

## Conclusions and recommendations

Most of the countries that submitted information about their public procurement frameworks have made important progress in developing safeguards against corruption in public procurement. Some have recently enacted regulatory frameworks to curb corruption. In a number of countries, however, adjustments and reforms could help strengthen the safeguards. As discussed during the sixth meeting of the Steering Group on 20 April 2005 in Hanoi, Vietnam, and the seventh meeting on 26–27 September 2005 in Beijing, P.R. China, the countries covered in this report might wish to consider, where necessary, the following points to increase the effectiveness of their legal and institutional frameworks for curbing corruption in public procurement:

- (1) Comprehensive legislation for public procurement is a central precondition of clear, transparent, and fair public procurement. Countries are therefore encouraged to ensure that such legislation be in place. To strengthen trust in the fairness of public procurement, public procurement legislation should be unambiguous and reliable over time; core regulations should be passed as parliamentary laws for this purpose.
- (2) Certain steps in procurement, such as needs assessment, definition of technical specifications, and contract execution, are particularly vulnerable to corruption as they often involve a high degree of discretionary decision making. Also, control and oversight in these stages are particularly difficult to achieve. Countries are therefore encouraged to ensure that procurement rules cover the entire procurement cycle, from planning to delivery, and that such comprehensive frameworks exist at all administrative levels. Countries are also asked to review the necessity of exemptions from procurement rules and to ensure that suitably powerful safeguards against corruption are in place in these exempted areas.
- (3) Standardized, clear, and concise procedures and easily accessible, comprehensive documentation contribute in important ways to transparency in public procurement. In this regard, countries are encouraged to assess whether standardized procurement documents make government procurement more consistent and transparent.
- (4) In most countries, open tendering is the standard method of procurement. While exemptions from this general rule may be necessary for practical reasons, countries are encouraged to assess

whether the exceptions they allow are necessary and to ensure that the grounds for such exemptions are precisely defined and there are safeguards and control mechanisms against abuse. Particular attention in this regard should be paid to emergency procurement or exemptions that apply when tendering fails.

- (5) Safeguarding the integrity of individuals involved in public procurement, i.e., the staff of procuring entities and employees of suppliers, is a central means of preventing corruption in public procurement. Countries are encouraged to develop or strengthen codes of conduct for public procurement personnel and to consider ways of promoting the development and implementation of corporate codes of conduct that cover procurement-related activities. Countries may also wish to consider requesting companies seeking to participate in a tender to explicitly declare that they will not take part in corruption and the use of other illicit means to influence the procurement process.
- (6) To ensure the effective prosecution of corruption in public procurement, it is recommended that countries verify that the penal, administrative, and economic sanctions for corruption cover all corrupt practices that may occur in public procurement, including corrupt practices committed through intermediaries. They are encouraged to verify that such sanctions address with equal importance suppliers' and procurement agencies' staff. To detect attempts of corruption, countries may consider compelling procurement agency staff to report such incidents.
- (7) Sanctioning legal persons is often considered particularly dissuasive, particularly in areas such as procurement, where companies rather than individuals try to gain undue advantage through corruption. Some countries have therefore introduced the possibility of temporarily or permanently debarring from public procurement a company found guilty of corruption. As debarment mechanisms can be abused, however, countries that practice debarment are encouraged to ensure that the conditions for applying debarment are precisely and explicitly defined.