



FACT SHEET 3

CONVENTION HIGHLIGHTS

Asset Recovery

In a major breakthrough, countries agreed on asset-recovery, which is stated explicitly as “a fundamental principle of the Convention.”

Identifying and recovering stolen assets is a major challenge. This is a particularly important issue for many developing countries where high-level corruption has plundered the national wealth, and where resources are badly needed for reconstruction and the rehabilitation of societies under new governments.

Reaching agreement on this chapter has involved intensive negotiations, as the needs of countries seeking the illicit assets had to be reconciled with the legal and procedural safeguards of the countries whose assistance is sought. Several provisions specify how cooperation and assistance will take place.

In particular, in the case of embezzlement of public funds, the confiscated property would be returned to the State requesting it; in the case of proceeds of any other offence covered by the Convention, the property would be returned providing the proof of ownership or recognition of the damage caused to a requesting State; in all other cases, priority consideration would be given to the return of confiscated property to the requesting State, to the return of such property to the prior legitimate owners or to compensation of the victims.

Effective asset-recovery provisions will support the efforts of countries to redress the worst effects of corruption while sending at the same time, a message to corrupt officials that there will be no place to hide their illicit assets.

Criminalization

The Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under domestic law. Some cases demand a legal obligation for States to establish offences. In other cases, in order to take into account differences in domestic law, they must consider doing so.

So, how is the Convention different from previous instruments of this kind? The Convention calls for criminalizing bribery (that includes “tipping” traffic policeman in order to avoid a ticket) and the embezzlement of public funds, as well as the laundering of the proceeds of corruption and obstruction of justice. It also calls upon countries to consider the criminalization of trading in influence and the concealment of the proceeds of corruption.

The Convention contains a host of other provisions to support criminalization. Among other means, it includes measures designed to promote cooperation between law enforcement agencies and relevant private entities; promote the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct and promoting the use of good commercial practices among businesses and in the contractual relations of businesses with the State. It also discusses the issue of transparency among private entities.

International cooperation

Eliminating corruption would be next to impossible without certain laws and practices that apply across the board—to countries and governments all over the world. And this is where the Convention comes in.

With this Convention, countries have agreed to cooperate with one another in every aspect of the fight against corruption, including prevention, investigation, and the prosecution of offenders. The idea is to leave criminals nowhere to hide. Individuals will no longer be able to escape their home countries and live without fear of prosecution.

Countries are bound by the Convention to render specific forms of mutual legal assistance in gathering and transferring evidence for use in court and to extradite offenders. Countries are also required to undertake measures which will support the tracing, freezing, seizure and confiscation of the proceeds of corruption.

Prevention

The first step towards tackling corruption is preventing it. An entire chapter of the Convention is dedicated to prevention—it has measures directed at both the public and private sectors, and touches on the day-to-day interactions in public life.

The measures proposed by the Convention include model preventive policies, such as the establishment of anticorruption bodies and enhanced transparency in the financing of election campaigns and political parties. States must endeavour to ensure that their public services are subject to safeguards that promote efficiency, transparency and recruitment based on merit. Once recruited, public servants should be subject to codes of conduct, requirements for financial and other disclosures, and appropriate disciplinary measures.

In attempting to prevent the laundering of proceeds of corruption, the Convention asks that States set up mechanisms to review suspicious transactions, analyse financial information and exchange information.

When planning and implementing due diligence programmes, States should consider enhanced diligence for unusual financial transactions, creating and maintaining client-identification records on unusual transactions, and obliging relevant individuals and financial institutions to report suspicious transactions to competent authorities.

Transparency and accountability in matters of public finance must also be promoted, and specific requirements are established for the prevention of corruption, in the particularly critical areas of the public sector, such as public procurement.

Citizens have the right to expect a high standard of conduct from their public servants. And in some places, such as Hong Kong SAR of China, they get it. However, they also have to participate in preventing public corruption. For these reasons, the Convention calls on countries to actively encourage and promote the involvement of non-governmental and community-based organizations, as well as other elements of civil society, and to raise public awareness of corruption and what can be done about it.

For further information:
www.unodc.org and www.unis.unvienna.org