



**TRANSPARENCY INTERNATIONAL
COMMENTS AND RECOMMENDATIONS
ON DRAFT WORLD BANK PAPER
“STRENGTHENING BANK GROUP ENGAGEMENT ON
GOVERNANCE AND CORRUPTION”**

Transparency International (TI), founded in 1993, is a global movement comprised of an International Secretariat and national chapters in more than 90 countries dedicated to fighting corruption. From its earliest days, TI has urged the World Bank and other donors to address corruption and its impact on efforts to alleviate poverty. Over the last decade, the World Bank has exercised political leadership and become a major source of research and lending in support of anticorruption and governance projects and programmes. It is widely recognised that this is a complex area with no quick fixes or short-term solutions. However, it is equally clear that this work must go forward, integrating and benefiting from the lessons learned.

Transparency International welcomes the effort under President Wolfowitz’s leadership to develop a more comprehensive, consistent and proactive approach to governance and anticorruption. TI is pleased to have the opportunity to supplement its August 4, 2006 submission with these comments on the World Bank’s August 17, 2006 draft strategy paper (the Paper). We hope that our comments will contribute to the development of a Bank Group strategy that fully integrates anticorruption, transparency, and accountability in the Bank’s operations and in the countries in which it operates.

The Paper recognises that in order to advance, the Bank must change the way it does business. This change has several notable aspects:

- **Bank Mandate.** TI believes that in order to realise the vision that President Wolfowitz outlined in his speeches to the National Press Club in Washington, DC and in Jakarta, the World Bank Group, including the IFC and MIGA, must broadly interpret its mandate, [elaborated in Box 1] to permit a bold, pro-active and sometimes non-traditional approach to fighting corruption. This will involve engaging with civil society and addressing corruption’s political aspects, especially the incentives and power structures, often informal that hinder the political will, government commitment and capacity to effect change. It must also demonstrate mutual accountability by practicing the highest standards of transparency, accountability and participation
- **Enhancing Operational Tools.** The Bank proposes several potentially far-reaching interventions and policy innovations, such as the development of diagnostic tools and results frameworks, for the fight against corruption. TI believes that the Bank should commit to external consultation on such tools and to a specific time frame for their development as well as for their implementation, monitoring and impact assessment.

- **Political Aspects of Corruption.** The Bank indicates that it recognises the political aspects of corruption and that traditional public sector management or technical interventions are not enough to tackle the challenges of deep-seated political or systemic corruption, including the link between money and politics, state capture and embedded networks of influence. The Bank needs to give more attention to detailed analyses of the social, institutional and political economy of borrower countries and the operations of their prime governmental institutions to better understand and address effectively the incentives that are the drivers of embedded corruption.
- **Broadening Bank Focus.** The Bank paper appropriately anticipates a shift in attention to the important role of the non-executive branches of government and external stakeholders in constraining the abuse of power by the executive and in creating public demand for governance reform. The Bank plans to significantly expand its support of democratic institutions outside the executive, including Parliament, the judiciary, supreme audit institutions, the media and civil society. TI notes that as experience in recent years has shown, good policy intentions to support increased involvement and active participation by non-executive stakeholders in fighting corruption can only be realised if the Bank incorporates these intentions in detailed operational guidelines and ensures their utilisation.
- **Supporting Demand for Governance Reform.** To accomplish the above-mentioned shift, the Bank must not adopt a narrow interpretation of its mandate. TI calls on the Bank to actively support coalitions of civil society, private sector and government as well as promote transparency and participation initiatives that enable local constituencies to effectively voice their demand for improved governance and ensure greater public oversight of those holding public office. Bank staff need to engage their governmental counterparts in working with their parliaments, civil society, the media, and the private sector in the formulation, implementation and monitoring of governance and anticorruption reforms. Without sustained broad public support, including the active involvement of non-executive stakeholders, anticorruption reforms are doomed to fail.
- **Country Assistance Strategies.** A more systematic, consistent and disciplined approach to including governance and corruption issues in *all* Country Assistance Strategies (CAS) is appreciated. The Paper rightly notes that governance and anti-corruption problems of every country are unique. However, TI believes that risk assessment and mitigation, strong budget, procurement and project transparency requirements, action plans on public financial management, intensified project monitoring, and more effective audits are appropriate for *all* countries. “High-risk” countries that may appear to be on an improving track can all too swiftly fall back and once again be perceived as having major corruption problems. Lessons learned from the Bank’s Institutional Integrity Department must be integrated into the CAS dialogue as well as in Bank operations.
- **Assessing Corruption Risks.** While the Paper recognises that governance challenges are far from uniform across countries and thus strategies must be differentiated, they must also be founded on comprehensive knowledge of local social, political and cultural conditions, innovation on the ground and extensive collaboration with local champions and constituencies. TI underscores that this collaboration must extend to the development of new diagnostic tools to the

