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**COMMENTS AND RECOMMENDATIONS ON THE WORLD BANK  
INITIATIVE ON GOVERNANCE AND ANTICORRUPTION**

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## NOTE ON WORLD BANK CONSULTATION PROCESS

Transparency International (TI) writes in response to the World Bank's invitation to comment on its development of a strategy for governance and anticorruption. This submission provides initial comments and recommendations drawn from experience of TI national chapters and volunteer experts engaged with TI around the world in the fight against corruption.

***Current Consultation Phase:*** TI looks forward to the publication of the draft Development Committee paper being considered by the Board and to a timely opportunity to comment on it. For the strategy to be relevant, effective, and sustainable, TI has urged the Bank to engage in a broad consultation process that reaches out to civil society in countries around the world. TI's convening of a multi-stakeholder roundtable on July 20, 2006 was an effort to stimulate such a process. However, in light of the short timeframe for preparation of a document for submission to the Development Committee, a fully satisfactory consultation process is not feasible, particularly given the Bank's limited consultation before the paper is made public. However, TI welcomes recent indications that there will be an opportunity to comment on the draft paper before it is finalized.

***Consultation on Implementation Plans:*** Civil society consultation is essential to set acceptable and sustainable parameters for the Bank's policy guidance document as well as for its implementation, where a deeper dialogue with civil society is needed. The Bank should make explicit its plans for such consultations, to ensure that the strategy is translated into specific practices on the ground, that priorities are set, and that resources are increased and timetables and mechanisms are established to promote timely implementation.

***Ongoing Consultations:*** Given that reform will take place over a considerable period of time, mechanisms need to be established to continue consultations in borrower countries. Such mechanisms should help ensure that the Bank receives continuous feedback on progress from diverse stakeholders, particularly in countries in which it operates. In light of the dynamic nature of corruption and the likelihood that controls developed to address vulnerabilities will generate circumvention, the Bank's strategy should 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.

In addition to local civil society consultations, TI also recommends the establishment of an Advisory Committee on Governance and Anticorruption comprised of outside experts to advise the Managing Director responsible for coordination, integration, and oversight of implementation.

## COMMENTS AND RECOMMENDATIONS

### INTRODUCTION

No issue is more threatening to the Bank's mission to alleviate poverty and its fiduciary duty to ensure that funds are used for the purpose intended than corruption. It is the foremost impediment to successful economic development, undermining the Bank's efforts to secure the effective use of its resources as well as those of the countries it is seeking to assist.<sup>1</sup> It impedes the Bank's capacity to leverage its limited resources to secure greater private sources of investment. It undermines the public's trust in its government and its respect for the Bank. It leads to environmental degradation, fuels human rights violations, and undermines national and international security.

As a leader in international development, the Bank has the capacity and the responsibility to set an example by its own conduct and to use its unique position to promote good governance and anticorruption reform within other financial institutions and in countries around the world.

Since its establishment in 1993, TI has campaigned for vigorous efforts by aid agencies to assign the highest priority to good governance and the fight against corruption. It played a vital role in convincing the leadership of the Bank Group to bring this issue to the fore in 1996. Since then, it has continued to promote greater attention to integration of this issue in the Bank Group's policies, operations, and research.

TI welcomes the effort under President Wolfowitz's leadership to intensify and strengthen a comprehensive approach to governance and anticorruption. It welcomes the Bank's initiative to develop a strategy that fully integrates anticorruption, transparency, and accountability into the Bank's own operations and in the countries in which it operates.

In particular, TI looks forward to a strategy that recognizes the political aspect of corruption and provides for a shift in the Bank's attention to incorporate enhanced dialogue and involvement with non-executive branch and external stakeholders. TI's concept of an 'integrity system,' first laid out in the 1996 TI Sourcebook, has always been predicated on the belief that corruption is the abuse of political power and must be constrained by governmental checks on the executive and by vigorous oversight of government by the broadest range of external stakeholders.

