

UPDATES ON THE IMPLEMENTATION OF RECOMMENDATIONS FROM UNCAC IMPLEMENTATION REVIEW PROCESS

*(In response to Note verbal No. CU 2023/247/(A)DTA/CEB/CSS dated July 19,
2023 of the UNCAC Secretariat)*

The United Nations Convention against Corruption (hereinafter referred to as UNCAC) was signed by Vietnam on December 10, 2003 and ratified by the President on June 30, 2009. To implement commitments within the UNCAC framework, Decision No. 445/QĐ-TTg dated April 7, 2010 was issued by the Prime Minister, approving the UNCAC Implementation Plan until 2020, which set out the tasks, solutions with clear implementation roadmaps¹ with the aim of internalizing and enforcing UNCAC's regulations and requirements as a basis for the implementation process.

Pursuant to the UNCAC implementation Review Mechanism established under the resolutions of the Conference in November 2009 and the draw results, Vietnam was selected as the reviewed country in 2011². In general, Vietnam met almost all the UNCAC requirements within the content review of Cycle I. However, with the review's results and recommendations from experts, Vietnam identified specifically the inappropriate issues³ as well as difficulties and challenges in fully, comprehensively meeting the UNCAC requirements. As the results, Viet Nam has issued Programs, action plans to improve the UNCAC implementation capacity since the review of Cycle I.

I. Activities to internalise and implement UNCAC, accommodate recommendations and observations from the First Review Cycle

1. Activities to internalise and implement UNCAC

a. The period from 2012-2016

¹ The implementation of the UNCAC Implementation Plan is divided into 3 phases: Phase 1 from 2009-2011; Phase 2 from 2012-2016 and Phase 3 from 2017-2020.

² Second year of the First Review Cycle 2010-2015 for Chapter III on criminalization and law enforcement and Chapter IV on International Cooperation.

³ Viet Nam has complied with and fully implemented 102/145 requirements of UNCAC; 29/145 requirements have been regulated, complied with and implemented, but not fully; 14/145 requirements (of Chapter III and Chapter IV) have not yet been issued or regulated and have not been fully implemented.

- *The issuance of Government Resolution No. 82/NQ-CP dated December 6, 2012*

Viet Nam's Implementation Review process under UNCAC Cycle I was in the first phase of UNCAC Implementation Plan under Decision No. 445/QD-TTg, and synchronous with the first phase of implementation of the Anti-Corruption National Strategy to 2020 (*hereinafter referred to as Strategy*)⁴.

In order to continue to concretize the tasks of internalizing and implementing UNCAC for phase 2 as well as adopting measures upon recommendations of international experts in Viet Nam's UNCAC Cycle I Implementation Review Report, the Government issued Resolution No. 82/NQ-CP dated December 6, 2012 on the Government's Action Plan to implement anti-corruption work in the period 2012 - 2016. Resolution No. 82/NQ-CP has identified 06 key mission categories and specific tasks in anti-corruption work and UNCAC implementation⁵.

- *The issuance of Coordination Regulations in implementing UNCAC*: In order to ensure timeliness, synchronization, efficiency, and clearly define the responsibilities of each agency and organization in presiding over and coordinating the implementation of UNCAC, Decision No. 31/2012/ Decision-TTg dated July 27, 2012 was issued by the Prime Minister regulating the regulations on coordination in implementing UNCAC. The coordination regulations have clearly defined the responsibilities of agencies in coordinating eight main contents⁶ to implement UNCAC.

- *The issuance of Plans on propaganda and dissemination of anti-corruption laws and UNCAC implementation*: Implementing the Decision No.

⁴ Resolution No. 21/NQ-CP dated May 12, 2009 of the Government promulgating the National Strategy for preventing and combating corruption until 2020.

⁵ Groups of tasks are directly related to the implementation of recommendations and observations after Cycle I and related provisions of UNCAC, including: tasks on continuing in institutional improving and strengthening the inspection, examination, supervision, audit, investigation, prosecution, trial; Tasks on International cooperation, asset recovery, technical assistance and information exchange pursuant to UNCAC regulations; Tasks on raising awareness and promoting the role of the entire society.

