

Submission to Call for Written Comments
‘Draft Interim Report for the EU-Andean Trade SIA’

- Transparency International recommends the inclusion of measures to ensure transparency and prevent corruption all along the procurement cycle -

Transparency International (TI) is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide (i.e. in almost every EU Member State and in many developing countries worldwide) and an international secretariat in Berlin, Germany, TI raises awareness of the damaging effects of corruption and works with partners in government, business and civil society to develop and implement effective measures to tackle it. There is strong evidence of the devastating impact of corruption on poverty reduction and sustainable and participatory development. Advancing development by fighting corruption is therefore one of TI’s main areas of expertise and experience.

Comments and suggestions

- Transparency International will concentrate its comments and suggestions on the issue of public procurement, one of the focal areas of Transparency International’s work because of the high and pervasive damage caused by corruption in procurement.
- Experts estimate that when corruption is systemic, it can add 20-25% to the costs and frequently result in inferior quality construction and unnecessary purchases. Corruption leads to a distortion of fair competition, frequently ends up in a waste of scarce resources, especially in developing countries, and thus contributes to the neglect of basic needs and to increased poverty. Corruption can lead to massive market inefficiencies and, in the extreme, to the destruction of development opportunities.
- Transparency International believes **negotiations on public procurement shall focus on ‘the transparency aspects and therefore not restrict the scope for countries to give preference to domestic supplies and suppliers’** (see Doha Ministerial Declaration, 2001)

- Experience clearly demonstrates that **open competition is the most effective method to obtain wide competition and thus offers which are competitive both in price and quality. Open competition should be the general principle and the grounds for exceptions should be limited and clear.** Good rules require that in all cases where open competition is suitable but still not applied the reason for selecting another method be recorded so that the decision can be reviewed. Every method of procurement (open competition, limited competition, single source negotiations) should be fully transparent – both with respect to the selection of the method in the individual case and the several steps of the individual procurement process itself.

- In this context, Transparency International believes that developing countries should be completely free to decide (together with their financiers) which procurement they open to international competition. **If they choose to go for international competition, developing countries' governments should be able to offer limited preferences to their infant industries, provided these incentives and preferences are fully transparent, strictly regulated, and openly announced so that all bidders know the full set of decision-making criteria.**

- **The publication of information on national legislation and procedures is truly basic. Every potential bidder must be able to easily get full information about the legal framework in which s/he will operate.** The transparency of the process requires that not only legal information or tender opportunity information is available. Information on the individual procurement process itself must also be accessible to all the bidders on equal terms. Also, with the exception of such elements that are confidential according to the law, information on the procurement process should be publicly available to facilitate accountability to the electorate and monitoring and follow up by civil society.

- **Measures to ensure transparency and prevent corruption should be included all along the procurement cycle from needs assessment to implementation and closing of the contract.** Some of the bigger corruption problems arise because of insufficient control and oversight over decisions made in the planning and implementation phases of a procurement process.

- **Tender procedures should state the evaluation criteria which will govern the evaluation process** so as to minimize the opportunities for arbitrary or manipulative evaluation decisions.

- Transparency International strongly recommends that the contracting authority publish not only the name of the winner, but also the outcome of the evaluation of the competitive bids and the reasons for selecting the winner. **As the evaluation phase is often the step most susceptible to manipulation in a non-transparent selection process, ensuring transparency of this step in the decision-making process is key.** Transparency International recommends in addition that a period of thirty days be observed between the announcement of the award winner and the contract execution, so as to enable competitors who feel aggrieved to challenge the decision before a fait accompli is established.

Transparency International looks forward to continue discussing these issues with you. If you need further information, please contact:

Jana Mittermaier

Head of Brussels Office
Transparency International
Place du Luxembourg 2-3
B-1050 Brussels, Belgium
Tel +32 (0)2 504 90 61
Email: jmittermaier@transparency.org

Alejandro Salas

Regional Director for the Americas
Transparency International Secretariat
Alt-Moabit 96
D-10559 Berlin, Germany
Tel +49 (0)30-3438 20-60
Email: asalas@transparency.org