The Bank's strategy must, therefore, focus attention on strengthening democratic institutions of accountability that encourage constraints on corruption. It must develop interventions that take account of the local social, political, and cultural conditions that enable

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<sup>1</sup> In the last decade, the Bank has begun to acknowledge that funds it provides are being diverted by corruption and has put in place mechanisms to stem such losses. For the most part, however, these mechanisms understandably are designed to address only the problem of losses of funds supplied by the Bank, and are not designed to stem the far greater losses to a nation that are caused by corruption relating to projects funded by the nation itself or by other international sources. If the Bank concentrates its preventive efforts on its own limited contributions, progress toward its ultimate goal of eliminating poverty will be limited; no nation will ever have an effective agricultural program, educational system, industrial base, or any other requisite to the elimination of poverty if the vast bulk of its funds remains vulnerable to corruption.

corruption and tackle resistance of corrupt elites to reform. Its efforts should help create incentives and empower forces for change both internally and in the countries where it operates, focusing on the supply as well as the demand side of corruption.

Civil society, broadly construed to include the private sector and a free media, must be the central driver of change, and transparency and opportunities for participation are critical to its success. At the same time, these actors must practice the accountability and transparency they demand of others.

While Bank engagement is critical, the Bank must define its value added within the broader context of many donors and other actors already engaged and with much to contribute. World Bank Institute (WBI) research and lessons learned from cases in the Department of Institutional Integrity (INT) have added significantly to the internal and public knowledge base, but there is still much to learn from these and other sources about what works – and does not work.

The proposed strategy will be an important first step so long as it sets priorities, realigns incentives, and allocates adequate resources to match its prescriptions and calls for benchmarks and timeframes by which to measure progress. While the leadership of senior management sets the important ‘tone at the top,’ the Bank must surmount internal and structural constraints if it is to produce a credible, vigorous strategy that confronts the real obstacles to reform.

Bank leadership is pivotal, but it cannot succeed without coordination and consistency among the multilateral development banks (MDBs) and with the commercial financial sector to assure that all are raising the bar consistently and resources are maximized. Attention also needs to be directed toward emerging sources of development funding to ensure they do not subvert accountability reform. None should participate in competition that permits circumvention or dilutes anticorruption controls.

Although the strategy will need to address a myriad of issues, TI’s comments and recommendations at this time focus on three priority areas for Bank attention: (I) engaging and empowering civil society and the private sector, (II) promoting country integrity systems and (III) reforming Bank policies and operations.

## **I. ENGAGING AND EMPOWERING CIVIL SOCIETY AND THE PRIVATE SECTOR.**

Experience makes clear that sustainable governance and anticorruption reform will only come from local demand. Therefore, the Bank must give higher priority and commit resources to nurturing and empowering all elements of civil society, which are the drivers of change in each country.

***Broadly defining “civil society:”*** Civil society should be broadly construed to include service delivery and advocacy non-governmental organizations, the independent media, associations and professionals (*e.g.*, lawyers, accountants, bankers, and engineers), trade unions, corporations, chambers of commerce and industry, independent think tanks, policy and research institutes, academia, religious groups, and others.

***Civil society acting as check on governance:*** Together, these civil society forces can act as a check on official misconduct and help to ensure local “ownership,” impetus for reform, and sustainability. They are also a source of enhanced knowledge about corruption risk. Civil society has important and distinct roles to play including: (i) demanding better governance by campaigning for specific administrative and legislative reforms to strengthen accountability and transparency and rule of law; and (ii) holding public agencies accountable and keeping them honest by monitoring their performance related to public revenue and expenditure management, procurement, sale of public assets, privatization, land titling and land allocation, and the exercise of the whole range of discretionary regulatory powers.

For example, TI local chapters have played an important role in Integrity Pacts, where all aspects of public procurement are independently monitored and transparency is required to promote clean procurement. They have issued report cards on government performance on budgets and procurement and on government implementation and enforcement of laws enacted pursuant to anticorruption conventions. TI National Integrity System Studies are being used to conduct country assessments of governance. Their assessments have been factored into country reviews by government experts of compliance with the Organisation for Economic Co-operation and Development (OECD) and Inter-American Conventions, a process that TI will continue in monitoring enforcement of the UN Convention against Corruption. In coalition with other civil society organizations, TI chapters have participated in domestic and transnational advocacy campaigns, including on sector-specific initiatives on extractive industries, forestry, and water.

