

UNCAC and the Introduction of Budget Support

Query:

“Are there links between UNCAC provisions with respect to preventions (as outlined in UNCAC Chapter II) and the budget support aid delivery approach? Following are a few specific questions:

- *Does the UNCAC challenge the introduction of budget support and if so why?*
- *How can UNCAC be used to combat corruption when budget support is provided?*
- *Does the process of budget support provide opportunities to support compliance with UNCAC, especially with regards to UNCAC’s preventive provisions?*
- *How should development partners assist countries that receive budget support in relating this aid-delivery modality to UNCAC implementation? “*

Purpose:

With the scaling up of aid and the efforts to harmonise and align development cooperation as demanded by the Paris Declaration on Aid Effectiveness more resources are channelled through budget support programmes. The discussion on budget support as a comparatively new mode of delivery and its links to corruption are important issues for the debate on how best donors could achieve harmonisation. This issue is in discussion among the U4 partners and in the OECD-DAC Network on Governance (DAC Govnet). The international instrument for preventing and combating corruption is the UN Convention against Corruption (UNCAC). It is assumed that UNCAC has potential to address new modes of aid delivery such as budget funding, basket funding or programme based approaches.

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Introduction: Background on UNCAC Preventive Measures

The United Nations Convention against Corruption (UNCAC) was adopted by the UN General Assembly on 31 October 2003, entered into force on 14 December 2005, has been signed by over 140 countries and ratified by 95 countries to date. By providing broad and universal standards, the UNCAC represents a major landmark in the fight against corruption. The obligations of the parties include preventive measures, criminalisation of a wide range of offences, international cooperation and mutual assistance, technical cooperation and exchange of information as well as implementation mechanisms.

Chapter II of the Convention focuses extensively on preventive measures, including (taken from Transparency International's website):

Public sector ethics and procedures

- requiring recruitment and promotion based on efficiency, transparency and objective criteria such as merit, equity and aptitude (UNCAC Art. 7)
- requiring codes or standards of conduct for the correct, honourable and proper performance of public functions (UNCAC Art. 8)
- imposing restrictions on the employment of public officials by the private sector after their resignation or retirement (UNCAC Art. 12)

Public procurement:

- requiring systems based on transparency, competition and objective criteria (UNCAC Art. 9)

Public sector finance

- requiring appropriate measures to promote transparency and accountability with respect to, inter alia, procedures for the adoption of the national budget, timely reporting on revenue and expenditure, accounting and auditing standards and related oversight, effective and efficient systems of risk management and internal control (UNCAC Art 9)

Public reporting, access to information, whistleblower protection

- requiring that members of the public be allowed to obtain information on the organization, functioning and decision-making processes of its public administration (UNCAC Art. 10)
- requiring that the public has effective access to information (UNCAC Art. 13)
- requiring protection of witnesses, reporting persons and victims of corruption (UNCAC Arts. 32 and 33)

Public education

- requiring public information activities and public education programmes, including school and university curricula (UNCAC Art. 13)

Private sector standards, including accounting and auditing standards

- requiring prohibition of off-the books accounts and transactions, of recording non-existent expenditure, of incorrect identification of liabilities, of use of false documents and intentional destruction of bookkeeping documents earlier than foreseen by law (UNCAC Art. 12)

For more background information on UNCAC, please see the U4 Expert Answer on the UN Convention against Corruption and the donor community (<http://www.u4.no/helpdesk/helpdesk/queries/query41.pdf>).

Part 1: Existing Links between UNCAC and the Paris Declaration on Aid Effectiveness

Over the past years, donors have come to recognise the issue of ownership as a key factor to the development and implementation of successful anti-corruption initiatives and committed themselves to harmonise their efforts to support country-led anti-corruption initiatives, making sure that aid programmes themselves do not foster corruption as well as address corruption's supply side in their own countries. The principles for a collective donor approach to corruption have been outlined in various documents including the Development Assistance Committee's Principles for Donor Action in Anti-Corruption or, more recently, the Policy Paper on Anti-Corruption, Setting an Agenda for Collective Action (2006).

In this context, the Paris Declaration on Aid Effectiveness endorsed by the OECD donor governments in 2005 promotes a doctrine of partnership, ownership and empowerment through the scaling up of aid as well as a shift in aid delivery modalities towards increased use of budget support. Budget support is a form of program aid that is directly channelled to the budgets of developing countries, relying on the financial management, accountability and procurement system of recipient countries. Within this framework, donors engage to work

together to support and align with country-led anti corruption initiatives and promote local ownership of anti-corruption reforms. The ratification and implementation of UNCAC is hopefully an important part of this process. It implicitly promotes the Paris Declaration and supports coherent donor approaches by providing a global agreed upon framework for support, based on common international standards. UNCAC preventive measures as detailed in Chapter II of the Convention also reflect the generally accepted principles of good governance.

