Sixth Annual Report to Congress on the Inter-American Convention Against Corruption

BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS
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I. INTRODUCTION

Pursuant to the Resolution of Advice and Consent to Ratification of the Inter-American Convention Against Corruption adopted by the Senate on July 27, 2000, attached as Appendix A, the Congress has received reports on the Inter-American Convention Against Corruption (IACAC) since April 2001. This is the Sixth Report. Since the preparation of the Fifth Annual Report, significant steps continue to be taken by the State Parties toward implementation of the IACAC, particularly in the efforts of the evaluation mechanism. The IACAC was one of the first, and remains one of the most important, regional efforts among the growing number of international initiatives against corruption.

States Parties to the IACAC continue, with assistance from the Organization of American States (OAS), to conduct formal monitoring of the implementation of IACAC’s commitments. As discussed below in Section V, the Committee of Experts (“Committee”) for the Follow-Up Mechanism (“Mechanism”) has finalized 23 country assessments as of December 31, 2005, with five more to be completed at the Committee’s next meeting in March 2006. Of the 23 assessed, 20 governments to date, including the United States, have authorized publication of the final assessment reports on the OAS web site. The Committee’s assessment reports contain specific recommendations for additional legislation, regulations, or actions where necessary to implement the IACAC. The recommendations also address the need for strengthening the administration, transparency, and other anticorruption efforts to enhance and measure the effectiveness of anticorruption laws and mechanisms.

To date, all 28 States Parties to the Mechanism have responded to the Committee’s questionnaire on the aspects of the IACAC that are included in the first round of assessments, and 23 States Parties, including the United States, have authorized the publication of their responses on the OAS website. These responses and their publication provide the Committee and the public with extensive information about the steps that the States Parties have taken and are taking to meet their commitments under the IACAC.

In addition to supporting and participating in the formal multilateral monitoring process, the U.S. Government continues to work closely with our hemispheric partners and international financial institutions to promote the implementation and enforcement of the IACAC. In addition, the U.S. Agency for International Development (USAID), the U.S. Office of Government Ethics (OGE), the U.S. Department of Justice, the World Bank, the Inter-American Development Bank (IDB), and others continued in 2005 to provide assistance programs to promote IACAC implementation.

II. BACKGROUND

The first Summit of the Americas in 1994 tackled the issue of systemic corruption throughout the hemisphere at a political
level for the first time. Leaders agreed to strengthen their commitment to fight corruption and to significantly raise the level of public visibility and attention to this serious issue. Negotiations began shortly thereafter to develop the first intergovernmental treaty focusing specifically on the fight against corruption. On March 29, 1996, the IACAC was adopted and signed by 21 OAS Member States at a Specialized Inter-American Conference in Caracas, Venezuela. The IACAC is attached as Appendix B.

The IACAC identifies acts of corruption to which the instrument will apply and contains articles creating obligations under international law, as well as establishing principles for effectively fighting corruption. The IACAC provides for institutional development and enforcement of anticorruption measures, requires criminalization of specified acts of corruption, and contains articles on extradition, seizure of assets, mutual legal assistance, and technical assistance where acts of corruption occur in or affect another State Party.

Article III emphasizes the importance of preventive measures, and calls upon States Parties to consider implementing such measures. These include systems of government hiring and procurement that assure transparency, equity, and efficiency of such systems; standards of conduct for public employees; financial disclosure requirements for public officials and employees; laws that deny favorable tax treatment for any individual or corporation for payments that violate laws against corruption; whistleblower protections; oversight bodies with authority to develop new anticorruption mechanisms; accounting systems and internal accounting controls; procedures for addressing the relationship between equitable compensation and probity in public service; and mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption.

The Mechanism launched the review process in 2002. For the first round of evaluation and assessment, scheduled to conclude in March 2006, the Committee selected four of the commitments of Article III, as well as Article XIV (Assistance and Cooperation) and XVII (Central Authorities). Work is underway to launch the second round of evaluation and assessment; the Committee will focus its efforts on the topics of government hiring and procurement (Article III, Sec. 5), whistleblower protections (Article III, Sec. 8), and criminal acts of corruption (Article VI).

III. RATIFICATION

As of December 31, 2005, 33 of the 34 participating OAS Member States were States Parties to the IACAC. Only Barbados has not ratified or acceded to the Convention. Of the thirty-three States Parties to the IACAC, only five -- Saint Lucia, Haiti, Antigua and Barbuda, Dominica, and Saint Kitts and Nevis -- have not yet joined the Mechanism. The dates of the ratifications and the deposits of the instruments of ratification appear in Appendix D. The United States also continues to provide technical assistance targeted to helping countries implement their commitments under the IACAC. A sample of USAID assistance efforts for 2005 can be found at Appendix F.

IV. DOMESTIC LEGISLATION IMPLEMENTING THE IACAC AND ACTIONS TO ADVANCE ITS OBJECT AND PURPOSES

States Parties to the Convention continue to enact legislation and take other actions to implement the Convention and advance its object and purposes. To memorialize these activities and to enhance dissemination of information about them, the Committee adopted amendments to its Rules of Procedure calling for regular reports on implementation each time it meets and providing for those reports to be posted on its website. The Secretariat’s first annual report was issued on December 9, 2005 and can be found at www.oas.org/juridico/english/mec_rep_annual.htm. The report lists a number of activities in various countries including the following:

Legal Reform: Following are the domestic laws enacted by each State Party to the Convention that implement commitments under the Convention. Costa Rica passed its Law against Corruption and Illicit Enrichment in Public Service. Regulations to implement the provisions on conflicts of interest, declarations of assets and income, and mechanisms for reporting corruption were written specifically pursuant to recommendations of the Committee of Experts. Peru, also pursuant to the Committee’s recommendations, passed a new Regulation and Code of Ethics for the Public Service, which establishes standards and sanctions for acts of corruption committed by public officials and employees. In Honduras, pursuant to a recommendation of the Committee, the National Congress repealed the provision in the Penal Code entitled “Desacato” (disrespect), which will enable free media reporting and commentary on public officials and functions without fear of criminal prosecution.

Institutional Reform: Following are actions taken by States Parties during 2005, other than law enforcement measures, to advance the object and purpose of the Convention. In Colombia, over 92 state and local level officials signed Transparency Pacts, agreeing to work with citizen monitoring groups in an effort to increase transparency in public administration, including government contracts, and health and education administration. Costa Rica has increased funding for its Public Ethics prosecutor and investigations functions and to improve its auditing function for financial crimes. In Nicaragua, the Ministry of Property and Public Credit is continuing to implement the new “Efficiency and Transparency in Government Purchasing and Contracts” system, which will eventually result in a new national government purchasing and contracting system. The revised system is expected to be in place by the end of 2006. Peru has expanded the responsibilities of the National Commission to Fight Corruption, to include investigating reports of corruption and establishing Ethics Commissions in federal agencies. The Commission also works with the Ministry of Justice to train officials on their ethics duties. In Argentina, the Office of Anticorruption has developed “risk maps” and developed guidelines for federal agencies to revise their procurement practices to eliminate opportunities for corruption. Also, the Office has provided technical assistance to the federal prisons to eliminate corruption from their system of purchasing, distributing and serving food products. The National Congress of Honduras has established a web site on which citizens and civil society can present their comments, suggestions and criticism on pending legislation.

