



# Conference of the States Parties to the United Nations Convention against Corruption

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Agenda item 4

### Prevention

**Australia, Brazil, European Union, France, Honduras, Lebanon, Morocco, Norway, Peru, Switzerland and United Kingdom of Great Britain and Northern Ireland: revised draft resolution**

## **Promoting transparency and integrity in public procurement in support of the 2030 Agenda for Sustainable Development**

*The Conference of the States Parties to the United Nations Convention against Corruption,*

*Convinced* that transparency and integrity in public procurement can serve as an enabler for implementing the United Nations Convention against Corruption<sup>1</sup> and achieving the Sustainable Development Goals, in particular in sectors that have a heightened risk of corruption in procurement,

*Recalling* the Convention against Corruption, in particular its articles 7 (Public sector), 8 (Codes of conduct for public officials), 9 (Public procurement and management of public finances), 10 (Public reporting) and 13 (Participation of society),

*Recalling also* that Member States, in the political declaration entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”, adopted by the General Assembly at its special session against corruption held in 2021, recognized that public procurement was at serious risk of corruption and emphasized the importance of strengthening open data, transparency and accountability, in accordance with domestic laws, during the whole public procurement cycle,<sup>2</sup>

*Noting* resolutions adopted and decisions made by States parties at the ninth Conference session, held in Sharm el-Sheikh, Egypt, from 13 to 21 December 2021, particularly Resolution 9/1 paragraph 5, which urges States parties to establish and, where necessary and appropriate, further strengthen, through the whole public procurement cycle, transparent, competitive and objective public procurements systems and Resolution 9/3, which recognises that the implementation of the Convention, other anti -corruption commitments undertaken by the States parties, and the Sustainable Development Goals, among other factors, may benefit from the effective use of new developments in technology,

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<sup>1</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

<sup>2</sup> General Assembly resolution S-32/1, annex.

*Noting* the significant gaps, identified through the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, in establishing appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective in preventing corruption,

*Concerned* by the impact that corruption in public procurement has on fair competition as well as the potentially exclusionary and other negative effects it has on access to economic opportunities for small businesses, and for businesses owned by women as well as for people in vulnerable situations,

*Highlighting* the use of technology as a means of preventing and countering corruption, and encouraging States parties to adopt digital policies, where appropriate and consistent with their domestic legal system to promote transparency and public reporting in areas such as public procurement, the management of public finances and asset and interest disclosure with a view to facilitating the reporting and detecting of acts of corruption in public procurement and in order to improve the efficiency and effectiveness of public administration and international cooperation, as well as enhance accountability, transparency, integrity and public participation,

*Noting also* the role that international financial institutions and multilateral development banks can play in assisting States parties, upon request, in the technical implementation of procurement reforms and improvements, data and digital transformation and legal frameworks,

*Recognizing* the value of the technical assistance provided by States parties, the United Nations Office on Drugs and Crime and other international and regional organizations in supporting the development of transparent, competitive and objective public procurement systems, including in emergencies, in particular for the benefit of developing countries, upon request, as part of their respective plans and programmes to prevent and combat corruption, including through the provision of material assistance and training,

*Taking note* of widely used references and diagnostic tools such as the United Nations Commission on International Trade Law Model Law on Public Procurement<sup>3</sup> and the Methodology for Assessing Procurement Systems, aimed at assisting States parties in the implementation of relevant articles of the Convention against Corruption, and encouraging States parties to make use, where appropriate and in accordance with their domestic laws, of such tools in contributing to the domestic implementation of effective procurement systems,

*Strongly* urging States parties to refrain from promulgating and applying any unilateral economic, financial, or trade measures not in accordance with international law and the Charter of the United Nations that impede the full achievement of economic and social development particularly in developing countries,

1. *Urges* States parties to develop easily and publicly accessible, clear, transparent and consistent public procurement laws, regulations and procedures, within their means and in accordance with the fundamental principles of their legal systems, to consolidate them domestically, as appropriate, and to make them available online in a timely;

2. *Calls upon* States parties, in accordance with article 5 of the United Nations Convention against Corruption and the fundamental principles of their legal systems, to develop and implement or maintain effective, coordinated anti-corruption policies that 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;

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<sup>3</sup> *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17 (A/66/17)*, para. 192 and annex I.

3. *Encourages* States parties to take measures, as necessary and in accordance with the fundamental principles of their legal system, to promote the integrity, transparency, accountability and effectiveness of their systems of procurement, during the whole public procurement cycle, and among personnel responsible for procurement, and further calls upon States parties to endeavour to establish measures adequately addressing and preventing conflicts of interests such as disclosing of private interests that could improperly influence the performance of official duties;

4. *Encourages* States parties to develop, within their means, the skills and capabilities of officials participating in public procurement processes, through adequate training and tools to support the regular execution of their functions, including through effective international cooperation, capacity-building and technical assistance;

5. *Urges* States parties to implement or improve, as may be necessary, periodic training programmes for public officials, in particular those in positions vulnerable to corruption, inter alia, in the field of public procurement, to enhance their awareness of the risks of corruption inherent in the performance of their functions, with specific reference to resolving real-life situations, and to enable them to meet the requirements for the correct, honourable and proper performance of public functions;

6. *Calls upon* States parties to take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective in, inter alia, preventing corruption in accordance with article 9, paragraph 1, of the Convention against Corruption;

7. *Emphasizes* the need for States parties to ensure open, equitable and fair competitive tendering processes by publishing clear selection criteria and methods for awards, and recommends that strict and limited criteria be established to delineate exceptions to competitive tendering processes and that such exceptions be publicly disclosed;

