# *The Role of Preventive Anti-Corruption Bodies under the UNCAC*

*UNDP Experiences on Institutional Arrangements to Combat Corruption*

Regional Conference on Preventive Corruption and Strengthening Cooperation Between Anti-Corruption Bodies in the Arab Region
Amman, Jordan, 29-30 July, 2008

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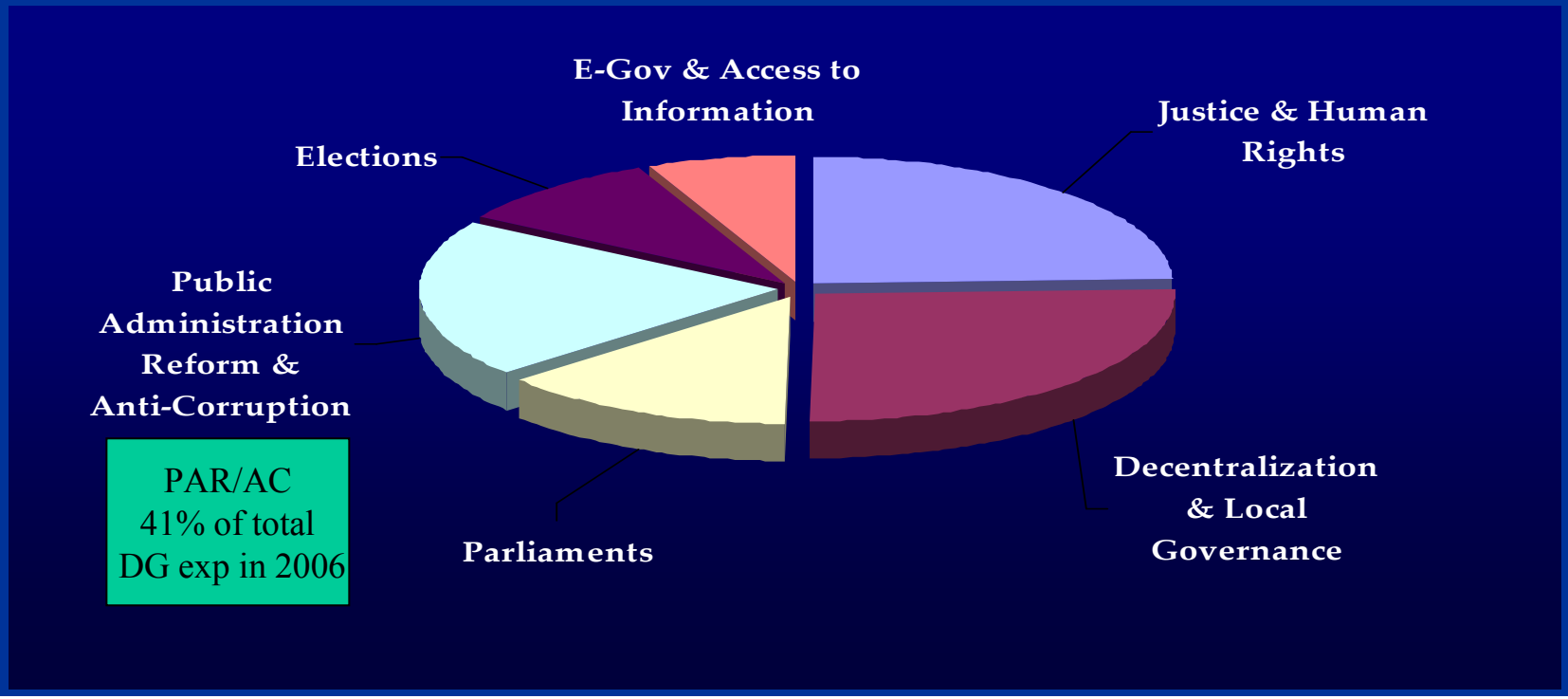
# Objectives of the Session

