

**Declarations, statements and outcomes of the special events held on the occasion of the second session of the Conference of the States Parties to the United Nations Convention against Corruption**

**I. Business Coalition: The United Nations Convention against Corruption as a New Market Force - Declaration**

WE, the participants of the Special Event entitled *Business Coalition: the United Nations Convention against Corruption as a New Market Force*, held at the Second Conference of the States Parties to the United Nations Convention against Corruption,

ACKNOWLEDGING that working against corruption makes good business sense and creates an environment conducive to business,

CONVINCED that fighting corruption is a shared responsibility that involves all stakeholders,

RECOGNIZING that business, including non-listed companies and small and medium enterprises, together with other institutional and non-institutional actors, has a key role to play in curbing corruption in domestic and international transactions,

REAFFIRMING our support for the 10<sup>th</sup> Principle of the United Nations Global Compact, which states that the private sector should work against corruption in any form and manifestation, including bribery and extortion,

RECALLING the numerous global and regional initiatives to establish business anti-corruption principles,

REAFFIRMING that such principles are voluntary, but that failure to implement them puts companies at serious risk,

CALL UPON governments that have not yet done so to ratify and implement the United Nations Convention against Corruption, thus further promoting a culture of integrity and transparency,

URGE the Conference of the States Parties to the United Nations Convention against Corruption to establish an effective mechanism to review its implementation as a matter of great importance and urgency, and to include participation of business in such a mechanism,

COMMIT to work towards the alignment of business principles with the fundamental values enshrined in the United Nations Convention against Corruption and to report on such efforts at the third session of the Conference of the States Parties,

COMMIT to ensuring that anti-corruption policies and strategies include effective whistleblower protection, due diligence in the selection of agents, intermediaries and address “facilitation payments”,

COMMIT to work towards developing mechanisms to review companies’ compliance with realigned business principles and to report on the outcome of this exercise at the third session of the Conference,

AFFIRM our commitment to support small and medium enterprises in the establishment and implementation of appropriate internal anti-corruption policies and procedures,

COMMIT to strengthening private-public partnerships for combating corruption in business.

## **II. Peer-to-Peer Media Forum: Covering Corruption with Integrity - Declaration**

WE, the participants and facilitators of the **Peer-to-Peer Media Forum: Covering Corruption with Integrity**, held at the second Conference of the States Parties to the United Nations Convention against Corruption,

DEEPLY AWARE of the devastating effects of corruption on economic well-being, basic social services and human rights,

FIRMLY BELIEVING that the media should be an effective force in reducing corruption by ensuring transparency, accountability and participation in decision-making processes, raising awareness, mobilizing public opinion and urging political leaders to take action,

RECALLING article 13 of the United Nations Convention against Corruption, whereby States Parties shall promote the active participation of society in the prevention and fight of corruption, including by ensuring that the public has effective access to information, respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption,

SUPPORTING the calls by media organizations for the removal of “insult”, criminal defamation and other restrictive laws which serve to conceal corruption.

RESPONDING to the disclosures at this media forum of the abuse of media laws to cover up graft and intimidation and punishment of journalists reporting on corruption,

CALL UPON signatories to ratify the United Nations Convention against Corruption and on States Parties to implement it effectively,

URGE all Governments to ensure the physical safety of journalists as they fulfil their role as watchdog of Governments' compliance with the United Nations Convention against Corruption,

URGE Governments to ensure comprehensive legal guarantees for the right of access to information, including information held by public bodies,

URGE citizens, lawmakers, the business community and civil society to support the work of the media for more transparent and accountable governance.

CALL on the States parties to abolish insult and criminal defamation laws and amend laws that restrict the media from uncovering and publicizing corruption,

CALL upon Governments, donor groups, the Secretariat of the Conference and other entities to support specialized training to enable the media to better cover cases of corruption,

COMMIT ourselves to raise public awareness about corruption, and to investigate and report these cases in a fair, balanced and professional manner,

COMMIT to report to the third Conference of the States Parties to the United Nations Convention against Corruption on the progress of our countries in complying with the United Nations Convention against Corruption.

### **III. Forum for Parliamentarians: Implementing and Overseeing the United Nations Convention against Corruption - Declaration**

WE THE PARLIAMENTARIANS gathered in the second forum, parallel to the 2nd Session of the Conference of the States Parties ("CoSP") to the UNCAC in Bali, Indonesia on January 30<sup>th</sup>, 2008, which included members of Global Organization of Parliamentarians Against Corruption ("GOPAC") and its regional chapters;

DEEPLY AWARE that the lack of democratic governance and lack of effective parliaments have allowed corruption to flourish, resources to be misused for the self enrichment of those in power, leaving almost half the world's population in abject poverty without adequate housing, health care, education, jobs and opportunities;

RECOGNIZING that effective parliaments and committed parliamentarians are essential to preventing and fighting corruption by performing their fundamental roles of legislation, oversight and representation, thus ensuring accountability of governments to their citizens;

