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BEFORE THE COMMITTEE ON FOREIGN RELATIONS  
UNITED STATES SENATE

ON THE UNITED NATIONS CONVENTION AGAINST CORRUPTION

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Mr. Chairman and members of the Committee:

I am pleased to appear before you today to testify in support of the United Nations Convention against Corruption. The Department of State greatly appreciates this opportunity to address this international instrument.

#### THE FIGHT AGAINST CORRUPTION AS A FOREIGN POLICY PRIORITY

As noted by President Bush in his Message transmitting the Convention to the Senate for its advice and consent to ratification, the international fight against corruption is an important foreign policy priority for the United States. In the President's words, corruption "hinders sustainable development, erodes confidence in democratic institutions, and facilitates transnational crime and terrorism." Corruption debilitates and destabilizes government institutions. The toll on impoverished nations is especially devastating and real. Money that could have been spent to improve the lives of the underprivileged and improve health, energy, or other infrastructure is frittered away for personal enrichment. Corruption also undermines the ability of businesses of the United States and other countries to operate in a transparent, honest, and predictable environment. Because corruption's effects are wide-ranging and pernicious, fighting corruption must be

an integral component of U.S. diplomacy and our international efforts to work with other countries to combat crime.

#### THE IMPORTANCE OF THE UN CONVENTION AGAINST CORRUPTION

I will first focus on the importance of the UN Convention against Corruption to the U.S. Government's international anticorruption efforts.

First, the Convention represents the first set of international anticorruption commitments undertaken by the international community, with the leadership of the United States, on a truly global scale. The sheer size of the group of nations involved in negotiating the instrument in 2002 and 2003 – over 130 countries – was a good sign that this Convention would be applied widely throughout the globe. However, interest in the Convention has even gone beyond expectations – as of this month, 140 countries had signed the Convention and fifty-five had already become parties. The Convention's support is all the more remarkable considering that eleven years ago there were no existing international anticorruption instruments and the development of a global instrument on the subject was not viewed as a realistic option.

Second, the Convention is by far the most comprehensive set of international

commitments relating to corruption. Previous international anticorruption agreements are relatively limited in their geographic scope and substantive coverage. The Convention recognizes that the fight against corruption requires simultaneous action on a number of fronts. Parties are obligated to ensure that law enforcement against corruption is effective and active, and they are also obligated to take appropriate measures to prevent corruption from happening in the first place and to deny safe haven to corrupt actors through international cooperation and asset recovery. The Convention avoids obligations regarding complex substantive areas that are less appropriate or unripe for multilateral solutions, such as political party financing and criminalization of purely private sector corruption, that are currently handled by individual nations under their domestic laws.

The breadth of the chapter of the Convention addressing the prevention of corruption is a good example of the broad yet flexible nature of this instrument. Under this set of articles, which contains both mandatory and discretionary provisions, parties to the Convention commit themselves to build a more ethical public service, work toward effective transparency and controls in public procurement and spending, increase civil society access to government, and promote integrity in the private sector without burdening the private sector with new laws or regulations. The goal of all these and other measures in the

Convention is to make the risk of corruption greater than any reward it may bring.

Third, and very importantly, the Convention will begin the process of bringing a good portion of the world community up to the anticorruption standards already in place for the United States. For example, the Convention, in effect, globalizes commitments made by the United States and other countries in the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which has now been in force for more than seven years. The Convention before the Senate requires governments to criminalize bribery of foreign officials and officials of public international organization in the course of international business and also requires governments to establish minimal “books and records” requirements for the private sector – matters already covered under U.S. law. The asset recovery chapter, as another example, pushes countries to institute procedures for enhanced scrutiny and to establish effective asset forfeiture mechanisms. All of these are common tools already used and well-established in the United States.

The United States already conducts itself consistently with the Convention’s provisions, so our work related to implementation will largely involve ensuring

that the Convention is implemented properly by others and cooperating in appropriate cases that are covered under the Convention. A Conference of the States Parties will convene in December 2006 to discuss what governments can do to promote implementation, and because of our central role in the drafting of the Convention and our leadership in this area, we are working with other governments to develop some realistic options. The United States delegation can and should play a leading role at that conference, and of course our ability to do so will be enhanced if we have already ratified the Convention prior to the conference.