Civil society can also play an important role in reducing corruption in Bank projects. For example, civil society actors can participate at the project appraisal mission stage and monitor the progress of projects, with particular emphasis on upstream risk mitigation and oversight of resources and procurement.

***Using Bank leverage to ensure information and participation:*** To perform these functions and other meaningful oversight roles, civil society depends on publication of information and opportunities for participation. The Bank can make an important contribution to empowering civil society by ensuring that borrowers practice transparency and provide access to information, permit the capacity to organize, support opportunities to participate fully in public life, and provide freedom of expression and whistleblower protection.

Transparency requires timely and accessible publication of information about government decisions, budgeting, procurement, and official assets. The Bank should help ensure that borrowers continuously engage with civil society and provide opportunities for participation, comment, and oversight, not merely with regard to Bank projects, but also more generally.

The Bank should also ensure transparency and opportunities for public participation in its own programs and systems, from the earliest stages of risk assessment and country assistance strategy (CAS) development through project design, implementation, and evaluation. It should more actively support such civil society functions, assisting with funding and skills development. The CAS should support these civil society functions and provide the requisite resources.

Making this major shift in its cooperation with civil society organizations will require the Bank to change aspects of its operational culture and staffing, but the rewards will be great. This action will help accomplish two key objectives:

- (i) Providing a reliable partner when corrupt regimes fail to guarantee that development assistance will benefit the poor; and
- (ii) Ensuring sustainability of the Bank's good governance/anticorruption projects and programs, which depend on public support.

***Civil society accountability:*** With civil society organizations playing a more active role, the transparency and sound governance of their own operations and the accountability of their boards of directors and management must be assured. The Bank, other donors, and the private sector should assist civil society organizations in building this capacity.

***Protecting an independent media:*** Within the range of civil society actors, the media is pivotal to mobilizing demand for accountability. Ensuring an independent media provides a critical check on official misconduct and fosters public demand for accountability.

Bank policies should recognize and reward borrowers who practice freedom of the press and of expression and publish and provide access to information. Conversely, the Bank should recognize and condemn efforts to intimidate the media, abuse libel laws, and co-opt media independence through state or elite ownership, as they will inevitably compromise anticorruption efforts.

The new governance-focused CAS should intensify attention on creating a conducive legal and regulatory environment and scaling up capacity building for investigative reporting. Bank grants should support the nurturing of responsible investigative journalism and an independent media.

***Private sector as a force for reform:*** It is well accepted that the private sector can be a force for good, driving development through economic growth and job creation. Competitive private sector forces can add impetus to the demand for transparency and the elimination of regulations that create rent-seeking opportunities (though, equally, entrenched firms that benefit from such opportunities may very well resist reform). Private sector actors can also be important allies in the identification of corruption risks and red flags, enabling the Bank to construct more effective anticorruption controls. The Bank can learn from and expand the use of leading private sector best practices *e.g.*, means of screening consultants and contractors, training for legal compliance, and due diligence and the development of related databases.

From the private sector perspective, the Bank can help reduce opportunities for corruption by providing greater transparency in the procurement process, adding rigor to technical specifications to reduce opportunities for corruption, and providing a central contact point for those subject to extortion or who want to report allegations of corruption.

***Promoting private sector integrity:*** While the private sector has much that is positive to contribute, for too long it has also contributed to the supply of corruption, undermining reform.

With the entry into force of the OECD, OAS, Council of Europe and UN Conventions,<sup>2</sup> many of those who pay bribes, including both domestic and transnational companies, are now committing a criminal act in their home countries and are subject to prosecution there. It is the responsibility of the Bank Group to support enforcement of such transnational anti-bribery laws and to ensure that all companies with which it *or its borrowers* engage demonstrate respect for sound business practices and the law by implementing anti-bribery programs.

Companies from around the world with a strong commitment to integrity have adopted vigorous policies that prohibit bribery and require effective implementation programs. They operate at a disadvantage unless all companies operate by the same rules. Requiring all companies with whom the Bank Group does business to have anti-bribery policies and the related programs would help level the playing field. The existence of strong anti-bribery programs would assist the Bank's efforts to reduce corruption and bribery, since they will contain rules covering corporate employees, joint venture partners, and intermediaries.