There are both implicit and explicit links between the UNCAC and the Paris Declaration that provide opportunities for both initiatives to support, reinforce and complement each other.

The principle of Mutual Accountability

There is now a clear understanding that both donor and partner countries are part of the problem and share a responsibility to help prevent and address corruption as well as increase the impact of aid. While the Paris Declaration puts emphasis on the principle of “mutual accountability” to highlight the respective responsibilities of donors and recipient countries, UNCAC implicitly supports this process by tackling the responsibilities of *developed as well as developing countries* in the fight against corruption, provided that both groups of countries ratify the convention. Good governance is not the responsibility of developing countries alone. National governance systems operate in a global context that can encourage, facilitate or help prevent corruption. There is a growing consensus on the need to strengthen global checks and balances and implement strong anti-corruption standards at the international level. UNCAC provides common standards for the development and implementation of national policies and promotes enhanced international cooperation to address the international dimension of corruption.

Strengthening Institutions through Public Accountability and Participation

It is intended that moving towards more budget support will contribute to strengthen the partner country's sustainable capacity to “develop, implement and account for its policies to its citizens and parliament”. Within the framework of the Paris Declaration, partner countries have committed themselves to manage aid and development resources in an effective, accountable and transparent manner. This commitment requires that governments and budget processes become more transparent and opens avenues for public participation and accountability, creating new challenges and opportunities for civil society activity. When providing budget support, there is a responsibility of donors to ensure that there are adequate mechanisms for citizens to hold government accountable for disbursed funds and also sound mechanisms of financial management within the public sector. In this regard, the outcome of the Paris Declaration Monitoring Survey 2006 identified as one of the priority areas the need for partner countries to deepen their ownership of development processes by engaging civil society and parliament more effectively in the planning, implementation and evaluation of development policies. UNCAC preventive measures (such as access to information, public reporting or budget transparency) support this concern by providing an institutional framework that promotes more participation and active involvement of parliament and civil society in policy development, budget allocation and implementation of decisions.

Strengthening Public Procurement and Public Financial Management Systems

Strengthening public financial management capacity and national procurement systems are key features of both UNCAC and the Paris Declaration. One of the major challenges facing the provision of budget support is that it requires a well functioning public financial management system as well as a sound public procurement system to be effective. This has led to an intensification of joint efforts to improve public procurements as well as financial accountability frameworks in aid recipient countries. The Paris Declaration has a specific progress indicator that monitors the aid flow that is channeled through partner countries' procurement and/or public financial management systems which either a) adhere to broadly accepted good practices or b) have a reform program in place to achieve these. The UNCAC's articles on public procurement, public sector finance and on access to information have a direct bearing on the commitments of the Paris Declaration both on public accountability and on the use of the country public financial management systems.

Part 2: The Provision of Budget Support: Challenge or Opportunity for UNCAC?

There is an abundant literature on the intended benefits of the provision of budget support in order to increase the effectiveness of aid. Budget support is expected to strengthen the country ownership of development policies, increase accountability, facilitate donor/partner dialogue, enhance the institutional capacity and allocative efficiency of partner countries, improve donor coordination and reduce transaction costs. Findings of a joint evaluation study of budget support¹ commissioned in 2004 by 24 aid agencies in 7 countries indicates indeed that in all but two countries, the overall assessment of budget support was clearly positive and has been a relevant response to acknowledged problems in aid effectiveness. However, one of the main concerns associated with the scaling-up of aid and provision of budget support include institutional and governance constraints, weak expenditure management practices and corruption that may conflict with the effective implementation of UNCAC. Although the evaluation considered that these risks did not outweigh the benefits of providing direct budget support, the overall assessment findings did not appear conclusive in terms of the specific ability of budget support mechanisms to address the corruption risks.

Potential Impact of Budget Support on Levels of Corruption

It is often assumed that budget support is more vulnerable to corruption than other forms of aid. In such a scenario, the provision of budget support could be considered a potential threat to corruption prevention initiatives and challenge the effective implementation of UNCAC. Allocating funds through the budgetary procedures of the recipient countries may increase the discretion of corrupt officials, provide more opportunities for corrupt practices and ultimately result in increased levels of corruption. In the absence of effective domestic accountability mechanisms, there is a substantial risk that budget support resources are captured by the political elite or allocated in partisan ways to specific ethnic groups or cronies.

