

## Annex I

# AN ANTI-CORRUPTION POLICY FOR ASIA AND THE PACIFIC<sup>1</sup>

The problem of corruption, here defined as the misuse of public or private office for personal gain, is an ancient one that can be found in every government. It can also be found in the private sector, and in the interactions between the public and private sectors. A balanced approach to combating corruption must address both sides of the equation, and make it more difficult and risky for those who would give bribes as well as those who would receive them.

Recently, a powerful combination of factors has emerged in donor and recipient countries that is providing momentum to the global anticorruption effort. At the same time, the latest empirical analysis is demonstrating that although the effects of corruption are complex and varied, it clearly exerts a negative impact upon development. As a result, the environment in which multilateral development banks (MDBs) operate has changed. Pressure for more active measures against bribery and graft is no longer likely to be isolated and sporadic, but will remain an important element of the broader debate over good governance and sound development management.

As a major multilateral development institution and one of the leading sources of development funding in the Asian and Pacific Region, the Asian Development Bank (ADB) welcomes this emphasis on anticorruption initiatives as part of its broader work on governance issues. The Bank's Board paper, "Governance: Sound Development Management", recognizes the importance of accountability for public officials, and

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<sup>1</sup> ADB, R89-98: "Anticorruption Policy", July 1998 (Executive Summary).

transparency and predictability in government operations—critical principles in the fight against corruption.<sup>2</sup>

At the broadest level, the Bank's anticorruption policy is intended to reduce the burden that widespread, systemic corruption imposes upon the governments and economies of the region. More specifically, the Bank's policy is centered upon three objectives:

- Supporting competitive markets, and efficient, effective, accountable, and transparent public administration as part of the Bank's broader work in governance and capacity building;
- Supporting promising anticorruption efforts on a case-to-case basis and improving the quality of the Bank's dialogue with its developing member countries (DMCs) on a range of governance issues, including corruption; and
- Ensuring that the Bank's projects and staff adhere to the highest ethical standards.

The bulk of the Bank's effort will be directed toward broader measures to improve the quality of governance in the DMCs. This effort will have two components. The first will seek to reduce the scope of direct government intervention in the economy, in the belief that markets should be efficient and competitive, and have as few barriers to entry and exit as possible. This will reduce the opportunity for firms or officials to take advantage of artificially restricted markets or suboptimal pricing to demand monopoly rents.

The second component will focus upon supporting improvements in public administration and public sector management. Efforts to strengthen management information systems, for example, should enhance transparency and ac-

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<sup>2</sup> ADB, R151-95: "Governance: Sound Development Management", 17 August 1995.

countability, and strengthen the capacity of governments to monitor their expenditures. Measures to strengthen audit functions or to ensure adequate control over disbursements can play the dual role of helping to improve performance while making theft and embezzlement more easily detected. Procurement reform, which the Bank is already pursuing in a number of the DMCs, can reduce costs while making fraud and abuse more difficult to perpetrate. Steps to strengthen civil service establishment management will help to eliminate “ghost employees”, and efforts to decompress pay scales and improve employment conditions will lower the incentive for illicit behavior. Measures to improve procedures for recruitment and promotion should help avoid abuse of patronage, nepotism, and favoritism, and help foster the creation of an independent, meritocratic civil service. The reengineering and streamlining of business processes can improve the efficiency and effectiveness of the public sector while simultaneously reducing opportunities for corruption.

In advancing such initiatives, the Bank affirms its desire to adopt a proactive and not a reactive stance. Most priority governance initiatives will have significant positive externalities that will make corrupt behavior more difficult to engage in and more readily detected once it occurs. Over the longer term, the Bank is likely to be much more effective if it focuses its anticorruption efforts upon measures for prevention and not on short-term efforts aimed at prosecution.

The Bank may also be called upon to assist the DMCs in pursuing an explicit anticorruption program. Bank assistance will be guided by three considerations: (i) the extent to which Bank assistance is requested by the DMC; (ii) the degree to which the request is consistent with the Bank’s broader country operational strategy and ongoing efforts in the field of governance and capacity building; and (iii) the extent to which the request falls in an area where the Bank has expertise. Under this element of the policy, the Bank may also support regional anticorruption initiatives or anticorruption-related research.

