

ARTICLE 9 OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC): IMPLEMENTATION AND PRACTICE

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I. INTRODUCTION: STATUS AND SIGNIFICANCE OF THE UNCAC

Adopted by the United Nations General Assembly in its resolution 58/4 of 31 October 2003 and having entered into force on 14 December 2005, the United Nations Convention against Corruption (UNCAC) is the sole global legally-binding anti-corruption instrument. With 180 States parties¹, is close to becoming universal in reach.

Recognizing the dangers posed by corruption, the Convention requires States parties to criminalize acts of corruption, to put in place policies and to undertake specific measures to prevent corruption, to strengthen their international cooperation in the fight against corruption and to ensure that stolen assets are returned to their country of origin.

II. PUBLIC PROCUREMENT AND CORRUPTION: IMPLICATIONS ON DEVELOPMENT

A. Public Procurement and Development

A strong procurement system is indispensable for achieving country's development objectives. Procurement of goods, construction and services is required to build and equip schools and universities, hospitals, to put in place infrastructure and security sector facilities. In carrying out the procurement function, governments are generally expected to minimize costs and maximize the value of the contracts, ensuring that the services provided to the public are accessible and or the required quality. Effective procurement system helps to address the real needs of the society and ensures that the procurement contracts are implemented to the benefit of the public, balancing both the public interest and the interest of the private sector entities.

B. Corruption as an Obstacle to Governance, Economy and Social Development

A consensus has emerged in the recent years that corruption is a key governance challenge. Most social scientists and economists agree that corruption introduces uncertainty into economic life, undermining fair competition and investment activities. When the quality and price of goods and services matter less than bribes and political connections, the competitiveness of the economy suffers; honest companies with otherwise competitive products fail to realize their full potential and lose out to their corrupt competitors. In the worst-case scenario, in environment of systemic corruption only the companies that play by the "rules" of corruption survive. Moreover, corruption flourishes where inequality is high and where institutions are ineffective, further exacerbating social exclusion and destroying trust.

The dangers that corruption poses have been recognized by national authorities, international organizations and development assistance providers. The importance of integrity is recognized in the 2030 Agenda for Sustainable Development, and in particular in the Sustainable Development Goal 16 and its targets.

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¹Status as of 28 September 2016.

SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

- 16.3** Promote the rule of law at the national and international levels and ensure equal access to justice for all
- 16.4** By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime
- 16.5** Substantially reduce corruption and bribery in all their forms
- 16.6** Develop effective, accountable and transparent institutions at all levels
- 16.7** Ensure responsive, inclusive, participatory and representative decision-making at all levels
- 16.10** Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

C. Corruption as an Obstacle to Effective Procurement

The United Nations Office on Drugs and Crime estimates that the cost of public procurement can account for up to 30 per cent of gross domestic product,² making it the largest single area of government spending. Various studies suggest that an average of 10-25 per cent of a public contract's value may be lost due to corruption.³

The size of the procurement market, its proportion as a percentage of gross domestic product and the fact that procurement involves interaction between public and private sector actors, makes it vulnerable to corruption⁴ and a primary area of concern for the integrity of public administration.⁵

Recognizing the importance of integrity in procurement, the UN Convention against Corruption requires in its article 9 the States parties to base their public procurement systems on principles of transparency, competition and objective criteria in decision-making.

III. PREVENTING AND FIGHTING CORRUPTION IN PROCUREMENT

A. Preventing Corruption: Transparency, Objectivity and Competition as Prerequisites for Integrity and Effectiveness

The current paper summarizes some of the approaches taken by UNCAC States parties in implementing article 9 of the Convention. Article 9, paragraph 1 of the United Nations Convention against Corruption focuses on the need to prevent corruption in procurement and require that procurement systems are based on the principles of **transparency, competition and objective criteria in decision-making**. Further, it provides a list of possible measures that promote these principles in practice and may help States parties in their efforts to strengthen the integrity of the procurement process.

Article 9. Public procurement and management of public finances

Each State party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

- (a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;
- (b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;
- (c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

² *Guidebook on anti-corruption in public procurement and the management of public finances: Good practices in ensuring compliance with article 9 of the United Nations Convention against Corruption*, p. 1.

³ *Ibid.*

⁴ United Nations, *Integrity in public procurement processes and transparency and accountability in the management of public finances* (CAC/COSP/WG.4/2015/3).

