The Inter-American Convention Against Corruption: Status at Three Years Since Its Inception*

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Introduction

On March 29, 1996, the thirty-four-member Organization of American States ("OAS") approved the Inter-American Convention Against Corruption ("OAS Convention" or "Convention"). The OAS Convention was the first instrument to establish an international legal framework aimed at eliminating bribery and corruption of government officials. Twenty-one of the thirty-four OAS Member States signed the Convention at the March 29 meeting in Caracas, Venezuela. Today, twenty-six OAS Member States have signed the Convention and seventeen have ratified it. By participating and promoting the creation and adoption of this first regional instrument under the auspices of the OAS, Latin American countries have taken a leadership role in the international fight against corruption in the public sphere.

Since then, on December 17, 1997, twenty-eight Member States of the OECD and five non-Member State observers to its Working Group on Bribery in International Business Transactions (including six OAS Member States) signed the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the "OECD Convention"). At the time of this writing, the OECD Convention, which entered into force on February 15, 1999, has been ratified by sixteen countries.

In addition, on November 4, 1998, the forty Member States of the Council of Europe and eight observer states approved the text of a convention on corruption entitled the Criminal Law Convention on Corruption ("Council of Europe Convention"). Twenty-one states signed the Council of Europe Convention on the day it opened for signature. At this writing, no states have ratified the Convention. Lastly, the European Union has adopted its own anticorruption convention. This convention criminalizes the "deliberate action of whosoever promises or gives . . . an advantage of any kind" to an EU or any Member State's official.

Of these four international instruments, the OAS Convention is the most ambitious in its attack on public corruption. The OECD Convention is narrowly targeted on the supply side of transnational bribery and closely associated offenses or conduct (e.g., money laundering, accounting). The Council of Europe and EU Conventions, although broader than the OECD Convention in that they cover domestic and foreign official bribery from both the supply and demand sides, retain a focus on criminalization. Only the OAS Convention, on the other hand, focuses on preventive measures in addition to criminalization. As such, it represents a more comprehensive approach to the problem of public corruption.

Because this Congress is concerned with state and administrative reform in Latin America, this paper focuses on the status of the OAS Convention three years after its inception. Section I provides an overview of the substantive provisions of the Convention. Section II examines the current ratification and implementation status of this important regional instrument, and discusses the obstacles to ratification encountered in at least three countries. Section III describes several recent positive developments at the OAS level. This last section also addresses the need for future initiatives -- in particular, stronger institutional support
mechanisms -- to achieve the ultimate goal: turning the provisions of the Convention into a reality at the domestic level to reduce or eliminate corruption in the region.

I. Overview of the OAS Convention The OAS Convention took effect on March 6, 1997, following the deposit of notices of ratification by Paraguay and Bolivia. The Convention seeks to promote the development and strengthening of legal mechanisms in signatory countries to "prevent, detect, punish and eradicate" official corruption and to facilitate cooperation among the signatories to combat official corruption. The Convention consists of twenty-eight Articles. The first twenty contain the substantive provisions of the Convention; the final eight address signature, ratification, reservations, and similar matters. Articles I-V contain general provisions, including definitions of key terms used in the Convention, and important provisions regarding scope (Article IV) and jurisdiction (Article V). Articles VI-XII set forth the obligations of states with respect to their domestic laws, while Articles XIII-XX deal with international corruption, enforcement, and other agreements between States Parties.

The Convention can thus be divided into two spheres -- domestic and multilateral. Certain articles concentrate on the domestic measures on both the "supply" and the "demand" sides that States Parties need to institute to fight corruption. Other articles target multilateral cooperation to aid national authorities in enforcement of these domestic measures. In both the domestic and multilateral spheres, the OAS Convention sets forth different levels of obligation. Certain articles are binding on States Parties, others are conditional, still others are subject to progressive development, and a fourth category are aspirational only. Some of the binding commitments are self-executing, while others require the Member States to pass new laws, in particular criminal laws.

