

Implementation of the culture of Transparency in Chile: institutional establishment and challenges

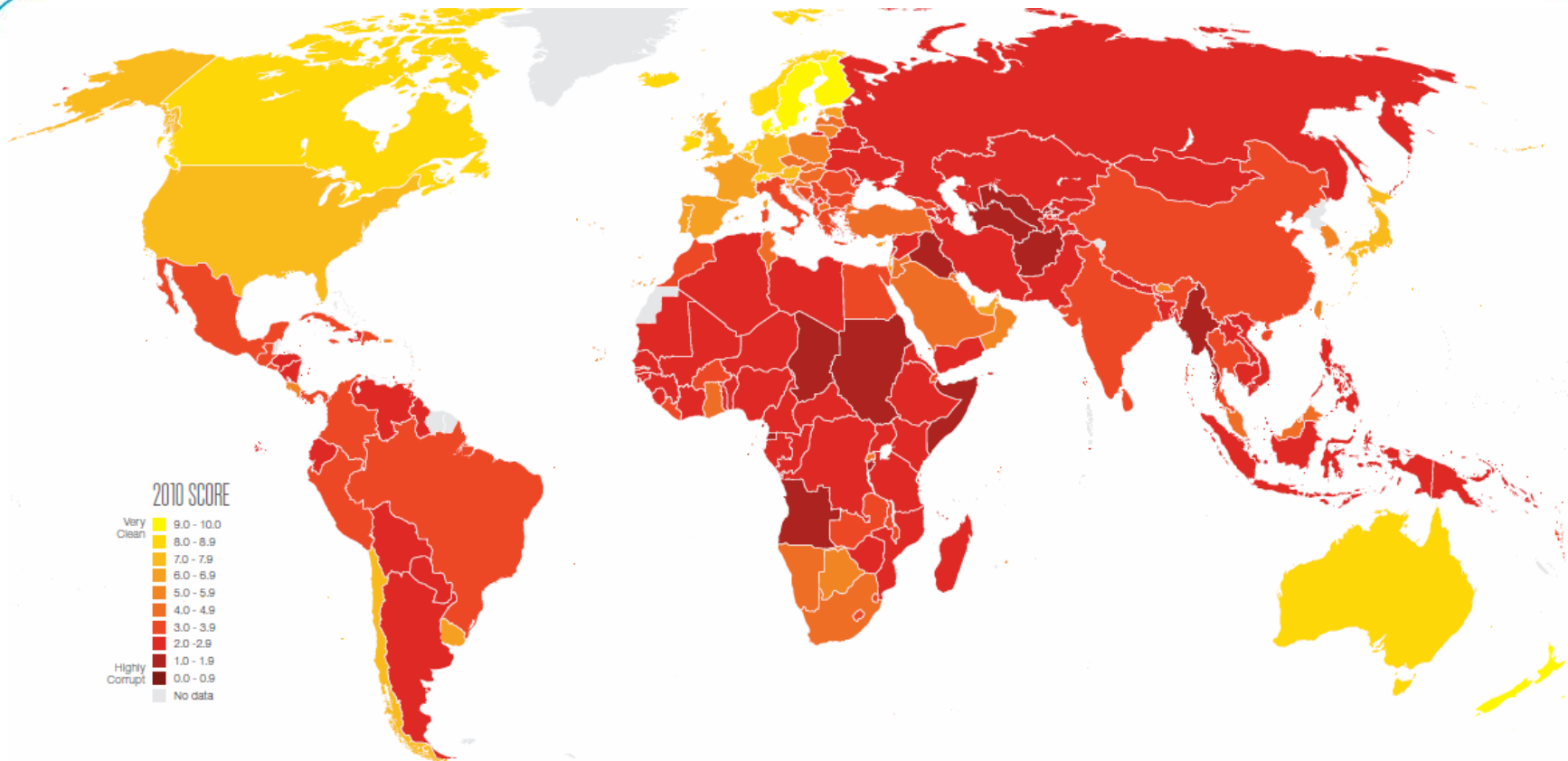


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Importance of transparency in the world

