

## **A UN-INTOSAI Joint Project:**

# **Collection of Important Literature on Strengthening Capacities of Supreme Audit Institutions on the Fight against Corruption**



UNITED NATIONS



INTOSAI

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## UNDESA

The Department of Economic and Social Affairs of the United Nations Secretariat is a vital interface between global policies in the economic, social and environmental spheres and national action. The Department works in three main interlinked areas: (i) it compiles, generates and analyses a wide range of economic, social and environmental data and information on which States Members of the United Nations draw to review common problems and to take stock of policy options; (ii) it facilitates the negotiations of Member States in many intergovernmental bodies on joint courses of action to address ongoing or emerging global challenges; and (iii) it advises interested Governments on the ways and means of translating policy frameworks developed in United Nations conferences and summits into programmes at the country level and, through technical assistance, helps build national capacities.

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## INTOSAI

The International Organization of Supreme Audit Institutions (INTOSAI) is a global, autonomous, independent and non-political umbrella organization for external government auditing. INTOSAI provides an institutionalized framework for Supreme Audit Institutions (SAIs) to promote the development and transfer of audit-related knowledge, improve government auditing worldwide and enhance professional capacities of member SAIs in their respective countries. INTOSAI is a non-governmental organization with special consultative status with the UN Economic and Social Council (ECOSOC) pursuing the objective to promote the efficiency, accountability, effectiveness and transparency of public administration by strengthening SAIs.

The fight against corruption – along with the independence of SAIs, the elaboration and implementation of International Standards of SAIs (ISSAIs), Capacity Building of SAIs, the demonstration of value and benefits of SAIs and the enhancement of INTOSAI communications – is one of INTOSAI's strategic priorities.

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# A Message for Readers

Sung Yongrak

Acting Chair

INTOSAI Platform for Cooperation with the United Nations, and the Board of Audit and Inspection of Korea



As Chair of the INTOSAI Platform for Cooperation with the United Nations, I am so happy and excited to introduce you to the *Collection of Important Literature on Strengthening Capacities of Supreme Audit Institutions on the Fight against Corruption* as the first output of the Platform. Fighting corruption has always been the main focus of SAIs and INTOSAI activities. Reflecting this, the INTOSAI Strategic Plan 2011-2016 incorporates fighting corruption as one of INTOSAI's six strategic objectives. It is, therefore, quite relevant and appropriate that the fight against corruption was selected as the theme of the first UN-INTOSAI joint project of the Platform.

Government audit as exercised by SAIs helps create transparency, makes risk visible, and builds robust and effective internal controls to contribute specifically to the prevention of corruption in line with the spirit of the United Nations Convention against Corruption (UNCAC). By reporting their audit findings and recommendations to Parliament and publicizing them through various channels, SAIs create a climate of transparency that largely contributes to detecting and more importantly preventing corruption. SAIs raise public awareness for financial management issues, they furnish valuable, reliable and objective information on government activity, thereby allowing the citizens to hold their governments accountable.

In reality, however, the fight against corruption has not been universally successful. Many great lessons, however, can be learnt from different experiences of their own and others. One great lesson learnt is that a fundamental prerequisite for SAIs to function well, thereby effectively contributing to the fight against corruption, is functional and organizational

independence in the fulfillment of their tasks. At the INTOSAI Congress held in 1998 in Montevideo, Uruguay, it was already recommended that in order for SAIs to make an effective contribution to the fight against corruption, SAIs should enjoy financial, functional and operational independence; the audit mandate of SAIs should be as comprehensive as possible; SAIs should play an active role in evaluating the efficiency and effectiveness of financial and internal control systems (in particular, of internal audit); SAIs should focus their audit strategies on areas and transactions that are particularly prone to corruption; SAIs should publish their audit reports and forge effective links with the media; SAIs should cooperate with national and international organizations involved in fighting corruption; and SAIs should promote a code of ethics for the public service.

This valuable lesson was echoed by the broader international community in the UN General Assembly Resolution (A/66/209), adopted in December 2011. Therein the 8 pillars of the Mexico Declaration of INTOSAI were, for the first time, appreciated by the international community as preconditions for the work of SAIs in terms of creating good governance, transparency, accountability and thus fighting corruption. In the case of fight against corruption, INTOSAI's motto, '*Experientia mutua omnibus prodest*', is more relevant than in any other issues. It simply takes a global village to have good fight against corruption.

Having just completed the first joint project of the Platform, I have no doubt that more joint works will be followed in the area of anti-corruption, governance and other important subjects where the UN and the INTOSAI share their values and commitment. This collection, of course, carries much more than a symbolic meaning of the first UN-INTOSAI joint project initiated by the INTOSAI Platform for Cooperation with the United Nations. This collection is an important attempt to compile many hard works done in the past under the auspices of UN and INTOSAI, putting together valuable experiences and wisdom which are still relevant to the anti-corruption work of policy makers and practitioners including SAIs and internal auditors.

It is hoped that this collection provides an important opportunity for all the stakeholders – governments, international organizations, accountability and transparency community including SAIs and internal audit units, scholars and citizens – to heighten their awareness on the issue of fighting corruption. It is also hoped that this collection contributes to strengthening capacities of SAIs on their fight against corruption, which will prove to be an important step towards the ultimate goal of achieving sustainable development. By taking an overview on what has been done, we may also gain valuable insight on what needs to be done in the future.

Taking this opportunity, I would like to thank, first of all, the United Nations Department of Economic and Social Affairs (UNDESA) for concurring with this collaboration plan and acting promptly to complete the first joint project in time. I am also grateful to INTOSAI Secretary General, Dr. Joseph Moser, for his endless and patient encouragement and guidance, who made this joint project possible. My sincere thanks also go to all the contributors for their submission of their works for the collection. Last but not least, I would like to thank the staff of UNDESA and BAI of Korea for their great teamwork and imagination to make this collection more readable and up to the standards of UN and INTOSAI.

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## Foreword

Wu Hongbo

United Nations Under-Secretary-General  
for Economic and Social Affairs,  
Secretary-General for the International  
Conference on Small Island Developing States



The United Nations Department of Economic and Social Affairs (UNDESA) is fully engaged in accelerating progress on the Millennium Development Goals (MDGs) and supporting Member States in identifying a solid and ambitious post-2015 development agenda. Good governance can serve as the foundation for integrating the pillars of sustainable development and providing an enabling environment for its successful implementation while safeguarding earmarked finances.

To bring about sustainable development, for instance through Sustainable Development Goals (SDGs) and targets, it will be necessary to successfully mobilize large amounts of funds. The success of related efforts will depend on establishing public trust that the funds will be deployed efficiently, effectively and ethically.

Corruption presents a serious barrier to effective resource mobilization and allocation, diverting resources away from activities that are vital for poverty eradication as well as the fight against hunger and sustainable development. Therefore, fighting corruption at both the national and international levels is a priority.

By virtue of their oversight function, Supreme Audit Institutions (SAIs) can play an important role in creating an enabling environment for good governance. Their audit-based knowledge and experience not only boosts accountability but can also provide valuable advice for future initiatives, including the post-2015 development agenda.

Over the past 40 years the United Nations has been cooperating with the International Organization of Supreme Audit Institutions (INTOSAI) to develop international professional standards and build capacities of SAIs in



developing countries. Much has been achieved, and this book is a new and additional step in this common journey.

For this joint publication, the Board of Audit and Inspection (BAI) of Korea and UNDESA have reviewed existing literature on the role of SAIs in the fight against corruption. While each contribution has already been published or presented before, the compilation provides a unique opportunity to compare how SAIs from around the world address the need to prevent, detect and respond to fraud and corruption. The book provides insight into the work of SAIs and fosters the exchange of information among them with the hope of supporting the development of their capacities.

I would like to thank the Acting Chair of BAI of Korea, Mr Yongrak Sung, the Secretary-General of INTOSAI, Mr Josef Moser, the Chair of the INTOSAI Governing Board, Mr Terence Nombembe and the Chair of the INTOSAI Working Group on the Fight against Corruption and Money laundering. Without the generous support, engagement and perseverance of BAI of Korea, this publication would not have been possible.

## Foreword

Terence Nombembe

Chair of the INTOSAI Governing Board, and  
Auditor-General of South Africa



For many years, INTOSAI has invested heavily in finding ways of sustaining good governance and the fight against corruption. Its Working Group on the Fight against Corruption and Money Laundering has continued to reflect on the conditions that the INTOSAI community experiences as risks that threaten good governance and lead to corruption. The working group has provided valuable insights and beneficial guidance over the years.

In addition, INTOSAI has enshrined the drive to combat fraud and corruption as a specific focus area in its strategic plan, thereby obliging INTOSAI members to reflect on ways of responding to this reality in a practical and visible manner. The INTOSAI community undoubtedly has the ability, means and potential to set the pace in matters of good governance and fighting corruption.

The more the SAI leadership pays attention to the factors that strengthen government's internal controls, the more we allow our states to reverse the slide towards the tipping point of economic erosion and disorder. In this regard we ought to applaud INTOSAI for formulating clear and detailed guidance to help direct our efforts to fight against corruption.

The ethical tone set by leadership, robust checks and balances and independent providers of assurance, such as internal auditors, audit committees and parliamentary committees, also help to ensure the integrity and credibility required for good governance and thus combat corruption.

Against such a formidable background, this first joint product of the United Nations and INTOSAI should be viewed with much enthusiasm, as material worthy of what the global community deserves. The timing of this project is perfect, given the effort that SAIs have directed towards experimenting

with ways of fighting against corruption and the experience they have accordingly accumulated over a number of years.

This first product provides rich opportunities for the world's citizens and institutions to learn valuable lessons from the SAIs that volunteered their experience, knowing very well that many more SAIs and the UN organisations will keep making their case studies available for publication in future editions. This is truly an opportunity to live up to the spirit of INTOSAI, which is also supported by the UN, of *mutual experience benefits all*.

I sincerely wish the users of this publication great courage in our collective effort to combat corruption. The INTOSAI Platform Chair and the UN Under-Secretary-General deserve immense applause for such a monumental initiative.

## Foreword

Josef Moser

INTOSAI Secretary General, and  
President of Austrian Court of Audit



Corruption and the abuse of power is one of the most daunting challenges of the 21st century. It is not confined to any one region of the world, but can be found in developing and transition countries as well as in ‘developed’ industrialised nations.

Bad governance, corruption, abuse of power, weak institutions and lack of accountability corrode States from within. In some cases, this has brought about the collapse of State institutions. State failure is an alarming phenomenon that undermines global governance and adds to regional instability.

Therefore spreading good governance, supporting social and political reform, dealing with corruption and abuse of power are central elements for strengthening good governance.

Fighting corruption therefore for years is high on the INTOSAI agenda and is a strategic priority of INTOSAI because Supreme Audit Institutions (SAIs) help to ensure good governance, public accountability and transparency in public governance and thus contribute to the fight against corruption. In their reports, SAIs supply independent, unbiased and reliable information to national Parliaments, and by exercising their audit function on behalf of the citizens, they report whether the money entrusted to those in government has been spent economically, efficiently, effectively, and in compliance with applicable laws and regulations.

A series of INCOSAI recommendations, seminars, symposia, guidelines and other INTOSAI events deal with these tasks of SAIs and how SAIs in performing their task best can contribute to the fight against corruption. For instance, in 1998 the XVI INCOSAI in Montevideo, Uruguay delivered concrete recommendations on methods and techniques of *SAIs in Preventing*

*and Detecting Fraud and Corruption*. Since 2002, the INTOSAI Task Force on the Fight against International Money Laundering has been active in this field. It was merged into the Working Group on the Fight against Corruption and Money Laundering in 2007 and has delivered concrete guidelines for the work of SAIs in this regard, e.g. the Guideline for Audit of Corruption Prevention in Government Agencies.

Also the cooperation of INTOSAI with the United Nations has been dedicated to the fight against corruption for decades. For instance, already in 1996 *The Role of SAIs in Fighting Corruption and Mismanagement* was discussed on the occasion of the 12th UN/INTOSAI Seminar in Vienna, Austria. In 2009, the 20th UN/INTOSAI Symposium held in Vienna, Austria, on the topic *INTOSAI: Active Partner in the International Anti-Corruption Network; Ensuring Transparency to Promote Social Security and Poverty Reduction*, delivered concrete recommendations, especially the implementation of the principles of the Declarations of Lima and Mexico in order to strengthen the independence of SAIs.

This *Joint UN-INTOSAI Project: Collection of Important Literature on Strengthening Capacities of SAIs on the Fight against Corruption* is another milestone in the cooperation between INTOSAI and the United Nations. It constitutes the first Joint Project of the INTOSAI Platform for the Cooperation with the United Nations, chaired by the Supreme Audit Institutions of Korea - the Board of Audit and Inspection and is the youngest product of the long-standing friendly collaboration between INTOSAI and the United Nations/UNDESA.

This collection provides very useful and practical examples of best practice guides, audit types and methods to deal with corruption and examples of citizen engagement in auditing for detecting and deterring corruption. It is application oriented and designed for the practical use of Supreme Audit Institutions. It gives the INTOSAI members and the public a very useful tool for their development and their endeavours in the fight against corruption.

The INTOSAI family is grateful for the considerable efforts of the Board of Audit and Inspection of KOREA (BAI) and UNDESA that led to the publication of this volume. I would explicitly like to thank former Chairman of BAI, Dr. Kun Yang who was honorably retired recently, and the Acting Chairman of BAI, Dr. Yongrak Sung, for their commitment to this project and for bearing the costs for this publication. I would also like to thank Under-Secretary-General Wu Hongbo for his support and dedication.

## Foreword

Hesham Genena

INTOSAI Working Group on Fight against  
Corruption and Money laundering, and  
President of the Central Auditing Organization of  
Egypt



Dear Distinguished Readers,

I would first like to cordially thank Mr. Wu Hongbo, the UN Under-Secretary-General and Dr. Yongrak Sung, the Acting Chairman of the Board of Audit and Inspection (BAI) of Korea as a Chair of the INTOSAI Platform for Cooperation with the UN, and dedicate them on the decision made to implement the first joint project with the UNDESA to issue such a Book for the benefit of the worldwide community's prosperity on the occasion of the INTOSAI 60th Anniversary with title of '*Collection of Important Literature on Strengthening Capacities of SAIs on the Fight against Corruption.*'

According to the UNCAC, corruption is not a local matter, but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential.

The XIX INCOSAI, held in Mexico in 2007, agreed to establish the Working Group on Fight against Corruption and Money Laundering (WGFACML). The WGFACML aims to enhance the capability of Supreme Audit Institutions (SAIs) for tackling challenges of corruption and money laundering that face them. The main objective of the Working Group is to support the Supreme Audit Institutions' efforts in fields of fighting corruption and money laundering, broadening available concepts and best practices through developing guidelines, submitting training programs, other SAIs expertise, case studies relevant to their efforts exerted to deter, detect and fight corruption and money laundering. Currently the Working Group consists of 26 member SAIs.

The significant commitment which WGFACML has taken on with the

priority can be highlighted to the strong international cooperation in the fields of fighting corruption and money laundering in order to boost significant plan to add value to the INTOSAI community to deter corruption through determining key international partners as the World Bank's Financial Market Integrity Group, the EGMONT group, and explore further collaboration with key international partners, including OLAF and the European Commission.

The WGFACML has developed a questionnaire to be filled by INTOSAI members to establish a database to collect data on SAIs expertise and experiences in the said fields. The WG has been cooperating with other working groups and international agencies in the field of corruption and money laundering to add value.

Finally, I would like to express my deep appreciation for joining the issuance of such valuable book that would be a source of a great and beneficial information that will serve as a momentum for further discussion and valuable references for stakeholders.

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**INTOSAI General Secretariat-Austrian Court of Audit**  
**INTOSAI Professional Standards Committee**

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Member of the United Nations Committee of Experts on  
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**Amitabh Mukhopadhyay**  
Regional Performance Audit and Communication  
Specialist

**Marta Oyhanarte**  
Member of the United Nations Committee of Experts on  
Public Administration and Director of “Glocal Consultores”



The following high-ranking officials did not spare their whole-hearted support of the publication in every possible aspect, and took time from their busy schedule to contribute forewords and messages to this book.

**Wu Hongbo**

United Nations Under-Secretary-General for Economic and Social Affairs, Secretary-General for the International Conference on Small Island Developing States

**Terence Nombembe**

Chair of INTOSAI Governing Board, Auditor General of South Africa

**Josef Moser**

INTOSAI Secretary General, President of Austrian Court of Audit

**Hesham Genena**

Chair of INTOSAI Working Group on Fight Against Corruption and Money Laundering, President of CAO Egypt

**Sung Yongrak**

Acting Chair of the INTOSAI Platform for Cooperation with the United Nations, and Board of Audit and Inspection of Korea

This book would be very different, had it not been for the specialist knowledge of the eminent scholars listed below. They are key members of the circle of anti-corruption studies in Korea, and jointly contributed to this publication by giving heuristic perspectives across the content of the book. Readers of this book will be able to have a better understanding of joint efforts of the UN and INTOSAI in fight against corruption.

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Professor, Dong-A University, President, The Korean Association for Corruption Studies

**Shim Jaeseung**

Professor, Cheongju University, Member of board of directors, The Korean Association for Corruption Studies

**Andrew Eungi Kim**

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**Park Heejeong**

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## Overview

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### **Overview of the Collection of Important Literature on Strengthening Capacities of Supreme Audit Institutions on the Fight against Corruption**

The fight against corruption and the search for effective practices of cooperation between SAIs and citizens to enhance public accountability have been recurrent subjects of discussion during UN/INTOSAI seminars and symposiums since the 1970s. Since then the urgency of these subjects only increased. They have been at the center of discussion during the UN/INTOSAI symposiums in 2011 and 2013. In addition, they have been highlighted during the High-Level Panel meeting on 28 May 2013 on ‘Safeguarding Finances for Sustainable Development’ at the UN Headquarters in New York. The Panel has been organized by the United Nations Department of Economic and Social Affairs (UNDESA) and the Permanent Representative of Austria in cooperation with INTOSAI. The conclusions of these events can be summarized by stating that there will be no trust in the management of public funds without increased transparency and accountability, and in achieving this audit institutions play an important role. This new publication picks up the lines of discussion between UNDESA and INTOSAI and places them in the wider context of the development of auditing methodologies and tools.

The overall objective of the publication is to develop audit related capacities to prevent and fight corruption to safeguard public resources, especially for furthering the development agenda of the international community and implementing the UN Convention against Corruption. As a tool to support capacity development, the book promotes contributions by SAIs to the prevention and fight against corruption. In doing so, preference is given to papers focusing on providing information, orientation and advice for practical work rather than theoretical discourse.

The papers compiled for this publication will be presented in four sections: (1) Concept of corruption and guidelines to protect public institutions against external and internal corruption threats; (2) Forensic auditing to deal with fraud, corruption and money laundering; (3) Advisory audits and the provision of management advice to promote transparency and accountability to prevent corruption; and (4) Citizens engagement in auditing for detecting and deterring corruption.

It is believed that this publication will greatly increase the awareness of the

importance of SAIs' role in preventing and fighting corruption and capacity building of stakeholders for the shared development goals. This is all the more important as the United Nations Member States are in the process of developing a Post-2015 Development Agenda. This agenda with its single set of Sustainable Development Goals (SDGs) requires an enabling environment to safeguard the necessary finances for the implementation and achievement of SDGs. As discussed at the UN High Level Panel on 28 May 2013 where INTOSAI made the keynote presentation, audit institutions are expected to play an important role in this context. The publication aims at supporting respective capacity development.

None of the articles of four sections of this book aims at closing the discussion or giving a final summary on a subject. Instead, they all aim at taking the point on the state of the art of auditing in the forms featured by the respective article and section. In addition, they aim at providing an overview on developments in the respective fields and try to further encourage the discussion on what should be done to strengthen capacities of Supreme Audit Institutions on the fight against corruption.

Corruption, especially in the public sector, is one of the most serious and dangerous social, economic and political problems facing the world today. Corruption includes many activities that are anti-social and work against the development of society and good governance, including bribery, embezzlement, fraud, abuse of discretion (or misuse of one's power), favoritism and nepotism. While corruption is a problem affecting practically all aspects of life, it is of greater concern in the public sector. Bureaucratic corruption generates inefficiency, undermines democracy and the rule of law, distorts national and international trade, jeopardizes sound governance and ethics in the private sector, and threatens domestic and international security. Corruption has dire global consequences as well, trapping millions in poverty and misery, and potentially breeding social, economic, and political unrest. Also, corruption is both a cause of poverty and a barrier to overcoming it.

At the domestic level, the reason corruption is a social evil is because public costs of corruption are enormous, for corruption typically prompts increases in production costs, as bribes are used to avoid government regulation, obtain privileged advantage, and succeed in securing illegal contracts from the government or private companies. In particular, public policies for public interest in the fields of health, environment, and finance are distorted by the corrupt actions, which can increase social costs. Corruption also generates economic distortions in the public sector by diverting public investment away from projects in the public interest, such as education, into capital projects where bribes and kickbacks are plentiful. Corruption reduces the quality of

government services and infrastructure, and increases budgetary pressures on government. Also, the corrupt behaviour of tax evasion can reduce tax revenues of the government.

Corruption has more grave consequences for developing countries. Whether viewed as a cause or consequence of underdevelopment, corruption diverts scarce public resources for private gain, distorts the distribution of public goods and services, undermines the rule of law and destroys public trust in government which impedes financial investments and economic growth. Corruption also leads to the inefficiency of bureaucracy, unequal distribution of income, low productivity, and to the misallocation of resources and investments, further debilitating the existing low rate of economic growth. Inadequate accounting and disclosure standards as well as weak supervision are other forms of corruption in developing countries, usually referred to as “financial fraud,” and pervasive and large scale financial fraud can lead to a financial crisis and undermine stability and development.

As for the causes of corruption, the leading ones include unstable polities, uncertain economies, irresponsible government, dishonest entrepreneurial ambitions, unethical public servants, privatization of public resources, and factionalism, all of which benefit a privileged few at the expense of the disadvantaged mass. Other factors which can cause corruption include pressure, fear and silence, lack of ethical climate in human resource management, weak internal controls, and weak external supervision.

Corruption may be more widespread and pervasive in developing countries, but it is universal. That is why the international community is joining hands to form a coalition to combat the problem. It is now commonly understood that draconian anti-corruption laws and regulations, along with adequate oversight and enforcement, can prevent fraud and corruption. While government agencies have a major responsibility for preventing corruption, a comprehensive interdisciplinary approach is required to fight against corruption. Also, although all levels of government are putting an effort into ensuring political, financial, and legal transparency and accountability, a leading role is being played by Supreme Audit Institutions (SAIs).

For SAIs to be effective, they should have the following features: 1) independence in terms of budget and personnel; 2) audit authority extending to all public sector areas; 3) involvement in the review of proposed legislation; 4) authority to assess the quality of existing regulations governing budget management; 5) independent establishment of audit programs; and 6) the right to perform on-site inspections. SAIs can effectively contribute to the fight against fraud and corruption by, among others:

- seeking an adequate level of financial and operative independence and breadth of audit coverage
- taking a more active role in evaluating the efficiency and effectiveness of financial and internal control systems
- thoroughly analyzing the corruption phenomena – occurrence, causes, areas and mechanisms – based on integrity, transparency and accountability
- focusing audit strategy on areas and operations prone to fraud and corruption
- establishing an effective means for the public dissemination of audit reports
- intensifying the exchange of experiences on fraud and corruption with other SAIs
- forming a closer cooperation with other national and international bodies fighting corruption.

The efficiency of an SAI or public institution can also be greatly enhanced by establishing an appropriate way to monitor and review the implementation of the code of conduct in its given organization. Monitoring, evaluating and reporting are continuous processes that are important for ensuring transparency and fighting against corruption. Indeed, regular and systematic review by both internal and external auditors is probably the most effective strategy for preventing corruption, especially financial fraud.

Complementing the activities of SAIs is the International Organization of Supreme Audit Institutions (INTOSAI), which recognizes and emphasizes the importance of strengthening and promoting international and inter-institutional cooperation in the fight against corruption. A greater exchange of information would also ensure a better transfer of know-how and enable the creation of a data and information pool that can be used to develop better strategies to deal with corruption, fraud and mismanagement. The development of appropriate guidelines and manuals within the framework of INTOSAI to fight corruption is essential as well.

The aims and roles of SAIs and INTOSAI are not exhaustive when it comes to strategies for addressing the problem of corruption. Indeed, efforts to combat corruption involve many actors and issues, and the following suggestions or recommendations offer important insights in fighting corruption:

- prevent all forms of mismanagement of public funds by establishing

and maintaining strong fiscal and management controls, and by supporting audits and investigative activities

- recognize and support the public’s right to know the processes involved in public spending
- involve citizens in policy decision-making
- respond to the public in ways that are complete, clear, and easy to understand
- assist citizens in their dealings with government
- encourage and facilitate legitimate dissent activities in government and protect the whistle-blowing rights of public employees
- examine or reexamine the responsibility of leaders and others in bringing about an ethical culture
- promote constitutional principles of equality, fairness, responsiveness and due process in protecting citizens’ rights.

The following strategies, albeit developed for rooting out corruption in the financial sector, offer essential ideas, some of which are mentioned above, that are relevant for other organizations, public or private: 1) full enforcement of international accounting and auditing standards for all banks and financial institutions, regardless of ownership; 2) setting ethical standards for the accounting and auditing professions, through training and the promotion of independent professional accounting and auditing associations; 3) requiring all state-owned financial institutions to have their accounts audited by independent external auditors on a regular basis; 4) strengthening of institutional capability for the monitoring and supervision of financial institutions; 5) development of effective tax administration and fiscal auditing capability to prevent tax evasion and financial fraud; 6) encouraging civil society and the media to play an active role in maintaining an atmosphere in public life that discourages corruption, financial fraud, and irresponsible financial management; 7) providing adequate official protection for ‘whistle-blowers’ through legislation; and 8) providing training to the management and staff of financial institutions in the detection of money laundering.

Also central to fraud prevention is having honest and well-motivated public servants. The selection of public servants should be done through a thorough pre-employment screening and should be based solely on their integrity and capability. Staff rotation and job rotation are also important tools for fighting corruption. In addition, fraud can be prevented by establishing a

code of conduct that sets clear standards of conduct for employees, and all employees should receive regular training in ethics and fraud awareness.

Enhancing public accountability would not be complete without the active participation on the part of citizenry. There is a growing recognition of the need to deepen the citizen participation in administrative matters that concern public welfare. The enhanced civic engagement facilitates the organized intervention of citizens in public management during the design and implementation stages of public programs and during the control of its services and results. Also, the systematic exchange of information on shared concerns about public sector accountability between citizens – and their civil society and private sector organizations – and SAIs helps ensure that all aspects of government are held accountable to the people. An effective cooperation between SAIs and citizens which may include social audits and citizen audits will help safeguard and enhance transparency, accountability and good governance within government. All of this will also help common citizens to be vigilant about public service delivery.

Lastly, great lessons can be learned from the experiences of countries actively involved in anti-corruption campaign, and glimpses into country reports from various countries, including Italy, the Russian Federation, the Netherlands, Poland, and Brazil, offer many interesting points. A common finding from these reports is that a strong external audit function fulfilled by SAIs is quintessential in fighting against fraud, corruption and money laundering in the public sector. Other insights include the idea that auditors should maintain professional scepticism during audits, since identifying fraud is more difficult than identifying error. Also, a degree of unpredictability and randomness should be incorporated into the auditing process as the fraud could be camouflaged in a more clever fashion if the client knows when auditing will be carried out. Another noteworthy point pertains to a comment on the importance of honesty in eliminating corruption and assuring a state's integrity. That is to say, an honest state is a state largely free of corruption and where public servants work for the public good, not for their private interests.



## Section 1

# Concept of corruption and guidelines to protect public institutions against external and internal corruption threats

- 1.1 Fraud control framework: Best practice guide
- 1.2 SAINT: A tool to assess the integrity of public sector organizations
- 1.3 ISSAI 5700 Guidelines for the audit of corruption prevention in government agencies



## Introduction to Section 1

### Concept of corruption and guidelines to protect public institutions against external and internal corruption threats

Section 1 is concerned with the concept of corruption, the best practice guidelines for dealing with corruption and recommendations on how to improve integrity management. Laws and regulations, along with adequate oversight and enforcement, can prevent fraud and corruption. The leading role in this effort can be played by the Supreme Audit Institutions (SAIs). SAIs can effectively contribute to the fight against fraud and corruption by, among others, seeking an adequate level of financial and operative independence and breadth of audit coverage, taking a more active role in evaluating the efficiency and effectiveness of financial and internal control systems, analyzing the corruption phenomena – occurrence, causes, areas and mechanisms – based on integrity, transparency and accountability, focusing audit strategy on areas and operations prone to fraud and corruption by developing effective high risk indicators for fraud, and establishing a closer cooperation with other national and international bodies fighting corruption.

The efficiency of an SAI or public institution can be greatly enhanced by establishing an appropriate way to monitor and review the implementation of the code of conduct in its organization. Monitoring, evaluating and reporting are continuous processes that are important for ensuring transparency and fighting against corruption. Upon detecting a suspected fraud, appropriate actions need to be taken, including securing evidence of fraud, establishing lines of communication with the police, fraud reporting arrangements, assessing the adequacy of the organization's internal controls, and determining the kind of action to be taken.

Also central to fraud prevention is having honest and well-motivated public servants. The selection of public servants should be done through a thorough pre-employment screening and should be based solely on their integrity and capability. Staff rotation and job rotation are also important tools for fighting corruption. In addition, fraud can be prevented by establishing a code of conduct that sets clear standards of conduct for employees, and all employees should receive regular training in ethics and fraud awareness.

Integrity management is another word for fraud prevention and SAINT, which stands for Self-Assessment INTeegrity, is a tool developed by the Netherlands Court of Audit to be used to assess the integrity of public sector

SECTION 1 Concept of corruption and guidelines to protect public institutions against external and internal corruption threats

organizations. Basic principles of SAINT are, among others, that the organization itself must take the initiative to test its integrity that it is targeted mainly at the prevention of fraud, and that organization should learn to think in terms of vulnerability and risk when it comes to fraud. SAINT also yields recommendations on how to improve integrity management. An integrity policy calls for a combination of repression and prevention. An organization must adopt measures in terms of the inappropriate act of staff (repression), and it must identify the main integrity weaknesses and risks, and remove temptations that might induce civil servants to act inappropriately (prevention).

## **Section 1.1**

# **Fraud Control Framework: Best Practice Guide**

United Arab Emirates  
State Audit Institution  
January 2011



## Summary of 1.1 Fraud control framework: Best practice guide

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The chapter documents the Fraud Control Framework of the State Audit Institution of the United Arab Emirates.

The occurrence of fraud within an organization may be viewed as governance failure in the absence of a Fraud Control Framework. A Fraud Control Framework has three main functions including Fraud Prevention, Fraud Detection, and Fraud Response.

### 1. Fraud Prevention

Fraud can be prevented by promoting the ethical behaviour of leaders and having an ethical organizational culture provided by the Code of Conduct, Conflict of Interest Policy, Ethics and Fraud Awareness Training, Pre-employment Screening, and Assigning Responsibilities. To be more specific, an organization's code of conduct is an important document that sets clear standards of conduct for employees and supports effective fraud prevention. Second, organizations should have a clear policy on identifying and resolving conflicts of interest. Third, all employees should receive regular training in ethics and fraud awareness. Such training should be designed to promote ethical behaviour. Fourth, pre-employment screening helps to reduce the risk of employing people who have previously been in trouble. Types of pre-employment screening include confirmation of identity, police check for any convictions, security clearance, verification of qualifications claimed, and employment check with previous employers. Lastly, fraud prevention calls for clearly defining and assigning specific responsibilities and duties for all employees.

Fraud Risk Management is also a key part of a fraud control framework. A Fraud Control Plan provided by Fraud Risk Management describes the organization's approach to controlling fraud. It includes actions to be taken to reduce the fraud risks identified through the process of the fraud risk assessment. Consequently, a Fraud Risk Assessment is a process used to identify fraud risks, analyze the risks, evaluate the risks, and respond to the risks.

### 2. Fraud Detection

A strong and effective Internal Audit Department is important in the prevention and detection of fraud. An organization's internal audit resources should be used to assist in fraud prevention and detection through audits

undertaken as part of the Annual Internal Audit Program. Internal Audit should review the implementation of organization's Fraud Control Plan. Any such information received should be treated as confidential. Upon receiving a report of suspected fraud, the matter should be recorded in a Fraud Register. In this way, internal audit can contribute to effective fraud prevention and detection.

### 3. Fraud Response

Fraud response refers to appropriate actions to be taken in response to fraud, including securing evidence for criminal action, establishing lines of communication with the police, reviewing internal controls following a fraud, and fraud reporting arrangements. Where a fraud is detected, a review should be undertaken to assess the adequacy of the organization's internal controls and determine what action needs to be taken.



# Fraud control framework: Best practice guide

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State Audit Institution of the United Arab Emirates

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## 1 PURPOSE

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### 1.1 Why is a Fraud Control Framework Important?

A fraud control framework is necessary for organizations to ensure that fraud is prevented as far as possible, or if does occur, that it is detected and dealt with quickly. It is an important part of an organization's governance arrangements.

The State Audit Institution (SAI) has developed the governance model presented below.

Effective fraud control requires elements of this model to act together in a properly focused way. The occurrence of fraud within an organization may be viewed as governance failure in the absence of such a focus.



## 1.2 Who Should Have Responsibility for a Fraud Control Framework?

Boards or CEOs have principal responsibility for governance arrangements and therefore for fraud control within their organisations. In many cases they will be assisted by an Audit Committee that oversees the process of developing and implementing a fraud control framework, and receives and reviews reports on the way in which it is functioning and on any incidents of suspected fraud.

For day to day management of the fraud control function a Fraud Control Officer should be appointed.

Line managers are responsible for promoting ethical behaviour, identifying potential fraud risks, monitoring and reporting on the effectiveness of fraud strategies and internal controls, and ensuring that employees receive appropriate training.

All employees are responsible for:

- ensuring they are familiar with, and comply with their organisation's Code of Conduct and other relevant policies,

- ensuring that they are familiar with, and comply with the controls and procedures that relate to their work area, and
- reporting any suspected fraud to their supervisor/manager or the organisation's Fraud Control Officer.

### 1.3 What are the functions of a fraud control framework?

A Fraud Control Framework has 3 main functions:

- Fraud Prevention
- Fraud Detection
- Fraud Response

## 2 FRAUD PREVENTION

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### 2.1 what is Fraud Prevention?

Fraud prevention is having arrangements in place that reduce the risk of a fraud occurring. Many international studies have shown that prevention is the most cost effective way to prevent loss through fraud. Preventing fraudulent conduct from occurring in the first place is much better than trying to detect a fraud after it has already happened (prevention is better than cure).

### 2.2 How Do You Prevent Fraud?

Fraud can be prevented by having:

#### 2.2.1 Senior Management Who Set a Good Example

The behaviour of leaders has a very strong influence on the ethical environment of an organisation.

Many recent corporate failures have been attributed to poor ethical behaviour by leaders, that is then reflected in the actions of employees in the workplace. If senior management is unconcerned about ethical behaviour, employees are more likely to commit fraud because they feel

that good ethical conduct is not important to the organisation.

It is important that the leadership of an organisation:

- Sets a good example for all to follow,
- Makes it clear, through statements and policies, that any kind of unethical behaviour, especially fraud, will not be tolerated,
- Is prepared to take firm corrective action, including applying disciplinary measures, and
- Is seen to take such action when cases of misconduct are discovered or reported.

## 2.2.2 Having an Ethical Organisational Culture

An ethical organisation culture is one which focuses on and promotes ethical behaviour, good administrative practices and sound controls. These features should be documented and communicated to the entire organization.

In addition to the role of leadership, other important features in establishing an ethical culture are:

### 2.2.2.1 Code of Conduct

An organisation's Code of Conduct is an important document that sets clear standards of conduct and acceptable behaviour for employees. It is these standards that form the basis of an organisation culture that supports effective fraud prevention. An example of a Code of Conduct is at Appendix No. 3.

### 2.2.2.2 Conflict of Interest Policy

Organisations should have a clear policy on identifying and resolving conflicts of interest where an employee's private interests could or could be seen to influence their ability to effectively perform their duties. A conflict of interest policy may complement an organisation's Code of Conduct. A list of the important elements of a conflict of interest policy are at Appendix No.

### 2.2.2.3 Ethics and Fraud Awareness Training

All employees should receive regular training in ethics and fraud awareness. Such training should be designed to:

- Promote ethical behaviour,
- Encourage adherence to the organisation's Code of Conduct,
- Identify particular problem areas and provide advice on how to deal with them,
- Explain employee's obligations under laws and regulations,
- Alert employees to the possibility of fraud occurring in their workplace and help them identify any actual or potential fraud risks, and
- Provide employees with information about who to go to for advice and how to report fraud or ethics concerns.

Similarly, customers and suppliers should be aware of the organisation's attitude toward fraud and know where to report any concerns. Such information should be provided by the organisation when any new relationship is established.

#### 2.2.2.4 Pre-employment Screening

In many cases employees who engage in unethical behaviour or commit fraud have a history of dishonesty. Pre-employment screening helps to reduce the risk of employing people who have previously been in trouble because of their behaviour or those who claim to have qualifications they do not possess. It allows organisations to have greater confidence that their employees are of good character and can be trusted to do the right thing. Types of pre-employment screening include:

- Confirmation of identity,
- Police check for any convictions,
- Security clearance,
- Verification of qualifications claimed, and
- Employment check with previous employers.

#### 2.2.2.5 Assigning Responsibilities

While all employees are responsible for maintaining an environment of ethical behaviour and intolerance to fraud, specific responsibilities and duties need to be clearly defined and assigned. These include

responsibilities for:

- Managing the overall fraud control framework,
- Maintenance and regular review of internal controls, and
- Administrative matters such as the development of systems and procedures to enable issues such as conduct and discipline to be effectively actioned.