The subsections which follow review first, the mandatory domestic measures of the Convention, next, the aspirational domestic measures, and finally, the multilateral measures. Subsections 3, 4 and 5 then review jurisdictional issues, penalties, and multinational obligations.

1. Mandatory Domestic Measures The mandatory domestic provisions of the OAS Convention represent a comprehensive assault on bribery. They require States Parties to criminalize both domestic and foreign bribery and to enact measures to combat the "illicit enrichment" of government officials. The provisions on domestic bribery are aimed at both the person offering a bribe and the recipient (active and passive bribery); the foreign bribery provisions, appropriately, focus on the offeror alone. The recipient is the focus of the illicit enrichment provision.

a) Criminalization of Certain "Acts of Corruption" In Article VI, the Convention identifies a number of activities that it categorizes as "acts of corruption" and, therefore, fall within the scope of the Convention. Article VII of the Convention requires, without qualification, States Parties "that have not yet done so" to criminalize the specific acts of corruption listed in Article VI(1). Those acts of corruption include:

· Solicitation or Acceptance of a Bribe -- the solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise, or advantage for himself or for another
person or entity, in exchange for any act or omission in the performance of his public functions;

- Offering or Granting of a Bribe -- the offering or granting, directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise, or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions;

- Improper Acts/Omissions by Public Officials -- any act or omission in the discharge by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party;

- Fraudulent Use/Concealment of Property -- the fraudulent use or concealment of property derived from any of the acts referred to in this article; and

- Conspiracy/Aiding/Abetting -- participation in the commission or attempted commission of, or any collaboration or conspiracy to commit, any of the acts referred to in this article.

b) Foreign Bribery A separate article of the Convention, Article VIII, then focuses on foreign (transnational) bribery. Under this Article, a State Party agrees to prohibit and punish:

- the offering or granting, directly or indirectly, by its nationals, residents, and businesses domiciled there,

- to a government official of another state,

- of any article of monetary value, or other benefit, such as a gift, favor, promise, or advantage,

- in connection with any economic or commercial transaction,

- in exchange for any act or omission in the performance of that official's public functions.

The obligation the Convention imposes on states to criminalize foreign bribery is limited by a potentially significant condition, however: a State Party's obligation to enact foreign bribery measures is "[s]ubject to its Constitution and the fundamental principles of its legal system." Thus, states may use this "escape clause" to avoid implementing Article VIII without having to take a reservation to the Convention. Among those States Parties that do make foreign bribery an offense, it will be considered an "act of corruption" for purposes of the Convention, thus triggering the treaty obligations of States Parties. States that have not criminalized foreign bribery are nonetheless required, "insofar as [their] laws permit," to cooperate with other States Parties in the enforcement of other states' foreign bribery laws.

c) Illicit Enrichment

The third principal tool of the Convention focuses on illicit enrichment of public officials. Under Article IX, States Parties agree to establish as an offense "a significant increase in the assets
of a government official that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions." Like the foreign bribery offense contemplated in Article VIII, the obligation of states to do so is subject to their Constitutions and fundamental legal principles. Also like Article VIII, illicit enrichment under Article IX will be considered an "act of corruption" for purposes of the Convention among those States Parties that do make it an offense, which means the international obligations imposed by the Convention will be applicable. Those states that have not criminalized illicit enrichment are required, "insofar as [their] laws permit," to cooperate with other States Parties in the enforcement of other states' laws.

When States Parties adopt legislation criminalizing foreign bribery and illicit enrichment, they must notify the Secretary General of the Organization of American States, which will in turn notify the other States Parties. Those crimes will be considered acts of corruption for purposes of the Convention thirty days after that notification.

2. Aspirational Domestic Measures In addition to the binding commitments in Articles VII-IX, States Parties agree in other provisions of the Convention to consider other measures of good governance and other anti-corruption provisions, including the establishment of additional offenses.

a) Additional "Acts of Corruption" Article XI of the Convention enumerates four additional "acts of corruption" that States Parties agree to consider criminalizing under domestic law in order to promote uniformity among the Member States and to further the purposes of the Convention. These acts, which are subject to progressive development, are the improper use of information by government officials, the improper use of state property by a government official, the attempt by any person, directly or indirectly, to obtain illicit benefits for himself or any other person, and the diversion of state property for personal benefit.