⁵ *Ibid.*

- (d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;
- (e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

Establishing the national procurement systems on the principles of transparency, competition and objectivity is suggested also by other international instruments, such as the United Nations Commission on International Trade Law (UNCITRAL) Model Law on the Procurement of Goods, Construction and Services and by the World Trade Organization Government Procurement Agreement. Adherence to these principles would ensure that the countries are establishing a system which is predictable, reliable and enjoys a high degree of compatibility. It is important to underline, that these principles, when applied in the procurement, have a very specific meaning, one that may differ from the everyday use of the words “transparency, competition and objectivity”

1. Transparency

In procurement, “transparency” promotes integrity by supporting trust in the procurement system and institutions and by making it easier to detect irregularities and malpractices. Transparency in itself may not be regarded as a goal: it is rather an important principle that enables and facilitates the achievement of the objectives of the procurement system.⁶ Transparency guarantees equal access to information to all participants in the procedure. Ensuring that all procedures are recorded and minutes are kept is a prerequisite for effective control of the procedure and may be required in case of a judicial or administrative review.

In procurement, transparency is understood as having three important elements:

- a. The open and transparent publishing of all procurement notices as well as the rules, criteria and the standards to be followed in the procurement process; the specific rules for the procurement procedure and its implementation should be laid down in a publicly available document that is accessible to all potential participants.
- b. Ensuring that the procurement procedure is open to public scrutiny and uses clear, standardized documents; as well as published rules and criteria; and
- c. Putting in place a system that facilitates effective internal and external control over the procurement.⁷

Most States parties have put in place requirements for transparency for different elements of the procurement process, including, as a minimum, the publication of the invitation to tender. While the established practice in many countries has been that this is done primarily through publication in newspapers or official journals, but increasingly electronic tools and portals are being used. Publication of the tender notice may take place in the media, official bulletins of the public procurement agency, and the national newspapers with possibility for online publication.

2. Objectivity

In procurement, the principle of “**objective criteria in decision-making**” requires that all procurement decisions are justified and taken in accordance with predetermined criteria to ensure disinterested, neutral decision-making and to avoid subjective bias. Integrity of the procurement process is a direct outcome of the correct application of the principle of objectivity.

Typical approaches to ensuring objectivity in procurement include the early, transparent definition and

⁶United Nations, *United Nations Convention against Corruption: implementing procurement-related aspects* (CAC/COSP/2008/CRP.2). Submitted by the United Nations Commission on International Trade Law.

⁷Ibid.

publication of the criteria for participation and selection of candidates as well as drafting of technical specifications and terms of reference in a non-discriminatory manner.

This principle also emphasizes the need to use whenever possible, open procedures. They should be preferred to procedures that limit competition, such as direct negotiations with a single supplier. It should be noted that the use of restricted methods for selecting suppliers or contractors may still be possible in case of procurements below a certain threshold value or in cases of *force majeure*.

3. Competition

Free competition improves the efficiency of the market mechanisms and is a prerequisite for sustainable development. In procurement, competition between candidates is thought to reduce the risks of bid-rigging and collusion. It facilitates detection of corruption and other procurement fraud schemes.

Competition may reduce the cost of procurement and may improve the quality of the services and goods procured. To ensure fair competition, principles of transparency and objectivity should be respected: clear, openly publicized rules should be followed and eligibility and selection criteria must be pre-determined; changes in the criteria should not be possible.

An important precondition for the fair competition is that technical specifications should be formulated broadly, in a generic, objective way, with no reference to trademarks or specific technologies, in order not to favour particular bidders (unless this is a key requirement of the process). Whenever possible, the characteristics of the product must be used that describe it in terms of outcome rather than as a specific model or brand. Ensuring that all participants in the tender procedure have sufficient (and similar) time to prepare and submit the tender documents is a key requirement to ensure fair competition in the procurement process. Unreasonably short deadlines make proper preparation for the tender difficult and increase the risk that some of the participants in the procedure might attempt to acquire inside information and thus obtain an illegal advantage.

Similarly, using the open tender procedure by default reduces the risks to integrity associated with artificially restricted competition and ensures that the goods or services are procured at a fair market price. The free competition of many participants in the tender process makes bid rigging and collusion less likely and easier to detect.

UNODC experience shows that most of the States parties' procurement systems allow for a specific period of time to prepare and submit tenders, which in some countries depended on the complexity of the project. The time allocated for this phase of the procurement process however differed across countries, based on the legal and administrative traditions of the States parties.