Organisations should appoint a Fraud Control Officer to take overall responsibility for maintaining the fraud control framework and for co-ordinating the work of other functions involved in fraud control matters, such as Internal Audit, Human Resources and Financial Management areas. The duties of a Fraud control Officer include:

- Undertaking an annual Fraud Risk Assessment and developing a Fraud Control Plan,
- The provision of ethics and fraud awareness training for employees,
- Establishing and maintaining mechanisms for fraud reporting,
- Maintaining a Fraud Register,
- Managing fraud investigations,
- Maintaining a Register of Interests, for the identification and management of any conflicts of interest.
- Reporting to the CEO and Board or Audit Committee on fraud matters, and
- Treating all information received as confidential.

### 2.2.3 What is Fraud Risk Management?

Fraud risk management is a key part of a fraud control framework, and should form part of an organisation's overall risk management program. Fraud risk management includes:

- Undertaking an annual Fraud Risk Assessment to identify, evaluate, and respond to fraud risks faced by an organisation, and
- Developing and implementing an organisation Fraud Control Plan to co-ordinate and focus anti-fraud activity. The Fraud Control Plan should be considered, approved and monitored by the organisation's

Audit Committee or Board.

Some common risk management terms are defined at Appendix No. 4.

#### 2.2.4 What is a Fraud Risk Assessment?

A Fraud Risk Assessment is a process used to identify and treat fraud risks in an organisation. These risks may come from within the organisation (internal risks), or from outside the organisation (external risks). A risk assessment is required for determining how risks should be managed. Some common types of fraud risk are:

- Employee related fraud – (such as payroll fraud, theft or misuse of assets, improper use of position, contracting to yourself or a relative),
- Supplier/Vendor related fraud – (such as bribes and kickbacks, false invoices, collusive tendering, inventory theft),
- Customer related fraud – (such as avoidance of payments, improper claims for government benefits), and
- Computer fraud – (such as hacking and cybertheft)

There are 5 steps to carrying out a fraud risk assessment. They are:

- **Establish the context**, *gaining an understanding of what the organisation does, its size, diversity and the general fraud threats in the industry sector in which it operates. In addition, understanding its internal processes and arrangements,*
- **Identify the risks**, *noting down all possible fraud risks, even if there are controls in place designed to stop fraud from happening,*
- **Analyse the risks**, *looking at the likelihood and consequences of fraud occurring against these possible risks after the effectiveness of internal controls has been taken into account,*
- **Evaluate the risks**, *prioritizing the risks according to their combined likelihood and consequence rating, and*
- **Respond to the risks**, *developing actions that eliminate the risks, or reduce them to an acceptable level. An example of a simple fraud risk assessment process is at Appendix No. 5.*

### 2.2.5 What is a Fraud Control Plan?

A fraud control plan describes the organisation's approach to controlling fraud. It includes actions to be taken to reduce the fraud risks identified through the fraud risk assessment process and assigns responsibility for their treatment. An organisation's fraud control plan should be endorsed by its Audit Committee or Board and updated on a regular basis.

### 2.2.6 What should A Fraud Control Plan Contain?

A fraud control plan should include:

- A description of the organisation - what it does and how it is structured,
- A statement of the organisation's attitude and approach to fraud, preferably signed by the CEO,
- A description of the organisation's fraud control measures, including reporting arrangements,
- A copy of the organisation's Code of Conduct and Conflict of Interest Policy,
- An outline of the responsibilities employees have for fraud control in their work area, including the need to obey laws,
- A summary of risks identified through the fraud risk assessment process, the assessed level of risk, proposed treatments and responsibilities for implementing them, and
- Arrangements for ethics and fraud awareness education for employees.

## 3 FRAUD DETECTION

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The best forms of fraud detection come from aware and vigilant employees who know where to go and what to do if fraud is suspected. Information about this should be provided to managers and employees through ethics and fraud awareness education sessions. In addition, a program of



internal audits should be undertaken to test internal controls and identify any suspicious matters.

### 3.1 What Role Does Internal Audit Play?

A strong and effective Internal Audit Department is important in the prevention and detection of fraud.

An organisation's internal audit resources should be used to assist in fraud prevention and detection through audits undertaken as part of the Annual Internal Audit Program. As part of its program of activities, Internal Audit should review implementation of the organisation's Fraud Control Plan. Internal audit can also contribute to effective fraud prevention and detection through audits designed to review and test internal controls, including sampling of transactions.

### 3.2 What is Fraud Reporting?

Organisations should have facilities and procedures in place to enable people to report suspected fraud. Any such information received should be treated as confidential and not disclosed or discussed with anyone other than those with a legitimate need to know. As a minimum organisations should:

- Nominate a person (such as the Fraud Control Officer) to receive any reports of fraud, either from employees of the organisation or from customers, suppliers or members of the public,
- Provide advice to employees, customers and suppliers on how to make reports and what to report about,
- Have a system for recording all reports received,
- Develop procedures for responding to fraud reports, and
- Review progress to make sure the above actions take place

#### 3.2.1 What About Protection for Employees Reporting Suspected Fraud?

An organisation should take all reasonable steps to protect employees reporting suspected fraud by:

- Keeping information confidential and restricting access to those

with a genuine need to know,

- Not tolerating any actual or threatened detriment to anyone reporting suspected fraud, and
- Taking action against anyone who either causes detriment to, or makes threats, actual or implied, against anyone reporting (or thought to be reporting) suspected fraud.

At the same time, disciplinary action should be taken against any employee found to have maliciously raised a matter they know to be untrue.

### 3.2.2 What is a Fraud Register?

Upon receiving a report of suspected fraud, the matter should be recorded in a Fraud Register. The Fraud Register will record all reported suspicions including those dismissed as unsubstantiated, or otherwise not investigated. It will also contain details of actions taken and conclusions reached. A sample Fraud Register is at Appendix 6.

## 4 FRAUD RESPONSE

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Fraud response refers to a plan of action that is put in place when a suspected fraud is discovered or reported. The purpose of this plan is to define the responsibilities for actions, such as:

- Investigating fraud incidents and taking appropriate action,
- Securing evidence for disciplinary and/or criminal action,
- Preventing further loss,
- Recovering losses,
- Establishing lines of communication with the police,
- Reviewing internal controls following a fraud, and
- Fraud reporting arrangements.

## 4.1 What Happens When a Fraud is Reported?

Once a suspected fraud has been reported or identified, an assessment of the situation should be made. Consideration should be given to the following factors:

- The source of discovery of the suspected fraud,
- The authenticity of the information initially received; and
- Line management's initial assessment of the circumstances involved.

*Note:* All cases should be treated confidentially and handled discreetly to ensure no-one is harmed by false allegations, that anyone committing a fraud is not forewarned, or that anyone reporting a fraud is not victimised.

The purpose of an assessment is to allow a decision to be made on the appropriate action to be taken. This could include:

- Whether or not the matter should be reported to the Police,
- Whether or not the matter requires reporting to the State Audit Institution or any other external agency,
- Whether or not a formal internal investigation is required,
- Who should conduct an internal investigation,
- Whether or not action needs to be taken to secure the organisation's assets, resources or information, and
- Whether or not a media release is required.

### 4.1.1 When Should Police be Involved?

Suspected fraud should be reported to the Police where there is a likelihood that criminal activity has taken place. If the suspected fraudulent activity is considered to be of this nature and the matter is reported to the Police, no attempt must be made by the organisation's personnel to question the employee(s) or third parties involved as this could prejudice future Police investigations and subsequent prosecutions.

#### 4.1.2 When Does a Matter Need to be Reported to the State Audit Institution (SAI)?

Under Article 20 of Federal Law 7 of 1976 the SAI has a responsibility to investigate fraud in Federal Government Organisations. Once the assessment of a suspected or reported fraud indicates that the matter has substance, it must be reported to SAI.

#### 4.1.3 Who Will Carry Out a Formal Internal Investigation?

The conduct of any investigation will depend on advice from SAI. If, after consideration, a decision is made not to involve the Police but instead to hold a formal investigation, an investigator will be appointed to head the investigation. Investigations may involve people from the organisation itself, such as an internal auditors or finance managers, or may involve external parties who have particular skills and are engaged specifically to assist the investigation. The decision will depend on the circumstances and the relevant expertise required. In any event, the person chosen must have the appropriate qualifications and experience to carry out an investigation. Line managers may be required to assist the investigator but should not become directly involved in the investigation process, nor should managers attempt to unduly influence the investigation report.

#### 4.1.4 What About Securing Information and Assets?

In some cases it may be necessary to take action to secure assets and preserve information. Such actions could include:

- Directing the Head of Human Resources to stand down or suspend from work the suspected employee(s), pending the outcome of any investigation,
- Securing the suspect's work station and documentation and making it inaccessible to the suspect and any other unauthorised employees,
- Directing the Head of Information Technology to ensure that information contained on PCs, laptops or on the organisation's network relating to the fraud cannot be accessed, destroyed or corrupted,
- If an external contractor/supplier/consultant is suspected, directing

the Head of Finance to immediately suspend any payments due, and

- Physically securing cash, assets or other material that may be at risk.

#### 4.1.5 What About Dealing With the Media?

In some cases, particularly where a fraud is of high value, it may be necessary to deal with the media. In such cases it can be prudent for organizations to retain the services of a specialist media consultant and a lawyer who can assist the CEO to prepare a media release. When preparing a media release it is important to:

- Keep it short, factual and straightforward,
- Not speculate about what might have happened,
- Be honest about what is not yet known,
- Make concerns clear,
- Detail what is being done in response to the situation, and
- Be very careful about attributing blame.

It is also very important that a single point of contact be established for dealing with the media. The organization should project a professional and co-ordinated image. No-one, apart from the designated point of contact, should speak to the media.

#### 4.1.6 What Are Disciplinary Procedures?

An organisation may invoke administrative remedies in addition to any other actions or penalties that may be imposed by law or regulation. Such remedies will differ from case to case but may include fines, demotion, termination of employment, or cancellation of contracts.

#### 4.1.7 What About Recovering Fraud Losses?

As part of the investigation, the actual amount of any loss will be quantified as far as possible. Repayment of losses caused by any fraudulent or unethical activity should be sought in all cases. Where the loss is substantial, legal advice should be obtained about the

possibility of freezing the suspect's assets through the court, pending conclusion of the investigation. Legal advice may also be obtained about prospects for recovering losses through the civil court, if the person involved refuses to make repayment. Organisations should normally seek to recover their own administrative costs in addition to any losses.

#### 4.1.8 Should the Results of an Investigation be Documented?

Irrespective of whether the investigation is internal or external, proper records should be maintained for all investigations. This includes for the investigation itself, and any consequent disciplinary proceedings and changes to internal control arrangements. The standard for such record keeping should be in line with best practice for investigations.

#### 4.1.9 What About Reporting the Results of an Investigation?

Once an investigation is concluded the results should be reported to the Board or Audit Committee, and the Head of Internal Audit.

An annual fraud report should also be presented detailing:

- All instances of fraud reported against the organisation,
- The outcome of internal fraud investigations,
- The status of cases of fraud referred to external agencies for investigation,
- The results of any completed prosecutions or administrative actions, and
- Internal control modifications made subsequent to any fraud.

#### 4.1.10 Do Controls Need to be Re-assessed After a Fraud?

A critical outcome of a fraud investigation is identification of the control failures that allowed the fraud to occur. In each instance where a fraud is detected a review should be undertaken to assess the adequacy of the organisation's internal controls and determine what action needs to be taken. Where improvements are required they should be implemented as soon as possible by the relevant manager. The Board or Audit Committee should monitor the implementation and follow-up to ensure that all actions have been completed.

## 5 APPENDIX

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### Appendix No. 1

#### WHAT YOU NEED TO KNOW?

20 questions to ask about fraud control arrangements in your organisation.

1. Is there a commitment to fraud control by the CEO, that is expressed as a policy?
2. Does the Audit Committee or Board oversight fraud control arrangements?
3. Is there a Code of Conduct?
4. Do managers and senior officials set a good example? For example, are they committed to following the laws and the Code of Conduct?
5. Do employees have a clear understanding of what behaviour is acceptable and what is unacceptable?
6. Are there procedures for reporting and addressing conflicts of interest?
7. Does the organisation maintain a Gifts Register and a Register of Interests?
8. Are disciplinary procedures available to apply to unethical behaviour?
9. Is there regular fraud and ethics awareness training for employees?
10. Does the organisation use pre-employment screening?
11. Has a fraud risk assessment been carried out in the past 2 years?
12. Is there a fraud control plan?
13. Do employees know what to do if they suspect a fraud?
14. Is protection available for employees reporting fraud?
15. Do clients, suppliers and customers know how to report suspected fraud?
16. Is there a plan for responding to allegations of fraud?

17. Have internal controls been designed to prevent fraud from occurring?
18. Is there a fraud control officer, or has another manager been assigned fraud control responsibilities?
19. Does the Internal Audit Department include fraud controls in its annual program of work?
20. Is there a Fraud Register to record reports of suspected fraud?

## Appendix No. 2

### CODE OF CONDUCT

An organisation's Code of Conduct should contain reference to expected behaviour in regard to:

- Professionalism
- The acceptance of gifts and benefits
- Acting ethically
- The use of the organisation's resources
- Fairness and equity
- The use of official information
- Conflicts of interest



### Example of Code of a Conduct of Conduct for an Organization:

Employees are required to adhere to the Code of Conduct at all times when performing their duties and representing the organisation. The Code of Conduct requires employees to:
1. Comply with their conditions of employment.
2. Act with honesty and integrity.
3. Demonstrate respect for other people.
4. Avoid actual and perceived conflicts of interest, including any personal activities or financial interests which may conflict with their commitment to effectively perform their job.
5. Maintain confidentiality of information gained from employment with the organisation, and avoid disclosure of this information outside the normal requirements of their job.
6. Refuse gifts from clients and suppliers, or from people or organisations in any way connected with clients or suppliers.
7. Avoid any form of racial discrimination or vilification.
8. Seek prior approval for personal use of any organisation equipment, with all personal use to be officially registered.
9. Agree to the organisation's approved conditions for use of telephones, IT systems and the internet.
10. Only make media comment concerning the organisation if requested to do so by the CEO.

ACKNOWLEDGEMENT		
I acknowledge I have received, read and will comply with the Code of Conduct.		
1. Comply with their conditions of employment.		
Employee Signature		Date
Employee Name		

## Appendix No. 3

### CONFLICT OF INTEREST POLICY

An organisation's Conflict of Interest Policy should contain:

- A definition of Conflict of Interest

- The organisation's expectations of behaviour in regard to conflict of interest
- Responsibilities for the disclosure of conflicts of interest
- The process to be used when declaring a conflict of interest

#### Example of a Conflict of Interest Policy for an Organisation:

##### **PURPOSE**

- This policy complements the Organisation's Code of Conduct by establishing a framework for identifying and resolving conflicts of interest.

##### **WHAT IS CONFLICT OF INTEREST?**

- A conflict of interest is a situation in which an employee's private interests, including associations or relationships, can or can appear to, influence the performance of their official duties.

##### **ORGANISATION POLICY**

- Employees, are expected to avoid or effectively resolve any actual or perceived conflict of interest situations in which private interests could influence their ability to effectively perform their duties.
- Employees must not, directly or indirectly:
  - Place themselves in a situation, in any official matter, where private interests could lead to questions about how objective their actions or decisions are in the matter,
  - Undertake outside employment, or other private arrangements that are, or may appear to be, in conflict with the performance of their duties,
  - Seek or receive a benefit by giving preferential treatment to any person while performing their duties,
  - Seek or accept a benefit from information acquired during the course of their duties,
  - Use the organisation's property to serve their private interests,

unless authorized to do so, or

- Solicit or accept gifts or other benefits that are connected directly or indirectly with the performance of their duties.

## SCOPE OF POLICY

- This policy applies to:
  - Employees of the organisation, and
  - Those under contract to the organisation for the provision of professional services.

## RESPONSIBILITIES

- Responsibility for the disclosure of conflict of interest situations rests with the employee. This ongoing obligation begins, but does not end, when an employee is first employed and is required to disclose any conflicts.
- Managers/Supervisors of employees who have disclosed a conflict of interest are required to state how that conflict will be avoided or managed
- The Head of Human Resources will ensure that all new employees sign a conflict of interest disclosure form.
- The Fraud Control Officer will maintain the organisation's Conflict of Interest Register. **WHAT IS DISCLOSURE AND HOW DOES IT WORK?**
- Disclosure is a confidential procedure that is designed to protect both the employee and the organisation from unfair allegations of conflict of interest.
- There are 2 main stages:
  - At the commencement of work with the organisation, all new employees will be required to read the Conflict of Interest Policy and disclose any private interests (such as business, financial or other personal interests), they have that might, or might or might be seen to, affect the performance of their official duties.
  - During their employment with the organisation, employees are required to disclose any changes in their circumstances that would alter their previously disclosure statement. This includes the acceptance of any gifts or benefits.

### CONFLICT OF INTEREST REGISTER

- Disclosure statements for all the organisation’s employees will be kept by the Fraud Control Officer.
- All disclosures will be treated as strictly confidential and access to information in the Conflict of Interest Register will be limited to those with an authorized need to know.

## Appendix No. 4

### RISK MANAGEMENT TERMS

The term “Risk Management” is explained in applicable Standards as being the organisation culture, processes and structures that are directed towards the management of opportunities and adverse effects. For fraud control, the focus is on the adverse effects side of risk management. Fraud risk management is an informed decision-making process that leads to the efficient minimization of fraud risk.<sup>1</sup>

Some common Risk Management terms are:

Term	Definition
Risk	The chance of something happening that will have an impact upon objectives. A fraud risk is the chance of a fraud occurring.
Risk Identification	The process of determining what can happen, why and how.
Likelihood	The probability or chance of something happening.
Consequence	The outcome or impact of something happening
Risk Analysis	The use of available information to assess the likelihood and consequences of a risk.
Risk Evaluation	Deciding which risks require treatment based on the risk analysis and treatment priorities.
Risk Treatment	Identifying, assessing and implementing risk reduction measures.
Risk Reduction	Actions taken to reduce the likelihood and/or consequence of a risk.

## Appendix No. 5

### FRAUD RISK ASSESSMENT PROCESS

The Fraud Risk Assessment Process contains 5 steps :



#### STEP 1: Establish the Context

Consider the environment in which the organisation operates, how the organisation is structured and how it does its business. For example, while organisations may have common administrative requirements some organisations will provide services and receive revenue, some will distribute funds to other entities and some will be mainly concerned with expenditure projects. In addition, some will operate in an e-commerce environment and will rely on large computer systems for their operation, while others will not. All these things need to be considered when determining what is to be assessed. Establishing the context in which an organization operates will reduce the field of possible fraud risks needing to be assessed to those that relate specifically to the organization in question.

#### STEP2: Identify the Risks

When the context has been established, determine the functions and activities that need to be assessed for fraud risk. For example:

- Payment of invoices,
- Collection of revenue,
- Management of petty cash,
- Payroll functions,
- Inventory management, and
- Contracting.

### STEP 3: Analyze the Risks

#### 1. What is the likelihood that fraud will occur?

##### Likelihood criteria

The following can be used as a guide for determining the likelihood of a fraud occurring against a function or activity.

Category	Likelihood Description
Almost certain	There is a greater than 75% chance of fraud occurring. Minimal checks and balances on processes, important impacting factors outside the control of the organisation. Frauds have previously been committed.
Likely	There is a 50%-75% chance of fraud occurring. Processes are complex, with few checks and balances. Repeated non-compliance with laws or procedures.
Possible	There is a 25%-50% chance that fraud will occur. Processes may be complex. Audits/reports may indicate some non-compliance with laws or procedures.
Unlikely	There is a less than 25% chance of fraud occurring. Internal processes may be simple with adequate controls – no prior history of fraud.

*TIP* : When assessing the likelihood of fraud against functions or activities, think about things that could go wrong – for example, an employee stealing cash, or a supplier submitting a false invoice for payment. Then think about the controls that are in place to stop that from happening – for example daily balancing of receipts issued with money taken, or checking invoices against goods received before payments are made. If the controls are strong, the likelihood of fraud will probably be low.

## 2. What are the consequences of a fraud, if it does occur?

### Consequence Table

The following is a guide only, for determining the consequence of a fraud occurring. Organisations should modify the amounts and the other examples to meet their own circumstances.

Consequence Level	Example
Extreme	Financial loss over AED 100,000; there is a prolonged suspension of normal work while a major restructuring takes place; organisational performance is significantly affected; there is repeated headline exposure in the media; there is direct Ministerial involvement; there is a loss of public confidence and credibility.
Major	Financial loss between AED 50,000 and AED 100,000; most normal functions of the area cannot be effectively provided until new procedures are developed and new staff recruited and appropriately trained; there is major coverage in the media; there is damage to key relationships (government, public, employees, suppliers).
Moderate	Financial loss is between AED 25,000 and AED 50,000; there is a medium term suspension of normal business functions in the area and some delays in the provision of services while tasks are re-prioritized; there is a chance of media coverage; Ministerial briefing is required.
Minor	Financial loss is less than AED 25,000; there is no material disruption to business operations in the area, or only minor suspension of services ; there is no media coverage.

**TIP :** Consider the damage that a fraud against the organisation's functions or activities would create. Use consequences that are meaningful to your own situation. When assessing consequence levels always select the highest consequence relevant to the risk you are assessing.

### STEP 4: Evaluate the Risks

Once the likelihood and consequence levels are assessed, the next step is a simple process of using the 4x4 risk matrix below to determine overall risk ratings and the required action for each of the identified fraud risks.

#### Risk Matrix

Likelihood Category	Consequence Category			
	Minor	Moderate	Major	Extreme
Almost Certain	M	S	H	H
Likely	M	S	S	H
Possible	L	M	S	S
Unlikely	L	L	M	M

#### Legend:

- H: High Risk – Immediate response required, new controls must be implemented or processes changed to reduce the risk of a fraud occurring.
- S: Significant Risk – risk treatment must be developed to reduce the risk to a tolerable level, contingency plans should be put in place where this is not possible. Controls must be strengthened where possible.
- M: Medium Risk – existing controls should be reviewed to make sure that they are operating effectively. Consideration should be given to the implementation of additional controls if necessary.
- L: Low risk – continue function or activity as normal.



## STEP 5: Treat the Risks

Develop actions that reduce risk levels or eliminate risks.

### Treatment Table

A Treatment Table can be used to identify the type of fraud risk, the assessed level of that risk, the reason for the assessment and the proposed treatment.

Example of a Treatment Table:

Function / Activity	Level of Assessed Fraud Risk	Reason for Level of Fraud Risk	Risk Treatment
Payment of Invoices	Medium	Controls are in place but procedures are not always followed.	Further training for employees involved in the payment process. Regular checking of adherence to procedures.
Collection of Revenue	High	Previous fraud experienced, controls are weak. Potential for further losses. Public confidence will suffer if any further fraud is committed.	Identify process weaknesses and strengthen existing controls. Implement new controls such as Installation of security cameras, education of customers on fraud matters.
Management of Petty Cash	Low	Strong controls in place	No action necessary.
Payroll Functions	Low	Strong controls in place	No action necessary.
Inventory Management	Significant	Function spread over a number of locations, with different procedures used. Uniform procedures yet to be implemented.	Develop temporary controls to reduce the fraud risk until new procedures are implemented. Educate employees accordingly.
Contracting	High	Controls need strengthening. High potential for public concern if fraud committed.	Identify process weaknesses and strengthen existing controls. Develop and implement additional training/education programs for staff.

### Appendix No. 6

**SAMPLE FRAUD REGISTER**

ID number	Date Identified	Description of Alleged Fraud	Assessment	Chosen Action	Action Owner	Target Date To Complete Action	Outcome	Administrative Action Taken	Closure Date

## Glossary of Key Terms

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Allegation	: A statement or accusation by a person that an offense has or may have been committed.
Conflict of Interest	: A situation in which a person's private interests, including associations or relationships, can or can appear to influence the performance of their official duties.
Ethical Culture	: The accepted standards of social or professional behavior within an organization.
Fraud	: The use of deception to unjustly obtain a benefit.
Fraud Control	: A process designed to provide reasonable assurance that fraud risks are managed.
Fraud Control Framework	: Measures that are structured and co-ordinated to address fraud prevention, detection and response.
Fraud Detection	: Procedures to discover fraud during or after its occurrence.
Fraud Prevention	: Strategies that are designed to proactively reduce or eliminate fraud committed against an organization.
Fraud Response	: Plans and activities that take place after a fraud has been detected.
Fraud Risk Assessment	: The application of risk management principles and techniques in the assessment and treatment of the risk of fraud to an organization.
Fraud Reporting Facility	: A system to allow employees of an organization, contractors, suppliers and the members of the public to report suspected fraud.
Investigation	: A search or collation of evidence to connect a person to conduct which is against the law, or the policies or standards of an organization

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## **Section 1.2**

# **SAINT: A tool to assess the integrity of public sector organizations**

International Journal of Government Auditing  
April 2008



## Summary of 1.2 SAINT: A tool to assess the integrity of public sector organizations

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This article, based on the SAINT manual of the Netherlands Court of Audit, outlines the concept of integrity, the basic principles of SAINT and its components as well as its design and operation as implemented in a one-day workshop. SAINT stands for Self-Assessment INTEgrity, a tool developed by the Netherlands Court of Audit in cooperation with the Ministry of the Interior and the Bureau of Integrity of the City of Amsterdam. By using the SAINT tool, public sector organizations can assess their vulnerability to integrity violations. Factors which can increase vulnerability include management dominated by a single person or small group, staff having powers to be obstructive, the lack of opportunity or safety to discuss difficult questions, political pressure or pressure from market parties, and complex financial/legal relationships.

SAINT also yields recommendations on how to improve integrity management. An integrity policy calls for a combination of repression and prevention. An organization must adopt measures in terms of the inappropriate act of staff (repression), and it must remove temptations that might induce civil servants to act inappropriately (prevention). Priority should be given to prevention. In addition, SAINT is a self-assessment tool which is targeted at prevention. It is not designed to detect integrity violations or to punish (repress) unacceptable conduct but to identify the main integrity weaknesses and risks. All of these are integrated into the SAINT workshop, which significantly increases the awareness of integrity. Also, the SAINT workshop teaches the organization how to minimize risks. Ultimately, the end product of the SAINT workshop is a concrete management report/action plan.

SAINT uses an integrity control framework based on research literature and international standards set by organizations such as the United Nations and the World Bank. The system is divided into 14 clusters, which are subdivided into three blocks (general, hard, and soft controls). In the Integrity Control Management System, the hard controls are concerned chiefly with regulations, procedures, and technical systems, including responsibilities, legislation and regulation, accounting system/ internal control, and security. The soft controls are designed to influence behaviour and working atmosphere, including values and standards, organizational culture, management attitude, and integrity awareness. To a great extent, the clusters in the general controls category are more wide ranging or have a mix of hard and soft elements, including policy framework, vulnerability/risk analysis, recruitment and

**SECTION 1** Concept of corruption and guidelines to protect public institutions against external and internal corruption threats

selection, response to integrity violations, accountability, audit and monitoring. To put it concretely, an integrity control framework is operated by soft controls, hard controls, and general controls.



## SAINT: A tool to assess the integrity of public sector organizations



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SAINT stands for Self-Assessment INTEgrity, a tool developed by the Netherlands Court of Audit in cooperation with the Ministry of the Interior and the Bureau of Integrity of the city of Amsterdam. By using the SAINT tool, public sector organizations can assess their vulnerability to integrity violations and resilience in response to those violations. SAINT also yields recommendations on how to improve integrity management. This article, based on the SAINT manual, outlines the concept of integrity, the basic principles of SAINT and its components, and its design and operation as implemented in a 1-day workshop.

SAIs are well placed to promote the integrity of the public sector by contributing to accountability and transparency. SAINT may help SAIs to assess integrity risks and the resilience of integrity management systems.

## 1 The Concept of Integrity

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Integrity is not a simple concept to define. Many overlapping and distinct definitions are used. The term integrity is derived from the Latin *in-tangere*, meaning untouched. It refers to virtue, incorruptibility, and the state of being unimpaired. Integrity is closely related to the absence of fraud and corruption, but it also entails common decency. In this context, it is a positive and broad concept related to ethics and culture. The SAINT tool also uses a broad and positive definition of the term integrity.

Integrity means more than simply observing rules and laws. The law provides a lower limit and a minimum moral starting point. An integrity policy calls for a combination of repression and prevention. On the one hand, an organization must adopt measures to take if its staff act inappropriately (repression). On the other, it must do all it can to remove temptations that might induce civil servants to act inappropriately (prevention). Priority should be given to prevention. Not only is it more effective, but on balance the investment is many times smaller than the cost of repairing damage caused by inappropriate behavior.

## 2 Basic Principles of SAINT

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- *Self-assessment*: SAINT is a self-assessment tool. The *organization itself* must take the initiative to test its integrity. Thus, the assessment draws on the knowledge and opinions of the staff. The organization reveals its own weaknesses and *the staff* make recommendations on how to strengthen resilience.
- *Targeted at prevention*: The self-assessment tool is targeted at prevention. It is not designed to detect integrity violations or to punish (repress) unacceptable conduct but to identify the main integrity weaknesses and risks and to strengthen the organization's resilience in the face of those weaknesses and risks.
- *Raising general integrity awareness*: The SAINT workshop significantly increases awareness of integrity. The participants' collective discussions about the importance of integrity are of great value.

- *Learning to think in terms of vulnerability and risk:* The SAINT workshop teaches the organization how to think in terms of vulnerability and risk. During the workshop, the participants identify the main vulnerabilities and risks and then make recommendations on how to minimize them.
- *Concrete management report/action plan:* The end product of the SAINT workshop is a concrete management report/action plan. Under the expert leadership of a trained moderator, the participants formulate recommendations for their own organization. The report explains to management where urgent measures must be taken to strengthen the organization's resilience in response to integrity violations.

### 3 Outline of the SAINT Workshop

SAINT is a self-diagnosis tool that is presented in a 1-day workshop. Table 1 outlines the steps in the process and the order in which they are taken. SAINT consists of four modules that are presented in morning and afternoon sessions.

Table 1: Steps in the SAINT Workshop Process

Session	Module	Process Step
Morning	Module 1	a. Analysis of processes b. Selection of most vulnerable processes c. Analysis of the integrity risks of the most vulnerable processes d. Selection of the main risks
Afternoon	Module 2	Assessment of the maturity of the integrity management system
	Module 3	a. Formulation of a general management report and action plan b. Preparation of a concrete management report and action plan
	Module 4	Evaluation of the workshop

**Module 1a: Analysis of Processes.** The first step is to analyze the primary and secondary *processes* relevant to the organization. By way of preparation, the organization must draw up a full list of its primary and secondary processes and send it to the moderator before the workshop. The workshop can then get off to a “hot start.”

**Module 1b: Selection of the Most Vulnerable Processes.** In this step, an estimate is made of the *vulnerability* – i.e., the potential exposure to integrity violations of all the processes named in step 1a. The participants ultimately choose the two or three most vulnerable processes so that the related risks can be identified in the next step (1c).

**Module 1c: Analysis of the Integrity Risks of the Most Vulnerable Processes.** In this step, participants analyze the integrity *risks* – i.e., the concrete risks of integrity violations – of the processes selected in step 1b as being the most vulnerable.

The characteristics of a vulnerable process are known from both research literature and practice. They are summarized in table 2.

Table 2: Characteristics of Vulnerable Processes

Elements for assessing vulnerability	Vulnerable areas /activities /actions	
Relationship between the government and the public/businesses	Collection	assessments, taxes, import duties, excise duties, fees, charges
	Contracting	tenders, orders, assignments, awards
	Payment	subsidies, benefits, allowances, grants, sponsoring
	Issuance	permits, passports, driving licenses, identity cards, authorizations, inspections
	Enforcement	supervision, control, inspection, prosecution, detection, justice, punishment
Management of public property	Information	national security, confidential information, documents, dossiers
	Money	cash/ giro via budgets, premiums, expenses, bonuses, allowances, etc.
	Goods	purchase, management and consumption (stocks, computers)

Processes that have one or more of these characteristics are vulnerable to integrity violations. The left-hand column contains two characteristic elements for assessing vulnerability. Processes in which there is intensive contact with “clients” are more vulnerable to violations because there are more opportunities and temptations. The same is true of processes that involve valuable public assets.

In addition to the vulnerability caused by characteristics of a function or process, factors inherent in certain circumstances can increase vulnerability. Table 3 lists *examples* of factors that increase vulnerability.

Table 3: Factors That Increase Vulnerability

Management and staff
<ul style="list-style-type: none"> <li>Management dominated by a single person or small group</li> <li>Staff has powers to be obstructive</li> <li>Staff loyalty extremely limited</li> </ul>
Organizational culture
<ul style="list-style-type: none"> <li>Not customary to hold each other responsible</li> <li>Lack of opportunity or safety to discuss difficult questions</li> </ul>
Nature of the work
<ul style="list-style-type: none"> <li>Discretionary powers/solo action</li> <li>Political pressure, time pressure, pressure from market parties or members of the public</li> </ul>
Complexity
<ul style="list-style-type: none"> <li>Complex financial/legal relationships</li> <li>Young organization/short or quickly set-up project</li> <li>Combination of public and private (commercial) functions</li> </ul>

While the factors above are not integrity risks in themselves, they can increase vulnerability because they increase the probability of a violation occurring and the consequences (impact) of a violation.

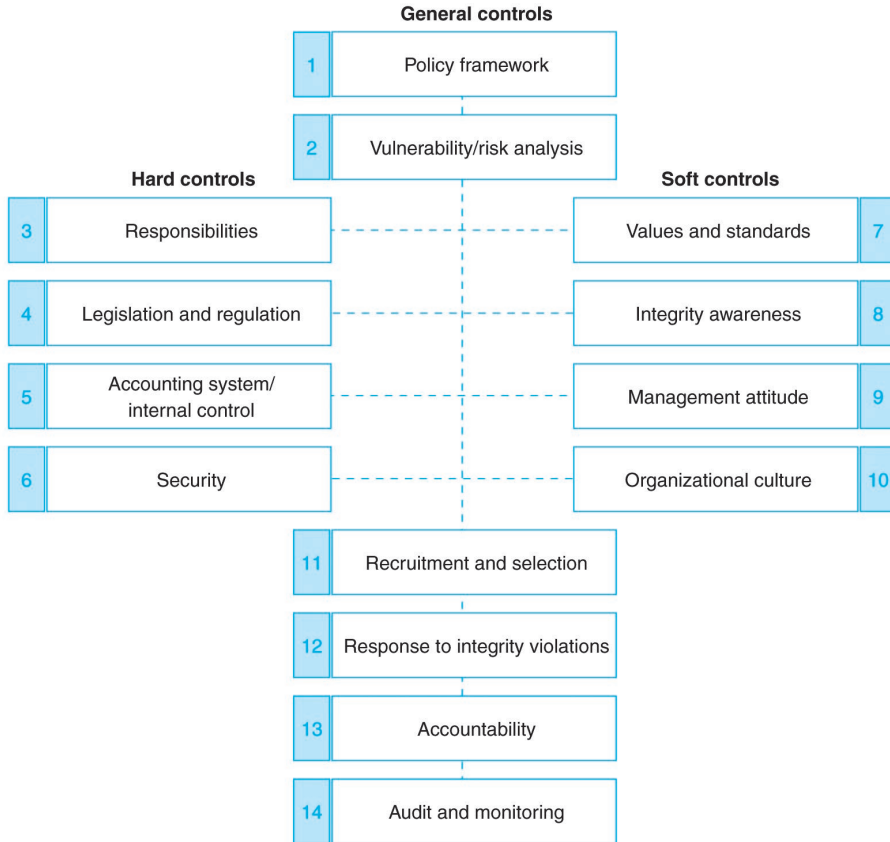
Using the knowledge about vulnerabilities and risks, the participants analyze the main integrity risks for each vulnerable process. A list of the risks identified for each process is then drawn up.

**Module 1d: Selection of the Main Risks.** In this module, the main integrity risks are selected from the list drawn up in step 1c. Based on the aggregated individual scores of the participants, the top five greatest perceived risks for each process are listed and consensus is reached on the scores.

**Module 2: Assessment of the Maturity of the Integrity Management System.** In this module, the participants assess the maturity of the integrity measures that together form the organization's integrity management system. SAINT uses an integrity control framework based on research literature and international standards set by organizations such as the United Nations and the World Bank. The system is divided into 14 clusters, which are subdivided into

three blocks (general, hard, and soft controls), as shown in figure 1.

Figure 1: Integrity Control Management System



The *hard* controls are, as the term suggests, concerned chiefly with regulations, procedures, and technical systems. The *soft* controls are designed to influence behavior, working atmosphere, and organizational culture. The clusters in the general controls category are more wide ranging or have a mix of hard and soft elements.

During the workshop the participants assess the maturity of all the measures by awarding them points. SAINT has a relatively simple classification model consisting of the four maturity levels and associated selection criteria shown in table 4.

Table 4: Maturity Levels and Associated Selection Criteria for Integrity Measures

Level	Criteria
1	I do not know of the measures' existence
2	I know of the measures' existence I think the measures are not implemented/observed
3	I know of the measures' existence I think the measures are implemented/observed I do not know if the measures work/are effective
4	I know of the measures' existence I think the measures are implemented/observed I think the measures work/are effective

In principle, the highest level is the required maturity level. In certain organizations, however, some measures will be less relevant or not applicable. This will become clear when the maturity level is scored and will be taken into account when the measures are prioritized.

**Modules 3a and 3b: Management Report and Action Plan.** This module reveals the link between the most vulnerable processes (1c) and the measures (2). The central question is which measures are the most appropriate to make the most vulnerable processes more robust. Subsequently, the participants are asked to suggest how the organization can improve and implement the most important measures. These suggestions form the building blocks for the management report and action plan.

**Module 4: Evaluation of the workshop.** At the end of the SAINT workshop, the participants are asked to answer a series of questions to evaluate the workshop itself.

## 4 SAINT in an International Context

The results from the SAINT workshops held in The Netherlands, including one by the Netherlands Court of Audit itself, are very promising. We believe sharing and explaining the concepts of SAINT may be beneficial to other INTOSAI members. However, we feel that pilot workshops may be desirable to further test the tool's applicability in different cultural and

technical environments. We also believe that widespread use of SAINT among SAIs would make it possible to learn from others' experiences and would also facilitate further improvement of the instrument itself.

For additional information about SAINT, or if your SAI would be interested in pilot testing the tool, please contact the authors at *h.benner@rekenkamer.nl* or *i.dehaan@rekenkamer.nl*.