ADB staff should exercise caution in addressing several sets of initiatives that will typically remain beyond the Bank's scope of involvement. They include efforts to influence the domestic debate within the DMCs regarding an anticorruption strategy or set of anticorruption initiatives; anticorruption programs that are highly politicized in nature and targeted at a particular individual or political party; and initiatives that are largely cosmetic and designed to foster the illusion of progress without the substance. To ensure consistency with the Bank's Charter, any anticorruption initiatives supported by the Bank must be apolitical in nature and motivated solely by essential economic considerations or concerns about the probity of Bank operations.

The Bank has several mechanisms for engaging in dialogue with the DMCs on issues of governance (including corruption), ranging from the country operational strategy and the country assistance program discussions, to country portfolio review missions, to project appraisal, implementation, and review missions. Bank staff charged with country strategy and program formulation, including the drafting of the country operational strategy and country assistance program documents, as well as staff responsible for loan or TA projects, should address corruption in the context of broader governance and capacity-building issues. They should be knowledgeable about issues of corruption and its impact within their particular geographic and/or sectoral sphere of operations. They will use these mechanisms to discuss and recommend ways in which the Bank can help advance the principles of sound development management, including measures that would help to combat corruption, in any country where corruption affects Bank projects and the country's general prospects for economic growth.

Country portfolio review missions and project review missions may provide a useful venue for discussing the policies and practices that impede the efficient implementation of Bank projects. Under most circumstances, staff who suspect that

corruption may have occurred or may be occurring within a given Bank project should follow the procedures outlined in paragraph 64 of this document and report the matter to the Office of the General Auditor, who will determine the optimal course of action. In rare cases where rapid follow-up actions may be needed, staff can address such issues explicitly with the relevant company, executing agency, or appropriate investigative agencies after clearance from their director and, the Office of the General Counsel (OGC). Any discussion with a given firm or government agencies should, however, be limited to a specific Bank operation or set of operations.

If the Bank's efforts to reduce illicit behavior among its DMCs are to be credible, it is essential that Bank staff be beyond reproach and the Bank's internal regulations and procedures support the highest ethical standards. Toward this end, the third pillar of the Bank's anticorruption policy calls for more robust internal measures to enhance the integrity of Bank operations along five dimensions: (i) maintaining the integrity of Bank lending and TA operations; (ii) strengthening the Bank's procurement policy; (iii) updating the Bank's Code of Conduct and creating independent internal reporting mechanisms to address allegations of corruption among Bank staff or within Bank operations; (iv) improving the quality of oversight for Bank loans and TA grants; and (v) ensuring that all Bank staff are familiar with the anticorruption policy and act in a manner consistent with both the letter and the spirit of the policy.

If there is credible evidence of corruption in a Bank-financed loan or TA grant, the Bank will address the issue in a dialogue with the DMC. Breaches of specific loan regulations or covenants could result in a decision by Management to blacklist the firm involved, suspend disbursements, or cancel the loan.

In keeping with the evolving practice of IMF and the World Bank, Management and staff will consider issues of corruption more explicitly in the formulation of the country operational strategy and the country assistance program. Cases may occur in which corruption has reached such proportions

that it poses a significant impediment to the probity of Bank operations or the attainment of a country's fundamental development objectives. Under such circumstances, Management could elect to lower or suspend Bank lending and TA operations to that country after consultation with the country and the Board.

Conversely, situations may also exist where a given country has made significant progress in improving the efficiency, effectiveness and integrity of its public and private sectors. Under such circumstances, Management may elect to accelerate the lending program or provide additional TA resources to ensure sustainability for the reforms.

In the light of the complex and highly differentiated nature of corruption, it is important that Bank Management and staff be granted some degree of flexibility in dealing with individual cases within the parameters laid out in this policy. While acknowledging the need for fairness and consistency in its operations, and strongly affirming the importance of a "zero-tolerance" policy when credible evidence of corruption exists among Bank staff or projects, the Bank notes that different types of corruption will require different responses. There is a need for careful judgment based on accurate information and the specifics of the situation. The Bank's anticorruption effort will place particular emphasis upon the implementation of practical and cost-effective prevention control measures, in a fashion consistent with the Charter principle of "economy and efficiency."

