



# ELEVENTH UN CONGRESS ON CRIME PREVENTION AND CRIMINAL JUSTICE

*Bangkok, Thailand 18-25 April 2005*



Committee II  
4<sup>th</sup> Meeting\* (AM)

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## **UN CONVENTION AGAINST CORRUPTION BECOMING GLOBAL STANDARD FOR STRONG ANTI-CORRUPTION REGIME, CRIME CONGRESS COMMITTEE II TOLD**

### **Convention Expected to Enter into Force by End of 2005**

The imminent entry into force of the first global instrument to fight corruption would mark a milestone in years of international efforts to rid societies of that debilitating scourge, speakers in Committee II of the Eleventh United Nations Crime Congress agreed this morning.

Comparing corruption to “gangrene”, a monster affecting developed and developing countries alike, speakers said the challenge in the months ahead would be to ensure the implementation of the United Nations Convention against Corruption. The only way to ensure that the Convention become a functioning instrument was through concerted international cooperation, speakers said. Adopted by the General Assembly in 2003, the Convention is expected to enter into force by the end of 2005.

Compared to any other international agreement, the Convention against Corruption was most comprehensive and ambitious and was becoming the global standard for a strong anti-corruption regime, the United States’ representative said. It was also becoming the focal point for regional efforts. The Congress would do well by keeping the Convention the focal point of its efforts between now and the next Congress. The United Nations Office on Drugs and Crime Secretariat needed to play an active role, including the development of a coordinated strategy for promoting the Convention’s implementation.

Noting their strong support for the Convention, speakers described their national efforts to remove and pre-empt corruption, both active and passive, including through the adoption of anti-corruption legislation, strengthened public sectors and independent judicial systems.

Corruption was impeding development and hindering States’ efforts to achieve progress, Morocco’s representative said. Given Morocco’s proximity to Europe, and a potentially large migrant population, Morocco had taken a number of steps to counter corruption since the Convention’s adoption in 2003.

Oman’s representative, noting that corruption had not affected his country in any significant way, said his country had, nevertheless, made efforts to stamp out corruption by way of a strong legislative and administrative framework. Corruption, including its passive forms, was a crime

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\* 1<sup>st</sup> through 3<sup>rd</sup> Meetings were not covered.

according to the country's criminal code. Given the negative impact of corruption on economies and the efforts of States to modernize their systems, increased international cooperation against corruption was of vital importance.

Summarizing the discussion, Isskandar Ghattas (Egypt), the Chairman of Committee II, noted that, given globalization, a global effort against corruption was needed. The disappearance of borders must contribute to the prosecution of criminals. All wanted greater international cooperation to eradicate corruption and combat the criminals who aided in corruption. Corruption was a criminal act in itself, and it was a threat to the rule of law and democratic institutions. The Convention against Corruption merited special mention in the Bangkok Declaration, and States must be urged to sign and implement the Convention.

The Eleventh Crime Congress has been meeting since Monday, 17 April, and is scheduled to complete its work on Monday, 25 April. In the lead-up to the high-level segment of the Congress this weekend, the Congress's two main committees -- Committees I and II -- have been discussing various topics to be addressed by the outcome document of the session, to be called the "Bangkok Declaration".

Also speaking this morning were the representatives of Argentina, Ukraine, Mexico and Azerbaijan.

Representatives of the Interreligious and International Federation for World Peace and the World Society of Victimology also made statements.

With today's discussion, Committee II concluded its consideration of "Corruption: threats and trends in the twenty-first century".

### Background

Committee II of the Eleventh United Nations Congress on Crime Prevention and Criminal Justice had before it a working paper prepared by the Secretariat, entitled "Corruption: threats and trends in the twenty-first century" (document A/CONF.203/6). It notes that, in the world of relative turmoil produced by the radical changes of the post-cold-war era, there are new opportunities and incentives to engage in corrupt practices.

The assumption that "free" markets and non-interventionism are remedies against corruption is challenged by recent experience. It now appears that each sociopolitical and economic system produces its own type of corruption and that no system is completely corruption-free. Poor countries, however, tend to be more affected by corruption than others: corruption and poverty appear to be closely linked and mutually reinforcing, leading to a downward spiral often contributing to severe political, as well as human crises and violent conflict.

