

# CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS

## PHASE 3 QUESTIONNAIRE \*

### Objective

The purpose of the third phase of the peer evaluation (Phase 3) of the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the Convention) and the 2009 Recommendations on further combating bribery (the 2009 Recommendations)<sup>1</sup> is to focus on the following three pillars:

1. The progress made by Parties on weaknesses identified in Phase 2 (addressed in Part I(A) below).
2. Issues raised by changes in the domestic legislation or institutional framework of the Parties (addressed in Part I(B) below).
3. Enforcement efforts and results, and other key Group-wide cross-cutting issues (addressed in Part II below).

This questionnaire will assist the Phase 3 evaluation team and the Working Group on Bribery in assessing how the evaluated country addresses those issues.

Phase 3 is carried out in accordance with the Phase 3 evaluation procedure in DAF/INV/BR(2008)25/FINAL.

### Submission of replies

Replies shall be submitted to the Secretariat in the agreed official language for the evaluation within the time limits fixed in the evaluation schedule, and preferably in electronic format.

Replies shall be precise and provide sufficient detail to enable an assessment of the law implementing the Convention and its actual application. Where appropriate, copies of, or links to, relevant laws, regulations, administrative guidance, or court decisions shall be provided.

### Confidentiality

Replies to the questionnaire received by the Secretariat are confidential. The evaluated country is encouraged to release information concerning its questionnaire responses, or make them publicly available, subject to its domestic laws on the protection of privacy and secrecy.

## QUESTIONS CONCERNING PHASE 3

### PART I. VERTICAL (COUNTRY-SPECIFIC) ISSUES

In responding to the questions in Parts I(A) and I(B), please note that some questions may overlap, depending on the Phase 2 recommendations and follow-up issues for each country, and depending on the

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\* Annex 2 to DAF/INV/BR(2008)25/FINAL.

<sup>1</sup> 2009 Recommendation for Further Combating the Bribery of Foreign Public Officials in International Business Transactions; and 2009 Recommendation of the Council on Tax Measures for Further Combating the Bribery of Foreign Public Officials in International Business Transactions.

nature of any legal and institutional changes for each country. Answers might also overlap with questions in Part II of the Questionnaire. Please do not repeat responses given but refer, instead, to the appropriate question where the response was already made.

**A. PROGRESS ON PHASE 2 RECOMMENDATIONS <sup>2</sup>**

1.1 Since your written follow-up report to Phase 2, did you take steps to implement the recommendations identified by the Working Group on Bribery (Working Group) as not having been implemented, or having been only partially implemented?

- By way of supplementary questions, the Secretariat will elaborate on this question having regard to the written follow-up report to Phase 2, the findings of the Working Group in that regard, any subsequent oral report(s), and other official updates such as those to the Steps Taken by State Parties to implement and enforce the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

1.2 What practice has developed concerning the issues identified for follow-up in Phase 2?

**B. ISSUES RAISED BY CHANGES IN DOMESTIC LEGISLATION, JURISPRUDENCE OR INSTITUTIONAL FRAMEWORKS SINCE PHASE 2**

2.1 Have there been any changes to your legal framework (legislative, regulatory, or jurisprudential) or institutional framework (including policy statements, guidelines, directives, and protocols) since Phase 2 which might *directly or indirectly* impact upon any of the obligations under the Convention, the 2009 Recommendation on Further Combating Bribery of Foreign Public Officials in International Business Transactions (the 2009 Recommendation on Further Combating Bribery) or the 2009 Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions (the 2009 Recommendation on Tax Measures)? If there have been such changes:

- (a) Please include or provide exact references to all relevant documentation concerning the bribery of foreign public officials (foreign bribery), including documentation that may have an impact on the detection, investigation or prosecution of foreign bribery (e.g. legislation, regulations, court decisions, interpretative notes or commentaries, guidelines, or policy directives). Please describe the impact that these changes have had on the implementation of the Convention or other OECD anti-bribery instruments.
- (b) In particular, please include reference to any change(s) affecting:
  - (i) the offence of bribing a foreign public official (the foreign bribery offence), criminal responsibility for the foreign bribery offence, and related defences and exceptions, including small facilitation payments;
  - (ii) the responsibility of legal persons for the foreign bribery offence, or the responsibility of legal persons more generally;

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<sup>2</sup> This section of the Questionnaire addresses Phase 2 recommendations that were not fully implemented by the time of your country's written follow-up report to Phase 2.