The United Nations Convention against Corruption is quickly becoming a focal point for U.S. and international anticorruption action. The U.S. Government is a leader in the international anticorruption movement, and the Convention represents an extremely useful tool to help us further our goals in this area. We have been actively promoting the Convention as the cornerstone for regional multilateral anticorruption action, including, most recently, within the G-8, the Asia-Pacific Economic Cooperation forum, the Organization of American States, and in the United Nations Development Programme-OECD's Initiative on Good Governance for Development in Arab Countries. Using the Convention as an internationally created and accepted guideline for taking action against corruption will bolster our current efforts – using the Millennium Challenge Account, the

various regional initiatives just mentioned, and our foreign assistance programs – to encourage and help other governments build effective anticorruption regimes. By becoming a Party to the Convention, the United States will be even better placed to encourage and promote its effective implementation.

#### BENEFITS OF U.S. RATIFICATION

With this, I return to where I began – the benefits to the United States from becoming a Party to the Convention. First, becoming a Party would strengthen the ability of the United States to continue to assert a leadership role in this area, which it has held ever since the enactment in 1977 of the Foreign Corrupt Practices Act (FCPA). Given the strong position the United States has historically taken in opposition to corruption, and the fact that our laws and policies on this issue are at the forefront internationally, our absence from this treaty regime would be conspicuous and could detract from our ability to exert pressure on the various states that are party to implement the Convention and take effective action against corruption.

Second, U.S. business will benefit in the global economy from legal regimes that are designed to address the problem of corruption. The corruption of governmental officials significantly hinders business transactions and yields economic inefficiencies. Corruption causes investors either to flee or never show

up in the first place. We understand that many of the nation's major business groups, in addition to anticorruption groups, have already contacted this Committee to urge rapid Senate approval of this agreement.

Third, the Convention augments existing mechanisms for international cooperation in law enforcement matters. Corruption facilitates terrorism, drug trafficking, organized crime, money laundering, and illicit international money transfers, which can be used to support mechanisms for international terrorists. As my colleague from the Justice Department will explain, this Convention has many helpful provisions to assist in the extradition of fugitives to and from the United States and to facilitate the ability of U.S. prosecutors to obtain assistance from other countries in U.S. criminal investigations and prosecutions. Indeed, many countries, particularly in the developing world, lack existing bilateral extradition or mutual legal assistance treaty relationships with one another, but now will be able to rely on this Convention to fill that legal gap for many corruption crimes.

For the United States, the Convention will not create new extradition relationships, as we will continue to rely on our extensive web of bilateral treaties for that purpose, but it will broaden some of our older existing treaties by expanding their scope to include the offenses described in the Convention. By contrast, we will be able to use the Convention as a basis for legal assistance requests to countries with which we lack bilateral mutual legal assistance treaties



(MLATs), primarily those in parts of Asia, Africa, and the Middle East. In this connection, the Convention fully incorporates all the safeguard provisions the U.S. insists upon in our bilateral MLATs and thereby ensures that we may deny requests that are contrary to our essential interests or are improperly motivated.

#### U.S. IMPLEMENTATION

The Convention would not require implementing legislation for the United States. As discussed at length in the Department of State's Detailed Analysis of the Provisions of the Convention, the Administration recommends that the Senate include in its resolution of advice and consent to ratification two reservations, an understanding, and two declarations. If the United States makes the proposed reservations, the existing body of federal and state law and regulations will be adequate to satisfy the Convention's requirements for legislation, and, thus, further legislation will not be required for the United States to implement the Convention.

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Mr. Chairman, we very much appreciate the Committee's decision to consider this important treaty. The United States is proud to have actively participated in the negotiation of the Convention and to have helped develop many of its provisions. We have consulted extensively with the private sector, including

the business and legal communities, and we are confident that the Convention enjoys widespread support.

I will be happy to answer any questions the Committee may have.