Once a State Party establishes any of these acts as a criminal offense, it will be considered an act of corruption for purposes of the Convention and will trigger the international obligations of the States Parties under the Convention. States Parties that do not enact such laws are required, consistent with their domestic laws, to assist other States Parties with respect to those offenses.

b) Broader Anti-Corruption Initiatives Under Article III, which contains the "softest" measures in the hierarchy of the Convention, States Parties agree to consider preventive measures to "create, maintain, and strengthen" their domestic laws. These preventive measures fall into four primary areas:

i. Transparency and Accountability in Government

First, States Parties agree to consider measures relating to transparency and accountability in government procurement and functions. In particular, States Parties agree to consider measures relating to the government procurement and government hiring processes to ensure their "openness, equity, and efficiency," and similar measures relating to the government revenue collection and control systems that "deter corruption." States Parties also agree to consider systems for registering the income, assets, and liabilities of certain public officials and, where appropriate, to make that information public.
ii. Ethics in Government

Second, States Parties agree to consider measures to create, maintain, and strengthen ethics rules applicable to public officials. In particular, these include: standards of conduct for the "correct, honorable, and proper fulfillment of public functions"; standards to prevent conflicts of interest; standards to "mandate the proper conservation and use of resources entrusted to government officials"; and standards to require government officials to report acts of corruption to the appropriate authorities.

iii. Private Concerns

Third, States Parties agree to consider measures to create, maintain, and strengthen prophylactic safeguards against corrupt activities by private concerns. In particular, States Parties agree to consider laws that deny favorable tax treatment for expenditures made in violation of the States Parties' anticorruption laws. They also agree to consider mechanisms to ensure that publicly-held companies and similar organizations "maintain books and records which, in reasonable detail, accurately reflect the acquisition and disposition of assets, and have sufficient internal accounting controls to enable their officers to detect corrupt acts."

iv. Miscellaneous

The fourth set of preventive measures is diverse. States Parties agree to consider measures to protect public servants and private citizens who report acts of corruption ("whistleblowers"), including protection of their identities, in accordance with the basic principles of States Parties' domestic legal systems. Finally, States Parties agree to consider measures to advance the anticorruption effort, including anticorruption oversight bodies, programs to encourage broader involvement in the effort, and further measures that account for the correlation between "equitable compensation and probity [honesty] in public service."

3. Jurisdiction

A delineation of the activities to be criminalized is one critical part of the Convention. A second part which affects its scope is the jurisdictional provisions. Here, the Convention aspires to be inclusive and accommodating of the differing principles of personal jurisdiction applicable in Member States, while giving primacy to territoriality. The Convention requires that parties adopt measures to establish their jurisdiction over Convention offenses (a) committed in their territory, and (b) when the alleged criminal is present in their territory, but not extradited to another state due to nationality. In addition, States Parties may adopt measures to establish jurisdiction over those offenses committed by their nationals or residents, whether or not those crimes were committed inside their territory. The Convention also explicitly preserves the established rules of criminal jurisdiction of States Parties under their domestic laws.

4. Penalties

In requiring criminalization of the array of acts just reviewed, the Convention does not specify the penalties that states must impose for their violation.
5. Multilateral Obligations

The Convention's multilateral framework consists primarily of mandatory obligations to cooperate and assist other States Parties in the prosecution of foreign and domestic corruption. Some of the recommended actions are general -- e.g., to "foster exchanges of experiences by way of agreements and meetings." Others, such as the extradition provisions, are specific and quite important to effective enforcement.

a) Extradition

The extradition provisions are set out in Article XIII. They apply only to the "acts of corruption" established by the States Parties as offenses in accordance with the Convention. Under Article XIII, the Convention extends existing extradition treaties among States Parties to include the offenses established under the Convention. States Parties further undertake to include these offenses in any future extradition treaties. The Convention can also serve as a self-executing extradition treaty among the States Parties that have not concluded extradition treaties with one another, or which do not condition extradition on the existence of such treaties.