Corruption has indeed been found prevalent in all case studies and evaluations of budget support. In some cases, the increase of corruption has been a great worry for most donors in countries receiving budget support. But donors do not tend, at this stage, to consider the corruption risk as a prohibitive factor to the provision of budget support, as there is no empirical evidence to date that this form of aid is more affected by corruption than other aid modalities. Furthermore, some donors argue that these increased levels of corruption may be more a result of corruption being increasingly visible due to improved financial management systems than of an actual increase in the amount of funds diverted.

Special caution should be exercised when providing support in countries with high levels of political corruption or in fractionalised societies. An USAID evaluation of budget support in Malawi² suggests that political corruption is a major cause of the bad performance of budget support in this country. A World Bank cross-country study also concluded that budget support may increase rent seeking behaviours in fractionalised societies, which are characterised by ethnic, religious and regional divisions, as the competing groups try to appropriate a share of the common resources. (Please see U4 issue paper on direct budget support and corruption: http://www.u4.no/pdf/?file=/document/u4-issue/u4_issue1_2005_budget_support.pdf).

Budget Support as an Opportunity to Strengthen Public Financial Management (PFM): Issues addressed by UNCAC

Corruption and weak financial management are the most alarming risks associated with the provision of budget support and there is a substantial danger that budget support resources may be abused by recipient governments. However, for both development and fiduciary reasons, donor should use budget support to foster the improvements of partner countries' PFM systems. Donor decisions to provide budget support should be based on an assessment of PFM systems as well as fiduciary safeguard systems and the likelihood that the resources will be used appropriately, in a transparent manner, for the intended purpose. In 2005, the World

¹ IDD et al, (2006), *Evaluation of General Budget Support: Synthesis Report*, in http://ec.europa.eu/europeaid/evaluation/reports/2006/705_vol1.pdf

² USAID, (2004), *General Budget Support and Sector Program Assistance: Malawi Country Case Study*, in http://www.sarpn.org/documents/d0001021/PNADA999_malawi.pdf

Bank and IMF assessed the PFM in 16 highly indebted poor countries³ and found that the PFM system required substantial upgrading in 16 African states, some upgrading in 4 and little upgrading only in 2 countries. UNCAC preventive measures specifically address PFM issues and could potentially provide a valuable framework to strengthen expenditure management practices.

Furthermore, the provision of budget support has resulted in an increased interest among donors to effectively address public management issues in a concerted way, supporting the UNCAC provisions in this regard. The provision of budget support is tied to the introduction of safeguards that strengthen the government disbursement and procurement systems as well as the monitoring of government expenditures. Concerted efforts within the donor community are underway to develop and improve tools for assessing fiduciary risks. The World Bank, IMF and the Public Expenditure and Financial Accountability (PEFA) working group have come up with a harmonised set of indicators that assess the quality of PFM and contribute to determine whether corruption can flourish in a particular context. However, some experts argue that this framework only provides a technical summary of the PFM system but does not contain direct indicators of corruption (Please see the U4 issue paper on direct budget support and corruption). UNCAC provisions potentially offer leverage to support the crucially needed incremental change in areas of PFM and procurement.

Early evidence on the effect of budget support reported in a SIDA evaluation⁴ in 2004 found that financial management reform programme activities have increased since the beginning of the 2000s with some success in Uganda, Ghana and possibly Tanzania. However, in spite of large amounts of technical assistance, Burkina Faso, Malawi and Mozambique were considered countries where little progress has been made in this regard. Despite these mixed results, there seems to be a growing consensus among donors, at least in practice, to view the improvement of the PFM systems as an intended outcome rather than a prerequisite for budget support. Financial management systems can be improved in two ways: through the systemic effects from funds using the system and the direct effect from technical assistance. Findings of the above-mentioned joint evaluation of budget support also concluded that, although corruption remains a major concern, budget support plays a valuable role in strengthening PFM and reducing fiduciary risk.

Budget Support as an Incentive for UNCAC Implementation

Milestones and performances attached to new aid delivery modalities can play a catalyst role, with a view to strengthening the institutions and anti-corruption mechanisms of a partner country. According to an IMF study, the efficiency of budget support heavily relies on the institutional framework and democratic structures prevailing in a country. The IMF study recommends tying the provision of budget support in highly corrupt environments to institutional reforms or actual implementation of these reforms. Within this context, overarching frameworks like UNCAC are essential contributions to the policy dialogue on corruption. As a consensus must be reached on a range of actions to be completed before benefiting from this form of support, budget support can be linked to the effective implementation of UNCAC preventive measures. International pressure can therefore have a positive impact, create a momentum for reform and offer an opportunity to advocate for the effective implementation of UNCAC in recipient countries.