8. *Encourages* States parties, in accordance with the fundamental principles of their domestic law, to design and make use, where appropriate and within their means, of integrated electronic procurement systems that collect, manage, simplify, standardize and publish open data on the whole procurement cycle, in a timely manner and in a user-friendly format;

9. *Further encourages* States parties, within their means and in accordance with their domestic laws, to make use of integrated electronic procurement systems supporting analysis of procurement data and automated risk indicators, such as early warning methodologies or other means of detecting and reporting potential suspicious activities;

10. *Encourages* States parties to take measures, in accordance with their domestic laws, to ensure that complaints pertaining to specific procurement processes are addressed in an impartial, expeditious, effective and transparent way, and further invites States parties to endeavour to provide adequate resources, where and when appropriate, within their means, to the competent authorities handling these complaints;

11. *Urges* States parties to incorporate and implement corruption risk management processes, in particular in institutions responsible for or concerned with crisis response and recovery, to help identify and mitigate potential corruption risks when designing, administering and managing the whole cycle of public procurement and relief measures, in accordance with the fundamental principles of their legal systems;

12. *Encourages* States parties, where appropriate and consistent with their domestic legal frameworks and the need to protect the rights or reputations of others, national security or *ordre public*, to seek to utilize information and communications technologies to strengthen the implementation of the Convention against Corruption,

to strengthen public awareness and to promote transparency and public reporting in areas such as public procurement, the management of public finances and asset and interest disclosure, with a view to facilitating the reporting and detecting of acts of corruption and to supporting the criminal prosecution of corruption-related offences;

13. *Encourages* State parties to ensure availability of laws, regulations and policies and to raise awareness within the private sector on these frameworks, to foster and assist legal entities to establish and implement anti-corruption ethics and compliance programmes or measures in order to prevent, detect and remediate issues that might arise in public procurement and the interaction with public administration, including in supply chains;

14. *Calls upon* States parties to encourage private sector efforts to contribute to non-tolerance of bribery and corruption related to public procurement including through promoting good practices for ethical business conduct and to raise awareness of the risk of bribery, among businesses that engage and particularly who contract with governments;

15. *Also encourages* States parties to take the measures necessary to ensure that providers of goods or services that have committed or are liable for an act of corruption, are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including where appropriate, debarment, in accordance with their domestic laws, and to facilitate, where appropriate, coordination and cooperation with other States parties, in accordance with the Convention;

16. *Requests* the United Nations Office on Drugs and Crime (UNODC) to make available, subject to the availability of extrabudgetary resources, in the Tools and Resources for Anti-Corruption Knowledge portal, relevant information provided on a voluntary basis by States parties, international financial institutions and multilateral development banks that maintain a debarment registry, together with information on how to make requests for such information;

17. *Further encourages* States parties to foster transparency through effective and inclusive public participation across the whole public procurement cycle to better understand public procurement and allow the public to monitor the use of public funds;

18. *Further encourages* States parties to consider offering training to suppliers and contractors participating in public procurement processes, as appropriate, on the rules and regulations with which they will need to comply in their roles;

19. *Calls upon* States parties to establish appropriate and effective measures that provide for audits across the whole procurement cycle and to ensure that the competent oversight authorities, according to their domestic law, including Supreme audit institutions, have the necessary resources for assessing, as part of their audits of public bodies, the governance, the processes implemented for public procurement and the quality of internal control, providing recommendations, acting upon public feedback and civic monitoring, and in the event of alleged corruption, investigate or report to the competent authorities for investigation;

20. *Encourages* States parties, in accordance with domestic law, to strengthen coordination and cooperation between procurement authorities and bodies involved in the prevention of and fight against corruption, including national competent oversight authorities, as proposed by Resolution 9/3 and taking note of the practical guide issued by the UNODC titled “*Enhancing collaboration between Supreme Audit Institutions and Anti-Corruption Bodies*” in this regard;

21. *Encourages* States parties to adopt procurement policies which, in accordance with their legal systems, promote fair competition in particular regarding the award of public contracts to micro, small and medium enterprises and businesses owned by women and persons in vulnerable situations,

22. *Strongly urges* States parties to refrain from promulgating and applying any unilateral economic, financial or trade measures not in accordance with international

law and the Charter of the United Nations that impede the full achievement of economic and social development particularly in developing countries;

23. *Requests* the Open-ended Intergovernmental Working Group on the Prevention of Corruption to include, as topics for discussion at its fifteenth and sixteenth meetings, the prevention of corruption in procurement at various government levels, including good practices, lessons learned and challenges, and the effective use of information and communication technologies technology to prevent, detect, deter and counter corruption in procurement

24. *Directs* the Working Group on the Prevention of Corruption to:

(a) collect, with the support of the secretariat, information provided by States parties on a voluntary basis on good practices, lessons learned and challenges in the prevention and detection of corruption during the whole procurement cycle, including through the use of technology;

(b) Analyze, with the support of the secretariat and informed by the outcomes of a technical discussion on corruption and public procurement, to be convened subject to the availability of extrabudgetary resources, within its mandate, the information received with a view to developing non-binding, step-by-step guidelines on the adoption and use of technology in procurement, including on appropriate change-management best practices and the identification of relevant open standards to be made available in all official United Nations languages;

25. *Also requests* the secretariat to report to the Conference at its eleventh session and to its relevant subsidiary bodies on the implementation of the present resolution;

26. *Further requests* the United Nations Office on Drugs and Crime to provide technical assistance, including material assistance, to States parties, upon request, to support the enhancement of procurement systems, in line with the present resolution, through capacity-building, training and research, including on emerging corruption risks in public procurement;

27. *Invites* States parties and other donors to provide extrabudgetary resources for the purposes specified in the present resolution, in accordance with the rules and procedures of the United Nations;