⁶ Including: (1) Introducing and disseminating the Convention; (2) Reviewing and improving laws to implement UNCAC; (3) Mutual legal assistance within the framework of UNCAC; (4) Exchange of information related to UNCAC; (5) Technical support for UNCAC implementation; (6) Participating in UNCAC implementation review mechanism; (7) Organizing and participating in UNCAC related conferences; (8) Implementing foreign affairs procedures related to UNCAC.

445/QD-TTg of the Prime Minister and Resolution No. 82/NQ-CP of the Government, the Government Inspectorate, Ministry of Justice, ministries, branches, central and local agencies have advised to the Government and issued plans to propagate and disseminate the anti-corruption laws and UNCAC implementation, contributing to encouraging and promoting the role of society in anti-corruption work⁷.

b. The period of 2017-2020

With an aim to continuing implementing the UNCAC Implementation Plan and National Strategy for the period 2017-2020, the Government has issued Resolution No. 126/NQ-CP dated November 29, 2017 on the Government's Action Program to implement anti-corruption work until 2020. Resolution No. 126/NQ-CP identified 08 groups of tasks for anti-corruption work and implementation of UNCAC. Regarding the UNCAC implementation, Viet Nam has prioritized the internalisation of UNCAC regulations in accordance with the conditions of Vietnamese legislation, expanding the scope of regulation of the Anti-Corruption Law to cover the non-state sector, promoting the negotiation and signing of mutual legal assistance agreements, extradition of criminals, and agreements on preventing and fighting against crimes, especially anti-corruption with other countries...

c. Continue the internalisation and developing UNCAC Implementation Plan until 2030

At the end of the 2009-2020, the Government conducted a review on the implementation of National Strategy and UNCAC implementation Plan⁸, which has identified the promulgation of the National Anti-Corruption Strategy and

⁷ **Government Inspectorate of Viet Nam (GIV)** issued the *Project on strengthening the management, dissemination and use of GIV's international cooperation activities' results* (Decision No.229/QD-TTg dated February 14, 2014) of which the dissemination on UNCAC implementation of Viet Nam was as one of the main contents. During the period of 2014-2016, UNCAC implementation results were highlighted in the reports, statements and publications, especially in International Anti-corruption Day every year.

Ministry of Justice issued *Project on propagating and disseminating laws on anti-corruption, UNCAC among cadres, civil servants, public employees and the citizens from 2012 to 2016* (Decision No.4061 dated October 14, 2011); The GIV advised the Prime Minister to issue Decision No. 861/QD-TTg dated July 11, 2019 approving the "Project on dissemination and education of anti-corruption laws in the period 2019-2021"...

⁸ Report No.127/BC-CP dated April 24, 2023 of the Government summarizing the National Anti-Corruption Strategy to 2020 and the UNCAC Implementation Plan.

UNCAC Implementation Plan up to 2030 as one of the key tasks in the coming time. The Government Inspectorate is finalizing the Strategy draft to submit to the Prime Minister for approval signing the Government's Resolution promulgating the National Anti-Corruption Strategy and the UNCAC Implementation Plan for the period up to 2030. It is expected that the Strategy will be approved in 2023.

Through the results of UNCAC Implementation Plan for the period 2009-2020, recommendations from experts on Viet Nam's implementation of UNCAC after two review cycles, the new Strategy continues to identify concrete tasks in strengthening the compliance of Viet Nam to UNCAC regulations in the coming time.

2. Cooperation in technical support in Vietnam's UNCAC implementation

During the period 2005-2022, the Government Inspectorate of Viet Nam, the Ministry of Justice, the Supreme People's Procuracy and other agencies have received and implemented many development cooperation programs and projects, and technical support activities in the field of anti-corruption, in which Viet Nam has proactively taken advantage of external resources from development partners in during the ratification and implementation of UNCAC from the early stage⁹.

After the completion of Review Cycle I for Vietnam in 2012, in terms of technical support activities on anti-corruption, the Government Inspectorate of Viet Nam, together with relevant agencies, ministries and branches, proactively proposed, developed programs, projects or activities that could directly support Viet Nam in implementing UNCAC and recommendations from the Review Cycle I for Viet Nam¹⁰.