Annual Report on International Transparency



According to the last annual report on international transparency, Chile is located at **place 21 among 178 countries, rising 0.5 points compared to the 2009 index, which meant an upgrade from 6.7 to 7.2 of the score and an increase of four places**

Annual Report on International Transparency

AMERICAS

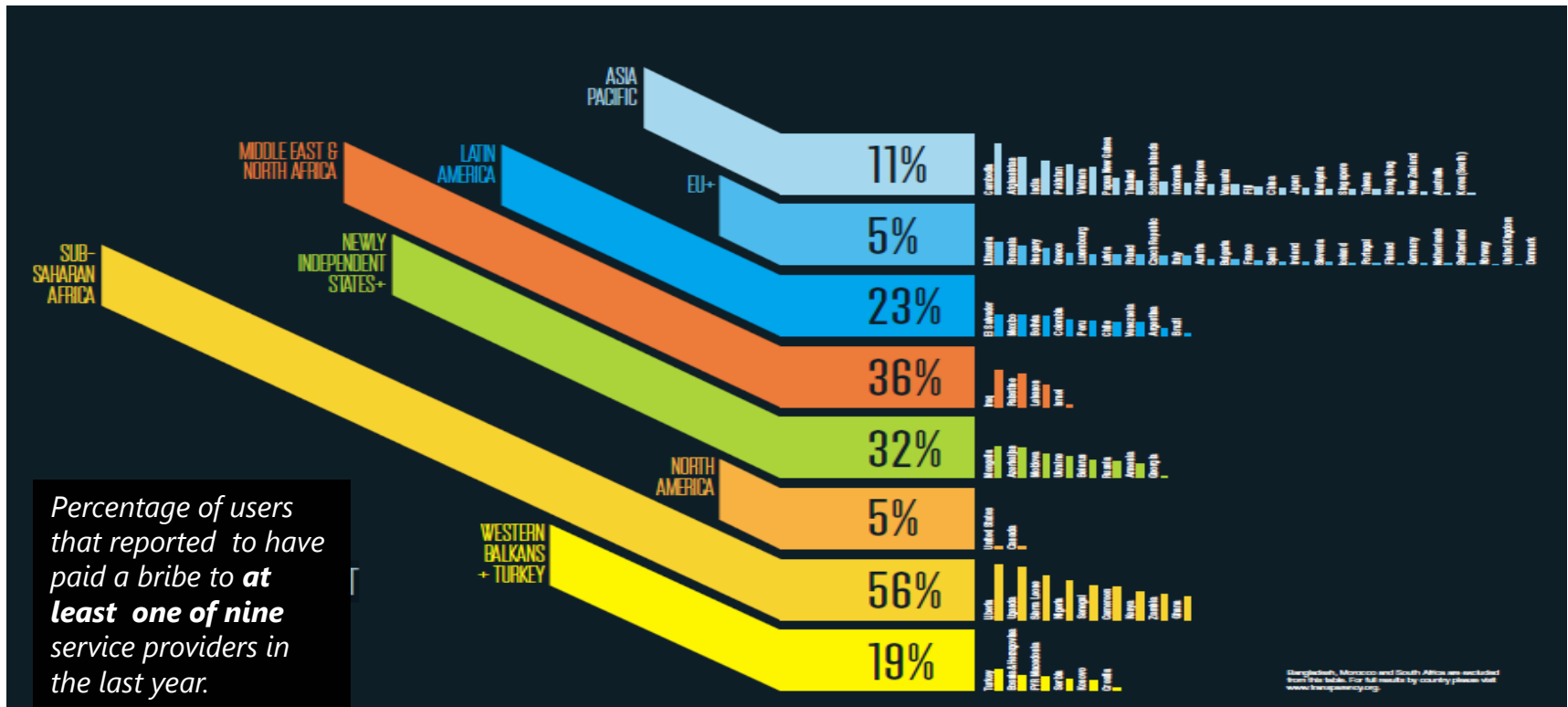
Pais	Ranking	Puntuación
Canadá	6	8,9
Barbados	17	7,8
Chile	21	7,2
Estados Unidos	22	7,1
Uruguay	24	6,9
Costa Rica	41	5,3
Dominica	44	5,2
Cuba	69	3,7
Brasil	69	3,7
Panamá	73	3,6
Trinidad y Tobago	73	3,6
El Salvador	73	3,6
Colombia	78	3,5
Perú	78	3,5
Jamaica	87	3,3
Guatemala	91	3,2
México	98	3,1
República Dominicana	101	3,0
Argentina	105	2,9
Bolivia	110	2,8
Guyana	116	2,7
Nicaragua	127	2,5
Ecuador	127	2,5
Honduras	134	2,4
Haiti	146	2,2
Paraguay	146	2,2
Venezuela	164	2,0