- (iii) sanctions applicable to the foreign bribery offence, including confiscation and administrative or civil sanctions;
  - (iv) the exercise of territorial, nationality or other forms of extraterritorial jurisdiction over the foreign bribery offence;
  - (v) the availability of investigative techniques in cases of bribery, including access to information from financial institutions and tax authorities;
  - (vi) the potential impact of factors prohibited under Article 5 of the Convention (i.e. national economic interest, relations with another State, or the identity of the natural or legal persons involved), or of other forms of improper influence which are the result of concerns of a political nature, on investigations and prosecutions;
  - (vii) prosecutorial discretion, and any requirement to obtain consent from the executive branch of government (e.g. Minister of Justice) to open, close or continue an investigation or prosecution; or to inform the executive branch prior to the opening, closure or continuance of an investigation or prosecution; or any authority of the executive branch to direct the opening, closure or continuance of an investigation or prosecution;
  - (viii) the statute of limitations applicable to the foreign bribery offence;
  - (ix) false accounting offences, and money laundering offences in so far as the latter relate to foreign bribery;
  - (x) the tax treatment of bribes to foreign public officials, including the tax treatment of small facilitation payments and implementation of the 2009 Recommendation on Tax Measures;<sup>3</sup>
  - (xi) the ability of your tax authorities to require financial institutions in your country to provide information; and
  - (xii) new arrangements and agreements on mutual legal assistance (MLA) and extradition; and the rules governing MLA and extradition, including the potential impact of issues addressed under Articles 9 and 10 of the Convention (i.e. bank secrecy, absence of an extradition treaty, declining extradition requests solely on the grounds that a person is a country's national, requirement for dual criminality).
- (c) Please include reference to any significant changes in the resources (human and financial) available for the implementation of the Convention and the 2009 Recommendations, including resources for law enforcement authorities and bodies responsible for awareness and prevention of foreign bribery.
- (d) If more than one level of government has relevant legislative-making powers, please identify relevant changes to all levels of legislation which might *directly or indirectly* impact upon the implementation of the Convention.

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<sup>3</sup> Please refer, in this regard, to the questions in Part II(9) of the Questionnaire.

- 2.2 Has your national policy or strategy on combating the bribery of foreign public officials been updated since Phase 2, or changed in any way?
- 2.3 If you have any dependencies or overseas territories, what progress has been made since Phase 2 to bring them in compliance with the Convention? In addition, if you have the authority to extend ratification of the Convention to them, what steps have been taken in this regard?

## **II. HORIZONTAL (CROSS-CUTTING) ISSUES, INCLUDING ENFORCEMENT EFFORTS AND RESULTS <sup>4</sup>**

In responding to the questions in this Part of the Questionnaire, please note that some questions may overlap with those already asked in Parts I(A) and I(B) above, depending on the nature of the Phase 2 recommendations and follow-up issues for each country, and depending on the nature of any legal and institutional changes for each country. Please do not repeat responses already given but refer, instead, to the appropriate question where the response was already made.

*This paragraph is designed to provide you with some guidance, additional to that in DAF/INV/BR/(2008)25/FINAL, for answering the questions in Part II of the Questionnaire. You should be prepared to describe how your authorities have applied the foreign bribery offence and related offences, including questions concerning confiscation, related money laundering provisions, and international cooperation. Ideally, this would be addressed by referring to concrete cases that have arisen under implementing legislation, irrespective of whether these cases have been successfully prosecuted. The aim of such information, which will be held on a confidential basis, is to assist the Working Group to determine how the foreign bribery offence is being prosecuted, what investigative techniques are being utilised, and what hurdles are being faced by countries in the fight against the bribery of foreign public officials.<sup>5</sup> You are not required to disclose or agree to the publication of information that is protected by law, regulations and/or professional rules of conduct in your country.*

### **3. Investigation and prosecution of the foreign bribery offence**

- 3.1 Please provide information on enforcement action since Phase 2<sup>6</sup> with regard to alleged foreign bribery, related accounting misconduct, and related money laundering,<sup>7</sup> including if available updated information not already provided as part of other data gathering exercises by the Working Group:
- (a) Concerning the investigation of such cases, please identify: (i) the total number of investigations commenced each year each year; (ii) the number of on-going investigations;

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<sup>4</sup> The horizontal issues in this part of the Questionnaire were identified during the course of Phase 1 and Phase 2 monitoring, as well as during the review of the OECD anti-bribery instruments.

