

WEDNESDAY, 21 MARCH, 2018

MINISTERIAL STATEMENT

**THE CONFERENCE OF STATES PARTIES TO THE UNITED NATIONS CONVENTION
AGAINST CORRUPTION**

The Minister of Justice (Mr Lubinda)

Mr Speaker, on Wednesday, 14th March, 2018, the hon. Member of Parliament for Mwembezi, Mr Jamba Machila raised the following point of order:

“Madam Speaker, some people have been saying that they are corrupt people and the Anti-Corruption Commission (ACC) has also been following up certain people. Recently, the hon. Minister of Justice had gone to the United Nations (UN) Convention Against Corruption in Vienna. Since corruption is a very big vice which is taking the country in a wrong direction, is the hon. Minister of Justice in order not to tell the House on how the outcome of the conference held in Vienna will benefit the Zambian Government and how it will fight corruption.”

Sir, in her ruling, Madam First Deputy Speaker said in part as follows:

“I would like to encourage the hon. Minister of Justice to find time before the House adjourns *sine die* to bring a statement to this House to inform the people of Zambia what the meeting was about and how they stand to benefit.”

Mr Speaker, the Minister of Justice took heed of the encouragement and is ready to inform the people of Zambia what the United Nations Convention Against Corruption (UNCAC), Conference of State Parties held in Vienna, Austria in November, 2017 was about and how Zambia stand to benefit from it.

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Mr Speaker, let me start by underscoring the undeniable fact that corruption undermines development by diverting public resources and distorting the provision of goods and services. It is also a well-known fact that corruption corrodes the rule of law and destroys public confidence and trust in Government institutions and the country's leadership. It is a well recognised fact that the fight against this scourge must be engaged at various levels of society including national and international levels.

Mr Speaker, it is in recognition of this fact that the UN decided in its resolution No. 57/169 to adopt a legal binding instrument to fight corruption at global level. Thus, the adoption of the UNCAC in Merida, Mexico in December, 2003. This was remarkable milestone in the global fight against corruption.

Sir, may I at this juncture remind the House that Zambia jointed the global fight against corruption in December, 2007, when she signed and acceded to the UNCAC. Further, Zambia was among the first nine African countries that were selected to undergo the UNCAC review during the first year of the first review cycle in 2010. Zambia was reviewed by the state parties of Italy and Zimbabwe on its implementation of Cap 3 – Criminalisation and Law Enforcement and Cap 5 – International Co-operation.

Mr Speaker, the House may further wish to know that Zambia, in 2014 and 2015 selected to undertake the UNCAC peer-review of the States of Bolivia and the Bahamas, respectively.

Sir, the House may wish to know that Zambia has yet again been selected to undertake a peer review of France in conjunction with Liechtenstein following the commencement of the second cycle of the United Nations Convention against Corruption (UNCAC) reviews on Chapter II, corruption prevention, and Chapter V, asset recovery. It is worth noting that Zambia is scheduled for the second review in 2019. From the above, it is clear that Zambia is an active member of the global movement in the fight against corruption.

Mr Speaker, the Government of Zambia under President Lungu appreciates the paramount role that the UNCAC plays in combating corruption. It also recognises the fact that if Zambia is to

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win the fight against corruption, we ought to contribute to and learn from best practices and experiences of other countries. As all may know, corruption knows no political borders. It knows no geographical borders. On the contrary, proceeds of corrupt practices have a high tendency of crossing borders in much a similar manner that corrupt people tend to establish linkages in a multiplicity of countries. This is the reason the President of Zambia, His Excellency Mr Edgar Chagwa Lungu, nominated a Minister to lead the Zambian delegation to the Seventh Session of the Conference of State Parties (COSP) of the UNCAC held in Vienna, Austria, from 6th to 10th November, 2017.

