



## The Harvest of Twenty Years after Adoption of the Conference of the States Parties to the United Nations Convention against Corruption



By:

**Ms. Brigitte Strobel-Shaw**  
Chief of the UNODC  
Corruption and Economic  
Crime Branch

The dawn of the 21<sup>st</sup> century coincided with a number of significant developments in the global fight against transnational crime. The adoption of the United Nations Convention on Transnational Organized Crime in 2000, which included an article on corruption, prompted the development of another unique instrument dedicated to this particular issue. In its resolution no. 584/ adopted in October 2003, the United Nations General Assembly adopted the Convention against Corruption (the UNCAC), as the result of arduous negotiations undertaken by an Ad Hoc Committee formed for this purpose in 2002 and 2003.

One year after the Convention adoption, the Secretary of the Ad Hoc Committee for the Negotiations of the Convention against Corruption explained the background of the Convention adoption in words that still resonate true



The new United Nations Convention against Corruption has enormous significance. It proves that a destructive practice as old as history can no longer be tolerated. It manifests the realization that the world of the 21st century needs new rules to become a better place for all peoples. It demonstrates that core values, such as respect for the rule of law, probity, accountability, integrity and transparency must be safeguarded and promoted as the bedrock of development for all.

People around the world, in developing and developed countries alike, have become increasingly frustrated at witnessing and suffering from the injustice and the deprivation that corruption brings. On a daily basis, people have faced head-on the effects of corruption on areas such as the administration of justice and the provision of adequate medical care. They have watched with awe and anger the revelations about the luxurious lifestyle and immense fortunes amassed by corrupt leaders, while their people toiled to scrape a living and were denied the most basic of services.

And that anger becomes resignation and cynicism when people discover that the vast fortunes stolen by corrupt leaders cannot be recovered because they have been transferred abroad. To these people, diatribes about good governance, sustainable development, the benefits of a free market and the liberalization of trade ring hollow.

It is there that lies one of the gravest dangers, one of the most serious threats posed by corruption. The loss of confidence in institutions and the de-legitimization of government have destructive consequences that can span generations. The best and brightest will eschew local political and economic life or even flee abroad.

The new Convention offers good reason to look at the future with optimism. It is itself an act of faith. Only

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a few years ago, speaking of the possibility of such an instrument, and saying it would be negotiated in such a short time, would have brought ironic smiles to the faces of most people. Yet, it is a reality and a remarkable achievement.

It became a reality because of the vision, determination and commitment that all Governments displayed throughout the negotiation process. And it is a remarkable achievement because it is innovative, balanced, strong and pragmatic. These qualities, together with its universality and functionality, make the new Convention a unique platform for effective action and an essential framework for genuine international cooperation.

To realize this vision, the Convention, which represents the only legally binding universal anti-corruption instrument presents a far-reaching approach for developing a comprehensive response to a global problem.

The Convention covers four key substantive areas in four Chapters (II-V), namely preventive measures, criminalization and law enforcement, international cooperation and asset recovery. It also includes a specific chapter (Chapter VI) on technical assistance and information exchange. It covers many different forms of corruption, such as bribery, trading in influence, abuse of functions and various acts of corruption in the private sector. Being an international instrument, the issues of international cooperation represent key areas covered by the Convention, particularly in the context of achieving international cooperation in recovery of the corruption proceeds (asset recovery) and returning assets to their rightful owners, including countries from which they have been taken illicitly. In less than 20 years, the Convention has achieved universal coverage with 189 States parties as of 31 January 2022.

Governance of the UNCAC

In addition to substantive provisions, which outline

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**Be assured that the United Nations Secretariat, and in particular the United Nations Office on Drugs and Crime, will do whatever it can to support the efforts of States to eliminate the scourge of corruption from the face of the Earth. It is a big challenge, but I think that, together, we can make a difference.**

the obligations for the States Parties, for such an international instrument to be effective, it also requires a governance mechanism that focuses on the Convention implementation. For this reason, the General Assembly of the United Nations also established the Conference of the States Parties to the Convention in the same resolution, and requested the Secretary-General to designate the United Nations Office on Drugs and Crime (UNODC) to serve as the Conference secretariat while working under its direction.

The role and functions of the Conference are clearly defined in Article 63 of the Convention, namely to improve the capacity of and cooperation between the States Parties to realize the objectives set forth in the Convention and to promote and review its implementation. The Conference defines the activities, procedures and methods of work to achieve its objectives, including:

(a) Facilitating activities by the States Parties under Article 60 (Training and technical assistance) and Article 62 (Other measures: implementation of the Convention through economic development and technical assistance) and Chapters II-V (the four substantive areas covered above) of the Convention, including by encouraging the voluntary contributions mobilization;

(b) Facilitating the exchange of information among the States Parties on patterns and trends in corruption and on successful practices for preventing and combating it and for returning the proceeds of crime, through, inter alia, the publication of relevant information;

(c) Cooperating with relevant international and regional organizations and mechanisms and non-governmental organizations;

(d) Making appropriate use of the relevant information produced by other international and regional mechanisms for preventing and combating corruption to avoid unnecessary work duplication;

(e) Reviewing the Convention implementation by the States Parties periodically;

(f) Making recommendations to improve the Convention and its implementation;

(g) Taking note of the technical assistance requirements of the States Parties regarding the Convention implementation and recommending any action deemed necessary in that respect.