b) Assistance and Cooperation

The Convention emphasizes cooperation among States Parties in the pursuit of the Convention's anticorruption goals. In addition to the specific requirements of cooperation already mentioned under Articles VIII and IX, under Article XIV States Parties agree to "afford one another the widest measure of mutual assistance" in preventive, investigative and enforcement efforts Parties, "[i]n accordance with their domestic laws and applicable treaties." The mutual assistance article thus looks to existing treaties and domestic laws to define the content of the States Parties' obligations, rather than enlarging them, as the extradition provision does.

In two potentially very important provisions, the Convention prohibits the use of bank secrecy laws or the allegedly political nature of an act of corruption as a basis for refusing to cooperate with other States Parties.

c) Measures Regarding Property
The Convention specifically provides for cooperation among the States Parties in the seizure and forfeiture of assets connected with "acts of corruption," both domestic and foreign. Under Article XV, States Parties agree to provide each other "the broadest possible measure of assistance in the identification, tracing, freezing, seizure and forfeiture of property or proceeds obtained, derived from or used in the commission of offenses" established in accordance with the Convention. Article XV suggests that States Parties may want to transfer all or part of properties or proceeds to other States Parties if doing so would assist in an underlying investigation or proceeding.

II. Ratification and Implementation Status
The adoption of the OAS Convention by twenty-six countries represents a major achievement. Ratification and implementation, however, have faced a number of obstacles. This Section describes those obstacles and the efforts underway to overcome them.
A. Ratification Status of the OAS Convention

Under the Convention, the ratification of only two countries was necessary for the Convention to enter into force. The Convention met this standard within a year of its being signed. However, slow progress has been made in having all of the countries that signed the treaty ratify it. Today, twenty-six countries have signed the Convention but only seventeen countries have deposited their instruments of ratification with the OAS. The reasons for not ratifying the Convention vary from country to country; some of the more prevalent reasons are described below. Although this section focuses on the obstacles present in the United States, Canada, and Brazil, these obstacles may be relevant to other countries.

1. Lack of Institutional Support for Implementation and Enforcement

Unlike the OECD and Council of Europe Conventions, the OAS Convention does not provide for any institutional oversight or support for its implementation by States Parties. This can be seen as a considerable gap, especially when the scope of the Convention is considered. What should the priorities be among all the areas addressed by the Convention? How should criminal laws be drafted or amended to ensure that maximum benefit is derived from the cooperation mechanisms of the Convention? When is harmonization possible or desirable? How should enforcement efforts be prioritized, and are there common capacity-building issues? These are all questions that an institutional support mechanism could help resolve. However, the OAS Members did not focus on the adoption of an institutional support mechanism during the negotiations of the Convention.

In the United States, concerns have been raised in some quarters that the lack of institutional support will seriously hinder the full implementation of the Convention. The monitoring mechanism in the OECD Convention was important to gaining the support of both the Clinton Administration and the U.S. Senate for that agreement. The monitoring process established under the OECD Convention includes (1) self-evaluation of implementing legislation by reference to a detailed OECD questionnaire; (2) peer review of those responses; (3) on-site review of enforcement by a team of experts drawn from participating nations; and (4) consideration of their reports at plenary meetings. As explained further below in Section II.B, the adoption of a monitoring mechanism and other components of "institutional support" will help ensure not only the ratification but the implementation of the OAS Convention.