II. Benefits derived from participating in the Cycle I review mechanism

⁹ During the period 2005 - 2007, DANIDA supported the GIV in implementing the project "Research and preparation for ratification of the United Nations Convention against Corruption", with an aim to helping the Vietnamese Government conduct a review over the legal system, thereby assessing the advantages and disadvantages and recommending solutions to move towards ratifying UNCAC.

¹⁰ Details of development cooperation programs and projects and technical support activities available at **Appendix I**.

1. Improving Vietnam's anti-corruption legal system

Viet Nam has always priorities the improvement of socio-economic legal framework in general and anti-corruption laws in particular as one of the key solutions in anti-corruption work. The Cycle I review process of the UNCAC implementation has helped Vietnam identifying specific requirements for accomplishing of legal framework for implementing UNCAC, especially requirements for improving the law in the fields of criminality, criminal proceedings and mutual legal assistance.

The summary of the period 2012-2016 shows Vietnam's positive progress in improving legal system for UNCAC implementation, especially the issuance and amendment of important anti-corruption legal documents such as Penal Code 2015, Criminal Procedure Code 2015, Anti-laundering Law 2012, Anti-corruption Law 2012, Law on Denunciation 2012, Circular on praising whistle blower of anti-corruption cases, etc. These has gradually helped Viet Nam better the compliance to Chapter III and IV of UNCAC, particularly the recommendations on criminalisation, whistle-blower protection, mutual legal assistance, special investigative techniques,... and set good ground for Cycle II review mechanism¹¹.

The outstanding results in the period 2017-2020 included the promulgation of the 2018 revised Anti-Corruption Law and its guiding Decrees; Law on Denunciations 2018; joint Circulars on coordination between agencies in anti-corruption work; expansion of negotiations and signing bilateral mutual legal assistance agreements with countries... thereby Viet Nam could directly implement recommendations on expanding corruption crime regulations to the private sector, enhancing the independence of anti-corruption agencies, the proactiveness in coordination between law enforcement agencies, legalization of regulations on asset and income transparency...; Through these, Viet Nam has gradually increased the level of compliance with the provisions that Vietnam declares to reserve¹².

¹¹ Vietnam was reviewing country in UNCAC implementation review Cycle II in 2017.

¹²The Ministry of Public Security of Viet Nam has recently coordinated with the Ministry of Justice to make recommend to the Government on amending the Law on Mutual Legal Assistance, revising, amending other legal documents related to extradition and transfer of people serving prison sentences

2. Improve the effectiveness of international cooperation on anti-corruption in criminal legal assistance, extradition, law enforcement cooperation, joint investigations, and special investigation techniques

In its declaration of UNCAC ratification, Viet Nam mentioned that not consider UNCAC as the legal basis for mutual legal assistance and extradition activities, nor directly apply UNCAC's regulations. However, international experts have noted that a significant number of agreements signed on mutual legal assistance between Viet Nam and countries in the region, which will create a good legal framework for the provision of mutual legal assistance, including mutual assistance in cases related to corruption.

On that basis, Viet Nam has recently made many efforts to continue to propose and promote the re-negotiation of mutual legal assistance agreements that Viet Nam signed before the year 2000 to be consistent with the current law and cooperation situation, as well as increase joining and signing mutual legal assistance agreements in criminal field between Viet Nam and other countries to create a legal basis and coordination mechanism in fighting corrupt crimes and recovery of corrupt assets from outside Viet Nam¹³.

As the result, international cooperation activities between Vietnamese authorities and other countries' authorities and organizations have been expanded, promoted effectively, and made important contributions to detecting, investigating, and handling corruption cases in Viet Nam in general. This demonstrates that Viet Nam is responsibly committed to the international agreements and treaties signed by Viet Nam through proactively coordinating to implement requests for mutual legal assistance for corruption cases; cooperating with a number of countries to recover corrupt assets and arrest internationally wanted individuals¹⁴...

such as the Penal Code, Criminal Procedure Code, Law on execution of criminal judgment, Law on Nationality, Law on entry, exit, transit and residence of foreigners in Vietnam...

¹³ According to statistics from the People's Supreme Court (document no. 33/TANDTC-HTQT dated March 17, 2021), Vietnam has signed 13 Mutual Legal Assistance Agreements on civil, family, labor and criminal issues; 14 Agreements on mutual legal assistance in criminal matters; 14 Agreements on Extradition; 15 Agreements on transfer of sentenced persons to other countries.