Latin America

Country	Rank	Score
Chile	21	7.2
Uruguay	24	6.9
Brasil	69	3.7
Colombia	78	3.5
Perú	78	3.5
Argentina	105	2.9
Bolivia	110	2.8
Guyana	116	2.7
Ecuador	127	2.5
Paraguay	146	2.2
Venezuela	164	2.0
Surinam	S/I	S/I

Countries without information: Bahamas, Saint Vincent and the Grenadines, Netherlands Antilles, Belize and Surinam

2010 Global Barometer of Corruption



- Six out of 10 people in the entire world state that corruption has increased during the last three years, and one out of four people reported to have paid bribes during the last year.
- In groups of low income, the odds of paying bribes in return of basic services, such as public, medical and educational services, proved to be twice as possible as in high income groups.
- The trust in governments and politicians is also low, where eight of ten people consider political parties to be corrupt or extremely corrupt. Half of those polled declared that the action of their government to stop corruption is inefficient.

Seven out of 10 people thought that common people can make a difference in the fight against corruption, while half of them were able to imagine themselves being involved

Transparency produces public value.

The implementation of a culture of transparency brings along certain ***benefits*** *for state organisms, citizens and the country in general*, where the bottom line is that its implementation is a ***"win-win situation"***

**Implementation of
the Public Policy in
Chile: The Council for
Transparency .**

Milestones of the Transparency Agenda in Chile.

