



## **MAKING UNCAC WORK: COALITION STATEMENT TO THE 7<sup>th</sup> SESSION OF THE UNCAC CONFERENCE OF STATES PARTIES**

*The UNCAC Coalition submits this statement to renew and update its call on UNCAC States Parties to adopt resolutions at the next session of the UNCAC Conference of States Parties (CoSP) that achieve the following:*

### **On civil society participation**

1. Reaffirm the importance of civil society participation in anti-corruption efforts and call on States Parties to create and maintain a safe and enabling environment so civil society can operate free from hindrance and insecurity; and note regrettable instances where such participation is constrained in a way contrary to the letter and spirit of the Convention and inconsistent with international human rights standards. Also, mandate UNODC to develop, in consultation with civil society organisations, indicators to measure involvement of civil society in the implementation of UNCAC (UNCAC Articles 5 and 13).
2. Confirm that in line with CoSP rules of procedure 2 and 17, civil society organisations are entitled to participate as observers in all CoSP subsidiary bodies, including the Implementation Review Group and any UNCAC Working Groups (UNCAC CoSP Rules of procedure 2 and 17).

### **On the UNCAC review process**

3. Add to UNCAC reviews an agreed, official process to follow up on country review recommendations, including recommendations for technical assistance, and ensure civil society participation in that process (UNCAC Article 63(4)(5)(6) and (7)). Pending adoption of such a process, call on all States Parties to voluntarily and publicly report on their progress in implementing recommendations from UNCAC reviews.
4. Urge States Parties to conduct a transparent and inclusive second cycle of the UNCAC review process covering chapters II and V and ensure adequate resources for this cycle. Request States Parties and UNODC to publish updated individual country review timetables, information about focal points and announcements of completion of country reviews, as well as organising country visits, ensuring civil society participation and publication of key review documents, including self-assessments and full country reports (UNCAC Article 63).

### **On prevention**

5. Remind States Parties that, as recognised in CoSP Resolution 5/4, effective public access to information is essential for corruption prevention and call on them to adopt and implement comprehensive access to information legislation, ensure proactive publication of information, including on anti-corruption efforts and release data in open format on public spending (UNCAC Chapter II, especially Articles 5(1), 9, 10 and 13)).
6. Call on States Parties to increase efforts towards transparency of their procurement processes, ensuring that there is full public access to information about all contracts and agreements, and throughout the lifetime of the contract (Article 9).
7. Building on CoSP Resolution 4/4, call for the collection of beneficial ownership information through national-level public registers of companies and trusts maintained with updated current information. Also call for governments to collect and publish beneficial ownership information of all bidders for

public procurement contracts. Further, call for customer due diligence obligations, including in relation to beneficial ownership, to be required or strengthened with respect to banks and other service providers, including lawyers and trusts and company formation providers, and actively enforced (UNCAC Article 12(c)).

8. Call on States Parties to publish information on people with prominent public functions (Politically Exposed Persons) through national-level public registers and require them to file comprehensive asset declarations, make these publicly available and facilitate international exchange of data for their verification (UNCAC Articles 8, 14, 43 and 52).

9. Request UNODC to convene an expert meeting to develop guidelines for the prevention, detection and sanctioning of corruption in the award of loans, subsidies, and commercial licenses (UNCAC Article 12(d)).

#### **On criminalisation and enforcement**

10. Call on States Parties to recognise and take effective action against the serious crime of grand corruption, including the introduction of a criminal offence of grand corruption and the exercise of extraterritorial jurisdiction for the prosecution of the same *where there is a failure of *aut dedere, aut judicare**. Further requests UNODC to prepare a report on the most effective criminal and civil measures and remedies against those responsible for grand corruption (UNCAC Article 16(2)).

11. Recognise the importance of whistleblower protection in the public and private sectors (UNCAC Article 33).

12. Mandate UNODC to work with States Parties and the OECD to develop common guidelines for settlements in corruption cases that ensure enough transparency, accountability, reparation, and redress to the victims of corruption and sustains a dissuasive effect on other potential perpetrators. The UNCAC Coalition has issued detailed criteria in this regard ([see CoSP 2015 UNCAC Coalition Statement](#)).