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 programs. 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.<sup>3</sup> The UN Global Compact has adopted a 10<sup>th</sup> principle on anticorruption and recommends that its more than 3000 participants adopt anti-bribery programs, citing TI's Business Principles as a model.

The Bank Group, and the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency in particular, should work more vigorously to instill integrity in the private sector. TI has, for many years, recommended that the Bank Group institutions require adoption of anti-bribery programs and urges prompt action. An anti-bribery requirement will act to mitigate risk to the Bank *and to the borrower*. Programs can be appropriate to the size of the entity, with smaller companies adopting less extensive programs. The Bank Group has a unique opportunity to encourage the use of anti-bribery programs by the private sector. TI will continue to work with the Bank to develop a more comprehensive approach to achieve this objective.

A growing demand is emanating from the private sector for both a self-assessment tool and an independent assurance process to help ensure that companies actually implement and enforce their programs in practice. TI has developed and is now piloting both tools in cooperation with the private sector. Where warranted, an independent report on the effectiveness of the anti-bribery program in place could be undertaken. Such circumstances could include the Voluntary Disclosure Program or in consideration of the extent of sanctions to be applied or when they can be lifted. This process could help raise corporate integrity standards worldwide.

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<sup>2</sup> OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; Inter-American Convention against Corruption; Criminal Law Convention on Corruption (Council of Europe); Civil Law Convention on Corruption (Council of Europe); United Nations Convention against Corruption.

<sup>3</sup> The International Chamber of Commerce has also developed an anti-bribery code of conduct that can serve as a model.

***Expanding integrity requirements to professionals and consultants:*** Embedded corrupt networks are a serious challenge and it is important to recognize that they are often comprised not only of public officials but also of companies and professionals who collude and facilitate corruption within and across borders. Bankers, engineers, accountants, auditors, lawyers, and other professionals should adhere to professional codes of conduct that promote integrity. Several professional associations have made great strides in adopting enforceable anti-bribery codes of conduct. The Bank Group should do everything it can to encourage and require professionals who work with it or its borrowers to adhere to high standards and should work with business and professional organizations to raise and apply enforceable standards.

***Increasing role for IFC and private sector banks:*** The IFC in particular must play a more proactive role in requiring companies to adhere to anti-bribery codes of conduct as part of its investment decisions.<sup>4</sup> Its risk analysis and investment assessments must 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). So far, forty-one major banks, estimated to arrange 80 percent of global project lending (representing close to \$100 billion of lending per year), have pledged to follow the environmental and social standards embodied in the Equator Principles in all their development projects with a capital cost of \$50 million or more.

Many leading international private banks have begun to understand that they must take steps to ensure their actions do not contribute to corruption. Some have pledged to heighten due diligence related to the detection of money laundering, some of which results from bribery and other forms of corruption.<sup>5</sup> Further work on banks' responsibility to support the fight against bribery and corruption still needs to be completed.

The Financial Action Task Force and the widely adopted *No Safe Haven* policy, under which governments agree not to provide safe haven for corrupt officials or for stolen assets, add impetus to reform in the commercial financial sector. Asset recovery provisions in the UN Convention against Corruption should act as a further deterrent, heightening bank scrutiny of clients. The Bank Group needs to take cognizance of these initiatives and help promote consistent practices.

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<sup>4</sup> The IFC could also play a much more effective role in strengthening stock exchanges in developing countries and in the development and enforcement of governance guidelines and regulations with the aim of enhancing transparency and accountability. It should also use its influence to support the EITI and similar accountability initiatives.

<sup>5</sup> The Wolfsberg Group comprises 12 global banks that, working with TI, agreed to common financial services industry standards, and related products, for Know Your Customer, Anti-Money Laundering and Counter Terrorist Financing policies.

## **II. BUILDING COUNTRY INTEGRITY SYSTEMS.**

### **A. Enhancing Governance Through The CAS.**

A sound CAS with a core focus on governance and anticorruption should include an in-depth analysis in each country of the underlying social and political factors that are key to understanding how the incentive system works in reality. The informal systems that so often count for more than the formal governance systems should not be ignored, as they often determine what actually happens.

