MOBILISING MECHANISM FOR THE NATIONAL ANTI-CORRUPTION STRATEGY OF THAILAND

Prof Vicha Mahakun, Commissioner, National Anti-Corruption Commission of Thailand
SECTIONS AND SUB-SECTIONS

GENERAL REMARKS
1. Legal Provisions Reform under the Constitution
   - NACC (The National Anti-Corruption Commission) powers and duties
   - PACC (The Provincial Anti-Corruption Commission) powers and duties
2. The Operational Efficiency Reform under UNCAC 2003
3. Inquisitorial Model
4. Thailand’s National Anti-Corruption Strategy
   - The Anti-Corruption Process Function Changes in the Perspectives, Culture and Values of Personnel
   - Missions
   - Four Mobilizing Mechanisms
     1) Coordination of Cooperation
     2) Developing the Management System
     3) Establishing Standards
     4) Monitoring and Evaluating Performance

SUB-SECTIONS
1. Legal Provisions Reform under the Constitution
   - NACC (The National Anti-Corruption Commission) powers and duties
     (a) To inquire & decide whether State officials have become:
        1. Unusually wealthy or
        2. Have committed an offense of corruption or
        3. Malfeasance in office or
        4. Malfeasance in judicial office
     (b) To verify the accuracy and actual existence of as well as changes in assets and liabilities of Persons holding political positions and State officials.
     (c) To monitor & administer the morality and ethics of persons holding political positions.
     (d) To take action with a view to preventing corruption and to foster attitudes and values of integrity and honesty as well as to facilitate the participation of the public or groups of persons in countering corruption.
     (e) To take action relating to foreign affairs and become a center for international cooperation for the benefit of anti-corruption, so as to be in conformity with the international legal obligations and agreements pertaining to anti – corruption.
   - PACC (The Provincial Anti-Corruption Commission) powers and duties
     PACC is obliged by duty to prevent and combat corruption offences by creating mechanism to facilitate the active involvement and public participation to encourage participation by people or in collaboration with stakeholders from all sectors.
     However, PROVINCIAL ACC can lighten the work load of the NACC, in the preliminary stage of conduction a fact – finding inquiry concerning allegation against a state official; gathering the evidence to inform to NACC for considering, inspecting the accuracy and the actual existence of or change of assets and liabilities of a person that has a duty to submit and account.
- Definition of State officials
  (a) A high – ranking executive
  (b) Government officials holding position of Directors or its equivalent upwards
  (c) State officials or Government officials holding lower positions than the person in (b) who have committed offences in conspiracy with the aforesaid holders of person in (b) or with person holding political positions
  (d) State officials or Government officials holding lower positions than the person in (b) who committed offences of description considered by NACC

(The Government officials lower position than Directors are under the inspection of PSACC : Public Sector Anti –Corruption Commission , Ministry of Justice )

- Definition of High –ranking executives
  1. Person holding political positions
  2. Persons holding high – ranking positions
  3. The commissioner of the independent agencies under the constitution
  4. Vice Minister
  5. Persons holding positions of Directors
  6. Person or group of person who has a power to supervise the aforesaid agencies
  7. Other state officials or government officials

2. The Operational Efficiency Reform under UNCAC 2003
   1) A declarer shall submit the account showing particulars of their assets and liabilities , and those of their spouse and children including assets and liabilities in foreign countries & those that are not in possession of the declarers.
   2) NACC shall examine a financial transaction or an acquisition of assets and liabilities, and can make a request that such assets shall devolve upon the state on the following ground of ;
      (a) A person has illegitimate a acquisition of assets or liabilities, or
      (b) Any transaction may contain the transfer, disposal, removable , concealment or hiding of any properties , or
      (c) The assets have an unusual increase
   3) NACC shall have the power to assess to information on financial transaction as (Anti-Money Laundering Office (AMLO) the Transaction Committee of AMLO
   4) NACC can undertake a temporary seizure or attachment of property, and if the state office has an unusual wealthy , NACC shall report to Attorney General to institute an action in the Court of Justice
   5) The trial procedures in a case where corruption offences committed by a state official , the Court of justice of First Instance as the Supreme Court’s Criminal Division for Holders of Political Positions , shall have to decide cases on the basis of the inquisitorial system & shall be based on the report documents & inquiry files of the NACC. It is necessary, the court may - conduct additional inquiry to gather facts and supporting evidence for the case.
   6) Criminal proceedings against state officials, if on alleged culprit has fled during a trial , the periods of prescription shall not run during the time of his escape.

3. Inquisitorial Model
   The judge deals the case to ensure that the truth is arrived at and judges at all stages may order further investigation (e.g. by the way of an expert’s report) . The judge is not the passive umpire faced with the battle between the advocates of prosecution and defence as in an accusatorial system. The judges do interview the accused and witnesses and order investigatory measures to be undertaken, but there is an input from both prosecution and defense.

4. Thailand’s National Anti-Corruption Strategy
   1) Emphasize greater awareness of integrity and morality
   2) Greater transparency and accountabilities
   3) Anti-Corruption personnel and agencies must be able to provide clear answers to society
- The Anti-Corruption Process Function Changes in the Perspectives, Culture and Values of Personnel
  > Democratic principles: encourage private sectors and civil society
  > Mutual learning and greater development of the potential of the private sector and civil society
  > The concept of improvement by coordinating the cooperation networks: agencies and social sectors
  > Reduce staffing requirements, time and management responsibilities
  > More efficient services to the public
  > Decentralization of work and referrals to other units
  > Establishing standards
  > Evaluating and monitoring performance

- Vision: A Society Founded on discipline, integrity and ethics with all sectors participating in the prevention and suppression of corruption

- Missions:
  1. Promote and inoculate awareness of a society on discipline, integrity and ethics
  2. Integrated networks for the prevention and suppression of corruption
  3. Ensure participation, transparency, equality and fairness
  4. Develop systems and mechanisms

- Four Mobilizing Mechanisms
  1. Coordination of Cooperation
     a. Cooperation among all social sectors: the public sector, private sector and civil society
     b. Act and encourage all sectors to participate in corruption prevention and suppression
     c. Organize and develop networks
     d. Monitor, evaluate and resolve problems
  2. Developing the Management System
     a. Decentralization of authority
     b. Improvement of legislation, rules, regulation and orders
     c. Development of management mechanism
        - Plans and project on ice-breaking and building up the representatives of the community networks
  3. Establishing Standards
     a. Establishment of work system standards
     b. Establishment codes of conduct
     c. Support for educational institutions, both inside and outside the formal system, community level and all academic institutions in the general public and youth
  4. Monitoring and Evaluating Performance
     a. Pre, mid and post implementation evaluation
     b. Monitoring and evaluation and the level of measures and guidelines
     c. Monitoring and evaluation at the level of strategies
     d. Overall monitoring and evaluation of NACC strategy
ACKNOWLEDGEMENTS

Office of the National Anti-Corruption Commission (NACC), Thailand

REFERENCES

