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Anti-Corruption Priorities from the UNCAC Coalition

UNCAC Coalition Submission to the
10th Session of the UNCAC Conference of the States Parties

24 November 2023

Following the 20th anniversary of the UNCAC, this year's 10th UNCAC Conference of the States Parties (CoSP10) in Atlanta, Georgia, USA, coincides with the 20th International Anti-Corruption Day and the 75th anniversary of the Universal Declaration of Human Rights. This is a timely and significant opportunity for governments, civil society organizations (CSOs) and other stakeholders from across the world participating in the conference to raise awareness about and advance key anti-corruption initiatives, recalling that the UNCAC is the only global, comprehensive, legally binding instrument to prevent and combat corruption.

The world has changed immensely over the past 20 years, and so has the fight against corruption. The climate crisis conflict, poverty and continuing inequalities in society are exacerbated by corruption. Meanwhile, civic space is often shrinking and many of those working to counter corruption and hold governments accountable are being detained, harassed and silenced.

However, not all is hopeless. Investigative journalism and big data leaks are unveiling previously undetected corrupt corporate structures, illicit financial flows and shady high-level dealings. Civil society continues to play an essential role in the fight against corruption and it has become clearer than ever that governments cannot face this scourge alone: a multi-stakeholder approach to corruption is indispensable.

The UNCAC recognizes the central role that civil society plays in preventing and combating corruption and raising awareness of the problem in several UNCAC provisions, including Article 10¹ on access to information and Article 13² on civil society participation. Despite these provisions, civil society activists, journalists, whistle-blowers, and other non-state actors face significant threats in carrying out anti-corruption work across the globe. Restrictions to civic space on the national and international level affect civil society working to promote transparency, integrity and fighting against corruption. As the host country of CoSP10, the

¹ UNCAC Coalition, 10. Public Reporting in the UNCAC, <https://uncaccoalition.org/the-uncac/united-nations-convention-against-corruption/#:~:text=Article%2010.%20Public%20reporting.>

² UNCAC Coalition, 13. Participation of Society in the UNCAC, <https://uncaccoalition.org/the-uncac/united-nations-convention-against-corruption/#:~:text=Article%2013.%20Participation%20of%20society.>

United States is making civil society participation a central theme at the conference, and beyond.³

The UNCAC Coalition is a global network of over 350 civil society organizations in over 100 countries, committed to promoting the ratification, implementation and monitoring of the UNCAC. The Coalition mobilizes civil society action for UNCAC at international, regional and national levels.

Drawing on consultations held over several months across our global network in 2023, we have identified a number of priority areas that must be addressed to effectively implement the Convention and adhere to best-practice anti-corruption standards. More information on each one of these priority topics can be found in the briefing notes on each topic.⁴

We encourage all States Parties to read through and address these priority issues, and invite you to contact us for further information, in case you have any questions, or need clarifications.⁵

The UNCAC Coalition is calling for:

Civil society participation

- Meaningful and concrete actions at the CoSP and beyond to protect and promote a **safe and enabling environment for civil society participation** at the national, regional and international levels, including in UNCAC fora such as the UNCAC Implementation Reviews, the CoSP, and its subsidiary bodies (IRG, working groups). Governments should eliminate any impediments in law and practice that constrain civic participation contrary to the letter and spirit of the UNCAC, and international human rights standards.

Beneficial ownership transparency

- An all-encompassing, robust, legal definition of beneficial ownership, **centralized public registers** which are up-to-date and **freely accessible** and enforceable measures and **sanctions for non-compliance**. Facilitate and promote the use of beneficial ownership information by relevant government authorities, including foreign and national law enforcement, financial intelligence units, tax administrations, anti-

³ See US priorities at the CoSP10, <https://www.cosp10.us/priorities>.

⁴ See our briefing notes on key messages and asks for the CoSP10, https://drive.google.com/drive/u/0/folders/1rmZ1uk5wWhClxyCAVXG_PDARlsmAQAnT.

⁵ Please feel free to contact us at cosp10@uncaccoalition.org.

corruption agencies and procurement agencies, as well as civil society organizations, the media and other relevant non-governmental stakeholders.

Transparent public procurement⁶

- The adoption of **electronic procurement systems** that ensure transparency at all stages of the contracting cycle, involving the private sector and civil society to monitor for corruption risks and improve the quality of public service delivery, as well as granting oversight authorities access to utilize disclosed information. Mandate updated, user-friendly and practitioner-oriented guidance on implementing Article 9 of the UNCAC.

Robust and comprehensive whistle-blower protection

- The implementation of **comprehensive whistle-blower reporting and protection laws** aligned with international best practices and full implementation of Article 33 of the UNCAC, establishing **secure internal and external reporting systems** for receiving and investigating corruption and retaliation complaints, and **ensuring that whistle-blower disclosures are protected**. States Parties should organize international and regional dialogues and exchanges on best practices and areas where challenges arose, for investigation tips from reporting persons and responding to retaliation complaints.

