

No. 2 Pacific Anti-Corruption Factsheet

UNCAC Chapter II - Preventative Measures

The United Nations Convention against Corruption (UNCAC) is the first global and legally binding anti-corruption instrument. It entered into force in 2005. There are currently 187 States parties to the Convention.

The prevention of corruption is one of the key pillars of UNCAC, along with requirements for criminalization of corruption offences, effective international cooperation and asset recovery. To reflect the importance of prevention, Chapter II focuses on addressing corruption risks in both the public and private sectors. It includes both mandatory provisions and recommendations to be considered by States parties. It also emphasizes the role that civil society and non-governmental organizations play in preventing corruption.

Chapter II requires that effective and coordinated **anti-corruption policies and practices** be developed and implemented. These practices should promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability. Provisions should be included to periodically evaluate and review anti-corruption policies and related administrative measures to ensure their continued effectiveness in preventing corruption. Cooperation with other countries, regional and international organizations, and partners is encouraged as an important prerequisite for sharing best practices and for promoting and developing anti-corruption measures.

The Convention requires an effective and properly resourced **anti-corruption body or bodies** to address the prevention of corruption. Such functions can also be performed by, for example, a specific unit within an existing institution. This body may be charged with implementing anti-corruption policies and may be involved in coordinating their implementation. In addition, it should be actively engaged in education

National Anti-Corruption Strategies

Three Pacific Islands countries (PICs) - Kiribati, Papua New Guinea and the Solomon Islands - have already developed National Anti-Corruption Strategies (NACS). These NACS are supported by Anti-Corruption Committees, coordinating mechanisms to ensure the implementation of the Strategies, but these Committees are often mandated to focus on national anti-corruption efforts also more broadly.

Independent Commissions Against Corruption

Two PICs - Fiji and the Solomon Islands - have nearly successfully established Independent Commissions against Corruption (ICACs), and two PICs are on their way; Papua New Guinea voted unanimously to amend the Constitution to allow for an ICAC to be established and Tonga legislated to establish an ICAC.

and raising awareness about the prevention of corruption.

The Convention recognizes the importance of the **effective, impartial and reliable public administration** for preventing corruption. This is why it requires that fair, equitable, transparent and merit-based systems for the recruitment, hiring, remuneration, retention, promotion and retirement of civil servants and other non-elected public officials are put in place. Civil servants must further be properly trained to perform their functions and are made aware of the risks of corruption in performing their duties.

Chapter II spells out the importance for States of adopting laws and regulations that specify the **criteria for candidature and for election to public office**. States are also required to consider introducing legislative and administrative measures that enhance transparency in the

funding of political parties and candidates for elected public office, to strengthen the accountability of elected officials.

More broadly, States are to adopt, maintain and strengthen systems that promote transparency and help prevent **conflicts of interest**. These include codes of conduct for public officials (and enforcement measures for non-compliance with such codes) to ensure the proper performance of public functions, and the adoption of measures and systems to facilitate the reporting of acts of corruption to appropriate authorities. Systems should further be in place that encourage and compel public officials to declare outside activities, employment, investments, assets and substantial gifts or benefits.

Public procurement procedures may be particularly vulnerable to corruption, due to the large amounts of funds and huge incentives for unethical behaviour. The establishment of a sound **public procurement system** based on principles of transparency, competition and objective criteria in decision-making is another important prerequisite for preventing corruption.

Reporting to the public by government bodies about their decision-making processes, as well as ensuring transparency of the public sector organization and functions are important corruption prevention tools. States can help facilitate this through the adoption of procedures or regulations by which the public can obtain information about public administration processes and legal decisions. States should also strive to simplify the administrative procedures, thus enabling the public's access to decision-making authorities.

An **independent judiciary** has a crucial role to play in combating corruption. With this in mind and while ensuring that judicial independence is respected, States are to take steps to strengthen the integrity of the judiciary (and also of the prosecution services) and to prevent opportunities for corruption among its members.

The Convention recognizes that the prevention of corruption in the private sector is critical to the success of any anti-corruption system. To this end, it requires States to enhance the accounting and auditing standards in the private sector and

create obligations for private entities to maintain accurate bookkeeping and records. There should further be civil, administrative or criminal penalties for failing to comply with such measures. As with any robust anti-corruption system, States should institute a wide range of measures to help **prevent private sector corruption**. These could include the development of integrity standards and procedures, such as: codes of conduct; measures to avoid conflicts of interest; promotion of transparency among private entities, including about the identity of beneficial owners; and preventing the misuse of procedures on subsidies and licenses granted by public authorities for commercial activities.

The prevention of **money laundering** is another important requirement of the Convention. States are obliged to put in place a comprehensive regulatory and supervisory regime for banks and non-banking financial institutions. The purpose of such a regime is to deter and detect all forms of money laundering, and to enable cooperation and the exchange of information at the national and international levels. The establishment of a Financial Intelligence Unit is required to be considered by States parties, as a national centre for the collection, analysis and dissemination of information regarding potential money laundering.

The **participation of society** and community engagement is a key prerequisite for building trust and strengthening integrity. States are to encourage the active participation of individuals and groups outside the public sector, including non-governmental organizations and community-based organizations in preventing and fighting corruption. Steps should be taken to strengthen society's ability to participate, including by ensuring public access to information through enhanced transparency, by implementing public information and education programmes, and by respecting the public right to access information.

The full text of UNCAC Chapter II is available at: https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

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The UN Pacific Regional Anti-Corruption Project (UN-PRAC) is a joint initiative of the United Nations Development Programme (UNDP) and United Nations Office on Drugs and Crime (UNODC), supported by the Australian Government and the New Zealand Aid Programme.

The views expressed in this publication do not necessarily reflect those of the Australian Government and the New Zealand Government.

