

ANTI-CORRUPTION IN VIETNAM

*Tran Anh Tuan**

I. THE CENTRAL STEERING COMMITTEE FOR ANTI-CORRUPTION OF VIETNAM AND THE OFFICE OF THE CENTRAL STEERING COMMITTEE

In Vietnam, all agencies, organizations, units and citizens must be responsible for preventing and fighting corruption, including a number of key agencies: inspectorates, auditors, investigation agencies, procuracies and courts. To promote the role of these agencies, organizations, units and citizens in preventing and fighting corruption, on 28 August, 2006, the National Assembly Standing Committee decided to establish the Central Steering Committee for Anti-Corruption. The Central Steering Committee consists of 10 members, headed by the Prime Minister, with the Deputy Prime Minister as Vice Head of the Committee, one permanent member, in charge of operations, and other commissioners including the Inspector General, the Minister of Public Security, the Prosecutor General of Supreme People's Procuracy, the Chairman of the Supreme People's Court, the Minister of Information and Communication, the Deputy-Head of the Inspection Commission of the Central Communist Party of Vietnam, and the Vice Minister of Defense.

The Central Steering Committee has the responsibility to direct, coordinate, inspect and urge anti-corruption activities throughout the country, including directing and urging the inspection, auditing, investigation, prosecution and adjudication of serious and complex corruption cases, to ensure the handling of these cases comply with the provisions of law.

* *Deputy Director, Office of Central Steering Committee for Anti-corruption of Vietnam.*

The Central Steering Committee for Anti-Corruption has a consulting and assisting agency, which is the Office of the Central Steering Committee (the standing member of the Central Steering Committee also is Chief of the Office). The Office is equivalent to Ministerial level, composed of 95 members (to-date), and divided into eight departments.

II. THE ANTI-CORRUPTION LAW AND THE NATIONAL STRATEGY ON PREVENTING AND COMBATING CORRUPTION TOWARDS 2020

On 29 November 2005, the National Assembly of Vietnam issued the Anti-Corruption Law (LAC). To implement this law, the Government and the Central Steering Committee for Anti-Corruption have directed the authorities to conduct research and build the National Strategy for Anti-corruption. This task was assigned to the Government Inspectorate. The Office of Central Steering Committee for Anti-Corruption (OSCAC) is responsible for coordinating with the Government Inspectorate to build the strategy.

The strategy sets out five solutions:

(i) To enhance openness and transparency in policy formulation and development and implementation of the law;

(ii) To perfect the public service regimes, civil servants, improving the quality of official duties performance;

(iii) To perfect the mechanism of economic management, building a fair and transparent business environment;

(iv) To improve the efficiency and effectiveness of inspecting, monitoring, auditing, investigating, prosecuting and trial in the detection and handling of corruption;

(v) To raise awareness and promote the role of society in anti-corruption.

III. THE UNITED NATIONS CONVENTION AGAINST CORRUPTION AND THE IMPLEMENTATION PLAN OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION OF VIETNAM

On 10 December 2003, Vietnam officially signed the UN Convention Against Corruption (hereinafter referred to as the Convention) at the Summit held in Merida, Mexico. After nearly six years of research and assessment on the conformity of the Vietnamese legal system, as well as difficulties, challenges and solutions in implementing the Convention, on 30 June 2009, the President of the Socialist Republic of Vietnam officially ratified the Convention by Decision No. 950/2009/QĐ-CTN. The Convention officially came into effect for Vietnam on 18 September 2009.

A. Law on Signing, Accession and Implementation of International Treaties of 2005 and the Law on Enactment of Legal Normative Documents of 2008

In order to actively implement the Convention, Vietnam officially issued an Implementation Plan of the United Nations Convention against Corruption (under Decision No. 445/QĐ-TTg, dated 7 April 2010 of the Prime Minister). This plan fully complies with regulations on the position and application of international treaties in Vietnam. The objectives, contents and roadmaps of this plan are synchronized with those of the National Strategy on Preventing and Combating Corruption towards 2020 of Vietnam; especially, it sets the specific tasks and roadmap for institutionalization and implementation of regulations and requirements of the Convention and serves as the basis for the implementation process.

According to the plan, the key tasks in implementing the Convention include:

(i) Continuing to propagate and disseminate legislation on the prevention of corruption and contents of the Convention. This measure will help raise the awareness of cadres, civil servants and other classes of people on anti-corruption laws and the Conventions.