Donor coordination with government on a shared diagnostic tool leading to an agreed suitable CAS would provide an environment more conducive to reform. Consultation in developing the CAS should involve civil society in addition to all branches of the government.

Many governments are parties to some of the many recent legal or political agreements, including the UN convention and other conventions and trade arrangements requiring legal and regulatory transparency, *e.g.*, in procurement.<sup>6</sup> TI has worked to secure these agreements because they set out a roadmap of preventive and enforcement measures. They should be factored into and supported in every CAS.

### **B. Non-Executive Branches As A Check On Political Power.**

Starting from the assumption that governance entails placing constraints on those with political power, the Bank should help strengthen checks on the executive by other branches of government. It must recognize that corrupt elites can be expected to resist reform and therefore the Bank must engage more directly with the non-executive branches.

**Legislature:** Efforts to reform executive branch processes are likely to be most effective when accompanied by support for local oversight mechanisms, especially through the legislature. Bank programs should encourage more active legislative oversight of these processes, *e.g.*, budgets, accounts, procurement, and the sale of public assets.

**Judicial systems:** Corruption that is not addressed by criminal prosecution breeds public cynicism and emboldens corrupt officials. Therefore, good governance must include an honest, competent, independent, and effective judicial system with a willingness and capacity to sanction illegal activity. Reform of judicial systems must be placed at the center of any well-designed governance reform and must address issues of political intervention and lack of capacity.

The lack of effective domestic capacity to address criminal corruption stems from a number of inadequacies in criminal justice systems – including procedural impediments that frustrate successful investigation and 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 favors.

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<sup>6</sup> See conventions referenced in fn. 2; see also the Asia-Pacific Economic Cooperation Transparency Standards and the Central American Free Trade Agreement, which represent additional examples of political and legal commitments to trade transparency.

In some countries, INT referrals have sometimes foundered on lack of capacity of prosecutors and weaknesses in judicial systems. Lack of capacity impedes the enforcement of laws enacted pursuant to international anticorruption conventions. Nations would benefit from assistance in improving their criminal laws and procedures to help assure that all development funds available to a nation – and not simply the funds flowing through the Bank – will be protected by the deterrent qualities of an effective sanctions process.

Deploying teams of highly qualified experts with cutting edge expertise in judicial administration reform (as distinct from *law* reform) should be a top priority. Past Bank efforts to reduce impunity and promote effective enforcement should be scaled up with support for criminal law reform, judicial independence, and anticorruption programs targeted at prosecutors and the judiciary.

***Budget, finance, and procurement agencies:*** Public financial accountability requires more focused attention. The main elements agreed by donors and borrowers should be to:

- (i) Complete a country financial accountability and procurement assessment and elaborate a credible, time-bound action plan for reform of budget, accounting, audit, and procurement systems, which can be monitored and made public;
- (ii) Establish effective monitoring and public expenditure tracking systems, including in cooperation with civil society;
- (iii) Ensure that all aid funds provided to governments (and, as appropriate, all extractive and defense-related revenues and expenditures) are reflected in published budgets and are subject to effective legislative, audit, and other oversight mechanisms;
- (iv) Increase 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.

***Special considerations for procurement:*** In the case of procurement, additional considerations include the following: While the business environment and institutional capacities should be considered in developing procurement mechanisms, certain fundamental controls and recognized high standards should not be relaxed. Government commitments to procurement transparency in trade arrangements should be taken into account as well. Powerful risk mitigation tools such as e-procurement, Integrity Pacts, and requirements that bidders have anti-bribery programs should be featured. TI's recommendations for procurement transparency and oversight, presented in its 2005 Global Corruption Report, can also contribute to the development of sound procurement practices. The Bank should encourage more frequent use of Integrity Pacts for major contracts. More aggressive and regular follow-up by the Bank on the Country Procurement Assessment Reports is necessary to promote, nurture, and monitor timely progress on the reforms proposed as part of the exercise. Finally, sanctions, such as debarment, should be applied and publicized against corrupt contractors, following independent investigations conducted according to high standards and with provision for possible appeals.