B. Elements of the Effective Preventive Framework: Legislation, Institutions and Practices

Corruption is both a cause and a consequence of ineffective institutions. Integrity is a core feature of effective organizations and a prerequisite for achieving the organizational goals. Corrupt organizations are often unpredictable; and to secure predictability, citizens and businesses may resort to corruption – the bribe becomes the price of certainty. The procurement system is part of the public administration; it is interconnected with all other systems, structures and laws. Therefore, to effectively prevent corruption in procurement, measures should be taken to strengthen the integrity of the public administration as a whole- in addition to the integrity of the public procurement system.

1. Legislative Framework

Most but not all of the UNCAC States parties have adopted specialized legislation to regulate procurement. Some countries regulate procurement through legislation that covers other areas⁸. Some countries rely on secondary legislation to manage procurement, or even on internal organizational documents (instructions, bylaws).

To strengthen integrity in procurement, a solid legal framework for both procurement and public ad-

⁸For example, Lebanon's procurement system is regulated by the Public Accountancy Act and not by a special law on procurement.

ministration as a whole should be put in place. Because the procurement system does not operate in isolation, it is important that the public administration as a whole would be based on strong legislation, regulating the status of public officials. To ensure that the procurement system is legally able to use the modern information and communication technologies, laws on electronic transactions should be put in place, including regulations on electronic signatures. Effective control systems including both internal and external control should be provided for. The legislation should lay the ground for access to information, participation of society and the effective detection and reporting of irregularities and malpractices.

To ensure that the new legislation meets the real needs of the society, many countries carry out extensive public consultations, thus ensuring that legislative reform is undertaken in a participative manner and involves the stakeholders from civil society and the private sector. The public discussion helps build momentum to support the reform process, and consensual decisions help the implementation of the new legal framework.

2. E-government and E-procurement

The use of information and communications technologies (ICT) in the fight against corruption is becoming increasingly popular. The dramatic increase in the use of computers and mobile telephones has led to the introduction of new solutions to reinforce transparency, build trust in government and increase the participation of society.

Internet portals which facilitate access to information, public participation and e-procurement are being used in many countries to engage the public in consultations and to simplify the procurement process. Electronic procurement is introduced, aiming to increase the number of bidders and to stimulate competition, allowing broader access of small and medium sized enterprises to procurement contracts.

In addition, the use of e-procurement as a part of a broader effort to introduce ICT-based procurement systems contributes to better overall governance by encouraging the participation of society, enabling transparency and ensuring public accountability.

Economies achieved by the use of e-procurement could be substantial. The benefits of increased transparency in terms of avoiding inflated prices are also widely recognized.

It must be taken into account that the introduction of ICT in procurement brings a new set of challenges for public administrations –related to the information security, public confidence and the capacity of public administrations to manage complex electronic systems.

To ensure transparency, countries are increasingly using specialized electronic tools and means such as specialized internet portals and websites, thus minimizing printing costs and ensuring quick and easy access to information. Some countries operate an integrated paperless e-procurement platform which allows for publishing procurement notices, downloading and submitting tender documentation and registering awarded contracts. Some States parties opt for introducing a system that has additional functions which could be useful for preventing and detecting irregularities and corruption. For example, Slovenia requires all contracting authorities to publish the information on all new contracts within 48 days following the award of the contract or the selection of a partner for a public private partnership (framework agreement). This information is made available to the public on a dedicated online procurement portal. Metadata on contracts is also published in a machine-readable format and is updated on a quarterly basis. In January 2016, the Ministry of Public Administration launched another electronic platform, STATIST, which provided the public with comprehensive, direct and up-to-date information on all procurement contracts awarded since 2013⁹.

In addition, most States parties require procurement decisions to be public. It is possible however, when the value of the contract is below a certain threshold, to advertise contract notice. Sometimes contracts awarded by negotiated procedure are exempt from advertising when their estimated amount is lower than certain thresholds.

⁹UNODC, CAC/COSP/WG.4/2016/2

Further on, certain States parties actively engage in public consultations on the public procurement plans as part of the efforts to increase efficiency of procurement and strengthen its transparency.

3. Strong Ethics Infrastructure, Including Systems for Managing Conflicts of Interest

Article 9 of the Convention requires States parties to put in place “*measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements*”.