## Section 1.3

# ISSAI 5700 Guidelines for the audit of corruption prevention in government agencies

- Exposure draft (February 26<sup>th</sup>, 2013)

The International Standards of Supreme Audit Institutions (ISSAI)  
issued by the International Organization of Supreme Audit  
Institutions (INTOSAI)



## Summary of 1.3 ISSAI 5700 Guidelines for the audit of corruption prevention in government agencies

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Although the guidelines are still a draft temporarily agreed internally on 26th February 2013, they hold significance of themselves. It will be productive to include the draft as it is in the book as the draft is of generic character which may invoke comprehensive thinking and holistic response from the parties concerned and stakeholders as well.

The guideline for the audit of corruption prevention explains the components of preventing and fighting corruption in government agencies. It describes the setting up of anti-corruption structures, the approaches for risk assessment and risk analysis, modules of corruption prevention, and monitoring processes. Generally speaking, the modules of corruption prevention have involved delimitation of duties, personnel rotation and job rotation, effective supervision, rational decision making, role of internal control, cooperation with other institutions, human capital, and the code of conduct in government agencies.

Government agencies have a major responsibility for preventing corruption. A comprehensive interdisciplinary approach is required to fight successfully against corruption. All levels of government must ensure political, financial, and legal transparency and accountability. In particular, Supreme Audit Institutions (SAIs) should create a strategy of combating corruption and other types of irregularities, e.g., money laundering, fraud, etc. One of the most important elements of the SAI program of combating corruption is strengthening public institutions, which are the elements of the national integrity system. The SAI should analyze the corruption phenomena – occurrence, causes, areas and mechanisms – during each audit based on integrity, transparency and accountability.

As a whole, components of preventing and fighting corruption involve four aspects: organization; risk assessment and risk analysis; modules of corruption prevention; and monitoring and reporting.

### (1) Organization

A special temporary or permanent independent organizational unit shall implement corruption prevention measures taken in a particular agency.

### (2) Risk assessment and risk analysis

The results of the risk analysis shall be used to determine any changes in structures, procedures or personnel assignments in order to eliminate corruption.

(3) Modules of corruption prevention

Modules of corruption prevention involve the following: 1) delimitation of duties, including dual control; 2) staff rotation and job rotation; 3) supervision; 4) decision making; 5) role of effective internal control regarding corruption prevention; 6) cooperation with other institutions involved in fighting against corruption; 7) human capital, including sensibilization and training of employees; and 8) code of conduct.

To help achieve control objectives and an orderly and effective internal control structure, internal control guidelines should provide detailed standards covering 1) delimitation of duties including double control for inducing accountability; 2) staff rotation and job rotation as a tool for fighting corruption; and 3) supervision to establish an environment that prevents and deters fraud and corruption. With the regulation of duties and job rotation as a tool for preventing corruption, supervision is a critical role to play in minimizing the risks of corruption in their workplaces.

Also, every public institution and/or Supreme Audit Institution should be equipped with a decision making procedure to ensure the accountability and transparency. Decision making should be 1) supported by the availability of relevant, complete, valid, timely, and reliable information; 2) carried out transparently in accordance with the organization's decision making procedure; 3) recorded and documented appropriately; and 4) free from any conflict of interests. In addition, with cooperation with other institutions involved in fighting against corruption, the role of effective internal control regarding corruption prevention is inevitably necessary. Good management practices require the establishment of adequate internal controls and checks in order to detect fraud and corruption.

Ultimately, as a module of corruption prevention of human capital, every public institution and/or Supreme Audit Institution should 1) establish a strategic plan to prevent corruption in the organization; 2) form an organizational unit with responsibility to implement the strategic plan; 3) organize a training program to enhance employee's awareness on the danger of corruption; 4) enhance employee's sensibility by performing INTOSAI self-assessment on integrity (IntoSAINT); and 5) evaluate and review the strategic plan and its implementation. Consequently, every public institution and/or Supreme Audit Institution should 1) have a code of conduct; 2) disseminate the code of conduct as an integrated part of corruption prevention; 3) establish an appropriate way to monitor the implementation of the code of conduct in its organization; and 4) review its code of conduct.

(4) Monitoring and reporting

Finally, monitoring and reporting are continuous processes throughout each government agency in their fight against corruption. Monitoring, auditing, evaluating and reporting are looked upon as a key priority area in the fight against corruption for ensuring transparency.

# ISSAI 5700 Guidelines for the audit of corruption prevention in government agencies

- Exposure draft (February 26<sup>th</sup>, 2013)

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INTOSAI General Secretariat - RECHNUNGSHOF (Austrian Court of Audit)  
/ INTOSAI Professional Standards Committee

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## 1 Introduction

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### 1.1 Objective, purpose and applicability of the guideline

This guideline is designed to help SAI auditors for preparing, conducting and evaluating audit missions on anti-corruption policies and procedures in government agencies within their scope of their mandate. It highlights anti-corruptive policies, structures and processes in these agencies and can be used as an audit tool by the auditors. However, it may also be used by the audited bodies (auditees such as government departments, government institutions etc.) as guidance for implementing and controlling their own anti-corruption-activities. SAIs that do not have a mandate to conduct performance audits can use this guideline for internal purposes.

The guideline assumes the reader is aware of general and specific audit methodology and procedures applicable to this area of audit as set out in ISSAIs, ISAs, audit manuals, and other relevant auditing standards and guidance. Given the enormous amount of information widely available on the subject, this guidance is not intended to be final or exhaustive but rather to explain and illustrate the relevant features and to present practical solutions for SAI auditors.

The guideline covers all areas of anti-corruption structures and procedures that may be found in government agencies. It describes the setting up of anti-corruption-structures, the approaches for risk assessment and risk analysis and monitoring processes. Main emphasis is placed on the modules of an effective anti-corruption-organization such as delimitation of duties, personnel rotation and job rotation, role of internal review, human capital including raising awareness and training of employees and precautions in public procurement.

This guideline does not cover fraud investigations. These are often carried out at the request of the judiciary once alleged cases of fraud and corruption have been detected. Although some SAIs have investigative units, in most cases the SAI does not lead an investigation, since it does not possess adequate knowledge or resources to do so. The investigative authorities may even ask the SAI to stop carrying out audit work in the area concerned so as not to jeopardise the findings of the investigation team. However, the SAI may also be asked to cooperate and even work alongside the investigative team. The fraud and corruption investigation actively seeks for cases of deception and hidden figures and is not concluded before it has gathered sufficient evidence on the extent and financial impact of the problem.

## 1.2 The Role of the SAI and its limitation in the fight against corruption

Without a doubt, corruption has an impact on the costs of doing business and on public expenditures, and can deter foreign investments. This results in a negative impact on the effectiveness and efficiency of government operations. If the fight against corruption is to be successful, it is essential to establish an environment that does neither favour nor permit these practices. Governments have a major responsibility for creating such an environment. A comprehensive interdisciplinary approach is required to fight successfully against corruption,. All levels of government must ensure political, financial, and legal transparency and accountability. The SAIs contribute to combating corruption by means of their audit work<sup>1</sup>.

Usually SAIs are nonpartisan organizations to which employees subscribe to the fundamental values of service to the countries and citizens. They can be subordinate only to Parliament, or they can be independent of the executive branch and the judiciary. Audits performed by SAIs mainly focus on the execution of the state budget as well as on public spending and management of

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<sup>1</sup> Quote from the article: Z. Dobrowolski, *The Role of the Supreme Audit Office In Combating Corruption*, Ljubljana Slovenia 2011 (reproduced typescript)

public property and, in some countries, also by local governmental and economic entities. The audit tasks vary according to the complexity of the public program or the entity to be audited. SAIs operate under differing mandates and models. Common to all audits and evaluations, however, is a report, that each SAI is required to deliver. The report contains the audit findings including comments and recommendations to address any irregularities identified<sup>2</sup>.

In many countries, the SAI's fight against corruption is incorporated in its overall mission. To fulfil the tasks assigned to it the SAI establishes audit priorities and conducts its work based on regular work plans. SAI should create a strategy of combating corruption and other types of irregularities (e.g. money laundering, fraud, etc.)<sup>3</sup>.

One of the most important elements of the SAI program of combating corruption is strengthening public institutions, which are the elements of the national integrity system. Within the limits set by its statutory mandate, each public institution supports this national integrity system like beams that support the roof of the building. In such a system sound governance is based on integrity, transparency and accountability. Taking into consideration that it is much better to prevent than detect corruption, the SAIs' fight against corruption needs to be composed of various elements.

It includes, but is not limited to:

- incorporating anti-corruption and irregularity issues in SAI's routine audit work;
- raising public awareness of corruption and other irregularities through timely and public disclosure of SAI's audit findings;
- improving methods and tools of combating corruption and other types of irregularities;
- providing a procedure for whistle-blowers to report on instances of irregularities; and
- cooperating with other institutions in the fight against corruption<sup>4</sup>.

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2 Ibidem; See also Z. Dobrowolski, *Naczelne organy kontroli państwowej w krajach członkowskich Unii Europejskiej. Ciągłość zmiany. Studium porównawcze*, Oficyna Wydawnicza Uniwersytetu Zielonogórskiego, Zielona Góra 2008

3 Ibidem; The SAO devoted year 2002 to drawing up such a strategy. That strategy was officially accepted and presented to the SAO Board in April 2003

4 Quote from the article: Z. Dobrowolski, *The Role of the Supreme Audit Office In Combating Corruption*, Ljubljana Slovenia 2011 (reproduced typescript)

The SAI should analyse the corruption phenomena (occurrence, causes, areas and mechanisms) during each audit. By means of audit work, the SAI should attempt to identify ways to reduce non-compliance with regulations and rules, simplify administrative procedures, and to eliminate unequal access to information. Through SAIs' daily analysis of irregularities identified during audits and analysis of legislation SAIs should seek to identify the mechanisms that can contribute to corruption. SAIs should seek to exert influence on the contents of the laws and regulations to ensure that they do not encourage corruption. If the SAI finds out that a law or a regulation creates situations that may permit or encourage corruption, it makes proposals for change. It is worth noting that when irregularities are identified in an audit, the SAI should recommend corrective measures, although most SAIs have no executive powers and do not pass sentences. By carrying out this comprehensive strategy aimed at combating corruption and other types of irregularities, the SAI helps to strengthen the financial management systems of public institutions, knowing that a continuous accountability process within the government will create a preventive environment that does not favour corruption and other types of irregularities<sup>5</sup>. Simultaneously the SAI should evaluate internal controls (the important line of defence in preventing irregularities) and make recommendations to strengthen any weaknesses identified<sup>6</sup>.

The SAI should attach great importance to its communication function and raise public awareness of corruption and other irregularities through timely and public disclosure of its audit findings. Increased public awareness of corruption helps to foster transparency and accountability. It is worth noting however, that while in many countries the SAIs have certain information gathering tools for combating irregularities and can report on corruption in the public sector, they have no law enforcement authorities (such as police or prosecutor offices). In the case of a well-founded suspicion of a crime or any offense, the SAI may notify the body called upon to investigate crimes and offences (in instances required by Criminal Law). In some cases auditors may play an important role during investigations or prosecutions. The SAI's efficiency in detecting irregularities is the result of its strategy. Therefore the SAI should take a structured approach to improve its methodology to identify and combat irregularities. The SAI may also increasingly shift focus on the training of its staff, knowing that the success of the fight against irregularities

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5 A strong financial management system incorporates the following: accurate, complete, and timely financial reporting, to include financial statements audited by the SAI and reports on internal controls and compliance with laws and regulations; a reliable system of internal controls; and cost accounting capabilities. A strong financial management system also contributes to and provides a basis for effective performance measurement.

6 Ibidem



does not only depend on audit procedures and audit tools, but also on staff possessing appropriate skills, knowledge, and abilities to identify and assess any potential irregularities<sup>7</sup>.

The SAI may commit itself to individual integrity not only internally, but also may be an institution to which whistle-blowers from other institutions can provide information about suspected or alleged irregularities in the workplace. All information gathered by the SAI's Complaint System<sup>8</sup> should be transmitted over a secure connection, and the SAI should protect any information provided by whistle-blowers against unauthorised disclosure<sup>9</sup>.

Being aware that the effectiveness of SAI's fight against corruption and other types of irregularities depends on the activity of other elements of the national integrity system, the SAI should closely cooperate with other state institutions, among others in the field of training<sup>10</sup>.

### 1.3 Concept of Corruption

Before discussing how to reduce corruption it is worth mentioning why the issue of corruption is essential to public management. The term "governance" in its general meaning encompasses all aspects of the way a country, corporation, or other entity is governed. Good governance is a precondition for sustainable development of societies and regions. It means good public management of a country's resources and public tasks in a manner that is proper, transparent, accountable, equitable and responsive to people's needs. "Corruption" is a narrower concept than governance. It is often defined as the abuse of public authority or trust for private benefit. The two concepts are closely linked. Where there is poor governance, there are greater incentives and more scope for corruption. Thus, the promotion of good governance helps combat corruption. It complements efforts that target corruption more directly, such as raising public awareness and strengthening the enforcement of anti-corruption legislation. There is also a reverse link: corruption undermines governance to the extent that it distorts policy decisions and their implementation<sup>11</sup>.

The International Monetary Fund's operations and its relations with

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7 Ibidem

8 Such complaint systems could either be IT-based or through personal contact.

9 Ibidem

10 Ibidem

11 Quote from: *The IMF's Approach to Promoting Good Governance and Combating Corruption – A Guide*, International Monetary Fund, Washington D.C. 2005 Retrieved November 2, 2009

member states have always been concerned with good governance. In 1996, the policy-making committee of its Board of Governors added an explicit mandate. In its Declaration on Partnership for Sustainable Global Growth, the Interim Committee stressed, among other things, the importance of “promoting good governance in all its aspects, including by ensuring the rule of law, improving the efficiency and accountability of the public sector, and tackling corruption, as essential elements of a framework within which economies can prosper”.<sup>12</sup>

Also the World Bank ran a long-standing research program, prepared the Worldwide Governance Indicators, and listed six key dimensions of governance, i.e.: “voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law, and control of corruption”<sup>13</sup>.

Such an approach is fully understood. “There is no doubt that corruption can have a major negative impact on economic performance. Corruption can reduce investment and economic growth. It diverts public resources to private gains, and away from needed public spending on education and health. It tends to compress operation and maintenance expenditures, while boosting beyond levels that are socially desirable public investment and defence spending, both highly amenable to corruption. Finally, by reducing tax revenue, corruption can complicate macroeconomic management, and since it tends to do so in a regressive way, it can accentuate income inequality”<sup>14</sup>.

In conclusion, we cannot conduct deliberations on public management, the modern concept of public cooperation with NGOs and the private sector without taking into account issues of corruption and fraud. Effective fight against these illegal phenomena is essential for sustainable development of societies and regions. Before discussing how to tackle corruption, some terminology issues have to be clarified. “Attempts to develop a more precise definition invariably encounter legal, criminological and, in many countries, political problems. When the negotiations of the United Nations Convention against Corruption began in 2002, one option under consideration was to avoid the problem of defining corruption by simply listing a whole series of specific types or acts of corruption”.<sup>15</sup>

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12 Communiqué of the Interim Committee of the Board of Governors of the International Monetary Fund, Press Release Number 96/49, September 29, 1996, International Monetary Fund, Washington, D.C

13 See: <http://info.worldbank.org/governance/wgi/index.asp>

14 Quote from: *The IMF's Approach to Promoting Good Governance and Combating Corruption – A Guide*, International Monetary Fund, Washington D.C. 2005 Retrieved November 2, 2009

15 *United Nations Handbook on Practical Anti- Corruption Measures for Prosecutors and Investigators*, United Nations Vienna 2004, p. 23

According to the **United Nations**, there is no single, universally accepted definition of corruption. For example, the United Nations Convention against Corruption does not contain any definition of corruption, but lists several specific types or acts of corruption<sup>16</sup>. There are however several “working definitions” of corruption. For example, the definition used by Transparency of International is “the abuse of entrusted power for private gain”<sup>17</sup>. The working definition of corruption adopted by the World Bank Group is more oriented to the public sector. The definition is the following: “The abuse of public funds and/or office for private or political gain”<sup>18</sup>. In terms of etymology, the meaning of corruption is significantly different from its Latin origin. The Latin word *corruption* means marring, seducing, perverting.<sup>19</sup>

The Council of Europe **Civil Law Convention on Corruption**, concluded in Strasbourg on 4 November 1999, defines corruption (see Article 2) as requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof.<sup>20</sup>

The idea of corruption or corrupting does not simply refer to the acts of giving, and the notion “corrupted” – of taking advantages. It also includes an element of subordination of those bribed to acquire the power to use them on a more lasting basis, to “buy” them to meet some current or future needs which are sometimes uncrystallized at the point when the advantages are given. Corruption understood in this way is studied by criminology and sociology. In the latter field, corruption means, in addition to bribery, nepotism and the grabbing of public resources.<sup>21</sup>

16 UNODC, 2004. The United Nations Anti-Corruption Toolkit, 3rd Edition. Available at [www.undoc.org/documents/corruption/publications\\_toolkit\\_sep04.pdf](http://www.undoc.org/documents/corruption/publications_toolkit_sep04.pdf), p. 10 [http://www.unodc.org/pdf/crime/corruption/toolkit/corruption\\_un\\_anti\\_corruption\\_toolkit\\_sep04.pdf](http://www.unodc.org/pdf/crime/corruption/toolkit/corruption_un_anti_corruption_toolkit_sep04.pdf)

17 Transparency International, *Frequently asked questions about corruption*. Available at [www.transparency.org/news\\_room/faq/corruption\\_faq](http://www.transparency.org/news_room/faq/corruption_faq) [http://archive.transparency.org/news\\_room/faq/corruption\\_faq](http://archive.transparency.org/news_room/faq/corruption_faq) (dieser Link lässt sich öffnen)

18 Available at [www.u4.no/pdf-file=/document/literature/publications\\_adb\\_manyfacesofcorruption.pdf](http://www.u4.no/pdf-file=/document/literature/publications_adb_manyfacesofcorruption.pdf) <http://www.u4.no/recommended-reading/the-many-faces-of-corruption-tracking-vulnerabilities-at-the-sector-level/downloadasset/2424>

19 *Zagrożenie korupcji w świetle badań kontrolnych Najwyższej Izby Kontroli*, Najwyższa Izba Kontroli Warszawa 2000 (reproduced typescript), pp. 5-14; Z. Dobrowolski, *Korupcja w państwie. Przyczyny, skutki, kierunki przeciwdziałania*, Wydawnictwo PWSZ Sulechów 2005, pp. 11-35

20 see Article 2, Civil Law Convention on Corruption, done at Strasbourg on 4 November 1999 (Dz.U. [Journal of Laws] of 2004, No. 244, item 2443) (*Dziennik Ustaw (official gazette)*)

21 See *Zagrożenie korupcji w świetle badań kontrolnych Najwyższej Izby Kontroli*, *op.cit.*, pp. 3-4; F. Anechiarico, J.B. Jacobs, *The Pursuit of Absolute Integrity. How Corruption Control Makes Government Ineffective*, The University of Chicago, Chicago, London 1996, p. 3

Corruption is associated with nepotism or *favouritism*, *clientelism*, *cronyism*, *patronage*, *graft*, *bribery*, *extortion*, *embezzlement*, *theft and fraud*.

**Nepotism** means giving favours based on consanguinity. Other definition refers nepotism to favouritism granted to relatives regardless of merit.

**Favouritism** means giving favours based on informal relations or the practice of giving special treatment to a person or group<sup>22</sup>. The term *clientele* “refers to a complex chain of personal bonds between political patrons or bosses and their individual clients or followers. These bonds are founded on mutual material advantage: the patron furnishes excludable resources (money, jobs) to dependents and accomplices in return for their support and cooperation (votes, attendance at rallies). The patron has disproportionate power and thus enjoys wide latitude about how to distribute the assets under his control. In modern political systems, most patrons are not independent actors, but are linked within a larger grid of contacts, usually serving as middlemen who arrange exchanges between the local level and the national centre”<sup>23</sup>.

“By definition, **favouritism**, **nepotism** and **clientelism** all involve abuses of discretion, although a number of countries do not criminalize the conduct (Article 7 of the UN Convention against Corruption covers merit selection without even mentioning nepotism). Such abuses usually involve not a direct personal benefit to an official but promote the interests of those linked to the official, be it through family, political party, tribe, or religious group. A corrupt official who hires a relative (nepotism) acts in exchange, not of a bribe but of the less tangible benefit of advancing the interests of others connected to the official. The unlawful favouring of - or discrimination against - individuals can be based on a wide range of group characteristics: race, religion, geographical factors, political or other affiliation, as well as personal or organizational relationships, such as friendship or shared membership of clubs or associations”<sup>24</sup>.

“**Cronyism** is partiality to long-standing friends, especially by appointing them to positions of authority, regardless of their qualifications. Hence, cronyism is contrary in practice and principle to meritocracy. Cronyism exists when the appointer and the beneficiary are in social contact; often, the

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22 Z. Dobrowolski, *Detecting Fraud and Irregularities. A Two-day Training Workshop. Participant Notes*, INTOSAI DI Oslo 2002 (reproduced typescript) p. 16; See also The American Heritage New Dictionary of Cultural Literacy, Third Edition. Houghton Mifflin Company, 2005. 10 Aug. 2009; <http://www.thefreedictionary.com/favouritism>

23 D.W. Brinkerhoff, A.A. Goldsmith, *Clientelism, Patrimonialism and Democratic Governance: An Overview and Framework for Assessment and Programming*. Prepared for U.S. Agency for International Development Office of Democracy and Governance, under Strategic Policy and Institutional Reform, Abt Associates Inc., Bethesda 2002, p. 2

24 United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators, op.cit., p. 28

appointer is inadequate to hold his or her own job or position of authority and for this reason the appointer appoints individuals “who will not try to weaken him or her, or express views contrary to those of the appointer. Politically, “cronyism” is derogatorily used”<sup>25</sup>.

“**Patronage** is the support, encouragement, privilege, or financial aid that an organization or individual bestows to another. In some countries the term is used to describe political patronage, which is the use of state resources to reward individuals for their electoral support”. Although in some countries patronage systems are legal, “the term may refer to a type of corruption or favouritism in which a party in power rewards groups, families, ethnicities for their electoral support using illegal gifts or fraudulently-awarded appointments or government contracts”<sup>26</sup>. “Graft is form of political corruption that can be defined as an unscrupulous use of a politician’s authority for personal gain. Most governmental systems have laws in place to prevent graft although this does not always halt political corruption”<sup>27</sup>.

“**Bribery** is the act of conferring a benefit in order improperly to influence an action or decision. It can be initiated by an official who asks for a bribe, or by a person who offers to pay one. Bribery is probably the most common form of corruption. Definitions or descriptions appear in several international instruments, in the domestic laws of most countries as well as in academic publications. Typically, it is used to describe a payment extracted by a public official from an unwilling member of the public before the citizen can receive the service to which he or she is entitled. Strictly speaking, such a transaction is not one of a “bribe” being given by an accomplice in corruption, but a “payment being extorted” from an unwilling victim”<sup>28</sup>.

“The “*benefit*” conferred by a “bribe” can take a variety of forms: cash, company shares, inside information, sexual or other favours, entertainment, employment or, indeed, the mere promise of a benefit in the future (such as a retirement job). The benefit can pass directly to the person bribed, or indirectly, to a third party such as a friend, relative, associate, favourite charity, private business, political party or election campaign. The conduct for which the bribe is paid can involve a positive act on the part of the official (the making of a particular decision), or it can be passive (with the official declining to do something that he or she is obliged to do). It can be a bribe paid

25 See: <http://en.wikipedia.org/wiki/Cronyism>

26 See: <http://en.wikipedia.org/wiki/> <http://en.wikipedia.org/wiki/Patronage>

27 See: [http://en.wikipedia.org/wiki/Graft\\_\(politics\)](http://en.wikipedia.org/wiki/Graft_(politics))

28 Quoted from United Nations Handbook on Practical Anti- Corruption Measures for Prosecutors and Investigators, op.cit., p. 24

“according to the rule” (to obtain something the official is withholding but is under a public duty to provide); or it can be “against the rule” (a payment to encourage an official to ignore the rules in favour of the person offering the bribe). Bribes can be paid individually, on a case-by-case basis, or as part of a continuing relationship in which officials receive regular benefits in exchange for regular favours. Once bribery has occurred, it can lead to other forms of corruption. By accepting a bribe, an official becomes susceptible to being blackmailed and coerced into further, and more serious, derelictions of public duties”<sup>29</sup>.

The European Criminal Law Convention on Corruption, done in Strasbourg on 27 January 1999,<sup>30</sup> defines bribery associated with the phenomenon of corruption, namely:

- Active bribery of domestic public officials” is an intentionally committed offence of “promising, offering or giving by any person, directly or indirectly, of any undue advantage to any of its public officials, for himself or herself or for anyone else, for him or her to act or refrain from acting in the exercise of his or her functions” (Article 2 of the Convention).
- “Passive bribery of domestic public officials” is an intentionally committed offence, consisting in the “request or receipt by any of the public officials, directly or indirectly, of any undue advantage, for himself or herself or for anyone else, or the acceptance of an offer or a promise of such an advantage, to act or refrain from acting in the exercise of his or her functions” (Article 3 of the Convention).
- “Active bribery in the private sector” is an act, committed intentionally in the course of business activity, consisting in the “promising, offering or giving, directly or indirectly, of any undue advantage to any persons who direct or work for, in any capacity, private sector entities, for themselves or for anyone else, for them to act, or refrain from acting, in breach of their duties” (Article 7 of the Convention).
- “Passive bribery in the private sector” is an act, committed

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29 Quoted from *United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators*, op.cit., p. 25

30 Dz.U. [Journal of Laws] of 2005 No. 29, item 249

intentionally in the course of business activity, consisting in the “request or receipt, directly or indirectly, by any persons who direct or work for, in any capacity, private sector entities, of any undue advantage or the promise thereof for themselves or for anyone else, or the acceptance of an offer or a promise of such an advantage, to act or refrain from acting in breach of their duties” (Article 8 of the Convention).

Specific examples of bribery include:

- “Corruption against the rule. A payment or benefit is provided to ensure that the giver or someone connected to him or her receives a benefit to which they are not entitled.
- Corruption with the rule. A payment is made to ensure that the giver or someone connected to him or her actually receives a service to which they are lawfully entitled.
- Offering or receiving improper gifts, gratuities, favours or commissions. In some countries, public officials commonly accept tips or gratuities in exchange for their services, frequently in violation of relevant codes of conduct. As links always develop between payments and results, such payments become difficult to distinguish from bribery or extortion.
- Bribery to avoid liability for taxes. Officials in revenue collecting agencies, such as tax and customs, may be asked to reduce the amounts demanded or to overlook evidence of irregularity, including evasion or similar crimes. They may also be invited to ignore illegal imports or exports, or to turn a blind eye to illicit transactions, such as money-laundering.
- Bribery in support of fraud. Payroll officials may be bribed to participate in abuses such as listing and paying non-existent employees (“ghost workers”).
- Bribery to avoid criminal liability. Law enforcement officers, prosecutors, judges or other officials may be bribed to ensure that criminal activities are not properly investigated or prosecuted or, if they are prosecuted, to ensure a favourable outcome.
- Bribery in support of unfair competition for benefits or resources. Public or private sector employees responsible for making contracts

for goods or services (public procurement) may be bribed to ensure that contracts are made with the party that is paying the bribe, and on unjustifiably favourable terms. Where the bribe is paid out of the contract proceeds themselves, it is described as a “kickback” or secret commission.

- Private sector bribery. Corrupt banking and finance officials are bribed to approve loans that do not meet basic security criteria and are certain to default, causing widespread economic damage to individuals, institutions and economies. Just as bribes can be offered to public officials conducting public procurements, so, too, can bribes pollute procurement transactions wholly within the private sector.
- Bribery to obtain confidential or “inside” information. Employees in the public and private sectors are often bribed to disclose confidential information and protected personal details for a host of commercial reasons.
- Influence peddling: Public officials or political or government insiders sell illicitly the access they have to decision-makers. Influence peddling is distinct from legitimate political advocacy or lobbying. In some countries, legislators demand bribes in exchange for their votes in favour of particular pieces of legislation<sup>31</sup>.

The European Criminal Law Convention on Corruption, concluded in Strasbourg on 27 January 1999,<sup>32</sup> defines account offences associated with the phenomenon of corruption, namely:

- “Trading in influence” is an intentionally committed act consisting in the “promising, giving or offering, directly or indirectly, of any undue advantage to anyone who asserts or confirms that he or she is able to exert an improper influence over the decision-making of any person referred to in Articles 2, 4 to 6 and 9 to 11 in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in

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31 Quoted from *United Nations Handbook on Practical Anti- Corruption Measures for Prosecutors and Investigators*, op.cit., pp. 25-26

32 Dz.U. [Journal of Laws] of 2005 No. 29, item 249



consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result” (Article 12 of the Convention).

- “Account offences” (Article 14 of the Convention) is an act or omission, “when committed intentionally, in order to commit, conceal or disguise the offences referred to in Articles 2 to 12”, of the Convention. The offence is committed by creating or using an “invoice or any other accounting document or record containing false or incomplete information”; or “unlawfully omitting to make a record of a payment”.

“Whereas bribery involves the use of payments and positive incentives, extortion relies on coercion to induce cooperation, such as threats of violence or the exposure of sensitive information. As with other forms of corruption, the loser can be the general public interest, individuals adversely affected by a corrupt act or decision, or both. In extortion cases, however, there is a very real “victim”: the person who is coerced into submitting to the will of the official. Extortion may be committed by government officials but they can also be the victims of it. For example, a person seeking a favour can extort payment from an official by making threats. In some cases, extortion may differ from bribery only in the degree of coercion involved”<sup>33</sup>.

“In the context of corruption, embezzlement, theft and fraud all involve stealing by an individual exploiting his or her position of employment. In the case of embezzlement, property is taken by someone to whom it has been entrusted” (e.g. a cashier). Fraud involves the use of false or misleading information to induce the owner of property to part with it voluntarily. Theft”, per se, goes well beyond the scope of any definition of corruption. However, “embezzlement” - essentially the theft of property by someone to whom it was entrusted - is universally regarded as falling within corruption definitions wherever it occurs, carrying with it, as it does, a breach of a fiduciary duty”<sup>34</sup>.

“In many cases, corruption involves the abuse of function or discretion. A customs official may have to assess the value of a consignment of goods or decide which of several similar categories should be used to assess duty. An official responsible for government contracting may exercise discretion to

33 Quoted from *United Nations Handbook on Practical Anti- Corruption Measures for Prosecutors and Investigators*, op.cit., p. 27

34 Quoted from *United Nations Handbook on Practical Anti- Corruption Measures for Prosecutors and Investigators*, op.cit., p. 26

purchase goods or services from a company in which he or she holds a personal interest. Another may propose real estate developments that will increase the value of his or her own property. Such abuses are often associated with bureaucracies in whom there are broad individual discretions and inadequate oversight and accountability structures. They also flourish where decision-making rules are so complex that they neutralize the effectiveness of any accountability mechanisms that do exist<sup>35</sup>.

## 1.4 Causes of Corruption

Flaws of human nature are mentioned among the causes of corruption. The urge to enrich oneself quickly by dishonest means (in contravention of the established ethical standards or the law) makes this phenomenon persistent in any society, regardless of the political system. The tolerance for corrupt behaviour may not only have cultural, but also a historical background. For instance, the absence of one's own national government may generate disregard for legal norms, perceived as rules imposed by the occupying power. This, in turn, can translate into generalized disregard for legal norms, and – more broadly – for ethical standards. In addition, some mistakes in government economic policies may catalyse corruption. For instance, in the circumstances of a shortage economy, with mismatched supply and demand, a desire to get some consumer goods may generate corrupt behaviour (a bribe in exchange for the possibility to buy a fridge without waiting)<sup>36</sup>.

In market economy, corruption is facilitated by the existing legal and organizational regime which restricts the freedom of business, by imposing restrictions on business transactions. These restrictions give rise to secret agreements, various informal groups, defined in literature as “dirty communities” which can affect the existing societal system<sup>37</sup>. Such agreements can occur in various societies with different cultures. It is worth noting at this point that an act considered to be a corrupt practice in some community may not necessarily fit into such classification adopted in another community. A gratuity offered to an official after he or she has completed a task may – for some – be a sign of corruption (establishing a “climate” for successful

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35 Quoted from *United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators*, op.cit., p. 28

36 Z. Dobrowolski, *Korupcja w państwie*, op.cit., p. 13; Z. Dobrowolski, G. Drozdowski (ed.), *The Art of Human Resource Management. How to Achieve Better Business Management*, PWSZ Gorzów Wlkp. 2009, pp. 104-105

37 Z. Dobrowolski, *Korupcja w państwie...*, op.cit., p. 16, citing A. Podgórecki, *Kontrola społeczna trzeciego stopnia [in:] Problemy profilaktyki społecznej i resocjalizacji*, Instytut Profilaktyki Społecznej i Resocjalizacji Uniwersytet Warszawski, Warszawa 1976, vol. 1, p. 25

completion of other affairs in future), and for others – only an expression of gratitude acceptable in the culture<sup>38</sup>.

In considering the reasons why the corrupting party pays bribes, the following factors can be distinguished:

- access to restricted goods, for instance contracts, licences, permits, real property in attractive city districts,
- access to information, for instance on the contractual terms and conditions, on a bill of quantities with prices, on the activities planned by decision-makers,
- favourable treatment of some matter, which allows avoiding or cutting some costs, for instance dispensing with an order to pay due taxes during tax inspection, dispensing with the collection of customs duties,
- depriving other entities of some benefits. For instance, in exchange for a bribe, an officer deals sluggishly with the affairs of a competitor or conducts onerous inspections of the competitor's business<sup>39</sup>.

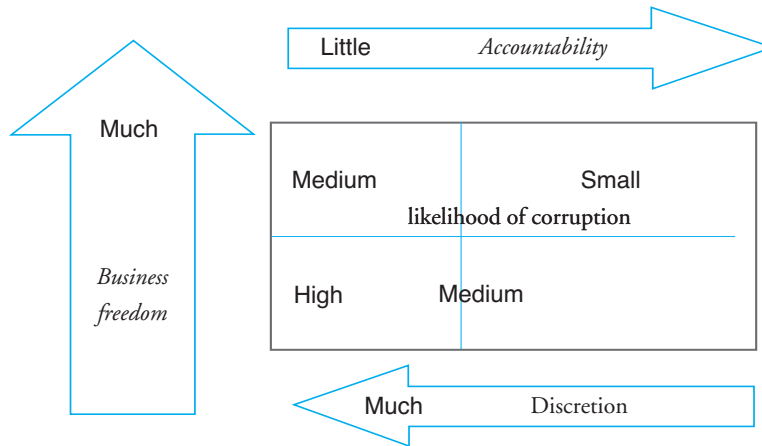
In light of what has been discussed so far, and also supported by many SAIs audit experience,<sup>40</sup> corruption develops when the freedom to do business is restricted, there is excessive discretion in decision-making, little or no accountability of decision-makers, an inefficient control system or lack of transparency in the activities of institutions using public funds or property. This relationship can be presented in the following way:

38 Z. Dobrowolski, *Korupcja w państwie.., op.cit.*, pp.16-17

39 A. Kamiński, *Korupcja w administracji publicznej: znaczenie, przyczyny i konsekwencje*, Biuletyn Informacyjny nr 1, NIK Warszawa 2003, pp. 66-71

40 Anticorruption in Transition: *A Contribution to the Policy Debate*, World Bank, Washington D.C. 2000 (reproduced typescript), pp. XV-XVII

Figure 1. The effect of accountability, discretion in decision-making, and business freedom on the level of corruption in social life



Source: Developed by Z. Dobrowolski [in:] Z. Dobrowolski, J. Kocielniak, *The Role of SAI in Detection Corruption, Fraud and Money Laundering 2012* (prepared for printing)

In discussing the issue of corruption and fraud, it is impossible to ignore the problems related to the functioning of the administration. The administration complements the constitutional authorities by performing subsidiary functions, providing services for them, and taking over some of their executive and regulatory functions. It tends to the collective and individual needs of citizens arising from living in communities, and transforms general legal regulations into specific decisions on individual matters.<sup>41</sup>

Public administration, which is characterized by hierarchical structure and specific decision-making procedures, forms an integral part of the government system, is subject to that system's influence, but it also plays an active part in creating government policies. Even a right decision taken by the Parliament or the upper level of bureaucratic hierarchy, but poorly implemented by lower-ranking officials, is going to translate into bad opinions of the legislature and government held by citizens.<sup>42</sup>

Public administration is funded from the State budget, and is sustained by

41 J. Boć (ed.) *Prawo administracyjne*, Wydawnictwo Kolonia Limited 2001, p. 16

42 Z. Dobrowolski, *Naczelne organy kontroli państwowej w krajach członkowskich Unii Europejskiej. Ciągłość zmiany. Studium porównawcze*, Oficyna Wydawnicza Uniwersytetu Zielonogórskiego, Zielona Góra 2008, pp. 7-8; B.G. Peters, *Administracja publiczna w systemie politycznym*, Wydawnictwo Naukowe Scholar, Warszawa 1999, pp. 15-63

government procurement of goods and services, which – in addition to government transfers and repayment of public debt – constitute public expenditures. Government procurement of goods and services does not only apply to the expenditures on administration, but also national defence, protection of public order, health care, culture and science/research. Government invests in infrastructure development. Some investments may be related to manufacturing activity of the government – for instance, the defense industry. Public administration is therefore a very important collective purchaser of goods and services and may determine the conditions of development of its private partners, for which the sale of goods and services to the government is a significant or the sole source of income.<sup>43</sup>

Considering the foregoing, and also:

- that, contrary to M. Weber’s assertions<sup>44</sup>, public servants, in performing their public functions, may actually fail to tend exclusively to the government interest and common weal, but, on the contrary, may aim to maximize their private interest which differs from employer’s interest, or aim to pursue the interest of their employer, which results in the maximized budget of the institution, in which they are employed;
- that the information on actions taken by the administration may be incomplete, and the real cost of the services provided may be different from that declared, which may lead to situations where the budget exceeds the cost of production of a public service;
- the concept of methodological individualism, which stipulates that the decisions taken by specific individuals aim at maximizing expected benefits, which means, for instance, that intermediaries (entities other than the decision-maker) may derive benefits by processing in certain way the information necessary for taking final decisions;
- the sheer number of public institutions and the array of functions they perform, it should be concluded that the actual capacity of

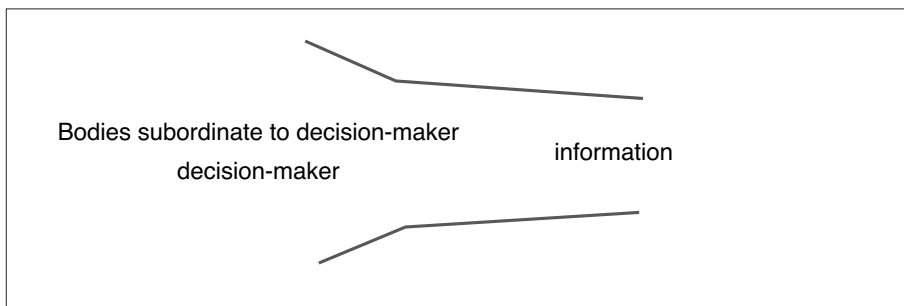
43 B.G. Peters, *Administracja publiczna w systemie politycznym*, Wydawnictwo Naukowe Scholar, Warszawa 1999, pp. 15-63

44 M. Weber noted major principles of bureaucracy: “a formal hierarchical structure, management by rules, organization by functional specialty, an “up-focused” or “in-focused” mission, purposely impersonal, employment based on technical qualifications. [http://wiki.answers.com/Q/What\\_are\\_the\\_five\\_characteristics\\_of\\_a\\_bureaucracy](http://wiki.answers.com/Q/What_are_the_five_characteristics_of_a_bureaucracy) (M. Weber)

decision-makers to verify the information prepared by the intermediates – i.e. administration, is not only costly, but most of all strongly limited by the dispersion and the number of the institutions comprising public administration.<sup>45</sup>

In addition, it should be taken into account that information exchange between the political executive and the administrative executive takes the form of a mutual monopoly. An entity located in the administration provides information to the decision-maker who receives a specific range of information only from the entity which deals with specific matters. The parties to the transactions in such-defined “market” are the supervising authorities and the administrative bodies subject to such supervision. The supervisory authority decides on the budget of the administrative body based on the information provided by that body. This result in asymmetric information, whereby the real cost of the public service provided is only known to the administrative body. On the other hand, the allocator of budget funds may lack such information. The information asymmetry may therefore lead to inflated costs of performance of public functions.<sup>46</sup> The information asymmetry, which has been identified by A. Niskanen, may also encourage corruption and fraud.