However, the fight against corruption within the framework of both UNCAC and the Paris Declaration face common implementation challenges. A number of studies concluded that conditions and policy dialogue have failed to produce the intended results in partner countries in the absence of domestic support for reform and/or genuine political will and backing. For example, a joint corruption assessment of corruption carried out in 2006 in Cameroon by DAC donors⁵ found that institutional reforms undertaken within the framework of the poverty reduction strategy encountered significant delays and implementation problems, due to the lack of genuine commitment to make these institutions effective. Where there is insufficient ownership of anti-corruption initiatives, partner countries may commit to reforms that are unlikely to be effectively implemented. In such cases, donors must be ready to take appropriate action. In December 2006, for example, Denmark reduced its

³ IDA and IMF, (2005), *Update on the Assessments and Implementations of Action Plans to Strengthen Capacity of HIPC to Track Poverty-Reducing Public Spending*, in <http://www1.worldbank.org/publicsector/pe/HIPC/HIPCBoardPaperApril2005.pdf>

⁴ SIDA, (2004), *Effects of Budget Support: A Discussion of Early Evidence*, in <http://www.sida.se/sida/jsp/sida.jsp?d=118&a=3375>

⁵ Multi-Donor Governance and Anti-Corruption Mission in Cameroon, in <http://www.oecd.org/dataoecd/40/51/37687235.pdf>

general budget support to Tanzania by 20 % for the financial year 2007/08, as the Government of Tanzania did not fulfil its commitment to present a long awaited anti-corruption legislation.

Budget Support Extends the Scope of Aid Accountability

Donors play a role in demanding accountability for the funds they provide. The provision of budget support provides an opportunity to position the transparency debate at the national level and demand for more accountability for the whole country system: stronger accountability mechanisms must be in place at different levels to account for aid resources and for compliance with commitments to be publicly monitored. Furthermore, operating through government systems increases donors' ability to demand more accountability not only for aid resources but for all public resources that are channelled through national budget processes. Some donors subsequently see the provision of budget support as an opportunity to broaden the scope of anti-corruption efforts from individual projects to a country entire system of managing all public resources. This extended scope of aid accountability provides avenues for using UNCAC that would not be possible in the context of project support. UNCAC provides a legitimate framework to help enhance accountability and performance of the partner country's overall system through which the funds are spent.

Part 3: Potential of UNCAC in Supporting the Provision of Budget Support

UNCAC provides an International Framework setting Universal standards

UNCAC is to date the most promising anti-corruption instrument at international level, comprehensive in its coverage and detailed in its measures. It provides a model anti-corruption framework, a framework for mutual assistance and information exchange, as well as international benchmark to help advance domestic reforms. It sets global standards and potentially fosters better coordination and increased policy coherence of anti-corruption strategies both at national and international levels. As such, UNCAC can be used as a common reference in donor/partner policy dialogue and provides a consensual institutional and organisational framework to address budget support corruption-related risks. UNCAC contains standards that were negotiated and agreed upon by a vast number of nations, including recipient countries, which gives additional legitimacy to the recommended prevention measures. Donors can use the provisions on prevention and criminalisation as a basis for supporting recipient countries' anti-corruption efforts, and use UNCAC regulations on public procurements, public sector hiring and promotions rules and procedures, ethical codes, public reporting and access to information as a guidance for anti-corruption reforms.

As UNCAC calls to address both the demand and supply side of corruption, agency practices must also be consistent with UNCAC recommendations and donors have a responsibility to advocate in their own country for the effective implementation of the convention. UNCAC ensures that donor and recipient countries are held accountable in the same way. As such, it reinforces the mutual accountability principle and respective responsibilities of both partner and donor countries, giving more legitimacy to the policy dialogue on aid and corruption.

Universal Standards versus Country Specific Approaches to Fighting Corruption

The biggest challenge for development practitioners consists in promoting the UNCAC "universal" standards and mainstreaming the UNCAC into the development policy dialogue while pursuing reform on the basis of country owned plans and priorities. Both the Paris Declaration and the experience gained in fighting corruption emphasise the key importance of aligning donor efforts with country-led anti-corruption reform policies. UNCAC sets global standards when the specific reality of recipient countries may require country tailored approaches to corruption, especially to address specific local constraints at the implementation stage of the anti-corruption policies. For example, an independent audit carried out in Cameroon in 2006 (within the framework of the above-mentioned joint assessment of corruption by DAC donors) showed that the effectiveness of anti-corruption reform is undermined by the "informal" rules of the game, despite significant safeguards and international monitoring. Beyond understanding how corruption operates globally, there is a need to understand and address country/region specific challenges such as the role of clientelism, patronage, tribe, religion or regional issues to come up with appropriate country specific strategies that are likely to have an impact.