The Conference also examines the most effective way of receiving and acting upon information, including, inter alia, information received from the States Parties and the competent international organizations.

After holding its first two sessions annually, the Conference will be held biannually and may hold special sessions as agreed by the Conference in accordance with its rules of procedure which were adopted during its first session.

The Nine Sessions of the Conference (2006-2021-)

Given the broad range of responsibilities vested in it, the Conference has had very productive sessions, including nine regular sessions held to date, starting from the first session held in Amman, Jordan (1014-December 2006) through to its ninth session held in Sharm El-Sheikh, Egypt (1317- December 2021). The second session was held in Nusa Dua, Indonesia (28 January - 1 February 2008); while the third session was held in Doha, Qatar (913- November 2009) and the fourth session was held in Marrakech, Morocco (2428-October 2011). The fifth session was held in Panama City, Panama (2529- November 2013); while the sixth session was held in St. Petersburg, the Russian Federation (26- November 2015); the seventh session was held in Vienna (610- November 2017) and the eighth session was held in Abu Dhabi, the United Arab Emirates (1620-December 2019).

Setting up the foundations and governance issues for the Convention

The first session of the Conference was of foundational importance because it started the process of establishing many main parameters for the Conference works in the coming years. During that session, the Conference agreed on some issues, including the importance of establishing an appropriate and effective mechanism for reviewing the Convention implementation and defined the related principles to govern such mechanism. The Conference also established an open-ended intergovernmental





expert workgroup to make recommendations to the Conference during its second session on the mechanisms or bodies appropriate for reviewing the Convention implementation and on their terms of reference.

The Conference also adopted its rules of procedure; and it appealed to the States Parties and invited signatories to the Convention to adapt their legislation and regulations to the Conference provisions.

Later during its fourth session, the Conference adopted resolutions on the participation of signatories, non-signatories and intergovernmental entities and organizations in the work of the Implementation Review Group as well as on non-government organizations and the Convention Implementation Review Mechanism (see below).

The most recent session of the Conference also adopted decisions specifying a deadline for the submission of draft resolutions for consideration by the Conference and on the venue of the tenth session, to be held in the United States of America.

Establishing the Implementation Review Mechanism

The work that started in the first session continued in the second session. The Conference considered the outcome of the work of the Open-ended Intergovernmental Workgroup regarding the Convention implementation review and elaborated on the principles to govern the Mechanism, which was established at the subsequent third session.

The preparatory work and negotiations undertaken in those years culminated, during the third session of the Conference, in adoption of the Convention Implementation Review Mechanism and its terms of reference. The Conference decided that each phase of the Review Mechanism would be made-up of two review cycles of five years each. It also decided that Chapter III (Criminalization and law enforcement) and Chapter IV (International cooperation) would be reviewed during the first cycle and both Chapter II (Preventive measures) and Chapter V (Asset recovery) would be reviewed during the second cycle. Moreover, the Conference adopted its first resolution on the prevention of corruption; and it established a workgroup on this topic and defined its mandate. The Conference also adopted substantive resolutions on asset recovery and technical assistance.

Once the Implementation Review Mechanism was established, the Conference focused its attention during its fourth session on refining its parameters. It also decided on further parameters for the work of the Implementation Review Group during its fifth session.

During its sixth session, the Conference made crucial decisions regarding continuation of the Convention implementation review by launching the second cycle of the Implementation Review Mechanism and mandating the essential elements of future work for the Implementation Review Group.

During its seventh session, the Conference turned its

attention to enhancing synergies between the relevant multilateral organizations responsible for the related anti-corruption review mechanisms.

During its eighth session, the Conference decided to extend the duration of the second cycle of the Implementation Review Mechanism until June 2024.

Establishing subsidiary bodies

In addition, the first session of the Conference adopted its first resolutions on asset recovery and technical assistance, by which it established the Workgroup on Asset Recovery and an interim open-ended intergovernmental workgroup on technical assistance.

The second session of the Conference also welcomed the reports on the work of the Open-ended Intergovernmental Workgroup on Asset Recovery (while further defining its mandate) and the Open-ended Intergovernmental Workgroup on Technical Assistance. The Conference also delivered a strong message on the need to strengthen coordination and enhance technical assistance on the Convention implementation.

During its fourth session, the Conference also established the open-ended intergovernmental expert meetings on international cooperation and defined their mandate.

Focusing on specific thematic areas

In addition to the issues related to the Convention governance and implementation monitoring, the Conference has focused on a range of specific thematic issues of importance throughout the years.

During its first two sessions, the Conference adopted resolutions on bribery of the officials of public international organizations.

During its fourth session, the Conference adopted resolutions on the prevention of corruption and international cooperation in asset recovery, with both subjects being further covered in specific resolutions during subsequent Conferences.

