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**Conference of the States Parties to the United Nations  
Convention against Corruption**

First session

Amman, 10-14 December 2006

**Civil Society and Private Sector Forum, Forum for Anti-Corruption Activities and Forum for Parliamentarians: side events held on the occasion of the first session of the Conference of the States Parties to the United Nations Convention against Corruption**

On the occasion of the first session of the Conference of the States Parties to the United Nations Convention against Corruption three side events were held on 11, 12 and 13 December 2006 which brought together representatives of civil society and the private sector, anti-corruption authorities and parliamentarians. These forums were organized with a view to providing a platform for various stakeholders to express their expectations towards Governments as well as clarify their own role in the effective implementation of the United Nations Convention against Corruption.

**I. Civil Society and Private Sector Forum**

The Civil Society and Private Sector Forum, which was held on 11 December 2006 and co-organized by UNODC, the United Nations Global Compact, the International Chamber of Commerce, the World Economic Forum as well as Transparency International and Unicorn, was attended by representatives of a dozen major international corporations as well as of 45 non-governmental organizations from 29 countries which came together under the umbrella of the Coalition of the Civil Society Friends against Corruption.

**Declaration of the Coalition of the Civil Society Friends against Corruption**

The United Nations Convention against Corruption (UNCAC) presents a unifying legal framework that provides a unique opportunity to tackle the root causes and consequences of global corruption. We, the representatives of civil society organizations from around 30 countries meeting in Jordan under the umbrella of the *Coalition of Civil Society Friends of UNCAC*, applaud governments for their comprehensive approach and for their efforts to prevent and punish corruption and to prevent the concealment of its illicit gains and hereby issue the following statement:



### **Participation of non-governmental actors and citizens**

Civil society has a crucial role to play in translating the ambition contained in UNCAC into reality. Corruption is a failure of systems that should be serving the public and safeguarding public assets. Corruption is a violation of public and citizens' trust. Who better to act as guardians of the public interest than those citizens?

UNCAC itself recognizes the central role to be played by civil society. In the words of Antonio Maria Costa of UNODC, "*UNCAC belongs to the people*".

Strong civil society participation at the Conference of the States Parties (CoSP) is in line with the spirit of the Convention. Governments should support maximum participation of civil society organizations (CSOs), including their critics, permit access to plenary and non-plenary meetings and allow oral and written statements.

### **Protecting whistleblowers**

There is evidence from all regions of the world that civil society activists have a crucial role in promoting transparency and accountability. They need to be supported and protected. We note with deep concern that in many countries activists and others who report or denounce corruption are harassed, physically attacked or prosecuted.

We welcome the commitments made under UNCAC to protect *all* whistleblowers.

We call on governments to incorporate protection from retaliation, for those who report corruption, under their domestic legal systems.

### **Access to information**

The public's right to access information needs to be respected to fight effectively against corruption. It underpins all the UNCAC provisions and is essential for public participation in decision-making.

We call on governments to recognize the principle of maximum disclosure and implement effective and enforceable domestic legal instruments through which information is produced and disseminated. Information should be pro-actively disclosed in ways that are timely, accessible and understandable.

We also call on international organizations, including UNODC, to provide greater access to information through the prompt adoption of a public information policy.

### **Monitoring**

UNCAC requires states parties to provide the CoSP with their programmes, plans and legislative measures for implementing the Convention. Experience from other conventions shows early and effective follow-up monitoring to be fundamental to success.

We call on governments to support the early establishment of an effective monitoring system financed by the UN's regular budget and supported by a well-resourced secretariat:

In 2007:

- (1) An implementation survey by all states parties to cover mandatory and non-mandatory provisions;
- (2) A pilot monitoring programme as a first step towards comprehensive monitoring;
- (3) Participation of CSOs in the design of the survey and pilot monitoring system, as well as in the monitoring process.

In all phases of follow-up monitoring:

- (1) Include mandatory and non-mandatory provisions of UNCAC;
- (2) Submit country reports prepared and/or reviewed by independent experts and make arrangements for evaluating states parties that fail to provide inputs;
- (3) Require states to report on the national structures created for involving CSOs and reporting to Parliament;
- (4) Conduct regional peer review, using existing mechanisms, and where these are weak, strengthen them;
- (5) Make recommendations and provide for follow-up;
- (6) Ensure the timely dissemination and translation of questionnaires and country reports;
- (7) Provide for the formal submission of reports from CSOs and the creation of an alternative reporting mechanism to enable CSOs that are afraid to speak out to make their reports;
- (8) Cooperate with other intergovernmental organizations.