Enforcement: Following are law enforcement measures taken by States Parties during 2005, to advance the object and
purpose of the Convention. In El Salvador, the new Court of Accounts (Corte de Cuentas) conducted regular audits of public officials and employees with a view to preventing and sanctioning acts of corruption. As a result, El Salvador’s attorney general has started numerous corruption-related prosecutions. The highest profile case is that of Carlos Perla, ex-president of the Salvadoran Water Authority (ANDA), who was accused of misappropriating $31 million during his tenure. In Paraguay, the Supreme Court has handed down 40 sentences in corruption cases involving the misappropriation of 37 billion guaranies, or approximately US $62 million.

Regional Cooperation: Anticorruption offices from Argentina, Bolivia, Brazil, Colombia, Ecuador, Nicaragua, and Peru, have formed a “Regional Alliance of Anticorruption Organizations,” pursuant to the call in Article XIV of the Convention to “foster exchanges of experiences by way of agreements and meetings between competent bodies and institutions…” The Alliance has met biannually since June 2003. Also, Peru is leading an effort to launch a Hemispheric Network of Government Contracting Institutions in order to establish standards and promote best practices in the areas of transparency, ethics, and e-government.

Additional details on progress being made by States Parties may be found at the websites listed in Appendix E.

V. PROGRESS AT THE OAS ON A MONITORING PROCESS

As described below, the OAS has made significant and important progress toward creation of an effective, transparent, and viable monitoring process for the IACAC, which includes input from civil society.

As described in previous reports, the formal monitoring process (the Mechanism) was established by the May 2001 Report of Buenos Aires, attached as Appendix C, and consists of two parts: the Committee, responsible for technical analysis, and the Conference of the States Parties to the Mechanism, responsible for implementation oversight.

At the Special Summit of the Americas of Nuevo León in January 2004, the leaders of the hemisphere stated:

The Inter-American Democratic Charter states that the peoples of the Americas have the right to democracy and that their governments have the obligation to promote and defend it, and it establishes that transparency in government activities, probity, and responsibility in public management are key components of the exercise of democracy. We will therefore increase our cooperation within the framework of the Inter-American Convention against Corruption, particularly by strengthening its follow-up mechanism. We charge the upcoming meeting of the Conference of States Parties to the follow-up mechanism of the Convention with proposing specific measures to strengthen this mechanism.

The first meeting of the Conference of the States Parties to the Mechanism took place on April 1-2, 2004, in Washington, D.C. At this meeting, the States Parties adopted rules and procedures, elected Brazil and Nicaragua to the president and vice-president positions, and adopted proposals to strengthen, accelerate, and increase the transparency of the Mechanism. These proposals can be found on the OAS web site, see Appendix E. The principal recommendations included measures to strengthen the funding of the Mechanism, strengthen the Technical Secretariat, enhance the participation of civil society in Mechanism activities, and accelerate the work of the Committee. The next meeting of the Conference of the States Parties will be scheduled for the last half of 2006.

As of December 31, 2005, there has been considerable progress in the monitoring process. The Committee has produced a total of 23 assessment reports: Argentina, The Bahamas, Bolivia, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Trinidad and Tobago, the United States, Uruguay, and Venezuela. Twenty of these reports have to date been made publicly available on the OAS website. Twenty-three countries – Argentina, The Bahamas, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Vincent and the Grenadines, Trinidad and Tobago, the United States, Uruguay, and Venezuela – have made their answers to the Committee’s questionnaire publicly available via the OAS website. Web addresses to access these documents can be found in Appendix E.

In response to the recommendations of the Conference of the States Parties, the Committee accelerated its review schedule by reviewing 12 countries annually rather than eight. As a result, the first round evaluations are expected to be completed at the Committee’s ninth meeting in March 2006. In an effort to launch the second round of evaluation as soon as possible after the conclusion of the first round, the Committee, at its eighth meeting in September 2005, selected the following topics for the second round of evaluation: government hiring and procurement (Article III, Sec. 5), whistleblower protections (Article III, Sec. 8), and criminal acts of corruption (Article VI). The Committee plans to have the structure, methodology and questionnaire for the second phase of review approved at its ninth meeting.

VI. COMPLEMENTARY WORK

Denial of Safe Haven

At the Special Summit of the Americas in January 2004, the heads of state committed to deny safe haven to the corrupt in the following joint statement included in the Declaration of Nuevo León:

In the framework of applicable national and international law, we commit to deny safe haven to corrupt officials, to those who corrupt them, and their assets; and to cooperate in their extradition as well as in the recovery and return of the proceeds of corruption to their legitimate owners. We also commit to enhance regional mechanisms for mutual legal assistance in criminal matters and their implementation.
Under the aegis of the Convention, the OAS, with support from the United States, sponsored a special meeting in July 2005, for experts from throughout the Western Hemisphere on implementation of the "Denial of Safe Haven" policy. The United States used the opportunity to showcase its visa denial and asset forfeiture efforts.

Based on a recommendation coming from the July 2005 experts meeting, the U.S. Government will sponsor, in cooperation with the OAS and our G-8 partners, an May 2006 workshop on asset recovery and forfeiture for investigators and prosecutors from the Western Hemisphere. The United States will also be working with civil society on the importance of the IACAC implementation and on the Denial of Safe Haven initiative at the 12th International Anticorruption Conference (IACC) to be held in Guatemala.

VII. FUTURE NEGOTIATIONS

In 2006, States Parties to the IACAC will likely also begin discussions on how IACAC implementation efforts can complement future efforts to implement the global and more comprehensive United Nations Convention Against Corruption (UN Convention). As of March 2006, 140 countries had signed the UN Convention, including the United States, and 49 countries have ratified it. The UN Convention entered into force for those countries that have ratified it on December 14, 2005, and is quickly becoming the global standard for fighting corruption. To date, 10 OAS Member States have ratified the UN Convention: Bolivia, Brazil, Ecuador, El Salvador, Honduras, Mexico, Nicaragua, Panama, Paraguay, and Peru.

VIII. CONCLUSION

The multilateral evaluation process implemented by the Committee has made great progress since it was initially launched. A sound process is firmly in place and on track to finalize the first round of assessment reports by March 2006. The States Parties, the subjects of these reports, are taking steps to consider and implement the recommendations. The rules for evaluation provide for the dissemination of the recommendations to the public and to appropriate civil society organizations, with proposals on how the State Party intends to involve civil society in their implementation. As evaluation reports are being made public, civil society organizations are beginning to engage these States Parties on their efforts.

The States Parties to the Convention, at their 2004 meeting in Managua, confirmed the importance of the IACAC and its Mechanism to promoting political will and encouraging effective action against corruption in the hemisphere. The United States continues to support these important regional anticorruption activities and encourage actions that further the hemisphere’s desire to remain at the cutting edge of worldwide efforts to safeguard integrity. The IACAC and other hemispheric anticorruption commitments lay a sound groundwork for moving nations forward to embracing the next generation of anticorruption commitments, namely those found in the UN Convention. The U.S. Government, through its embassies and agencies, will continue to work closely with the other States Parties to the IACAC to encourage countries to implement existing hemispheric commitments while also moving toward future implementation of new global standards.

APPENDIX A

A. SENATE REPORT: SECTION ON PROVISOS

Provisos.-The advice and consent of the Senate is subject to the following provisos:

(1) ENFORCEMENT AND MONITORING. - Not later than April 1, 2001, and annually thereafter for five years, unless extended by an Act of Congress, the President shall submit to the Committee on Foreign Relations of the Senate, and the Speaker of the House of Representatives, a report that sets out:

   (A) RATIFICATION. - A list of the countries that have ratified the Convention, the dates of ratification and entry into force for each country, and a detailed account of U.S. efforts to encourage other nations that are signatories to the Convention to ratify and implement it.

