureau of Brunei, Anti-Corruption Commission of Timor-Leste and the Corruption Eradication Commission of Indonesia to participate in the longer 4-month in-house training course that CPIB runs for our trainee investigation officers.