- Background (UNDP's involvement in supporting preventive AC bodies)
- Analysis of various institutional arrangements for combating corruption
- Lessons learned/conditions for success derived from various country cases
- Q & A

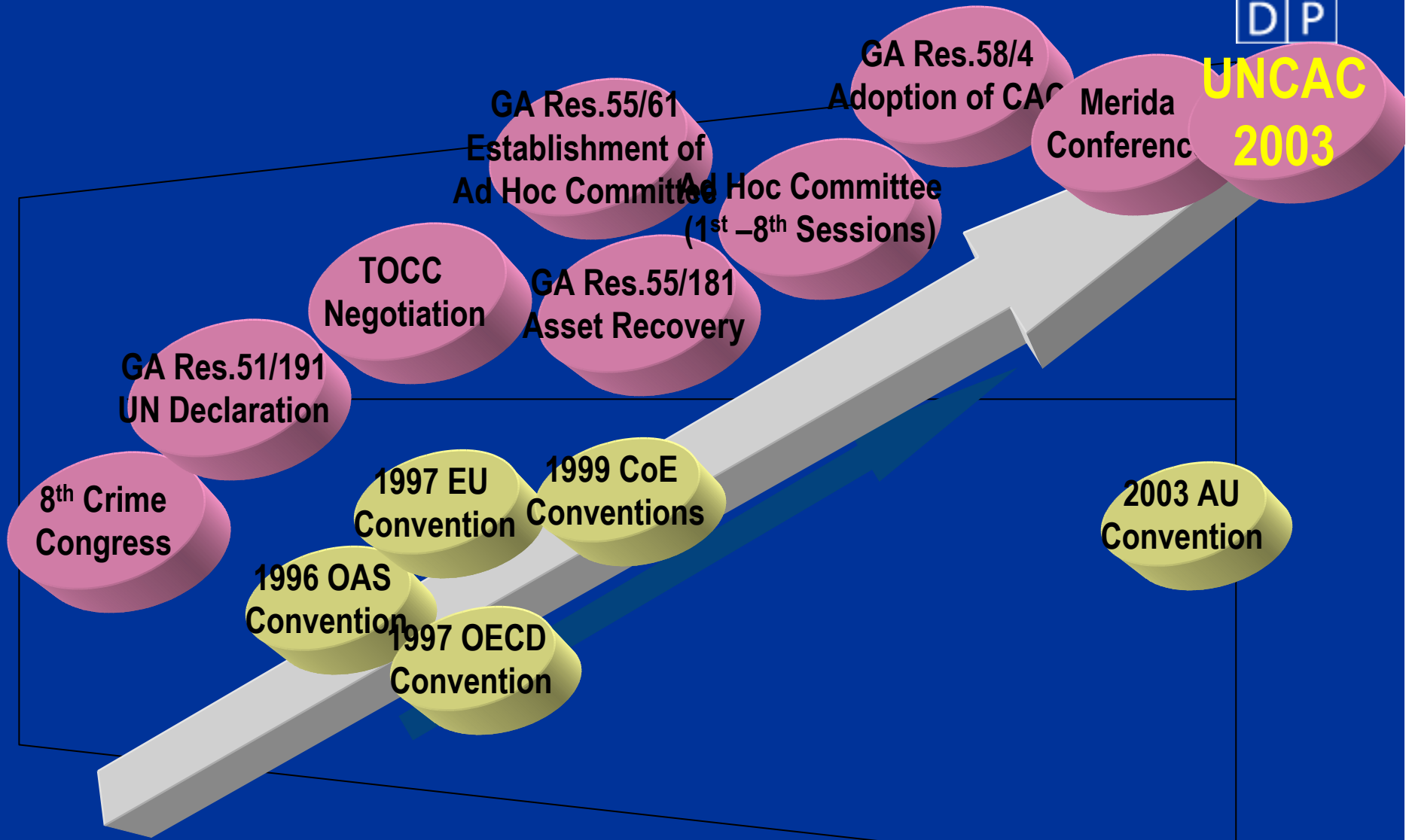


# Background

- UNDP was one of the pioneer organizations in early 1990s to develop AC programmes (first generation of work on ATI; 1999 flagship manual ***Fighting Corruption to Improve Governance***)
- Since then, UNDP has been a leading provider of TA on AC within governance portfolio