2. Priority Given to the Ratification of OECD Convention

At least in the United States, the executive branch made a strategic decision in 1998 that ratification of the OECD Convention should take priority over ratification of the OAS Convention. The reasons for this decision are twofold. First, the main competitors to U.S. industry currently unimpeded by anticorruption laws are companies established in European countries that would fall under the scope of the OECD Convention but outside the scope of the OAS Convention. Second, the OECD Convention is more narrow than the OAS Convention and thus less likely to find opposition in the legislative branch. The strategy has apparently worked. On July 31, 1998, the U.S. Senate unanimously approved ratification of the OECD Convention. On November 10, 1998, the U.S. Administration signed into law amendments to the Foreign Corrupt Practices Act (the U.S. transnational anticorruption law which has been in force since 1977) implementing the OECD Convention.
3. Illicit Enrichment Provisions and Constitutional Concerns

As stated earlier, States Parties agree under the OAS Convention to establish as an offense "a significant increase in the assets of a government official that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions." Concerns by some that the illicit enrichment provision may offend the constitutionally-protected presumption of innocence have delayed ratification in the United States and Canada. The better view, however, is that the Convention can be ratified without creating a constitutional conflict. There are at least three options available to accomplish this.

First, since compliance with the obligation to criminalize illicit enrichment is explicitly subject to each State's constitution and fundamental legal principles, a State can "opt out" of the illicit enrichment provision. This was the solution the Clinton Administration identified when it forwarded the OAS Convention to the Senate for advice and consent. Second, the provision could be implemented as a permissive presumption, which, if properly drafted, will pass constitutional muster. Third, the United States could rely on existing laws (the reverse net worth method of proof for criminal tax evasion, coupled with disclosure requirements for senior federal officials) to implement this provision.

4. Absence of Deadline

Unlike the OECD Convention, the OAS Convention does not provide for a deadline by which it must be ratified. The absence of such a deadline is another factor that has contributed to delays in the ratification of the OAS Convention.

5. Internal Procedural Hurdles

In addition to scattered concerns in non-ratifying countries about the substantive provisions of the OAS Convention, internal procedural hurdles have delayed ratification in some countries. In Canada, for example, prior domestic compliance is a pre-requisite for ratification. Canada has already enacted anti-corruption legislation for its implementation of the OECD Convention; this was drafted with the OAS Convention in mind as well. Thus, once Canada ratifies the Convention, it will likely be ahead of most other countries in terms of implementation.

The delay in ratification in Brazil offers another example of internal procedural hurdles. Although Brazilian law already meets many of the requirements imposed by the Convention and no objections exist as to its substantive provisions, the treaty has not yet been ratified. The reason for the delay is that the ratification process in Brazil has traditionally taken several years. In Brazil, approval by both the House and Senate is a prerequisite for ratification of any international treaty.

B. Implementation Status of the OAS Convention

According to a 1998 Transparency International survey, implementation of the Convention's provisions among OAS Member States has been spotty. This survey reviewed: (1) adoption of antibribery legislation; (2) criminalization of illicit enrichment; (3) adoption of codes of conduct for government officials; (4) adoption of asset disclosure requirements for government officials; (5) transparency in public procurement procedures; and (6) the existence of "freedom of information" rights by the public. Of the fifteen Member States
surveyed, only six had adopted codes of conduct. Of those six, not all had conflict of interest standards. Fewer than half of the countries required public disclosure of assets. In those countries that did, the disclosure requirement sometimes applied exclusively to certain officials or types of assets and there was little evidence that the information divulged had been used to initiate prosecutions. Only nine countries had enacted transparency provisions for government procurement procedures. Those provisions were not uniform, comprehensive, or readily available to the public. Only six countries criminalized illicit enrichment; and, at that time, only the United States criminalized transnational bribery. No recent survey results exist to tell us whether the situation has changed. However, it is unlikely it has changed dramatically in the past year.

The spotty implementation record has been attributed by some to a lack of political commitment to real reform or to politicization of the corruption issue among political parties. Others point to the breadth of the Convention and the enormity of the implementation challenge. Another probable obstacle is the lack of a timetable for implementation. In addition, by using the Article VIII and IX "escape clauses," states may avoid enacting the transnational bribery and illicit enrichment provisions of the Convention without taking a reservation.

Perhaps the greatest obstacle to implementation, however, is the lack of formal institutional support to oversee, monitor and actively promote the implementation of the Convention; provide technical expertise; and, as much as possible, encourage uniformity in the methods of implementation. Implementation today appears to be left largely to the discretion of each state.

