

MEETING OF THE STATES PARTIES TO
THE INTER-AMERICAN CONVENTION
AGAINST CORRUPTION
July 8-9, 2004
Managua, Nicaragua

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DECLARATION OF MANAGUA

(Adopted at the fourth plenary session, held on July 9, 2004)

WE, THE STATES PARTY TO THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION present at the Meeting of the States Parties to the Inter-American Convention against Corruption, assembled in Managua, Nicaragua, on July 8 and 9, 2004,

CONSIDERING that the Charter of the Organization of American States establishes as one of the Organization's essential purposes the promotion and consolidation of representative democracy;

RECALLING the Plan of Action of the First Summit of the Americas, held in Miami in 1994, which declared corruption to be an issue of serious interest not only in this Hemisphere, but in all regions of the world;

RECOGNIZING that the OAS member states adopted the Inter-American Convention against Corruption, in Caracas, Venezuela, in 1996, in order to promote and strengthen the development, by each of the States Parties, of the mechanisms needed to prevent, detect, punish, and eradicate corruption, and 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;

UNDERSCORING ALSO that the said Convention recognizes that corruption is one of the tools used by organized crime for the accomplishment of its purposes;

BEARING IN MIND that the Plan of Action of the Second Summit of the Americas states that the Governments will resolutely support the Inter-American Program for Cooperation in the Fight against Corruption and implement the actions established therein;

MINDFUL that the Plan of Action of the Third Summit of the Americas states that corruption gravely affects democratic political institutions and the private sector, weakens economic growth and jeopardizes the basic needs and interests of a country's most underprivileged groups, and that the prevention and control of these problems are the responsibility of government as well as of legislative and judicial institutions;

RECALLING that, to fulfill the provisions of this Plan of Action, the States Parties to the Inter-American Convention against Corruption, assembled at the Conference of the States Parties to the said Convention, held in Buenos Aires, Argentina, from May 2 to 4, 2001, approved the Report of Buenos Aires on the Mechanism for Follow-up on Implementation of the Inter-American Convention, and adopted it in a declaration signed on June 4, 2001, in San José, Costa Rica, on the occasion of the thirty-first regular session of the OAS General Assembly;

RECALLING the decision by the OAS member states, adopted in resolution AG/RES. 1943 (XXXIII-O/03), to continue fostering the exchange of experiences and information between the Organization and international agencies, the private sector, and civil society organizations, among other relevant bodies, in order to identify, coordinate, and strengthen cooperation activities in this area;

EMPHASIZING that, in the Declaration of Managua for the Promotion of Democracy and Development [AG/DEC. 4 (XXIII-O/93)], the member states expressed their firm belief that democracy, peace, and development were inseparable and indivisible parts of a renewed and integral vision of solidarity in the Americas and that the ability of the Organization to help preserve and strengthen democratic structures in the region would depend on the implementation of a strategy based on the interdependence and complementarity of those values;

CONSIDERING that the Inter-American Democratic Charter recognizes as essential components of the exercise of democracy, transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press;

REITERATING that the Inter-American Democratic Charter also establishes the need for the OAS to continue to carry out programs and activities designed to promote democratic principles and practices and that these programs will be designed to promote governance, sound administration, democratic values, and the strengthening of political institutions and civil society organizations;

UNDERSCORING the Declaration on Security in the Americas, in which corruption is recognized, from a multidimensional perspective, as a threat to the security of states that undermines public and private institutions and society's trust, does enormous economic damage, compromises stability, erodes the rule of law, and weakens the ability of governments to respond to security threats;

RECOGNIZING as a basic step in the international fight against corruption the adoption by the United Nations General Assembly, on October 31, 2003, of the United Nations Convention against Corruption (Mérida Convention) as well as opening of the said Convention for signature, in Mérida, Mexico, from December 9 to 11, 2003, in the framework of the High-Level Political Conference held for that purpose;

RECALLING that, in the Declaration of Nuevo León, adopted at the Special Summit of the Americas, held in Monterrey, Mexico, the Heads of State and Government pledged to increase cooperation within the framework of the Inter-American Convention against Corruption, particularly by strengthening the Mechanism for Follow-up of Implementation of that instrument (MESICIC). They also charged the First Conference of States Parties within the MESICIC framework with proposing specific measures to strengthen the Mechanism;

RECALLING ALSO that the Declaration of Nuevo León directed that such recommendations were to be evaluated at a meeting of the States Parties to the Convention, to take place in Managua, Nicaragua, and that said meeting was also to consider additional concrete measures to increase transparency and combat corruption, and also instructed the foreign ministers to report on the progress achieved to the Fourth Summit of the Americas;