assessment of corruption risks as well as to the implementation of risk mitigation tools.

- **Procurement Transparency.** TI urges the Bank to implement more vigorously its commitment to procurement transparency as it will facilitate oversight and reduce opportunities for corruption. TI also recommends that the Bank encourage more actively the adoption by borrowers of procurement tools such as TI's Integrity Pact, of requirements that bidders have effective anti-bribery programmes in place and monitoring by independent civil society experts.
- **Private Sector.** The Bank notes the important role of the domestic and multinational private sector in combating the supply-side of corruption. TI strongly encourages the Bank and its private sector affiliates, the IFC and MIGA, to take more forceful steps to secure adherence by their private sector partners to international best practices for corporate anti-bribery programmes. A significant step forward could be achieved by integrating bribery and corruption assessment procedures into the environmental and social impact assessments conducted by the IFC and an increasing number of commercial project financing banks (the Equator Principles). The Bank's political leadership can also help mobilise OECD members to enforce effectively the OECD anti-bribery convention, which will bring pressure on companies to adopt strong programmes and internal controls.
- **Resources and Incentives.** The Paper acknowledges that a strengthened approach to governance and anticorruption will require significant additional budget and staff as well as new skills and incentives for managers and staff at the Bank to make governance a priority. The Bank's internal culture must also change, so that managers and staff are rewarded and not penalised for attention to governance and anticorruption, even though this may affect lending pace and volume. Significant and different funding mechanisms and staff skills to assist with technical capacity and internal governance will also be needed, in particular to enable civil society to play its important role.
- **Donor Consistency.** Donors, including emerging country donors, should not undermine each other but should apply coordinated and consistent approaches to strategies, lending criteria, mutual recognition of sanctions and other important anticorruption policies and measures. There must be no competition among donors that permits circumvention or dilutes anticorruption controls.
- **Communications.** TI urges the World Bank Group to utilise its communication tools and global reach more extensively to strengthen public understanding regarding the damaging effects of corruption on sustainable development, economic growth, poverty reduction, environmental protection, the achievement of the Millennium Development Goals and critical issues of global security. It should widely and publicly disseminate the lessons learned from its own and others' work as well as publicise the Bank's commitment to address this issue vigorously.

The following are detailed comments specific to the various sections of the Bank Paper of August 17, 2006.

A STRATEGY FOR STRENGTHENED SUPPORT TO COUNTRIES

'Strengthening Support to Countries - Calibrating Governance to Corruption Risk'

- 1.1. New diagnostic tools for assessing corruption risks in borrowing countries should be developed according to a time-bound action plan and should reflect input from consultation and lessons learned. They should include clear and specific indicators and benchmarks, so that Bank staff judgement can be impartial and based on consistent and objectively justifiable criteria [paras. 14, 16 and Annex B].
- 1.2. Significant differences in countries, sectors, institutions and projects make it unlikely that countries can be categorised. Even industrialised countries are not exempt from corruption. Therefore, all borrowers, even those considered well performing, should be required to take certain steps, including a corruption risk assessment, risk mitigation measures, and be subject to audits and other control measures [para15].
- 1.3. CAS corruption risk assessments and governance strategies should also be applied to decisions regarding HIPC eligibility and performance monitoring.
- 1.4. Lessons learned from the Bank's Institutional Integrity department (INT) must be integrated into Bank operations.
- 1.5. International conventions, such as the UN Convention against Corruption, provide useful guideposts for CAS governance assessments and for country assistance programmes [para18].
- 1.6. There is a danger that devolution of power and resources to local governments, which may be beneficiary in many ways, could become the new frontier of corruption. It is therefore most important that the Bank assist governments in addressing this danger in terms of prevention and mitigation in their national anticorruption programmes [para. 24 and Box 2].
- 1.7. The Bank governance and corruption risk assessment and lending decisions should take into account whether laws and regulations are effectively supporting: (i) public access to information; (ii) an independent press; (iii) freedom of assembly and civil society organisation; (iv) political finance, including the disclosure of assets of politicians and high-level public officials; and (v) whistle-blower protection. [para. 16 and paras. 26-27]
- 1.8 All borrowers should have public accountability action plans, including:
 - (i) Completion of a country financial accountability and procurement assessment and a credible, time-bound action plan for reform of budget, accounting, audit, and procurement systems, which can be monitored and made public;