   (B) DOMESTIC LEGISLATION IMPLEMENTING THE CONVENTION AND ACTIONS TO ADVANCE ITS OBJECT AND PURPOSE. - A description of the domestic laws enacted by each Party to the Convention that implement commitments under the Convention and actions taken by each Party during the previous year, including domestic law enforcement measures, to advance the object and purpose of the Convention.

   (C) PROGRESS AT THE ORGANIZATION OF AMERICAN STATES ON A MONITORING PROCESS. - An assessment of progress in the Organization of American States (OAS) toward creation of an effective, transparent, and viable Convention compliance monitoring process which includes input from the private sector and non-governmental organizations.

   (D) FUTURE NEGOTIATIONS. - A description of the anticipated future work of the Parties to the Convention to expand its scope and assess other areas where the Convention could be amended to decrease corrupt activities.

APPENDIX B

INTER-AMERICAN CONVENTION AGAINST CORRUPTION

Adopted at the third plenary session, held on March 29, 1996

Preamble

http://www.state.gov/p/inl/rls/rpt/67758.htm

1/7/2011
THE MEMBER STATES OF THE ORGANIZATION OF AMERICAN STATES, CONVINCED that corruption undermines the legitimacy of public institutions and strikes at society, moral order and justice, as well as at the comprehensive development of peoples;

CONSIDERING that representative democracy, an essential condition for stability, peace and development of the region, requires, by its nature, the combating of every form of corruption in the performance of public functions, as well as acts of corruption specifically related to such performance;

PERSUADED that fighting corruption strengthens democratic institutions and prevents distortions in the economy, improprieties in public administration and damage to a society's moral fiber;

RECOGNIZING that corruption is often a tool used by organized crime for the accomplishment of its purposes;

CONVINCED of the importance of making people in the countries of the region aware of this problem and its gravity, and of the need to strengthen participation by civil society in preventing and fighting corruption;

RECOGNIZING that, in some cases, corruption has international dimensions, which requires coordinated action by States to fight it effectively;

CONVINCED of the need for prompt adoption of an international instrument to promote and facilitate international cooperation in fighting corruption and, especially, in taking appropriate action against persons who commit acts of corruption in the performance of public functions, or acts specifically related to such performance, as well as appropriate measures with respect to the proceeds of such acts;

DEEPLY CONCERNED by the steadily increasing links between corruption and the proceeds generated by illicit narcotics trafficking which undermine and threaten legitimate commercial and financial activities, and society, at all levels;

BEARING IN MIND the responsibility of States to hold corrupt persons accountable in order to combat corruption and to cooperate with one another for their efforts in this area to be effective; and

DETERMINED to make every effort to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance,

HAVE AGREED

to adopt the following:

INTER-AMERICAN CONVENTION AGAINST CORRUPTION

Article I
Definitions

For the purposes of this Convention:

"Public function" means any temporary or permanent, paid or honorary activity, performed by a natural person in the name of the State or in the service of the State or its institutions, at any level of its hierarchy.

"Public official", "government official", or "public servant" means any official or employee of the State or its agencies, including those who have been selected, appointed, or elected to perform activities or functions in the name of the State or in the service of the State, at any level of its hierarchy.

"Property" means assets of any kind, whether movable or immovable, tangible or intangible, and any document or legal instrument demonstrating, purporting to demonstrate, or relating to ownership or other rights pertaining to such assets.

Article II
Purposes

The purposes of this Convention are:

1. To promote and strengthen the development by each of the States Parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and

2. To promote, facilitate and regulate cooperation among the States Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance.

Article III
Preventive Measures

For the purposes set forth in Article II of this Convention, the States Parties agree to consider the applicability of measures within their own institutional systems to create, maintain and strengthen:

1. Standards of conduct for the correct, honorable, and proper fulfillment of public functions. These standards shall be
intended to prevent conflicts of interest and mandate the proper conservation and use of resources entrusted to
government officials in the performance of their functions. These standards shall also establish measures and systems
requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions.
Such measures should help preserve the public's confidence in the integrity of public servants and government processes.

2. Mechanisms to enforce these standards of conduct.

3. Instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules
governing their activities.

4. Systems for registering the income, assets and liabilities of persons who perform public functions in certain posts as
specified by law and, where appropriate, for making such registrations public.

5. Systems of government hiring and procurement of goods and services that assure the openness, equity and efficiency
of such systems.

6. Government revenue collection and control systems that deter corruption.

7. Laws that deny favorable tax treatment for any individual or corporation for expenditures made in violation of the
anticorruption laws of the States Parties.

8. Systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including
protection of their identities, in accordance with their Constitutions and the basic principles of their domestic legal systems.

9. Oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating
corrupt acts.

10. Deterrents to the bribery of domestic and foreign government officials, such as mechanisms to ensure that publicly
held companies and other types of associations maintain books and records which, in reasonable detail, accurately reflect
the acquisition and disposition of assets, and have sufficient internal accounting controls to enable their officers to detect
corrupt acts.

11. Mechanisms to encourage participation by civil society and nongovernmental organizations in efforts to prevent
corruption.

12. The study of further preventive measures that take into account the relationship between equitable compensation and
probity in public service.

Article IV
Scope

This Convention is applicable provided that the alleged act of corruption has been committed or has effects in a State
Party.

Article V
Jurisdiction

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has
established in accordance with this Convention when the offense in question is committed in its territory.

2. Each State Party may adopt such measures as may be necessary to establish its jurisdiction over the offenses it has
established in accordance with this Convention when the offense is committed by one of its nationals or by a person who
habitually resides in its territory.

3. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has
established in accordance with this Convention when the alleged criminal is present in its territory and it does not extradite
such person to another country on the ground of the nationality of the alleged criminal.

4. This Convention does not preclude the application of any other rule of criminal jurisdiction established by a State Party
under its domestic law.

Article VI
Acts of Corruption

1. This Convention is applicable to the following acts of corruption:

   a. The solicitation or acceptance, directly or indirectly, by a government official or a person who performs public
      functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself
      or for another person or entity, in exchange for any act or omission in the performance of his public functions;

   b. The offering or granting, directly or indirectly, to a government official or a person who performs public functions,
      of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for
      another person or entity, in exchange for any act or omission in the performance of his public functions;
c. Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party;

d. The fraudulent use or concealment of property derived from any of the acts referred to in this article; and

e. Participation as a principal, coprincipal, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this article.

2. This Convention shall also be applicable by mutual agreement between or among two or more States Parties with respect to any other act of corruption not described herein.

Article VII
Domestic Law

The States Parties that have not yet done so shall adopt the necessary legislative or other measures to establish as criminal offenses under their domestic law the acts of corruption described in Article VI(1) and to facilitate cooperation among themselves pursuant to this Convention.

Article VIII
Transnational Bribery

Subject to its Constitution and the fundamental principles of its legal system, each State Party shall prohibit and punish the offering or granting, directly or indirectly, by its nationals, persons having their habitual residence in its territory, and businesses domiciled there, to a government official of another State, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage, in connection with any economic or commercial transaction in exchange for any act or omission in the performance of that official's public functions.

Among those States Parties that have established transnational bribery as an offense, such offense shall be considered an act of corruption for the purposes of this Convention.

Any State Party that has not established transnational bribery as an offense shall, insofar as its laws permit, provide assistance and cooperation with respect to this offense as provided in this Convention.

Article IX
Illicit Enrichment

Subject to its Constitution and the fundamental principles of its legal system, each State Party that has not yet done so shall take the necessary measures to establish under its laws as an offense a significant increase in the assets of a government official that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions.

Among those States Parties that have established illicit enrichment as an offense, such offense shall be considered an act of corruption for the purposes of this Convention.