More effective and transparent asset recovery

- The strengthening and acceleration of efforts to recover and return the proceeds of crime through **greater international cooperation, enhanced data collection, comprehensive and effectively implemented laws** for the confiscation of stolen assets, and ensuring that asset recovery and return is carried out in a transparent, accountable and inclusive manner at all stages of the process. Adopt frameworks to **allow for the admission of public interest claims** in relation to the recovery of proceeds of corruption which were transferred abroad, and enable the views of victims to be presented and considered at appropriate stages of criminal proceedings against offenders.

Addressing environmental crime and corruption⁷

⁶ See also Open Contracting Partnership's Open Letter to States Parties to the UNCAC to advance a strong resolution on public procurement (November 2023), <https://www.open-contracting.org/news/open-letter-to-states-parties-ensuring-a-strong-resolution-on-public-procurement/>.

⁷ See our Working Group's thematic submission on strengthening the UNCAC to combat environmental crime and corruption (November 2023), <https://uncaccoalition.org/wp-content/uploads/ECC-Working-Group-Submission-to-the-CoSP10.pdf>.

- Bolster UNCAC implementation to tackle environmental crime and corruption, **strengthen transparency, integrity and accountability across the value chain in the environmental sector**, and more effectively implement anti-corruption, anti-money laundering and environmental protection laws. Promote good governance and anti-corruption measures to achieve climate mitigation and biodiversity conservation goals and the **proper management and use of climate finance funds** and other finance mechanisms to protect the environment and biological diversity.

Accountability and oversight in political financing

- **Enhanced public finance transparency by closing loopholes for illicit funds in politics, introducing digital reporting and public disclosure systems for political financing, improving oversight and accountability** through establishing and strengthening independent oversight bodies with adequate powers to monitor, investigate, and enforce compliance with political finance regulations, and strengthening international cooperation by sharing best practices and resources.

Regulation of conflicts of interest

- The adoption, implementation and enforcement of comprehensive frameworks to address conflicts of interests for decision-makers in the public sector requires the **comprehensive public disclosure of assets and financial interests** and **regulates ‘revolving door’ cases** as well as public official lobbying. Ensure independent monitoring mechanisms are adequately resourced to **verify declarations**, provide guidance, promote compliance and **initiate sanctions** when officials fail to correctly or completely declare assets and interests. Additionally, invite the Stolen Asset Recovery Initiative (StAR) to compile a public list of sources where States Parties publish public officials’ asset and interest declaration data and advance efforts for an international exchange of data from public officials’ disclose to enhance verification efforts.

Defining and recognizing grand corruption

- Discussions to **advance a common understanding of the term grand corruption** and its possible introduction as a criminal offense, as well as enhanced coordination with other relevant UN agreements and bodies, including the Commission on Crime Prevention and Criminal Justice (CCPCJ) and the UN Convention against Transnational Organized Crime (UNTOC). **Take effective action against the serious crime of grand corruption** and encourage the exercise of extraterritorial jurisdiction for the prosecution of the same on a national, regional and international level, in line with UNCAC Article 16.2.

Ensuring strong access to information

- The **adoption and implementation of strong access to information laws** that comply with international standards, complemented by **independent and autonomous oversight bodies**, and comprehensive requirements for a proactive publication of information, documents and data. Exceptions to the right of access should be limited: the legal framework should have a presumption of openness and limits should be applied on a case-by-case basis, subject to both a harm test and public interest test. Information relevant to preventing, investigating or exposing corruption should be considered as an overriding public interest.

Providing redress to victims of corruption⁸

- The use and establishment of legal frameworks to enable and facilitate the **participation of victims of corruption in all stages of criminal, civil, forfeiture, and administrative proceedings**, and **grant non-governmental organizations legal standing** to represent in any legal procedure the interests of individual and collective victims. Provide integral reparation (both material and symbolic) at the earliest possible stage of both individual and collective damage, including when cases are resolved through settlements or linked to transnational corruption.

Promoting a human-rights-based approach to anti-corruption⁹

- **Recognition of the need for a human-rights-based, gender-responsive and inclusive approach to combating corruption** that acknowledges the disproportionate impact of corruption on groups that often face discrimination. **Targeted measures to combat sexual corruption** and to advance gender equality and inclusion, thoughtfully mainstreaming the latter in anti-corruption frameworks through the use of inclusive language in policy documents and meaningful participation of diverse groups during all stages of the development, implementation and evaluation of such frameworks.

⁸ See our Working Groups joint thematic submission on the consequences of corruption: the right of victims to participation and reparation in corruption cases (October 2023), <https://uncaccoalition.org/joint-working-group-submission-on-victims-reparation/>.

⁹ See our Working Group's thematic submission on promoting a gender-responsive and inclusive approach to anti-corruption (October 2023), <https://uncaccoalition.org/wp-content/uploads/Gender-Working-Group-Submission-to-the-CoSP10.pdf>.