<sup>5</sup> The Phase 3 evaluation report will not include any confidential information, including information pertaining to on-going cases, and will aim to provide feedback on how the evaluated country might improve the way it prosecutes cases of foreign bribery, taking into account its domestic legislation. The evaluated country will also have an opportunity to review the preliminary evaluation report and, should any confidential information remain in it, require that it be removed.

<sup>6</sup> Countries are encouraged to provide relevant information on all enforcement action since signing the Convention.

<sup>7</sup> The Convention addresses three offences: the bribery of foreign public officials, fraudulent accounting, and money laundering where the predicate offence is the bribery of foreign public officials.

- (iii) the number of investigations in which there has been a pre-trial seizure or freezing of assets; (iv) the number of discontinued investigations without sanctions; and (v) the number of discontinued or deferred investigations where persons were sanctioned as a result of settlement, mediation, or the like.
- (b) Concerning criminal prosecutions and convictions with formal charges, please identify: (i) the total number of prosecutions commenced each year; (ii) the number of on-going prosecutions; (iii) the number of prosecutions discontinued or deferred without sanctions or conditions; (iv) the number of prosecutions discontinued or deferred with sanctions or other measures; (v) the number of convictions with sanctions; and (vi) the number of acquittals.
- (c) Concerning additional administrative or civil proceedings foreseen under Article 3(4) of the Convention which seek imposition of sanctions (e.g. debarment, suspension from public procurement contracts, suspension or termination of official export credit support, penalties for accounting violations), please identify on an annual basis: (i) the number of on-going proceedings; (ii) the number of proceedings discontinued or deferred without sanctions or other measures; (iii) the number of proceedings discontinued or deferred with sanctions or other measures; (iv) the number of proceedings discontinued as a result of civil settlements or agreements, or reference of the matter to arbitration; (v) the number of decisions finding liability with sanctions; and (vi) the number of decisions finding no liability.
- (d) Concerning all statistics provided, please distinguish between natural persons and legal persons (e.g. “3NP” for three matters involving natural persons, or “2LP” for two matters involving legal persons). Please also distinguish between enforcement action concerning alleged foreign bribery (e.g. “FB”), related accounting misconduct (e.g. “AM”) and related money laundering misconduct (e.g. “ML”).
- (e) Please provide a summary of selected relevant cases since Phase 2, including those that address weaknesses identified in previous evaluations and information on any changes in the domestic legal or institutional framework since Phase 2. In accordance with national rules on confidentiality, please include:
- (i) the sources of information regarding foreign bribery, and how they came to the attention of your law enforcement authorities (e.g. media, competitors, employees, tax authorities, the auditing profession, money laundering authorities, the investigation of other offences, embassies, information from foreign authorities, foreign court decisions, or MLA requests from other countries);
  - (ii) the important facts of the case revealed by the evidence (which may be anonymised), including the briber (NP and/or LP), the amount of the bribe, the nature of the advantage obtained, the time period and location of the events, the involvement of intermediaries, etc.;
  - (iii) the procedural steps taken, including investigative and prosecutorial steps;
  - (iv) the practices and procedures used by law enforcement authorities to assess the information received; and
  - (v) any interpretation of the foreign bribery offence by the court, or opinion of (please provide a copy of any relevant documentation, with a translation of the relevant parts of such documentation into the agreed official language for the evaluation).

(f) Where applicable, please indicate the nature of any challenges encountered which: prevented information referred to your law enforcement authorities accusing natural and/or legal persons of involvement in foreign bribery from progressing to the investigative stage; or prevented investigations from leading to indictments (or the initiation of civil or administrative proceedings); or prevented any indictments (or other proceedings) from going to trial; or resulted in any trials leading to acquittals (or the finding of no liability). Where such challenges have arisen, please explain what measures you have taken in attempting to overcome them, including practices that have worked particularly well.