### **III. REFORMING BANK OPERATIONS AND POLICIES.**

#### **A. Expanding And Integrating Research.**

WBI has been a formidable leader in the field of anticorruption research. It has played a valuable role in raising awareness about the costs of corruption and deepening understanding of the relative effectiveness of various approaches to combating it.

Bank projects and programs, as well as INT cases, yield important additional lessons. Research and lessons learned by other donors and external organizations, including civil society organizations and academia in countries around the world, can add substantially to existing Bank knowledge. WBI and Bank operations should enhance efforts to collect and draw on this body of information and use it to raise public awareness, build public understanding, and contribute to new approaches to reform.

In particular, further attention should be given to a deeper analysis of the social, institutional, and political economy aspects of corruption. Attention should also be directed (beyond the existing useful research on the impact of corruption on private sector investment) to consider more fully the impact of those who pay bribes or facilitate corruption on reform efforts.

According to the WBI, progress in terms of *outcomes* on the ground (vis-à-vis less corruption and greater accountability) has been slow and, in many cases, minimal. In some cases the situation has deteriorated. Such findings need to be taken into account when taking decisions on kinds of financing (or decisions to lend at all) to governments that are highly corrupt and lack even minimally effective systems of accountability. They also highlight the inconsistency between the growing tendency to provide budget support (structural adjustment loans and credits, sector program lending and the like) and the Bank's expressed commitment to using aid resources accountably.

#### **B. Realigning Bank Incentives And Resources To Promote Accountability.**

In order to move forward effectively, the Bank must realign incentives. It must address the prevailing view, internally and externally, that staff are evaluated and promoted primarily on lending quickly and at a high volume. Attention to governance will often work at cross-purposes with this objective, given that it will require additional resources and time and that, in some instances, loans may be delayed or not proceed at all. All levels of staff must be assured that they will be rewarded, not penalized, for attention to governance.

***Changing incentives:*** Leadership in setting the “tone at the top” is critical and must send a clear and consistent message. The message must be carried forward in concrete terms. An important way is to incorporate into evaluations an assessment of performance on minimizing losses of Bank funds due to corruption. This evaluation should as far as possible extend over the full life of the loan, rather than merely the tenure of a specific staff member's direct responsibility for the loan. Evaluations should also assess efforts to improve governance in the borrower country. This will create incentives to pay serious attention to governance and provide protection against supervisory pressure to lend. Reforms to the Bank's whistleblower protection regime are also needed to create incentives for greater accountability within the Bank.

**Upgrading resources:** Attention to governance will also require a substantial allocation or reallocation of resources. The political commitment to strengthen, coordinate, and intensify anticorruption programs must be accompanied by sufficient financial and staff resources. The Bank, borrowers, and civil society will require greater expertise. Resources must be committed to enhance borrower capacity across a myriad of programs, including public financial management, legislative oversight, and the criminal justice system. There is an urgent need for greater levels of financial and staff support to assist officials in borrower countries in order to cultivate leadership and innovation, instill ethics, professionalism, and accountability, and create positive institutional environments. In addition, training for Bank staff needs to be taken to scale at every level in order to develop the requisite in-house expertise to assist with in-country anticorruption initiatives (e.g., placement of governance advisors within as many countries as indicated; conduct of upstream risk assessment, identification of red flags in projects). Overall, the Bank should avail itself of external expertise available in the recipient country and internationally according to the circumstances.

### **C. Applying A Risk Based Approach.**

When working with governments to design strategies for governance and anticorruption, it is important to recognize that corruption exists in every country; the picture is never static and even a country with a clean record can have problematic sectors. Therefore, *none should be exempt from certain basic requirements*, including a thorough corruption risk assessment and agreement to appropriate risk mitigation measures. These should include loan protocols, budget and procurement transparency, public financial management according to international standards, rigorous auditing and supervision, private sector anti-bribery requirements; and timely publication of information, with opportunities for public participation and oversight from the earliest stages and throughout the project cycle, to avoid corruption risks.