In spite of the numerous obstacles discussed above, three promising developments have taken place in the past year that will likely promote the ratification and implementation of the OAS Convention.

III. Promising Developments

First, the Inter-American Juridical Committee, an OAS body, adopted in September 1998 model implementing legislation for the illicit enrichment and transnational bribery provisions of the Convention. The model legislation tracks the language of the OAS Convention. Its aim is to provide guidance to legislators in formulating effective implementing laws. The model legislation is accompanied by detailed commentary, referred to as a "guide for the legislator." The commentary addresses, among other things, alternative provisions, adaptation to the existing legislative regime, potential conflicts with other instruments such as the OECD Convention, and the nuances of different terminology. The Model Law and commentary are limited, however. They leave much drafting work to national legislators. In addition, they seek only to provide guidance on the adoption of certain criminal provisions in the Convention. The work does not include references to administrative, fiscal, trade, accounting, or other measures that should be adopted pursuant to the Convention.

Second, the General Secretariat of the OAS and the Inter-American Development Bank ("IDB") signed a cooperation agreement at the OAS headquarters on March 26, 1999. The agreement establishes a cooperative project with twelve countries of the hemisphere. The purpose of the project is to identify, by conducting workshops, the specific reforms that must be introduced into the criminal law of each country to implement the Convention. The project's
ultimate goal is to generate a commitment from each country to promote and adopt these laws. The agreement also seeks to create a follow-up mechanism to monitor the implementation of the agreed-upon legislative measures.

Third, the General Assembly of the OAS adopted a resolution on June 7, 1999, entitled "Enhancement of Probity in the Hemisphere and Follow-up on the Inter-American Program for Cooperation in the Fight Against Corruption." In the resolution, the General Assembly urges the Member States that have not yet done so "to consider, as appropriate, signing, ratifying, or acceding to the Inter-American Convention Against Corruption." The General Assembly also instructs the Permanent Council of the OAS to:

1) resume the activities of the Working Group on Probity and Public Ethics of the Committee on Juridical and Political Affairs ("Probity and Ethics Working Group") so that it may follow up on the activities included in the Inter-American Program for Cooperation in the Fight Against Corruption ("Inter-American Anti-Corruption Program") as well as the recommendations that emerged from the Symposium on Enhancing Probity in the Hemisphere, held in Santiago, Chile in November 1998 ("Chile Symposium");

2) continue to promote the exchange of experiences and information among public institutions and international organizations, including consideration of the contributions of civil society institutions, in accordance with the Symposium's recommendations;

3) consider, in pursuing the follow up of the Inter-American Anti-Corruption Program, specific measures to encourage ratification and implementation of the Convention, strengthen cooperation, and provide technical assistance to Member States which request it, and exchange information and experience regarding implementation of the Convention taking into account the conclusions and recommendations of the Chile Symposium; and

4) implement the approved measures as a matter of priority taking into account the institutional support necessary for their application.

To assist the Permanent Council in these endeavors, the General Assembly urges the General Secretariat to provide the Permanent Council with the necessary support and continue to lend technical support for the exchange of information among public institutions and international organizations. The Permanent Council is scheduled to present at its thirtieth regular session a report on the implementation of the resolution.

The General Assembly’s decision to resume the activities of the Probity and Ethics Working Group will help reinvigorate the OAS efforts to achieve the OAS's anticorruption goals. The Probity and Ethics Working Group was the key instigator of the OAS anticorruption initiative which led to the adoption of the Convention. With this new mandate, the Working Group could adopt a key institutional role in achieving the next two goals of ratification and implementation.

Although the resolution does not define what other institutional support components will be instituted by the OAS to ensure the ratification and full implementation of the Convention's provisions, the call for the Permanent Council to explore the possibilities is a step in the right direction. Identifying what mechanisms the States Parties should adopt to achieve their goals of preventing, detecting, punishing, and eradicating official corruption and unethical behavior
in the region will require careful thinking, but will be a critical step in achieving success of the Convention.