The public procurement system as a part of the public administration is staffed with civil servants. As such, it is subject to overall government efforts to promote integrity in the public administration. Taking into account the risk of corruption in procurement, it is crucial for governments to take measures in order to ensure that the officials engaged in procurement behave ethically at all times.

Establishing a strong ethics infrastructure requires the adoption of rules (e.g. a code of conduct); the provision of training to ensure that staff has the knowledge and skills to apply the rules; clear leadership (including leading by example); and a functioning enforcement mechanism.

Article 8 of the Convention requires that codes of conduct for public officials should be adopted. Violation of the codes should entail dissuasive and proportionate sanctions. These codes should clearly and unambiguously state what behaviours are acceptable and which will not be tolerated, and should provide clear guidance on how to act in a situation of a conflict of interest, such as when offered a gift or hospitality.

As a part of the ethics infrastructure and as required by UNCAC many countries have introduced disclosure systems that focus on the external interests of public officials and facilitate the management of conflicts of interest. A key instrument for managing conflict of interest situations is the mandatory (ideally in written form) disclosure of the conflict to a direct supervisor or to a designated official or body. Disclosure (or signing a mandatory declaration that members are not in a situation of conflict of interest) is often a requirement and part of the procedures of tender evaluation committees. To be effective, such an approach should be complemented by the verification of declarations on a regular basis, ensuring that all declarations are at some point subject to verification. Proportionate and dissuasive sanctions should be put in place to ensure that the submission of declaration information with incorrect data is punished. These measures are even more important for the sensitive positions, such as the ones regularly involved in public procurement procedures.

The establishment of a sound and merit-based system of selection of personnel is an important prerequisite to ensuring the integrity of the procurement system. Such a system should take into account the provisions of article 8 of the Convention, with due regard to the specificity of the positions involved in procurement.

Depending on the national legal traditions, the personnel exercising procurement functions may be centralized in a single agency in charge of procurement procedures in the whole public administration, or may be placed in a decentralized procurement system. In both a centralized and a decentralized procurement system, the Convention requires States parties to undertake special measures to promote ethical conduct and to effectively avoid and manage conflicts of interest in order to ensure the integrity of the procurement processes¹⁰.

Some States parties establish conflict of interest management systems requiring officials to declare their outside interests. Staff in a situation of conflict of interest should take steps to ensure that they recuse themselves from the decision-making process. Restrictions are placed on secondary appointments and often post-employment prohibitions are put in place, preventing the procuring entity from awarding contracts to a former employee for a certain period of time.¹¹ The legislation may prohibit staff from participating in tender evaluation committees in case of a conflict of interest; and mandatory personnel rotation is introduced.

¹⁰ UNODC, CAC/COSP/WG.4/2015/3

¹¹ Ibid.

4. Specialized Procurement Oversight and Anti-Corruption Bodies

The *Technical Guide to the United Nations Convention against Corruption*¹² recommends establishing through legislation a specialized procurement body with executive or monitoring responsibilities for:

- Bidding and implementation procedures;
- Identifying fraud indicators, which might point to corrupt activity at an early stage;
- Collating intelligence on procurement fraud and corruption;
- Developing and overseeing integrity pacts;
- Coordinating prevention strategies through education and training initiatives, provision of direction and guidance to internal audit, provision of advice on anti-corruption issues, performing due diligence reviews, or developing and maintaining debarment lists;
- Promoting freedom of information legislation and access to information; and
- Promoting specialist training, codes of conduct and asset declaration requirements for procurement staff and auditors.

Countries are increasingly moving towards establishing specialized bodies in line with the recommendations of the Technical guide. These bodies may be responsible for the oversight of procurement in the central administration, decentralized agencies, national universities, armed and security forces.

Another type of institution is the centralized procurement agency, which actually carries out all procurement procedures on behalf of the other government structures.

In addition, countries are establishing special review bodies or tribunals to deal with the administrative review of procurement decisions to ensure that they are carried out in line with the principles of transparency, competition and objectivity in decision-making. Other States rely on existing systems of administrative and judicial review.

In an effort to ensure accountability and oversight with regard to the implementation of the provisions of articles 6 and 36 of the United Nations Convention against Corruption, many States parties have established specialized anti-corruption bodies that have preventive and investigative mandates or specialized procurement agencies.

While not strictly a part of the procurement system, specialized anti-corruption bodies (with preventive and/or enforcement functions) are a vital part of a country's overall anti-corruption infrastructure; their existence is also required by articles 6 and 36 of the Convention. They allow for effective oversight of procurement processes and the better planning of preventive anti-corruption activities.