(ii) Conducting research and making proposals on perfecting legal documents of Vietnam on measures to prevent corruption, including:

Strengthening the independence and performance of the anti-corruption agencies; perfecting the mechanism and rules on publicity, transparency and preventing corruption in public procurement;

Perfecting regulations in the financial and banking sectors to prevent money laundering;

Perfecting the mechanisms and policies for cadres, officials of anti-corruption agencies;

Perfecting regulations on remuneration of people who have made achievements in the prevention of corruption, as well as codes of conduct and ethics for staff, public officials;

Perfecting audit standards, increasing transparency in the financial and accounting sectors and transparency of assets and income of civil servants;

Building a system of criteria to evaluate and measure corruption and the effectiveness of anti-corruption work;

Making state-administrative-management work public and transparent;

Simplifying administrative procedures and ensuring periodical reports; and

Providing information on the situation of corruption and outcomes of anti-corruption work.

(iii) Supplementing corruption offences and law enforcement regulations, including: supplements to the Penal Code on the offences of offering bribes of foreign public officials and public servants of public international organizations;

Researching and proposing solutions for the criminalization of acts of corruption in the private sector for the offences of offering and taking bribes and embezzlement in the private sector, any illegal enrichment behaviour and criminal liability of legal persons;

Researching and proposing the concretization and perfection of the regulations on protection of witnesses, experts and victims and regulations on international cooperation in witness protection.

(iv) Completing mechanisms for international cooperation against corruption, including legal provisions on mutual legal assistance, extradition, transfer of sentenced persons, joint investigation and application of special investigation techniques;

Increasing the exchange of international and regional experiences on anti-corruption and Convention implementation.

(v) Perfecting the mechanism of recovery of corrupted assets, including research, proposals to supplement the implementation of civil parts in criminal judgments of foreign courts;

International cooperation on the recovery of corrupted assets;

Modifying and supplementing regulations on transparency of assets and income;

Researching and proposing measures to control the assets and incomes of cadres and public servants.

(vi) Enhancing working facilities and improving professional and corruption crimes investigation techniques for cadres in charge of anti-corruption work and strengthening international cooperation in training and retraining for anti-corruption specialized staff;

Building mechanisms to exchange information, documents, data for the prevention of corruption with other countries;

Conducting a general review and evaluation of the implementation of the legal documents on anti-corruption and conducting surveys and interviews in order to collect information, analyse, evaluate and propose measures to prevent corruption in the fields of state management.

Also in accordance with the Convention, the requirements of the Conference of the State Parties to the UNCAC as well as the existing laws of Vietnam, the Government of Vietnam assigned the Government Inspectorate as the national central authority in providing information on anti-corruption work to the international community and as the lead agency providing advice for the Government in the implementation of the Convention in Vietnam.

B. Inter-Sectoral Working Group to implement the Convention

Vietnam established the inter-sectoral working group to implement the Convention (on 11 March 2010 under Decision No. 434/QD-TTCP of the Government Inspector General) and a team of government experts to review the implementation of the Convention (on 2 June 2010 under Decision No. 776/QD-TTg of the Prime Minister).

Members of the UNCAC working group and review team are researchers, managers and practitioners representing different agencies related to the implementation of the Convention, such as the Ministry of Public Security, the Supreme People's Procuracy, the Ministry of Justice, the Ministry of Foreign Affairs, the Office of the Government, the Office of the Central Steering Committee on preventing and combating corruption and the Government Inspectorate. The heads of the working group and review team are the leaders of the Government Inspectorate.

IV. THE RESULTS OF ANTI-CORRUPTION WORK SINCE THE IMPLEMENTATION OF THE STRATEGY, UNCAC

In recent years, the State of Vietnam continues to show its political will and high determination in anti-corruption work. This is reflected through the enactment by the State of various anti-corruption proposals, policies and initiatives, including:

- (i) Simplification of administrative procedures (Proposal 30);
- (ii) Transparency of assets and income (Decree No. 37/2007/NĐ-CP, amended and supplemented by Decree No. 68/2011/NĐ-CP);
- (iii) Regular rotation of working positions of public servants in several sectors and branches (Decree No. 158/2007/NĐ-CP);
- (iv) The National Strategy on Preventing and Combating Corruption towards 2020 (Resolution 21/NQ-CP dated 12/5/2009);
- (v) Integration of anti-corruption contents into educational training programmes (Decision No. 137/2009/QĐ-TTg);
- (vi) UNCAC Implementation Plan (Decision No. 445/QĐ-TTg);

(vii) Launching of Anti-corruption Initiatives Program on an annual basis;

(viii) Holding an annual meeting to appraise individuals having significant achievements in anti-corruption;

(ix) Ratifying and beginning the implementation of the UNCAC, etc.