Figure 2 Information asymmetry in the public sector. The narrowing scope of information.



Source: Developed by Z. Dobrowolski [in:] Z. Dobrowolski, J. Kocielniak, *The Role of SAI in Detection Corruption, Fraud and Money Laundering* 2012 (prepared for printing)

45 Ibidem, see also J. Wilkin (ed.) *Teoria wyboru publicznego*, Wydawnictwo Naukowe Scholar, Warszawa 2005, pp. 145-147

46 Ibidem

As already mentioned, public administration bodies and the offices that serve as their support machinery, may influence public choices. Their activities may be associated with rent-seeking,<sup>47</sup> which involves imposition of interests of specific groups on the activities of central and local governments in order to obtain specific advantages. The notion of “rent” has various meanings. Profit from business involving the production of goods and services may be designated as rent.

Rent may be obtained by conducting:

- business in such a way as to ensure the excess of revenues over the costs;
- political activity, aimed at obtaining advantages in the form of the transfer of revenues from budget sources or from the consumer as a result of political arrangements (for instance, consumers have to buy gelatine manufactured by the domestic operator because the government has imposed a ban on gelatine imports). Another example is to obtain tax exemptions or preferential interest rates by certain manufacturer groups. The economic effects of rent-seeking are manifested by other, e.g. inefficient use of resources, burdening the public with the cost of rent obtained in an artificial way.<sup>48</sup> This socially undesirable process needs to be checked by improving the mechanisms of democracy.

### 1.4.1 Types of Corruption

In terms of the overall ubiquity, corruption can be divided into individualized corruption – involving a definite number of people, and collective corruption – extending to entire interest groups, leading to dependencies in which the donor becomes recipient and vice versa.<sup>49</sup>

In terms of where corruption resides, a distinction might be drawn between bureaucratic, political and business corruption. However, it should be borne in mind that such distinction is arbitrary because

47 The precursor of rent-seeking studies was Gordon Tullock, a prominent exponent of public-choice theory.

48 J. Wilkin (ed.) *Teoria wyboru publicznego*, *op.cit.*, pp. 204-218

49 Z. Dobrowolski, *Korupcja w państwie...*, *op.cit.*, pp. 18-20 citing A. Kojder, *Anatomia korupcji i jej cechy w okresie zmiany ustrojowej: dwanaście tez i jeden przykład*, *press conference* Transparency International 2001, p. 2 (reproduced typescript)

business corruption may include some elements of bureaucratic corruption, and political corruption involves business corruption to a certain extent.

**Bureaucratic corruption** “is frequently accompanied by the propensity of administrative procedures to generate and sustain artificial barriers to exercise of the rights of the parties, hiding essential fragments of the case management process, and unclear presentation of how some tasks are to be performed”.<sup>50</sup>

**Political corruption** is usually associated with MPs or senior government executives receiving undue advantages in connection with official functions. However, this notion can be also extended to encompass the practices of funding electoral campaigns of political parties or extending patronage to some of its members to ensure an influence on economic policy decisions after potential electoral victory.<sup>51</sup> The interrelationship between political and business corruption is manifest in making decisions favouring some private-sector entities in contravention of the existing rules, to ensure a lucrative post or position upon the expiration of the term of office.

**Business corruption** includes any instances of bribery and venality leading to the exertion of influence on business events.<sup>52</sup> Corruption defined in such terms undoubtedly distorts fair competition rules, and because it involves a public officer – it harms the image of public institutions as well. Corruption can also occur in the private sector, hence outside the public sector, and involves managers catering to the business of others.<sup>53</sup>

The World Bank has placed emphasis on a distinction between **state capture** and **administrative corruption**, which is highlighted below. “**State capture** refers to the actions of individuals, groups, or firms both in the public and private sectors to influence the formation of laws, regulations, decrees, and other government policies to their own advantage as a result of the illicit and non-transparent provision of private benefits to public officials. Distinctions can be drawn between

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50 Z. Dobrowolski, *Korupcja w państwie...*, op.cit., s. 18-20 quoting after Egli H., *Grundformen der Wirtschaftskriminalität, Fallanalyse aus der Schweiz und der Bundesrepublik Deutschland*, Heidelberg 1985, p. 72 ff.

51 Z. Dobrowolski, *Korupcja w państwie...*, op.cit., pp. 18-20 quoting after *Wirtschaftskriminalität und Korruption in Österreich*, in: *Forschungsergebnisse auf dem Gebiet Wirtschaftskriminalität*, Freiburg 1987, p. 91 ff.

52 Z. Dobrowolski, *Korupcja w państwie...*, op.cit., pp. 18-20 quoting after Fr. Geerds: *Über den Unrechtsgehalt der Bestechungsdelikte und seine Konsequenzen für Rechtsprechung*, *Kriminologische Studien*, Tübingen 1961, p. 25

53 Z. Dobrowolski, *Korupcja w państwie...*, op.cit., pp. 18-20



the types of institutions subject to capture. Yet all forms of state capture are directed toward extracting rents from the state for a narrow range of individuals, firms, or sectors through distorting the basic legal and regulatory framework with potentially enormous losses for the society at large. They thrive where economic power is highly concentrated.”<sup>54</sup> This notion of rent includes any undue advantages derived by actors from the way the government performs its functions. The phenomena related to state capture include the sale of parliamentary votes, judicial decisions, corrupt abuse central bank funds, and illegal contributions to political parties<sup>55</sup> This could lead to the phenomenon of ‘failed states’.

According to the World Bank, **administrative corruption** refers to the intentional bypass or distortion by a public official of the prescribed application of rules to provide advantages to others in exchange for the illicit and non-transparent provision of private gains to the public official.<sup>56</sup> This distinction is consistent, to a significant extent, with other divisions: large- and small-scale corruption, political or administrative (bureaucratic) corruption. The advantages related to state capture are usually high and require at least an inspiration from the political sphere.<sup>57</sup>

**Small-scale corruption** is also defined as petty corruption. This term refers to corruption that usually involves smaller sums of money and is committed by public servants at lower levels<sup>58</sup>. It is worth noting that although the amounts of money concerned in petty corruption may be small, the aggregate costs for society may cause a huge effect. In addition, the poor part of society suffers the most from petty corruption, as they usually are most directly affected by it<sup>59</sup>. Large-scale corruption called grand corruption refers to illegal activity which usually takes place at the highest levels of government by members of the political or administrative elite or people associated with them, and

54 Z. Dobrowolski, *Korupcja w państwie...*, *op.cit.*, pp. 18-20 quoting after *Anticorruption in Transition: A Contribution to the Policy Debate*, World Bank, Washington D.C. 2000, pp. XV-XVII

55 Ibidem

56 Ibidem

57 A. Kamiski, *Korupcja w administracji publicznej: znaczenie, przyczyny i konsekwencje*, Biuletyn informacyjny nr 1, NIK Warszawa 2003, pp. 68-70

58 See: UNDP, *Tackling Corruption, transforming lives. Accelerating Human Development in Asia and the Pacific. Asia and Pacific Human Development Report*, 2008. Available at [http://hdr.undp.org/reports/regionalreports/asiathepacific/RHDR\\_Full%20Report\\_Tackling\\_Corruption\\_Transforming\\_Lives.pdf](http://hdr.undp.org/reports/regionalreports/asiathepacific/RHDR_Full%20Report_Tackling_Corruption_Transforming_Lives.pdf) [http://www.undp.org.my/uploads/aphdr\\_fullreport\\_tackling\\_corruption\\_transforming\\_lives.pdf](http://www.undp.org.my/uploads/aphdr_fullreport_tackling_corruption_transforming_lives.pdf) (Link führt zum Bericht)

59 Helping Countries Combat Corruption. The Role of World Bank, Word Bank Washington D.C. 1997, pp. 10, 19

which generally involved substantial amounts of money<sup>60</sup>.

Another classification distinguishes types of corruption according to social approval of corrupt activities, discriminating between “**white**” **corruption**, where there is a broad tolerance of certain corrupt practices; “**grey**” **corruption**, characterized by mixed social attitudes towards it; and “**black**” corruption, which is unequivocally condemned.<sup>61</sup>

A distinction can also be drawn according to the spheres of state and society in which corruption occurs: in the private sector, at the interface of the private and public sectors, and in the public sector. *Passive and active corruption* is seen from the actor-centric perspective on giving and accepting corruptive advantages.

- **Passive corruption** involves the deliberate action by an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties.
- **Active corruption** involves the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties.<sup>62</sup>

In summing up, the following classification of corruption can be proposed:

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60 Helping Countries Combat Corruption..., Word Bank, *op.cit.*, pp. 9-10

61 P. Paka, M. Reut, *Korupcja w nowym kodeksie karnym*, Zakamycze Kraków 1999, p. 8; *Zagrozenie korupcji w swietle badan kontrolnych Najwyzszej Izby Kontroli.*, NIK Warszawa 2000 (reproduced typescript), p. 13

62 Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, done in Brussels on 26 May 1997, ratified by the Polish Parliament (the Sejm) on 23 July 2004 (Dz.U. [Journal of Laws] No 194, item 1981)

Table 1 Corruption types

Classification criterion	Type
Extent of occurrence	Collective and individualized
Scale	Small, large (or petty, grand, state capture)
Location	Political, business, bureaucratic
Approval for corrupt activities	White, grey, black
Who is the actor	Passive and active
Spheres of the government and society	Corruption in the private sector, at the interface between the private and public sectors, and in the public sector

Source: Z. Dobrowolski, *Korupcja w państwie...*, op.cit., p. 20

The typology of corruption should be supplemented with the following set of features that accompany this phenomenon:

- universality,
- market orientation,
- expansion,
- concurrence of interests of parties to the transaction.

According to the United Nations Convention against Corruption, adopted by the United Nations General Assembly on 31 October 2003,<sup>63</sup> corruption is not a local matter, but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential.

Corruption can be seen as a transaction in which the transaction price is the point of balance between the supply of and demand for public goods. In simplified terms, bribes would not have existed, if there had been no demand and social approval of them. Corruption as a phenomenon can evolve, spread into the social spheres hitherto free from risk of corruption. The corruption process always involves two parties: the provider of specific advantages and receiver, who jointly

63 Dz.U. [Journal of Laws] 2007 No. 84, item 563

aim at reducing to the minimum the risk of this illegal practice being detected. This shared interest of the provider and the receiver generate a conspiracy of silence, which consists in keeping the corrupt practice secret.<sup>64</sup>

## 1.5 Cost of Corruption

Corruption generates costs. However, “the problem with corruption is that unlike other crimes, those that are hurt by corruption are often not directly linked, neither in space nor in time, with the corrupt activities”. However there are some estimates of overall bribes paid worldwide. For example according to the World Bank Institute, more than \$1 trillion dollars (US\$1,000 billion) is paid in bribes each year. “But corruption has more far-reaching and damaging consequences for society and the economy as a whole as one can tell based on such estimations. For instance, the money looted usually leaves the country and is thus not available there anymore for other productive or redistributive purposes. Also, the possibility to extort bribes biases the incentives for government officials and has detrimental effects on overall governance, and thus on quality and availability of public services, for example. And bribes and embezzlement are just two aspects of corruption. Non-monetary and monetary effects of favouritism and nepotism as well as fraud (e.g. manipulation or falsification of information) have to be added to the picture”<sup>65</sup>.

“Corruption negatively affects productivity. An indicator for productivity is the ratio of a country’s GDP to its capital stock. We can observe a significant impact of corruption on this indicator”. It is estimated “that an increase in corruption in the CPI by one point lowers productivity by 4% of GDP. Corruption deters investments. One of the reasons for this is because the effects of corruption are comparable to a tax on investments. A firm wishing to make an investment has to take into account the costs of bribery for setting up a business and keeping it running. It is estimated that an increase in the CPI by about one point has the same effect as a 7.5 percentage point’s increase of the tax rate. There are also tremendous costs for development when firms are condemned to remain at the level of the informal economy just because they cannot cope with the costs of setting up a legal business – sometimes a considerable part of these costs are related to extorted bribes. Foreign Direct

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64 Z. Dobrowolski, *Korupcja w państwie...*, *op.cit.*, p. 21

65 Quote from the publication: F. Boehm, J. Joerges, *Cost of Corruption: Everyone Pays - And the Poor More than Others*, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH, Division State and Democracy Supporting the Implementation of the UN Convention against Corruption, Federal Ministry for Economic Cooperation and Development, Eschborn 2008, p. 2

Investments (FDI) are also negatively affected. In particular FDI involving sophisticated technology suffer from corruption because investors fear for the leakage of technological know-how to opportunistic and corrupt local partners”<sup>66</sup>.

“Corrupt governments and corrupt political systems are likely to allocate more to military purposes and arms procurement and less to education and health. It is simply easier to extract corrupt gains from such type of deals as from labour-intensive projects in schooling or hospitals. Obviously, such an allocation of resources is at odds with societies’ desires and human rights and is particularly harmful for long-run sustainable development of an economy. Also, corruption of course diminishes the efficiency of what is spent by governments in health. Researchers have found other interesting connections between corruption and education. For instance, corrupt societies significantly distract students from studies and jobs aimed at increasing production, such as engineering, towards those jobs where legal opportunities and loopholes are sought-after, such as law. Although such type of results have to be handled with caution, they are nevertheless interesting. Also, student drop-out rates can be considered as a proxy for the quality of public education, and they are five times as high in corrupt countries”. It is worth noting that there is “a positive relationship between corruption and the number of years in school. An increase in the index of corruption by one point reduces school enrolment by almost 5 per cent and life expectancy by about 2½ years”<sup>67</sup>.

“Life expectancy is of course closely related to public health policies, and as mentioned before, corruption is likely to diminish government spending on health. Also, within the health sector, investments may tend to favour construction of hospitals and purchase of expensive, high tech equipment over primary health care programs such as immunization, HIV prevention programmes, and family planning. These, however, have much higher marginal effects on the health situation of the population, in particular the poor. And corruption has also measurable effects on other health indicators as life expectancy, even when adjusting estimations for income. Child mortality rates in countries with high levels of corruption are about one-third higher than in countries with low corruption. Infant mortality rates and the share of low-birth-weight babies are almost twice as high. And again, the poor are disproportionately hurt by corruption. Anecdotic evidences from around the world report from bribes that have to be paid to get medicine, to get access to hospitals, or to be treated by the doctor. The Global Corruption Report 2006

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66 Quote from the publication: F. Boehm, J. Joerges, *Cost of Corruption...*, *op.cit.*, pp. 5-6

67 Quote from the publication: F. Boehm, J. Joerges, *Cost of Corruption...*, *op.cit.*, pp. 6-7

cites a study carried out in Azerbaijan. About 35% of births in rural areas take place at home because of high charges for care in facilities where care was supposed to be free. And even from this biased too low budget, much is lost because of corruption. In the Global Corruption Report 2006, Transparency International reports that in the US, Medicare and Medicaid estimate that 5 to 10 % of their budget is lost due to corruption. In the United Kingdom, the National Health Service's (NHS) anti-fraud unit reports it has stopped corruption totalling more than £170 million (US \$300 million) since 1999, and the total financial benefits to the NHS (which also includes recovery of losses due to fraud and reduction in measured losses due to intervention by the counter-fraud service) have been four times that<sup>68</sup>.

“Environmental quality also suffers from corruption, and corruption undermines effectiveness of environmental policies. Indeed, pollution increases due to a less effective environmental regulation which can be circumvented through bribes”. Some authors “find that corruption significantly impacts on the strictness of the environmental policies”. For example H. Welsch “analyses the impact of corruption on a variety of pollution indicators”<sup>69</sup>. “For instance, ambient pollution of air (the urban sulphur dioxide and suspended particulate concentration) and water (dissolved oxygen demand and suspended solids) increases. The author underscores that the relationship between corruption and environment is particularly strong at low income levels; developing countries could thus considerably improve both their economic and environmental performance by reducing corruption”<sup>70</sup>.

Corruption can undermine the system of democracy. “First of all, in most countries a social and political consensus has been established that private wealth is subject to a redistributive system to guarantee the provision of public goods and to prevent excessive social inequality. Therefore, income is taxed. Through bribing tax officials or through tax evasion, corrupt practices undermine the ability of the state to tax private wealth and revenues. Second, public expenditure is agreed on in the budget usually approved and controlled by parliament, by central audit authorities and by civil society and media. But, as already mentioned, corruption distorts the budget towards expenditures offering the highest corrupt opportunities, undermining thereby the democratically wished use of resources favouring narrow interests over public interest. Finally, corruption may also directly seek to influence the policy

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68 Ibidem

69 H. Welsch, *Corruption, Growth, and the Environment: A Cross-Country Analysis*. Environment and Development Economics, 2004, Vol.9: 663-93 cited by F. Boehm, J. Joerges, *Cost of Corruption...*, *op.cit.*, p. 7

70 Ibidem

making and the rules and regulations of a society, thereby undermining democratic processes as well as the legitimacy of the state”<sup>71</sup>.

- To sum up the previous considerations, there are four categories of corruption costs: costs caused by the loss of revenues from taxes, customs duties, privatization, costs generated by corruption in public procurement;
- reduced productivity of investment and economic growth, including losses through abuse of regulatory powers;
- burden for the society, including excessive taxation, low service quality;
- loss of trust in public institutions, which may undermine the respect for public order and security, and even the idea of the government.<sup>72</sup>

## 1.6 Laws and regulations

Laws and regulations concerning the prevention and the fight against corruption, fraud and money laundering should be a part of the legal system of each country. Given the number of countries and SAIs, relevant laws and regulations have not been included or referenced in this guideline. However, basic regulations, useful guidelines and recommendations of authorities responsible that set out necessary principles and measures regarding this area at international level are outlined in the appendix.

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<sup>71</sup> Quote from the publication: F. Boehm, J. Joerges, *Cost of Corruption...*, *op.cit.*, pp. 9-10

<sup>72</sup> *Korupcja w Polsce: Przegląd obszarów priorytetowych i propozycji przeciwdziałania zjawisku*, The World Bank, Warszawa, 1999; *Korupcja w Polsce*, Kwartalnik Stowarzyszenia Prokuratorów Rzeczypospolitej Polskiej no. 3/2000 Prokurator, Poznań 2000; Z. Dobrowolski, *Korupcja w państwie...*, *op.cit.*, p. 22

## 2 Components of preventing and fighting corruption

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### 2.1 Organization

The following structure may in accordance with article 6 of the United Nations Convention against Corruption(UNCAC) be set up for each government agency and also for SAI's.

#### 2.1.1 An organizational unit for corruption prevention

If the results of risk analyses or other circumstances warrant, a special temporary or permanent independent organizational unit shall be set up to oversee all corruption prevention measures taken in a particular agency. Such units shall be independent and have the right to report directly to the head of the agency. Such an organizational unit might either be an internal or external agency. This task may also be performed by the internal auditing department/internal audit unit. In some countries this task is performed by the office of the inspector general.

This organizational unit shall directly inform the head of the agency and the contact for corruption prevention in case of shortcomings in corruption prevention and shall recommend appropriate changes. In case the head of an agency is involved in corruptive and fraud activities, the anti-corruption unit shall inform the relevant law enforcement institution.

#### 2.1.2 Contact for corruption prevention (anti-corruption officer)

The contact for corruption prevention shall be appointed based on the tasks and size of the institution. One contact may be responsible for more than one agency. Depending on the size of the institution, a contact for corruption prevention should be designated for divisions/branches etc.

Contact may be charged with the following tasks:

- serving as a contact for agency staff and management, if needed without having to rely on official channels, along with private



persons. The contact shall have direct access and may report to top management level (e.g. President);

- advising agency management;
- keeping staff members informed (e.g. by means of seminars and presentations at regular intervals);
- assisting with training and having access to all anti-corruption related training sessions;
- monitoring and assessing any indications of corruption;
- helping keep the public informed about penalties under public service law and criminal law (preventive effect) while respecting the privacy rights of those concerned.

If the contact becomes aware of facts leading to reasonable suspicion that a corruption offence has been committed, he or she shall inform the agency management immediately and make recommendations on

- conducting an internal investigation,
- taking measures to prevent concealment and
- informing the law enforcement authorities. The agency management shall take the necessary steps to deal with the matter.
- Contacts shall not be delegated any authority to carry out disciplinary measures. They shall not lead investigations in disciplinary proceedings for corruption cases.
- Agencies shall provide contacts promptly and comprehensively with any information needed to perform their duties, particularly with regard to incidents of suspected corruption.
- In carrying out their duties of corruption prevention, contacts shall be independent of instructions. They shall have the right to report directly to the head of the agency and may not be subject to discrimination as a result of performing their duties.
- Even after completing their term of office, contacts shall not disclose any information they have gained about staff members' personal circumstances. They may, however, provide such information to agency management or personnel management if they have a reasonable suspicion that a corruption offence has been

committed. Personal data shall be treated in accordance with the principles of personnel records management.

- Contact for corruption prevention is to be formally appointed. This appointment is to be announced in the person's area of responsibility. If the contact for corruption prevention is to be responsible also for implementing the anti-corruption directive of the agency, in particular for heading the independent organizational unit, the relevant agency may formally appoint the contact to be its official.
- Staff members belonging to the organizational unit responsible for carrying out security clearance of personnel may not serve as contacts.
- While continuing to perform his or her own duties, the contact should work with staff in the internal audit unit and with those responsible for implementing corruption prevention.
- The agency has the task to support the contact in carrying out his or her duties (e.g. by setting up special e-mail addresses or providing appropriate office space).

## 2.2 Risk assessment and risk analysis

In all government agencies, at regular intervals measures shall be carried out to identify areas of activity especially vulnerable to corruption and as warranted by circumstances. This task may either be performed by external or internal agency. The use of risk analyses shall be considered for this purpose.

Risk analyses are to be performed by government agencies on a regular basis or once actual threats have materialised to identify organizational elements or processes that are vulnerable to corruption. These analyses comprises the

- evaluation of individual organizational elements, processes and procedures with regard to the risk of corruption;
- evaluation of audit records;
- identification of potential risks (especially for financial fraud);
- valuation of potential financial losses and damage to reputation;
- checking the probability;

- evaluation of security systems (e.g. internal control systems).

The results of the risk analysis shall be used to determine any changes in structures, procedures or personnel assignments in order to eliminate the deficiencies identified. The identification and analysis of areas of activity that are especially vulnerable to corruption is the major task to be performed by the government agencies.

An area of activity vulnerable to corruption is one where the following occurs (by staff, custom or decision):

- Third parties (individuals, businesses, associations, companies, other institutions) receive material or non-material advantages or are preserved from disadvantages and
- third parties are able to provide staff members with advantages to which they are not entitled by law or collective bargaining agreements.

Furthermore, an area of activity associated with any of the following is especially vulnerable to corruption:

- frequent outside contacts – also in the course of checking and supervisory activities;
- management of large budgets, awarding of public contracts or subsidies, including the awarding of grants or other funding;
- imposing of conditions, granting of concessions, approvals, permits, and the like, setting and levying of fees;
- processing of transactions and operations using internal information not intended for third parties.

This applies only if

- the potential advantage has a significant material or non-material value for third parties
- or the potential disadvantage to third parties would result in punishment, a threat to their business or livelihood or a threat to the existence of the affected institution.

The need for risk analysis in areas of activity considered especially vulnerable to corruption should in principle be evaluated on a frequent basis, required by significant circumstances or at least every five years or following organizational or procedural changes or changes in the nature of assigned tasks. In order to identify individual areas vulnerable to corruption, the following two-step procedure is expected to be performed by the government agency:

- a brief examination of vulnerability to corruption and of the effectiveness of existing safeguards (e.g. by examining organizational charts).
- If a risk analysis is needed: Identify operations which are especially vulnerable to corruption as well as existing safeguards (e.g. by means of questionnaires and supplementary interviews).

If a need for action is determined, the risk analysis should conclude by recommending and/or ordering additional preventive measures.

In addition to the items noted above, the following questions are expected to be asked by the government agencies for their risk analysis:

- Are there or have there been instances of corruption in the area of activity?
- Have third parties tried to influence the decisions of a staff member in this area?
- Does the area manage budget funds or resources?
- Is the area responsible for contracts, subsidies, funding?
- Does the area impose conditions, grant concessions or authorisations?
- Does the area charge fees?
- Have there been known cases of corruption in comparable areas of activity at other agencies?
- Does the area of activity follow specifically defined work processes?
- Is the post associated with special scope for action and discretionary powers?
- Does the extent of decision-making authority vary depending on the size of contracts or other criteria?
- Does the area of activity have a final say regarding processing and

decision-making?

- Is there adequate administrative and task-related supervision?
- Is personal integrity the only barrier to corruption in the area of activity?
- What in-house control mechanisms are in place?
- Does the decision-making process provide for the double control by involving more than one official responsible?
- Do other organizational units also have to sign decisions?
- Does decision-making ensure transparency, e.g. by means of checking operations, reporting, explicitly designating responsibilities, or supplying accurate and full documentation (minutes, notes, reports, proper record-keeping)?
- Is the decision-making process required to be transparent even if no consent is needed from a superior or another organizational unit entitled to participate?
- Is there a requirement that a transparent, written record be kept of the decision-making process, which can be followed by an auditing authority?
- Are there any known violations of regulations (e.g. budget law, law on public procurement)?
- Are there any complaints by the SAI or another supervisory authority, e.g. the independent organizational unit for overseeing corruption prevention?

## 2.3 Modules of corruption prevention

To prevent corruption, specific control objectives need to be identified or developed for each government organization and are to be appropriate, comprehensive, reasonable, and integrated into the overall organizational objectives. A primary objective for the government is to prevent errors or irregularities occurring in management or financial information or, if any have occurred, to detect them. Government ministry and department activity should identify and develop specific control objectives. The control objectives should be appropriate, comprehensive, reasonable, and integrated into the overall organization structure. Conversely, when internal controls and their objectives

are not clearly established and understood, this may lead to internal control breakdowns.

In addition, managers have the task to continually monitor their operations and take prompt, responsive action on all findings of irregular, uneconomical, inefficient, and ineffective operations. Monitoring operations is very important to ensure that controls are achieving the desired results. Often it was found that without the necessary understanding and monitoring, it is more convenient for people not to follow established control practices. In some cases, instances of weak internal controls are identified and reported, management responds to the points raised and early corrective action is normally taken.

To help achieve control objectives and an orderly and effective internal control structure, internal control guidelines should provide detailed standards covering (1) **delimitation of duties including double control**, (2) **staff rotation and job rotation** and (3) **supervision** to establish an environment that prevents and deters fraud and corruption.

### 2.3.1 Delimitation of duties including double control

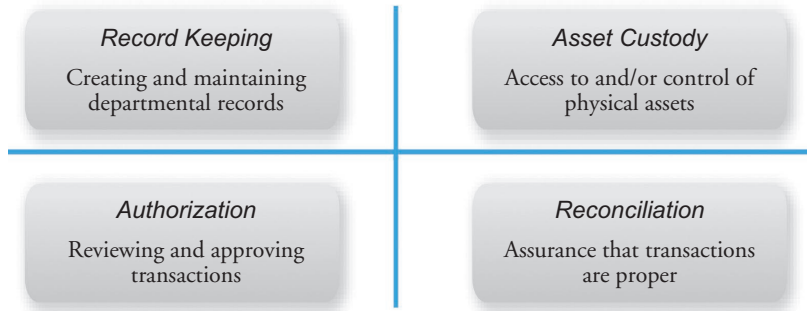
Delimitation of duties has become an important prerequisite in the implementation of every compliance related project all over the world. As the name suggests that no single user can have access to all authorizations of a process end to end. It is required that job duties in each business process are completely delimited and adequate controls need to be placed.

Delimitation of duties is a concept of having more than one person required to complete a task. This concept is also known as **dual control** or **“second pair of eyes” principles** in financial industries. This principles act as a control mechanism designed to achieve a high level of security for especially critical material or operations. Under this rule, all access and actions requires the presence of two authorized people at all times.

#### 2.3.1.1 Delimitation of duties

Clear delimitation of duties enhances checks and balances and minimizes the potential for corrupt collusion. The basic idea underlying delimitation of duties is that no employee or group should be in a position both to perpetrate and to conceal errors, fraud or corruption in the normal course of their duties. To maintain proper delimitation of duties, no employees should be responsible for two or

more of the following four functions for a single transaction class:



Delimitation of duties risks are opportunities for one individual to control a process from beginning to end without the involvement of others. When an individual exploits the condition, integrity, productivity loss, and physical losses can result without being detected. For examples, those who perform place orders (purchasing) activity, including those who maintain contact with outside suppliers and issue purchase orders, should not perform any receiving, accounting or cash disbursement activities.

Delimitation of duties is a deterrent to fraud because it requires collusion with another person to penetrate a fraudulent activity. There will be a risk of error, waste, or wrongful acts associated with having one person control all key stages of a transaction or event. In some instances, it was found that undelimited duties are a major weakness in some departments and government ministries. Therefore, every control system to prevent accounting errors, fraud and corruption should incorporate delimitation of duties.

The following case studies illustrate some of the signs of weaknesses in controls and culture that would have been present should someone have been looking for them at the time the acts were committed:

*Case study 1*

In 2010, a contractor was bidding for a highway construction tender by a Ministry of the Federal Government. On the day before the tender result was to be announced, the contractor received an email sent from an unknown webmail account soliciting a bribe amounting to a percentage of the project value to guarantee the contractor would

win the project. The contractor did not respond and the tender was awarded to another party.

The initial complaint of the contractor was investigated for what evidence could be obtained and the results forwarded to the Ministry. The resulting investigation revealed a number of contributing factors, in what proved to be tender rigging by an employee of the Ministry who was ultimately convicted of the offence by the courts, which would have thrown up red flags of potential corruption. The perpetrator was in charge of a number of functions in the ministry and this was due to **lacking delimitation of duties**.

#### *Case study 2*

Information was provided to the Chief Executive Officer by a whistleblower that two employees in charge of its workshop were receiving kickbacks from a transport contractor. Investigation uncovered information that indicated payments were made by the contractor to workshop employees. In addition it was determined the Contractor was overcharging the organization and numerous other suspected frauds perpetrated on the organization by the two employees were discovered. It was revealed that one of the two individuals involved was responsible for commissioning work from the contractor, preparing material order to be signed by the project managers in charge of budget and often signed bills of lading as well. This shows that there was **no delimitation of duties** in this organization.

#### *Case study 3*

An organization often received complaints on overcharging of prices by supplier. An investigation was carried out on suspected overcharging by a supplier providing services under contract. The investigation began as a data review for duplicate payments and when a number of events were detected the investigation was widened. Further anomalies were detected including progress payments processed without adequate justification or a milestone associated with the payment not having been reached. Payments or invoices that could not be linked to any particular work were also found. A review of the relationship with the vendor indicated a sudden increase in volume of work three years before. It was found that tender documents written as to favour the contractor by the individuals that recommended the successful supplier. This occurred in this organization due to **no delimitation of duties**.



Knowing where to look for them and what signs to look for is an important starting point for managing the risks of corruption. Then policies can be taken to prevent corruption. Such policies accommodate an accurate risk profile for an organization, training and awareness programmes that target the risk points, effective delimitation of duties, and well-directed surprise audits to detect acts of corruption.

#### 2.3.1.3 Delimitation of duties for small organization

In smaller government agencies, delimitation of duties is not practical and therefore generally is not appropriate to recruit additional staff to achieve a rigorous delimitation of duties. It is often difficult for small organizations to maintain proper delimitation of duties. There are cases where (1) people were able to both authorize and check payments, (2) staff could order, authorize, and receive goods, and (3) there was little or no evidence that supervisory checks were done. In cases where small organizations make adequate separation of duties difficult, management must be aware of the risks and compensate with other controls. For instance, rotation of employees may help ensure that no one person deals with key aspects of transactions or events for an undue length of time.

Auditors must look at alternatives and recommend controls relating to checks and balances. Establishing a “tone at the top” so that policies are in place and all employees including management follow them. Other important considerations include clearly defined responsibilities, involving at least two staff in all important transactions such as signing checks, count cash, and preparing and reviewing bank reconciliations.

### 2.3.2 Personnel rotation and job rotation

Job rotation is a job design technique that systematically assigns employees to various jobs and departments over a period of a few years. The objective is to expose employees to different experiences and wider variety of skills to enhance job satisfaction and to cross-train them. Apart from being as a learning mechanism, job rotation can also be used as a tool to prevent corruption. However, there are both positive and negative effects involved in job rotation that need to be taken into due consideration when the decision to utilize this technique is made.

#### 2.3.2.1 Positive effect of job rotation

Job rotation is an aspect of successful work environment that is often

ignored by employers. Job rotation can provide tremendous benefits to both employees and employers alike, such as:

**Increase employee knowledge:** Rotating jobs enable employees to learn different aspects of the job, to gain a wider spectrum of their studies and to experience how to perform their jobs at their best. Hence, they have the opportunity to learn necessary skills which can help them to advance within the organization. Also this may boost their morale and self-efficacy. Apart from that, having several employees who are knowledgeable about different tasks can be of merit when one employee decides to leave, the other can take his/her place without too much effort needed.

**Key staff:** Employers often find difficulty trying to hire for key positions or hard-to-find skills. Job rotation solves this by offering internal set of employee skills that can often be helpful in other positions than their current ones. Hence, the organization can run more efficiently, and as a result, become more productive and profitable.

**Save cost:** Job rotation seems to be costly, yet in reality hiring someone who is completely new to a position will require more further costs for training from . Also existing employees usually require less incentive to move from one post to another, unlike newly experienced hires who are harder to please and often involve higher.

**Develop career:** Job rotation can be seen as a means to develop an employee's career and move him laterally. Whatever the move is, it can be advised as a or an advancement along the career path to a new position which requires further knowledge in different departments or organization .

**Minimise corruption:** Instead of having a few employees undertaking activities that have a high risk of corruption, more employees can be trained to also undertake those activities. With more people undertaking those activities the risk of corruption may be reduced, especially when combined with job rotation allocation of tasks.

### 2.3.2.2 Negative effect of job rotation

There are some negative attributes associated with job rotation. Some positions within an organization may not be eligible for rotation due to the need for special technological expertise. These positions may not fit the profile for rotation opportunities because of rules and regulation on competency and also costs involved to train the workers. Another

problem faced by organizations is the possibility of having to compensate staff for cooperation with the job rotation implementation, since this can lead to wage inequality. Finally, the utilization of job rotation may have the effect of reducing a workforce because of the cross-training involved; an organization may not need to hire additional staff to cover positions and may possibly lay-off current employees no longer considered necessary.

### 2.3.2.3 Job rotation as a tool for fighting corruption

When an organization decides to utilize job rotation, this is a decision which needs to be thoroughly evaluated based not only the positive but also negative aspects an organization may face during the utilization process. More importantly, the organization should also evaluate the risk of corruption associated with the task. Although top management may have a conception of what corruption is, the image may differ from executive to executive and may, indeed, differ widely in respect of the true nature of corruption. In order to adopt a job rotation policy to fight combating corruption within the organization, a full corruption risk assessment is required to identify the opportunities specific to a given set of operations. Only then a system of internal controls in respect of job rotation can be designed to address those specific risks. Even then, corruption can never be truly eliminated but they can provide reasonable assurance that not only instances of corruption but also waste and general misuse of resources can be reduced.