While corruption has long been acknowledged as an obstacle to development, there are some aspects of the phenomenon that, if not addressed as a matter of priority, may hinder all other efforts to successfully advance the anti-corruption agenda, the document states. The fight against corruption requires unconditional commitment of the political leadership. Another serious impediment to the fight against corruption was corruption within the justice sector. A corrupt

judiciary means that the legal and institutional mechanisms designed to curb corruption, however well targeted, remain crippled. The prevention and control of corruption must also be recognized as a key aspect of conflict resolution, as well as post-conflict prevention and conflict management.

The report also states that, in response to the challenges posed by corruption, the United Nations has carried out much work over the years, including the development and adoption of the International Code of Conduct for Public Officials and the United Nations Declaration against Corruption and Bribery in International Commercial Transactions. The United Nations Convention against Transnational Organized Crime, which entered into force in 2003, includes provisions related to corruption of public officials. Also in 2003, the General Assembly adopted the United Nations Convention against Corruption, which requires the establishment of a range of offences and includes extensive preventive measures. The Eleventh Crime Congress comes at a crucial moment, namely the imminent entry into force of the first global instrument in the fight against corruption.

Describing the way forward, the report says the development of effective strategies against corruption requires, as a first step, the establishment of an adequate legal framework. Such a framework is now available in the United Nations Convention against Corruption. The challenge facing the international community now is to ensure that the Convention does not remain a mere aspiration but becomes a functioning instrument. In order to meet that challenge, no effort should be spared to bring the Convention into force as soon as possible. Judging by the steady pace of ratifications, the Convention will probably enter into force by the end of 2005.

A critical focus of the Convention is prevention, providing the institutional and regulatory framework to reduce the likelihood of corrupt practices in the first instance, the report notes. Another critical area is the justice sector. The Convention recognizes the integrity of the justice system as a central component of any strategy to counter corruption, in particular among members of the judiciary and the prosecution service. Building a culture that is adverse to corruption is central to the integrity of both the private and the public sectors. The entry into force of the Convention will signal a new era in the international community's action to prevent and control corruption.

#### Statements

EUGENIO CURIA (Argentina) said that his country, a State party to the Convention against Transnational Bribery of the Organization for Economic Cooperation and Development, had been evaluated under the monitoring system and had modified its legislation as a result of that. It had also been evaluated under a regional convention. The Convention against Corruption was before Parliament, and he expected it would be approved within a couple of months.

He said that, worldwide, international organizations were playing an active role in efforts to combat corruption in the public and private spheres, a matter that was also on all governments' agendas. Greater coordination and organization was needed in that effort, however, especially for the specific areas of training and capacity-building. Looking at the number of projects, seminars and workshops on the subject, the level of existing disorganization and anarchy existing was hard to believe. Better coordination was also needed in the area of technical assistance.

He hoped that the Convention against Corruption would enter into force during the coming months. The legislative guidelines of the Secretariat would provide an excellent tool for implementing the Convention. He noted, however, an imbalance between developed and developing countries in the ratification process. Standards and rules had to be developed nationally to comply with the provisions. There was still much to be done to bring civil society into the efforts to combat corruption and use their input. International cooperation, training and capacity-building could be channelled through the United Nations Office on Drugs and Crime, budgetary and extrabudgetary funds could be used for that purpose.

AHMED SAEED AL-HASANI (Oman) noted that, although Oman was not affected by corruption in a significant way, it had, nevertheless, made efforts to prevent and suppress corruption by way of a legislative and administrative framework to stamp out corruption. Corruption, including its passive forms, was a crime according to the country's criminal code. A law had been promulgated to ensure that public funds were properly protected and to prevent the abuse of public funds by public officials. In 2000, a law promulgated to follow-up on such matters had set up a body to ensure the proper functioning of the country's civil service and to ensure the protection of State funds through a number of monitoring mechanisms. Such mechanisms provided for the transparent regulation of all transactions. An administration had also been set up to provide follow-up to any corrupt acts.

Concerning civil service appointments, he noted that Oman's civil service worked in a centralized fashion with the aim of absolute control over appointments on the basis of equality of opportunity and transparency. Regarding the appointment and training of civil servants, the civil service law maintained the primacy of competency as a basis for appointment.