# Internal Norms and Standards



# Background: continued

- International norms and standards on AC (particularly, UNCAC) continue to evolve
- UNDP need to refocus its energies and priorities in anti-corruption, within its area of comparative advantages

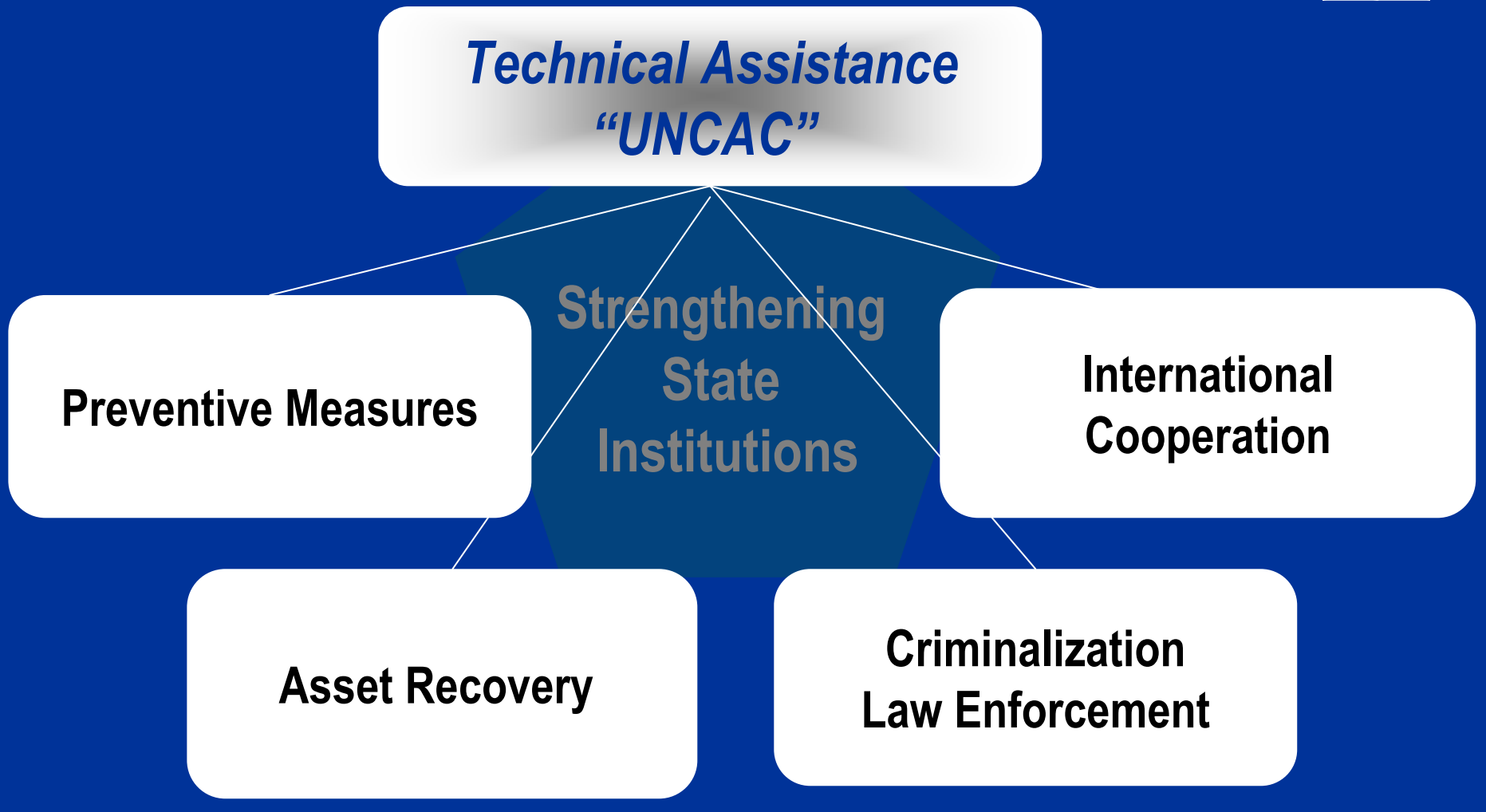
*Kemal Dervis*:

"A national system of **democratic governance** that is supportive of inclusive growth, **harmonized with international standards and norms** developed within a legitimate and cooperative multilateral framework, constitutes **the crucial software of development**."



*--Statement to staff post HLP*
*November 2006*

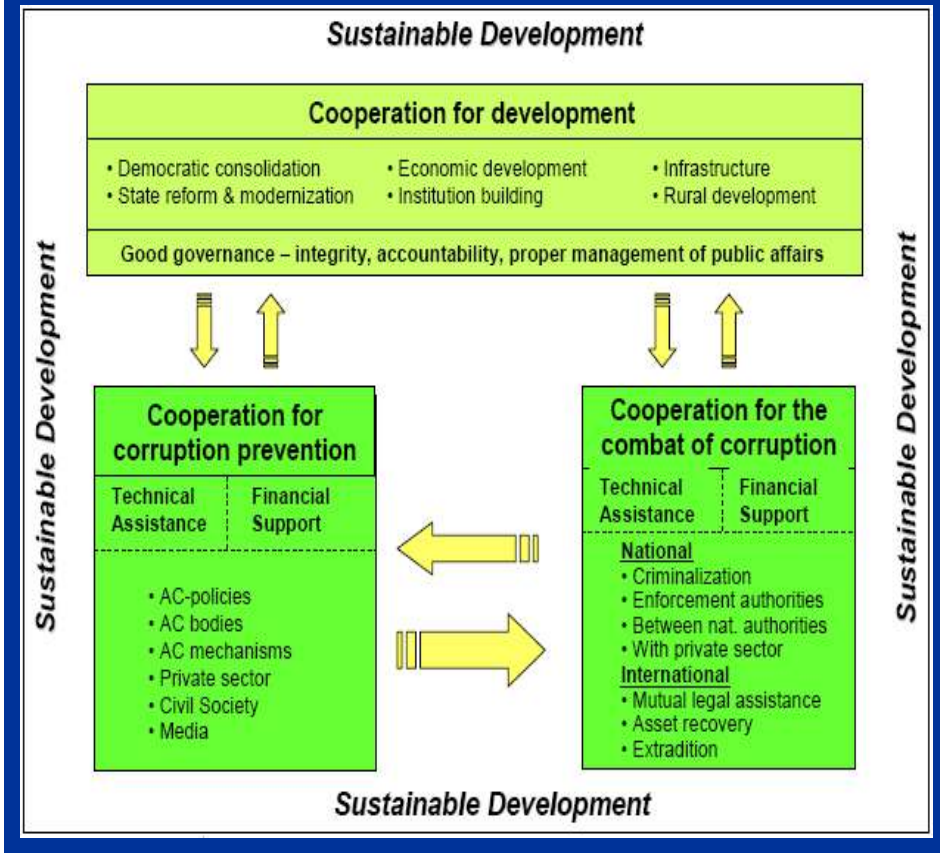
# The Four Pillars of the UNCAC and Technical Assistance



# Key Objectives of Primer (Contd.)

UNDP's comparative advantages (e.g., focus on preventive measures; recognition of corruption as a governance issue)

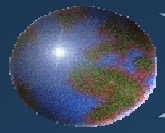
## Interdependence of Cooperation to Prevent and Combat Corruption