Red flags are early warning indicators that the risk of corruption in a particular area is either higher than is normally tolerable or has increased over a period. Identify activities and jobs that are especially at risk in relation to corruption. The need for job rotation should be considered and needs to be implemented where any of the following behaviour of employees is noted:

- Employee maintains a very close relationship with vendors or customers
- Employee dominates and controls a particular process
- Employee refuses a promotion
- Employee refuses to take vacation time
- Employee works unnecessary overtime
- Productivity decreases and signs of dissatisfaction at work increases

- Mood changes and irritability increases
- Borrowing money from co-workers
- Rewriting records for neatness reason
- Sudden increase in the visibility of material possessions
- Apparent increase in absenteeism
- Dislike their work being reviewed
- Destroy reports

#### 2.3.2.4 Implementation of job rotation

The policy of job rotation varies between entities. For example, in one INTOSAI member country, the heads of the regional departments of federal bodies and their deputies responsible for control and supervisory functions will be subject to job rotation. In April 2010, the government adopted measures aimed at implementing a job rotation mechanism for public servants. The need for job rotation as an anti-corruption measure is also required by law in regards to the federal public service. The term of service for the heads of regional departments and their deputies will last three to five years. All the decisions on their job rotation will be taken by the president or the government. The job rotation for public servants is also mentioned in the United Nations Convention against Corruption (UNCAC) adopted in 2003. This member country had previously ratified this legally binding international anti-corruption instrument that obliges the signatories to implement a range of anti-corruption measures affecting their state's legislation, institutions and practices.

In recent times, federal agencies have actively replaced officials in their regional branches to fight corruption. Two thirds of top managers of the supervisory body on ecological, technological and nuclear issues – 2 regional heads and their deputies – were dismissed in 2009. The number of the agency's regional branches was reduced from 84 to 38. The Interior Ministry has recently determined a list of positions that will be subject to rotation as a part of the wide-ranging police reform in Russia. The term for such officials will be five years. They will be able *"to assess the situation with fresh eyes, identify the problems, and find ways to solve them,"* the Interior Minister said. Nevertheless there is no specific period of how long should an officer withholding his/her post. It depends on the policy of the organization based on risk analysis.

In ensuring that the internal control in respect to job rotation is sufficient and effective, an auditor should take necessary steps to ascertain the existence of control mechanisms.

There are few questions in relating to job rotation planning and implementation that should be asked by the auditor as follows:

- Does the entity have any policy regarding job rotation?
- Is its design based on risk structured?
- Is the policy being implemented?
- If not, why?
- Who decides about the job rotation?
- Does he/she have the authority?
- Who is eligible for job rotation? Why?
- What action has been taken to ensure that the policy is adhered to in the future?
- Is the policy being reviewed?
- When is rotation to take place? Justification.
- How much time does it take to choose the right candidate?
- Is notification to the right people being issued?

### 2.3.3 Supervision

INTOSAI'S internal control guidelines prescribe that competent supervision is to be provided to ensure that internal control objectives are achieved. The importance of proper supervision of assignments and employees form the fundamental of internal control mechanism.

Today many public sector employees work with less direct supervision and more autonomy, which means supervisors have critical roles to play in minimising the risks of corruption in their workplaces. Employees are strongly influenced in their own behaviour by the way their immediate supervisors behave. Consequently, supervisors are in a position to either encourage or minimise corrupt conduct.

Their role also means supervisors are well-placed to detect and report instances of misconduct or corruption of which they become aware. The improper supervision of employees can constitute corrupt conduct as defined by the *Independent Commission against Corruption Act 1988 (ICAC: Sydney 2001)*.

A risk assessment of the supervision of staff in a public sector organization is likely to identify some or all of the following corruption risks, such as failing to check work records; improperly promoting, engaging or advantaging employees for personal reasons; taking detrimental action against employees who report corruption or misconduct; and concealing the corrupt conduct of subordinate employees.

Auditors should ensure that in government agencies where minimal supervision is being exercised, considerable discretion is required to be exercised. If direct supervision is not possible, other accountability mechanisms can be used. The most fundamental is the need for accurate recordkeeping. Systems that automatically generate a record of decisions or approval can be used in these situations. Regular reviews of the decisions made by individuals can also indicate whether they have been made properly.

#### 2.3.3.1 Supervision to reduce corruption risks

A government agency should manage corruption risks so as to ensure its organizational structure and reporting lines make it clear who employees report to, and are supervised by, and do not leave any employee unsupervised; introduce policy and procedures for the supervision of employees; ensure that supervisors have clear direction on reporting corruption and dealing with corruption risks; give employees access to processes for reporting misconduct that provide alternatives to reporting through their supervisor, who may be involved in corrupt activity, and assess the performance of supervisory responsibilities in performance reviews.

Every government agency should have risk management strategies including a risk assessment of employee supervision. The strategies include: ensuring the workload of supervisors is not so great that they cannot properly monitor the work being done; locating supervisors so that they are physically able to have sufficient contact with employees to know how work is being done; giving supervisors enough access to the work of employees to enable adequate monitoring of work being done; ensuring enough supervisors have skills and knowledge of the

work required to be done to avoid the agency becoming dependent on any individual employee; and conducting additional supervision for employees in roles that are exposed to greater corruption risks.

The following case studies illustrate some of the signs of weaknesses in supervisory controls:

- In a government agency it was reported that an executive officer of a regional development board had engaged in corrupt conduct. He had illegally obtained public funds and used them for the benefit of himself and his family.

The man was a middle-ranking public official of long standing on a modest salary, working in a location away from the head office of his organization. Reporting lines were ambiguous or not properly understood or applied by the relevant managers. He reported to a regional office but on an ad hoc and mostly oral basis, which was not adequately recorded on files. This **lack of supervision** meant that he was able to exercise a high level of discretion.

Another risk factor identified in the investigation was the apparent lack of direction by senior management and the lack of performance management. Remote officials were expected to define, create and manage their own work program with minimal reference to head office and little or no supervision.

It was recommended that:

- appropriate management, performance management, accountability and reporting controls be placed on small, remote offices and that internal audit programs pay particular attention to their program management and expenditure.
  - adequate access be provided to employees in regional and remote offices to corporate training, including training in ethical standards and codes of conduct.
- In a training institute under the Ministry of Youth and Sports, a procurement contract was signed with a contractor to supply certain tools for the specific programs conducted at the training institute. However, the auditor found that there were significant differences in price quoted in the supplier's contracts and also when compared with the prices of the same tools that were being supplied by different suppliers to the same institution. In this

case, exorbitant prices were charged for 5 tools, viz the screwdriver, digital cameras, plastic cases, 6 seated settees and 2 Tone Jack.

The underlying cause was attributed to the **absence of supervision** by the head of training institute. Adequate supervision is essential in operations such as those related to contracts. It was found that monitoring the operation of contract is the key to ensuring that suppliers meet the terms and conditions of the contract for price, standards, and delivery will ensure that the contract remains competitive.

- The Anti-Corruption Agency has arrested an engineer with a Municipal Council and a contractor for alleged graft involving \$47,100. The contractor was arrested for allegedly providing false information when making his claim for the construction of a retaining wall. The engineer was arrested as he was alleged to have abetted the contractor. It was found that the contractor had submitted a claim for \$88,100 as the cost of construction for the retaining wall when in fact the cost was only \$41,000. Both were being investigated and charged in the court.

Auditors found that the process of reviewing and confirming work done by contractors allowed for **unsupervised** modification without any documentary support and verification by superiors. Auditors also identified supervision, as well lack of training as an internal control weakness common to most government agencies.

- Construction is another area prone to fraud and corruption. Corruption in public building raises cost and lowers quality of infrastructure. Risks may exist throughout design, planning, preparation, contracting and sub-contracting as well as implementation. Risks include bribery, collusion, deception and abuse of unexposed conflicts of interest.

Auditors found in many instances where completion certificates on buildings and projects were certified by engineers and architects as completed and handed over to the government agencies and full payment were made to the relevant contractors. However, on physical inspection by the auditors revealed that those buildings and projects were still under construction and some of them were abundant by the contractors. This revealed that **no supervision** was done by the relevant engineers and architects as well their supervisors or there was collusion between



them and the contractor or sub-contractors.

Auditors may assist in addressing these weaknesses by starting training programs, identifying supervisors for every level of staff, and stressing the importance of these aspects of internal control systems. To help ensure proper supervision, supervisors are to review and approve, as appropriate, the assigned work of their employees. They must also provide their employees with the necessary guidance and training to help ensure that errors, waste, and wrongful acts are minimized and that specific management directives are understood and achieved.

#### 2.3.4 Decision Making

- **Every public institution and/or Supreme Audit Institution should be equipped with a decision making procedure.**

A decision making procedure is important to ensure the accountability and transparency of a decision made by every level of management. The decision making procedures have to be in accordance with the existing legal framework.

- **Decision making should be supported by the availability of relevant, complete, valid, timely, and reliable information.**

Relevancy, completeness, validity, timeliness, and reliability of information are the factors which determine the quality of a decision.

- **Every decision making process should be carried out transparently in accordance with the organization's decision making procedure.**

Decisions should be made in accordance with the decision making procedure.

Transparent means the decision making process is acknowledged by any related parties within the organization, who understand the considerations of a decision accordingly.

- **Every decision making should be recorded and documented appropriately.**

The documentation of decision making consists of documentation of decisions making process and the decisions themselves.

The documentation of decision making is important in the event that

there is an audit or a legal issue to clarify the considerations and responsible parties related to a decision.

- **Should there be any discretion in decision making, an adequate documentation and accountability of the discretion should be obtained.**

There are certain circumstances where a decision could not be made following the written procedure and a discretionary or executive decision should be made consequently, a suitable evidence of decision making process is required to recognize the responsible party.

- **Decision making should be free from any conflict of interests.**

One of the core values of an institution is independence. It requires that anyone should be free from any conflict of interests, thus requiring that decision making should also be free from any conflict of interests.

There are a number of questions in relation to decision-making that should be asked by the auditor:

1. Does the entity have a decision-making procedure?
2. Who makes the decision-making procedure?
3. If there is no decision-making procedure, what is the basis for decision making?
4. Is the decision made based on available information?
5. What are the characteristics of information required to support decision making?
6. Is decision-making supported by relevant, complete, valid, timely, and reliable information?
7. Is decision-making carried out transparently according to the decision making procedure?
8. Have the decision-making procedures been recorded and documented?
9. Have the decisions been recorded and documented?
10. Is there any discretion in decision making?
11. In what circumstances may discretion be used and is it based on

objective principles and the legal framework?

12. How is the decision-making mechanism if there is any discretion?
13. Are all parties involved in decision making free from any conflict of interests?
14. Does the decision-making process ensure transparency, e.g. by means of checking operations, reporting, explicitly designating responsibility, or supplying precise and complete documentation (minutes, notes, reports, orderly record-keeping)?
15. Is the decision-making process required to be transparent even if no consent is needed from a supervisor or another organizational unit entitled to participate?
16. Is there a requirement that a transparent, written record be kept of the decision-making process, which can be followed by auditors?

### Example of Decision Making

A decision making mechanism in a central bank requires that minutes of meeting and transcripts should be made in every meeting. In the minutes of meeting and transcript, we can find information on the decision making process, the parties involved, and the discretion, if any. This is an example of good decision making procedure, since it demonstrates the documentation of decision making and transparency.

### 2.3.5 Role of internal control regarding corruption prevention

“There are several keys to effective corruption prevention, but some of the most important tools in the institution or organization toolbox are strong internal controls”<sup>73</sup>. The focus of this part is on strengthening internal control role in corruption prevention (additional information on internal control is given by INTOSAI GOV 9100).

Due to the fact that corruption may have political, economic and social effects which threaten the security of community, it is necessary to fight corruption by many ways, one of them is strengthening

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<sup>73</sup> Fraud prevention: Improving internal controls, By Daniel Draz, M.S., CFE, March 2011. [www.csoonline.com](http://www.csoonline.com/article/678375/fraud-prevention-improving-internal-controls-)  
<http://www.csoonline.com/article/678375/fraud-prevention-improving-internal-controls->

internal controls because a strong and effective internal control system may not only reduce corruption, but also limits its effects.

Good management practices require the establishment of adequate internal controls and checks, the responsibility to detect fraud and corruption is a natural corollary of the responsibility to establish an environment that prevents and deters fraud and corruption.

While no institution, even with the strongest internal controls, is immune from fraud and corruption, strengthening internal control policies, processes and procedures definitely makes institutions a less attractive target to both internal and external criminals seeking to exploit internal control weaknesses.

#### 2.3.5.1 The concept of internal control

Internal control is broadly defined as a process, effected by an organization's board of directors, management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories: effectiveness and efficiency of operations, reliability of financial reporting and compliance with applicable laws and regulations.

Internal control also is the process designed to ensure reliable financial reporting, effective and efficient operations, and compliance with applicable laws in order to safeguard organization assets against theft and unauthorized use, acquisition, or disposal is also part of internal control.

In addition, internal control includes training program of analysing and preparing reports for different administrations levels which enable the executives to conduct internal control in various activities particularly in large organizations.

#### 2.3.5.2 General tasks of internal control

Internal controls should not be thought of as "static." They are a dynamic and fluid set of tools which evolve over time as the business, technology and fraud environment changes in response to competition, industry practices, legislation, regulation and current economic conditions. However, the general tasks of internal control

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74 Internal Control Guidance for Directors on the Combined Code, Published by The Institute of Chartered Accountants in England & Wales, September 1999.

concerning corruption prevention are<sup>74</sup>:

- Delimitation of duties requires that different individuals be assigned responsibility for different elements of related activities, particularly those involving authorization, custody, or recordkeeping.
- Proper authorization of transactions and activities helps ensure that all organization activities adhere to established guide lines unless responsible managers authorize another course of action.
- Adequate documents and records provide evidence that financial statements are accurate. Controls designed to ensure adequate recordkeeping include the creation of invoices and other documents that are easy to use and sufficiently informative; and the timely preparation of documents.
- Physical control over assets and records helps protect the organization's assets. These control activities may include electronic or mechanical controls (such as safe, employee ID cards, fences, cash registers, and locks) or computer-related controls dealing with access privileges or established backup and recovery procedures.
- Independent checks on performance, which is carried out by employees who have not been involved in the work being checked, help ensure the reliability of accounting information and the efficiency of operations.
- Protecting funds of economic unit against embezzlement and fraud and safeguarding the rights of others in the organization (such as, the beneficiaries).
- Checks whether the various processes of management, including internal administration and other activities helping the audit process complied with and are in accordance with the applicable policy instructions and rules.
- Providing information, analysis, assessments and recommendations to assist management in the implementation of its responsibilities.

#### 2.3.5.3 Elements of a sound system of internal control

“An internal control system encompasses the policies, processes, tasks, behaviours and other aspects of an organization that, taken together:

- facilitate its effective and efficient operation by enabling it to respond appropriately to significant business, operational, financial, compliance and other risks to achieving the institution's objectives. This includes the safeguarding of assets from inappropriate use or from loss and fraud, and ensuring that liabilities are identified and managed;
- help ensure the quality of internal and external reporting. This requires the maintenance of proper records and processes that generate a flow of timely, relevant and reliable information from within and outside the institution;
- help ensure compliance with applicable laws and regulations, and also with internal policies with respect to the conduct of business”<sup>75</sup>.

#### 2.3.5.4 Internal control divisions

Internal control unit is always divided into:

- Administrative (operational) audit that includes:
  - assessing and testing administrative activities and management results;
  - evaluating and examining processes of the entity;
  - evaluating the efficiency of utilizing human and material resources, and developing recommendations for improvement;
- Financial audit: that is orderly review of financial statements to determine to what extent generally accepted accounting principles are observed, regarding:
  - tracking accounting entries by performing documentary and arithmetic tests;
  - ascertaining the integrity and compatibility of systems, regulations, and generally accepted accounting principles;
  - ensuring the presence of safeguards for the assets against embezzlement, fraud, and abuse;
  - testing and assessing the strength, reliability, and efficiency of

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<sup>75</sup> Internal Control: A Practical Guide, KPMG, London, October 1999, P 19.

internal controls.

#### 2.3.5.5 The importance of internal control in fighting corruption

The first part of strengthening internal controls involves changing the attitude some employees have towards auditors. The auditor's responsibility is not only to ferret out irregularity and identifying employees who are breaking the rules, but the auditor's role ensures that he or she is always at the forefront of organization policies, practices, procedures, technology, new products and services, making auditors a valuable source of organizational information.

Effective internal control systems reduce corruption risks, so the internal control system is important to fight corruption in the following way:

- evaluating internal control system in different ways to ensure the availability of effective and sound internal control system to avoid fraud, mistakes and irregularities;
- facilitating the work of external auditing bodies when performing their duties;
- evaluating rules and legislations which structure the operations within the unit or institution;
- attending training courses by the staff of each unit or institution in internal control systems contributes effectively in raising the efficiency of staff and increasing their skills and experience to deal with all issues and develop their audit skills.

#### 2.3.5.6 Internal control checklist

The following questions are expected to be asked about internal auditors duties:

- Do internal auditors perform their duties honestly, diligently, and responsibly?
- Do internal auditors observe the implementation of financial laws, and expect to detect wrongdoings by doing so?
- Do internal auditors respect and promote the legal and ethical objectives of their institution?
- Do internal auditors take part in any activities that may undermine their impartial judgements?

- Do internal auditors accept any material benefits that may undermine their professional judgement?
- Do internal auditors disclose all material findings detected in the course of their work?
- Do internal auditors safeguard information obtained in the course of their work according to the principle of confidentiality?
- Do internal auditors perform their duties with due care and diligence according to the standards of the profession?
- Do internal auditors consistently enhance and develop their efficiency and effectiveness in performing their duties?

### 2.3.6 Cooperation with other institutions involved in fighting against corruption

#### 2.3.6.1 Legislative and institutional framework of anti-corruption agencies

– Legislative framework:

In laying foundations for good governance, most countries all over the world have enacted laws, such as penal code, which specifies crimes and their respective stages of preparation and attempt.

– Institutional framework:

One of the most important organizational actions taken by governments that seek to lay a firm foundation for the rule of law and to implement programs for fighting corruption is the establishment of institutions tasked with fighting corruption, promoting their activities, and enhancing the cooperation and integration among them, these institutions include SAI, Anti-Corruption Agency (ACA) and Offices of Inspector General (OIGs).

– Judicial institutions:

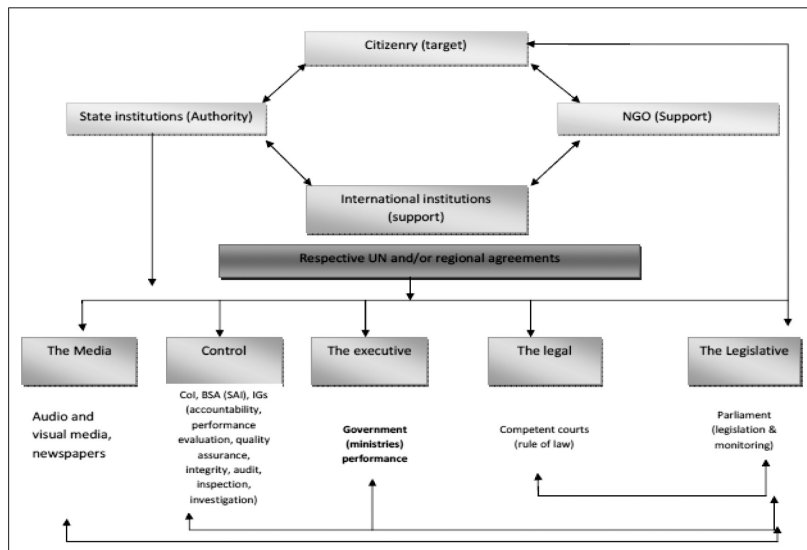
Judiciary is independent and impartial; yet, its accounts are subject to audit activities. Therefore, sound judicial environment contributes to honest social environment. Continuous enhancement of the performance of the judiciary will provide skilled and knowledgeable judges who are instrumental to penalizing corruption



crimes and perpetrators.

The following diagram shows cooperation relationships between SAI and other anti- corruption institutions:

Figure 3



### 2.3.6.2 Cooperation between Supreme Audit Institutions (SAIs) and Anti- Corruption Agencies (ACA)

“All countries have some institutions and procedures that engage in the prevention, detection, or punishment of corruption – from prosecutors to auditors to civil service commissions”<sup>76</sup>.

Article 6 of Chapter II of the UNCAC on “Preventive anti-corruption body or bodies”<sup>77</sup> establishes clearly and directly the obligation of each State Party to guarantee the existence of a body or bodies tasked with the prevention of corruption. The specific characteristics of the body or bodies remain subject to the fundamental principles of the legal system of each state.

76 Anticorruption Agencies (ACAs), ANTICORRUPTION PROGRAM BRIEF, the United States Agency for International Development, JUNE 2006, p 5.

77 [http://www.unodc.org/pdf/corruption/CoC\\_LegislativeGuide.pdf](http://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf) (ergänzt)

Anti-corruption agencies are part of a number of strategies that together can reduce corruption<sup>78</sup>.

“An Anti-Corruption Agency (ACA) is defined here as a separate, permanent government agency whose primary function is to provide centralized leadership in core areas of anticorruption activity. These areas may include: policy analysis and technical assistance in prevention, public outreach and information, monitoring, investigation, and prosecution”<sup>79</sup>.

### 2.3.6.3 The Powers of Anti-Corruption Agencies (ACA)

The powers given to an ACA play a critical role in performance. A successful ACA should have strong research and prevention capabilities, along with comprehensive investigatory authority. ACAs around the world most commonly perform the following functions:

- “Receiving and responding to complaints;
- Intelligence gathering, monitoring, and investigation;
- Prosecutions and administrative orders;
- Research, analysis, and technical assistance;
- Ethics policy guidance, compliance review,
- Public information, education and outreach”, and
- Review of appropriateness of annual disclosure of personal assets of public officials.

How well ACAs actually carry out these tasks depends on many factors. ACAs can only take on a limited set of these tasks – and other agencies often handle the same tasks anyway. This suggests that the main expected outcome of an ACA should be an overall improvement in the performance of the range of existing anticorruption functions within already established government institutions, not the addition of new activities or use of the ACA to substitute for functions that should be performed by other parts of government.

An ACA’s success depends on cooperative relationships with other

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78 John R. Heilbrunn, *Anti-Corruption Commissions: Panacea or Real Medicine to Fight Corruption?*, World Bank Institute, 2004, p 19.

79 *Anticorruption Agencies (ACAs)*, op-cit, p 5.

elements of government. Without cooperation with other government agencies, ACA's efforts may prove to be fruitless.

Anticorruption agencies depend to a large degree on cooperation from sister agencies, especially other capable agencies of restraint such as supreme audit institutions (SAIs), criminal courts and central banks.

In many countries, the ACA and SAI established a Joint Committee to Combat Corruption, which helps expedite investigations, disciplinary actions, and the sourcing of information.

The SAI always in cases where it deems that an official in charge of fiscal transactions of the state has committed a crime while discharging his duties may notify the ACA to take appropriate measures about it. That's means the SAI and ACA play an important role in the fight against corruption and each of them have a specific tasks in the corruption prevention process, the role and tasks of each Institution always specified by the law.

#### 2.3.6.4 SAI Cooperation with Offices of Inspector General (OIGs):

Some countries have established independent Offices of Inspector General in every ministry to conduct an internal investigation<sup>80</sup>, audit, evaluation, inspections<sup>81</sup> and other review in accordance with generally accepted professional standards.

The main mission of the Office of Inspector General (OIG) is to conduct independent inspections, audits and investigations that identify and prevent waste, fraud, abuse and mismanagement in the agency or ministry.

Office of Inspector General commonly performs the following functions:

- Prevent and detect waste, fraud and abuse of authority.
- Promote economy, effectiveness and efficiency.

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80 An Internal Investigation is a technique for responding to allegations of management or employee misconduct and it is a mechanism for avoiding or resolving threatened government action for discovering misconduct that, if unchecked, might ultimately result in organization criminal or civil liability.

81 **Inspection** means the measures that are conducted for the purpose of determining compliance with applicable laws and regulations, it always involves the examination of real or personal property, equipment, buildings, records, products, by-products, personnel or other property or activities. It is done when there is reasonable evidence of an imminent or serious threat to public property.

- Audit all records and activities of the ministry and provide information for decision-makers and recommend improvements to ministry programs and policies.
- Conduct independent and objective audits, administrative investigations and inspections.
- Receive, assess and process complains of fraud, waste, abuse of authority and mismanagement affecting ministry interests.
- Engage in activities designed to prevent fraud and corruption.
- Inspectors General also offer expert advice in improving operations – and provide timely, useful information that helps decision-makers.
- An essential tool may be a whistle blower mechanism that can be based on a Hotline, the Internet, etc. which provides a confidential means of reporting suspected violations involving department assets, employees, or contractors.

Independence is the cornerstone of an effective SAI & OIG, when they cooperate, both of them benefit with improved economy, efficiency, effectiveness and integrity of programs and initiatives.

If SAI found a financial infringement or irregular financial issues in the ministry, the SAI can report the inspector general of the related ministry to conduct an investigation and reform the infringement or the irregularities.

Each Inspector General shall immediately respond to the SAI reports and takes appropriate measures to prevent fraud and corruption.

Each Inspector General shall cooperate fully in assisting the work of SAI and law enforcement agencies.

OIG's paramount goal is to resolve allegations in a timely manner through independent, objective, and professional investigations that lead to successful prosecutions, administrative sanctions or exonerations.

### 2.3.7 Human capital including sensibilisation and training of employees

2.3.7.1 Every public institution and/or Supreme Audit Institution should

be equipped with a strategic plan to enhance the management's and staffs concern to prevent corruption in the organization.

In some countries, corruption has been an epidemic. It requires a long term and continuous effort to prevent and eradicate corruption. Consequently, every public institution and/or Supreme Audit Institution should establish a strategic plan to ensure that the efforts taken systematically and well-planned, thus could be easily monitored and evaluated.

- 2.3.7.2 The strategic plan should be disseminated to all management and staff. Dissemination of the strategic plan aims at making comprehensive understanding and participation to all management and staff in relation to corruption prevention.
- 2.3.7.3 Every public institution and/or Supreme Audit Institution should establish an organizational unit with responsibility to implement the strategic plan.

The organizational unit is established to ensure that the strategic plan could be implemented, and in line with the current condition and adaptable.

- 2.3.7.4 Every public institution and/or Supreme Audit Institution should organize a training program to enhance employee's awareness on the danger of corruption. The training program is required to accelerate the understanding of the danger of corruption, thus enhancing the corruption prevention efforts. The training should be repeated periodically.
- 2.3.7.5 Every public institution and/or Supreme Audit Institution could enhance employee's sensibility by performing INTOSAI self-assessment on integrity (IntoSAINT) periodically.

IntoSAINT is a tool used by Supreme Audit Institution and/or public institution to self-assess its vulnerability concerning to integrity breach.

IntoSAINT is targeted at corruption prevention and leads to management recommendations to support the integrity of the organization. It is a 'qualitative tool' that enables the user to design a tailor made integrity policy and at the same time increases the integrity awareness of employees.

The basic principles of IntoSAINT are self-assessment, targeted at prevention, raising general integrity awareness, learning to think in

terms of vulnerability and risk, and concrete management report/action plan.

2.3.7.6 Supreme Audit Institution and/or internal auditor should evaluate and review the strategic plan and its implementation.

It requires independent parties such as Supreme Audit Institution and internal auditor to review the strategic plan and its implementation to trigger the improvement of the strategic plan quality.

There are few questions in relation to human capital including sensibilisation and training of employees that should be asked by the auditor as follows:

1. Does the organization have a strategic plan?
2. Does the strategic plan include efforts to prevent corruption within the organization?
3. Has the strategic plan been disseminated to all management and staff?
4. Does the organization have a specific unit responsible for monitoring the implementation of the strategic plan?
5. Does the strategic plan point out the importance of continuous anti corruption training?
6. Has the organization evaluated and reviewed the strategic plan and its implementation periodically?
7. Who is responsible for the evaluation and review of the strategic plan?

The following example illustrates that the presence of sensibilization and training of employees can help the corruption prevention effort in an organization:

In 2012, the head of a small tax office was caught accepting a bribe from a private company. The Corruption Eradication Commission has named the head of tax office a suspect in a bribery case after catching him accepting 30.000 US-\$ from a private company. The bribe was allegedly paid to help the private company pay lower taxes than its required amount. It became known to public based on an insider tip-off (whistle blower).

This bribery case arrest is a proof that the whistle blowing system is

working. The whistle blowing system, developed by the General Directorate of Taxation, is intended to prevent and detect every possible violation in the organization through active participation of the employee of General Directorate of Taxation and society as whistle blowers.

The case has been handed over by the Corruption Eradication Commission to the Prosecutor's Office to decide the legal status of the perpetrators.<sup>82</sup>

### 2.3.8 Code of Conduct

2.3.8.1 Every public institution and/or Supreme Audit Institution should be equipped with a code of conduct.

A code of conduct is a set of conventional principles binding any person, from managerial to official level, to properly behave in accordance with stakeholders' expectation.

Code of conduct is a moral guidance to be obeyed by all management and staff in an organization to maintain individual and organization credibility. Supreme Audit Institution is a trust business, where the stakeholders put a high confidence that the Supreme Audit Institution is able to perform its responsibility with honesty and high morality. Once this trust is broken, the organization's integrity and credibility will be easily damaged.

At the minimum, a code of conduct should set out:

- Core values of an institution, covering integrity, independence, objectivity, impartiality, confidentiality, and competence.
- Obligation and prohibition of the institution's management and employees to meet the core values.

2.3.8.2 Every public institution and/or Supreme Audit Institution should disseminate the code of conduct as an integrated part of corruption prevention.

Effective corruption prevention could be achieved if all management and staff understand the institution's code of conduct properly. A good

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82 <http://news.detik.com/read/2012/07/13/190255/1965056/10/kepala-kpp-bogor-ditangkap-dirjen-pajak-ini-berkat-whistle-blower-system>

understanding of institution's code of conduct would be achieved through a regular and effective dissemination to every level of organization.

Usually, a new employee is equipped with a complete set of company guidelines including the code of conduct. However, without any proper explanation on the substance of the code of conduct, the new employee would not get a comprehensive understanding and he/she may not practice it properly in daily business.

- 2.3.8.3 Every public institution and/or Supreme Audit Institution shall establish an appropriate way to monitor the implementation of code of conduct in its organization.

A specific unit or committee is established to ensure that the code of conduct be utilized properly and to impose punishment to the violation of the code of conduct.

If public institution and/or Supreme Audit Institution establish a committee, its' members should consist of representatives of top management, legal division, internal auditor division, and independent party.

- 2.3.8.4 Every public institution and/or Supreme Audit Institution should review its code of conduct periodically.

Code of conduct is strict in nature but should be dynamic, which follows the changes in business practice and related regulations. Code of conduct is suggested to be reviewed on a frequent basis or required by significant circumstances or at least every five years, depending on the serving term of top management.

There are few questions in relation to code of conduct that should be asked by the auditor as follows:

1. Does the organization have a code of conduct?
2. What is stipulated in the code of conduct?
3. Does the code of conduct set out core values of an organization, such as integrity, independence, objectivity, impartiality, confidentiality, and competence?
4. Does the code of conduct set out obligations and prohibitions of the organization's management and staff to meet the core values?



Examples of the obligations and prohibitions of management and auditors to meet the core values are as follows:

– Independency

Management

To ensure independency in performing their duties and exercising their authorities, management shall:

- a. observe their professional oath and pledge
- b. act neutrally and impartially
- c. avoid any conflict of interests
- d. avoid possibilities that may affect the objectivity of audits

To ensure the independency in performing their duties and exercising their authorities, management shall not:

- a. hold concurrent positions in other state institutions, other agencies managing the state finance, and domestic or foreign private companies
- b. participate as members of any political parties
- c. demonstrate attitudes and behaviours that may cause their independency be questioned

Auditors

To ensure the independency in performing their duties and exercising their authorities, auditors shall:

- a. act neutrally and impartially
- b. avoid any potential conflict interests in performing their professional obligations
- c. avoid any possibility that may affect the objectivity of audits
- d. consider information, opinion, and response from the audited parties in drafting their opinions or audit reports
- e. remain composed and demonstrate self-control

To ensure the independency in performing their duties and exercising their authorities, auditors shall not:

- a. hold concurrent positions in other state institutions, other agencies managing the state finance, and domestic or foreign private companies
- b. demonstrate attitudes and behaviours that may cause their independency be questioned
- c. submit to other parties' will on intimidation or pressures
- d. leak out information obtained from the audited parties
- e. be affected by any particular prejudice, interpretation, or interest, including the personal interest of the auditors or of other parties interested in the audit findings

– Integrity

Management

To ensure the integrity in performing their duties and exercising their authorities, management shall:

- a. act firmly in implementing their principles, norms, and decisions
- b. act firmly in expressing and/or conducting anything required based on their consideration and conviction
- c. act in good faith by keeping the confidentiality of the audited parties

To ensure the integrity in performing their duties and exercising their authorities, management shall not receive gifts of any kind, directly or indirectly which are suspected or should be suspected to affect the implementation of their duties and the exercising of their authorities.

Auditors

To ensure the integrity in performing their duties and exercising their authorities, auditors shall:

- a. act firmly in implementing their principles, norms, and decisions
- b. act firmly in expressing and/or conducting anything required based on their consideration and conviction

- c. act in good faith by keeping the confidentiality of the audited parties

To ensure the integrity in performing their duties and exercising their authorities, auditors shall not:

- a. receive gifts of any kind, directly or indirectly which are suspected or should be suspected to affect the implementation of their duties and the exercising of their authorities
- b. abuse their competencies as auditors in order to enrich themselves or for their own advantages or for others

– Professionalism

Management

To keep the professionalism in performing their duties and exercising their authorities, management shall:

- a. implement prudent, accurate, and careful principles
- b. keep the state and/or professional confidentiality
- c. avoid the use of state confidential information which becomes disclosed due to their positions or function for personal, group, or other party interests
- d. avoid performing actions beyond their scope of duties and authorities

Auditors

To honour the professionalism in performing their duties and exercising their authorities, auditors shall:

- a. implement prudent, accurate, and careful principles
- b. keep the state or professional confidentiality, the audited parties confidentially and shall only disclose it to the authorized official
- c. avoid the use of state confidential information which becomes disclosed due to their position or function for personal, group, or other party interests
- d. avoid performing actions beyond their scope of duties and authorities

- e. demonstrate high commitment to their work in accordance with the State Financial Auditing Standard
- f. update, develop, and improve their professional abilities in performing their auditing duties
- g. respect, trust as well as mutually assist each other to enable good cooperation in performing their duties
- h. maintain good communication and discussion on issues incurring in the performance of their auditing task
- i. use public resources efficiently, effectively and economically

To honour the professionalism in performing their duties and exercising their authorities, auditors shall not:

- a. receive assignments beyond their competence
  - b. disclose any information contained in the auditing process to other parties, verbally or in writing, except for the compliance with prevailing statutory regulations
  - c. disclose audit finding reports or substantial audit findings to mass media except on the permission or order of the management
  - d. discuss their works with the audited parties outside office or the audited parties' offices
5. Has the code of conduct been disseminated to all management and staff?
6. Has the organization established an appropriate way to monitor the implementation of code of conduct in its organization?
7. Has the organization reviewed the code of conduct periodically?

## 2.4 Monitoring and reporting

Monitoring and reporting are continuous processes throughout each government agency in their fight against corruption. They generate information that helps to track progress against corruptive plans or actions and thus enables corrective measures to be instituted. Monitoring is part of a periodic assessment of the internal processes and is a basis for future courses of action and strategies. Monitoring, auditing, evaluating and reporting are looked

upon as a key priority area in the fight against corruption.

There is a need for more than just a passive monitoring system. While it achieves that purpose - in both forcing internal monitoring within organizations and through external monitoring by third party auditing bodies - in building a corruption prevention brand it becomes a desirable accreditation that actively fights corruption through the self-perpetuating nature of recognised accreditations and competitive forces in the industry.

The use of standardised guides and implementation of procedures is an ideal methodology for similar corruption monitoring and prevention approaches.

#### 2.4.1 Internal reporting-procedures within the auditee

Transparency of decisions and the decision-making process shall be guaranteed, especially via clear mechanisms for reporting and precise and complete documentation of proceedings.

The decision-making processes shall ensure transparency, e.g. by means of checking operations and reporting and complete documentation (minutes, notes, reports, orderly record-keeping).

The auditee shall optimize the monitoring of transactions and operations by incorporating control mechanisms (re-submission of files and records, etc.) in management procedures.

Awarding of public contracts shall be regularly monitored as part of administrative and task-related supervision to identify any prohibited influencing factors. This includes monitoring of purchasing patterns and vendor relations, random checking by senior management and effective audit programmes.

The content of reports shall be evaluated and discussed. It has to be used for the correction of deficiencies, reorganizations, etc.

#### 2.4.2 Reporting to institutions outside the auditee's body (SAI, parliament, IG, prosecutors)

The anti-corruption officer of each government agency shall report to the national SAI at least on a yearly basis on all cases of suspected or detected corruption within their area of responsibility. The supreme federal authorities shall report at least annually to the Ministry of the

Interior (or a similar government institution) – also on behalf of their subordinate agencies – on the cases of suspected corruption in which proceedings were initiated and the results of proceedings concluded during the reported year; this information is to be submitted in the required anonymous form, organized according to area, circumstances of the case, and measures taken. Reporting of SAI's findings to the national IG or prosecutors is subject to individual national laws and regulations, however, it is expected that such reporting and its procedures are to be well-regulated and documented in the government agencies operating procedures.

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## Section 2

# Forensic auditing to deal with fraud, corruption and money laundering

- 2.1 Auditing for fraud and corruption: The current situation and challenges of the Board of Audit of Japan
- 2.2 The audit function and the fight against fraud and corruption in Italy and other European Union member states
- 2.3 Initiatives for fighting corruption: Practical case of the Brazilian SAI
- 2.4 Combating international money laundering and corruption in Russia



## Introduction to Section 2

### Forensic auditing to deal with fraud, corruption and money laundering

Session 2 focuses on the aims and roles of the International Organization of Supreme Audit Institutions (INTOSAI) and on the importance of international cooperation in combating corruption. For example, a symposium held in 2009 in Austria under the theme of “INTOSAI: Active Partner in the International Anti-Corruption Network: Ensuring Transparency to Promote Social Security and Poverty Reduction” recognizes the importance of strengthening and promoting international and inter-institutional cooperation in the fight against corruption. A greater exchange of information would also ensure a better transfer of know-how and enable the creation of a data and information pool that can be used to develop better strategies to deal with corruption, fraud and mismanagement. The development of appropriate guidelines and manuals within the framework of INTOSAI to fight corruption is deemed essential as well.