We also urge governments to identify the body which is designated as the focal point for the UNCAC and to make this information widely available.

#### **Asset recovery**

We applaud governments for establishing the return of assets as a fundamental principle of UNCAC. We note that the process for returning stolen assets has to date been characterized by high costs, lengthy delays, inadequate mutual legal assistance (MLA), non-cooperative jurisdictions and in many cases political impediments. We welcome the promise this improved legal framework holds for ensuring that stolen property is returned to its rightful owner and for curbing the worldwide plunder of billions of dollars of national wealth.

We call on governments to:

- (1) Introduce early review of asset recovery processes as part of the overall monitoring system;
- (2) Establish a Working Group, with the participation of civil society, private sector and trade unions, to discuss country reviews and asset recovery cases and to publish case reports;
- (3) Provide assistance to countries for their asset recovery efforts, including the *immediate* establishment of an international fund for experts in legal cases and a

global capacity-building programme, especially focused on the judiciary and law enforcement agencies – the administration of the fund should be transparent and subject to external audit;

- (4) Ensure transparency in the return of assets, involve civil society and establish guidelines including for the compensation of victims;
- (5) Use the UNCAC framework to facilitate the return of stolen assets where there is no MLA agreement between the relevant countries;
- (6) Put in place the following key UNCAC standards:
  - Rapid (within 24 hours) freezing procedures;
  - Reversed burden of proof;
  - Non-conviction based forfeiture proceedings;
  - Anticipated return procedures;
  - Restrict multiple appeal possibilities.

#### **Technical assistance**

We call on donor countries to commit to providing adequate support to all countries needing assistance in implementing UNCAC. Donors should recognize that corruption is a long-term problem requiring continued vigilance and that technical assistance (TA) should be an integral long-term component of UNCAC.

Technical assistance should help to fill implementation gaps and should be provided on the basis of nationally and locally owned frameworks and priorities. It should also be delivered in a way that seeks to work with and build local capacity and develop a body of comparative country knowledge and experiences that countries can draw on.

In implementing UNCAC-related TA, we urge governments to ensure close collaboration with CSOs that have the necessary technical expertise.

We call on donor countries to demonstrate their serious intent by addressing TA needs and fulfilling commitments:

- (1) Immediately, at the 2006 CoSP sign up to a Donor Declaration, which commits to making immediately available earmarked resources to support developing countries in responding to the implementation survey, in identifying short and medium-term TA needs and in developing national action plans.
- (2) In 2007, to conduct a survey of TA needs drawing on the implementation survey; and start to mainstream UNCAC in their country TA strategies.

In the medium term – within five years to ensure that TA is coordinated in order to bring country-led and prioritized plans to fight corruption into line with the overall, agreed UNCAC framework; and update national action plans so that they reflect commitments made under UNCAC.

UNCAC provides a real opportunity. The expectations of citizens around the world are high. **We call on governments** to meet their legal, political and moral obligations and show the ambition required to ensure that UNCAC has a real and lasting impact on global corruption.

## **Declaration of the business community**

Representatives of the business community participating in the first session of the Conference of States Parties to the United Nations Convention against Corruption (UNCAC) in Jordan, 10-14 December 2006, are pleased to submit the following statement on what business considers to be key objectives for the successful implementation of UNCAC.

### **UNCAC: levelling the playing field**

The global business community has long demonstrated strong support for UNCAC, while keeping alert to the challenges that may arise from its application at country level. Business has played an active role in the consultative process leading up to the signing of UNCAC and continues to encourage all signatory countries to work towards its rapid ratification and transposition into national law, with a view to achieve its implementation as an economic reality.

From a business perspective, UNCAC holds the potential to become the global framework for combating corruption which will pave the way for the establishment of a *level playing field* for all market participants. A key objective of UNCAC is to bring a higher degree of uniformity in the formulation and application of anti-corruption rules across the world. For companies doing business in multiple jurisdictions, this will help improve legal certainty and facilitate their global compliance efforts, thereby allowing them to fully compete in open markets without being exposed to extortion or unfair practices by their competitors.

UNCAC prohibits all forms of corruptive practices: active as well as passive, national as well as international, public as well as private, direct as well as indirect. Business is sensitive to the fact that each and every form of extortion and bribery distorts free and fair competition and should therefore be equally and vigorously condemned.

