

THAILAND'S EXPERIENCE: *Fast-Tracking UNCAC Implementation*



UNITED NATIONS
Office on Drugs and Crime

UNITED NATIONS CONVENTION AGAINST CORRUPTION



Mr. Kitti Wasinondh
Member of National Legislative Assembly of Thailand

Outline of Presentation

- I. Taking Stock of the Positive Outcome from Anti-Corruption Reform Efforts in Thailand***
- II. Tackling with Corruption beyond National Frontiers***
- III. Challenges and the Way Forward***

Thailand's Efforts in Ratifying the UN Convention against Corruption



Thailand signs Convention

On 9 Dec 2003, Thailand became a signatory to the UNCAC.

Thailand ratifies UNCAC

Thai Cabinet agreed to ratify the Convention without having to wait for completion of the amendment of relevant laws.

Dec 2003

December 2010

Jan 2002 - Oct 2003

Thailand participated actively in the sessions of the Ad Hoc Committee for the Negotiation of the drafting of the text of the UNCAC

Dec 2007

National Legislative Assembly endorsed in principle Thailand's ratification of the UNCAC and resolved that ratification will follow after the amendment of several pieces of domestic legislation.



Benefits of being a State Party to the UN Convention against Corruption



March 2011

Thailand became 149th State Party to the Convention following the coming into force of the UNCAC in Thailand on 31st March 2011.

Benefits of being a State Party:

- ✓ Improve reputation of country; Reinforce Thailand's commitment to tackle corruption
- ✓ Better cooperation, effective mechanism in fighting corruption, which has become a transnational crime
- ✓ Convention provides clear direction for the works to be done/needs for assistance

3rd Revision of the Organic Act on Counter Corruption: Effective July 2015

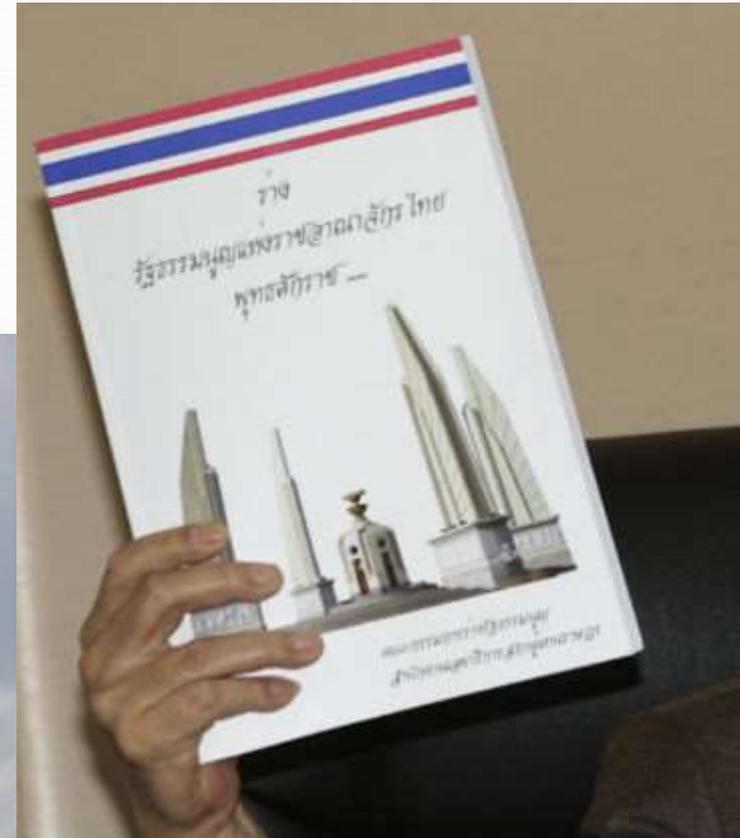


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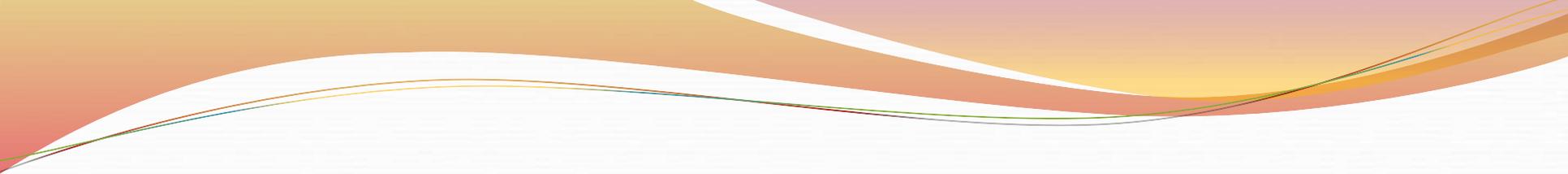