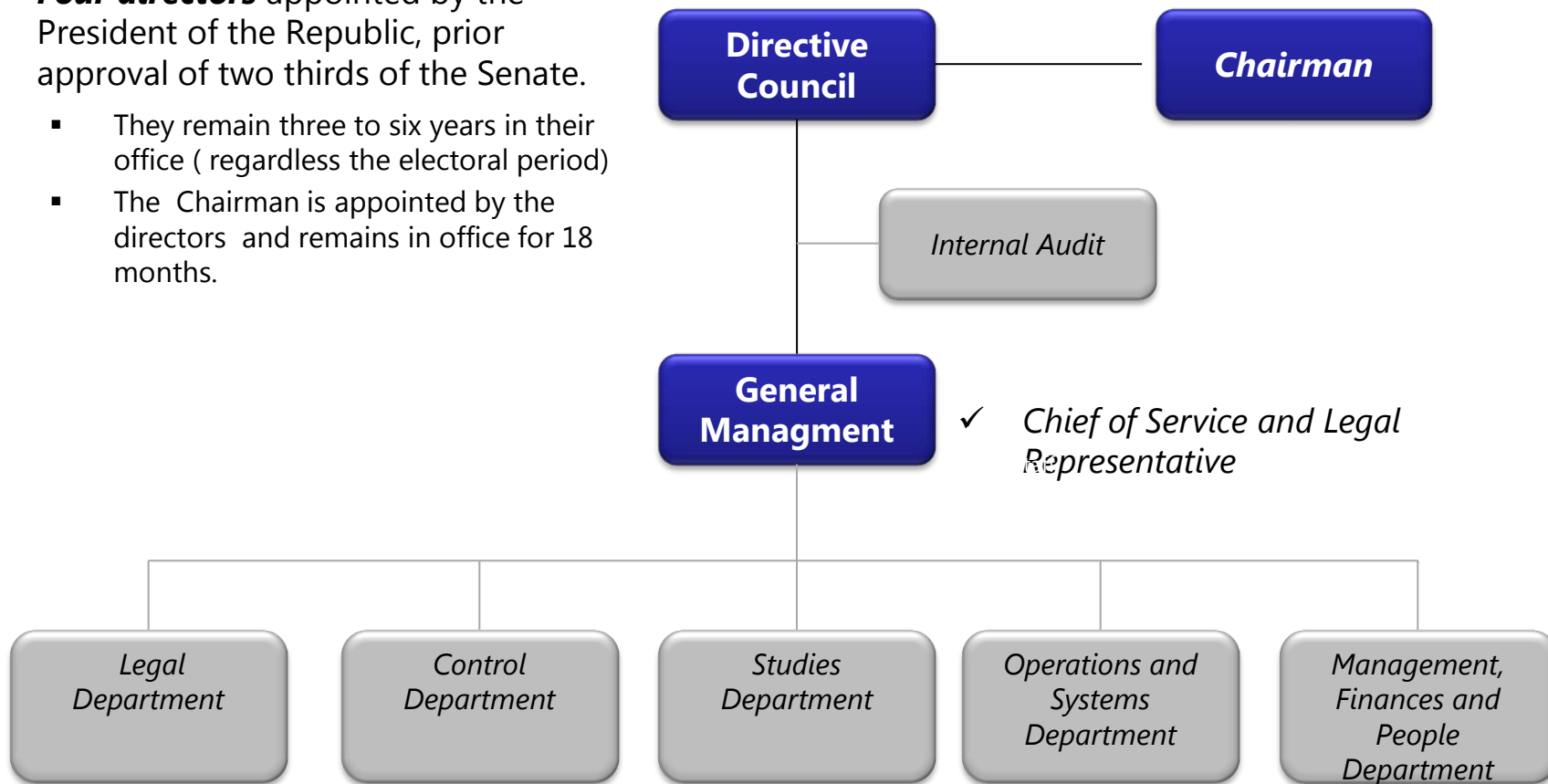
- ✓ *Motion of Senators Hernán Larraín and Jaime Gazmuri (January 2005)*
- ✓ *Presidential Advisory Commission of Integrity and Transparency. (November. 2006)*
- ✓ *Emblematic cases: Ruling of the International Inter-American Court of Human Rights (Claude Reyes / The State of Chile.)*
- ✓ *Constitutional Amendment: a new article 8° .*
- ✓ *Law 20,285 on Access to Information , published in the Official Gazette on August 20, 2008.*
- ✓ ***Enacted on April 20, 2009.***

What is the Council for Transparency?

- An ***autonomous*** public organization, organized as a legal entity, with its own resources and authorities to supervise and sanction the observance of this law.
- Its purpose is to ***promote*** transparency of public activity, ***supervise*** the compliance of legal rules concerning transparency and publicity of the information of State Administration Organisms, and to ***guarantee*** the right to access to information.

Who are the members of the Council for Transparency ?

- ✓ **Four directors** appointed by the President of the Republic, prior approval of two thirds of the Senate.
 - They remain three to six years in their office (regardless the electoral period)
 - The Chairman is appointed by the directors and remains in office for 18 months.



Challenges as a country

Policy of Files

- On the basis of the right to access to public information we find the **existence (physical or digital) and the back up support of such information**
- A condition of the above is the existence of a previous process **of classification and filing of public information.**
- Efficacy and opportunity conditions are in turn given by the **institutional coordination** required to store the information in **codes and metadata** approved by, and mandatory for, all the departments.
- There is a **significant risk** if isolated efforts of classification and storage are held, since they promote the existence of files and classifications disconnected the ones from the others, besides being incompatible among them .
- **An institutional coordinated effort** is required to guarantee the consistency of the classification of documents and, as a consequence, its availability for being delivered.