Country reports from Italy and Russia offer glimpses into how member countries are addressing fraud and corruption. In Italy, the Corte dei Conti has a central role in guaranteeing the sound management of public resources, conducting audits of various kinds. It is neutral, autonomous and independent of both Government and Parliament and has jurisdiction over the accountability of civil servants and public managers. The country report from Italy also includes numerous references to EU SAIs position regarding the protection of the Community’s financial interests and it affirms that a strong external audit function fulfilled by SAIs is an important element in the framework to counter fraud, corruption and money laundering in the public sector.

Having achieved a higher level of living standard and quality of life, Russia has turned its attention to the enhancement of the efficiency of government activities and to combating corruption. Accordingly, the National Anti-Corruption Plan has been adopted and amendments were made in the Criminal Code which will allow for such punitive measures as forfeiture of property to be applied to corrupt officials. As part of the National Anti-Corruption Plan, the Accounts Chamber developed its own Action Plan where special priority is given to the legal basis for combating corruption. Within this project, amendments to the Basic Law on Government Contracts were prepared. These amendments, suggested by the Accounts Chamber, are focused on developing an integrated federal contract system with a unified planning,

budgeting and administrative system.

The aims of INTOSAI were echoed in the form of recommendations in an interregional seminar held in 1999 on “the Role of SAIs in Fighting Corruption and Mismanagement.” The seminar affirmed that SAIs must satisfy certain criteria, including independence in terms of budget and personnel, audit authority extending to all public sector areas, involvement in the review of proposed legislation, authority to assess the quality of existing regulations governing budget management, independent establishment of audit programs, and right to perform on-site inspections.



## **Section 2.1**

# **Auditing for fraud and corruption: The current situation and challenges of the Board of Audit of Japan**

JICA Seminar on Government Audit Practices  
for ASOSAI Member Countries

July 7, 2009



## Summary of 2.1 Auditing for fraud and corruption: The current situation and challenges of the Board of Audit of Japan

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In 2009, under the sponsorship of the Japan International Cooperation Agency (JICA), the Asian Organization of Supreme Audit Institutions (ASOSAI) held a seminar in which many high-ranking officials from relevant institutions participated in discussing auditing for fraud and corruption and future challenges on this issue, with particular emphasis on how to learn each other's systems and experiences. To be more specific, the paper from this seminar explains the present situation and challenges of the Board of Audit (BOA) of Japan regarding auditing for fraud and corruption in order to facilitate the exchange of experiences and views by the SAI officials.

The paper points out that fraud cases are most likely to be targets of auditing because they financially damage the account-keeping entities, and therefore the BOA has a significant number of audited cases. The BOA has hardly conducted audits for corruption because financial damage to account-keeping entities is not necessarily apparent, consequently corruption cases have been almost exclusively the target of investigation by the police and prosecuting authorities. The BOA actively addresses fraud cases as core or basic auditing of accounts and the paper explains that it is effective to conduct audits for fraud according to the entity, i.e., to review and check internal controls in cases committed by individual insiders, to utilize whistle-blowing from inside in cases committed by organizations as a whole, and to evaluate selection criteria for spot inspections by the examination department or division in cases committed by outsiders. Lastly, the paper points out how each SAI should conduct auditing for fraud and corruption varies not only according to the SAI's auditing mandate but also to the relevant laws and systems, such as criminal laws and regulations concerning public officials.



# Auditing for fraud and corruption: The current situation and challenges of the Board of Audit of Japan



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## 1 Introduction

According to the ASOSAI Guidelines for Dealing with Fraud and Corruption, fraud is “essentially intentional misrepresentation of financial information by one or more individuals among management, employees, or third parties that involves the use of deception to obtain an illegal financial advantage.” Based on the definition of the Guidelines, fraud also includes “(1) manipulation, falsification, or alteration of records or documents, (2) misappropriation or misapplication of assets, (3) suppression or omission of the effects of a transaction from records or documents, (4) recording of a transaction without substance, and (5) misapplication of accounting policy. “On the other hand, followed by the definition of Great Britain’s Chartered Institute of Public Finance and Accountancy cited in the Guidelines, corruption is “defined as the offering, giving, soliciting, or accepting of an inducement or reward that may influence the action of any person. That is, an individual receives a bribe as a reward or incentive for action or inaction contrary to the proper conduct of his or her duties, for the direct benefit of a third party.”

The approach and stance of each SAI for tackling fraud and corruption in its audit activities vary depending on the relevant institutions, such as the mandate of SAI, the Penal Code, the National Public Service Act, and so on.

Having said this, participants in the JICA-sponsored ASOSAI seminar are high-level officials who have ample knowledge and experience not only in auditing practices but also in resource management for organizational operations. Thus it would be very useful for the participants of this seminar to learn each other's systems and experiences and exchange views concerning auditing for fraud and corruption through the seminar so that each SAI can conduct audits and manage organizational operations in more efficient and effective ways in the future.

Therefore, I would like to outline in this presentation the current situation of the Board of Audit of Japan (hereinafter called "the Board") concerning auditing for fraud and corruption, as well as discussing future challenges on this issue in order to contribute to the exchange of experiences and views of the SAI officials participating in this seminar.

## 2 The Current State of Auditing

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### 2.1 Mandate

#### 2.1.1 General Mandate

"The Board of Audit shall audit the final accounts of revenues and expenditures of the state under the provisions of Article 90 of the Constitution of Japan and also such accounts as are provided for by laws" (Article 20, paragraph 1, Board of Audit Law). "The Board of Audit shall constantly audit and monitor the public accounts to secure their adequacy and to rectify their defects" (Article 20, paragraph 2, Board of Audit Law). "The Board of Audit shall conduct its audit from the aspects of accuracy, regularity, economy, efficiency, and effectiveness, and from other necessary aspects of auditing" (Article 20, paragraph 3, Board of Audit Law).

As noted in the box above, the Board conducts its audits from various aspects of auditing:

- "Accuracy" refers to the aspect of whether the statements of final accounts accurately reflect the execution of the budget.
- "Regularity" refers to the aspect of whether accounting is properly performed in accordance with the budget, laws, Cabinet Orders,

and the like.

- “Economy” refers to the aspect of whether projects and programs can be executed with minimum expenditure.
- “Efficiency” refers to the aspect of whether maximum results can be obtained from projects and programs with the same expenditure.
- “Effectiveness” refers to the aspect of whether projects and programs have accomplished the expected objective or are achieving good effects.

Embezzlement, swindling, and other cases that especially damage the accounting entities of the state are subject to auditing by the Board in accordance with its audit aspects like regularity in all fraud and corruption cases.

### 2.1.2 The objects of auditing

#### **Objects of the Board’s mandatory audit**

“The following matters shall be subject to audit by the Board of Audit: (1) monthly accounts of revenues and expenditures of the state, (2) acceptance and distribution of cash and goods owned by the state and state properties, (3) charge and collection of government claims and issuance and repayment of government bonds and other obligations of the state, (4) acceptance and distribution of cash, precious metals, and securities by the Bank of Japan on behalf of the state, (5) the accounts of juridical persons more than half of whose capital is investment by the state, (6) an account subject to audit by the Board of Audit in accordance with a provision of any law” (Article 22, Board of Audit Law).

“State” refers here to any agency of the state. The monthly expenditures and revenues of all state agencies fall under the scope of mandatory auditing. The Board of Audit Law also specifies the matters subject to discretionary auditing, on which the Board may conduct audits if it deems it necessary.

### **Objects of the Board's discretionary audit**

The Board of Audit may audit, if it considers necessary, or at the request of the Cabinet, the following matters: (1) – (2) [omitted], (3) the accounts of such bodies that are given subsidies, incentive grants, bounties, or other financial assistance such as loans or indemnity of loss directly or indirectly by the state, (4) the accounts of bodies whose capital is partly investment by the state, (5) the accounts of business enterprises operating under the Commerce Act whose shares are wholly or partly owned by government corporations subject to audit by the Board of Audit in accordance with the provisions in Article 22 item (5) or item (4) of this article, (6) [omitted], and (7) the accounts of contractors of construction and other services with, trustees of works and operations by, or suppliers of goods to the state and juridical persons under the provisions of Article 22 paragraph 5 (in regard to the contracts concerned)” (Article 23, paragraph 1, Board of Audit Law).

The Board can audit the accounts of counterparties of the state such as “contractors of construction work and other services,” “trustees of works and operations,” and “suppliers of goods” to ensure the credibility and appropriateness of contracts that the state has made. In this way, the Board has wide authority to conduct audits of the state, legal entities in which the state has invested, those to which the state has provided subsidies, contractors for state construction work, and so on.

### **2.1.3 Audit method**

“Those bodies whose accounts are subject to audit by the Board of Audit shall regularly submit to the Board statements, here and hereinafter including electromagnetic records in which matters to be entered in such statements are recorded, together with vouchers and supporting documents, here and hereinafter including electromagnetic records in which matters to be entered in such documents are recorded in accordance with the regulations for the verification of accounts enacted by the Board” (Article 24, paragraph 1, Board of Audit Law).

“The Board of Audit may dispatch its staff to conduct field audits



on a regular or irregular basis. In this case, those to whom the staff is dispatched shall be subject to a field audit” (Article 25, Board of Audit Law). “If necessary for its audit, the Board of Audit may demand submission of books, documents, other supporting materials, or reports from those bodies whose accounts are subject to audit by the Board, or may ask questions or demand appearance before it of the individuals concerned. In this case, the bodies or individuals shall be subject to these demands” (Article 26, Board of Audit Law).

Article 25 concerning field audits does not stipulate notices to auditees. This is because a notice given in advance might hinder, in some situations, auditors fully achieving the purpose of the audits. Even so, the Board generally sends a written notice to auditees in advance because the Board requests auditees to have documents sorted out and accounting officials to be in the office for their explanation during the audit. In the cases of auditing on the delivery and receipt of cash or goods, or inspecting accounting books, the Board conducts audits without notice.

#### 2.1.4 Securing effective auditing

Auditees should be accountable for their accounting since their funds are derived from taxes borne by the people. It is thus imperative for auditees to accept field audits by the Board, comply with the Board’s requests to submit audit-related materials, and so on. To secure smoother audits, articles 25 and 26 of the amended Board of Audit Law of November 2005 clearly provide for the obligation of auditees to take field audits and to submit books, documents, and other supporting materials or reports.

Punitive clauses are not set out for the case that auditees do not comply with the obligation to submit audit-related materials. However, the Board may demand disciplinary action for the head of auditees in cases where auditees do not comply with the rules for accounting verification described in Article 24, or in cases where auditees do not observe the regulations for the verification of accounts, for instance by neglecting to submit statements of accounts and supporting documents, or do not comply with the demands made of auditees under the provisions of Article 26 (Article 31, paragraph 2). Article 31, paragraph 2 is established to ensure the provisions of

articles 24 and 26, the most basic methods to achieve the Board's auditing duties, and creates the indispensable conditions for auditing. Article 31, paragraph 2 is also set up to avoid situations where the Board can not fulfill its official responsibilities as watchdog.

### 2.1.5 Items to be contained in the audit report

“The audit report to be prepared according to Article 90 of the Constitution of Japan shall contain the following matters: (1) Certification of the final accounts of revenues and expenditures of the state, (2) Whether or not the amounts of final accounts revenues and expenditures of the state correspond to the amounts of the statement of accounts of the Bank of Japan, (3) Whether or not, as a result of audits, there exist any matters that are deemed in violation of, or improper in, laws, government ordinances, or the approved budget, (4) – (8) [omitted]” (Article 29, Board of Audit Law).

Here, “any matters that are deemed in violation of, or improper in, laws, government ordinances, or the approved budget” means any matters that are in violation of laws, government ordinances, or the approved budget concerning accounting or any matters that seem improper judging from the aspect of regularity, economy, and the like, even though they do not actually violate laws and regulations. Any matters of fraud and corruption that fall under the audit aspects described above are to be contained in the audit report.

### 2.1.6 Provisions concerning fraud and corruption

Provisions in the Board of Audit Law concerning fraud and corruption are as follows:

#### (1) Obligation to report crime and loss

“The competent superior, the supervising authority, or a person responsible shall report immediately to the Board of Audit on the following matters concerning the accounts subject to audit by the Board: (1) discovery of a crime concerning accounting, (2) discovery of a loss of cash, securities, or other properties” (Article 27, Board of Audit Law).

In order to ensure thorough audits by the Board, article 27 of the Board of Audit Law is established regarding the obligation of auditees, in the cases of discovery of crimes related to accounting or loss of property. Here, “a crime concerning accounting” includes not only a crime in which an accounting official of the auditees is the perpetrator, such as embezzlement, but also a crime in which an accounting official is the victim, such as a case where he or she has fallen victim to theft or swindling.

Not only cases where damage has been caused to the accounting entities, such as embezzlement, swindling, etc., but also cases where the direct attribution of damage is not clear, such as acceptance of bribes, are included. “Loss” includes both cases of physical loss and theoretical loss. One example of theoretical loss is the case that one’s land ownership is lost by another’s swindling. It does not matter whether the loss is caused by intent, through negligence, or due to accidental force.

### (2) Authority to require disciplinary action

“In cases where the Board of Audit deems, as a result of an audit, that an official in charge of fiscal transactions of the state has caused a grave loss to the state intentionally or through gross negligence, it may demand disciplinary action against the official from the head of the department he or she belongs to or from other individuals responsible for supervising him or her” (Article 31, paragraph 1, Board of Audit Law).

Here, “has caused grave loss to the state” means that the official in question has lost state property (cash, goods, property, credit, valuable papers, etc.), has sold or transferred state property without appropriate consideration, or has let state credit lapse through exemption or prescription without any legal foundation.

### (3) Adjudication

“The Board of Audit shall, in cases where a cash-handling official loses cash, adjudicate whether or not he or she is liable for indemnity, after examining whether or not he or she caused an actual loss to the state by lack of due professional care” (Article 32, paragraph 1, Board of Audit Law). “The Board of Audit shall, in cases where a goods-handling official loses or damages goods or

otherwise causes a loss to the state through either handling goods in violation of provisions of the Goods Management Act or not handling goods in compliance with the provisions of the same law, adjudicate whether or not he or she is liable for indemnity, after examining whether or not he or she caused an actual loss to the state intentionally or through gross negligence” (Article 32, paragraph 2, Board of Audit Law).

“In cases where the Board of Audit adjudicates that a cash-handling official or a goods-handling official is liable for indemnity, the head of the department he or she belongs to or other individuals responsible for supervising him or her shall order him or her to pay the indemnity in accordance with the adjudication made under the provisions of paragraph 1 or 2” (Article 32, paragraph 3, Board of Audit Law).

Here, “Loss” means that the property is no longer subject to official custody regardless of the official’s intention or without any legal cause. “Loss” also includes not only cases where the property in question has been physically lost but also cases where it has been stolen, where an official has been defrauded of it, or where an official has personally embezzled it. “Adjudication” refers to an administrative measure taken by the Board to determine with or without the official’s responsibility for compensation, as well as the amount of compensation.

#### (4) Duty to report crime

“In cases where the Board of Audit deems that an official in charge of fiscal transactions of the state has committed a crime while discharging his duties, it shall notify the Public Prosecutors Office of the matter” (Article 33, Board of Audit Law).

“In cases where the Board of Audit deems that an official in charge of fiscal transactions of the state has committed a crime while discharging his duties” refers here to cases where auditors of the Board have found a matter that suits penal provisions of the Penal Code or other laws in the work of an accounting official of the state, and the Audit Commission of the Board has confirmed it as criminal case.

## 2.2 Audit results

Since cases of fraud financially damage account-keeping entities in Japan, the Board has taken up those cases for audits and has accumulated a significant volume of audit records. With respect to corruption, on the other hand, the Board has hardly conducted audits since financial damage to account-keeping entities is not necessarily apparent; consequently, corruption cases have been left almost exclusively to investigation by police and prosecuting authorities. As such, I shall take up the cases of audits for fraud in this presentation. As discussed below, of the cases in the audit report, I shall classify those relating to fraud into two categories: those committed by insiders and those committed by outsiders. Then I shall divide the former further into two subcategories: those committed by individuals and those committed by organizations as a whole.

### 2.2.1 Fraud committed by individual insiders

In the annual audit report, the Board reports cases where accounting officials commit crimes in connection with their duties and cause damage to state property. During the chaotic period after the Second World War, the number of fraud cases reported in the audit report drastically increased, and it has averaged between 30 and 60 annually in the past 10 fiscal years. By ministry, the postal sector (Japan Post), which handles savings, postal life insurance, etc., and which has many branches dealing with cash transactions, accounts for the majority of the cases. The Board also reports cases for other ministries every year, particularly in areas such as cash receipt and payment, receipt and issuance of revenue stamps, procurement of goods, and management of state property. The Fiscal 2007 Audit Report featured a total of 51 cases amounting to 665,670,000 yen in value. Of these, the Ministry of Health, Labor, and Welfare accounted for 29 cases (45,630,000 yen), followed by Japan Post with 12 cases (224,010,000 yen), the Ministry of Finance with four cases (343,110,000 yen), and other ministries with six cases (52,920,000 yen).

[ Case Study ]

At the Sakyō and Nakagyō tax offices, a junior official of the Ministry of Finance, named “Yamamoto,” while engaging in national tax administration work to issue payment orders of national tax refunds, embezzled a total of 314,430,000 yen by fraudulently operating computer terminals for the national tax administration processing system. In concrete terms, he forged tax

return payment data by designating an existing corporation as the recipient and a certain post office for collecting the return, and falsified payment approval sheets and other related documents. He defrauded the return at the designated post office by pretending to be a representative of the corporation concerned. By September 2008, the perpetrator had returned 43,810,000 yen of the amount stolen. (Quoted from the Fiscal 2007 Audit Report)

## 2.2.2 Fraud committed by organizations as a whole

### (1) Fictitious accounting

In the audit report, the Board reports cases where entities make payments based on fictitious circumstances in connection with their business, or raise money by adding an extra amount to a proper payment amount and keep accounts of the extra money outside the budget. In Japan this is commonly known as “fictitious accounting.” The departments/divisions engaging in fictitious accounting may use some portion of the raised money for business related expenses, such as purchasing office goods, but in most of the cases, a majority of the staff members of departments/divisions concerned use the money for expenses such as snacks for night duties and social gatherings. In those situations, such practices involve a large number of people, and are organizationally acquiesced to. For this reason, fictitious accounting practiced by organizations as a whole tends to involve a large amount of money and is unlikely to be detected for many years.

In the 1950s and 1960s, after the chaotic period following the Second World War, the Board reported very few cases relating to fictitious accounting in the audit report. During the latter half of the 1970s, however, the audit report revealed a large number of fraudulent cases relating to travel expenses, personnel costs, etc. These cases included fictitious accounting at ministries such as the Environment Agency, the Department of Educational Facilities of the Management Bureau of the Ministry of Education, the First Air Depot of the Air Self-defense Force, as well as at state-invested entities such as the Japan National Railways, the Japan Railway Construction Public Corporation, and the Nippon Telegraph and Telephone Public Corporation. Subsequently, the number of cases reported in the audit report relating to fictitious accounting was about one per several fiscal years for a while; however, recently the number has risen to several tens in each fiscal year. The Fiscal 2007 Audit Report featured a total of 55

cases amounting to 933,130,000 yen in value. Of these, the Ministry of Health, Labor, and Welfare accounted for 24 cases (208,180,000 yen), followed by the Ministry of Land, Infrastructure, Transport, and Tourism with 12 cases (290,690,000 yen), the Ministry of Agriculture, Forestry, and Fisheries with 12 cases (265,300,000 yen), and other ministries with seven cases (168,960,000 yen).

[ Case Study ]

The Ministry of Agriculture, Forestry, and Fisheries subsidizes expenditures that include goods purchased by prefectural governments for implementing state-subsidized projects. For purchasing the goods, prefectural governments are supposed to observe following accounting procedures: (1) collecting quotations from prospective suppliers, thereby deciding the contractor, purchase prices, etc., (2) conducting “acts resulting in government spending (see note),” (3) upon receiving the goods, conducting inspections on received goods, and (4) paying to the contractor the amount stated in the invoices. It was revealed, however, that 12 prefectural governments paid a total of 232,390,000 yen (including 109,070,000 yen in state subsidies) as office-supplies expenses without observing proper accounting procedures from Fiscal 2002 to 2006. Followings are the cases by modus operandi.

*Note: “Acts resulting in government spending” are contracts and other activities for which the state or local governments incur expenditures. As per the laws and regulations concerned, while conducting “acts resulting in government spending” the state and local governments must follow designed accounting procedures, and without following the procedures, the state or local governments are prohibited from disbursing expenditures for any reason.*

(1) Deposit to suppliers

Prefectural governments colluded with suppliers in fictitious transactions and paid to them without receiving the ordered goods by falsifying purchase documents stating that the suppliers delivered the invoiced goods. The prefectural governments deposited the money to the suppliers and used it for purchasing goods different from originally ordered ones. (Five prefectures; total amount paid 23,610,000 yen, including 11,290,000 yen in state subsidies)

(2) Lump-sum payment

Without conducting “acts resulting in government spending” and related accounting procedures, prefectural governments asked suppliers to deliver goods whenever necessary and later asked them to submit invoices for goods different from those delivered. The prefectural governments made lump-sum payments by falsifying purchase documents stating that the suppliers delivered the invoiced goods. (Three prefectures; total amount paid 43,700,000 yen, including 21,650,000 yen in state subsidies)

(3) Swapping goods

Prefectural governments asked suppliers to submit invoices for certain goods, and made payments for those goods by falsifying the purchase documents stating that the suppliers delivered the invoiced goods. The suppliers actually delivered different goods from the invoiced ones. (Six prefectures; total amount paid 50,830,000 yen, including 22,050,000 yen in state subsidies)

(4) Delivery in the next fiscal year

Despite the fact that suppliers delivered goods in the next fiscal year, prefectural governments made payments in the previous fiscal year by falsifying receiving inspection dates on payment orders, etc. (12 prefectures; total amount paid 100,640,000 yen, including 48,280,000 yen in state subsidies)

(5) Delivery in the previous fiscal year

Despite the fact that suppliers delivered goods in the previous fiscal year, prefectural governments made payments in the next fiscal year by falsifying receiving inspection dates in payment orders, etc. (Eight prefectures; total amount paid 13,620,000 yen, including 5,800,000 yen in state subsidies)

(Quoted from the Fiscal 2007 Audit Report)

(2) Other issues

Ministries and agencies of the state are requested to comply with the accounting procedures stipulated in the accounting laws and regulations, such as the Public Finance Act and the Public Accounts Act. In addition to fraudulent acts and fictitious accounting, the Board



reports the following cases in its audit report as violations of laws and regulations.

- a. A case where a project was implemented without conducting “acts resulting in government spending” and related accounting procedures

In the course of constructing an alternate facility for the Futenma Air Base of the U.S. Marine Corps, work additional to geological and oceanographic studies was ordered without conducting “acts resulting in government spending” and related accounting procedures, resulting in excess expenditures against the budget allocated for the project. Nevertheless, measures to secure additional funding were not taken up. This case violated accounting laws and regulations that stipulate compliance with the budget.

[ Case Study ]

The Okinawa Defense Bureau of the Ministry of Defense (hereinafter “the Bureau”) made five contracts worth 841,790,000 yen with four contractors in March 2003, conducting submarine geology and oceanographic studies, based on the cabinet decision designating the Henoko coastal area located within Camp Schwab’s sea area in Nago City, Okinawa Prefecture, as the construction site for the alternative facility for the Futenma Air Base, located in Ginowan City.

In the course of implementing the contracts, the bureau ordered the said contractors to carry out additional work, including (1) diving surveys responding to the Okinawa Prefectural Government’s request to avoid adverse impacts on sea grass beds and coral reefs and (2) hiring a large number of lookout vessels to watch the protests by local residents and others opposed to the construction of the facility. But the bureau did not conduct “acts resulting in government spending” and related accounting procedures, and the expenditures for the additional work turned out to exceed the budget allocated for the project. Despite the deficit, the Ministry of Defense did not take necessary budgetary measures to increase the budget and obtain approval from the Ministry of Finance regarding changes in the implementation plan for the “acts resulting in government spending.” Moreover, the bureau did not revise the contracts with the four contractors to include the additional work.

The Ministry of Defense decided not to pay for the additional work because it was conducted without revision of the contract. This prompted the contractors to file a lawsuit against the national government with the Tokyo District Court in August 2006, demanding full compensation for the costs of the additional work and the payment of a penalty for delayed payment, etc. Following the district court ruling that the national government was liable for compensation, the parties agreed to an out-of-court settlement worth 2,180,000,000 yen in March 2008. After the Ministry of Defense took the necessary budgetary measures, such as appropriating other funds for the project, the Bureau paid the abovementioned settlement money in full to the four contractors.

In the execution of the budget for the aforementioned five contracts, the Bureau ordered additional work without conducting “acts resulting in government spending” and related accounting procedures, which resulted in exceeding the budget, and the Ministry of Defense failed to take necessary budgetary measures to increase the budget despite the fact that the expenditures exceeded the budget. Both acts were in breach of accounting laws and regulations and therefore deemed inappropriate.

(Quoted from the Fiscal 2007 Audit Report)

b. Case where competitiveness in contracts is not fully ensured

The Public Accounts Act sets out, in principle, competitive bidding procedures in the contract system in order to make contracts advantageous and economical for the state. In recent years, however, many discretionary contracts have been found even in contracts where competitiveness should have been introduced. There were even bribery cases where officials received benefits from the contractors of such contracts, and this has led to strong demand for fairness and transparency in the contracts made by ministries and agencies.

[ Case Study ]

The Japan Racing Association (hereinafter “the Association”) maintains 45 free and 39 charged parking lots for visitors to racecourses. Of these, with some exceptions, the Association has leased the charged parking lots to its affiliate, the Foundation for Mutual Aid (hereinafter “the Foundation”) through discretionary contracts. The Foundation charges parking fees to visitors and

receives the fees as its own revenue.

The Foundation has set the fees in the range of 500 – 6,000 yen per vehicle according to the type of vehicle, e.g. passenger cars and buses, and raised 1,352,500,000 yen in Fiscal 2006 and 1,312,600,000 yen in Fiscal 2007, totaling 2,665,110,000 yen. The rent payment from the Foundation to the Association, on the other hand, was 469,780,000 yen in Fiscal 2006 and 421,430,000 yen in Fiscal 2007, totaling 891,210,000 yen; i.e., the Foundation raises a considerable amount of revenue compared to the rent payment.

Apart from the collection of parking fees, the foundation provides only minor services, such as on-site traffic control and cleaning, which require no specific knowledge and skills. Considering numerous enterprises provide those kinds of services, it is inappropriate that the Association made a designated contract with the Foundation for leasing the charged parking lots.

As per the estimates by the Board, the cost of managing the charged parking lots would be 493,900,000 yen in Fiscal 2006 and 488,350,000 yen in Fiscal 2007, totaling 982,250,000 yen, where the net revenue (revenue minus cost) would be 1,682,850,000 yen. Taking this into account, if the Association had introduced competitive bidding procedures, it would have been able to collect rent up to 1,682,850,000 yen over two fiscal years, instead of 891,210,000 yen; i.e., the association could have raised 791,630,000 yen in additional revenue.

(Quoted from the Fiscal 2007 Audit Report)

### 2.2.3 Fraud committed by outsiders

The state, government-funded corporations, etc., provide subsidies, benefits, and the like or lend funds to beneficiaries who meet certain requirements prescribed by laws and regulations for the purpose of improving people's welfare. These grants or loans are provided based on applications from beneficiaries and tax money levied on the people is used to offer these administrative services. With regard to taxes, they comprise self-assessed taxes and withholding taxes, and self-assessed taxes are more prone to mistakes and errors. For these cases, the risk of fraud committed by outsiders is high if the state and government-

funded corporations do not fully carry out examinations for applications for subsidies and tax payments.

In the audit report, the Board reports cases where public employment security offices improperly paid unemployment insurance benefits because they did not sufficiently review and check the applications in which the recipients of benefits dishonestly stated false facts, such as concealing their reemployment. Another example in the audit report is the case where a recipient of a scientific research subsidy had a vendor prepare false statements of delivery, invoices, etc., based on a fictitious transaction, thereby having his research institution pay the cost of the fictitious transaction and keeping a separate account for the money.

[ Case Study ]

Employment insurance is a system under which workers employed on a regular basis are insured and benefits are paid for the purpose of ensuring adequate living and employment for such workers who become unemployed or find themselves in conditions where it is difficult to continue to be employed. Among the components of the benefits, the basic allowance is designed to play the major role in stabilizing the livelihood of the unemployed, and is paid to recipients for the number of days they are out of work up to specified duration for each individual recipient. The reemployment allowance, on the other hand, is paid when a recipient finds stable employment while still being eligible for the payment of the basic allowance for at least a third of the specified duration, not less than 45 days.

Audits of basic and reemployment allowance payments to 314 recipients within the jurisdiction of 119 public employment security offices were conducted from Fiscal 2004 to 2008. The audits revealed that there were significant overpayments of benefits due to the recipient's negligence to declare his/her reemployment on the unemployment reporting form and falsification of the reemployment date in the reemployment allowance claim form. Despite the discrepancies between recipients' declarations and actual circumstances, those offices made payment decisions through insufficient verification, and a total of 78,960,000 yen was overpaid in basic and reemployment allowances.

(Quoted from the Fiscal 2007 Audit Report)

## 3 Future challenges in auditing for fraud

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Auditing for fraud is most effective when it is conducted according to the types of wrongdoers. I shall classify fraudulent acts into three categories: those committed by individual insiders, by organizations as a whole, and by outsiders.

### 3.1 Auditing for fraud committed by individual insiders

#### 3.1.1 Review and assessment of internal control procedures

There are cases where internal control procedures established within respective organizations first detect fraudulent acts committed by individual insiders. Here, internal control is the procedures that all the units and members of the entity concerned are supposed to observe for the purpose of reasonably ensuring efficient and effective business management, preparation of highly reliable financial reports, and compliance with applicable laws and regulations.

Under the current public accounting system, respective ministries and agencies establish specific control procedures based on the principles of mutual supervision through the separation of the accounting body and internal auditing. To achieve this, laws and regulations on accounting stipulate the following: (1) segregation of duties, (2) approval procedures, (3) document management, (4) vouching procedures, (5) review, (6) reporting of exceptional cases, (7) limitation of access, (8) collation procedures, (9) inventory-taking, and so on. The risk of individuals committing fraudulent acts increases in circumstances where internal control has not been established to prevent fraud, or where, even if control is established, it is not actually functioning.

In auditing for fraud, therefore, it is vital to review not only that internal control procedures are effectively established but also whether such procedures are actually operating.

#### 3.1.2 Review and assessment of internal auditing

Internal auditing often detects fraudulent acts committed by individual insiders. Here, internal auditing refers to procedures for independently assessing and monitoring control activities, forming

part of the monitoring function of an entity.

In Japan, internal auditing in the postal sector has detected many fraud cases. This is because internal auditing puts emphasis on cash transactions in the postal business, in view of the fact that many post offices located all over the nation deal with cash receipt and payment. Among them, there are designated post offices where the postmasters voluntarily provide their private property as a post office, and the position of postmaster is virtually held by succession; and there are small-scale post offices that entrust counter work to a private entity, such as an agricultural cooperative.

For these reasons it is necessary, especially when conducting an audit for fraud involving cash receipt and payment, to review whether an internal auditing system is established to prevent fraud, from aspects such as the independence of the internal auditing division, the formulation of an audit plan, and the preparation of an audit manual, along with ascertaining whether such internal auditing is actually functioning.

### 3.1.3 Inquiry from the outside

Sometimes inquiries from outside the organization first detect fraudulent acts committed by individual insiders. In recent years in Japan, with the enhancement of people's awareness of their rights and duties, the national government has made intensive efforts to improve public hearing functions such as sending notices to insured individuals about their insurance premium payment status, and installing telephone lines within the organization that are exclusively used for inquiries. Under these situations, there are cases where inquiries from outsiders, for example an insured person, first detect fraudulent acts. With regard to financial institutions in Japan, they are currently implementing strict identity verification of depositors as a measure against money laundering, as well as name-based aggregation of deposits held by the same depositor as a reform of the deposit insurance system. In this way, inquiries from financial institutions about accounts sometimes reveal the account to be fictitious, leading to the detection of fraudulent acts.

For this reason, when conducting an audit for fraud it is necessary to check, for example, the existence of a notification system for cash transactions. It is also important to review whether there is a mechanism functioning that handles inquiries from the outside, such

as dedicated telephone lines and receiving outside e-mails, and whether a mechanism to follow up on inquiries is in operation.

## 3.2 Auditing for fraud committed by organizations as a whole

### 3.2.1 Utilizing whistle-blowing from the inside

Internal control does not function effectively if the individuals in charge collude or if the management, such as the head of the organization, ignores internal control procedures; i.e., internal control is useless against fraud committed by organizations as a whole. Whistle-blowing sometimes reveals fraud committed by organizations as a whole, wherein an employee of an organization concerned exposes the culpable deed to an outside organization, such as the Board. The Board has treated whistle-blowing as external information, established internal rules for utilizing it, and every year reports cases triggered by such information in the audit report. In Japan, the Whistle-blower Protection Act took effect in April 2006, and it deems national government organizations as enterprises subject to whistle-blower protection.

It is necessary to strengthen audit functions aimed at detecting organization-wide fraud early on by, among other things, enhancing the systems to protect whistle-blowers and utilize information provided by them, and following up on all reliable external information.

### 3.2.2 The whistle-blowing system

Recently criminal acts and unlawful incidents have occurred one after another in Japan, such as cases of false food labeling and negligence in publicizing automobile recalls. Those cases were brought to light by information from employee(s) within the organization as a trigger. It was widely understood that whistle-blowing for the public interest was a legitimate action to ensure employers' compliance with laws and regulations for the purpose of preventing damage to peoples' lives, bodies, and property; however, it was not necessarily clear to whom and what information a whistle-blower should report in order to be protected against disadvantageous treatment such as dismissal. To address this situation, the Whistle-blower Protection Act came into force in April 2006. The law invalidates dismissals of whistle-blowers

by employers and administrative agencies because of whistle-blowing, and it outlines how employers and administrative agencies should handle whistle-blowing. With these prescriptions, the Act is expected to protect whistle-blowers and force employers and administrative agencies to comply with the provisions of laws and regulations concerning protecting peoples' lives, bodies, property, and other interests.

Here, whistle-blowing means that employees, including public officials, disclose information to the employer concerned or to an administrative agency authorized to take action or make recommendations on unlawful acts that his or her employer or its officers, employees, or the like has committed or is about to commit. Such disclosure may be made regarding criminal acts provided for in a total of more than 400 laws and regulations concerning the protection of individuals' lives, bodies, property, and other interests, including the Penal Code, the Act on the Protection of Personal Information, and the Labor Standards Act. The Whistle-blower Protection Act prohibits any disadvantageous treatment against whistle-blowing, such as demotion, salary reduction, or harassment. With respect to public officials in particular, whistle-blowers are also protected from disadvantageous treatment like dismissal by the provisions of the National Public Service Act, the Act on Temporary Measures for Court Employees, the Diet Employees Act, and the Self-defense Forces Act, respectively, apart from the provisions of the Whistle-blower Protection Act.

### 3.3 Auditing for fraud committed by outsiders

Spot inspections by examination departments or divisions of the organization concerned sometimes lead to the detection of fraudulent acts committed by outsiders. The examination department or division examines requests or claims made to the organization concerned, for example, for benefit payments related to social security or national tax refunds. When a large number of requests or claims are accepted, it is often the case that only a document review is conducted and the decision to pay or refund is made unless there is a flaw in the documents.

To detect fraudulent applications, the examination department or division often conducts a detailed examination, including spot inspection of applications selected at random or according to certain criteria.

When conducting an audit for fraud, therefore, it is necessary to evaluate



the sampling criteria for spot inspections, to ascertain whether the sample is actually selected according to these criteria, and that the spot inspection is in fact conducted.

## 4 Conclusion

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In this presentation, I explained the present situation and challenges of the Board of Audit of Japan regarding auditing for fraud and corruption in order to facilitate the exchange of experiences and views by the SAI officials participating in this seminar. Following are the major points I brought up in my presentation.

Fraud cases are more likely to be targets of auditing because they financially damage the account-keeping entities, and therefore we have a significant number of audited cases. As for corruption cases, on the other hand, cases of auditing hardly exist because the damage to the account-keeping entities is not necessarily apparent, and it has been almost exclusively the target of investigation by the police and prosecuting authorities.

It is our policy to actively address fraud cases as core or basic auditing of accounts. In this presentation, I demonstrated that it is effective to conduct audits for fraud according to the entity, i.e., to review and check internal controls in cases committed by individual insiders, to utilize whistle-blowing from inside in cases committed by organizations as a whole, and to evaluate selection criteria for spot inspections by the examination department or division in cases committed by outsiders.

As I mentioned earlier, how each SAI should conduct auditing for fraud and corruption varies not only according to the SAI's auditing mandate but also to the relevant laws and systems, such as criminal law and laws and regulations concerning public officials. Keeping such premises in mind, I introduced the present situation and challenges of the Board of Audit of Japan. It would be my utmost pleasure if this presentation could contribute to the exchange of experiences and views of the officials participating in this seminar.

## Appendix: Japanese Legal Framework for Fraud and Corruption Control

### 1 Penal Code

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#### 1.1 Fraud

The Constitution of Japan declares the importance of legal protection of property, stating: “The right to own or to hold property is inviolable.” Following this, the Penal Code provides for property crimes. Property crimes under the current Penal Code represent only a portion of unlawful infringement or potential infringement of property rights. The scope of punishment against property crimes is limited. Private law generally covers restrictions and relief for the infringement of property rights, and the Penal Code deals only with cases of serious violation. Profit-skimming and simple default are issues under civil law and are not subject to criminal punishment. Property crimes in the Penal Code include theft, robbery, fraud, extortion, embezzlement, breach of trust, handling stolen goods, and destruction of property. Thus, those cases of fraud constituting property crimes in the Penal Code are the object of criminal punishment and subject to investigation by the judiciary authorities. Typical property crimes found in the public sector in Japan are fraud and embezzlement, as discussed below.

##### 1.1.1 The crime of fraud

“A person who defrauds another of property shall be punished by imprisonment with work for not more than ten years” (Article 246, Penal Code). “An attempt of [these] crimes shall be punished” (Article 250, Penal Code).