- (ii) Establishment of effective monitoring and public expenditure tracking systems, including cooperation with civil society;
 - (iii) Agreement that all funds provided to governments and public entities (including all extractive and defence-related revenues and expenditures as well as revenues from the sale of public assets) are reflected in published budgets and are subject to effective legislative, audit, and other oversight mechanisms;
 - (iv) Transparency of public income and expenditure management (including budget disbursement, which can be tracked right to the delivery point), and of all aid transactions and the related monitoring systems; and
 - (v) Enhanced support for government audit and inspection agencies, including the requirement that their recommendations be publicised, promptly implemented, and relevant sanctions enforced. [paras. 15 and 17]
- 1.9. Where risk assessments indicate that weak governance or corruption pose a challenge, *all such* borrowers should be required to implement a publicly disclosed action plan. This will help to improve public management and financial accountability, according to agreed minimum standards and with benchmarks to facilitate monitoring of progress by national legislatures, oversight agencies and civil society in addition to the Bank. Governance advisors should have technical expertise (including on red flags). However, they teams should consider more than *project* anticorruption plans in order to address core governance issues and the wider environment within which Bank-financed projects operate. [para. 15].
- 1.10. High-risk countries or sectors without a track record of effective public accountability or demonstrated political will for reform may merit a more restricted Bank lending engagement in view of the substantial risk of corrupt diversion of funds from the Bank, other donors and national tax revenues, which subverts sustainable development. In these circumstances, the Bank should partner with non-executive agencies and civil society organisations to ensure those in need still receive aid.
- 1.11. In ‘high-risk’ countries, the Bank will need to find alternative entry points for reform. The Paper recognises that “narrow donor interventions” or traditional public sector reform operations will not address highly embedded and systemic corruption and thus recommends a more comprehensive diagnostic and strategy. In such cases, the Bank’s diagnostics should build on the knowledge of local experts, its regional and country teams and INT and VDP experience of the political, social, and institutional aspects that facilitate an understanding of the embedded, often informal, structures, networks, norms, incentives and practices that drive the behaviour of corrupt officials and elites and allow them to subvert formal laws, institutions, policies and regulations [paras.17 and 23].
- 1.12. Resource-rich countries with weak systems of governance provide a special challenge, as the Bank may have limited and decreasing leverage. Transparency in budget and expenditures should be a priority and the Bank should consider how to apply the transparency principles found in the Extractive Industry Transparency Initiative (EITI) to other sectors, particularly where there is frequent interaction between the private sector and the government [para. 18].
- 1.13. Development policy lending is particularly susceptible to corruption given fungibility, and weak controls and transparency customarily associated with this

form of assistance. It should only be considered in those countries with genuinely robust systems of public financial accountability and predicated on strict adherence to agreed reforms with sanctions for non-compliance [para. 19].