Conclusion

The three promising developments described above show a determination on the part of regional institutions not to let the achievement of adopting the OAS Anticorruption Convention be diminished. Both panelists and audience participants during a recent workshop on the OAS Convention presented at the Inter-American Bar Association's XXXV Conference in Mexico City repeatedly reiterated that the key goal now is to turn the provisions of the Convention into a reality at the domestic level, where they will affect behavior and effectively address the problem of corruption. The provision of institutional support on the part of the OAS (and in conjunction with the IDB) will provide a beneficial source of information and technical advice in the area of criminology especially to those countries that are just starting their implementation process. To turn the full range of the Convention's provisions -- including the preventive measures -- into a reality at the domestic level, however, the development of more formal, broader, and sustained institutional support mechanisms are likely to be necessary.

Attachment A

Inter-American Convention Against Corruption
OAS Member Date Country Signed
Country the Convention Date of Ratification
Antigua & Barbuda
Bahamas June 2, 1998
Belize
Brazil Mar. 29, 1996
Canada June 7, 1999
Chile Mar. 29, 1996 Sept. 22, 1998
Colombia Mar. 29, 1996 Nov. 25, 1998
Costa Rica Mar. 29, 1996 May 9, 1997
Dominican Republic Mar. 29, 1996 June 2, 1999
Ecuador Mar. 29, 1996 May 26, 1997
Grenada
Guatemala June 4, 1996
Guyana Mar. 29, 1996
Haiti Mar. 29, 1996
Jamaica Mar. 29, 1996
Mexico Mar. 29, 1996 May 27, 1997
Nicaragua Mar. 29, 1996 Mar. 17, 1999
OAS Member Date Country Signed
Country the Convention Date of Ratification
Panama Mar. 29, 1996 July 20, 1998
Lucinda A. Low is a member of the law firm of Miller & Chevalier, based in Washington, D.C. Ms. Low has more than two decades of experience advising both United States and foreign clients on international business matters. Her experience has been unusually broad, spanning transactional, regulatory, and litigation/arbitration work. Currently, her practice emphasizes representing U.S. companies in complex, multi-party international trade and investment transactions and advising clients on a wide range of transnational regulatory issues, including issues arising under the Foreign Corrupt Practices Act (FCPA).

In the FCPA area, Ms. Low has assisted clients in a variety of industries to develop and update internal compliance programs to meet evolving regulatory standards. She has conducted training sessions for senior management, middle management and legal personnel in the United States and abroad. She has assisted with due diligence, helped structure transactions to mitigate risk, developed safeguards, and provided formal and informal advice in a number of unusually complex transactions. Her experience also includes conducting internal reviews and investigations, dealing with the Justice Department under its Opinion Procedure (and the predecessor Review Procedure), and dealing with government enforcement actions. As international standards develop, her counseling practice has expanded to encompass those standards as well.


Ms. Low was the first woman to be elected Chair of the Section of International Law and Practice of the American Bar Association. She served as Chair from 1996 to 1997. In May of 1998 she was elected to the Council of the Inter-American Bar Association. In April of 1999, Ms. Low was named to the USA Board of Directors of Transparency International. She currently serves as the ABA's representative to the Inter-American Juridical Committee of the Organization of American States. Before joining Miller & Chevalier, Ms. Low was a partner in the Denver-based firm of Sherman & Howard, where she headed the firm's international practice group. Ms. Low also practiced for several years with the Washington, D.C. firm of Covington & Burling, where she specialized in international matters, and worked as an international legal consultant.

Ms. Low received her Bachelor of Arts in Economics and Latin American Studies from Pomona College, and her Juris Doctor from the University of California, Los Angeles School of Law, where she was Editor-in-Chief of the Law Review. She was an Adjunct Professor at American University, Washington College of Law in 1993 and at the University of Colorado School of Law in 1987 and 1989. Ms. Low speaks Portuguese, French, and Spanish, and has some knowledge of Italian, Japanese, and Russian.