- ✓ Fill gaps in active and passive bribery laws (UNCAC Art. 15)
- ✓ Paying bribes to Thai & foreign officials (UNCAC Art. 16)
- ✓ Criminal liability of legal persons (UNCAC Art. 26)
- ✓ Suspension of statute of limitation (UNCAC Art. 29)
- ✓ Value-based forfeiture (UNCAC Article 31)

ARPIL 2017: “Corruption Suppression Charter”







Challenge #1: Maintaining the Independence of the NACC

Challenge #2: Clarity on the Designated Focal Authority and Competent Authority to Coordinate Matters relating to Corruption

Challenge #3: Interagency Coordination among Law Enforcement Agencies in Thailand (AMLO, DSI, Police, Audit Commission)

Challenge #4: Remaining gaps in Thai legal framework and present effort to comprehensively amend the Organic Act on Counter Corruption.

Special Event

Fostering Partnerships to Fast-track UNCAC Implementation

Kitti Wasinondh

Member of National Legislative Assembly of Thailand

Seventh Session of the Conference of States Parties to the UNCAC

6 November 2017 | 15:30 – 17:00 hrs

Conference Room M6

INTRODUCTION

- Thank you for the kind introduction and invitation to be a part of this panel discussion.
- This is second time participating in UNCAC meeting – I’m guessing it is safe to assume that it isn’t very often that legislators like myself attend international anti-corruption gatherings, which are primarily targeted at anti-corruption practitioners and criminal justice professionals who deal with this issue on a day-to-day basis.

Nonetheless, while law-makers don’t work exclusively on anti-corruption matters, in those few occasions when we do the impact can be deep-reaching and may drastically change the overall anti-corruption framework and approach of the country – and perhaps to an even greater degree the capacity and effectiveness of the specialized institutions responsible for dealing with the crime.

- Another reason that I am invited on this panel is that earlier in January of this year Thailand co-hosted one of the two regional workshops that was organized following the successful outcome of the London Anti-Corruption Summit in 2016.

Unfortunately, we were not extended an invitation for that 2016 Summit despite the many good things we heard about it.

The Regional Workshop held in Bangkok this January culminated with the adoption of a set of practical recommendations that could guide the “fast-tracking” of the implementation of UNCAC. The workshop outcome document is available for download online. Part of the presentation will cover how Thailand has been putting the recommendations from the regional workshop into actionable outcome thus far.

- My 15-minute-or-so-presentation will cover three main parts:
 - I. ***Taking Stock of the Positive Outcome from Anti-Corruption Reform Efforts in Thailand*** – I will highlight some of the key anti-corruption reforms that was introduced in Thailand over the past two years and touch on the promising outcomes that are yielding.

- II. **Tackling with Corruption beyond National Frontiers:** I will highlight notable partnerships the NACC has been forging in the ASEAN region to more effectively combat cross-border corruption as well as transnational organized crime that corruption facilitates and fuels;
- III. **Challenges and the Way Forward:** To conclude, I will discuss four existing legislative and enforcement challenges or barriers that we are trying to address in order to improve our success of overall anti-corruption efforts.

I. **Taking Stock of Positive Outcome from Anti-Corruption Reform Efforts in Thailand**

- The current Thai government led by Prime Minister Prayuth Chan-ocha came to office in late May 2016.

→ 3 months into his term, issued a comprehensive national road map to bring about a solid and sustainable system of governance built upon strong democratic fundamentals. The roadmap identified corruption as one of the **11 areas or national agenda that the government seeks to introduce comprehensive reforms to – CORRUPTION was singled out as one of the 11 agenda.**

To put the government's anti-corruption endeavors into action, the Prime Minister establish several government mechanisms to streamline and hasten reform efforts

→ **National Committee**

- Another body that played an essential role in this reform process is the National Legislative Assembly, where I was appointed a member three years ago. One important legislative outcome that I was fortunate to be heavily involved was the deliberation of a bill to amend the Organic Act on Corruption. As chairman of the ad-hoc parliamentary committee task with scrutinizing the amendment bill, one of key role was to ensure that the amendment will ensure Thailand's better compliance with the UNCAC.