Engaging Non-Executive Branches of Government

- 1.14 TI supports strongly a more systematic approach to help legislatures, supreme audit institutions and other formal oversight institutions to develop the capacity to exercise effective oversight of the executive. Efforts to reform executive branch processes are likely to be more effective when accompanied by support for local oversight mechanisms, especially through the legislature. TI recommends that Bank programmes encourage more active legislative oversight of key governance processes, e.g., budgets, accounts, procurement and the sale of public assets [para.25].
- 1.15. TI believes that reform of judicial systems must be placed at the centre of any well-designed governance reform and must address issues of political intervention, and lack of capacity. TI therefore supports the proposed scaling up of Bank support for judicial reform. An honest, competent, effective and, above all independent, judicial system with a willingness and capacity to sanction illegal activity is essential. But, reform will be meaningless unless there is enforcement of the law in a transparent, fair and equitable manner. The test of the Bank's approaches in this area will ultimately be whether the public at large respects the legal system and its component parts and believes that corrupt officials are indeed being brought to justice. [para. 25]
- 1.16. Corruption that is not addressed by criminal prosecution breeds public cynicism and emboldens corrupt public officials. The pervasive failure to address criminal corruption stems from a number of inadequacies in criminal justice systems – including procedural impediments that frustrate successful investigation, prosecution and inadequate or multiple conflicting penal laws that, for example, limit corruption to quid pro quo bribery and fail to reach such matters as placing a politician “on the payroll” in expectation of unspecified future favours. INT referrals have sometimes foundered on lack of capacity of prosecutors and weaknesses in judicial systems and the failure to carry out court decisions. Lack of judicial capacity also impedes the enforcement of laws enacted pursuant to international anticorruption conventions.
- 1.17. Within the range of civil society actors, the media is pivotal to mobilising demand for accountability, as recognised by the Bank paper. Ensuring an independent and responsible media facilitates greater public understanding of government policy, provides a critical check on official misconduct, and fosters public demand for accountability. TI hopes that the new governance-focused CAS will intensify attention to creating a supportive legal and regulatory environment for media independence as well as to scaling up capacity-building for investigative reporting [para.27]
- 1.18. The Paper recognises the importance of governmental transparency, including of fiscal and procurement information and asset declarations, but it does not indicate that it will *require* borrowers to provide such transparency. The Paper notes the importance of public participation and the vital function of the media

and civil society, but does not specify steps or mechanisms to guarantee them. Indeed, while it promises to scale up work in these areas, it anticipates doing so only “in a manner consistent with its own legal framework, in consultation with governments...” [para. 27]

- 1.19. New or substantially expanded non-lending mechanisms or grant windows (such as the Development Grant Facility) need to be specified in the Paper, including the sources of funding (IDA funds, trust funds or other sources). The creation of a sizable global multi-donor grant facility, expanding to scale an untied civil society grant programme, such as TI launched on a small scale with the Partnership for Transparency Fund, should be considered to meet the anticipated need for expansion. Whilst the Bank should, of course, collaborate with other partners in these efforts, it should not rely solely on partner organisations to support the above-mentioned activities. [paras. 24-27and 29]
- 1.20. When giving financial support to civil society organizations and other non-governmental bodies, particularly in cases when lending to government is curtailed, TI endorses the Bank’s proposal to assist such organisations to improve managerial capacity. Attention should also be paid to assessing and improving their internal governance, transparency and accountability [para.27]

Engaging The Private Sector

- 1.21. The Bank strategy should strengthen the steps needed to ensure the private sector does not engage in or facilitate bribery and corruption. Simply “promoting the idea that avoiding corruption is good for business”, following existing due diligence procedures (particularly those of IFC), and encouraging corporations to join sectoral private-public coalitions for reform (useful as the latter may be), is inadequate [para.28].
- 1.22. The Bank Group, and the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA) in particular, have a unique responsibility to ensure private sector use of anti-bribery programmes and internal controls. TI has, for many years, recommended that the Bank Group institutions require adoption of anti-bribery programmes and urges prompt action. Strong corporate anti-bribery programmes would certainly assist the Bank’s efforts to reduce corruption and bribery, since they customarily cover corporate employees, subsidiaries, joint venture partners and intermediaries.
- 1.23. Those companies from around the world with a strong commitment to integrity have adopted vigorous policies that prohibit bribery and other forms of corruption and have effective implementation programmes¹. They operate at a