(i) Practical challenges might include, for example, that: the benefit was transferred through an intermediary, including a related legal person; the benefit was provided directly to a third party with the agreement, or instruction, of the foreign public official; the person bribed was not clearly a foreign public official, or might have received the bribe in a personal capacity; a defence or exception that does not apply in your jurisdiction was successfully invoked in another country; the offence occurred only in part in your country, or entirely abroad in a foreign territory (i.e. either in a public official's country, or in a third party); the circumstances surrounding the offence are the subject of an on-going investigation in another country, or have been investigated and concluded in another country; and/or the statute of limitations expired before or during the investigation or prosecution.

(ii) If challenges have been encountered as a result of waiting for the conclusion of a request for MLA from, or extradition by, another State, please describe the nature of such difficulties and what measures you have taken in attempting to overcome them. Please identify whether any difficulties relate to another State which is a Party to the Convention (without necessarily naming the Party). Please include reference to any difficulties encountered in obtaining judicial or administrative decisions from another State which is Party to the Convention.

3.2 What are the most common sources of information referred to your law enforcement authorities accusing natural and/or legal persons of involvement in foreign bribery? If such information is not being referred to your authorities, what do you believe the reasons for this to be (e.g. reluctance by the public to blow the whistle)?

3.3 Please describe the criteria for the commencement, suspension, interruption and termination of the statute of limitations applicable to the foreign bribery offence.

3.4 Have your law enforcement authorities investigated and/or prosecuted credible factual allegations of bribing a foreign public official through an intermediary where the intermediary made an offer, promise or gift to a foreign public official for the benefit of the company without having been directed or authorised to do so? If your authorities have prosecuted such cases, please describe (by reference to selected relevant cases) how they established the necessary *mens rea* for criminality?

3.5 Have your law enforcement authorities investigated and/or prosecuted credible factual allegations of bribing a foreign public official where all of the advantage was transferred directly to a third party with the knowledge or agreement of the foreign public official? If so, please describe (by reference to selected relevant cases) what practical or legal obstacles your authorities faced in this situation.

3.6 Have your law enforcement authorities investigated and/or prosecuted credible factual allegations of bribing a foreign public official where the benefit given, offered, or promised was small or was a facilitation payment?

- (a) If so, and if your country allows an exception or defence for facilitation payments, or applies one in practice through prosecutorial discretion, have there been situations where authorities in your country have decided not to proceed with an investigation or prosecution because it was not clear whether the payment was a facilitation payment? Please explain (by reference to selected relevant cases where applicable) how your authorities determined whether or not the benefit amounted to a facilitation payment.
- (b) If your country does not allow such an exception or defence, and your foreign bribery law would cover such payments, please provide any relevant cases and explain what criteria or other standards govern the investigation and prosecution of such cases.
- (c) Whether your country allows such an exception or defence, or disallows facilitation payments, have your authorities periodically reviewed your country's policies and approaches on small facilitation payments?

3.7 Have your law enforcement authorities investigated and/or prosecuted credible factual allegations of bribing a foreign public official where the foreign public official solicited the bribe?

3.8 Please provide information on measures taken by your authorities to ensure that:

- (a) Investigations and prosecutions of the bribery of foreign public officials are not influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved, in compliance with Article 5 of the Convention;
- (b) Credible factual allegations of bribery of foreign public officials are seriously investigated and assessed by the competent authorities; and
- (c) Adequate resources have been provided to law enforcement authorities to permit effective investigation and prosecution of bribery of foreign public officials.

#### **4. Responsibility of legal persons**

4.1 Can you provide examples, since Phase 2, of the application of the law ascribing the responsibility of legal persons (including State-owned or State-controlled enterprises) for the bribery of a foreign public official?

- (a) If not, please refer if possible to cases since Phase 2 involving bribery of domestic officials or other similar offences (e.g. fraud, money laundering, or an offence(s) against anti-monopoly or anti-cartel laws).
- (b) Please provide, if available, detailed information on the types of entities that have been prosecuted and how the standard of liability (e.g. vicarious liability, or liability triggered by acts of high-level managerial authority) has been applied.
- (c) Where a case has been brought against a natural person employed by or acting on behalf of a legal person, please explain whether an investigation or prosecution has also been initiated against the legal person. If not, please explain the reasons for this.

- (d) Please explain how jurisdiction has been established (or not) over legal entities operating abroad, including foreign subsidiaries of national companies or legal entities which are registered or operate in more than one jurisdiction.