¹⁴ According to the Summary Report on the AC Strategy and Implementation Plan of UNCAC, for the period of 2009-2020, Vietnam sent 07 requests for criminal mutual legal assistance related to corruption crimes to other countries requesting corrupt assets recovery and return back to Viet Nam. In addition, since the completion of the first UNCAC implementation review Cycle of Viet Nam (2012),

3. Encourage and promote the role of society in anti-corruption work

One of the difficulties in the UNCAC implementation review process is the awareness on UNCAC and the its implementation, which are still inadequate, among a portion of officials, civil servants and citizens due to the fact that the work of introduction and dissemination on UNCAC is still limited. In order to overcome the situation, the Communist Party and the Government of Viet Nam have directed agencies and authorities to strengthen the propaganda on anticorruption and UNCAC implementation to citizens as well as improve the policies and mechanisms to encourage and promote the active role of the people in anticorruption work.

Many cooperative activities have been done to widely introduce and propagate the policies and guidelines of the Party and State of Viet Nam in anticorruption, raising awareness and responsibility of the people fighting against corruption. The current law on whistleblowers protection has been increasingly improved to meet the requirements on ensuring and protecting human rights, civil rights. Regulations on the protection of whistleblowers are clearly and specifically stipulated in terms of subjects, scope of protection, protection content as well as the rights of the protected person.¹⁵ The praise and rewarding of people for their contributions in denouncing and fighting against corruption has been carried out promptly and in accordance with regulations, and has been actively reported by news agencies. Many examples with

Viet Nam has sent 03 requests for mutual legal assistance in criminal matters to foreign countries to collect documents and evidence related to transnational corruption cases;

Regarding foreign requests for mutual assistance sent to Vietnam, the Supreme People's Procuracy has received and implemented 14 requests for criminal mutual legal assistance related to corruption crimes from other countries. In recovery of corrupt assets, anti-money laundering, and legalizing corrupt assets abroad, the Supreme People's Procuracy has sent 08 requests for criminal legal assistance related to corruption crimes to Singapore, the United Kingdom, Laos and Cambodia in order to recover and return corrupt.

¹⁵ Law on Denunciations 2018, Circular No. 03/2020/TT-BNV dated July 21, 2020 of the Ministry of Home Affairs specifying the authority, order, procedures, and measures to protect the working position of whistleblowers who are officials, public servants. The Ministry of Labor, War Invalids and Social Affairs issued Circular No. 08/2020/TT-BLDTBXH dated October 15, 2020 providing guidance on protecting the employment of whistleblowers who work under labor contracts. Circular No. 145/2020/TT-BCA dated December 29, 2020 of the Ministry of Public Security regulating the authority, order, procedures and measures to protect the life, health, property, honor and dignity of whistleblowers about corruption and waste.

outstanding achievements in anti-corruption have been praised and honored¹⁶. Forms of spiritual and material rewards for people with outstanding achievements in denouncing and detecting corrupt acts are regulated and implemented.

4. Take advantage of resources and technical support from development partners to improve Vietnam's capacity in international cooperation and UNCAC implementation

The UNCAC implementation review Cycle I of Viet Nam has helped Viet Nam identify technical assistance needs as well as difficulties and challenges, such as lack of experience, time, human resources, finance and synchronous coordination between Vietnamese authorities etc., in researching, developing new or amending legal regulations to suit the situation in Viet Nam and comply with the provisions of other international treaties that Vietnam has joined.

The practice of implementing development cooperation and technical assistance programs and projects to improve UNCAC implementation capacity of Viet Nam in recent years has affirmed the important role of external resources for institution capacity building, administrative procedure reform, information and reporting, publicity and transparency; training and improving skills and expertise for staff; applying information technology to management and performing tasks in a professional and modern manner... These contribute to improving efficiency and made a strong transition in Vietnam's anti-corruption work.

¹⁶ During the period 2009-2020, there were 56 whistleblowers who reported corrupt acts being rewarded; In 2022, the GIV rewarded 04 individuals in Ha Giang for outstanding achievements in denouncing corrupt acts.