



United Nations Convention against Corruption

Signed 9 December 2003 in Merida, Mexico

“This Convention offers a powerful set of tools and demonstrates that the international community can work together to battle the scourge of corruption.”

Peter Eigen, Chairman
Transparency International

A major milestone

On 31 October 2003, the United Nations General Assembly adopted the UN Convention against Corruption (UNCAC). The signing ceremony for this landmark instrument was held in Merida, Mexico, on 9-10 December 2003. Transparency International (TI) contributed to the Convention negotiations and is now active in promoting its ratification and implementation. As of November 2004, it had been signed by 113 countries and ratified by ten.

The Convention represents an international response to corruption as a "transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential" (UNCAC Preamble). It is the first global legally binding instrument on corruption and a comprehensive document that includes measures on prevention, criminalisation and international cooperation. It breaks new ground in many of its provisions, including those on asset recovery.

The first anniversary of the signing of the Convention is an important opportunity to assess how far signatory states have progressed in ratification and implementation. That date, 9 December 2004, has been designated by the UN General Assembly as International Anti-Corruption Day and will be the occasion for anti-corruption events around the world.

Convention highlights

Prevention

Corruption can be prosecuted after the fact, but prevention is also essential. Thus, a full chapter of the Convention is dedicated to prevention, with measures directed at both the public and private sectors. In the public sector, the UNCAC calls for the establishment of anti-corruption bodies and enhanced transparency in political finance. Public service safeguards include recruitment based on merit, codes of ethics and disclosure of assets. Conflicts of interest are addressed by restrictions on the employment of public officials in the private sector after leaving public service.

The Convention also requires transparency and accountability in matters of public finance and public procurement, and establishes requirements for particularly critical areas of the public sector, such as the judiciary.

Preventive measures in the Convention also include active promotion by states of civil society participation in fighting corruption, and awareness-raising among the public about the problem. The public is to be given effective access to information as well as channels for reporting Convention offences. States are also required to provide protection to whistleblowers and witnesses.

Prevention and the private sector

With regard to the private sector, the Convention requires that measures be taken to enhance accounting and auditing standards, with adequate penalties for failure to comply. Other preventive measures mentioned include promotion of private sector codes of conduct; requirement of disclosure by corporate entities of the identities of those involved in their establishment and management; and prevention of the misuse of procedures regarding subsidies and licences granted by public authorities for commercial activities. To detect and deter money laundering, states are required to institute a comprehensive regulatory and supervisory regime.

Criminalisation

The Convention requires countries to provide for criminal offences covering a wide range of corrupt acts. The criminal offences described include not only basic forms of corruption such as bribery and the embezzlement of public funds, but also trading in influence, and the concealment and "laundering" of the proceeds of corruption. Offences committed in support of corruption, including obstructing justice, are also included. In ground-breaking provisions, the Convention also addresses the area of corruption within the private sector and calls on states to consider criminalising private-to-private bribery and embezzlement. Some offences are optional, due to differences in national law.

International cooperation

Signatories agree to cooperate with one another in every aspect of the fight against corruption, including prevention, investigation, and the prosecution of offenders. Countries becoming parties must render specific forms of mutual legal assistance in gathering and transferring evidence for use in court, and to extradite offenders. Countries are also required to undertake measures which will support the tracing, freezing, seizure and confiscation of the proceeds of corruption.

Asset recovery

In a major breakthrough, countries agreed that asset recovery is "a fundamental principle of the Convention..." (Art. 51) and, after intensive negotiations, reached a consensus on mechanisms to facilitate this process. This is a key issue for many developing countries where high-level corrupt officials have plundered national resources that are badly needed by governments for economic development. Reaching agreement on this chapter involved reconciling the needs of countries seeking the return of assets with the procedural safeguards of the countries whose assistance is sought. As a result, the Convention contains a range of provisions specifying how cooperation and assistance should be rendered. Effective asset recovery provisions will support the efforts of countries to redress the worst effects of corruption while at the same time sending a message to corrupt officials that there will be no place to hide their illicit assets.

Looking forward

In order to make the promise of the UNCAC a reality, it is essential that countries around the world promptly ratify the Convention - which needs 30 ratifications to come into force - and adopt any necessary implementing legislation. Its impact will then depend on the development of an effective monitoring mechanism, to be decided by the Conference of the States Parties. TI calls on anti-corruption practitioners and activists worldwide to join in advocating these steps. International Anti-Corruption Day on 9 December 2004 provides an excellent occasion to do so.

For more information about the Convention see:
www.unodc.org/unodc/en/crime_convention_corruption.html

For more on TI Anti-Corruption day events:
http://www.transparency.org/un_day/index.html



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