### **Business recommendations**

While business is in no doubt about the potential benefits of UNCAC, it is convinced that success ultimately depends on the capacity of the Conference of States Parties to establish an effective follow-up monitoring program and other mechanisms that will enable its effective and consistent implementation on the ground.

#### *Monitoring*

No tangible progress will be achieved without a systematic and continuous review mechanism to ensure the effective implementation of the Convention by all signatory countries. The Conference of States Parties is urged to promptly establish a full monitoring program, based on self-evaluation and peer reviews, before the momentum created by the adoption of UNCAC is allowed to fade out. Such a program, which will require a strong secretariat and dependable funding from the UN budget, should be effective as from 2007 and begin with a survey of implementation and technical assistance needs.

Given the number of countries involved in UNCAC and the wide scope and complexity of its provisions, the review of country implementation of UNCAC should be based on given themes and specific articles, and should include clear conclusions and recommendations. This approach would allow for greater efficiency in the conduct of country assessments and would facilitate integration of the results from monitoring existing anti-corruption conventions.

Monitoring of UNCAC should cover both binding and non-binding provisions of the Convention, including the key issue of solicitation. This is the only way to ensure that UNCAC provisions are implemented and interpreted consistently across countries. Special consideration must be given to the Convention's pillar on "Preventive Measures" since without proper institutions, such as a fair and functioning criminal justice system, anti-corruption bodies, and a growing anti-corruption culture among the public and private sectors, there is no hope of seeing the Convention bring about change.

Monitoring should be seen as a continuous exercise and follow the implementation of the recommendations given in country reviews. The review mechanism should also monitor the steps that are being taken to ensure that the provisions of the Convention are not being abused or misinterpreted. In this respect, one of the objectives of monitoring should be to assure the availability of procedural safeguards to mitigate concerns about arbitrary actions.

An open and transparent review mechanism should help focus attention on corruption issues which are pervasive in all segments of society. Participation by business in the monitoring of UNCAC will be essential to provide a complete picture of country progress in implementing and enforcing the Convention. It also gives an opportunity for non-governmental stakeholders who are directly affected by corruption, such as the business community, to press for action when governments are lagging and to raise concerns about potential abuse of UNCAC provisions.

#### *Technical assistance*

UNCAC covers no less than 71 articles, some of which are very complex and place heavy demands on participating countries, especially for those suffering from weak institutions and budgetary constraints. There is no doubt that the successful implementation of the Convention will require a high dose of technical assistance and that a special effort will be needed by the international community to provide the necessary financial resources to fund technical assistance schemes.

Funding should come from coordinated action by the UN, the World Bank and other international financial institutions, including regional development banks, as well as bilateral donors. For increased efficiency, technical assistance needs must be appropriately assessed, taking into account both the own demands of recipient countries and the early results from the implementation review. Such a process would also benefit from business input, both to focus aid and to determine if the specific objectives of UNCAC are being achieved in a specific jurisdiction.

Technical assistance should go beyond financial aid to cover training packages and the sharing of expertise between countries. In this context, business organizations, and enterprises themselves, constitute a valuable source of expertise and first-hand experience to be put into play.

The granting of financial aid and other technical assistance must be linked to an obligation of action, and where appropriate, an obligation of results. Where required, technical assistance should be linked to results achieved in meeting the objectives identified in the course of the monitoring process. Targeted technical assistance should also be provided to encourage countries to implement non-binding provisions of the Convention.

It is important however to recognize that technical assistance schemes should not be developed in isolation. Effective and sustained improvement requires a holistic approach to the strengthening of the political, legal and administrative framework to fight corruption. For example, it is of little value improving the legal basis of anti-corruption regulations if the judicial system is not effective.

#### *Asset recovery*

The global business community recognizes asset recovery as a “fundamental principle” of the Convention which will lead countries to explore new grounds in mutual legal assistance and international cooperation. During the negotiations for UNCAC, it was agreed that the implementation of provisions covering asset recovery should take into account not only the demands of the countries that seek to recover assets, but also the legal and procedural safeguards of the countries where these funds have been deposited.

Today, as the Conference of State Parties is invited to look at the practical implications of the asset recovery principle, governments are urged to ensure that due process is applied at all times and to provide business with adequate mechanisms of protection against arbitrary and unwarranted actions that may result from the implementation of UNCAC provisions. Such an approach will help build a system which will gain the confidence and thus secure the support of all the parties with legitimate interests in the matter, including home as well as host governments.