RECALLING the concern expressed in the Declaration of Nuevo León regarding corrupt, illegal, and fraudulent practices in the management of some national and transnational enterprises;

REITERATING our commitment to cooperate in the extradition of individuals who may have perpetrated corrupt acts, to enhance regional mechanisms for mutual legal assistance in criminal matters, and to the implementation of such mechanisms, in order to prevent impunity, in accordance with the Declaration of Nuevo León and Article XIII of the Inter-American Convention against Corruption;

RECOGNIZING that the OAS General Assembly at its thirty-fourth regular session, held in Quito, Ecuador, endorsed the Conclusions and Recommendations on Concrete Measures to Strengthen MESICIC, adopted by the First Meeting of the Conference of States Parties within the MESICIC framework, held on April 1 and 2, 2004;

CONSIDERING that the Declaration of Quito on Social Development and Democracy, and the Impact of Corruption, adopted by the OAS General Assembly, recognized that “development, democracy, and the fight against corruption are closely interrelated topics and, as such, should be addressed in a balanced and integrated way by our countries”;

BEARING IN MIND that the Declaration of Quito on Social Development and Democracy, and the Impact of Corruption also recognized that multilateralism and cooperation among sovereign states play an important role in supporting national efforts to consolidate democracy, promote social development, and fight corruption;

TAKING INTO ACCOUNT that resolution AG/RES. 2045 (XXXIV-O/04), “Program for Democratic Governance in the Americas,” adopted by the General Assembly in Quito, adopted lines of action for that program which proposed “to improve strategies and mechanisms for the fight against corruption and to increase transparency in public administration and political activities,”

DECLARE:

1. The commitment of our governments to combat corruption and impunity, which undermine the legitimacy of public institutions and jeopardize society, ethical standards, and justice, as well as the integral development of peoples.

2. That the Inter-American Convention against Corruption is the most important legal instrument at the regional level for fighting corruption, in that it establishes necessary means of cooperation to combat this scourge and thus promotes international measures for preventing, detecting, and punishing it.

3. The determination and the commitment of our governments to fight corruption and impunity, in the framework of the Inter-American Convention against Corruption, as these problems are deemed to jeopardize democracy and democratic governance, weaken institutions, undermine economic and social development and the fight against poverty, erode public trust, and disrupt political stability.

4. The continuing commitment of our Governments to implementing the Inter-American Convention against Corruption and to strengthening the Mechanism for Follow-up of Implementation of that Convention (MESICIC).

5. That we shall continue to work for mutual assistance among states in preventing, detecting, punishing, and eradicating the acts of corruption described in the Inter-American Convention against Corruption.

6. In accordance with the said Convention and other relevant international instruments, we reiterate our willingness for national authorities to provide one another, as quickly and effectively as possible, with the broadest possible assistance and cooperation for identification, arrest, temporary detention, and extradition, when appropriate, as well as the investigation and prosecution of the alleged perpetrators of corrupt acts.

7. To reiterate our commitment, in the framework of applicable national and international law, to deny safe haven to corrupt officials and to those who corrupt them, to cooperate in their extradition, and to deny the entry and attempt the recovery and return of those proceeds of corruption to their legitimate owners; to which end we must enhance regional mechanisms for mutual legal assistance in criminal matters and implement them.

8. Our willingness to promote the adoption of such international agreements and legislative and other measures as may be necessary to enable competent authorities of the requested state to return seized or confiscated property to the requesting state in cases of corruption-related offenses or money laundering whose predicate offense is corruption-related.

9. That the Report of Buenos Aires on the Mechanism for Follow-up on Implementation of the Inter-American Convention against Corruption is the framework instrument for following up on the commitments made by the States Parties to the Convention and for analyzing how these are being implemented. In consequence, we recognize how important it is for the States Parties to the Convention to give the Mechanism for Follow-up all possible political and financial support and technical cooperation to ensure its proper functioning.

10. Our support for the Conclusions and Recommendations on Concrete Measures to Strengthen MESICIC, adopted by the First Meeting of the Conference of States Parties within the MESICIC framework, held on April 1 and 2, 2004, as well as of the agreement reached at that meeting to strengthen the said Conference as a political forum for addressing matters related to hemispheric cooperation against corruption, in which the Chair is granted the power to follow up on the decisions of the Conference and to report back to the States Parties as appropriate.