Any State Party that has not established illicit enrichment as an offense shall, insofar as its laws permit, provide assistance and cooperation with respect to this offense as provided in this Convention.

Article X
Notification

When a State Party adopts the legislation referred to in paragraph 1 of articles VIII and IX, it shall notify the Secretary General of the Organization of American States, who shall in turn notify the other States Parties. For the purposes of this Convention, the crimes of transnational bribery and illicit enrichment shall be considered acts of corruption for that State Party thirty days following the date of such notification.

Article XI
Progressive Development

1. In order to foster the development and harmonization of their domestic legislation and the attainment of the purposes of this Convention, the States Parties view as desirable, and undertake to consider, establishing as offenses under their laws the following acts:

   a. The improper use by a government official or a person who performs public functions, for his own benefit or that of a third party, of any kind of classified or confidential information which that official or person who performs public functions has obtained because of, or in the performance of, his functions;

   b. The improper use by a government official or a person who performs public functions, for his own benefit or that of a third party, of any kind of property belonging to the State or to any firm or institution in which the State has a proprietary interest, to which that official or person who performs public functions has access because of, or in the performance of, his functions;

   c. Any act or omission by any person who, personally or through a third party, or acting as an intermediary, seeks
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Article XII
Extradition

1. This article shall apply to the offenses established by the States Parties in accordance with this Convention.

2. Each of the offenses to which this article applies shall be deemed to be included as an extraditable offense in any extradition treaty existing between or among the States Parties. The States Parties undertake to include such offenses as extraditable offenses in every extradition treaty to be concluded between or among them.

3. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any offense to which this article applies.

4. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offenses to which this article applies as extraditable offenses between themselves.

5. Extradition shall be subject to the conditions provided for by the law of the Requested State or by applicable extradition treaties, including the grounds on which the Requested State may refuse extradition.

6. If extradition for an offense to which this article applies is refused solely on the basis of the nationality of the person sought, or because the Requested State deems that it has jurisdiction over the offense, the Requested State shall submit the case to its competent authorities for the purpose of prosecution unless otherwise agreed with the Requesting State, and shall report the final outcome to the Requesting State in due course.

7. Subject to the provisions of its domestic law and its extradition treaties, the Requested State may, upon being satisfied that the circumstances so warrant and are urgent, and at the request of the Requesting State, take into custody a person whose extradition is sought and who is present in its territory, or take other appropriate measures to ensure his presence at extradition proceedings.

Article XIV
Assistance and Cooperation

1. In accordance with their domestic laws and applicable treaties, the States Parties shall afford each other the widest measure of mutual assistance by processing requests from authorities that, in conformity with their domestic laws, have the power to investigate or prosecute the acts of corruption described in this Convention, to obtain evidence and take other necessary action to facilitate legal proceedings and measures regarding the investigation or prosecution of acts of corruption.

2. The States Parties shall also provide each other with the widest measure of mutual technical cooperation on the most effective ways and means of preventing, detecting, investigating and punishing acts of corruption. To that end, they shall foster exchanges of experiences by way of agreements and meetings between competent bodies and institutions, and shall pay special attention to methods and procedures of citizen participation in the fight against corruption.

Article XV
Measures Regarding Property

1. In accordance with their applicable domestic laws and relevant treaties or other agreements that may be in force between or among them, the States Parties shall provide each other the broadest possible measure of assistance in the identification, tracing, freezing, seizure and forfeiture of property or proceeds obtained, derived from or used in the commission of offenses established in accordance with this Convention.

2. A State Party that enforces its own or another State Party’s forfeiture judgment against property or proceeds described in paragraph 1 of this article shall dispose of the property or proceeds in accordance with its laws. To the extent permitted by a State Party’s laws and upon such terms as it deems appropriate, it may transfer all or part of such property or

http://www.state.gov/p/inl/rls/rpt/67758.htm
proceeds to another State Party that assisted in the underlying investigation or proceedings.

**Article XVI**

**Bank Secrecy**

1. The Requested State shall not invoke bank secrecy as a basis for refusal to provide the assistance sought by the Requesting State. The Requested State shall apply this article in accordance with its domestic law, its procedural provisions, or bilateral or multilateral agreements with the Requesting State.

2. The Requesting State shall be obligated not to use any information received that is protected by bank secrecy for any purpose other than the proceeding for which that information was requested, unless authorized by the Requested State.

**Article XVII**

**Nature of the Act**

For the purposes of articles XIII, XIV, XV and XVI of this Convention, the fact that the property obtained or derived from an act of corruption was intended for political purposes, or that it is alleged that an act of corruption was committed for political motives or purposes, shall not suffice in and of itself to qualify the act as a political offense or as a common offense related to a political offense.

**Article XVIII**

**Central Authorities**

1. For the purposes of international assistance and cooperation provided under this Convention, each State Party may designate a central authority or may rely upon such central authorities as are provided for in any relevant treaties or other agreements.

2. The central authorities shall be responsible for making and receiving the requests for assistance and cooperation referred to in this Convention.

3. The central authorities shall communicate with each other directly for the purposes of this Convention.

**Article XIX**

**Temporal Application**

Subject to the constitutional principles and the domestic laws of each State and existing treaties between the States Parties, the fact that the alleged act of corruption was committed before this Convention entered into force shall not preclude procedural cooperation in criminal matters between the States Parties. This provision shall in no case affect the principle of non-retroactivity in criminal law, nor shall application of this provision interrupt existing statutes of limitations relating to crimes committed prior to the date of the entry into force of this Convention.

**Article XX**

**Other Agreements or Practices**

No provision of this Convention shall be construed as preventing the States Parties from engaging in mutual cooperation within the framework of other international agreements, bilateral or multilateral, currently in force or concluded in the future, or pursuant to any other applicable arrangement or practice.

**Article XXI**

**Signature**

This Convention is open for signature by the Member States of the Organization of American States.

**Article XXII**

**Ratification**

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

**Article XXIII**

**Accession**

This Convention shall remain open for accession by any other State. The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

**Article XXIV**

**Reservations**

The States Parties may, at the time of adoption, signature, ratification, or accession, make reservations to this Convention, provided that each reservation concerns one or more specific provisions and is not incompatible with the object and purpose of the Convention.

**Article XXV**
Entry Into Force

This Convention shall enter into force on the thirtieth day following the date of deposit of the second instrument of ratification. For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article XXVI
Denunciation

This Convention shall remain in force indefinitely, but any of the States Parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. One year from the date of deposit of the instrument of denunciation, the Convention shall cease to be in force for the denouncing State, but shall remain in force for the other States Parties.

Article XXVII
Additional Protocols

Any State Party may submit for the consideration of other States Parties meeting at a General Assembly of the Organization of American States draft additional protocols to this Convention to contribute to the attainment of the purposes set forth in Article II thereof. Each additional protocol shall establish the terms for its entry into force and shall apply only to those States that become Parties to it.

Article XXVIII
Deposit of Original Instrument

The original instrument of this Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall forward an authenticated copy of its text to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter. The General Secretariat of the Organization of American States shall notify its Member States and the States that have acceded to the Convention of signatures, of the deposit of instruments of ratification, accession, or denunciation, and of reservations, if any.

APPENDIX C

REPORT OF BUENOS AIRES ON THE MECHANISM FOR FOLLOW-UP ON IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION

PREAMBLE

The purpose of the Inter-American Convention against Corruption is to promote and strengthen cooperation among the States Parties and to develop the mechanisms needed to prevent, detect, punish, and eradicate corruption.

Considerable progress has already been made in implementing the provisions of the Inter-American Convention against Corruption at the national level, and significant developments have also taken place at subregional and international levels, especially through the Inter-American Program for Cooperation in the Fight against Corruption.