## UNCAC as a Democratic Governance Framework

| UNCAC Articles | Demand for Programming |
|---|---|
| Article 5: Anti-corruption policies | Policy framework, strategies, coordination, and consultation |
| **Article 6: Independence of AC bodies** | **Technical assistance to establish/strengthen oversight institutions** |
| Article 7: Civil service capacity-building | Public sector reform |
| Article 8: Code of conduct | Promotion of integrity, honesty and responsibility among public officials |
| Article 9: Public procurement and management of public finance | Promoting a transparent effective system of public procurement and public finance management. |
| Article 10: Public reporting | Media and civil society empowerment |
| Article 12: Private sector | Private sector in delivering services |
| Article 13: Civil society | Social audit, and budget tracking |

# Democratic Governance Approach: Holistic Approach to Prevention



## UNDP Value-Added

**Demand Side of DG/AC**

Inclusive Participation

- Civil society
- E-government
- Electoral systems and processes
- Political parties
- Independent journalism

**Supply Side of DG/AC**

Responsive Institutions

- Parliaments
- Justice
- Public sector reform
- Decentralized and local Governance
- (Economic Governance)

**International Principles**

- Gender
- Human rights
- Anti-Corruption

# Anti-Corruption Bodies – Art. 6 of UNCAC

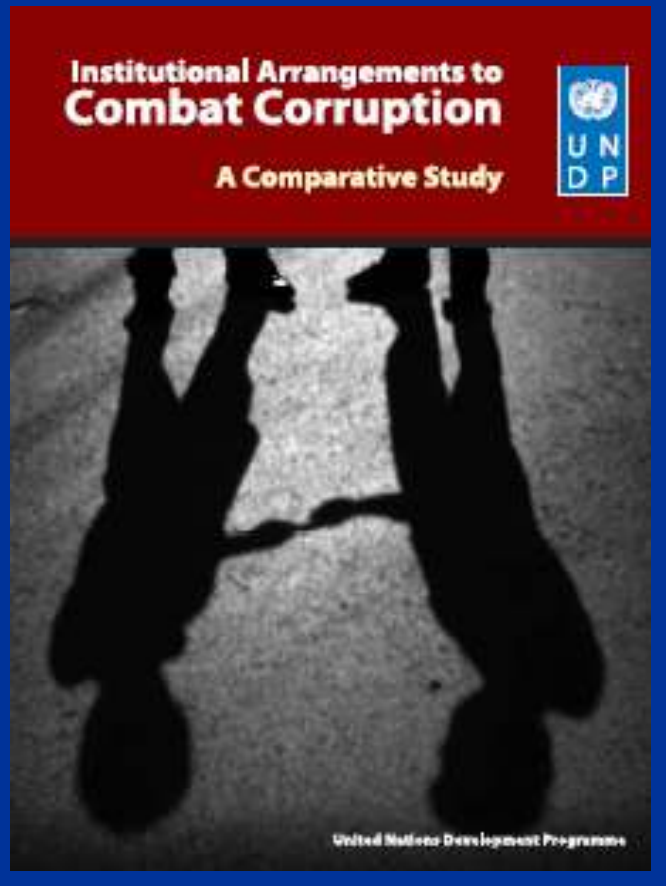
- Establish anti-corruption **body or bodies** to
  - Implement, oversee and coordinate the implementation the anti-corruption policies
  - Increase and disseminate knowledge on corruption
- Independence to enable the body to carry out its functions effectively and free from undue influence
  - Legal independence
  - Political independence – appointment and removal process
  - Realistic budgetary resources and allocations
  - Immunity against civil litigation
- Necessary resources, e.g. specialized staff and training

# Analysis of Various Institutional Arrangements

Despite the emphasize on the importance of preventive AC bodies, many AC efforts have failed.

## Major Policy Issues:

- Decision on the institutional models for fighting corruption (separate ACA vs. modifying existing ones)
- Decision on the policies and capacity development efforts to empower AC institutions (responsibilities, mandates and power, level of autonomy, resources)
- Ensuring clear rules of engagement (interaction, coordination and collaboration)



# Case for and against Specialized AC Commissions/Agencies

**Very few examples of successful independent AC Institutions (Hon Kong; Singapore; Botswana; Australia**

## Advantages:

- Completely new institution enjoys a 'fresh start'
- Sends a signal that the government takes AC efforts seriously;
- High degree of specialization, expertise, and autonomy
- Greater public credibility; political and legal
- Clarity in the assessment of its progress, successes and failures;
- Faster action against corruption.