## **II. Forum for Anti-Corruption Authorities**

The Forum for Anti-Corruption Authorities, which was held on 12 December 2006 and co-organized by UNODC and the International Association of Anti-Corruption Authorities, was attended by representatives of anti-corruption bodies as well as anti-corruption practitioners from more than 28 countries.

### **Conclusions and recommendations of the Forum of Anti-Corruption Authorities**

Participants welcomed the opportunity to attend the first session of the Conference of States Parties and to have their voice heard as part of their respective Governments’ delegations to the Conference with a view to enriching the discussions concerning the way forward in the effective implementation of the United Nations Convention against Corruption.

Participants urged Governments, who had not done so yet, to ensure the speedy ratification and effective implementation of the United Nations Convention against Corruption. While the ultimate goal for States Parties should be the full

implementation of all provisions of the Convention, certain issues were of particular relevance to the effectiveness of specialized anti-corruption bodies. These bodies have a special responsibility for the development and implementation of effective and coordinated anti-corruption policies, and thus we, representing these anti-corruption authorities, believe the following should be addressed as a matter of priority:

(a) State Parties should take the necessary measures, in accordance with the Convention, to ensure that anti-corruption authorities, within their respective mandates, can effectively contribute to the prevention, detection, investigation, prosecution and sanctioning of corruption and related offences, and the identification, tracing, seizure, and confiscation of the proceeds of corruption. Thus, first and foremost States Parties shall put into place the necessary laws and policies that will allow for the creation of anti-corruption authorities with independence, adequate budgetary and other resources, specialized staff as well as professional training, to carry out these functions effectively and free from any undue influence.

(b) Member States should consider conducting assessments, research and analysis of the causes and contributing factors of corruption, with the participation of civil society. Well-targeted anti-corruption policies require profound knowledge of the factors making legal, institutional and administrative frameworks vulnerable to corruption. This will provide the basis for sound policy development as well as benchmarks for the evaluation of the adequacy of laws and institutions, practices and procedures. At the same time such assessments, research and analysis would also help to determine technical assistance needs and provide a basis for measuring its effectiveness. We invite multilateral organizations to support these efforts.

(c) Developing countries and countries with economies in transition should be provided with a wide range of capacity building measures, technical expertise and policy advice. Thus, multi- and bilateral providers of technical assistance should focus their efforts and resources on supporting developing countries in implementing the Convention in general, and in supporting anti-corruption authorities in particular.

(d) Technical assistance may include the provision of legal advisory services in the examination of States' domestic law and institutional arrangements with a view to bringing them fully into compliance with the requirements of the UNCAC. Advisory services are also required for the design of the terms of reference of anti-corruption authorities, their mandate, powers and procedures, as well as upgrading professional skills, formulating operational policies, priority setting, human resource development and allocation of financial resources required to effectively carry out their functions.

(e) Furthermore, technical assistance may build local training capacities and programmes aimed at enhancing professional skills, such as the development and strategic planning of anti-corruption policies, the investigation, prosecution, sanctioning and deterrence of corruption offences, the preparation of requests for mutual legal assistance, the tracing, seizing, confiscation and return of the proceeds of corruption, public service management, the management of public finances, as well as other assistance as needed. In this connection there is an urgent need for anti-corruption mentors and long-term advisors who provide hands-on and day-to-day technical support to anti-corruption bodies and relevant institutions. The

participants welcomed the creation of international and national anti-corruption academies, such as the INTERPOL academy in Vienna.

(f) Training and technical advisory services should further be complemented by a new generation of guides, handbooks and other technical publications, that follow the structure and logic of the Convention. In this context UNODC should be commended for the completion to the legislative guide for the implementation of the UN Convention against Corruption and the work in progress on the technical guide for the implementation of the UN Convention against Corruption, as well as the online repository with various models and approaches adopted by other countries.

(g) Anti-corruption authorities should consider the best practices of each other when designing their own institutions, laws, procedures and policies, with a view to replicating successful approaches and avoiding failures. International cooperation and networking among anti-corruption authorities is of crucial importance in fighting corruption. Technical assistance should therefore also focus on facilitating such exchange including through the support of the newly created International Association of Anti-Corruption Authorities (IAACA).

Participants emphasized the important functions of Anti-Corruption Bodies with a preventive role, in such matters as data collection, studies, gap analysis, and the submission of reports, as well as follow-up, including as key point of access for civil society and the private sector.