The “property” here is another’s property in the possession of another. Property includes not only movable property but also immovable property. “Defraud” means deceiving another and thereby causing him or her to fall into error in terms of the transfer of the possession of property or keeping him or her in a state of misunderstanding in that manner. It is a prerequisite that another falls into error through an act of defrauding and disposes or delivers his or her own property based on that error.

## 1.1.2 Embezzlement

### (1) The crime of embezzlement

“A person who embezzles property in his or her possession that belongs to another shall be punished by imprisonment with work for not more than five years” (Article 252, paragraph 1, Penal Code). “The same shall apply to a person who embezzles his or her own property when the person has been ordered by a public office to hold the property in custody” (paragraph 2, Penal Code).

Under the Penal Code, “embezzlement” means unlawfully acquiring another’s property into one’s possession or one’s own property that one has been ordered held in custody by a public office. It includes not only movable property but also immovable property. “Possession”, in relation to the crime of embezzlement, refers to a state where one has de facto or de jure control over the property.

### (2) The crime of embezzlement in the pursuit of social activities

“A person who embezzles property that belongs to another in the person’s possession in the pursuit of social activities shall be punished by imprisonment with work for not more than ten years” (Article 253, Penal Code).

This crime is a type of embezzlement aggravated on account of the offender’s status. “Social activities” here means affairs conducted repeatedly or continuously based on one’s status in social life. The social activities described in relation to this crime refer to tasks of continuously or repeatedly possessing another’s property based on another’s commission. For example, a public official who keeps public money ex officio and a company employee, organization staff member, or bank employee who keeps the company or organization’s money ex officio, etc., are also persons conducting social activities. A person has committed a crime of embezzlement in the conduct of social activities if he or she oversteps his or her authority and unlawfully misappropriates the money in violation of the purpose of the commission.

## 1.2 Corruption

The crime of bribery consists of accepting and giving bribes. In the Penal Code the crime of accepting bribes refers to the crime of accepting bribes, accepting bribes on request, accepting bribes in advance of assuming office, passing bribes to a third party, aggravated acceptance of bribes, accepting bribes after resigning from office, and accepting bribes for exertion of influence. For the crime of giving bribes, only the crime of giving a bribe is provided for. “Bribe” here means a benefit as an unlawful consideration in relation to the duties of a public official. “Duties” mean all affairs that a public official should attend to in connection with his or her status. The subject of the crime of bribery is a public official, a person who intends to be a public official, or a person who was a public official. Crimes of corruption that constitute the crime of bribery are liable to penal punishment and are subject to investigation by the judiciary authorities. For the crime of bribery for incumbent public officials, there is the crime of accepting bribes, accepting bribes on request, passing bribes to a third party, and accepting bribes for exertion of influence, which are discussed below.

### 1.2.1 The crime of accepting bribes

“A public official who accepts, solicits, or promises to accept a bribe in connection with his or her duties shall be punished by imprisonment with work for not more than five years” (Article 197, first part of paragraph 1, Penal Code).

“To accept a bribe” here refers to a public official accepting, soliciting, or promising to accept a bribe. In relation to property, “accepting” means taking possession of the property, and in relation to benefit it refers to the benefit actually being enjoyed. “Soliciting” means the request for the offer of a bribe. “Promising” refers to the agreement of intention concerning the giving and taking of a bribe. Recognition as a bribe is a prerequisite: The public official must be aware of the fact that the benefit received, solicited, or promised is an unlawful consideration in relation to the duties of the public official.

### 1.2.2 The crime of accepting bribes on request

“When the official agrees to perform an act in response to a request, imprisonment with work for not more than seven years shall be

imposed” (Article 197, latter part of paragraph 1, Penal Code).

Under the Penal Code, this type of crime is aggravated acceptance of bribes due to responding to a request. “Request” here refers to asking for a certain act of official function in relation to the public official’s duties, regardless of whether it is a lawful or unlawful act of official function. A public official’s explicit or implicit response to the request is a prerequisite to constitute the crime.

### 1.2.3 The crime of accepting bribes for a third party

“When a public officer, agreeing to perform an act in response to a request, causes a bribe in connection with the official’s duty to be given to a third party, or solicits or promises such a bribe to be given to a third party, imprisonment with work for not more than five years shall be imposed” (Article 197-2, Penal Code).

This is a crime not of a public official receiving a bribe personally but of him or her causing a bribe to be received by a third party. The purpose of providing for this crime is to suppress evasion of the law regarding the crime of accepting bribes on request by way of going through a third party. “In response to a request” refers here to having received a request in relation to one’s duties and having agreed to the request. A “third party” means any person other than a public official. It can refer not only to a real person but also to a legal person or an entity with corporate personality.

### 1.2.4 The crime of accepting bribes for exertion of influence

“A public officer who accepts, solicits, or promises to accept a bribe as consideration for the influence that the official exerted or is to exert, in response to a request, on another public officer so as to cause the other to act illegally or refrain from acting in the exercise of official duty shall be punished by imprisonment with work for not more than five years” (Article 197-4, Penal Code).

The purpose of providing for this crime is to punish the act of a public official exerting influence in his or her capacity as a public official, in relation to the duties of another public official, and

accepting a bribe in connection with this act. “In response to a request” refers here to receiving a request in connection with his or her duties and agreeing to act. “Exert influence” means mediating between both parties regarding a certain matter and providing means for the completion of the deal.

## 2 National Public Service Act

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### 2.1 The system of disciplinary action

The Constitution of Japan declares that public officials are essentially officials of the whole community by stating: “All public officials are servants of the whole community and not of any group thereof” (Article 15, paragraph 2 of the Constitution of Japan). Following this provision, the National Public Service Act was enacted in order to establish various basic standards to be applied to national public officials and guarantee the people the democratic and efficient management of public business. As examples of service duties, the National Public Service Act designates the duty to obey laws and regulations as well as the orders of one’s superiors, prohibits acts causing discredit, obliges workers to give their undivided attention to their duties, and so on. It also sets out that if a national public official (1) has acted against the National Public Service Act or the National Public Service Ethics Act, or orders issued pursuant to these laws, (2) has violated an obligation in the course of his or her duties or has neglected his or her duties, or (3) has conducted misbehavior as a servant of all citizens, the official may be dismissed, suspended from duty, receive a cut in salary, or be admonished (Article 82 of the National Public Service Act).

### 2.2 Types of disciplinary action

Guidelines for disciplinary action are established by the National Personnel Authority so that an officer who has appointing power can determine the level of disposition with respect to a case where the officer has decided that a disciplinary action should be taken. According to the guidelines, disciplinary actions regarding public money and property are to be taken as follows:

(1) Embezzlement

A government employee who has embezzled public money or property shall be dismissed.

(2) Theft

A government employee who has stolen public money or property shall be dismissed.

(3) Fraud

A government employee who has caused any other person to deliver government money or property by deception shall be dismissed.

(4) Loss

A government employee who has lost public money or property shall be admonished.

(5) Theft

A government employee from whom public money or property has been stolen through gross negligence shall be admonished.

(6) Destruction and damage

A government employee who has deliberately destroyed or damaged public property at his or her place of work shall have his or her pay reduced or be admonished.

(7) Fire and explosion

A government employee who has, through negligence, caused a fire or explosion of public property at his or her place of work shall be admonished.

(8) Illegal payment and improper receipt of pay

A government employee who has unlawfully made a payment deliberately in violation of the law or a government employee who has unlawfully received a payment by deliberately failing to make a report or making a false report shall have his or her pay reduced or be admonished.

(9) Improper disposition of public money and property

A government employee who has improperly disposed of public money or property through, for example, misappropriation of public money in his or her custody shall have his or her pay reduced or be admonished.

(10) Improper use of computers

A government employee who has used a computer at his or her place of

work for an improper purpose unrelated to his or her duties thereby causing an impediment to the management of public affairs shall have his or her pay reduced or be admonished.

### 2.3 Distinction from punishment

Disciplinary action is a sanction measure applied against a breach of duty by a government employee based on the government's authority as the employer in order to maintain order in the public service, and is taken against him or her within the limits of his or her expulsion from the public service. Punishment, on the other hand, is a sanction measure that is applied against a specific act infringing interests protected by law based on the general right of sovereignty or the right of punishment of the state for maintaining public order in society in general, and is taken against the infringer who receives such punishment as a citizen. Punishment may be imposed even after the government employee has left office with respect to an act he or she committed during his or her tenure in office; on the other hand, since disciplinary action presupposes status as a public official, it may be applied only when the person concerned is in active service as a government employee.



## **Section 2.2**

# **The audit function and the fight against fraud and corruption in Italy and other European Union member states**

20th UN/INTOSAI Symposium

Vienna, Austria

11 – 13 February 2009



## Summary of 2.2 The audit function and the fight against fraud and corruption in Italy and other European Union member states

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The Corte dei Conti as the SAI of Italy has a central role in guaranteeing the sound management of public resources. It is neutral, autonomous and independent of both Government and Parliament and is comprised of judges selected by competitive public examinations. The Corte dei Conti's constitutional remit to guarantee lawful and sound public administration is guaranteed by balancing the interaction between its various functions:

- conducting audits of various kinds
- jurisdiction over the accountability of civil servants and public managers
- issuing advices regarding proposed amendments to legislation governing the functions of the court and problems regarding the interpretation of public account law referred to it by regional and local authorities

The Italian report includes numerous references to the joint position of 13 European Union SAIs regarding the protection of financial interests of the Community. This position includes that a strong external audit function fulfilled by SAIs is an important element in the framework to counter fraud, corruption and money laundering in the public sector. In order for SAIs to ensure reasonable likelihood of detecting fraud it is necessary:

- to use competent and qualified personnel
- to assess and test internal controls
- to verify regularity
- to carry out adequate planning, performance and evaluation of audit work
- to carry out substantive testing of transactions
- to ensure a full understanding of the bodies being audited
- to comply fully with professional standards

SAIs may also provide recommendations or guidance on the integrity of the use of public funds and may, where appropriate, draw attention to fraud,

corruption and irregularities. These proposals for change are aimed at achieving better controls, systems and procedures.

SAIs with jurisdictional functions in relation to administrative liabilities makes an additional contribution with regard to concrete cases which should involve corruption or fraudulent practices concerning the use of public funds. Here SAIs are responsible for determining the accounting liability of public officials and individuals that manage public funds not only in case of fraud or corruption but also if a loss or damage occurs through the lack of due care over funds for which they are responsible.

# The audit function and the fight against fraud and corruption in Italy and other European Union member states

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Corte dei Conti(SAI of Italy)

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## 1 The Corte dei Conti : Powers and remits

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Within the Italian constitutional system, “Corte dei conti” is both one of the bodies that guarantee the legality and sound public administration to ensuring the balancing of public finances (art. 100 (2) Const.) and a judicial body (art. 103 (2)). This double character gives the Corte dei conti a central role in guaranteeing the sound management of public resources. It is neutral, autonomous and independent of both Government and Parliament and is composed by judges selected by public competitive examinations.

The Corte dei conti’s constitutional remit to guarantee lawful and sound public administration is guaranteed by balancing the interaction between its various functions:

- Conducting audits of various kinds (a priori audits of acts, a posteriori audits of overall management, financial audits to ensure accurate accounting);
- Jurisdiction over the accountability of civil servants and public managers;
- Issuing advices regarding proposed amendments to legislation

governing the functions of the court and problems regarding the interpretation of public account law referred to it by regional and local authorities.

## 2 The audit function and the fight against fraud and corruption

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The Corte dei conti of Italy on the issue of the fight against fraud and corruption, within its audit remit, shares the common view of other 15 sisters SAIs of the European Union.<sup>1</sup> This common shared opinion was clearly expressed by the European Union SAIs as a result of a coordinated audit performed in the year 2003, with the aim of assessing the EU Member States implementation of the statutory framework to protect the financial interests of the Communities in relation to criminal law protection.

This coordinated audit represented an analysis carried out by a group of EU SAIs in an area that is not traditionally a major area of activity for most of them. The audit results are still valid, even if six years have passed since the audit was performed; so that the common shared opinions of the participating SAIs (may be, also, of the majority of the INTOSAI SAIs) are the following.

Although the SAIs do not have direct competencies or responsibilities (and related powers) in the fight against fraud, corruption and money laundering, they have different resources at their disposal that allow them to play an important role in preventing, detecting and deterring fraud and corruption while carrying out their tasks. These objectives can be achieved by:

- Using standards, guidelines and procedures for financial and performance audit to ensure reasonable expectations of detecting material fraud;
- Conducting risk analysis to identify special risks of corruption and fraud;
- Reporting to the Parliament or any other appropriate institution (according to national legislation) on the audit findings;

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<sup>1</sup> See attached the findings (in English, French and German) of the above mentioned coordinated audit activity, underlying the point of views of the 15 SAIs which took part in the audit.

- Promoting Parliamentary and governmental regulations and measures to improve financial management regarding corruption and fraudulent actions and preventing money laundering;
- Promoting guidance, good governance and a sound culture against irregular practices;
- Encouraging the performance of the administrative and judicial authorities directly involved in the fight against fraud and corruption;
- Communicating to the public prosecutor and the courts information about suspected criminal/illegal actions being discovered while conducting its tasks.

It can be affirmed that a strong external audit function fulfilled by the SAIs is an important element in the framework to counter fraud, corruption and money laundering in the public sector, by providing a deterrent effect and oversight. In the course of the external audit work, controls considered in place within bodies spending public money can prevent and detect misconduct and the misuse of public money. The “shadow” of the audit over those bodies can act as a vehicle to dissuade them from irregular practices.

Therefore, carrying out their “detering” activities through financial and performance audits (examining the regularity, the adequacy, the efficiency, the economy and the effectiveness) the SAIs can assess:

- the areas in which special risks of corruption, fraud or money laundering exist, for example: management of EU aids and subsidies; procurement; taxes; or creation of public funded entities subject to Private Law as they are outside the scope of application of Administrative Law and the public control;
- the adequate development of the functions of the authorities and policies directly set to fight against fraud, corruption and money laundering: the activities to promote their prevention; the degree of implementation of the policies applied in preventing, investigating and prosecuting financial crimes; and its efficiency;
- particular cases of corruption, fraud or money laundering (always in relation to public funds) which have been committed; in these cases, the SAIs can send the relevant information to the competent body;
- if the facts point to *criminal responsibility*, the case is sent to the appropriate authorities to consider prosecution, thus co-operating with the criminal justice system. The communication can be made under

one specific mandate of the SAI or based on the generally applicable principle that all civil servants and public officials are required to report any suspected cases of a criminal nature to the prosecuting authorities;

- if the facts point to *accounting responsibilities*, the case is sent by each SAI to the competent authority, depending on its legal system. In some systems this competence is also vested in the SAI (for the institutions vested with jurisdictional powers).
- if the facts point to *administrative or disciplinary responsibility*, the case is sent to the competent department of the administration. Each administrative body can directly deal with the issue when it has the mandate to do so or it can pass the information to any other body when this is appropriate. This is the prescribed procedure for dealing with the irregularities against Community funds that have to be notified to the European Anti-Fraud Office (OLAF). In this way, the SAIs co-operate with governmental departments to ensure sound controls and accountability systems in the public sector.

In order for SAIs to ensure reasonable likelihood of detecting material fraud it is necessary:

- to use competent and qualified personnel;
- to assess and test internal controls;
- to verify regularity;
- to carry out adequate planning, performance and evaluation of audit work;
- to carry out substantive testing of transactions;
- to ensure a full understanding of the bodies being audited;
- Uto comply fully with professional standards.

The results of the audits carried out by the SAIs are communicated in reports (annual or special reports), that in both cases are distributed either to the Parliament or any other appropriate institution (according to national legislation). Where appropriate these reports include instances of abuses or irregularities.

The SAIs may also provide recommendations or guidance on the integrity of the use of public funds and may, where appropriate, draw attention to fraud,



corruption and irregularities.

These proposals for change are aimed at achieving better controls, systems and procedures, including the regulating environment.

Both the reports (including the main findings and irregularities detected) and the recommendations are useful instruments for the prevention of corruption, fraud and money laundering in the public sector and for providing information for their prosecution.

In addition they have a deterrent effect since they are sent to the Parliament or any other appropriate institution. In some countries the reports are also published for general knowledge of the citizens. Of course, the implementation of the SAIs' recommendations by the auditees is followed up by carrying out periodical enquiries.

### **3 The consultant function as a means of guidance on good governance against irregular practices**

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There is another useful instrument to prevent fraud and corruption under the competencies of some SAIs. They have an independent consultant function to advise the Parliament and/or the Government, different to the one developed as a consequence of the auditing function. The above-mentioned task is carried out usually in relation to rules connected with budgetary and/or accounting issues, through advices/opinions issued during the process of legislation. In this way and from its huge experience on financial matters, the SAI can assist the legislative power to formulate norms which avoid fraud and corruption and assist in the fight against those irregular practices.

### **4 The jurisdictional function of the Corte dei conti and the fight against fraud and corruption**

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The SAIs with jurisdictional functions (for example those of France,

Spain, Italy, Portugal, Greece, Belgium) in relation to administrative liabilities make an additional contribution with regard to concrete cases which should involve corruption or fraudulent practices concerning the use of public funds.

In these countries, the SAIs are responsible for determining the accounting liability of public officials and individuals that manage public funds not only in case of fraud or corruption but also if the loss or damage occur through a lack of due care (maliciously or seriously negligent behaviour) over funds they are responsible for. Then the SAIs declare accounting liability, determine the amount of damage and require its reimbursement. They do not impose penalties but only try to repair the damage caused.

The accounting jurisdiction and any other action taken by the SAI, are in addition to any action that may be taken by other competent authorities in relation to the same circumstances (for example criminal prosecution, or administrative or disciplinary action).

On this regard the Corte dei conti, under the Italian Constitution, has jurisdiction on public accounting and other matters determined by specific acts of parliament. In particular, where there is a loss of public funds, the liability of administrative officials and their staff is not governed by the ordinary civil law, but by the specific rules governing administrative and accounting liability.

Direct actions to sue individuals people found liable on this basis can only be brought by the public prosecutor of the Corte. Administrative and accounting liability, while based on the same principles that govern civil liability in general (i.e. liability for damage caused by a wrongful act and with a predominantly compensatory purpose), is specific in nature since it pursues the further objective of ensuring the sound management of public funds. The work of the Public Prosecutor (investigations and prosecuting) is governed by specific procedural rules and is independent of criminal investigations.

The administrative authorities and the national police are under a number of specific obligations to report losses of public funds to the Regional prosecutor's office of the Corte dei conti, in cases where public officials are involved, and naturally even in cases of corruption. Reports have to be filed by administrative and accounting bodies of the public administration, such as the accountants and internal auditors. Other information include reports by the criminal prosecution office and other sources such as information from whistle-blowers and press articles.

In Italy the criminal-law system for protecting public funds against corruption attaches some importance to procedural rules linking the criminal court to the current procedure of the Corte dei conti. This ensures that the

commencement of an action by the Regional prosecutor's offices in the Corte dei conti takes place in a timely manner and that precautionary measures to ensure proper compensation can be put in place. Otherwise assets that might be attached once a conviction has been secured might disappear. In particular, there are rules which oblige the penal prosecution office to supply information to the prosecution office of the Corte dei conti in cases which involve loss to public funds.

In the case of offences committed by public servants against public authorities including crimes, the public prosecutor can use precautionary warrants to guarantee the recovery of public funds once the offender has been convicted. He can freeze not only the assets derived or obtained from the offence but all the assets of the offender in respect to any other damages caused the public administration. For example in cases of corruption in relation to public works, the loss to be compensated consists not only of the bribe or the firm's illicit profits, but also of losses resulting from defects in the works or harm to public image.

To enable the public prosecutor to exercise his functions a number of powers have been conferred on him. He not only has the possibility of issuing precautionary warrants but also has the possibility of requesting documents held by the judicial and administrative authorities and seizing documents. Other powers include making direct inspections and verifications, hiring technical consultants, delegating investigation functions to civil servants, ordering the exhibition and even the confiscation of documents, delegating investigations or specific inspections to the Guardia di Finanza and other police forces (Carabinieri . i.e. Military Police, State Police, State Forestry Inspectorate etc.).

The different prosecution offices (penal and accounting) must coordinate their activities. Cooperation is equally necessary not only at national level but also on the wider European level. The Corte dei conti cooperates with a variety of national and European institutions. In particular the General Prosecutor's office of the Corte dei conti in 2006 signed an Agreement with OLAF.

In order to become more familiar with illegal acts and poor management, the Corte dei conti embarked, several years ago, on co-operation with national and international organisations in a number of subject areas. These include, in particular:

- forming part of the working group organised by CNEL (National Council for economy and labour) – the Observatory on Crime – with the task of putting forward proposals for the definition of known types of criminal infiltration, in order to draw up prevention policies to combat the wrongful use of public finances;

- co-operating at all times with the Department for Community Policies in order to identify irregularities and fraud to the detriment of the Community and national budgets and to monitor recoveries;
- the convention between the General Prosecutor's office and the OLAF to enhance intelligence-gathering in order to hasten the pace of investigations. At the moment, an agreement is under discussion with the Government Anticorruption Office in order to sign a memorandum of understanding of reciprocal cooperation.

# Annex

## The EU SAIs' position regarding the protection of the communities financial interests

(a fifteen EU Member States SAIs coordinated audit)

### 1 Foreword

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The first part examined the implementation, by the Member States, of the conventions and protocols for the protection of the financial interests of the European Communities. This second part will focus on the Supreme Audit Institutions (SAIs), defining their remit, their powers for the performance of that remit, the activities, that they perform as part of their remit and to safeguard (or help to safeguard) the national financial interests overall, and the Community's financial interests where these are related, from fraud, corruption and other criminal acts.

This analysis, based on the replies to the questionnaire submitted by 13 (out of 15) SAIs<sup>1</sup> and the European Court of Auditors, therefore falls within the terms of reference given to the Working Group by the Committee of Presidents, and is limited to the field of criminal law and jurisdiction, overlapping from time to time with the broader area of administrative/accounting and disciplinary liability legislation and jurisdiction wherever appropriate or necessary (for example in the case of the SAIs which also exercise judicial powers).

Using this approach, the questionnaire drawn up by the Working Group has examined the following aspects:

1. The powers and responsibilities of the SAIs in relation to fraud, corruption and money laundering;
2. The legal basis of these powers and responsibilities (constitutional, or by statute law, administrative law, regulations, professional codes of conduct)

3. Their responsibilities in relation to detection, prosecution, prevention, regulation, reporting, setting down guidelines and policies (education, guidance, governance and good practice)
4. Specific activities performed in relation to these responsibilities

## 2 Their commonly-shared status

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When assessing the results of a complex investigation, it is sometimes possible to begin by simply summing up the results and then examining the differences, which at all events do not affect or modify the summing-up itself. And this is our position here.

Two commonly agreed statements have been made by the SAIs which sum up the substance of this survey:

- a) there is no responsibility (nor related powers) in the field of the criminal law protection of national and Community financial interests,
- b) the control/auditing activities – and in some cases, particular types of judicial activities – are performed with the main aim of preventing or deterring the commission of criminal acts by public servants.

Based on this commonly shared feature “no responsibility”, the activities of all the SAIs, depending upon the domestic legal system, help to safeguard and protect public assets and resources from criminal “attack”.

We shall therefore see the form these short concurring statements take in practice from the analytical replies to the questionnaire.

### 2.1 No responsibility or related powers

As part of the wide-ranging, comprehensive formula for combating criminal acts likely to have negative repercussions on public finances, there are three different activities that are synergistically coordinated:

- administrative activity, for which government officials service is

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<sup>1</sup> SAIs of Austria, Belgium, Denmark, Finland, Germany, Greece, Ireland, Italy, Netherlands, Portugal, Spain, Sweden, United Kingdom.

responsible;

- investigations, coordinated by a public prosecutor;
- ascertaining criminal liability and issuing criminal penalties, which are reserved to criminal courts

This is the picture, common to all the States, according to the replies, showing that the SAIs do not play any active part in relation to these criminal law issues which form part of the substance of the conventions and protocols.

This is consistent with the position taken up at the international level by the external auditing organisations and associations. For example, the Auditing Practices Board states that “external auditors do not have a duty to detect corruption and other fraud as a part of their financial audit work, except to the extent that these materially affect the financial statements audited”.

This is a position that emerges quite clearly from some of the answers given to the questionnaire:

“The main forms of external government audit is not on fighting fraud, corruption and money-laundering” (GE); “criminal matters do not fall under the Belgian Court of Audit’s remit” (BE); “the Netherlands Court of Audit has no specific responsibility/powers” (NE); “les responsabilites du Cour des Comptes europeenne a l’egard de la lutte contre la fraude et la corruption ne pourraient pas concerner leur detection, qui ne ressort pas de sa competence” (ECA); “the Tribunal de Cuentas does not have a direct performance in the fight against fraud, corruption and money-laundering” (SP); “the UK National Audit Office does not have specific legislative responsibility or powers in relation to counter-fraud, corruption and money-laundering”...nor in the investigation or prosecution of criminal cases” (UK); “the Rechnungshof is not provided with jurisdictional functions and has no power to pass sentences for criminal offences” (AU”).

The German SAI, in its replies, clearly sets out the powers and responsibilities of the main parties involved: the public administration, the public prosecuting authority and the courts:

- “the public administration’s task is to take appropriate steps to prevent public funds from being fraudulently obtained...and to look into any cases in which circumstances suggest that fraud, corruption or other irregularities have been or are likely to be committed, to take adequate remedial action and to report cases to the prosecuting authorities where appropriate”;

- “prosecution and combating fraud, corruption and money-laundering offences is primarily a task of the public prosecution service”;
- to the courts are reserved “judicial powers and the sanction to be imposed in criminal matters”.

The Italian Court of Auditors notes that the Italian public administration (the Ministry of the Economy and Finance) has a specific financial police corps -the “Guardia di Finanza” -one of whose main tasks is combating fraud, corruption and money laundering. In particular, it has a special “investigative unit” working specifically in the field of protecting the financial interests of the European Communities.

Lastly, it is worth noting that even though the British NAO does not have specific responsibilities, as mentioned earlier, and yet “the Comptroller and Auditor General is a prescribed person under the Public Interest Disclosure Act for receipt of “whistle-blowing” disclosures in the central public sector relating to fraud, corruption, money-laundering, etc...”.

## 2.2 The external audit as a means of prevention and deterrence

An effective external audit certainly has an undoubted deterrent effect and helps to prevent criminal acts from being committed by public officials.

It is in this field of prevention that the SAIs claim an active part in protecting national and Community financial interests against fraud, corruption and, in some cases, money-laundering.

“Audits carried out by the SAI aim at revealing any irregularity, intentional or not. Therefore, combating fraud, corruption or money-laundering does not constitute a separate objective.” (GR)

“The strong external audit function...is an important element in the framework to counter fraud, corruption and money-laundering in the public sector, by providing a deterrent effect and oversight ... The fact that an audit is carried out acts as a deterrent.” (UK)

“The SAI’s task includes examining the adequacy and effectiveness of federal internal control systems and to check the extent to which applicable legislative regulations and administrative rules, such those on contract awarding, effectively prevent corruption and other irregularities.” (GE)

“The statutory role of the Court is not fraud prevention but its action has



an undeniable effect on this.”(BE)

“Both the Annual Report and the Motions and Notes of the Tribunal de Cuentas are useful instruments for the prevention and prosecution of corruption, fraud and money-laundering in the public sector.”(SP)

“*La Cour des comptes européenne*, même si elle n’a pas une compétence directe dans la lutte contre la fraude et la corruption, joue un rôle important pour ce qui est de leur prévention. Par contre, la domaine du blanchiment de l’argent reste tout a fait en dehors de son action...Les responsabilités de la Cour dans le domaine de la fraude et corruption découlent, pour ce qui est de la prévention, du Traité CE.... La Cour remplit une fonction très importante sur le plan de la prévention des fraudes et corruption qui se déroule a partir soit de l’activité d’audit, soit de son activité consultative.”(ECA)

“On the basis of the powers of the Court in the areas of financial and performance auditing, the Court may engage in (audit) activities to promote the prevention against fraud and corruption.”(NE)

“The audit carried out by the Court of Auditors is certainly a deterrent against acts of fraud, and corruption by public officials. This deterrence is particularly important in areas where the Court carried out an ex ante audit, as it does with public tenders in excess of euro 5 million or supplies worth more than euro 500,000.” (IT)

### 2.2.1. Methods of performing audits

The replies to the questionnaire also reveal a number of specific ways of performing audits to help protect public financial interests against criminal acts a priori.

#### **Assessment of internal control/audit**

Having emphasised that “a system of strong internal control within departments and agencies helps protect the financial interest of public entities and especially prevent, or at least, hamper corruption”, the German SAI draws attention in particular to ascertaining “the existence of internal control and the compliance with existing legal provisions in the course of its regular audit work.”

The Danish SAI deems it important “to ensure that internal controls are established and carried out”. This also forms part of the normal duties performed by the British NAO: “in the course of our financial audit work we

consider the controls in place within bodies spending public money to prevent misconduct and the misuse of public money.”

### **Assurance of regularity**

In even more general terms, it is the assurance of regularity itself – by which is meant that money expended has been applied to the purpose for which the grants made by Parliament were intended to provide and that the expenditure conforms to the authority which governs it – which implicitly acts as a deterrent, considering that “by definition, a fraudulent or corrupt transaction cannot be regular” (UK NAO).

### **Planning controls and audits**

Another way of protecting public financial interests through auditing is in the planning and performance of audit work, on the understanding that it is the responsibility of management to prevent and detect fraud, and an audit cannot be expected to detect all errors or instances of fraudulent or dishonest conduct.

“We plan, perform and evaluate our audit work so as to have a reasonable expectation of detecting material misstatements in the financial statements arising from fraud or error... To ensure that we have a reasonable expectation of detecting fraud, we use competent personnel, assessment and testing of controls, substantive testing of transactions and a full understanding of the entity being audited” (UK NAO).

With regard to planning audits, it is also essential to identify in advance the areas that are “at risk”, so that preventive action can be taken where it is most required.

“La Cour tient compte des risques majeurs de fraudes et corruption existant dans certains domaines pour programmer ses controles et pour lancer, le cas é chéant, des audits spéciaux visant l’individuation et correction de faiblesses dans la gestion mise en exergue par de telle manifestations.” (ECA)

Also the Tribunal de Cuentas « detects the areas in which special risks of corruption, fraud and money-laundering exist » (SP).

### **Reporting**

Another way of combating fraud and corruption forms part and parcel of the normal functions of all the SAIs: reporting (to Parliament, to the

authorities being audited, and to other authorities as required by national legislation) on the findings of the controls and audit work performed, and particularly by identifying instances where fraud and corruption is suspected.

As the European Court of Auditors recalls “l’obligation spécifique de signaler toute irrégularité détectée lors des audits... ca va de soi, que tout cas de fraude et /ou corruption détectée est signalée aux autorités compétentes”, including OLAF (the European Anti-Fraud Office) with which the Court “maintient des échanges réguliers d’informations.”

The Austrian Rechnungshof “reports directly and at any time (annual report, special report) on criminal/illegal actions of public official of the audited bodies to the competent disciplinary body (e.g.: Federal Ministry, local government) and the federal/regional parliament.”

The Tribunal de Cuentas “in the annual reports and the special reports... sends to the Parliament... the results of the audit... in the areas and cases of corruption, fraud and laundering of public funds.” In these reports, “also the results obtained in order to correct infractions, abuses or irregular actions detected by the Tribunal... will be pointed out...” (SP)

“The Comptroller and Auditor General reports to Parliament’s Committee of Public Accounts on matter of significance, including, where appropriate and material, the unlawful use of public finances”. “This can include in depth reports on systemic or case-based fraud and fraud – related issues, to identify lessons to be learned and good practice guidance to the audited entities and the central public sector.” (UK)

The Netherlands Court “has a professional responsibility to detect and report cases of fraud that have a material impact on the financial statements of the ministries.”

The German SAI may “apart from its annual report addressed to the two Houses of the Federal Parliament and to the Federal Government, at any time report on issues of special importance or provide advice on the basis of its audit experience. Special reports issued under these powers serve to draw attention to audit findings and conclusions in order to support decision-making by Parliament and Government both in budgetary and other matters.” (GE)

### **Other procedures to prevent unlawful activities**

Lastly, there are the following procedures mentioned by a number of SAIs that help to prevent unlawful activities from being committed by public officials.

- a) “Audits of the integrity policies of central government and the implementation of these policies.” (NE)
- b) “Audits of the performance of Institutions with a role of detecting, investigating and prosecuting financial crimes.” (NE)
- c) “Cooperation with the competent authorities and the criminal justice system where appropriate.” (UK)
- d) “Working with government departments to ensure sound systems of control and accountability in the central public sector.” (UK)
- e) The German SAI “cooperates with government ministries, e.g. to advice them on the effectiveness of control systems. In such cases, it will nevertheless take care to make sure not to blur the borderline between the responsibilities of the executive branch and the external audit functions.” (GE)
- f) “Being represented on a range of professional bodies which are responsible for drawing up accounting and auditing standards and guidance.” (UK)
- g) “Working with the central public sector and audited entities in a range of fora (audit committees, steering committees, panels, working groups, conferences, seminars) in the promotion of education and guidance on good governance, counter fraud, anti-corruption and money-laundering.” (UK) For example, the German Federal Court is a member of a “working group on public works established by the FCA and its Lander counterparts. Fighting fraud and corruption is a part of the remit of this working group.”
- h) “Issuing guidance on issues related to fraud and corruption based on SAI’s expertise.” (UK) In this connection, the German Federal Court of Audit, for example, has published “Guidance for combating fraud in connection with public road works” which includes “a list of indicators suggesting the occurrence of corruption in connection with public work contracts.”
- i) “Promoting Parliamentary/Governmental measures to improve economic-financial management regarding corruption and fraudulent actions or preventing public money-laundering.” (SP)
- j) “Making recommendations on civil or disciplinary measures.” (AU)
- k) “Where appropriate, the German SAI also suggests that further steps be taken or that the matter in question should be investigated

further.” (GE)

- l) “Giving advice on regulations.” (DE). For example, the functions of the European Court of Auditors includes “activite consultative, par rapport au processus decisionnel concernant les dispositions communautaires de caractere financier, qui ont trait, entre autre, a l’action a l’encontre de la fraude et de la corruption.”

### 2.2.2. The SAIs having judicial functions

A particular contribution to preventing fraud and corruption is theoretically connected with the judicial activities relating to the administrative/accounting responsibilities of certain SAIs (Spain, Portugal, Belgium, Italy and Greece, among those who replied to the questionnaire).

The deterrent effect of these judicial activities is inherent in the possibility which they have to order damages to be paid to cover the loss of public finances as a result of fraud or corruption committed by civil servants and, in Spain, by “collectors of aids or public subsidies”.

It should be emphasised that the same act can fall within the jurisdiction of the SAIs as well as the criminal or civil courts, or be dealt administratively.

## 3 The obligation of the SAIs to report unlawful acts of a criminal nature

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When, in the course of its audit work, a SAI is apprised of any facts or acts that might possibly constitute criminal offences of fraud, corruption or money-laundering, it is required to report this to the prosecuting authorities.

This is mandatory according to numerous replies to the questionnaires, based on the generally applicable principle that all civil servants and public officials are required to report to the prosecuting authorities any suspected cases of a criminal nature.

For example, in Belgium the “Code of criminal procedure provides that any public authority that is aware of a crime or an offence should report it to the judicial authorities and provide them with the relevant information and

documentation.”

In Austria, “the Rechnungshof – like any other public body – is obliged to notify to the public prosecutor facts of suspected criminal/illegal actions being discovered on the occasion of its audit activities.”

In Spain, “if the facts create criminal liability, the case is sent to the Criminal Courts through the General Office of the Public Prosecutor of the State. A Special Unit of the Office of the Public Prosecutor aimed at the fight against corruption and fraud has been set up.”

In Greece, “whenever a criminal offence is detected during routine audit work, the case is communicated to the competent Public Prosecutor’s Office.”

In Portugal, “where, during the exercise of its powers, situations of fraud, corruption or money-laundering are detected, they are communicated to the competent authorities.”

Also in the United Kingdom, “civil servants are obliged to take appropriate action when they encounter cases of fraud or corruption” and “government departments are required to report all instances of fraud to the Treasury;” “the National Audit Office has appropriate provisions for internal reporting of, and action on, fraud.”

In Germany, “the SAI will, as a rule, provide information about evidence suggesting the commission of a punishable offence either to the authority concerned, to the latter’s supervisory authority or directly to the public prosecution service. Audit reports or other audit related documents will be made available to the prosecution authority only where there is no cause for concern that individual’s personal rights may be infringed.”

Lastly, the European Court of Auditors, “si des cas de fraude et corruption sont découvertes lors d’un contrôle, transmet immédiatement l’information aux autorités compétentes.”

## **Section 2.3**

# **Initiatives for fighting corruption: Practical case of the Brazilian SAI**

20th UN/INTOSAI Symposium  
Vienna, Austria  
11 – 13 February 2009





## Summary of 2.3 Initiatives for fighting corruption: Practical case of the Brazilian SAI

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Between 2003 and 2005, the Tribunal de Contas da União – TCU (Brazilian SAI) conducted audits in 30 cities of the State of Minas Gerais to investigate irregularities denounced by the press regarding misuse of federal resources. The investigations found that the corruption scheme typically involved fraud groups that targeted Federal Government budget allocations for public works in cities where they had a deal with the mayor. The fraud groups would make federal resources available for the cities, based on projects of public works that the groups themselves prepared for the city halls. The city halls, in turn, organized simulated bidding processes because there was no real competition among companies that applied as candidates to execute the works, since such companies were also linked to the fraud groups. These companies were almost always the same companies in all the cities accused of fraud and, during the audits, it was verified that they were only formally constituted and had no actual operation capacity to carry out the public works.

The company that won the contract only issued the receipt to validate the withdrawal of resources from the bank; the work was not executed or the employees of the city hall executed the works using material of very bad quality and reducing the size of the object to be built in relation to the object that was listed. Thus, part or even the totality of the budgetary resources were embezzled from the federal treasury and ended up with the fraud group.