A mechanism to follow-up on and review how such developments are being implemented and to facilitate cooperation among States Parties and among all member states of the OAS will assist in attaining the objectives of the Convention. This mechanism must take account of the need for gradual progress in attaining those objectives and must support programs for implementation of the Convention pursued by the States Parties.

This mechanism is established in fulfillment of the Plan of Action signed at the Third Summit of the Americas, in Quebec City, Canada, in whose chapter on corruption the Heads of State and Government undertook to support the establishment, as soon as possible, taking into consideration of the recommendation of the OAS, of a follow-up mechanism for the implementation of the Inter-American Convention against Corruption by the States Parties to this instrument.

1. Purposes

The purposes of the mechanism shall be:

a. To promote the implementation of the Convention and contribute to attaining the purposes set forth in Article II thereof;

b. To follow up on the commitments made by the States Parties to the Convention and to study how they are being implemented; and

c. To facilitate technical cooperation activities; the exchange of information, experience, and best practices; and the harmonization of the legislation of the States Parties.

2. Basic principles

Development of the mechanism for follow-up of the commitments of the States Parties to the Convention shall be guided...
by the purposes and principles established in the Charter of the Organization of American States. Therefore, the powers accorded to it and the procedures it follows shall take account of the principles of sovereignty, nonintervention, and the juridical equality of the states, as well as the need to respect the Constitution and the fundamental principles of the legal system of each State Party.

3. Characteristics

The mechanism for follow-up of implementation of the Convention shall be intergovernmental in nature and shall have the following characteristics:

a. It shall be impartial and objective in its operations and in the conclusions it reaches.

b. It shall ensure equitable application and equal treatment among States Parties.

c. It shall not entail the adoption of sanctions.

d. It shall establish an appropriate balance between the confidentiality and the transparency of its activities.

e. It shall be conducted on the basis of consensus and cooperation among States Parties.

4. Members of the follow-up mechanism

Only States Parties to the Convention shall participate in the follow-up mechanism.

5. Structure and responsibilities

The follow-up mechanism shall be comprised of two bodies: the Conference of the States Parties and the committee of experts.

All States Parties shall be represented in the Conference. It shall have general authority to implement and responsibility for implementation of the mechanism and shall meet at least once each year.

The committee shall be comprised of the experts appointed by each of the States Parties. It shall be responsible for technical analysis of the implementation of the Convention by the States Parties, among other tasks related to this main function. The Committee may request assistance and guidance from the Conference, which shall meet to consider such requests.

Secretariat services for the mechanism shall be provided by the General Secretariat of the Organization of American States.

6. Headquarters

The headquarters for the follow-up mechanism shall be at the headquarters of the Organization of American States.

7. Activities

a. The Committee shall adopt and disseminate its rules of procedure and other provisions.

b. Country reports

i. Selection of provisions and methodology

The committee of experts shall select, from among the provisions of the Convention, those whose application by the States Parties may be reviewed, seeking to maintain general balance among the various types of provision contained in the Convention, and shall determine the length of time it will devote to this task, which shall be known as a "round." The committee shall devise a method for the review of each provision, designed to ensure that sufficient reliable information will be obtained. The Committee shall publish the information referred to in this paragraph.

At each round, the Committee shall prepare a questionnaire on the provisions selected, based on OAS document CP/ST/PEC-68/00 rev. 3, "Questionnaire on Ratification and Implementation of the Inter-American Convention against Corruption," and shall forward it to those States Parties to be reviewed. The States Parties shall undertake to reply to the questionnaire by the deadline established by the committee. The replies to the questionnaire shall be distributed to all committee members.

ii. Selection of countries

The Committee shall use an impartial method for setting the dates for review of the information on each State Party, such as their presentation on a voluntary basis, chronological order of ratification of the Convention, or lot. The Committee shall give adequate advance notice of the dates for the review of each State Party during each round.

iii. Review of information and preliminary report
To expedite its work, the committee shall establish a subgroup in each case, comprised of experts from two States Parties, which shall review, with support from the Secretariat, the information on each State Party.

On the basis of that review, each subgroup shall prepare, with support from the Secretariat, a confidential preliminary report, which shall be made available to the State Party concerned for its observations.

Each subgroup shall prepare a revised version of the preliminary report, taking into account the observations presented by the State Party concerned, and present it to a plenary meeting of the Committee for its consideration.

The plenary meeting of the Committee shall prepare the conclusions and, if deemed appropriate, make the recommendations it considers pertinent.

iv. Final report

After completing, at each round, its review of the reports for all States Parties, the Committee shall issue a final report for each State Party, containing the observations of the State Party reviewed, which shall be forwarded first to the Conference and then published.

c. Cooperation

Mindful of the purposes of the follow-up mechanism and in the framework of the Inter-American Program for Cooperation in the Fight against Corruption, the Committee shall strive to cooperate with all OAS member states, taking account of the activities already under way within the Organization, and shall report to the Conference thereon.

The Committee shall undertake systematic consideration of the issues involved in cooperation and assistance among States Parties in order to identify the areas where technical cooperation is needed and the most appropriate methods for collection of useful data to review such cooperation and assistance. This work shall take account of the provisions of Articles XIII through XVI and Article XVIII of the Convention.

d. Observers

States that are not parties to the Inter-American Convention against Corruption may be invited to observe the plenary meetings of the committee of experts if they so request.

8. Civil society participation

In order to obtain better input for its review, the Committee shall include in the provisions governing its operation an appropriate role for civil society organizations, taking into account the "Guidelines for the Participation of Civil Society Organizations in OAS Activities" [CP/RES. 759 (1217/99)] and the definition of civil society contained in AG/RES. 1661 (XXIX-O/99), in keeping with the domestic legislation of the State Party under review. The Committee may request information from civil society organizations, for which purpose it shall develop the method it considers most appropriate.

9. Resources

The activities of the follow-up mechanism shall be funded by contributions from States Parties to the Convention, from states that are not parties to the Convention, and from international financial organizations, and by any other contribution that may be received in accordance with the General Standards to Govern the Operations of the General Secretariat, including a specific fund that may be established. Such contributions may include offers by State Parties to organize and host meetings of the bodies of the mechanism. The Conference of States Parties may establish criteria for determining the amounts of regular contributions.

10. Periodic review of the mechanism

The Conference shall periodically review the operation of the mechanism, taking account of observations made by the committee of experts, and may introduce such changes as it deems appropriate.

11. Transitory provision

To facilitate the work of the first meeting of the committee, the Conference considers that topics that the committee might analyze at its first round are, inter alia:

a. Article III, selecting as many measures as the Committee considers appropriate;

b. Article XIV; and

c. Article XVIII.

In the event that the committee of experts encounters difficulties in conducting a review of all topics indicated, it shall report such difficulties to the Conference so that that body may take such decisions, as it deems appropriate at its next Conference.
The Conference also suggests that, during its first year of operation, the committee of experts hold at least two meetings.

APPENDIX D

INTER-AMERICAN CONVENTION AGAINST CORRUPTION

<table>
<thead>
<tr>
<th>SIGNATORY COUNTRIES</th>
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<th>RA/AC/AD REF</th>
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INST = Type of Instrument
RA = Ratification
AC = Acceptance
AD = Accession

[All of the ratifying countries listed above have adopted the document of Buenos Aires except Antigua & Barbuda, Dominica, Haiti, St. Kitts & Nevis, and St. Lucia.]

