



**Asia-Pacific
Economic Cooperation**

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Chilean Efforts to Provide Incentives for Companies to Adopt Compliance Programs

Submitted by: Chile



**Workshop for Law Enforcement Agencies on
Effectively Using Corporate Compliance Programs
to Combat Domestic and Foreign Bribery
Puerto Varas, Chile
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Chilean efforts to provide incentives for companies to adopt compliance programs



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Chilean System of LLP

➤ Law 20.393/2009: Criminal liability of Legal Person

Relevant offences:

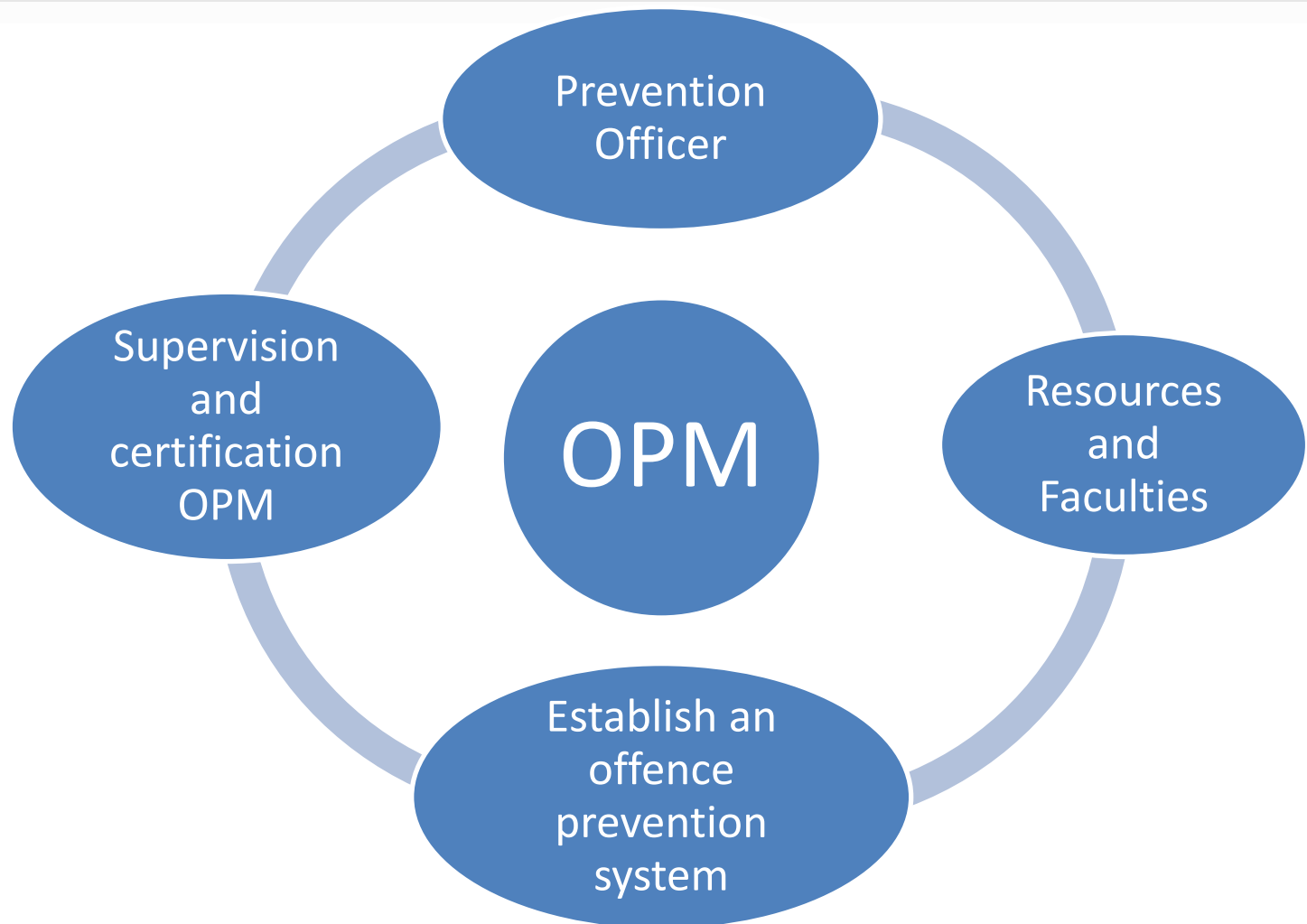
- Domestic Bribery
- Foreign Bribery
- Money laundering
- Others

Owners, CEO, any person within the company with duties of direction and supervision

“In benefit of the company”

Breach duty of direction and supervision. The company could demonstrate its fulfillment adopting a Offense Prevention Model (OPM)

Minimal Requirements OPM



OPM

- OPM are not mandatory
- Law only establish minimal requirements. The OPM could consider more and better standards
- Jurisprudence will verify if an OPM fulfill the Law
- Phase 4, OECD recommendation: “Develop guidance on the elements of an effective OPM for preventing foreign bribery”.

OPM

- Law 20.393 promotes the adoption of OPM:
 - ❑ OPM could constitute a defence if is adopted before offence (art 3 & 4)
 - ❑ OPM could mitigated the liability of the LP (art 6.3):
“The adoption by the legal person, before the beginning of the trial, of effective measures to prevent the repetition of the same class of offences under investigation”
 - ❑ OPM could also be a Condition in SCP (art 25):
“Implement a program to make effective the model of organization, administration and supervision referred to in article 4.

Incentives

- PPO published “Practical Guide on Good Investigation Practices Criminal Responsibility of Legal Persons”.

**UNIDAD ESPECIALIZADA
ANTICORRUPCIÓN**

**Guía Práctica
Buenas Prácticas de Investigación
Responsabilidad Penal de las Personas Jurídicas**

Incentives

➤ Practical Guide aimed at prosecutors...

Prevention Officer

- Budget
- Reports
- Software and Skills

Risk Assessment

Code of conduct

- Authorizations
- Public Bidding in Public Procurement
- Gift policies

Training and OPM's diffusion

Incentives

➤ Guide to SOE

❑ Doc N°78: “Basic Elements for Crime Prevention Model in Public Companies”

➤ Training: INN (ISO institution) and PPO



Incentives

➤ Training

Academy: During 2018 in PUC:

- “Diploma in Law and Sports Management”
- “Diploma in probity, transparency and good governance”



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CATÓLICA
DE CHILE

To PDI, “Brideff” and Heads of “Bridec”

Diffusion in compliance and OECD standards by the “Responsible Business Conduct Division” of the “Undersecretary of International Economics Relations” (MOF)

This APEC Workshop...

Chilean experience in LLP

STATISTICS 2009-2018

- Formalized prosecutions (with formal charges) :

Number of cases against LP	Number of LP formalized
17	24

- Offences committed by LP: 16 Domestic bribery cases (23 companies) and 1 foreign bribery case (1 company)

- Ongoing cases vs concluded cases:

LP with concluded cases	LP with ongoing cases	Total
19	5	24

Chilean experience in LLP

STATISTICS 2009-2018

➤ Concluding cases (reasons):

Number of LP subject to a SCP	Number of LP convicted in abreviature procedure	Number of LP acquittals in oral trial	Total
11	5	3	19
57,9%	26,3%	15,8%	100%

➤ Negotiated terminations : 84,2

➤ Oral Trials : 15,8

Thank you