RECALLING the resolution and appended “Priority Action Items From a Parliamentary Perspective” (the “Parliamentary Action Plan”) adopted by the Parliamentarians’ Forum at the First Session of the Conference of the States Parties at the Dead Sea, Jordan on December 13<sup>th</sup>, 2006;

BEING INFORMED of the rich debate about the CoSP agenda items particularly related to improving the review mechanisms and the related anti corruption oversight institutions, in addition to the very informative country studies done by the U4 Anti Corruption Resource Centre that further highlighted the linkage between good governance and anticorruption measures and showed several flaws in the design and implementation of anticorruption policies, the lessons of which should be taken into account for the implementation of the UNCAC that can serve as a basis for proper assessment and oversight:

1. AFFIRM our commitment to the full implementation of the Declaration and appended Parliamentary Action Plan adopted at the first Parliamentarians’ Forum parallel to the First Session of the Conference of the States Parties at the Dead Sea, Jordan on December 13<sup>th</sup>, 2006, in order to improve the effective role of parliaments and parliamentarians in preventing and fighting corruption in all of the fundamental functions and roles of legislation, oversight and representation;
2. CALL UPON parliamentarians and parliaments to: (i) develop and strengthen a strong national political will to prevent and fight corruption; (ii) strengthen their oversight and monitoring of government operations, particularly in the implementation of the UNCAC; (iii) improve their credibility with the public by ensuring appropriate and ethical conduct, personal and institutional integrity and accountability; and (iv) seek to be adequately empowered and resourced to do so effectively;
3. URGE the CoSP to speedily decide upon an effective mechanism to review implementation of the UNCAC;
4. CALL FOR greater opportunity for parliamentarians to participate in, and contribute to, the effective implementation monitoring and oversight of the UNCAC and future sessions of the CoSP. (e.g. request governments to transmit copies of the governmental self assessment reports to parliaments and make them publicly available and encourage parliaments to publicly debate such reports);
5. CALL UPON governments, the CoSP and Development Assistance Organizations to support parliamentarians, parliaments and international parliamentary and parliamentarians’ organizations in the implementation of this Declaration.

## **VI. Stolen Asset Recovery Initiative (StAR): Workshop on Handling Mutual Legal Assistance - Outcome**

1. It is critically important to have the political commitment of high level officials, and (including where possible and appropriate) the parliament, to support asset recovery investigations, prosecutions and civil actions.
2. Victim governments must understand that recovering assets is complicated, costly and time consuming. The government must be prepared to invest the necessary financial and human resources for government agencies, Multi-year efforts will be required.
3. An investigation and litigation strategy should be firstly prepared. Case selection and prioritization is critical. Consider all options within the context of choosing the best jurisdiction for initiating criminal charges and/or civil suits. One option is to focus on getting back the largest amount of stolen assets. Where appropriate, cases should be litigated or settled within the context of strategic priorities.
4. Many countries provide mutual legal assistance on a reciprocal basis. One participant pointed out that reciprocity could be waived on case by case basis.
5. Always make formal and informal requests for assistance, because where informal assistance has been refused it is critical to consider diplomatic protest as an option. Consider working with third party countries through MLA as they may have better contacts with transit and destination jurisdictions.
6. It is important to collect facts and documents regarding the underlying crime crime, marshal the facts supporting the charge and connect them to the assets in foreign jurisdictions. Make sure to articulate this clearly in making informal/formal requests for assistance.
7. It is very helpful for requested countries to meet with requesting jurisdictions to help them understand what is necessary to make mutual legal assistance requests under their law. It can be particularly helpful for all jurisdictions involved in an asset recovery case to meet to discuss issues, strategy and assistance.
8. Think broadly when asking for financial and other records. Check with the Financial Intelligence Unit (FIU) concerning related suspicious transaction reports (STRs) and other records in government agencies (e.g. tax).
9. Consistent with domestic law require financial disclosure of all assets after conviction or as a condition of cooperation with government. As quickly as possible trace the proceeds of crime and connect it to the crime being investigated. Thus, “spontaneous disclosure” is very important to initiate investigations.
10. It is critically important to have non-conviction based confiscation legislation.

11. Specialized asset recovery or investigative units can be very useful. When created they should have a clear mandate including mechanisms for cooperating and coordinating with other government agencies as part of the law. Whatever format is used it is critical for investigators, prosecutors and forensic experts to work on the cases together.

12. Forfeiture should be dealt with by a specialist asset forfeiture unit and not simply be part of the general prosecution function. Forfeiture law raises complex issues and tends to be heavily litigated by criminals who can afford to employ sophisticated counsel.