Policy of Files/ World Bank Project

Component 1
Mechanism to share knowledge

Component 2
TIC Platform for Town Councils

Component 3
**Assessment and
Workshop on registries**

Component 4
External audit of the Project

1

Purpose:

To improve the management of administrative files registries (non-historical)

2

Expectations:

To take guidelines (good practices) to improve the registries management systems

3

Stages:

Assessment
Identification of Good Practices
Elaboration of guidelines to be followed
Elaboration of an Action Plan
Workshop

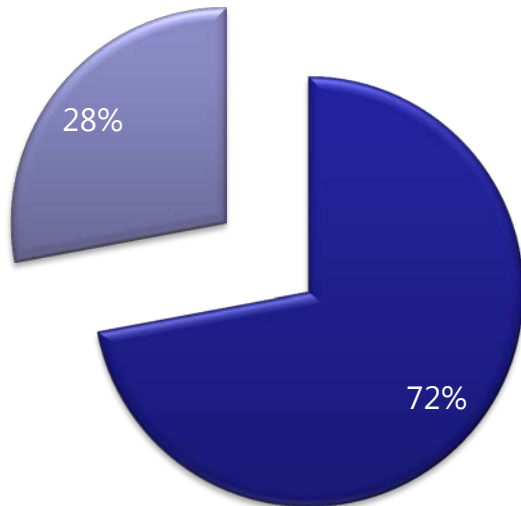
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Foreign Direct Investment (FDI)
World Bank

Data Protection

- Bill of Law amending Law No. 19,628 and Law No. 20,285.
- Strengthening of the protection of consumers and citizens' data. **Right of Informative Self-Determination** (third generation fundamental right)
- **Chile is not a "Safe Country"** in accordance with international standards, in particular the EU. This is an obstacle for international data transfer, and the consequent loss of competitiveness for the development of the global services industry.
- Within others aspects, the Project intends to balance the **"right to control personal data"** with the **"free flow of data"**; it creates a Sole Data Base Registry; it regulates cross-border data flow; it increases security conditions in the data treatment; it establishes sanctions and assigns to the Council for Transparency the duty of protecting personal data.

The Right of Access and Personal Data Protection.

- Other matters
- Decisions on substantive matters related to data protection



Fuente: U. Normativa.

Data corresponding to the issuance of decisions resolving a substantive matter, during the months of August 2010 and April 2011

Universe of reviewed decisions: 519

Scope of authorities of the Council as to data protection:

- 1.** The parties have requested the protection of personal data and the Council has had to make a declaration on the above in its decision, or
- 2.** The Council has decided to apply directly data protection laws, either because this application directly influenced the decision, or because it was considered as an additional element that should be taken into account at the time of issuing a decision on this case.

Data Protection

Countries of reference: England, Canada, Spain, Italy

Indexes: Population, No. of companies, % internet, GDP per capita

Obligated
individuals
and entities

17,000,000 inhabitants

901,000 companies

11,000 Big
20,000 Medium
133,000 Small
589,000 Micro
149,000 Without sales



80 requests

55,000 registries

2,100 complaints

20,000 questions

2.9 millions of Data Bases approx.

Study: Design of an Organizational Model of the Council for Transparency for its new data protection authority. Center of Public Systems, Industrial Engineering Universidad de Chile.

Transparency Portal, State of Chile

Signing of agreement with SEGPRES, La Moneda Palace
April 15, 2011.



Overview

*To be the digital reference in matters of transparency for the country ,
becoming a channel and a unique experience in the use and access
to State information for citizens*

Transparency Portal of the State of Chile

- ✓ Its **purpose** is to become a sole platform channeling all requests of information made by people to State administration organisms, that are obligated pursuant Law No. 20,285.
- ✓ It will also offer a follow-up process for the answers to such requests, *training, statistical information and a broad help desk* for **public employees** and **people**, to move forward in the promotion of the right of free access to public information in Chile.
- ✓ The development of this “Transparency Portal of the State of Chile” will be made through a joint work between the Council for Transparency and the Ministry General Secretariat of the Presidency, through a **technical committee**, in which both institutions shall be equally represented.