Debarment of companies that use unethical or unlawful practices (mostly associated with corruption) to win or to implement procurement contracts is increasingly being used to shield the procurement system from corrupt businesses.

5. Protecting Reporting Persons

The protection of people who in good faith report corruption to authorities is critical for the detection of corruption and procurement irregularities. The United Nations Convention against Corruption acknowledges the importance of mechanisms to provide protection for reporting persons and, through its article 33, calls on States parties to consider appropriate measures to provide protection against unjustified treatment to those reporting offences of corruption to competent authorities when done in good faith and on reasonable grounds.

The United Nations Office on Drugs and Crime has developed the *Resource Guide on Good Practices in the Protection of Reporting Persons* (2015) that looks in detail at the legal obligations of States parties under the Convention against Corruption and the practical measures that can be taken to protect whistleblowers.

Ensuring that the anti-corruption bodies are known to the public and enjoy public trust is important

¹² UNODC, *Technical Guide to the United Nations Convention against Corruption*, page 32.

for their successful operation. States are taking measures to ensure the visibility of the anti-corruption bodies and to promote reporting of corruption. Importance is attached to the development of reporting mechanisms which would contribute to the detection of corruption and to subsequent effective investigations and prosecutions. An important trend that could be identified¹³ is the increasing use of Internet and mobile telephone applications to both provide information to the public on the activities of anti-corruption bodies and to seek input and feedback and provide for channels for reporting corruption.

In relation to the reporting of incidents of corruption, a widely known tool, the hotline — both in its classic form of a telephone hotline and in the form of feedback web pages or mobile telephone applications — is used to provide communication channels to citizens. One issue which is not addressed in a uniform manner is the issue of anonymous reporting. While some countries allow and encourage anonymous reporting, others either do not allow for it or would use the anonymous reports only as a basis for a preliminary inquiry. A primary method for protecting the whistleblowers remain the strict confidentiality of the persons who report corruption.

6. Access to Information and Participation of Society

Access to information is an important prerequisite for integrity, and in one form or another it is reiterated throughout Chapter II – and in particular in articles 10 and 13. Its reach goes well beyond the provisions of article 9 and the procurement context. The multiple benefits of ensuring access to information in relation to the integrity of public administration are widely recognized.¹⁴ It facilitates participation of society and enables better control over the activities and the discretionary decision-making of governments; it facilitates the introduction of an effective managerial framework in public administration; and it makes the detection of corruption easier. In this context, measures that aim to strengthen the transparency of public administration might have a positive impact on corruption in procurement.

In relation to access to information, two complementary approaches could be identified as trends among the States parties: allowing members of the public to make specific requests for government information and pro-actively making government information available to the public. Countries are increasingly adopting specialized legislation on the access to information, recognizing it as important tool to promote the transparency and accountability of the public administration. In addition, transparency portals are being developed to provide access to information to citizens.

7. External Control and External Audits

While internal control operates from within an institution and is carried out under the auspices of the head of the respective public body, external control is independent from the controlled (audited) institution. The *Technical Guide to the United Nations Convention against Corruption* states that the overall purpose of an external or state audit “is to carry out an appraisal of management’s discharge of its stewardship responsibilities, particularly where they relate to the use of public money, and to ensure that these have been discharged responsibly”.¹⁵ It also emphasizes the need for an external appraisal of the work of internal auditors. The Guide underlines the importance of the scope of the audit mandate, in that it should include “extra budgetary funds, autonomous agencies and anybody in receipt of public funding, including private sector contractors involved in public procurement”.¹⁶

An external audit may provide useful information on the efficiency of government spending and whether procurement is achieving its goals. Both the capacity of a supreme audit institution and the transparency of its audit reports are important preconditions for effective external control.

8. Links between Prevention of Corruption and Enforcement: Corruption Risk Assessment in Procurement

Identifying and addressing irregularities and malpractice is an important element of corruption prevention and enforcement practices. It allows for measures to be taken to address detected problems and to

¹³ UNODC, CAC/COSP/WG.4/2016/2

¹⁴ More information is available at UNODC, *Legislative Guide for the Implementation of the United Nations Convention against Corruption* and UNODC, *Technical Guide to the United Nations Convention against Corruption*.

¹⁵ UNODC, *Technical Guide to the United Nations Convention against Corruption*.