An Anticorruption Task Force under the leadership of the Project Coordination and Procurement Division was recently convened to examine Bank procurement policy. Having taken into account the advantages of harmonizing the anticorruption effort among the MDBs with regard to procurement and the engagement of consultants, the Bank will introduce anticorruption provisions effectively identical to those adopted by the World Bank in respect of rejection of proposals, loan cancellation, declaration of ineligibility, and inspection rights. The Bank

will also introduce an optional “no-bribery pledge” in the bid form that will be similar to that of the World Bank. It will also introduce a mandatory clause that, when the contract is to be financed wholly or partly by the Bank, the contract documents shall include an undertaking by the contractor that no fees, gratuities, rebates, gifts, commissions, or other payments, other than those shown in the bid, have been given or received in connection with the procurement process or in the contract execution. Following the adoption of the anticorruption policy paper by the Board, provisions to this effect will be incorporated in the Bank’s “Guidelines for Procurement” and the “Guidelines on the Use of Consultants by the Asian Development Bank and its Borrowers” and submitted to the Board for approval. The “Guidelines” will be supplemented by provisions in the Bank’s loan regulations allowing the Bank to cancel loans where there is evidence of corruption or fraud in connection with the award of a contract being financed by the Bank.<sup>3</sup>

With regard to the Bank’s internal policies and procedures, several measures are necessary to ensure that they are consistent with those of other MDBs and evolving best practice. Currently, there are no independent channels whereby Bank staff can report possible incidents of corruption and have them investigated. Under this policy, OGA will serve as the initial point of contact for allegations of fraud and corruption among Bank projects or staff. In consultation with the Strategy and Policy Office (SPO), OGC, the Budget, Personnel, and Management Systems Department (BPMSD), Central Operations Services Office (COSO), and other relevant departments, OGA will consider appropriate measures to be adopted under this policy to ensure that all Bank staff and projects adhere to the highest standards of ethical conduct.

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<sup>3</sup> Office of the General Counsel, ADB, “Ordinary Operations Loan Regulations”, 1986.

Office of the General Counsel, ADB, “Special Operations Loan Regulations”, 1982

In May 1998, Management approved revisions to Administrative Order No. 2.02, Section 4, which contains the Code of Conduct outlining staff ethical duties, rights, and responsibilities in greater detail than was previously the case.

The Bank will undertake a number of measures to improve the quality of project monitoring and audit. The capacity of OGA will be strengthened to enable it to address anticorruption issues effectively. Specialized training in forensic accounting and other investigative techniques will be provided, which will also be extended to select financial analysts and project implementation officers. Ongoing OGA efforts to streamline internal work procedures to free up greater resources for audits of high-risk and high-impact areas will continue. OGA will devote more time to conducting audits of project procurement—related activities, which will help prevent and detect corruption or other forms of fraud. OGA will strengthen its exchange of information with supreme audit institutions in the DMCs, and—working in collaboration with other Bank departments—it will play an active role in assessing the need to upgrade the audit capability of such institutions.

The relevant sections in the “Project Administration Instructions” and the *Loan Disbursement Handbook* will be revised to require that qualified accountant(s) be recruited by the executing or implementing agency, and that robust internal control systems and accounting systems be in place for a project before loan disbursement can be made. Greater resources will be made available for upgrading the quality of project monitoring and implementation missions. Consideration will be given to the design of appropriate efficiency indicators, which will be utilized in monitoring financial and physical progress on a quarterly basis. The quality of the Bank’s management information systems will be enhanced to provide managers with more timely information for monitoring project processing, loan administration, and the status of mission budget utilization.

These measures will be ineffective if Bank staff are unfamiliar with the provisions of the Bank’s anticorruption

policy and Code of Conduct or fail to exercise due diligence in the performance of their duties. While it is not the intention of this policy to turn Bank staff into “police officers”, or to make the objective of reducing corruption paramount over other development goals, all departments and staff have a strong obligation to ensure the integrity of Bank operations within their respective areas of responsibility. Bank staff should familiarize themselves with the content of this policy and staff guidelines, and be prepared to respond appropriately as required.

In conclusion, this paper recommends a number of concrete actions to establish the Bank’s anticorruption policy. These measures can be broken down along three lines: recommended revisions of Bank policy and staff guidelines, new programming initiatives, and administrative changes.