## **5. Sanctions**

5.1 Please describe the nature (type and level) of all criminal, administrative, and civil sanctions that have been applied in practice to natural and legal persons for the foreign bribery offence since Phase 2.<sup>8</sup> The summary should include, if possible, information on:

- (a) The grounds for determining the severity of the sentence (including the amount of the fine and/or term of the imprisonment, or for the non-imposition of a sanction).
- (b) The application of a procedure for plea-bargaining, or other procedure such as deferred prosecution, if your country provides such a procedure. If information is available, please compare the sanctions imposed as a result of these two procedures with those obtained otherwise.

## **6. Confiscation of the bribe and the proceeds of bribery**

6.1 Please describe, using the example of selected relevant cases, how confiscation of the bribe and proceeds of the offence has been exercised in relation to the foreign bribery offence. If confiscation is not available under your country's laws, please explain how monetary sanctions of a comparable effect have been applied.

- (a) In particular, please indicate to what extent your authorities have been able to trace the assets generated by commission of the foreign bribery offence? Have authorities encountered difficulties in tracing the proceeds resulting from commission of the foreign bribery offence?
- (b) Have your authorities experienced difficulties in quantifying the proceeds of bribery for the purpose of pre-trial seizure, or confiscation? If applicable, please describe the nature of such difficulties and what measures you have taken in attempting to overcome them, including practices that have worked particularly well.
- (c) What is the policy and practice of your authorities concerning the recovery of the proceeds of bribery of foreign public officials? If your authorities have experienced difficulties in this respect, please describe the nature of such difficulties and what measures you have taken in attempting to overcome them, including practices that have worked particularly well.

## **7. Money laundering**

7.1 Please provide the most recent report of the Financial Action Task Force, or regional equivalent, on the operation of your anti-money laundering mechanisms. If applicable, please also explain any steps taken, since the adoption of the latter report, to change your anti-money laundering mechanisms.

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<sup>8</sup> Countries are encouraged to provide relevant information on all sanctions applied since signing the Convention.

7.2 Please explain how your money laundering legislation has been applied since Phase 2 where the predicate offence was the foreign bribery offence. Please include, if available:

- (a) Information on whether cases of bribing foreign public officials have been detected by your money laundering authorities, or by foreign money laundering authorities where information was shared with your authorities. Please also explain whether this was done by identifying the laundering of the proceeds of bribing a foreign public official and/or the bribe payment and/or a connected offence.
- (b) Information concerning the capacity to detect bribe payments through money laundering transactions involving politically exposed persons (PEPs) who are foreign public officials.
- (c) Any available information on how your authorities have quantified the proceeds of bribery in money laundering cases concerning the bribery of foreign public officials as a predicate offence, and whether your authorities have encountered difficulties in this respect.

## **8. Accounting requirements, external audit, and internal controls ethics and compliance**

8.1 Has your country been successful since Phase 2 in detecting foreign bribery through the enforcement of books and records requirements, accounting standards, auditing standards, and financial statement disclosure requirements? If so, please explain how these requirements are enforced, and provide a summary of selected relevant cases. Please also indicate whether the investigation of foreign bribery has led to the detection and investigation of fraudulent accounting.

8.2 What are the measures in place in your country concerning guidance for external auditors who discover indications of a suspected act of bribery to report such matters (i) within the audited company; and (ii) to authorities outside the company (e.g. law enforcement and regulatory authorities)? Please specify in particular:

- (a) Whether these measures are included in law or in other regulatory texts, including professional regulations;
- (b) Whether these measures include an authorisation or an obligation to report;
- (c) Whether the external auditor, in the case of insufficient management action upon receipt by management of such a report, is under obligation (by law, professional regulations, or otherwise) to elevate such reporting to a company monitoring body, independent of management, such as audit committees or boards of directors or of supervisory boards;
- (d) Whether there are specific criteria allowing or requiring such reporting by external auditors (e.g. materiality, the suspicion of an offence, etc.);
- (e) Whether your national legislation provides for protection from legal action for external auditors reporting to authorities outside the company; and
- (f) Whether the audited company's management, if it receives such a report, is under obligation (by law, professional regulations, or otherwise) to act on such information and, where applicable, please describe such measures. If such an obligation does not exist in your country, please describe any steps taken by your authorities to encourage audited companies to act on information received.