APPENDIX E

TABLE OF WEBSITES FOR DOCUMENTS AND INFORMATION ABOUT THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION AND THE FOLLOW-UP MECHANISM

The IACAC: www.oas.org/juridico/english/Treaties/b-58.html


Questionnaire: www.oas.org/juridico/english/questionnaire.doc
APPENDIX F

USAID Support Provided to Implement the Inter-American Convention against Corruption in 2005

USAID/Bolivia

While USAID/Bolivia’s anticorruption program does not have an exclusive emphasis on the IACAC, the Mission is supporting the following related activities. USAID provided technical assistance and financial support to:

- The National Police, Attorney General, National Comptroller, and Financial Investigation Unit to establish, train, equip, and maintain two pioneering anti-corruption task forces.
- Develop and implement ethics codes for the National Police, Attorney General, and Judicial Power.
- Produce extensive training materials for civil society and municipal public servants on how to make government more accountable and transparent.
- Finance eight small grants to civil society to monitor government, propose legislative initiatives, and train specialized groups in anti-corruption techniques.
- Help establish a national citizen anti-corruption network, the first of its kind, and support the network as it conducted a national study on the costs of corruption.

USAID/Colombia

While USAID/Colombia’s anticorruption program does not have an exclusive emphasis on the IACAC, the Mission is supporting related activities. USAID has assisted the Government of Colombia (GOC) in strengthening its capability to promote transparency and accountability through public information and ethics compliance, and to improve efficiency through the institutionalization of internal management systems. To achieve this objective, in 2005 USAID provided financial and technical assistance to:

- Develop a new internal control regulatory framework, and assisted 22 local entities in the implementation of internal control systems, quality management standards, and ethics management systems.
- Launch the Presidential Anticorruption Program to develop the National Policy to Control Corruption (NPCC), which comprises action lines to: strengthen the Executive Branch’s efficiency and accountability; coordinate with the GOC’s control entities to facilitate the control and prosecution of corruption; develop transparent relations with political parties; improve electoral competition; and strengthen social control and citizen oversight.

USAID/Dominican Republic

To support implementation of the IACAC in the Dominican Republic, the USAID mission provided technical assistance and financial support for the following activities:

- Civil Society and the IACC: During 2005, civil society implemented a number of activities to follow up with implementation of the Inter-American Convention: analysis of the recommendations of the Committee of Experts; an Assembly where 25 civil society organizations examined the progress of the IACAC; a public event, organized with the Department for the Prevention of Corruption, to present and discuss recommendations for the establishment of domestic follow-up mechanisms for the implementation of the IACAC; and the publication of a report disseminating those recommendations.

IACACC Legal Framework: Civil society organizations, with assistance from a USAID contractor (DPK), continue to
advocate for the adoption and implementation of legislation required by the IACAC. USAID provided technical assistance to the Government of the Dominican Republic to implement the recently approved Access to Information Law. This support included: training government officials responsible to respond to request of public information; training for civil society leaders and officials charged with disseminating content of the law; developing implementing regulations for the law; preparing a manual for executive branch institutions on legal and practical aspects of implementation of the law; and creating a pilot FOIA office in the District Attorney’s Office, the only institution to date that is close to compliance to the FOIA legislation. In addition, partners are working to ensure that several draft bills (Declaration of Assets Law, classification of corruption cases under the Penal Code, Office of Prevention of Corruption, etc.) are in accordance with the requirements established in the IACAC.

Civic Education. Civil society partners continued to conduct civic awareness and education workshops on the IACAC, citizen rights and responsibilities under legislation envisioned by the IACAC, and civil society oversight at the municipal level.

USAID/Ecuador

In July 2005, USAID contracted with Corporación Latinoamericana para el Desarrollo (CLD) to propose a reform of the Ecuadorian criminal code to comply with the requirements of the Inter-American Convention against Corruption (ICAC), and in particular, to create the legal tools to allow Ecuadorian officials to extradite corrupt officials and to repatriate their assets and/or property derived from corrupt activities.

CLD has reviewed the Ecuadorian legislation to assess its compliance with the requirements of the Convention. CLD has also organized three workshops with a technical team from the Fiscalía General de la Nación (Attorney General Office) to discuss these reforms. This institution will have the most important role in the enforcement of this legislation. After three meetings with the Fiscalía’s Anti-Corruption Unit (Unidad Anticorrupción de la Fiscalía), CLD has been able to define the general guidelines that will be translated into procedures, which will have to be approved by the Fiscalía. The reforms to the criminal code will then be submitted to Congress for their eventual approval. CLD will submit a report on the results of these workshops, including the Reform Proposal and the “Policies and Procedures Manual.” At the end of the project, CLD will organize a small conference to disseminate the results and discuss lessons learned.

USAID/EI Salvador

One of the elements of the IACAC is to institute preventive measures to curb corruption. In November 2005, the Government of El Salvador adopted ethical norms for the Executive Branch, aimed at promoting ethical values, and transparency and accountability of public servants. USAID provided extensive technical assistance to the Government of El Salvador to draft the code and develop a participatory consultative process to build public support.

USAID/Guatemala

During 2003-2005, USAID/Guatemala’s programs have supported the elaboration of the government and civil society reports that are contemplated under the follow-up mechanism of the IACAC. USAID support included capacity building; drafting and disseminating the government and civil society reports; public awareness campaigns regarding the IACAC; advocating for reform and support for the implementation of Guatemala’s commitments vis-à-vis the Convention. The USAID/Guatemala Anti-Corruption and Transparency Program (T/AC) has specifically focused on core aspects of the IACAC such as access to information and citizen participation, and has developed indicators and a methodology to measure country compliance with the IACAC.

USAID/Guatemala has also supported civil society organizations, such as Acción Ciudadana, to monitor and promote compliance with IACAC recommendations and GOG commitments. As a result, new methodologies and indicators have been developed to monitor and follow up on compliance with the IACAC, such as the Access to Information Index and the National System of Integrity.

USAID/Guatemala’s support for policy dialogue led to the passage of an Executive Decree which opens the door to free access to information (FOIA) within the Executive Branch. It is expected that the Executive Decree will serve as an instrument to encourage the National Congress to consider approval of a new Access to Information Law. The Office of the Presidential Commissioner for Transparency and the National Institute of Public Administration (INAP), with USAID support, are working together to train public servants on how to implement the recently signed FOIA Executive Decree.

Citizen participation has also been a key factor in promoting reform and influencing GOG decision-making regarding compliance with the IACAC. In the area of government procurement, USAID/Guatemala supported the efforts of Coalition Por la Transparencia, a coalition of local civil society organizations, to conduct an audit of a major GOG pharmaceutical procurement. The audit report presented by the Coalition is being considered as a basis to introduce significant reforms to Guatemalan procurement regulations aimed at improving transparency and reducing discretionality and opportunities for corruption.

USAID/Guatemala is also working with the Probity Directorate of the Office of the Comptroller General to review and improve the process to register, verify and handle sworn declarations of assets by public and elected officials. The Mission is supporting an assessment of existing systems within the Probity Directorate and will support the implementation of the assessment’s recommendations.

Lastly, USAID is providing technical assistance to the Guatemalan Supreme Court of Justice to develop a strategy to address IACAC implementation in a coherent and systematic fashion. This strategy is expected to be ready for discussion and validation in April 2006.
USAID/Haiti

Haiti’s Parliament ratified the IACAC in June 2004. USAID has provided direct assistance towards the implementation of the IACAC to the Interim Government of Haiti (IGOH) since March 2004. In 2005, the IGOH expressed the need to address the issue of corruption in the public sector. Assistance has consisted of:

- Technical assistance to the Ministry of Economy and Finance (MEF) as well as 13 other key ministries and public entities, including the Unité de Lutte Contre la Corruption (ULCC), the Unité Centrale de Renseignements Financiers (UCREF), the Cour Supérieur des Comptes et du Contentieux Administratif, through the creation of an Integrated Financial Management System (IFMS) to combat corruption and strengthen good governance and transparency.