Technical Assistance

The implementation of international conventions in poor countries faces many challenges as it requires not only political commitment but considerable human, technical and financial resources. Within the framework of UNCAC, state parties are obliged to help each other and combat corruption through technical assistance and exchange of information. Technical assistance measures may include financial and human resources, training and research. As a result, UNCAC can be used as an organisational framework for technical assistance, enhancing the cooperation with developing countries at various levels in order to strengthen their capacity to effectively prevent and combat corruption. Donors can also pursue complementary anti-corruption strategies, including supporting specific anti-corruption projects and providing ad hoc technical assistance to strengthen accountability institutions.

Part 4: Recommendations

A general recommendation on how to support countries receiving budget support to implement UNCAC has been outlined in the DAC member countries' commitment to the "Agenda for Collective Action for Improving Governance to fight Corruption" in April 2007. It includes "*ensuring that lessons learnt in supporting governance and aid effectiveness are applied to the implementation of UNCAC*" and calls for greater policy coherence to connect the development agenda with action within OECD governments to tackle corruption.

More specifically, examples of possible interventions that could support the UNCAC implementation efforts of the recipient countries include:

- Advocate for effective implementation of UNCAC in donor countries and ensure that donor agency practices are in line with UNCAC provisions.
- Introduce UNCAC standards and preventive measures as an integral part of every budget support operation and negotiation processes.
- Coordinate donor interventions by using, for example, better coordinated and harmonised diagnosis tools (including fiduciary risk assessments) to reduce the burden on recipient countries. Promote information sharing and coordination mechanisms between the various stakeholders, rationalise and conduct joint fiduciary assessments that include corruption indicators and use UNCAC standards.
- Conduct needs assessments of technical assistance required by the partner countries and provide targeted short term and long term assistance. Technical assistance may include assisting partner countries to complete the UNCAC implementation survey circulated in 2007, conducting gap analysis, to compare the state of national legislations with UNCAC requirements from an implementation perspective, build long term institutional and human capacity, support key governance and oversight institutions.
- Support initiatives aiming at empowering and building the capacity of civil society and elected representatives to hold government accountable for aid and public resources. Experiences exist in supporting participatory policy formulation and budgeting. (Please see <http://www.internationalbudget.org/faq/index.htm>).
- Conduct research on the specific impact and risks of budget support on corruption levels as compared to other aid modalities.
- More research is needed on the political risks attached to anti-corruption reforms as well as of the impact of local values, beliefs, traditions, ethnic, regional or religious issues on the implementation of anti-corruption reforms as well as on assessment of local accountability systems, etc.

For further recommendations on the role of donors in the process of implementing UNCAC, please refer to the U4 Expert answer on the UN convention and the donor community (<http://partner.u4.no/helpdesk/helpdesk/queries/query41.pdf>) and the U4 Expert answer on Implementing UNCAC (<http://partner.u4.no/helpdesk/helpdesk/queries/query71.pdf>).

Part 5: Recommended Readings and Resources

U4 Expert Answer on the Scaling up of Aid

<http://partner.u4.no/helpdesk/helpdesk/queries/query64.cfm>

U4 Expert Answer on Budget Support and Corruption

<http://partner.u4.no/helpdesk/helpdesk/queries/query52.cfm>

CMI Brief: Should corrupt countries receive budget support?

<http://www.u4.no/pdf/?file=/themes/pfm/cmibriefdbs.pdf>

TI Policy Paper on Poverty, Aid and Corruption

http://www.transparency.org/publications/publications/aid_corruption

The Budget Process and Corruption

<http://www.u4.no/themes/pfm/budgetprocess/processfront.cfm>

Managing Fiduciary Risk when Providing Budget Support (DfID)

<http://www.dfid.gov.uk/pubs/files/pfma-fiduciaryrisk.pdf>

DAC Draft Good Practice Note on the Provision of Budgetary Support – A Public Financial Management
Prospective

<http://www.oecd.org/dataoecd/55/0/34065366.pdf>

Public Expenditure and Financial Accountability Framework

<http://www.pefa.org/index2.htm>

The International Budget Project

www.internationalbudget.org/

U4 background Paper on Technical Assistance for the Implementation of UNCAC

<http://www.u4.no/pdf/?file=/themes/uncac/documents/technical-assistance-background-paper.pdf>