## **V. Coalition of Civil Society Friends of UNCAC Statement: Call for Review Mechanism and Protection of Activists – Statement**

Corruption undermines democracy, human rights, civil liberties and sustainable development. The United Nations Convention against Corruption (UNCAC) provides a comprehensive framework through which to curb global corruption. Decisions made at the First Session of the Conference of the States Parties (1st CoSP) to UNCAC, held in Jordan in December 2006, laid the foundations on which to build future success. The challenge for the 2nd CoSP is to carry this momentum forward. UNCAC recognises that combating corruption is not only a matter for governments, but also for civil society. Article 13 of UNCAC calls for governments to promote the active participation of civil society. We, the *Coalition of Civil Society Friends of UNCAC*, urge the Conference to seize this opportunity to translate the ambition of UNCAC into concrete actions and to undertake the following:

### **Ratification**

1. We applaud the speed at which UNCAC came into force, but note with concern that 33 out of the 140 signatories have yet to ratify, among them the G8 countries of Germany, Italy and Japan and the established financial centres of Liechtenstein, Singapore and Switzerland. **We call on those signatory governments that have not yet ratified to take immediate steps to do so and non-signatory governments to accede.**

### **Review of implementation**

2. We emphasise the importance of a review mechanism for the effective implementation of UNCAC and welcome the decision made at the 1st COSP to establish such a mechanism. **We call on this Conference to ensure that all necessary preparatory work be completed in time for the review mechanism to be established at the 3rd CoSP. The mechanism should:**

- **be coordinated with regional review mechanisms;**
- **be supported by a well-resourced secretariat;**
- **be assisted by an independent board of experts;**
- **use an appropriate mix of review methods (country reports, visits, peer review);**
- **monitor mandatory and non-mandatory provisions;**
- **be participatory, engaging all stakeholders including civil society organisations;**
- **be transparent, based on the publication of all review documents;**
- **be financed by the UN's regular budget.**

3. We welcome the decision of the 1st CoSP to undertake a survey of implementation using a self-assessment checklist, but note that only 52% of States Parties have completed the checklist and that very few have published their responses. **We call on those governments that have not done already done so to meet their legal obligations and complete the checklist and urge all governments to publish their responses. We also call on the Conference to expand the scope of the checklist and to involve civil society in the analysis and follow-up.**

4. We welcome the decision of the 1st CoSP to undertake a pilot project aimed at testing the methods of implementation review. We note, however, that this exercise has been carried out without civil society input and with little transparency, contrary to the requirements of Article 13. **We call on the Conference to ensure that any future development of the pilot project is carried out in a transparent and participatory manner.**

#### **Asset recovery**

5. We applaud governments for making asset recovery a fundamental principle of UNCAC. However, we note that key provisions of Chapter V are non-mandatory (e.g., non-conviction-based confiscation and expedited restraint) and **call on the Conference to ensure that such non-mandatory provisions are included in the review of implementation.**

6. We commend recent steps taken to provide practical support to assist recovery, such as the Stolen Assets Recovery Initiative (StAR) and the creation of the International Centre for Asset Recovery (ICAR). We note, however, that the inability of countries to meet the cost of protracted and complex asset recovery cases remains a key obstacle. **We call on the Conference to establish an international fund to support such cases.**

7. We additionally **call on States Parties as an immediate priority to:**

- a. create asset declaration systems;**
- b. ensure that anti-corruption bodies are independent and adequately resourced (with their own investigators and prosecutors);**
- c. ensure the independence of the Attorney General;**
- d. make publicly known the competent authority for Mutual Legal Assistance.**

#### **Technical assistance**

8. We applaud the recognition in UNCAC that the delivery of appropriate and high quality technical assistance is essential for its effective implementation. **We call on donor countries to ensure that adequate resources are available to meet the long-term technical assistance needs of States and that donors ‘publish what they pay’.**

9. We underline the importance of mainstreaming UNCAC technical assistance into existing development assistance and emphasise the need to link to existing governance reforms. **We call on donors to take immediate steps to implement at country level the recent agreements of OECD-DAC on coordination and aid effectiveness.**

10. We emphasise the need to go beyond the self-assessment checklist and **develop targeted, transparent and participatory tools for identifying needs, priorities and institutional arrangements for technical assistance. We also call on governments to ensure that technical assistance is provided to the full range of public, civil society and private sector stakeholders, in addition to anti-corruption bodies.**

#### **Private sector**

11. We welcome the emphasis of UNCAC on the private sector and **encourage governments to promote effective standards of integrity, transparency and accountability in the private sector. Furthermore, we urge the private sector, whose interests are ultimately served by UNCAC, to actively support its implementation and a strong review mechanism.**

#### **Protecting whistleblowers, activists and investigators**

12. Success in the fight against corruption depends on those courageous enough to report or denounce corruption at work and in society. We note with grave concern the killings of journalists, anti-corruption activists and those who defend them, as well as the large number of citizens and workers who are sacked, suspended or removed from their jobs, unlawfully prosecuted, imprisoned, subjected to physical attacks and threats or otherwise harassed. We underline that those who report and denounce corruption are exercising a basic human right (i.e., freedom of expression). **We call on governments to guarantee the security of whistleblowers and activists and call on this Conference to include Articles 13, 32 and 33 in the self-assessment checklist and to start the process of developing a mechanism for reporting cases of harassment, drawing on the experience of other UN Conventions.**

13. We note with concern the growing trend towards the harassment, suspension and redeployment of state anti-corruption agencies and reformers, especially by newly elected governments. **We call for independence, protection and security of tenure for these reformers and agencies in accordance with the provisions of UNCAC.**