- Technical support and staff training of the Central Intelligence Unit (UCREF) in the Central Bank, an agency set up in 2001 under the Ministry of Justice to investigate illicit financial transactions and money laundering activities. UCREF became operational in July 2004.

- Technical support and staff training for the Anti-corruption Unit (ULCC). The ULCC was established by a provisional government decree in September 2004, under the Ministry of Finance, within the framework of the IACAC. Its mission includes both prevention and investigation of corruption. USAID assistance consisted of the installation of computer and internet equipment and training of staff to set up an Integrated Financial Management System that will become operational within the next two months. Furthermore, USAID financed the participation of two ULCC directors in a one-week seminar conducted by International Consortium on Governmental Financial Management (ICSFM) in Miami in April 2005.

Additionally, USAID provided institutional and programmatic support to the Transparency International chapter in Haiti, La Fondation Héritage pour Haiti (LFHH). The scope of the LFHH project in 2005 included:

- Research – a pre-electoral leadership and integrity survey of political party candidates;

- Anti-corruption public awareness, education and advocacy – Publication of a quarterly newsletter; radio public awareness programs; publication of a corruption lexicon in booklet form and distribution to government members, civil servants, political parties and civil society/private sector organizations; press conferences; newspaper articles; publication and distribution of the UN Convention in booklet form and distribution to political party candidates and the media; construction of a LFHH website started in December 2005 and scheduled to be on line by April 2006;

- Anticorruption training – – In 2005, for over 600 people including media owners, journalists, political party leaders, and civil society leaders;

- Reinforcement of anti-corruption capacities of the Government of Haiti and private sector/civil society institutions – including technical and policy guidance to the ULCC which led to the adoption of a Code of Conduct for public servants; technical support to the GOH’s Commission d’Enquêtes Administratives (CEA); participation of individuals from civil society, the Ministry of Finance, and the World Bank Monitoring Committee in the Support Program for Economic Governance (PAGE), a World Bank program; anti-corruption/integrity pledge prepared with the ULCC and signed by 28 political parties in May 2005; codes of ethics for the Chamber of Commerce (CCIH) and Association of Industries (ADIH) (not yet adopted);

- Legislation: LFHH began work in November 2005 on draft Access to Information legislation. This draft will be presented to the ULCC before finalizing for submission to Parliament in April 2006; and,

- Anti-corruption coalition building: Launched in July 2004 at the LFHH National Integrity Workshop, eight civil society organizations have joined the coalition that is currently headed by LFHH. LFHH continues its efforts to increase the number of organizations to at least 20 by 2007.

USAID/Mexico

USAID/Mexico is implementing a number of activities related to the implementation of the IACAC. USAID/Mexico’s anti-corruption program involves a multi-dimensional approach based on four major elements: prevention, strengthening of oversight institutions, public participation, and enforcement.

Prevention: Activities include the use of information technologies, legislation, and effective internal controls systems. The design and implementation of information technologies reduce the opportunities for corruption by promoting greater efficiency, accountability, and transparency in the delivery and administration of public services. Information technologies have been used successfully in Mexico to streamline government procurement processes and transactions, which in turn reduce human inter-action and decrease the discretionary power of public officials. The package of required legal reforms includes civil service reform, freedom of information legislation, re-engineering procedures, and streamlining regulations. USAID also supports continued monitoring efforts to identify and prevent risks and challenges through internal controls and evaluations.

- Oversight Institutions: Building strong institutions is a central challenge to controlling corruption. Among public institutions, the Supreme Audit Institutions play a critical role, as they help promote sound financial management and thus accountable and transparent government. USAID/Mexico technical assistance is providing audit institutions at the state level to introduce modern auditing practices that offer value-added to government operations by measuring their economy and effectiveness. Also, USAID works with members of Legislative Oversight Committees to raise

http://www.state.gov/p/inl/rls/rpt/67758.htm

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awareness among them on the importance to shield external auditors from political influence and adjust the legal framework accordingly.

- **Public Participation**: Civil Society Organizations (NGOs, professional associations, universities, think tanks, faith-based organizations, media, etc.), play an important role in fighting corruption by monitoring government actions and driving the political will to combat corruption. USAID/Mexico’s governance program supports a comprehensive anticorruption strategy that includes programs to improve the quality of investigative journalism and technical capacities of civil society organizations to conduct oversight and watchdog functions.

- **Enforcement**: In Mexico and throughout Latin America the effective prosecution of government officials is impeded by legal technicalities that obstruct the judicial process and disappoint those that expect immediate results. USAID/Mexico’s rule-of-law program supports a comprehensive, non-isolated effort to uncover, prosecute and punish the corrupt, regardless of political affiliation. Impunity is reduced by promoting effective rule of law, which in turn equally requires a long-term vision based on a multi-dimensional strategy.

**USAID/Panama**

USAID/Panama is supporting the following efforts related to implementation of the IACAC:

- **Oversight bodies strengthened (Article III, Numeral 9)**: USAID/Panama worked to strengthen the technical capacity of the Office of the Comptroller General to detect and act against corrupt practices. This included launching a comprehensive training program in modern government auditing techniques, which responds to identified needs, and included training sessions on public works auditing offered by an international specialist who, in addition to teaching theoretical principles in class, supervised the implementation of practical tools in the field in Panama City and throughout the country. Additional courses on risk controls, revenues, procurement and forensic auditing were scheduled to take place early in FY 2006.

- **Civil society participation (Article III, Numeral 11)**: To advance citizen-driven anticorruption initiatives, USAID/Panama offered a grant to Alianza Ciudadana Pro Justicia, a well known and respected network of local NGOs. Through this grant, Alianza initiated a USD100,000 project to foster transparency within the judiciary by overseeing its performance and proposing legal reforms. Thanks to these efforts, civil society has played a key role, in conjunction with government institutions, in advancing a State agenda for justice reform. Alianza also drafted and submitted for consideration of the State Commission for Justice a proposal to simplify the prosecution of illicit enrichment cases (Article IX of the Convention). If passed, this reform will have a significant impact on expediting the investigation process and increasing the number of legal actions brought against allegedly corrupt Government of Panama (GOP) officials. Alianza also conducted the assessments of six rulings by Supreme Court magistrates allegedly tainted with political and criminal interference. The study’s findings had a considerable impact in public opinion. Alianza’s proposal for the selection of candidates for the Supreme Court, through a pre-appointment evaluation by a panel of civil society representatives, was accepted. This mechanism seeks to discard appointments of Supreme Court magistrates marked by political interests.

Additionally, USAID/Panama supported the organization of a multi-country videoconference on “Experiences on the Implementation of Access to Information Legislation”. Seven Latin American countries participated simultaneously in this discussion through viewing sites in Brazil, Bolivia, Costa Rica, Honduras, Panama, Peru and the Dominican Republic. The event was supported by the World Bank’s Global Development Learning Network (GDLN).

- **Central Authorities (Article XVIII)**: Since the inception of the National Anticorruption Council in October 2004, USAID/Panama has provided continuous technical support to this entity in the design and execution of its programs and projects. These included:

  Strategic Plan: Advising the National Anticorruption Council in the design of a strategic plan aimed at defining the nature and scope of its functions. As a result of the strategic planning sessions, the Council’s members (composed of government and civil society representatives) agreed to concentrate its efforts on preventive strategies and discard others (such as the investigative function) that overlap with those assigned to other GOP agencies. USAID/Panama also assisted in the development of an anticorruption action agenda, incorporated into the strategic plan, which identified targets and entities responsible for their implementation.