¹ TI, in cooperation with a multi-stakeholder steering committee, developed the Business Principles for Countering Bribery (Business Principles) to serve as a model or benchmark for corporate codes and implementation programmes. TI has worked with companies around the world to adopt these principles and facilitated the creation of the Partnering against Corruption Initiative, a World Economic Forum group of companies committed to implementing anti-bribery principles based on TI’s Business Principles. The UN Global Compact has adopted a 10th principle on anticorruption and recommends that its more than 3000 participants adopt anti-bribery programmes, citing TI’s Business Principles as a model. The International Chamber of Commerce has also developed an anti-bribery code of conduct that can serve as a model.

disadvantage unless all companies operate by the same rules. To address this adequately, the Bank needs to ensure that all companies involved in business with the Bank Group have anti-bribery policies and related implementation programmes. Such requirements should be instituted immediately for companies and consultants who are: (a) contracted directly by the Bank; (b) partners in IFC projects; (c) supported by MIGA guarantees; and (d) project partners/owners in Bank-financed public/private partnerships. In cases when the Bank lends to utilities and other para-statal entities, TI recommends they also be required to have anti-bribery policies and programmes.

- 1.24. The Bank should also ensure that its borrowers require such policies and programmes, and that these be in place within companies and professionals who are contracted by governments or other implementing bodies under Bank financing, particularly for contracts under ICB. In addition, the Bank should expect companies to extend their anti-bribery policies and programmes to their subsidiaries.
- 1.25. TI welcomes the initiative of MIGA to improve its due diligence processes. The IFC risk analysis and investment assessments should explicitly factor in bribery and corruption. Due diligence procedures for investment selection must be enhanced and should be consistent with best practices in the commercial financial sector. A significant step forward could be achieved by integrating bribery and corruption assessment procedures into the environmental and social impact assessments conducted by the IFC and an increasing number of commercial project financing banks (the Equator Principles). [paras. 28, 37 and 40; and Annex C, Section C]
- 1.26. The Bank's acknowledgement that money illicitly obtained from corrupt activities in developing countries often finds its way into banks, property and investments in the industrialised countries underscores that corruption is not restricted to the developing world. This heightens the need for the Bank to enhance its due diligence, risk mitigation, project supervision and other safeguards and to find innovative approaches to address this issue. TI recommends that the Bank use its considerable influence with the financial sector –public and private - to make it easier to track money and provide for repatriation. [para. 11]

ADDRESSING CORRUPTION IN BANK GROUP OPERATIONS

- 2.1. The Bank acknowledges that it must do more to ensure the proper use of Bank funds. However, there is no mention in the Paper of mutual accountability and the Bank's responsibility to demonstrate the highest standards of transparency and accountability in its own work [para. 30].
- 2.2. The Paper presents the disadvantages of reducing fiduciary risks through 'ring-fenced' projects but it does not acknowledge the deep reservations about proceeding to country systems given concerns about governance. The Bank should undertake extensive multi-stakeholder consultations to fully understand the advantages and risks before proceeding on this course. [para. 31]

- 2.3. INT cases demonstrate an urgent need for stronger action to ensure the accountability of project implementing agencies. Greater oversight, attention to 'red flags' and transparency requirements are necessary [para.32].
- 2.4 The enhanced use of upstream risk mitigation and intensified project review processes are welcome. However, they do not substitute for greater procurement transparency and integrity. Fundamental controls and recognised high standards should not be relaxed. Powerful risk mitigation tools such as Integrity Pacts², e-procurement and requirements that bidders have anti-bribery programmes (as recommended above), should be featured. In addition, more aggressive and regular follow-up on the Country Procurement Assessment Reports is necessary to promote, nurture and monitor timely progress on the proposed reforms. Sanctions, such as debarment, should also be continued and publicised against corrupt contractors, following independent investigations conducted according to high standards and provisions for possible appeals [para.36].