8.3 Are there in your country any foreign bribery investigations that may have been triggered by reports from external auditors, either through the company itself, or directly to law enforcement or regulatory authorities?

8.4 Since Phase 2, what steps has your country taken to encourage companies to adopt and develop adequate internal controls, ethics and compliance programmes or measures for the prevention and detection of bribery of foreign public officials? In particular, please describe:

- (a) Steps taken to encourage companies to take into account elements identified in Annex 2 to the 2009 Recommendation on Further Combating Bribery;
- (b) Steps taken to encourage companies to prohibit or discourage the use of small facilitation payments, and ensure that, where they are made, they are accurately accounted for in companies' books and financial records;
- (c) Steps to encourage companies to publicly disclose (e.g. in annual reports, on their web sites, or otherwise) their internal controls, ethics and compliance programmes or measures; and
- (d) Specific action undertaken in coordination with business associations and/or professional organisations, in particular as concerns small and medium size enterprises exporting or investing abroad.

8.5 Please indicate what steps have been taken to encourage companies to provide mechanisms for communication by and protection of persons not willing to violate professional standards or ethics, as well as for persons willing to report in good faith and on reasonable grounds suspected breaches of the law or professional standards or ethics. Please also indicate what steps have been taken to encourage companies to take appropriate action based on such reporting.

8.6 Please indicate whether and in what circumstances your government agencies may consider the existence of internal controls, ethics and compliances systems or measures in their decisions to grant public advantages (e.g. public subsidies, export credits, public licences, public procurement and ODA-funded contracts, etc.).

## **9. Tax measures for further combating bribery**

9.1 Does your country explicitly disallow the tax deductibility of bribes to foreign public officials, for all tax purposes? Are there specific conditions under which tax authorities accept or deny the deductibility of bribes to foreign public officials?

9.2 Has your country taken steps to review, on an ongoing basis, the effectiveness of your legal, administrative and policy frameworks as well as practices for disallowing tax deductibility of bribes to foreign public officials? Is guidance provided to taxpayers and tax authorities as to the types of expenses that are deemed to constitute bribes to foreign public officials? Please include information on whether such bribes are effectively detected by tax authorities.

9.3 Please describe the circumstances in which your tax authorities can (or must) report suspicions of foreign bribery transactions to law enforcement authorities in your own country, and how tax information is shared with tax authorities and/or law enforcement authorities in another country, including whether:

- (a) Such information must be requested or can be shared spontaneously; and

- (b) The optional language of paragraph 12.3 of the Commentary to Article 26 of the OECD Model Tax Convention is included in your bilateral tax treaties.

## **10. International cooperation**

10.1 Please describe the requests for MLA received by your authorities from other Parties to the Convention regarding the bribery of a foreign public official since Phase 2.<sup>9</sup> Please include answers to the following questions, if this information is available and capable of being shared:

- (a) How many requests of this kind have your authorities received each year from other Parties to the Convention? How many requests have been granted/rejected each year and on what grounds? What types of measures were requested (e.g. search and seizure of financial and company records, witness statements, court records, etc.)?
- (b) On average, how long has it taken your country to reply to requests for MLA from other Parties concerning foreign bribery? If possible, please provide examples of the shortest and longest times it has taken your country to reply to such requests. Is the delay for answering similar to the delay for other offences? Are there time limits for responding to requests for the various forms of MLA? Was the range of legal assistance provided the same as that provided for other offences?
- (c) How have any existing requirements (such as dual criminality or reciprocity) been applied?
- (d) Have you granted or denied requests for MLA concerning a legal person and, if so, under what circumstances?
- (e) Have your authorities been able to grant MLA as promptly in cases where a request is for:
- (i) information from a financial institution (such as a customer's name or details about a customer's transaction); or
  - (ii) information about a company (including the identity of the owner, proof of incorporation, legal form, address, the names of directors, etc.)?
- (f) Have you consulted and otherwise co-operated with competent authorities in other countries on the identification, freezing, seizure, confiscation and recovery of the proceeds of bribery of foreign public officials?
- (g) Have you consulted and otherwise co-operated as appropriate with international and regional law enforcement networks involving Parties and non-Parties, in investigations and other legal proceedings concerning specific cases of foreign bribery, through such means as the sharing of information spontaneously or upon request, provision of evidence, extradition, and the identification, freezing, seizure, confiscation and recovery of the proceeds of bribery of foreign public officials?
- (h) Have reports of foreign bribery been referred to your authorities by international government organisations, such as the international and regional development banks? If so, have steps been taken by your authorities to investigate such matters?