After approximately 20 sittings or deliberation sessions spanning over 90 days, the amendment act eventually came into force in July 2015. In line with many of the key requirements of the UNCAC, the revised Thai anti-corruption law:

- Ensured that provisions to criminalized active and passive bribery of Thai officials met the requirements of the Convention (UNCAC Art. 15);
- Criminalized the active and passive bribery of foreign public officials and employees of international organizations (UNCAC Art. 16);
- Prescribed criminal liability for legal persons committing the bribery of both domestic and foreign (UNCAC Art. 26)

- Allowed for the suspension of the statute of limitation or the time limit during which legal proceedings and orders can be taken against or enforced in the event that suspect or convict evade the justice process (UNCAC Art.29);
- Allowed for value-based forfeiture judgments (UNCAC Art. 31)
- Another milestone in Thailand’s current fight against corruption was enactment of our new Constitution this April. Hailed widely as the “**Corruption Suppression Charter**”, the country’s highest legal document stipulated provisions that emphasize its overarching focus on instilling transparency and public accountability.
- More importantly, it carried over most of salient hallmarks of the country’s unique anti-corruption approach first established two decades ago with the enactment of the 1997 “People’s Charter”.

The kingdom’s primary anti-corruption body, the **National Anti-Corruption Commission of Thailand (NACC)**, is **guaranteed of its independence from executive supervision or control so as to enable it to fulfill its check-and-balance role effectively and free from undue political pressure or interference.**

- The government’s anti-corruption drive was further complemented with parallel developments that took place in the broader criminal justice, regulatory and business spheres:
 - Specialized Anti-Corruption Bodies in Thai Criminal Justice Chain: In early 2016, the **Office of the Attorney General set up a specialized department** staffed with highly experienced public prosecutors to work specifically on corruption indictments. In late October of last year, the newly established **Courts for Anti-Corruption and Misconduct Cases** officially began hearing its first corruption cases. These positive developments are expected to bring about more timely delivery of justice.
 - Securities and Exchange Commission of Thailand: Starting October 2014, the Thai SEC published its first annual **Anti-Corruption Progress Report** ranking each of the targeted 600 listed companies on a tier of 1-to-5: tier 5 symbolizing that the company has demonstrated extensive commitment in implementing anti-corruption and good corporate governance principles both on paper and more importantly in practice.
 - Institute of Director (IOD): A private sector organization aiming to promote management excellence among Thai corporations, the Institute of Director (IOD). To promote corruption-free business and a level-playing, IOD initiated the **Private Sector Coalition Against Corruption (CAC) which has seen over 850 listed and non-listed companies** sign on to it.

II. *Tackling with Corruption Beyond National Frontiers*

- The NACC has expanded its enforcement scope and focus beyond the traditional sphere of corruption within public procurement to also target public officials who use their positions and powers to facilitate organized crime such as the smuggling and trafficking of persons across or into our borders as well as illegal timber and wildlife trade.
 - The NACC is presently in the process of setting up **specialized investigative units for dealing with corruption with a nexus organized crime.**

- Thailand is an active player in the **South-East Asian Parties Against Corruption (SEA-PAC) a practitioners network comprising of 10 anti-corruption agencies that, among other cooperative efforts, plays a leading role in facilitating the exchanges of best practices and experiences on implementing the UNCAC.**

- NACC has concluded **bilateral MoUs** with 9 of its ASEAN neighbors to facilitate and coordinate the spontaneous sharing and exchange of investigative intelligence.
 - One notable recent joint initiative implemented through the MoU between the NACC and the Malaysian Anti-Corruption Commission (MACC) is the **annual meeting of directors of border offices on both sides of the Thailand-Malaysian** to discuss ways to better streamline and coordinate investigative and corruption prevention efforts that are relevant to the border region.

- With regard to transnational bribery, the NACC attaches high importance to tackling the recipients of foreign bribe monies estimated to add up to over US\$300 million dollars.

III. Challenges and the Way Forward:

- Despite the various promising and complementary anti-corruption efforts undertaken by stakeholders – including the Royal Thai Government, the National Legislative Assembly, the National Anti-Corruption Commission and the private sector – in the past two-and-a-half years, several challenges remains to be addressed.

- **Challenge #1: Maintaining the Independence of the NACC**

- **Challenge #2: Clarity on the Designated Focal Authority and Competent Authority to Coordinate Matters relating to Corruption**

- **Challenge #3: Interagency Coordination among Law Enforcement Agencies in Thailand (AMLO, DSI, Police, Audit Commission)**

- **Challenge #4: Remaining gaps in Thai legal framework and present effort to comprehensively amend the Organic Act on Counter Corruption.**