After nearly two years deploying the UNCAC implementation plan, at the time of review (June 2011), Vietnam has carried out synchronizing solutions to promote the implementation of the Convention in the following areas:

A. Perfection of Institutions

Regarding the perfection of institutions, Vietnam has:

- enacted a number of laws to improve public services and public officials' mechanisms and inspection work, such as the Public Servants Laws, Cadres Law, Inspection Law (amended and supplemented);
- issued a national action plan against money laundering and terrorism financing;
- is continuing to conduct research on a theoretical and practical basis for the criminalization of certain acts of corruption, as well as acts of taking and giving bribery in the private sector, and embezzling assets in the private sector;
- promulgated and launched, through its ministries, sectors and administrative levels, the implementation of codes of conduct by officials and public servants;
- issued regulations on remuneration of individuals with outstanding achievements in reporting and detecting acts of corruption;
- modified regulations on transparency of assets, income, etc.

- In particular, on 2 December 2009, the Prime Minister issued Decision No.137/2009/QĐ-TTg approving the Proposal to integrate anti-corruption contents into educational and training programmes. This is one of the important documents which shows the proper awareness of the Party and State in the fight against corruption, taking prevention as the core, promoting the work of education and training for public servants, students, pupils in preventing and combating corruption.

B. Implementation of Concrete Measures

Regarding implementation of concrete measures on prevention of corruption, Vietnam is:

- continuing to speed up inspection, examining, audit, investigation, supervision in order to proactively prevent and detect corruption;
- raising public awareness through the promotion of anti-corruption communication activities and promoting active participation of the public on the prevention and fight against corruption by improving the quality the bi-annual Anti-corruption Dialogues between the Government of Vietnam and the community of international donors and organizations, as well as the political-social-professional organizations;
- encouraging and supporting people to actively propose initiatives to fight against corruption through Anti-Corruption Initiative Vietnam (VACI) programme.

Through two years of implementation, the corruption situation is still complicated, but in some areas has been restrained. The number of detected corruption cases has shown a decreasing trend. For example: from 1 October 2010 until 31 July 2011, 183 cases/349 defendants were prosecuted for corruption (a decrease of 25% in cases and 13% in number of defendants compared to the same period in 2010).

V. DIFFICULTIES AND CHALLENGES IN IMPLEMENTING THE STRATEGY, UNCAC

A. The Strategy

The difficulties and challenges in implementing the strategy are the same as in fighting corruption. First, corruption happens in many fields and sectors. In addition, corruption also occurs within some agencies who have the function of preventing and combating corruption; therefore, the effectiveness of anti-corruption activities within these agencies is not high. As a result, the investigation and handling of some corruption cases have been prolonged and difficult.

B. The UNCAC

(i) Many regulations of Vietnamese laws and MLA treaties between Vietnam and other countries have not been adequate and synchronized. The process of negotiating, signing, amending, or supplementing MLA treaties between Vietnam and other countries, the process of researching, developing or amending existing laws to adapt the practical situation of Vietnam, and at the same time ensuring the synchronization with the provisions of other international treaties that Vietnam has concluded will require extensive experiences, time, labour, budget and synchronizing collaboration among relevant authorities of Vietnam.

(ii) Vietnamese infrastructure, as well as technical conditions and international experience in anti-corruption work, are still limited. Language barriers, lack of working skill in international environments; and limited access to distinctive political and legal regimes will be the obstacles and challenges for public servants of Vietnam when participating in international anti-corruption cooperation efforts.

(iii) Awareness of the Convention and the implementation of the Convention by certain public servants and citizens is, in general, inadequate due to limited dissemination and research about the Convention.

Currently, the Government and the Central Steering Committee have directed the Government Inspectorate in collaboration with OSCAC and concerned agencies and departments to conduct a review of the first stage of strategy implementation, and link it with reviewing the five-year implementation of the Anti-corruption Law in order to supplement and perfect the strategy's implementation plan to meet the requirements of Stage 2.