  Action Plan: In addition to supporting the National Anticorruption Council, USAID/Panama assisted its Executive Secretariat in preparing an outline of its own anticorruption projects (legal framework, institutional framework and citizen’s participation), in order to redirect the role of the Executive Secretariat as the government’s unit responsible for compiling, reviewing and analyzing anticorruption data.

  Ethics in the public sector: USAID/Panama sponsored several presentations and seminars on ethics and public integrity for government officials (e.g. from the Immigration Directorate, National Police Force, the Vice-president’s Office, the Office of the Comptroller General, the Attorney General’s Office, etc.). These presentations served as an introduction to ethics in the public service and sought to involve government officials, at all levels, in anticorruption efforts.

  Research and analysis capacity: To strengthen the corruption research and analysis capacity of the Council’s Executive Secretariat, USAID/Panama sponsored the participation of its technical staff in an online course on Ethics, Transparency and Anticorruption organized by the Universidad Nacional del Litoral (Argentina) and the Centro de Desarrollo y Asistencia Técnica en Tecnología para la Organización Pública. The 12-week course was directed specifically to government officials responsible for the design and implementation of transparency systems.

http://www.state.gov/p/inl/rls/rpt/67758.htm
Public Awareness: USAID/Panama designed and worked along with GOP agencies, civil society entities and international donors (Soros Foundation) in the organization of a week-long series of events (National Transparency Week - August 2005) under the theme "For a Panama Free of Corruption". Its primary objective was to increase public awareness among the media, decision makers and the public at large on specific issues related to the fight against corruption in Panama.

International exchanges: Taking advantage of a trip to Washington, DC of the Council's Executive Secretary (she serves as a member of the OAS follow-up mechanism for the Inter-American Convention against Corruption), USAID/Panama arranged meetings for her with the Office of Institutional Integrity of the Inter-American Development Bank, the World Bank Institute, and USAID's Americas' Accountability/Anticorruption Project. The meetings were intended to expose her to the latest trends in the fight against corruption and to sow the seeds for potential partnerships with international organizations in the anticorruption field.

USAID/Paraguay

Although USAID/Paraguay does not provide direct assistance to the Government of Paraguay, nor to the Consejo Impulsor del Sistema Nacional de Integridad (the National Integrity Council), with regard to the IACAC, the Mission's programs support Article III of the IACAC. This is exemplified by the following achievements obtained by USAID/Paraguay through its grantees and contractors in 2005:

Justice Sector
- Approval of an Ethics Code for Magistrates: For the first time in Paraguayan history, an Ethics Code for magistrates (i.e., judges, members of court of appeals and Supreme Court justices), was approved by the Supreme Court. The drafting of the Code was carried out with broad participation via nation-wide judicial and citizen input. The Code not only states ethics principles and guidelines, but it also sets forth implementing mechanisms, such as an Ethical Tribunal and an Ethics Office, which will be in charge of promoting the enforcement of the Code.
- Implementation of merit based selection criteria in the Council of Magistrates: This constitutional-based body in charge of selecting judges, prosecutors and public defenders, has enacted regulations by which selection criteria have been defined. This is a significant accomplishment considering that between 1995 and the beginning of 2005 the selection process was characterized by obscure practices, influence peddling, and a lack of transparency.
- Effective coordination mechanisms between the Public Ministry and the Controller General's Office: The Public Ministry and the Controller signed a Memorandum of Understanding that laid out commitments from both sides to assure better coordination. As a result of this, both offices have agreed on a single form that will be essential in improving the way auditors report corruption cases to prosecutors. This eventually will have a significant impact on indictments and successful prosecution of corrupt officials and private individuals.
- Strengthening of an Economic Crimes Unit at the Public Ministry: This unit is key in combating corruption and USAID has provided resources for facilities and infrastructure, for the development of a case management system to help prosecutors build a sound case in order to increase their chances of successfully trying corrupt officials. Moreover, a new Anti-Corruption Unit was created at the Public Ministry.
- Initiation of a Whistleblower Protection Program at the Procurement Office of the Ministry of Finance: The program provided software that allows for confidential submissions of corruption claims through the Internet. Two other similar agreements have been signed with the Supreme Court and with the Municipality of Ciudad del Este (second largest city of the country and a regional business hub).

Civil Society
- Freedom of Information bill presented to Congress by a coalition of USAID sponsored NGOs with subsequent approval in the lower house in December 2005, now pending approval in Senate.
- Formation and strengthening of over 60 local chapters of Citizen Watchdog groups. Some examples of their achievements in 2005 include:
  a. The removal of an allegedly incompetent and corrupt mayor in Atyra after an 18 month long grassroots campaign that involved lobbying Congress
  b. The recovery of a public park that had been inappropriately transferred by the Municipality of Lambare to a private company for private use
  c. The removal of a (public) university dean in the town of Pilar who had fired a professor without grounds.
- Development of a user-friendly case tracking and monitoring guide for civil society to use in the reporting and following up on citizen initiated corruption claims and cases.
- Initiation of a local project supported by to track the handling of corruption cases related to the National Forestry Service (for illegal logging) and the government organization responsible for the trafficking of endangered species and other wildlife.

Local Governments
- Development of a municipal government performance measurement tool to be applied to municipal governments in order to increase the transparency of operations and create accountability.
• Initiation of analysis relating to Political Party Finance reform in light of mayoral elections scheduled for 2006.

• Regular support of public budget hearings and citizen participation in municipalities receiving technical assistance in the area of finance strengthening.

**USAID/Peru**

USAID/Peru provide assistances that helps Peru meet some of the institutional requirements of the Convention, mostly regarding the establishment of mechanisms to assist with the prevention of corruption, as detailed in Article III.

• USAID supports the activity Pro-Decentralization, which, in part, provides training to subnational governments (regional, provincial, and district levels) to promote the setting up and use of mechanisms to enhance transparency and accountability. The program provides training on the GOP’s Integrated System for Financial Management, as well as promotes the development of participatory budgets at the local level, as mandated by law.

• USAID also supports the Ombudsman, which tracks regional governments’ compliance with legally mandated norms of transparency, access to information, accountability requirements, and citizen participation. The Ombudsman measures regional government compliance using the Good Government Index (Índice de Buen Gobierno). By promoting citizen rights to have access to information and participate in and oversee government decisions, the Ombudsman has helped put pressure on regional governments to become more transparent and accountable, thus helping prevent corruption.

• USAID/Peru also supports a civil society consortium, Participa Perú, which has helped disseminate information regarding the decentralization process in Peru, covering themes such as citizen participation, the distribution of budgets, and through a system called Vigila Perú, oversight of regional government performance, particularly on issues of transparency and accountability.

• Another consortium of local civil society organizations, called Justicia Viva, has worked to promote and oversee reform of the justice sector. Their efforts have included technical assistance to the specialized anti-corruption courts, strengthening the judicial selection and performance review process, tracking judicial decisions on key cases, and providing input on a variety of other structural and procedural reforms.

• USAID also has provided assistance to the Superior Council on Contracts and Acquisitions (CONSUCODE), the supervisory government contracting agency, to provide training to local government contracting officials and local businesses on the rules and regulations of contracts and acquisitions, access to information regulations, and the requirements for transparency and competition. CONSUCODE also initiated the creation of a hemispheric network of state procurement agencies which will, among other things, share best practices for controlling corruption in the procurement process and standardize contracting norms within the Western Hemisphere.