Sir, the COSP of the UNCAC was established under Article 63 of the convention to improve the capacity of and co-operation between state parties to achieve the objectives set forth in the convention, and specifically to promote and review its implementation. Pursuant to Article 63 paragraphs 5 and 6 of the convention, the COSP is, among others, mandated to gather information on the measures taken by state parties in implementing the convention and the difficulties encountered in doing so. Each state party provides the COSP with information of its programmes, plans and practices as well as the legislative and administrative measures undertaken to implement the convention against corruption.

Mr Speaker, the Conferences of State Parties are held bi-annually. As I have already stated, the seventh was held in Vienna, Austria, in November, 2017. This conference was attended by 166 countries and several UN entities including the United Nations Development Programme (UNDP), the Convention on International Trade in Endangered Species (CITIES) and other intergovernmental bodies such as the International Monetary Fund (IMF), World Bank as well as several international, regional and national non-governmental organisations (NGOs). Let me hasten to report that several national parliaments and parliamentarians were also in attendance.

Sir, in my speech to the plenary session delivered on 6th November, 2017, I stated how in Zambia the fight against corruption was institutionalised way back in 1982 and how it has remained institutionalised over the years through a number of statutes including the Leadership Code, the Parliamentary and Ministerial Code of Conduct Act, the Corrupt Practices Act and the Anti-Corruption Act. I also reported how Zambia has over the years confronted the stark reality

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that fighting corruption requires the involvement of all stakeholders, including civil society organisations (CSOs), faith based organisations, the private sector, the academia and policy and law makers. The conference was further informed of the positive impact that the UNCAC has had on Zambia's governance and anti-corruption legislation.

Mr Speaker, I reported that in our resolve to adhere to the UNCAC provisions, the abuse of office clause, Article 19 of the convention, which was struck out of the Anti-Corruption Commission (ACC) Act by the previous Government, had been reinstated in the Anti-Corruption Act No. 3 of 2012 in a constitutionally compliant manner. Further, I informed the conference about the enactment into law of the Forfeiture of Proceeds of Crime Act No. 19 of 2010 and the Public Interest Disclosure or Protection of Whistle Blowers Act No. 4 of 2010, the introduction of a Case Management System and the development of a National Policy on Corruption Prevention. These are some of the positive measures taken by the Government to meet the goals and aspirations of the convention. These measures have not only enhanced the fight against transnational crimes, but also strengthened our fight against corruption.

Sir, I wish to inform you, and through the House, the nation at large that I also did bring to the attention of the conference the fact that some countries such as Zambia were victims of losses of large amounts of money which were stacked away in financial capitals that Zambian law enforcement agencies could not reach. I pointed to the fact that some countries were complicit in encouraging and facilitating corruption by enacting laws that created safe havens in which proceeds of corruption were hidden. I indicated that for the fight against corruption to be won, all countries must be prepared to put in place measures that allow for transparency in their banking and financial systems and that all countries must sign up and participate in international co-operation on stolen asset recovery.

Mr Speaker, a host of countries that attended the conference reported on the measures undertaken in their various countries to fight corruption. The measures most highlighted were the enactment, revision and updating of anti-corruption and anti-money laundering legislations. Some speakers bemoaned the challenges they are facing in seeking mutual legal assistance in

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criminal matters and called upon requested state parties to take cognisance of the fact that the recovery of stolen assets is the fundamental principle of the convention.

Sir, the following are some of the resolutions that were adopted by the conference:

- (a) Resolution 7/1 is strengthening mutual legal assistance for international corporation and asset recovery; the return of assets of illicit origin derived from acts of corruption is a fundamental principle of the convention and state parties are obliged to afford one another the widest measure of co-operation and assistance including freezing and seizing with the aim of returning such assets to countries of origin;
- (b) Resolution 7/2 is preventing and combating corruption in all its forms more effectively especially when it involves vast quantities of assets;
- (c) Resolution 7/3 is promoting technical assistance to support the effective implementation of the UNCAC;
- (d) Resolution 7/4 is enhancing synergies between relevant multilateral organisations responsible for review mechanisms in the field of anti-corruption; and
- (e) Resolution 7/5 is promoting preventive measures against corruption.