Differences in the strength and capacity of institutions and systems will indicate the degree and intensity of risk mitigation, oversight and other controls needed. For example, types of financing (e.g., investment lending or development policy lending), target sectors, and project types should depend on such assessments.

**Risk assessment tool:** In light of the significant ramifications that country risk assessments are likely to have on the Bank's approach to lending in a particular country, careful attention must be paid to the manner in which they are conducted and applied. Detailed Implementation Reviews should be used more extensively as an assessment tool. And it is important to field top quality staff for extended periods of service to ensure they are knowledgeable about local conditions and engaged with all stakeholders so they can contribute to an accurate assessment.

All assessments need to be transparent, subject to full external consultation, and insulated from political pressures. Donors need to collaborate closely on risk assessments, with a view to arriving at a shared diagnostic tool leading to a consensus CAS.

**High-risk countries and sectors:** A continuing challenge is how to deal with high risk countries, including fragile and post-conflict states, as well as those subject to state capture and embedded corrupt networks. Such countries frequently engage in measures to undermine or

dismantle anticorruption constraints, such as an independent judicial system, free media, and organized civil society. These measures should be factored into decisions on programming and lending.

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 consideration should be given to whether international efforts such as the Extractive Industry Transparency Initiative (EITI) might be expanded to other sectors, particularly where there is frequent interaction of the private sector with the government.<sup>7</sup>

***Managing development policy lending risks:*** Development policy lending – providing direct infusions to budgets – is particularly susceptible to corruption due to the weak controls and transparency normally associated with this form of assistance. It should only be considered in countries that already have in place genuinely robust systems of public financial accountability consistent with international standards. It should be predicated on publication of budgets and actual expenditures, active legislative and other oversight mechanisms, and procurement transparency, and should provide sanctions for failure to respect such commitments.<sup>8</sup> Once reforms are agreed, aid disbursements should depend on strict adherence to them with progress reviewed periodically via random, independent forensic audits.

***Suspending lending:*** There will continue to be times when rampant corruption and absence of political will to reform or a refusal to accept risk mitigation measures require more extreme steps. There are at present few choices other than loan cancellation and suspension and the Bank should explore a broader range of options and incentives. However, when suspension in lending is indicated, it should indeed continue to be an option. The reasons for suspension should be made public and every effort made for such action to be temporary, and other means sought to assist the poor, including directly through civil society. It is critical that corrupt regimes be circumvented, and this underscores the need for the Bank to engage with business and civil society organizations in Bank countries.

***Importance of MDB coordination:*** Decisions by the Bank to lend or suspend lending can have a significant influence on the flow of funds and investment from other aid agencies and foreign investors. Every effort should be made to ensure coordinated action with other donors and commercial financial institutions so as to avoid undermining the Bank's position. The OECD Paris Declaration of March 2005 was a step in the direction of donor coordination but has not been implemented well in the field. Leadership from the top is needed along with regular and independent reviews of progress on compliance. At the staff level, longer terms and greater expertise in governance would encourage greater understanding of local conditions and trust among local actors.

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<sup>7</sup> Given the high risk of corruption in the extractive sector, various initiatives have sought to increase transparency of both revenues and expenditures. The EITI has had some success in improving transparency by involving all stakeholders. It calls for government and corporate transparency with civil society engagement and oversight.

<sup>8</sup> Many believe the entire practice of development policy lending should be reconsidered, at least in situations where there is delay in implementing an agreed action plan.

***Addressing problematic sectors:*** In addition to high-risk countries, certain sectors also pose particular risks. While sector-specific tools add value, sector level governance issues cannot be addressed effectively separate from systemic problems. Sector-specific tools cannot substitute for such fundamental controls as effective central government systems (including effective legislative oversight, audit and independent judiciaries), transparent procurement, and incentives to reward whistleblowers and sanction offenders.

Assuming these basic elements of governance are in place, greater levels of risk assessment, mitigation, and oversight should apply to those sectors in which corruption has been identified or which are particularly vulnerable to corruption. Special approaches are urgently needed for the unique circumstances of emergency humanitarian aid, with respect to which TI is developing tools and strategies.