Participants stressed that the United Nations Convention against Corruption provided a comprehensive framework for concerted action by Member States to effectively prevent and combat corruption. As such, it should also guide international, regional and national organizations in the design, conduct and evaluation of technical assistance. While significant efforts had been made by various multi- and bilateral donors to provide technical assistance, much more is required to ensure the effective ratification and implementation of the UN Convention against Corruption. In this respect the role and functions of the Conference of States Parties was properly underlined in partnership with all relevant international and non-governmental organizations.

### **III. Forum for Parliamentarians**

The Forum for Parliamentarians, which was held on 13 December 2006 and co-organized by UNODC, the Global Organization of Parliamentarians against Corruption and the Arab Region Parliamentarians against Corruption, was attended by members of parliaments from more than fifteen countries.

#### **Declaration of the Forum of Parliamentarians**

WE THE PARLIAMENTARIANS from 4 continents attending the Forum for Parliamentarians held parallel to the UN Conference of States Parties to the UNCAC, including members of Global Organization of Parliamentarians Against Corruption (“GOPAC”) and its regional chapters;

DEEPLY AWARE of the dire effects of corruption in reducing economic well-being, basic social services, standards of democracy, good governance and human rights;

FIRMLY BELIEVING that parliaments and parliamentarians should be an effective force in preventing and fighting corruption, by performing its fundamental functions and roles of legislation, oversight and representation and by engaging, educating citizens and enhancing their awareness on the Convention;

CALL UPON all governments and parliaments in all countries to ratify and implement effectively the provisions of the UN Convention Against Corruption, develop the appropriate political will to that effect as well as the effective monitoring and evaluation mechanisms and institutions, including developing capacity of parliaments.

URGE State Parties to engage and support parliaments and parliamentarians in their own respective countries and to work with international and regional organizations, particularly parliamentary organizations such as GOPAC, in the global fight against corruption.

ENDORSE the attached “Priority Action Items from a Parliamentary Perspective” as a recommended course of action for the proper implementation of the UNCAC.

### **Priority action items from a parliamentary perspective**

#### **Legislation**

Urge parliaments who have not yet ratified the UNCAC to take the necessary steps to do so.

Encourage the analysis of the required legislation for full compliance with the UNCAC (“Gap Analysis”); to that effect, provide the necessary capacity and technical assistance.

Develop technical assistance for legislative drafting, including the sharing of relevant laws and best practices; develop appropriate legislative guidelines.

Ensure that legislation regarding independent anti-corruption bodies is effective, user friendly, and clearly understandable by the general public.

Enhance the legitimacy, credibility, and standards of integrity of Parliaments and parliamentarians in their fight against corruption, through appropriate legislative measures such as: appropriate regulation for the funding of political parties and election campaigning, including transparency measures; basic rules of conduct for parliamentarians; and more balanced parliamentary immunity regimes.

Develop critical legislation that promotes the prevention of corruption, including: access to information laws, conflict of interest and illicit enrichment laws, rules of conduct for civil servants; strong anti-money laundering and asset recovery regimes; whistle blower protection laws; mechanisms and processes for the monitoring and implementation of the UNCAC.

#### **Parliamentary oversight**

Develop the effectiveness and capacity of Parliament as the foremost oversight institution for fighting corruption by achieving the following: (i) improve financial oversight through the creation of parliamentary budget offices; (ii) reforming parliamentary Rules of Order and By-Laws wherever necessary in order to enhance

and facilitate the oversight role of parliamentarians, committees and the parliament's plenary; (iii) give parliaments the power to summon anyone in front of parliamentary committees as well as powers to punish those who refuse to appear.

Develop collaboration between parliament and oversight bodies, e.g. courts, anti-corruption independent institutions, auditors general, ombudsmen offices, civil society.

Share information about successful oversight experiences.

Develop monitoring mechanisms to follow up on the compliance of legislation with the provisions of the UNCAC.

### **Parliamentary representation and engaging civil society**

Engage parliaments in the development of national, regional and global action plans against corruption.

Encourage awareness-raising, education and training amongst parliamentarians and the general public about the provisions of the UNCAC and its implications. "Train the trainers" on anti-corruption measures and strategies and ethics.

Open constituency information offices to share information and make the governance process accessible to the people/constituents.

Engage civil society organizations (particularly specialized organizations such as Transparency International), including the media, trade-unions and other non-governmental actors, on strategies and action plans against corruption.

Make the legislation and budget process transparent to the citizens holding public hearings, open committee meetings etc.

Develop measures that promote freedom of expression, including the media and the press. Also, conduct and share research studies on corruption with the media.

Create platforms for inter-governmental monitoring through regional anti-corruption bodies.

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