Mr Speaker, if fully implemented, the UNCAC and the resolutions of the Seventh COSP would make a real difference to the quality of life of millions of people around the world.

The convention introduces a comprehensive set of standards, measures and rules that all countries can apply in order to strengthen their legal and regulatory regimes to fight corruption and the resolutions are all focused towards appealing for positive actions by member states.

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Mr Speaker, pursuant to paragraphs 4 and 6 of the Convention, the Conference created the Implementation Review Group (IRG) to carry out periodic reviews of five years each to assist in the implementation of the provisions of the Convention. Thus, the second cycle of the United Nations Convention Against Corruption (UNCAC) reviews on Chapter II namely, (Corruption Prevention) and Chapter V namely; (Asset Recovery), was actually launched in St. Petersburg Russia in 2015.

Sir, arising from Zambia's participation, Zambia will start preparation for its peer review this year, including, taking necessary measures to address recommendations cited in Zambia's first cycle UNCAC Report, which highlighted, among others, the following observations:

- (a)* that Zambia considers amending Section 61 (the Presumption of Corrupt Intention) of the Anti-Corruption Act in order to be consistent with its Constitution and adhere to international human rights obligations, (as a state party to the international Covenant on Civil and Political Rights) by upholding the presumption of innocence;
- (b)* to consider establishing procedures for the disqualification of persons convicted of UNCAC – related offences from holding office in an enterprise owned in whole or in part by the state;
- (c)* to establish an Asset Recovery Unit, and consider establishing evidentially rules as well as procedures for the physical protection of witnesses, noting that an independent body specifically responsible for implementing the Whistleblowers Act might be advantageous, and having such a body linked to the Witness Management Fund;
- (d)* that measures are taken to ensure the independence of the Anti-Corruption Commission (ACC) from undue influence and harassment; and
- (e)* to expedite the creation of an asset recovery and witness management unit.

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Sir, in addition to these recommendations, the Government of President Edgar Chagwa Lungu, is concerned about the provisions of the 2016 Constitution which excludes state officers and other constitutional office holders from the definition of public officers.

Mr Speaker, I trust that the above clearly illustrates the various ways in which Zambia stands to benefit from both her membership to this important body of member states of United Nations and from participating the conferences of state parties of the United Nations Convention Against Corruption.

As Government, we shall continue to refine our domestic anti-corruption laws to bring them in line with UNCAC provisions.

In addition, Zambia shall continue to appeal to the United Nations Office on Drugs and Crime (UNODC) for technical assistance to address challenges identified in the first cycle of the Country Review Report for Zambia. We shall also appeal for international cooperation in accordance with UNCAC, on following up and recovering unexplained assets of individuals that are stashed away in safe havens around the world.

Mr Speaker, as I conclude, let me state that Zambia under the Patriotic Front (PF) Government, and especially under the presidency of President Edgar Chagwa Lungu, is and shall continue to be fully committed to achieving UNCAC objectives and to fight the scourge of corruption. This was demonstrated by His Excellency the President at paragraph 65 of his address to this House on National Values and Principles which he delivered last Friday, 16th of March, 2018 where he said:

“One of the major challenges to good governance and integrity is the issue of corruption. Corruption is a cancer which requires concerted and continuous effort to eliminate. We all have a moral duty and obligation to fight corruption in order to achieve accelerated and all inclusive development”.

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Sir, it is truly the moral duty of each citizen and particularly of all of us in our various positions of leadership, be they in the private sector and more so in the public sector, in churches or faith based and civil society organisations, in the ruling party and also in the opposition political parties, in our social clubs as well as in our families. We all owe it to our dear country to fight the vice using the most effective tool of 'doing what we preach' and not only being rhetorical. We must all live in accordance with our national theme namely, 'A corrupt free Zambia begins with me. Together we are determined we shall win the fight'.

I thank you, Mr Speaker.