



**Ghana Integrity Initiative (GII)**

Local Chapter of Transparency International

# THE ABC OF UNCAC

## Article 12 *PRIVATE SECTOR*

with funding support from



**UNODC**

United Nations Office on Drugs and Crime



## ABOUT GII

Established in 1999, Ghana Integrity Initiative (GII) is a non-partisan, non-profit civil organisation focused on addressing corruption. GII is the local Chapter of Transparency International (TI), the global, non-governmental, non-profit civil society organisation leading the fight against corruption through more than 100 chapters worldwide with its International Secretariat in Berlin, Germany.

The vision of GII is “a corruption-free society where all people and institutions act accountably, transparently and with integrity”.

The mission of GII is “to fight corruption and promote good governance in the daily lives of people and institutions by forging strong, trusting and effective partnership with government, business and civil society and engagement with the people”.

### Acknowledgment

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## ABOUT UNCAC

The United Nations Convention Against Corruption (UNCAC) was adopted by The UN General Assembly in October 2003 (Resolution 58/4) and entered into force in December 2005. The UNCAC is the only legally binding global anti-corruption treaty.

UNCAC's mandatory and non-mandatory provisions are outlined under its eight (8) Chapters and seventy-one (71) Articles.

The convention captures a comprehensive approach to fighting corruption, recognizing the importance of both preventive and punitive measures.

UNCAC does not define corruption but covers different forms of corruption, such as bribery, trading in influence, abuse of functions, and various acts of corruption in the private sector but does not attempt a definition.

In fulfilment with GII's anti-corruption mandate and recognising the critical importance of the private sector to the fight against corruption, GII received support from the UNODC to increase awareness of the private sector on the UNCAC and their role in fighting corruption and promoting integrity all their dealings.

## OBJECTIVES OF UNCAC

- To promote and strengthen measures to prevent and combat corruption more efficiently and effectively ;

- To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
- To promote integrity, accountability, and proper management of public affairs and property.

## PRIVATE SECTOR

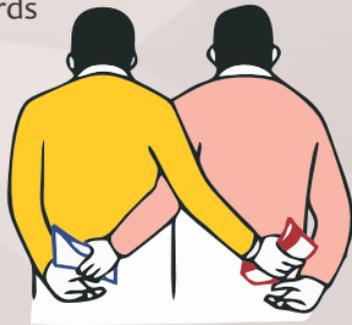
### Article 12(1)

Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

### ARTICLE 12(2)

Examples of measures that can be taken to prevent corruption involving the private sector are:

- a. Promote cooperation between law enforcement agencies and the private sector;
- b. Promote the development of standards designed to safeguard integrity of relevant private entities;
- c. Promote transparency in the identity of legal and natural persons;



- d. Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;
- e. Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;
- f. Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises.

## ARTICLE 12(3)

In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

- a. The establishment of off-the-books accounts;



- b. The making of off-the-books or inadequately identified transactions;
- c. The recording of non-existent expenditure;
- d. The entry of liabilities with incorrect identification of their objects;
- e. The use of false documents; and
- f. The intentional destruction of bookkeeping documents earlier than foreseen by the law.

## ARTICLE 12(4)

Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.



Say **NO** to  
Corruption

# WHY THE PRIVATE SECTOR MUST UNDERSTAND UNCAC

The private sector must understand The UNCAC is the global framework against corruption, therefore it is important for the private sector to understand provisions of the UNCAC relating to them. The following are other reasons why the private must understand UNCAC;

- i. Advocate for implementation and effective monitoring of the UNCAC in the countries in which they operate;
- ii. Contribute to the establishment of preventive measures and collaborative approaches in line with UNCAC provisions,
- iii. Advocate against the misuse of procedures regulating private entities (e.g. subsidies and licences granted by public authorities for commercial activities),
- iv. Campaign against conflicts of interest (e.g. imposing restrictions on the professional activities of former public officials and/or their employment in the private sector).
- v. Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to auditing and certification procedures.



# REPORT

## CORRUPTION TO GIİ's

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