Open Government

Principles:

- ❑ We acknowledge that people all around the world are demanding more openness in government. They are calling for greater civic participation in public affairs, and seeking ways to make their governments more transparent, responsive, accountable, and effective.
- ❑ We recognize that countries are at different stages in their efforts to promote openness in government, and that each of us pursues an approach consistent with our national priorities and circumstances and the aspirations of our citizens.
- ❑ We accept responsibility for seizing this moment to strengthen our commitments to promote transparency, fight corruption, empower citizens, and harness the power of new technologies to make government more effective and accountable.
- ❑ We uphold the value of openness in our engagement with citizens to improve services, manage public resources, promote innovation, and create safer communities. We embrace principles of transparency and open government with a view toward achieving greater prosperity, well-being, and human dignity in our own countries and in an increasingly interconnected world.



Open
Government
Partnership

promoting transparency,
empowering citizens,
fighting corruption, and
harnessing new technologies
to strengthen governance

www.opengovpartnership.org

The five OGP grand challenges are:

- 1. Improving Public Services:** measures that address the full spectrum of citizen services including health, education, criminal justice, water, electricity, telecommunications and any other relevant service areas, by fostering public service improvement or private sector innovation.
- 2. Increasing Public Integrity:** measures that address corruption and public ethics, access to information, campaign finance reform, and media and civil society freedom.
- 3. More Effectively Managing Public Resources:** measures that address budgets, procurement, natural resources and foreign assistance.
- 4. Creating Safer Communities:** measures that address public safety, the security sector, disaster and crisis response, and environmental threats.
- 5. Increasing Corporate Accountability:** measures that address corporate responsibility on issues such as the environment, anti-corruption, consumer protection, and community engagement.



Commitment to:

1. Increase the availability of information about governmental activities.
2. Support civic participation.
3. Implement the highest standards of professional integrity throughout our administrations.
4. Increase access to new technologies for openness and accountability.

Chile: letter of intent

- The Government of Chile answered to the invitation through a letter providing the total commitment from our country to be part of this important group of countries and highlighting that “the fact of creating this club of transparent countries and that we are invited to participate, is another prove of the well-done work conducted by this management, with high self-demanding standards in this matter”

REPÚBLICA DE CHILE
MINISTERIO SECRETARÍA GENERAL DE LA PRESIDENCIA
GABINETE MINISTRO

Santiago, 9 de septiembre de 2011

Señora

Maria Otero

Subsecretaría de Estado para Democracia y Asuntos Globales

Departamento de Estado

Presente

Estimada señora Otero:

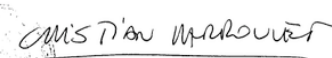
Me es grato dirigirme a Ud. en relación a la iniciativa multilateral, liderada por Estados Unidos y Brasil, denominada *Open Government Partnership* y que será lanzada el próximo 20 de septiembre, en el marco de las actividades que se realizarán en torno a la 66ª Asamblea General de Naciones Unidas.

Sobre el particular, me complace señalar que nuestro país comparte plenamente los principios de esta iniciativa y que a través de esta comunicación solicita formalmente su adhesión a este programa. Será un agrado continuar trabajando para tener gobiernos más transparentes, con mayores grados de participación ciudadana y que combatan eficazmente la corrupción, y coordinar nuestras acciones con los países amigos.

Considerando que a S.E. el Presidente Sebastián Piñera le será imposible asistir el día del lanzamiento de la iniciativa en Nueva York, oportunamente haremos saber el nombre del representante de Chile a la ocasión.

Quedamos a la espera de sus sugerencias y comentarios para avanzar en la próxima etapa de esta iniciativa, cual es la definición del Plan de Acción con la participación de organizaciones de la sociedad civil.

Sin otro particular, me valgo de esta ocasión para reiterarle las seguridades de mi más alta consideración y estima,



Cristián Larroulet Vignau
Ministro Secretario General de la Presidencia

Thanks