

Inter-American Convention Against Corruption (OAS Convention)

Adopted: 29 March 1996

Signatories: 33 (as of 23 March 2005)

Ratifications: 33 (as of 23 March 2005)

Entry into force: On 6 March 1997, 30 days after the 2nd ratification

Open to: Member states of the Organisation of American States (OAS) i.e. 34 states, excluding Cuba, which is an OAS member but has been excluded from participation since 1962. Other states may also apply.

Website links for updated information:

<http://www.oas.org/main/main.asp?sLang=E&sLink=http://www.upd.oas.org>

OR

http://www.transparency.org/tilac/trabajo_en_red/convencion/index.html

The Inter-American Convention Against Corruption (OAS Convention) was the first international anti-corruption Convention when it was adopted in 1996 by the member states of the OAS. It represents regional consensus about what states should do in the areas of prevention, criminalisation, international cooperation and asset recovery.

General structure: 28 Articles

- Arts I,II, IV, V, VI, XII, XVII Definitions, Purposes, Scope, Jurisdiction, Acts of Corruption, Effect on State Property, Nature of the Act
- Art III Preventive measures
- Art VII Domestic Law, to establish criminal offences
- Art VIII Transnational Bribery
- Art IX Illicit Enrichment
- Art X, XI Notification and Progressive Development
- Art XIII, XIV, XVIII, Art XX Extradition; Assistance and Cooperation, Central Authorities, Other Agreements or Practices
- Art XV, XVI Measures Regarding Property, Bank Secrecy
- Art XIX, XXI, XXIII – XXVIII Temporal Application, Signature, Ratification, Accession, Reservations, Entry Into Force

Coverage:

- Public sector corruption, active and passive
- Interpretation of corruption offences: bribery, domestic or foreign, illicit enrichment, money laundering and concealment of property
- Preventive, criminalisation and regional assistance cooperation measures, as well as provisions on recovery of assets
- Mixture of mandatory and discretionary provisions

Monitoring arrangements: A follow-up mechanism was adopted in June 2001. A Committee of Experts conducts a technical analysis of implementation by States Parties. A questionnaire is circulated to States Parties and civil society organizations and responses are provided. The Committee of Experts holds review meeting on implementation, which state

representatives and civil society are invited to attend. The Committee prepares a final report that is published on the OAS web site.

Main benefits of the Convention

- Regional agreement on importance of addressing corruption with a comprehensive framework, setting common standards.
- Regional cooperation framework providing improved for mutual law enforcement assistance, notably in extradition and investigations.
- List of preventive measures

Main weaknesses

- No provisions on implementation process, or, more specifically, on monitoring; this was only developed later
- Current lack of resources for follow-up mechanism
- Lack of sanctions for state failing to implement
- Preventive provisions drafted very broadly, allowing for wide interpretation and discretionary practice
- Lack of mandatory requirement of nationality jurisdiction

Next steps

- Adoption of new domestic legislation to meet Convention requirements; depends on adequacy of existing legislation
- Reviews within follow-up mechanism