11. Our appreciation for the work of the Committee of Experts of the Follow-up Mechanism, which in its five sessions to date has supported and adopted the national reports of Argentina, Paraguay, Colombia, Nicaragua, Uruguay, Panama, Ecuador, and Chile, issuing final reports for each of these countries, which we have received with satisfaction at this Meeting. At the same time, we wish to express our appreciation to the States Parties that have submitted their national progress reports to the Committee of Experts in accordance with Article 30 of its Rules of Procedure. We appreciate the fact that the states mentioned have authorized the posting of both reports on the Internet, thereby helping to publicize the progress made by states in the fight against corruption.

12. That it is important for the States Parties to the Convention to continue submitting their national progress reports to the Committee of Experts of the Follow-up Mechanism, as a way of demonstrating their commitment to complying with the provisions of the Convention.

13. Our intent to facilitate greater civil society participation in the follow up, at the national level, of the implementation of the Inter-American Convention against Corruption and in the evaluation process in the MESICIC framework. In that connection, we recognize the importance of the recent amendment made to Article 35 of the Rules of Procedure of the Committee of Experts of that Mechanism, adopted at its Fifth Meeting, as well as of the recommendations made by the Conference of States Parties to the MESICIC in this area.

14. Our concern regarding corrupt, illegal, and fraudulent practices in the management of some national and transnational enterprises that may have a negative impact on economies, in particular those of developing countries, and on their producers and consumers.

15. That we shall encourage, in the private sector, the upholding of ethical norms that reinforce the social values of transparency and honesty and that encourage that sector's commitment to integrity and the fight against corruption.

16. That political pluralism and sound political parties are essential elements of democracy. We underscore the importance of rules to ensure the transparency of party finances, to prevent corruption and the risk of undue influence and to encourage a high level of electoral participation.

17. That the prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, nongovernmental organizations, and community-based organizations, as well with the private sector, if their efforts in this area are to be effective.

18. That the fight against corruption should involve principles of proper management of public affairs and public property, fairness, responsibility, and equality before the law, fundamental principles of due process of law in criminal proceedings and in civil or administrative proceedings to advocate property rights, and the need to safeguard integrity and to foster a culture of rejection of corruption.

19. That international cooperation against corruption should be respectful of the sovereignty and territorial integrity of States and the principle of nonintervention in domestic matters.

20. That the Mérida Convention is an effective and modern instrument for fighting corruption, particularly because it establishes, *inter alia*, the obligation of the States Parties to adopt preventive measures and to criminalize a wide range of acts of corruption; to extend to one another the broadest possible cooperation with respect to extradition and mutual legal assistance, pursuant to national legislation and applicable international norms, and confiscation of the proceeds of crime; and to provide technical assistance and create a mechanism for returning proceeds of acts of corruption to their legitimate owners.

21. That it is important for the States that have signed the United Nations Convention against Corruption to consider ratifying it at the earliest opportunity so that it may come into force as soon as possible, and for the countries that have not yet signed it to do so and thereby strengthen the international consensus in the worldwide struggle against corruption.

22. That we welcome the work being done by United Nations agencies and by other international bodies, international and regional financial institutions, and national government agencies, as well as by private-sector and civil society organizations, to strengthen international coordination in the fight against corruption.

23. That civil society's participation in monitoring public management is essential to preventing and addressing corruption through the promotion of a culture of transparency and of ethical values and is an essential tool of democratic governance.

24. The importance of making an urgent appeal to the international community and international financial institutions to continue providing the technical and financial assistance that the States Parties require to implement the Inter-American Convention against Corruption.

25. That we recognize the progress made by the OECD Working Group on Bribery in International Business Transactions in monitoring the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, of which some of our States Parties are members and whose activities are complementary to the work done under the auspices of the Inter-American Convention against Corruption. At the same time, considering that the OAS has observer status at the OECD Working Group on Bribery in International Business Transactions, we recommend that, to the extent that is possible, a representative of the Conference of States Parties within the MESICIC framework and/or a representative of the Committee of Experts and/or an officer of the Technical Secretariat of the MESICIC make efforts to attend the meetings of that important body, within the constraints of current resources. Such participation will take place without affecting the analysis process of the MESICIC.

26. To recall the commitment of the leaders in the Declaration of Nuevo León to "hold consultations in the event that adherence to our shared transparency and anticorruption objectives, as articulated in the Inter-American Convention Against Corruption, are compromised to a serious degree in any of our countries."

27. To recommend that the General Assembly of the OAS declare 2006 to be the "Inter-American Year of the Fight against Corruption."

28. To thank the Government of the Republic of Nicaragua and its President, Mr. Enrique Bolaños Geyer, for their outstanding efforts and the work carried out as the venue for this Meeting of the States Parties of the Inter-American Convention against Corruption.