¹⁶ *Ibid.*

protect against them happening again. These measures may include reviewing staff manuals and guidelines, introducing new standard operating procedures, changing checklists and providing additional training. Systems of internal control and internal audit, including the management of risks, should be an integral part of public sector bodies, and are particularly important in bodies that engage often in procurement.

It is important to underline that as in the case of every other anti-corruption measure, risk management and internal control have their costs, both financial and in terms of human resources. This needs to be taken into consideration when designing or undertaking reform of internal control systems.

Proper accounting and rigorous auditing lie at the foundation of the effective management of public finances. They ensure the financial accountability of the government agencies and allow for collection of information on the budget implementation and for identification of potential problems or irregularities.

Most of the countries reported that control and oversight measures are carried out by both the parliament of the country and specialized structures such as a national audit office or an office of internal financial control.

Article 9, subparagraph 2(b) of the Convention calls for establishment of an “effective system of risk management and control”, as key to detecting irregularities. It refers to introducing preventive measures such as separation of functions, hierarchies of approvals and reviews or ex-post facto measures to identify problems such as financial reporting, performance monitoring, protection of whistle-blowers and internal audits. Article 9, subparagraph 2(b) of the Convention requires States parties to establish an “effective system of risk management and control”. Such a system requires the establishment of internal procedures to identify and manage corruption risks: future, possible events which could adversely influence the performance of the organization. As a part of the risk assessment process, organizations involved in procurement should identify all potential corruption schemes (risks), prioritize risks and think of what could be done to prevent them from happening – in a most practical manner. Introducing effective systems of risk management is a relatively new approach which requires States to introduce measures to identify and prioritize individual budgetary risks and to consider measures for addressing those risks.

The risks in the procurement could be identified in all three phases of the procurement process: pre-tender, tender and contract administration phase.

In the pre-tender phase corruption in procurement demonstrates itself mainly in the identification of the procurement needs and in tailoring contract specifications to fit the products or experience of specific bidders. Projects may be initiated for the sole purpose of syphoning budget funds; or given priority for the same reason. Thus, money is diverted from the public budget into initiatives with little or no usefulness for the society. Large scale and complex projects, or ones which require development of new products (equipment, software) are at particularly high risk.

In the tender phase corruption demonstrates itself in the process of tendering as collusion between buyer or contractor or collusion between contractors which may be facilitated by buyer’s often intended negligence. Typical corruption schemes include leaking inside information to preferred bidders, changing the content of bids to make them ineligible; extension (formal or informal) of the deadline so that the preferred bidder could submit the best offer; bid rigging, use of phantom bids and bid rotation.

In the contract administration phase corruption demonstrates in mainly product substitution schemes, in which the contracting authority accepts sub-standard quality goods or services; inflation of the project costs through addenda to contracts and in payment of bribes to the contracting authority to secure a payment or a preferable treatment.

Prevention of these specific schemes is possible – as a result of careful identification, based on review of documents, discussions with stakeholders and staff members. Such an identification would allow to focus on the real, actual corruption scenarios – and to design effective response.

IV. EPILOGUE

Considerable work has been done over the last years to enhance international action against corruption. A milestone in this endeavour is the United Nations Convention against Corruption. In the context of preventing corruption in procurement, the Convention provides for a range of measures which, if implemented by the States parties, would lead to substantial strengthening of the integrity of procurement system. It is important to recognize addressing corruption in procurement may require politicians and anti-corruption practitioners to go against deeply entrenched corruption schemes and against groups with powerful economic interests – groups which may have their own political influence or even political representation. Preventing corruption in procurement requires a focused work with the procurement system; but it also requires a broader reform effort, which would strengthen the integrity in all public sector bodies that have a stake in the procurement process. Engaging with the private sector in order to ensure that the companies will not use corruption in their dealings with the government is also necessary in order to reduce the corruption pressure on the administration. A question which each country has to answer for itself is whether to address this challenge incrementally, allowing the potentially corrupt system to adapt to the anti-corruption measures; or as a comprehensive reform package – which may generate strong anti-reform sentiments on the part of the groups which will lose as a result of the reform. In any case, article 9 of the Convention provides for a road map to strengthening integrity in procurement; and establishing the reform efforts of the individual country on the non-political, non-controversial foundation of the United Nations Convention against Corruption and presenting it as an issue of compliance with the international obligations of the specific country may provide for a non-controversial and universally acceptable entry point for reforms.

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