GLOBAL PARTNERSHIPS ON GOVERNANCE AND ANTICORRUPTION

- 3.1. Donor coordination has improved in many regards but further progress is essential to promote a more consistent approach to policies and standards on governance and anticorruption. All donors, including those in emerging markets, must avoid a competition that subverts good governance. The Bank should also increase its outreach to private international banks and export credit agencies to promote greater consistency in view of their increasing role in development finance [paras. 39-40].
- 3.2 Bank support for implementation of international conventions is urgently needed. The UNCAC has great potential but will present capacity challenges for many Bank borrowers. The Bank and its regional counterparts are uniquely situated to assist them. The Bank's political support for enforcement of the OECD Convention on Bribery of Foreign Public Officials is a necessary reminder that the developed countries have, for the most part, failed to take action [para. 42].

NEXT STEPS

Resources and Incentives

- 4.1. The Bank paper notes that there will be tradeoffs between minimizing corruption and maintaining the pace of Bank lending and the pursuit of the MDGs. While the pace of lending may indeed slow, the Bank must make clear that the increased effectiveness of development aid from improvements in governance is essential to securing the securing MDGs. The Bank leadership must be unequivocal in communications to all stakeholders, including its borrowers and its staff about its expanded commitment to governance and anticorruption.

² For more information on the components, processes and experience of Integrity Pacts, a TI tool developed to reduce corruption in public contracting, see www.transparency.org/tools/contracting.

- 4.2 This commitment must, in particular, be reflected in Bank incentives for management and staff. The Bank needs to recognize that its internal culture must change from a lending-driven culture to one willing to suspend or slow lending when anti-corruption and governance developments merit it.
- 4.3. A strengthened approach to governance and anti-corruption will require significant additional budget. It will assuredly demand the hiring of new staff with skills and experience in governance, political and societal issues.
- 4.4. It will also require that staff be assured that they will be rewarded, and not penalised, for attention to governance. This means gaining professional recognition and promotion for achievements such as promoting governance, corruption mitigation and detection, the effectiveness of their engagement with non-executive stakeholders and the resulting quality of project implementation. A strengthening of the Bank's whistleblower protection regime needs to complement these incentives. [paras. 43-44 and 46]

Consultations and Communication

- 4.5. At TI's July 20, 2006 Roundtable on the Bank's Strategy Development, which provided the first public opportunity for civil society input to the Bank drafting process, TI urged the Bank to engage in a broad consultation process that reaches out to civil society in countries around the world. Civil society consultation is essential to assure that the Bank's policy is relevant, and enjoys public support. A deeper dialogue with civil society is also needed to ensure sustainable implementation. The present consultation process has been unduly limited by the very short timeframe and the delay in publishing draft documents and holding consultations. The Bank should make more explicit its plans for follow-up consultations, to ensure that the strategy is translated into specific practices on the ground, priorities are set, resources are increased and timetables as well as mechanisms are established to promote timely implementation. [para. 45]
- 4.6. In addition to local civil society consultations, TI strongly recommends the establishment of an independent *Advisory Committee on Governance and Anticorruption* comprised of outside experts to advise the Bank President and the Managing Director responsible for coordination, integration, and oversight of implementation and to help ensure continued progress from principles to results.
- 4.7. Given that reforms will take place over a considerable period of time, mechanisms need to be established to continue consultations in borrower countries after the Development Committee approval of the Bank strategy. Such mechanisms should help ensure that the Bank receives continuous feedback on progress from diverse stakeholders, particularly in countries in which it operates. In the light of the dynamic nature of corruption, it is likely that the controls developed to address vulnerabilities will generate circumvention. The Bank's strategy should therefore be considered a "work in progress." The Bank should be proactive, instituting independent feedback mechanisms to engage with civil society to detect new forms of corruption and design methods and incentives to overcome them.

4.8. The World Bank Group should use its influence on the global development assistance community and public opinion to enhance public understanding of the critical importance of fighting corruption and its adverse impact on sustainable development and economic growth, poverty reduction, environmental protection, the achievement of the Millennium Development Goals, and critical issues of global security. It should widely and publicly disseminate the lessons learned from its own and others' work as well as publicise the Bank's commitment to address this issue vigorously. The Bank should upgrade its global communications work in tandem with strengthening its policies. [para.46].

CONCLUSION

TI commends the Bank for this Paper and appreciates its recognition of TI's contribution to the fight against corruption. TI will continue working with the Bank and other governmental and non-governmental institutions to ensure full implementation of an effective anticorruption strategy.

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