Regarding efforts to campaign against corruption at the regional, national and international levels, he said Oman had been involved in the drafting of the United Nations corruption convention and was determined to become a full-fledged member of the Convention. Oman had also been involved in efforts at the regional level, adopting a text similar to the United Nations text. Given the negative impact of corruption on economies and the efforts of States to modernize their systems, increased international cooperation against corruption was of vital importance.

VALERII DEMIANETS (Ukraine) said corruption was closely connected with other kinds of crime and, therefore, detecting corruption must be a comprehensive effort. Ukraine had implemented a number of comprehensive steps at the regional and national level to combat corruption, and to bolster the campaign against corruption nationally, a Presidential Decree had been adopted to counter crime and corruption. That had led to annual plans adopted by the Government, and Parliament also had a Committee dealing with the issue. A National Security Defence Council had been set up which was responsible for the matter.

He said his country had signed the United Nations Convention against Corruption in 2003. To implement its provisions, as well as the aforementioned Presidential Decree, a law had been drafted to provide conditions to combat corruption. It was the first time that the role of civil society had been defined in law, and that it had been involved in fighting corruption. A law had also been drafted on the liability of the judiciary for corrupt acts which defined contexts in which charges could be brought against members of the judiciary, and Ukraine's legislation also provided for the criminal liability of public officials. The new Ukrainian Government was aware of the fact that

corruption was a widespread phenomenon that hindered economic growth and stymied development, and it would continue to take all necessary steps at the national and international levels to root out that phenomenon.

JOHN BRANDOLINO (United States) said the declaration that called upon governments to implement measures against corruption said it all. There was no need for any other declaration. One only needed to turn the pages of the United Nations Convention to see the impressive list of commitments agreed to over the last five years. Compared to any other international agreement, it was most comprehensive and ambitious, including provisions to, among other things, promote integrity in the judiciary and private sectors. He had not heard one thing mentioned in the last few days that was not covered by the Convention.

Slowly but surely, the Convention was becoming the global standard for a strong anti-corruption regime, he said. It was also becoming the focal point for regional efforts. The Congress would do well by keeping the Convention the focal point of its efforts between now and the next Congress. By then, the Convention would have come into force and the Conference of States Parties would have met. There was much to be done. The United Nations Office on Drugs and Crime Secretariat needed to play an active role, including the development of a coordinated strategy for promoting the Convention's implementation. All actors would need to be on the same page. Much time had been spent since the last Congress in establishing commitments. Between now and the next Congress, much time would need to be spent promoting the Convention.

FRANCISCO JAVIER MOLINA RUIZ (Mexico) said his country had been doing everything possible to pass laws on, among other things, transparency, the behaviour of public officials, judicial reform, and electronic eavesdropping and information gathering. Nowadays, as the fight against corruption was a high priority of the President, any programme carried out by a ministry must contain elements on corruption. In 2001, the intergovernmental Commission on the Monitoring of Corruption had been created to oversee efforts to counter that problem, and it had identified certain processes that the Government could promote within the public sector. It had also identified the vulnerable links in the purchasing mechanism of the Government.

He said that relevant domestic efforts must also be monitored to ensure that they were successful. However, the problem was that, at the international level, there were no existing monitoring mechanisms available. His Government had looked at international guidelines for transparency and at the experience of others. Recognizing the efforts Chile had made, he said their example was the goal for his country. One task that still needed to be addressed was the involvement of municipal and regional governments. Other challenges were the extension of public ethics and codes of conduct to the private sphere. He suggested that the Congress should promote international efforts to create an evaluation mechanism

ABDESSELAM EL IMANI (Morocco) said he had been impressed by the clear determination of a large number of Member States to participate in the campaign against corruption. Corruption was impeding development and hindering States' efforts to achieve progress. Following the adoption of the Convention, Morocco had begun to work seriously to implement the Convention along with the other conventions already ratified by his country. Given Morocco's geographic location, it faced the possibility of a large number of potential migrants

coming to Morocco en route to Europe. In that regard, Morocco had already begun to cooperate with a large number of countries.

His Government had adopted a money-laundering law, which would soon be approved by Parliament, he said. Morocco had also organized workshops and seminars to fight that crime. Public sector reform meant that public officials were required to declare their revenues so as to ensure transparency and identify active, as well as passive corruption. The media must also raise awareness of the need to fight the scourge of corruption. Aware of the role of women played in the development process, Morocco had adopted a series of texts to protect women against abuse and discrimination.