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<sup>9</sup> Countries are encouraged to provide relevant information on all requests since signing the Convention.

- (i) Have you considered ways for facilitating mutual legal assistance between Parties and with non-Parties in cases of foreign bribery, including regarding treaty requirements and evidentiary thresholds where applicable?

10.2 Concerning MLA requests regarding the bribery of a foreign public official made by you to other countries since Phase 2,<sup>10</sup> please provide the following information if available and capable of being shared:

- (a) How many requests have you made to other countries? How long has it taken for your country to receive a reply to such requests? How many of them were granted/rejected and on what grounds? In responding to this question, please differentiate between requests to Parties and non-Parties (without necessarily naming the countries).
- (b) If you did not receive a response to your request(s), what further steps did you take, if any? Did the absence of a response result in termination of proceedings?

## **11. Public awareness and the reporting of foreign bribery**

11.1 Please provide information on actions undertaken or planned since Phase 2 to make the Convention and your country's foreign bribery law better known in your country.

- (a) Please include information on steps taken to engage companies (especially small and medium enterprises), business associations, professional organisations, trade unions, non-governmental organisations, universities and business schools, and the media, as well as the general public.
- (b) Please describe awareness-raising and training provided to government officials, including those posted abroad, on the laws implementing the Convention, such that government officials can provide basic information to their companies at home and abroad and appropriate assistance when such companies are solicited for bribes.
- (c) Please advise whether you are aware of any positive consequences from increased awareness of the Convention, the foreign bribery offence, or its detection and prosecution (e.g. an increase in corporate codes of conduct directed towards the detection and reporting of foreign bribery, an increased level of reporting from embassies abroad, etc.).

11.2 In your awareness-raising efforts since Phase 2, have you used international standards on corporate social responsibility, including Annex 2 to the 2009 Recommendation on Further Combating Bribery, the OECD Guidelines for Multinational Enterprises and other relevant OECD and non-OECD principles as they relate to issues of bribery? If so, how did you use them?

11.3 Please indicate the procedures or mechanisms in place for reporting suspected acts of foreign bribery, and how existing procedures and mechanisms were publicised.

11.4 Please indicate the measures in place to encourage and/or require reporting by your own public officials of suspected acts of foreign bribery. In particular, please describe:

- (a) Which categories of public officials are concerned by these reporting mechanisms;

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<sup>10</sup> Countries are encouraged to provide relevant information on all requests since signing the Convention.

- (b) The mechanisms for reporting internally as well as externally to law enforcement authorities; and
- (c) Whether specific awareness raising activities have been undertaken to publicise the existence of these reporting channels, and facilitate their use, and whether certain bodies of public officials have been more specifically targeted.

11.5 Please describe the measures in place to protect from discriminatory or disciplinary action public and private sector employees who report in good faith and on reasonable grounds suspected acts of foreign bribery to competent authorities. Please also indicate whether any specific awareness raising activities have been undertaken to publicise the existence of such measures.

## **12. Public advantages**

12.1 Please indicate whether measures were taken since Phase 2 to permit your authorities to suspend from competition for public contracts or other public advantages (e.g. public procurement and ODA-funded contracts, export credits, etc.) companies determined to have bribed a foreign public official in the context of an international business transaction. If so, please describe the measures taken. Please also describe what steps you have taken to evaluate the effectiveness of your approach in this area.

12.2 Please indicate whether measures were taken since Phase 2 to enhance transparency in public procurement. If so, please describe the measures taken. In this regard, please indicate the international instruments your country has adhered to (e.g. WTO Agreement on Government Procurement).

12.3 Please indicate whether measures were taken since Phase 2 by your export credit agency to address foreign bribery issues in relation to the attribution and suspension of export credit guarantees. If so, please describe the measures taken. If relevant, please indicate in particular whether your country has taken steps to adhere to the 2006 OECD Council Recommendation on Bribery and Officially Supported Export Credits and explain those steps. If not, please explain why not.