The United Nations Convention against Corruption – An Overview
The United Nations Convention against Corruption

Adopted by the General Assembly: Resolution 58/4, 31 October 2003
Entry into Force: 14 December 2005
Signatories: 140, States Parties: 170
Towards the Convention

- **8th Crime Congress**
- **1996 Convention**
  - Organization of American States
- **1997 Convention**
  - European Union
- **1999 Convention**
  - Council of Europe
- **2001 ECOWAS Protocol**
- **2003 Convention**
  - African Union
- **2012? Arab Convention**
- **GA Rés.51/191**
  - UN Declaration
- **GA Rés.55/61**
  - Ad-Hoc Committee
- **GA Rés.55/181**
  - Asset recovery
- **Ad-Hoc Committee (7 sessions)**
- **GA Rés.58/4**
  - Adoption UNCAC
- **Signing conference Merida**
Negotiations Process

2000

Adoption of United Nations Convention against Transnational Organized Crime
Creation of the Ad Hoc Committee for the negotiations of a new convention against corruption (A/RES/55/61)

2001

Terms of reference – Intergovernmental Open-ended Expert Group Meeting

2002

8 sessions of the Ad Hoc Committee held in Vienna with over 120 States participants

2003

Adoption of the United Nations Convention against Corruption (A/RES/58/4)
High-level Political Signing Conference in Merida, Mexico
Aims and structure of the Convention

1. Prevent and combat corruption more effectively
2. Promote international cooperation and technical assistance, including in asset recovery
3. Promote integrity, accountability and proper management of public affairs and public property

- Technical assistance
- Asset recovery
- Preventive measures
- International cooperation
- Criminalization and law enforcement
- Mechanisms for implementation
Use of terms (Art.2)

The term “corruption” is not defined

Broad definition of “public official”
1. Legislative, executive, administrative or judicial office
2. Performing a public function or providing a public service
3. Any person defined as public official in domestic law
Level of obligation

**Mandatory requirement**

**Optional requirement**

**Optional measures**
Level of legal obligation of UNCAC provision

**Mandatory** requirement (obligation to take legislative or other measures)
- “each State party *shall* adopt”

**Optional** requirement (obligation to consider)
- “each State party *shall consider* adopting”
- “each State party *shall endeavour to*”

**Optional** measure (measure that State party may wish to consider)
- “each State party *may* adopt/consider”

Constituting elements/ safeguards

**Example**
Safeguard clauses

- “Sous reserve de sa constitution et des principes fondamentaux de son systeme juridique (for example, article 20);
- “Sous reserve des concepts fondamentaux de son systeme juridique” (article 23, paragraph 1(b));
- “Sous reserve des principes juridiques” (article 26);
- “Conformement a son systeme juridique et a ses principes constitutionnels” (article 30, paragraph 2);
- “Dans la mesure compatible avec les principes fondamentaux de son systeme juridique” (article 30, paragraphs 6, 7);
- “Conforme aux principes fondamentaux de leur droit interne et a la nature des procedures judiciaires et autres” (article 31, paragraph 8);
- “Un Etat Partie don’t la legislation le permet” (article 44, paragraph 4);
- “Sous reserve des dispositions de son droit interne et des traites d’extradition qu’il a conclus” (article 44, paragraph 10);
- “Si son droit interne le lui permet, en conformite avec les prescriptions de ce droit” (article 44, paragraph 13);
- “Conformement au droit interne de l’Etat requis” (article 46, paragraph 17);
- “Dans la mesure ou les principes fondamentaux de son systeme juridique interne le permettent et conformement aux conditions prescrites par son droit interne” (article 50, paragraph 1).
The Conference of the States Parties

Promote, Facilitate & Review Implementation

Make recommendations

Facilitate Information Exchange

CoSP 1
Dec 2006
Jordan

CoSP 2
Jan/Feb 2008
Indonesia

CoSP 3
Nov. 2009
Qatar

CoSP 4
Oct. 2011
Morocco

CoSP 5
2013
Panama
Working Group on Asset Recovery

- Development of cumulative knowledge: knowledge management center and practical tools for asset recovery
- Enhancement of confidence and trust through formal and informal networks of focal points
- Tailor-made training and capacity-building for policy makers, legislators and practitioners
Working group on prevention

- Established in 2009: meetings held since
- Thematic workplan: focus on articles and Preparation for second cycle
Expert meetings on international cooperation

Post Arab Spring
Legal Proceedings in relation to Convention Offences

• **Central Authority** to receive, execute and transmit request
• Obstacles to MLA
PREVENTIVE MEASURES

Art.5 - 14
Prevention: anti-corruption policies and bodies

Requirements

**Art. 5**
Implement effective and coordinated anti-corruption policies

**Art. 6**
Ensure the existence of anti-corruption bodies
Resolution on Preventive Measures

- Open-ended Intergovernmental Working Group – first session on 13-15 December 2010

- Mandates to the Secretariat: collect, analyse and disseminate information; awareness-raising, cooperation with other IOs

- Requests to States Parties: on the full implementation of Chapter II of the Convention and the developing and implementation of anti-corruption policies.
Working group on prevention

- Established in 2009: meetings held since
- Thematic workplan: focus on articles and Preparation for second cycle
Asset recovery: a major breakthrough

Prevention and detection (Art.52)

Direct recovery (Art.53)

Recovery through International cooperation (Art.54 - 55)

Return and disposal (Art.57)

Asset recovery as a fundamental principle
Working Group on Asset Recovery

- Development of cumulative knowledge: knowledge management center and practical tools for asset recovery
- Enhancement of confidence and trust through formal and informal networks of focal points
- Tailor-made training and capacity-building for policy makers, legislators and practitioners
The Stolen Asset Recovery (StAR) Initiative

Global knowledge and advocacy
- Lowering barriers in financial centers
- Analytic work supporting policy
- Guides and handbooks

Institutions and capacity building
- Gap Analysis
- Networks
- Training

Country engagement: recovery of stolen assets
- Honest broker
- Preparatory assistance: capacity building on asset tracing and mutual legal assistance
What do we, at the United Nations, do about it?

Support the global normative/legislative framework: Secretariat of UNCAC

Assist in implementation of UNCAC: technical assistance, legal advice and networks of practitioners

Advocacy and engagement with CSOs, private sector, parliamentarians: Raising awareness

Research and analysis: Producing knowledge to guide policymakers
This bridge was never built

Act against Corruption. Encourage development.

Because the construction company disappeared along with the money, leaving local people stranded.
Thank you for your attention