#### **D. Strengthening INT And The Sanctions Process.**

INT has played a critical role, sending a clear signal that the Bank will take action against corruption that occurs in its operations and projects. It has provided irrefutable evidence that corruption is a serious challenge to the Bank and underscored the need for urgent action. It has raised the risk for the private sector, by clearly establishing that the Bank will sanction private sector bribery and corruption. Its publication of those sanctioned has been a powerful driver of change and this and other related practices should be agreed by all MDBs. Further progress is also needed to secure MDB agreement to improve consistency of investigative rules and procedures, information-sharing, and mutual respect for enforcement actions.

TI welcomes the Board's adoption on August 1, 2006 of sanctions reform, particularly the expansion of the definition of fraud and corruption beyond procurement. It urges prompt implementation of the new sanctions board, with the addition of independent members drawn from a range of relevant perspectives. These members must be widely recognized for their expertise, independence, and integrity. TI looks forward to the publication of details on the reforms adopted and urges a transparent and participatory process for future sanctions reform.

Going forward, TI suggests that INT consider how to use its capacity not only to punish offenders but also to encourage companies to take steps to remedy deficiencies and deter future violations in order to become reliable Bank partners in the future. Consideration should be given to suspending disbursements if there is strong reason to believe that funds have been diverted due to corruption, even pending sanctions action. There should also be short term ineligibility for future contracts in such cases. Given the serious reputational impact to companies publicly sanctioned by the Bank, the process should be transparent and assure fundamental fairness to all involved. The Bank should consider publishing summaries of its conclusions so that bidders and other stakeholders can understand the basis for decisions and deter future violations.

TI also welcomes the Board's approval of the implementation of the Voluntary Disclosure Program (VDP). VDP should make an important contribution to the Bank's knowledge base and permit it to bring and refer additional cases. The Bank should encourage governments, including host governments of companies found to engage in bribery, to take action and should provide or help mobilize capacity assistance for governments where needed.

Internally, INT has a wealth of experience on which to draw, and VDP will add to that body of knowledge. It is imperative that resources devoted to extracting lessons learned be scaled up substantially and reforms undertaken promptly to address vulnerabilities in policies and operations. Since the Bank remains at risk so long as such reforms are not implemented, a follow-up process should help ensure reforms are implemented. Such information should be used to better inform staff about red flags indicating risk. It should be shared and made public by all MDBs. Furthermore, to the extent confidentiality will not be compromised, findings and reforms should be publicized so that external actors, including companies and citizens, can learn from experience.

#### **E. Bank Group Transparency And Participation.**

As public institutions, the World Bank Group should continue to improve and broaden their disclosure policies and opportunities for public comment. This will encourage responsible decision-making and sustainable development impact. As noted earlier, transparency within Bank Group operations is essential for meaningful external stakeholder consultation and participation. In addition, academics have noted that valuable data routinely collected by the Bank go unused and unanalyzed because restrictive disclosure regimes prevent their release. To address this issue, Bank Group policy should start from a presumption of transparency, with exceptions for those documents where disclosure would cause harm to a set of clear and narrowly defined interests that outweigh the public interest. In addition, greater care should be taken to ensure that information is disclosed and disseminated over the internet, in local languages, and in a timely manner.

#### **F. Scaling Up Funding.**

As noted earlier, substantial resources will be needed to put this strategy into operation and make it effective. In particular, additional resources and new delivery mechanisms will be required to strengthen the demand side of governance, including civil society participation, monitoring, advocacy, and other functions.

In the near term, Development Grant Facility and International Development Association funds should be set aside to be used as grants to strengthen civil society organizations that engage in and campaign for better governance and to support their activities. The IFC could set aside part of its substantial profits to be used as grants to support improved corporate governance and strengthen chambers of commerce and industry and professional associations.

It is time for the creation of a sizable global multi-donor grant facility, expanding to scale an untied civil society grant program such as TI launched on a small scale with the Partnership for Transparency Fund. In this context, we note that the United Kingdom's Department for International Development has announced the creation of a new Governance and Transparency Fund with a £100 million budget.

### **CONCLUSION**

TI welcomes the present effort to delineate an effective strategy to attack corruption in its operations and in the countries in which it operates. We look forward to consultations once the strategy paper is published and over the course of its implementation.