The focus of the fifth session of the Conference was on enhancing the effectiveness of law enforcement cooperation regarding the detection of corruption offences in the framework of the Convention. The fifth session also focused on strengthening the implementation of the Convention criminalization provisions, particularly solicitation, facilitating international cooperation in asset recovery, the prevention of corruption, promotion of the young people's and children's contribution to preventing corruption as well as fostering a culture of respect for the law and integrity and the role of the private sector in anti-corruption efforts.

This trend continued during the sixth session, which adopted resolutions on facilitating international cooperation in asset recovery, the return of crime proceeds and fostering effective asset recovery, as well as on enhancing the use of civil and administrative proceedings against corruption, through international cooperation, in the Convention framework, promoting

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public-private partnership in preventing and combating corruption. It also addressed the prevention of corruption, by promoting transparent, accountable and efficient public service delivery through the application of best practices and technological innovations for promoting the use of information and communication technologies for the Convention implementation and enhancing its implementation in Small Island Developing States.

In terms of decision-making, the seventh session of the Conference focused on strengthening mutual legal assistance for achieving international cooperation and asset recovery, promoting technical assistance to support the Convention effective implementation, preventing corruption and enhancing the Convention implementation in Small Island Developing States. The seventh session also paid attention to emerging issues such as the corruption cases involving huge quantities of assets and corruption in sports.

The eighth session of the Conference also focused on some of these themes, including strengthening international cooperation on asset recovery and the administration of frozen, seized and confiscated assets as well as promoting integrity in the public sector among the States Parties, safeguarding sports from corruption and enhancing integrity by raising public awareness. The themes included the implementation of international obligations to prevent and combat bribery as defined under the Convention, the prevention of corruption, strengthening the Convention implementation in Small Island Developing States as well as strengthening asset recovery to support the 2030 Agenda for Sustainable Development. The session also considered some new themes, including the need to address the effectiveness of anti-corruption bodies in combating and measuring corruption as well as preventing and combating the corruption crimes that have an impact on the environment and enhancing collaboration between the supreme control institutions and anti-corruption bodies to prevent and combat corruption effectively. The themes also included promoting good practices related to the role of national parliaments and other legislative bodies in preventing and combating corruption in all its forms.

During the ninth session held recently, the Conference followed up the General Assembly's special session against corruption (below) and adopted resolutions on some issues. Those issues included international cooperation in preventing and fighting corruption during the times of emergencies, crisis response and recovery (Sharm El-Sheikh Declaration) as well as collaboration between the supreme control institutions and anti-corruption bodies to more effectively prevent and fight corruption. Other issues included the use of information and communication technologies for the Convention implementation at regional levels as well

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as the international anti-corruption law enforcement cooperation for preventing corruption, the use of beneficial property information to facilitate the identification, recovery and return of crime proceeds and promoting anti-corruption education, awareness raising and training.

Moving forward: a special session of the UN General Assembly against corruption

During its eighth session, the Conference approved, in a draft resolution, which was subsequently adopted by the General Assembly as Resolution No. 74276/, the way ahead in terms of the preparations for holding a special session of the Assembly, which was held in 2021.

The first special session of the General Assembly on the challenges and measures to prevent and combat corruption and strengthen international cooperation, for which the Conference served as the preparatory body, took place during the period 24- June 2021. During that special session, the Assembly adopted the landmark political declaration "Our common commitment to effectively addressing the challenges and implementing measures to prevent and combat corruption and strengthen international cooperation". The political declaration has provided a solid forward-looking conceptual framework and an innovative set of mandates for the Conference, the States Parties and the international community at large for many years ahead.

During its ninth session held in Sharm El-Sheikh, Egypt, the Conference carefully considered and decided how to best follow up on the special session and achieve the commitments outlined in the political declaration.

The Road Ahead

It is evident from this brief overview that the Conference has considered a wide range of substantive issues over years and that it has adapted its scope of work to the appearance or emergence of corruption-related issues. Asset recovery and the prevention of corruption have been on the agenda from the outset, but the Conference has been taking a more in-depth approach to these issues, through the support of its subsidiary bodies. The focus of the Conference on all thematic areas listed above have led to mandates for the United Nations Office on Drugs and Crime (UNODC) and its partners to collect information, conduct studies and develop guides or provide technical assistance. The reports produced by the secretariat in response to these mandates have also created an enormous body of knowledge based on information collected from the States Parties.

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Next year, as we celebrate the 20th anniversary of the Convention adoption by the General Assembly, the UNODC, which serves as the secretariat to the Conference, will closely study the achievements and challenges of the past 20 years and we will count on the international community in helping us to undertake more work in preventing and combating corruption.

As we approach this landmark occasion, it is important to recall the words of the then-Secretary-General of the United Nations in his foreword to the Convention, which continue to resonate in the current Secretary-General's vision in "Our Common Agenda":

If fully enforced, this new instrument can make a real difference to the quality of life of millions of people around the world. And by removing one of the biggest obstacles to development it can help us achieve the Millennium Development Goals. Be assured that the United Nations Secretariat, and in particular the United Nations Office on Drugs and Crime, will do whatever it can to support the efforts of States to eliminate the scourge of corruption from the face of the Earth. It is a big challenge, but I think that, together, we can make a difference.