13. Remind States Parties of the critical need to ensure that domestic immunities for public officials are strictly limited with transparent and effective procedures for suspending them (UNCAC Article 30(2)). Also call for States Parties to ensure that immunities and other privileges enjoyed by public officials – domestic, foreign and international – are not abused or used to shield individuals from accountability for corruption offences or to provide safe havens to their ill-gotten gains. Further, call for the CoSP to promote these standards to the International Law Commission, which is drafting articles on “Immunity of state officials from foreign criminal jurisdiction”.

14. Call on States Parties to have the necessary safeguards to ensure that there is no undue influence, including political influence, on enforcement decisions and that there is operational independence and resourcing of law enforcement and the judiciary. In particular, States Parties should introduce necessary safeguards to prevent sensitive cases from being disregarded or closed down for political reasons. Those may include the right for NGOs to initiate private prosecutions, the imposition of a duty to prosecute or the possibility of challenging a public prosecutor’s decision not to do so through a judicial review application (UNCAC Articles 11, 30(3) and 36). Further, call on States Parties to endorse the Jakarta Statement on Principles for Anti-Corruption Agencies.

#### **On remedies for corruption**

15. Remind States Parties that they must take effective measures to address the consequences of corruption and to ensure compensation for victims both individual and collective (UNCAC Articles 32, 34, 35, 53 and 57).



16. Mandate UNODC to continue to share good practices and experiences, and to accumulate and disseminate knowledge including within the UN and regional human rights mechanisms with a view to developing guidelines for the compensation and identification of victims in corruption cases based on best practice examples (see additional Coalition recommendations on victims' compensation in a further CoSP 2017 submission).

#### **On asset recovery**

17. Urge States Parties to take immediate steps towards fulfilling the commitment in Sustainable Development Goal 16.4 to significantly improve asset recovery and return by 2030, in particular by enhancing proactive and timely information sharing, by pursuing corrupt officials domestically and by implementing adequate laws on standing (UNCAC Articles 53 and 56). States Parties should further be called on to consider the admission of public interest claims in relation to the recovery of proceeds of corruption transferred abroad (UNCAC Articles 13 and 35).

18. Call on States Parties to enact and implement comprehensive laws providing for the confiscation of any asset obtained through or derived from the commission of an offence established by the Convention – including the proceeds of active bribery – and allowing for quick freezing of assets suspected to be derived from the commission of such offences (UNCAC Article 3).

19. Taking into account the Secretariat's Note on Settlements of 18 July 2016 (CAC CoSP/WG.2/2016), call on States Parties to ensure that any cross-border corruption-related court or out of court proceedings involving proceeds of corruption be conducted in line with chapter V (UNCAC Article 3 and Chapter V).

20. Call for States Parties to ensure that assets returned pursuant to the Convention are used and managed according to principles of transparency and accountability and in a manner conducive to their contributing to sustainable development and to the reparation of the damage caused to victims and society, as outlined in the [UNCAC Coalition's letter](#) to the international experts meeting on asset return in Ethiopia in February 2017 (UNCAC Article 9). Urge States Parties to reach agreement on guidelines for best practices on asset management and return, which encompass those principles.

21. Call on States Parties, in line with Resolution 6/3 of the CoSP, to collect and make public data on a national-level and on an annual basis about the volume of assets seized, confiscated, or returned, as well as providing the UNODC or StAR with up-to-date information about any court or out of court proceedings involving cross-border proceeds of corruption (UNCAC Article 9).

#### **On supplementary procedures and measures**

22. Request the IRG to prepare for the 8<sup>th</sup> CoSP (1) terms of reference for a communications and reporting procedure for serious non-compliance and lack of effective enforcement of UNCAC obligations; (2) report on the advisability and feasibility of establishing a single international mechanism for resolving transnational and grand corruption offences, prepared in consultation with relevant intergovernmental organisations; and (3) a report on options for improving coordination with the review processes of other anti-corruption conventions and with international human rights bodies (UNCAC Article 63(7)).

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