Morocco was determined to make a contribution to the global campaign against corruption, he stated. In that connection, a number of legal bodies had been set up to deal with corruption cases and the independent nature of the prosecutor's office had been strengthened to prevent interference in the nation's judicial system

#### Non-Governmental Organizations

A representative of the Interreligious and International Federation for World Peace said the challenge corruption posed for the international community, as well as local communities was that it reflected individual's choices to violate norms and standards. The prevention of corruption could, therefore, be realized through collective enlightened choices made by individuals who chose the interests of the larger good over the perceived benefits of self-interest. Such choices required maturity and sound judgement, as well as the willingness to obey laws.

The capacity for ethical action and aversion to corruption could be nurtured and developed. Unfortunately, public support of institutions that specialized in cultivating those intangibles was not forthcoming from most secular governments, he said, and called upon Member States to recall the importance of sectors of society that made significant contributions to the moral and ethical development of society: families, religions, educational institutions and ethical and faith-based non-governmental organizations. The Federation and its affiliates had established a growing worldwide network of "Ambassadors for Peace", which was an empowering network that strengthened community resistance to corruption, crime and violence.

A representative of the World Society of Victimology, describing the devastating consequences of corruption, noted that it led to conflict, and conflict to corruption. Acts of corruption affected society and individuals alike, leading to lack of respect and trust, hunger and death, and the diversion of humanitarian aid. It also led to the destruction of the environment. She asked the United Nations to include in the declaration specific mechanisms to include society into the fight against corruption. Greater transparency was also needed in the way in which the media reported the news.

RUSLAN HACIYEV (Azerbaijan) said there was a dangerous convergence between criminal and State structures. Corruption was fostered by socio-economic problems, and his country was no exception of that rule. Efforts had been made, therefore, to draft a State programme to counter corruption. That strategy was based on the principle of improving national legislation in all areas, ensuring transparency, involving the population in countering corruption, and seeking to

improve the bodies involved in the process. His country had signed the United Nations Convention against Corruption and had acceded to the Council of Europe convention on the issue.

The difficult economic situation in his country was exacerbated by the fact that 25 per cent of its territory was occupied, resulting in millions of refugees living in camps. That was a situation that strained the budget enormously, and the means spent on that problem could have been used to pursue reforms in other areas. The speaker went on to describe national measures to combat corruption, including the establishment of a commission to campaign against corruption, the drafting of new laws and the adoption of codes of conduct for public officials. He stressed, however, that many countries did not have the capacity to counter phenomena such as corruption, international organized crime and money-laundering.

#### Chairman's Summary

Summarizing the discussion, Chairman of Committee II ISSKANDAR GHATTAS (Egypt) said corruption had been described as gangrene, a monster and a scourge. Combating corruption was something societies must do in the twenty-first century. Speakers had pointed out how the scourge affected both developing and developed countries. Given globalization, a global effort against corruption was needed. The disappearance of borders must contribute to the prosecution of criminals. The General Assembly had gone beyond provisions on corruption in articles 8 and 9 of the Convention against Transnational Organized Crime and had gone on to draft a full convention against corruption. The Assembly had passed the Convention against Corruption in 2003 and had opened it for signature shortly thereafter.

Most speakers had pointed out the need to ratify the Convention so that it could soon enter into force, he said. All wanted greater international cooperation to eradicate corruption and combat the criminals who aided in corruption. Corruption was a criminal act in itself, and it was a threat to the rule of law and democratic institutions. Criminal proceedings must be carried out with full respect for the international standards and presumption of innocence, and more training for law enforcement officers was needed. Corruption eroded the very basis of the rule of law and court systems, and strong structures were needed to ensure accountability, especially in the public sphere. Civil society must be fully involved in those efforts.

Technical assistance also had an important role to play, especially in the United Nations Office on Drugs and Crime, he said. A culture of good governance must be created and a global plan of action against corruption was needed to lead international efforts. Delegates had stressed the importance of international cooperation and the need for better coordination of national and international efforts. They added that special attention must be given to asset recovery. The Convention against Corruption merited special mention in the Bangkok Declaration, and States must be urged to sign and implement the Convention.