## Disadvantages:

- Often a technocratic answers to a political problem;
- Greater admin. costs; cost of failure is substantial-public expectation;
- Isolation, barriers, rivalries with other existing agencies
- Vulnerable to attempts to marginalize (e.g., under funding)

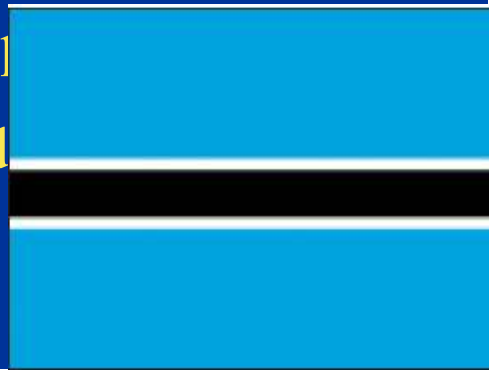
# Lessons from the Case Studies

**Australia** (Independent Commission against Corruption)



- Success was a result of help and info by public (public perceived it accountable and transparent)
- Three-pronged approach for public sector : HK model (prevention, investigation, and education)
- Focus on systems and organizational changes
- Successful collaboration with other agencies
- Appropriate data to carry out proper risk analysis and assessments (public surveys; hearings)

**Botswana** (Directorate on Corruption and Economic Crime)



- Replicated three-pronged approach of Hong Kong model
- Provide community outreach programmes for public and private sector
- Has predictable budget (US $2.4 million)

# Lessons from the Case Studies (Contd.)

**Bulgaria** (Commission for Coordinating Actions against Corruption)

- National AC strategy lacks education and public awareness
- Lack of judges, prosecutors and investigators specialized in corruption (comprehensive reform of judiciary needed)



**Indonesia** (Commission for Eradication of Corruption)

- Superficial commitment to fighting corruption (inadequate funding; lack of government's genuine support)
- Reforms of the judiciary disappointing
- Creative initiatives/promising legislations not followed through



**Latvia** (Corruption prevention and Combating Bureau)

- Lack of direction/coordination among various institutions
- Negative perception of public (disparity between crimes registered and individual sentences



# Lessons from the Case Studies (Contd.)

**Hong Kong:** Success of Independent Commission against Corruption is Generally Attributed to:

- Political will manifested by adequate legal powers and resources to the ICAC;
- Independence of the ICAC;
- Authority of the Commissioner to manage staff;
- Existence of properly enforced legislation against corruption;
- Publicity for prosecutions of corruption;
- A law that obliges public servants to declare their assets and the sources of their funds, when asked;
- A holistic approach to the problem of corruption;
- A supportive public; and the rule of law



**Malaysia:** The success of ACA is attributed to:

- Political will of the government (continuous strengthening of AC legislation and mandates of ACA)
- Adoption of the National integrity Plan (NIP)
- Focus on family (enhance integrity; build ethical society)



# Conclusion: Major Lessons Learned

- **Strong political backing** at the highest level of government
- **Political and operational independence** of ACA
- **Realistic costing exercise**; sufficient resources (financial, human and technical) over the long run (address issue of resources upfront)
- **Clearly defined ToR** of specialized agencies
- **Need for sound performance indicators** of ACCs (monitoring methodology and indicators of success)
- **Coordination and clarity in mandates** vital while strengthening existing institutions
- **Solid and comprehensive legal frameworks**
- **Systemic, long-term, coherent and holistic strategy** for combating corruption (prevention, investigation and awareness raising)
- **Support of society** at large
- **Competency and effectiveness of all institutions** involved in AC

# Thank You!
# Further information
# www.undp.org/governance