In the investigation, there were four audit teams, each with two auditors. These teams executed the work in three stages:

1. Cities were visited with the purpose of inspecting the public works and examining the documents at the city halls.
2. Documents from the bidding processes were compared as well as the names of the participating companies.
3. Surveys were carried out in the federal agencies that made the funds available.

Only by jointly analyzing the data collected by the different audit teams, the companies involved in the bidding fraud was shown. The action carried out by TCU showed that, to fight corruption, it is necessary to:

- a) encourage social control
- b) use mechanisms other than the ones normally used until now by

TCU incompliance audits

- c) avoid focusing on the execution of the expenses when carrying out audits of frauds in budgetary funds and extend the examination to all the stages of the budget cycle
- d) promote cooperation among the agencies that fight corruption

## Initiatives for fighting corruption: Practical case of the Brazilian SAI



**José Reinaldo da Motta**

Federal Auditor,  
The Federal Court of Account, Brazil

Between 2003 and 2005, the Tribunal de Contas da União – TCU (Brazilian SAI) carried out control activities in 30 cities of the state Minas Gerais to investigate irregularities denounced by the press regarding misuse of federal resources that were transferred to those cities under the scope of agreements.

Initially, 121 agreements were analyzed, totaling 5 million euros. A sole fraudulent modus operandi was identified in 23 cities, affecting close to 50% of the agreements.

### 1 How did the corruption scheme operate

First, the fraud group managed to include in the Federal Government budget allocations for public works in the cities where they had a deal with the mayor.

After that, in some cases in which they also counted on the help of technicians from the ministries, the fraud group managed to make the federal resources available for the cities, based on projects of public works that the group itself prepared for the city halls (all of the cities were small).

The city halls, in turn, organized simulated bidding processes because there was no real competition among companies that applied as candidates to

execute the works, since such companies were also linked to the fraud group.

These companies were almost always the same companies in all of the cities and, during the audits, it was verified that they were only formally constituted and had no actual operation capacity to carry out the public works. The company that won the false dispute only issued the receipt to validate the withdrawal of the resources from the bank; the work was not executed or the employees of the city hall executed the works using, almost every time, material of very bad quality and reducing the size of the object to be built in relation to the object that was listed in the project that had been presented to the ministry in order to obtain the transfer of financial resources.

Thus, part or even the totality of the budgetary resources were embezzled from the federal treasury and ended up with the fraud group.

The city halls rendered accounts to the ministries in charge of transferring the resources, stating that they had executed the object of the contract and certifying the expenses with the receipts (invoices) issued by one of the companies that were a part of the fraud scheme.

## 2 How were the audits carried out

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There were four audit teams, each with two auditors. These teams executed the work in three stages.

In the first stage, the cities were visited with the purpose of inspecting the public works and examining the documentation at the city halls. In this same stage irregularities were identified (non-execution of the object or poor quality in the execution), but the fraud scheme was not identified.

In the second stage, documents from the bidding processes in the thirty cities were compared and the names of the participating companies and this was when the first indications of fraud arose:

- a) identification of a same group of companies participating in bidding processes in 23 of the 30 cities that were audited;
- b) documents issued by different city halls seemed to have originated from the same source (for example, identical spelling mistakes and identical text format);

- c) in some cases, in the bidding process the company was represented by a proxy that was also present in another city representing a different company; this indicated that a same group used the name of several companies;
- d) an analysis of the copy of the checks issued by the city halls to pay for the public works in some cases were not written out to the company that, in thesis, would have executed the work;
- e) visit to selected companies showed that they did not exist (false addresses) or that they had no operational capacity (no employees, for example);
- f) surveys were carried out in the Commercial Registry and it was identified that many of the companies had been created recently.

Finally, surveys were carried out in the federal agencies that made the funds available for the cities and the fragility of the controls was then detected.

Only by analyzing jointly the data collected by the different audit teams were we able to show the coordinated action of the companies involved in the bidding fraud.

### 3 Joint actions of TCU and other government agencies

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The TCU determined that the Ministry of Planning redesign the whole process of voluntary transference of budgetary funds to states and municipalities, including new mechanisms of control and transparency. One of the TCU decisions is that the name of the city, the name of the work, the amount allotted (spreadsheet of costs) and the name of the congressman who allotted the amount be available to the public via internet. The plan is that the new procedures be fully implemented by 2009.

The Court also sent the findings to the Public Prosecutor Office and to the Federal Police, and subsequently cooperated with these agencies to reach an understanding of the modus operandi of the fraudsters.

The Federal Police performed additional investigations and, in June 2008, carried out 231 orders for search and seizure (two of which in cabinets of congressmen charged with heading the group) and 38 warrants for temporary

arrest, including mayors and employees of ministries.

According to the Police, the mechanism of fraud, which the Court first identified in the State of Minas Gerais, already existed in other five states. It is estimated that the damage caused to the public treasury by the group could reach 250 million euros.

## 4 Knowledge acquired and benefits

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Besides being a blow against corruption and allowing the recovery of millions of euros for the public treasury by means of administrative and judicial conviction, the action carried out by TCU showed that, to fight corruption, it is necessary to:

- a) encourage social control (one example of social control is in the fact that the audit was initiated by a denunciation published in a newspaper);
- b) use mechanisms other than the ones normally used until now by TCU in compliance audits, as in the case of the joint examination of the data collected in each audit and the search for broader sources of information (like the surveys in the commercial registries and the notaries);
- c) when carrying out audits of frauds in budgetary funds, avoid focusing on the execution of the expenses and extend the examination to all the stages of the budget cycle, as in the analysis performed in the present case;
- d) promote cooperation among the agencies that fight corruption, as in the sharing of information gathered in the TCU audit with the Federal Police, which has the tools and legal mandate for investigating the crimes.

## **Section 2.4**

# **Combating international money laundering and corruption in Russia**

20th UN/INTOSAI Symposium  
Vienna, Austria  
11 – 13 February 2009





## Summary of 2.4 Combating international money laundering and corruption in Russia

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Russia has entered the next stage of socio-economic modernization, achieving a higher level of life quality and gaining a global competitive edge for the national economy. Enhancing the efficiency of government activities that regulates these socio-economic processes and combating corruption have become of prime importance.

The National Anti-Corruption Plan that proposes a set of consistent measures contained in an anti-corruption package was adopted. Russia also made amendments to the Criminal Code and will allow for such punitive measures as forfeiture of property to be applied to corrupt officials.

The Anti-Corruption Policy Package is primarily focused on the prevention of corruption occurrences and preventive maintenance within the legal system. It provides for a unification of rights and responsibilities of government officials as well as for eliminating unreasonable prohibitions and restrictions in the area of economic activities.

As part of the National Anti-Corruption Plan, the Accounts Chamber developed its own Action Plan where special priority is given to the legal basis for combating corruption. Within this project, amendments to the Basic Law on Government Contracts were prepared. These amendments, suggested by the Accounts Chamber, are focused on developing an integrated federal contract system with a unified planning, budgeting and administrative system.

The global financial crisis also contributed to the adjustments in the work of the Accounts Chamber. The Accounts Chamber has reorganized its work so as to perform real-time monitoring of state financial resources used in three key areas: in banks, in major companies-borrowers and in regions. The Accounts Chamber was also one of the first organizations which, in October 2008, supported the decision on establishing a new INTOSAI Working Group for the development of strategy techniques and government audit under the conditions of the global financial crisis.

The global economic crisis, as well as the adoption of specialized national anti-corruption programs, helps to ensure a higher level of active cooperation on this issue under INTOSAI and other international SAI organizations.



## Combating international money laundering and corruption in Russia



### Sergey Vadimovich Stepashin

Chairman of Russian Accounts Chamber  
/ Former President of the European Organization of  
Supreme Audit Institutions(2002-2005)

Russia has entered the next stage of socio-economic modernization, the goal of which is to achieve a higher level of life quality and to gain a global competitive edge for the national economy. In the meantime, against the backdrop of the global financial crisis, the government's role in regulating these socio-economic processes increases significantly. Accordingly, enhancing the efficiency of government activities and combating corruption become the tasks of prime importance.

**The National Anti-Corruption Plan**, which proposes a set of consistent measures contained in an anti-corruption policy package, was adopted in Russia. For the first time in the legislative practice the concept of corruption per se as defined by the international legal acts and, first of all, by the 1999 Strasbourg Convention, was introduced into the current legislation. Also, in compliance with the international practice, Russia made amendments to the Criminal Code that will allow for such punitive measures as forfeiture of property to be applied to corrupt officials.

**The Anti-Corruption Policy Package** is primarily focused on prevention of corruption occurrences and preventive maintenance within the legal system. With this objective in mind, the government is tightening control over the credibility of information on property and income of government officials, as well as their immediate relatives. In addition to this, the concept of “conflict of interests” is being introduced into the law. Also, we strictly regulate situations

associated with the conflicts of interest, for example, potential employment opportunities for a government official at a for-profit organization or failing to report known cases of corruption to authorized persons.

It is very important to defeat the economic roots of corruption, to terminate the excessive powers of executive and municipal authorities and block corruption links in the system of government and business relationships. This is why the Anti-Corruption Policy Package provides for a unification of rights and responsibilities of government officials as well as for eliminating unreasonable prohibitions and restrictions in the area of economic activities.

Anti-corruption laws are based on the necessity to pursue a common and integrated policy in this area. The Head of State will personally oversee the fight against corruption through the Council established specifically to combat corruption; the Chairman of the Accounts Chamber is a member of this Council. Functions and positions of all government authorities involved in combating corruption, including the Accounts Chamber, are specified within the established law.

During recent years, the Accounts Chamber has been actively participating in developing an integrated nationwide system for combating corruption. Our tasks are not limited to the exposition of corruption crimes in the field of budget, federal property and national resource management. Thus, we carry on consistent work to **improving legislation**, which will strengthen relations with other law-enforcement and regulatory agencies, as well as on developing measures which will prevent internal corruption risks.

As a part of the National Anti-Corruption Plan, the Accounts Chamber developed its own Action Plan where special priority is given to the legal basis for combating corruption. Within this project we prepared amendments to the Basic Law on Government Contracts. The system of government contracts in Russia is extremely bureaucratized which creates a positive environment for corruption.

Furthermore, in the conditions of the global financial crisis, excessive bureaucratization hinders both the implementation of government processes aimed at the motivation of economic activity and the support for strategically important branches of economy. Amendments to this law suggested by the Accounts Chamber are focused on developing an integrated federal contract system with a unified planning, budgeting and administrative system. As a draft project, the amendments were presented to the President and the Prime-Minister and were approved by them.

Another focus of the anti-corruption activities is to reduce administrative

pressure that regulatory agencies themselves put on the economy. In this respect, the Accounts Chamber is engaged in work on introducing modifications to the Budgetary Code that are aimed at developing an integrated system of state financial control in Russia and more distinctive delineation of powers of internal and external financial control bodies. That will allow us to decrease redundancy in the work of these financial control bodies and, consequently, to reduce the total number of audit inspections.

The Accounts Chamber made suggestions on optimizing the activities of numerous regulatory agencies, in order to reduce the administrative pressure they put on the economy. These suggestions were considered during the preparation of draft legislation that makes provisions for clear and strict procedures for governmental authorities to arrange and perform audits on small and medium-sized enterprises.

Another high-priority task in this area is to further improve the legislative base in terms of its liability for violating budgetary regulations and, ultimately, for the inefficient and unproductive use of budgetary funds. The Accounts Chamber also gives due consideration to the improvement of legislation that regulates the system of **federal property management**. One of the priorities of our activities in this area is to improve the accounting of the Treasury's property and the way in which it is documented within financial statements.

The Accounts Chamber also participates in improving bankruptcy legislation to tighten the liability for setting up fraudulent bankruptcy and use of bankruptcy as a tool for property redistribution (**corporate raid**). We have established and are actively running the Committee that combats corporate raid. Presently, governors of a number of regions initiated audit inspections on the strategically important enterprises owned by the state that are undergoing bankruptcy or a restructuring process.

Currently Russia is implementing large-scale **investment projects** with the participation of state funds. This being said, private-public partnership mechanisms have not been fully developed at the federal legislative or applicative levels, which creates conditions for financial abuse and corruption. The object of our much concentrated attention is implementation of the two most resource-intensive with the highest international significance investment projects: preparation for the 2014 Winter Olympics in Sochi and preparation for the 2012 APEC Summit in Vladivostok.

For example, our recommendations were accepted for the optimization of the general financing structure for the Sochi Olympics project, which allowed us to precisely divide flows of funds allocated for construction of athletic facilities and modernization of regional and municipal infrastructure. (By the

way, in this case we used the experience of our British colleagues, who are supervising the preparations for the 2012 Summer Olympics in London.)

Under these private-public partnership mechanism development projects in Russia, we created a number of **state corporations**. Their task is to consolidate efforts of government and business in the strategically important areas of economic development, for example, in the aeronautical engineering or nanotechnology industries. For the most part, the legal form of these corporations is a non-profit organization which complicates immediate control over them by the government. At the moment the Accounts Chamber signed relevant documents with almost all of those corporations on the procedures for the auditing of their financial and operational activities. Our primary concerns, at this point, are efficient management of financial resources and estimating risks when using budgetary funds.

The **global financial crisis** also contributed to the adjustments in the Accounts Chamber work. In Russia, like as in other countries, we are implementing large-scale anti-crisis programs designed for allocating additional funds to the economy at the amount of over 10% of GDP. Recipients of state financial support funds are a broad spectrum of banks and enterprises from all forms of ownership. In this respect the Accounts Chamber reorganized its work so as to perform real-time monitoring of state financial resources used in three key areas: in banks, in major companies-borrowers and in regions.

Regional audit institutions are of great assistance to us; they provide us with information on how efficiently state financial support funds are used at the local levels. Activities in this area are coordinated by the Association of Audit Institutions established in 2000. Here high emphasis is placed on a methodological aspect: on arranging seminars and research/practice conferences and on sharing practical experiences of audit institutions participating in anti-corruption activities.

The key aspect of the global economic crisis is its magnitude, i. e. it affects almost all national economies of the world. Although every country has its specific character, manifestations of the crisis are in many ways similar. For instance, significant support provided by the government to banks and other financial institutions by no means always results in the improvement of lending conditions for enterprises and individuals. In connection with this, the Accounts Chamber was one of the first organizations who, in October last year, supported the decision on establishing a new INTOSAI Working Group for the development of strategy techniques and government audit under the conditions of the global financial crisis.

Development of such strategy techniques is becoming more and more

important in our **cooperation with law-enforcement agencies**. Thus, in association with our colleagues we currently work on the development and implementation of the indicator system that will allow for evaluating the level of corruption risk within the federal and municipal administration bodies. Also, we plan to develop a method for an external quality evaluation of the internal audit systems and management of the institutional risks of the budget fund recipients, including those involved in the private-public partnership.

The final result of our work in this area should be the development of the techniques that will allow us on a regular basis to carry out a performance audit of the efficiency of use of such budgetary funds allocated for implementation of the National Anti-Corruption Plan. We believe that this will create a basis for a system which will monitor the efficiency of the state anti-corruption policy.

In the meantime, the Accounts Chamber is implementing a set of measures aimed at minimizing **internal corruption risks**. An approved methodology for designing our activities stipulates that a working plan should, in the first place, include issues associated with budget implementation and solutions for the most urgent problems of the socio-economic development of the country. Alterations to the audit schedule, including those introducing additional objects, are acceptable only when there is relevant substantiation as considered by the Board. In accordance with the international anti-corruption standards all audit employees must sign an agreement to adhere to a series of documents, which now includes the code of ethics of the audit institution employee. Our Anti-Corruption Plan also includes such measures as the establishment of a task force for internal anti-corruption control, arrangements for the rotation of auditors and eliminating possibilities for repeated involvement of the same auditors in auditing the same objects.

The most important component of the Accounts Chamber anti-corruption activities is strengthening **international cooperation**. We work in close contact with the specialized organizations, such as the Group of States against Corruption (GRECO), FATF and the Egmont Group, and promote the spread of international anti-corruption standards in Russia. The Accounts Chamber State Research Institute for System Analysis, as a part of the United Nations Development Program in Russia, implemented a pilot project aimed at the expansion of the national potential in the area of expert anti-corruption examination of the legislation and improvement of the coordination between government and society activities within the anti-corruption sphere.

In this area the Accounts Chamber of Russia works diligently to activate SAI partnership under INTOSAI. Upon our initiative, the 17th INTOSAI Congress, held in Korea in November 2001, adopted a resolution which

established an INTOSAI Task Force on the Fight against International Money Laundering. The first meeting of the Task Force took place in Moscow in September 2003. In June 2006, the Accounts Chamber of the Russian Federation arranged an international symposium entitled: *The Fight against International Money Laundering: development and execution of political measures and procedures. SAI tasks*. The Symposium provided for an opportunity to discuss important issues related to participation of state bodies and international organizations (UN, World Bank, Interpol, etc.) in implementation of programs on the fight against money laundering as well as the function and position of SAI in this work. By the decision of the 19th INTOSAI Congress, which took place in Mexico in November 2007, the Task Force was reorganized into a Working Group; its areas of interests were extended and now include anti-corruption issues. At the present time it is called: The Working Group on the Fight against International Money Laundering and Corruption.

On a bilateral basis, the Accounts Chamber of the Russian Federation signed a cooperative agreement with the SAI of 58 countries; the sharing of our experiences, in the area of fighting corruption, with our colleagues is one of the fundamental clauses in those agreements.

Thereupon I would like to put particular emphasis on a very productive experience of cooperation with our counterparts from the UK National Audit Office. In June 2007, we prepared a joint report, *The Role of the Accounts Chamber of the Russian Federation in Implementing State Anti-Corruption Strategy*, where we developed concise recommendations on the efficiency enhancement for our work in this area, based on analyzing the two countries' experiences and the best of global experience.

To summarize I would like to mention that the global economic crisis, as well as adoption of specialized national anti-corruption programs in numerous countries, help to ensure a higher level of active cooperation on this issue under INTOSAI and other international SAI organizations.



## Section 3

# Advisory audits and the provision of management advice to promote transparency and accountability to prevent corruption

- 3.1 The fight against corruption: The role of the Accounts Chamber of the Russian Federation in the realisation of the national anti-corruption strategy
- 3.2 The role of the Netherlands Court of Audit in the Dutch system development of fighting fraud and corruption
- 3.3 Bridging ethical collapse in public organizations of Poland
- 3.4 The role of internal audit in preventing and detecting misuse, fraud and bribery



## Introduction to Section 3

### **Advisory audits and the provision of management advice to promote transparency and accountability to prevent corruption**

Section 3 comprises case reports regarding corruption from Russia, the Netherlands, and Poland as well as a discussion on the importance of the role of internal audit in preventing fraud. A report from Russia acknowledges that, in spite of major reforms in public administration and in governance structures, the magnitude of corruption and fraud in the sphere of budget spending is extremely high. In response, the Chamber of Accounts of the Russian Federation (the Account Chamber) has made important contributions to this fight. The Chamber believes that more accurate information must be provided to the parliament and the government so that the state budget can be spent appropriately. During audits, moreover, auditors should maintain professional skepticism since identifying fraud is more difficult than identifying error. A degree of unpredictability and randomness should be incorporated into the auditing process as the fraud could be camouflaged in a more clever fashion if the client knows when the auditor will test.

In the Netherlands, the basic approach of the Netherlands Court of Audit towards fighting fraud and corruption is the promotion of integrity of the public sector as a whole. In 2009, the Court of Audit carried out a government-wide audit to assess the current state of integrity management at all ministries in the Netherlands, which was a follow-up to the survey of 2004. Previous audit reports stressed the importance of measures and regulations designed to prevent unethical conduct at the ministries. Accordingly, hard controls such as preventive rules were introduced but with time, more attention was brought to soft controls to ensure that the ministries internalized the theme of integrity.

The focus of the case report from Poland is on examples of ethical collapse which have been identified and analyzed for a number of public organizations in Poland. Factors that have contributed to such collapse are many, but the most significant ones include pressure, fear and silence, lack of ethical climate in human resource management, weak internal controls, and weak external supervision. The report emphasizes the importance of ethics training for both managers and employees. A culture focused on ethics is considered as key to prevent misconduct from happening.

Another important aspect covered in this paper is the role of internal

**SECTION 3** Advisory audits and the provision of management advice to promote transparency and accountability to prevent corruption

auditors in helping management to design and implement strong control systems and in providing objective feedback on the effectiveness of relevant controls in operation. In this regard, the Institute of Internal Auditors (IIA) provides standards, guidance and training as well as risk management program to support internal auditors in their role in preventing and detecting misuse, fraud and bribery. It is also implementing fraud training courses and fraud hot topics webinars to support its members in developing the necessary knowledge and skills to address the risks of fraud and corruption in their organizations.

## **Section 3.1**

# **The fight against corruption: The role of the Accounts Chamber of the Russian Federation in the realisation of the national anti-corruption strategy**

Russian Accounts Chamber  
UK National Audit Office  
2007



## Summary of 3.1 The fight against corruption: The role of the Accounts Chamber of the Russian Federation in the realisation of the national anti-corruption strategy

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Corruption is ubiquitous and insidious, easily able to undermine any democratic system, resulting in reduced economic growth as well as lowering public confidence in the State. Fighting corruption and fraud has long become not only a national but also an international issue. Tackling the topic of corruption is a long term issue and requires continuous, joint effort from all parties. Therefore, it is extremely important to create an international common cooperation of law-enforcement agencies, supreme audit institutions and other financial oversight bodies to fight corruption.

In societies in transition, such as Russia, the magnitude of corruption and fraud in the sphere of budget spending is unfortunately very high. In recent years, Russia has made giant strides in building a modern open economy. There have been major reforms in public administration and in governance structures to help improve the efficiency and effectiveness with which the public, private and non-government sectors operate. However, the levels of corruption in Russia are still too high and pose a serious threat to the State and the public. Russia recognizes that more actions need to be taken to prevent this.

The Chamber of Accounts of the Russian Federation (the Chamber) is already contributing to this fight but intends to do even more. The Chamber believes that more accurate information must be provided to the parliament and the government so that the state budget can be spent appropriately. Creating anti-corruption methods and informing law enforcement bodies, when cases of suspected fraud or corruption are identified during audits, are also on the agenda.

During audits, the auditors are expected to maintain professional scepticism as the risk of identifying fraud is lower than the risk of identifying error; there will be attempts to conceal the fraud whilst errors will be apparent. Therefore, these possibilities and risks must be discussed within the auditing team as well as evaluation of the findings against the risk that fraud could be disguised within the identified errors. A degree of unpredictability and randomness must be incorporated within the testing too as the fraud could be camouflaged in a more clever fashion if the client knows when the auditor will test.

In this way, the Chamber is playing its role in the realization of the

national anti-corruption strategy; it looks forward to engaging with partner organizations to take these initiatives forward, to share experiences and new ideas and to ensure that efforts are coordinated effectively and efficiently.



# The fight Against Corruption: The role of the Accounts Chamber of the Russian Federation in the realisation of the national anti-corruption strategy

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Russian Accounts Chamber / UK National Audit Office

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## Preamble

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Corruption is ubiquitous, insidious and has many faces. It undermines democratic institutions, reduces economic growth and erodes public confidence in the State. It penetrates all levels of society occurring at municipal, regional, national and international levels. The World Bank estimates that the costs incurred by corruption account for more than five per cent of the global gross domestic product. Fighting corruption and fraud has long become not only a national but also an international issue. The spread of globalisation, alongside its positive outcomes, has also brought a considerable number of negative developments, including the internationalisation of crime. Tackling the issue of anti-corruption requires a long-term, continuous effort, including such labourious undertakings as the implementation of profound reform of administrative and judiciary machineries, and the development and adoption of effective anti-corruption legislation. Hence, it is extremely important to create an international common front of law-enforcement agencies, supreme audit institutions and other financial oversight bodies to fight corruption.

In societies in transition, including Russia, the magnitude of corruption and fraud in the sphere of budget spending is unfortunately high. Although in recent years, Russia has made giant strides in building a modern open economy

and there have been major reforms in public administration and in governance structures to help to improve the efficiency and effectiveness with which the public, private and non-government sectors operate, the levels of corruption in Russia are still too high and pose a serious threat to the State and the public. Russia recognises that more needs to be done to increase the capacity of the public bodies to get things done, to ensure that citizens can hold public bodies to account and to demonstrate that public bodies are responsive to the needs and rights of citizens.

The Chamber of Accounts of the Russian Federation (the Chamber) in Russia is already contributing to this fight but intends doing even more to provide the public, the parliament and the government with more timely and accurate information on the way in which the state budget is spent, to identify ways in which controls can be tightened to make corruption less easy, and to inform law enforcement bodies when cases of suspected fraud or corruption are identified during audits.

This paper describes what is currently being done in Russia to fight corruption, where some of the weaknesses remain and what the Chamber intends to contribute. The Chamber looks forward to engaging with partner organisation to take these initiatives forward, to share experiences and new ideas and to ensure that efforts are co-ordinated effectively and efficiently.

## Part 1: Russia is undertaking serious efforts to fight corruption

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Combating corruption ranks among the top priorities for the President, Parliament and Government of the Russian Federation. The institutional and legal anti-corruption mechanisms are being developed, and mechanisms for cooperation among international organisations engaged in fighting corruption and financial irregularities are in place.

### Milestones:

June 2002, Russia through its National Financial Intelligence Unit (Federal Service for Fiscal Monitoring) became a member of the Egmont Group

June 2003, Russia became a full member of Financial Action Task

Force (FATF)

March 2006, Russia ratified the UN Convention on Anti-Corruption<sup>1</sup>

June 2006 the Council of Europe's Criminal Law Convention on Corruption was ratified<sup>2</sup>

February 2007 Russia joined the Group of States against Corruption (GRECO), established by the Council of Europe<sup>3</sup>

Important government bodies have been established in Russia to develop and coordinate the implementation of anti-corruption activities.

### Specialised coordination structures

From November 2003 to February 2007, the functions of a specialised coordinating body for developing and implementing the national anti-corruption strategy were undertaken by the Anti-corruption Council under the President of the Russian Federation. The Council was mainly charged with providing support to the President in defining public policy priorities in the sphere of anti-corruption as well as in the implementation of such policy. The Council comprised of the Head of State, the Chairpersons of both Chambers of Parliament, the Chairman of the Russian Federation (RF) Government, the Procurator General as well as the heads of the three highest courts of the Russian Federation – the Constitutional Court, the Supreme Court, and the Supreme Arbitration Court<sup>4</sup>.

After the ratification of the UN Convention on Anti-Corruption adopted on 31 October 2003 and the Council of Europe's Criminal Law Convention on Corruption adopted on 27 January 1999, the Anti-corruption Council under the President of the Russian Federation was replaced by a specialised Interdepartmental Working Group whose main task was to develop proposals for making the necessary amendments in the legislation of the Russian Federation required to implement the provisions of the Conventions, including the creation of a specialised body authorised to coordinate anti-

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1 Federal law No. 40-FZ "On the ratification of the UN Convention on Anti-Corruption" passed on 8 March 2006

2 Federal law No. 125-FZ "On the ratification of the Council of Europe's Criminal Law Convention on Corruption" passed on 25 July 2006

3 The Group of States against corruption was established in 1999 by the Council of Europe to monitor States' compliance with the organisation's anti-corruption standards. The Russia Federation became the 44<sup>th</sup> member State of the GRECO.

4 RF President's Decree No. 1384 "On the Anti-corruption Council under the President of the Russian Federation" issued on 24 November 2003 (ceased to be in force)

corruption efforts<sup>5</sup>.

### **The State Duma Commission on Anti-corruption**

A special State Duma Commission on Anti-corruption has been established to operate at the parliamentary level. The Commission sees its most important task as harmonising Russia's anti-corruption legislation with the international anti-corruption norms and reviewing current and new legislation for the presence of provisions directly or indirectly promoting corruption. The Commission has also established an Interdepartmental Working Group to develop amendments to the Criminal Code and Criminal Procedure Code to make them more effective in dealing with fraud and corruption.

### **The Office of the Procurator General of the Russian Federation**

The Office of the Procurator General of the Russian Federation is the most important government institution charged with combating corruption. A special department of the Office is responsible for coordinating the anti-corruption efforts of law-enforcement bodies. The Office of the Procurator General is increasing efforts to detect and successfully prosecute those found guilty of corrupt or fraudulent practices.

### **The federal executive bodies**

The Ministry of Internal Affairs, Federal Security Service, Ministry of Justice, Federal Service for Fiscal Monitoring, Federal Customs Service, and Federal Service for Drug Trafficking Control as well as other law-enforcement and executive bodies also participate in anti-corruption efforts within their respective competencies. The Ministry of Finance of the Russian Federation and the Ministry of Economic Development and Trade are increasing their efforts to ensure better management of public money and assets.

### **The judiciary**

The courts of the Russian Federation are legally empowered to punish persons indicted on the charges of corruption. The Constitutional Court of the

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5 RF President's Decree No. 129 "On the Creation of Interdepartmental Working Group to Develop Proposals for Incorporating in Legislation of the Russian Federation Provisions of the UN Convention on Anti-Corruption Adopted 31 October 2003 and the Council of Europe's Criminal Law Convention on Corruption Adopted 27 January 1999" issued on 3 February 2007

Russian Federation, the Supreme Court of the Russian Federation as well as the Supreme Arbitration Court of the Russian Federation are constantly reviewing and analysing court practices to develop proposals to improve the Judiciary, including improvements in the area of penalties for crimes of corruption. Today, however, the most important objective for Russia is to strengthen the reputation of judiciary bodies and to ensure the guarantees of the courts' independence. It is important for the public to be convinced that the judiciary is really independent in Russia and the law and judiciary are equally applicable to ordinary citizens and those with political and/or financial power.

### **The Accounts Chamber of the Russian Federation**

The Chamber was set up as a legal entity in 1995 by a special federal law, in compliance with the Constitution of the Russian Federation. It is a permanent state financial audit body which has a legal mandate to control the lawfulness and effectiveness of budget spending, to identify breaches of good governance and to protect the rights of citizens by forwarding cases of suspected fraud and corruption to the law-enforcement agencies.

### **Research institutions and specialised higher education establishments (academies) set up by the government bodies**

Many research institutions and organisations set up by government bodies are involved in tackling anti-corruption issues and make significant scientific and expert contributions to the development of practical mechanisms and tools to deal with this social malady. These include: the Russian Academy of Civil Service, under the President of the Russian Federation; the Academy of National Economy, under the RF Government; the Scientific Research Institute for the Issues of Consolidation of Legality and the Rule of Law, under the Office of the Procurator General of the Russian Federation; the Academy of the Federal Security Service of the Russian Federation; and the State Scientific Research Institute of Systems Analysis under the Chamber.

### **The non-governmental sector**

Various NGOs are operating in Russia, including social movements, political parties, and non-commercial research centres who not only study the issue of corruption in Russia and put positive pressure on government bodies but also participate in the development of mechanisms to foster state and community partnerships for fighting corruption. Among the most active participants in this work are the Centre for Strategic Developments, the Centre

for Anti-corruption Research and Initiatives, Transparency International - Russia, the Russian Union of Taxpayers, the Russian Union of Manufacturers and Entrepreneurs, the Chamber of Commerce and Industry of the Russian Federation, and the all-Russia voluntary organisation “Business Russia”. In addition, many social surveys are conducted each year to study perceptions of corruption among the general public and among experts. These projects are being systematically implemented by influential organisations such as Public Opinion Fund (“FOM”), the All-Russia Public Opinion Research Centre (“VTsIOM”), and the “INDEM” Fund.

### Russia actively relies on international support for the implementation of anti-corruption projects at the federal and regional levels

Beginning in 2005, the State Duma Commission on Anti-corruption has implemented a number of projects concerned with the implementation of the UN Convention on Anti-Corruption and the Council of Europe’s Criminal Law Convention on Corruption. These projects are being conducted with the Council of Europe’s support (Technical Co-operation Section, Department of Crime Problems, DG of Legal Affairs) and are funded by the European Commission (European Union Policy Advice Programme)<sup>6</sup>.

For several years, the Ministry of Economic Development and Trade of the Russian Federation, together with the non-commercial fund “Centre for Strategic Developments”, have been actively participating in the implementation of “Administrative reform and civil service reform in the Russian Federation”, a project financially and organisationally supported by the United Kingdom’s Department for International Development (DFID).

One of this project’s outputs consisted in the development of administrative regulations for the executive bodies, aimed at curtailing corruption, as well as developing mechanisms for better cooperation between state and civil society institutions in fighting corruption<sup>7</sup>.

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6 For example, several seminars of Russian and international experts were conducted in 2007 as part of the joint project “Development of legislative and other measures for the prevention of corruption (RUCOLA-2)”, implemented by the Anti-corruption Commission of the State Duma and the Council of Europe. During this seminar, experts from the Centre for Anti-corruption Research and Initiatives, Transparency International – Russia, and the Group of States Against Corruption (GRECO) set out their proposals for developing Russia’s national strategy aimed at the prevention of corruption.

7 For example, in June 2006, a roundtable meeting entitled “Are there any chances to defeat corruption?” was held in St. Petersburg as part of the 10<sup>th</sup> International Economic Forum, with the participation of representatives from government bodies, the business community and NGOs. In September 2006, a meeting on the topic of “Ethics, integrity and

## Part 2: Barriers

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In spite of the obvious successes, Russia faces formidable barriers in the fight against corruption.

### 2.1 Cultural and psychological barriers

#### 2.1.1 A tolerant attitude to corruption among the general public

International experience indicates that corruption may affect any government and the chances of defeating corruption directly depend on the society's immunity against this deadly virus. Although the majority of the Russian citizens are convinced that corruption is widespread among the government and society, large swathes of Russian society do not see corrupt practices as wrong and are unable to recognise manifestations of corruption.

Thus, in 2006, a survey commissioned by the Chamber, part-funded by the United Nations Development Programme, and conducted by VTsIOM found that 23 per cent of respondents could not answer the question 'What is corruption?' and only 45 per cent of respondents regarded bribing a public servant as corrupt.

Furthermore, a study conducted by Public Opinion Fund on 30 November 2006, entitled "The attitude towards corruption among the Russian public," has demonstrated that citizens differ in their attitude toward those who take bribes and those who give them. Thus 70 per cent of respondents condemned the bribe-takers while only 34 per cent reported negative attitudes towards those who give bribes (see Table 1).

Moreover, 54 per cent of respondents did not condemn the bribe-givers because they often found themselves in situations where only the "extra compensation" could prompt officials to perform their duties or to speed up the processing of paperwork or procedure<sup>8</sup>.

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accountability in the public sector: restoring trust in government through the implementation of the "Council of Europe's Criminal Law Convention on Corruption" was held in St. Petersburg as part of the Regional Forum "Building Trust in Government Through Leadership Capacity Building" organised by the United Nations Department of Economic and Social Affairs (UNDESA). As a result of discussion, the need to improve external and internal audit to ensure more efficient organisation and control over management and utilisation of public finance and assets was emphasised.

<sup>8</sup> The document can be found on FOM's official website at [www.fom.ru](http://www.fom.ru)

Table 1

Question	Yes, I do %	No, I don't %	No answer %	Total %
Bribery is one of the forms of corruption. Do you agree, or not, with a statement that practically anyone would take a bribe if given it?	54	39	7	100
What do you think, do most people disapprove of those who take bribes, or not?	68	21	11	100
Do you personally disapprove of those who take bribes, or not?	70	21	9	100
Do you personally disapprove of those who give bribes, or not?	34	54	11	100

Such attitudes may be explained, in part, by a reaction to the economic difficulties faced by many people and the bureaucratic procedures people have to deal with, as well as by their desire to “grease and push”. This appears to be a particular issue at local levels – the levels the general public have to use to access such services as housing, utilities, health care, police, and education. However, whatever the justification used by people to pay bribes the survey results reinforce the message that one of the major issues in the fight against corruption will be changing attitudes and developing a culture which does not see bribing officials or cheating the State as legitimate.

### 2.1.2 Citizens are not confident of being able to exercise their rights and being in a position to actually control the officials and to affect their performance

Although government has repeatedly emphasised that officials are servants of the community who through their taxes pay their salaries, this has not yet become fully incorporated into Russia’s system of social values.

Moreover, people are not confident of both their rights and their capacity to demand transparency and accountability from officials. As a result the public are often passive when faced with poor performance from public servants and this lack of public pressure creates favourable conditions for irresponsible actions by officials and allows rent-seeking behaviours to flourish. This situation is further exacerbated by the fact



that modern ideas about good governance principles have not yet been incorporated into the internal culture of public servants.

As a result, as the President of the Russian Federation, Vladimir Putin, noted in his 2005 Annual Address to the Federal Assembly, that the Russian “Bureaucracy is still largely an exclusive and often arrogant caste regarding civil service as an alternative form of business. Therefore, our priority remains the improvement of public administration performance, strict compliance of public officials with the laws, and delivery of good quality public services to the population”.<sup>9</sup>

Without community support, the government cannot defeat corruption nor restrict the rent-seeking behaviours of the bureaucracy. Such public support should be expressed not only verbally but also through the concrete actions. To encourage the public to exercise active citizenship and become true partners with the state in fighting corruption is one of the most urgent and complicated tasks for Russia.

## 2.2 Legal and institutional barriers

### 2.2.1 Imperfect legal framework for anti-corruption

A keystone of anti-corruption is the prevention of this phenomenon at the earliest stages, primarily at the stage of drafting legislation. Legislation is one of the critical spaces where the incentives for corruption are either built in or where rules are promulgated to hinder the emergence of this evil. The extent of the spread of corruption in a state is hugely influenced by the quality of legal regulations.

Since the UN Convention on Anti-Corruption and the Council of Europe’s Criminal Law Convention on Corruption were ratified by the Russian Federation only in 2006, the work on the implementation of their provisions in the national legislation has begun but it is only at an early stage. The gaps in the legal framework directly concerned with the regulation of various aspects of anti-corruption have a negative effect on the anti-corruption performance of the government and law-enforcement bodies.

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<sup>9</sup> The Annual Address of the President of the Russian Federation to the Federal Assembly of the Russian Federation, 25 April 2005

### 2.2.2 Current legislation often contains provisions which facilitate corruption

Within the framework of new Russian legislation, which has been produced and approved in an historically short timeframe and under conditions of major socioeconomic changes, a body of vague, referential, contradictory provisions have been accumulated which have provided opportunities for corruption to flourish. For example:

discretionary powers for officials embedded in the law, which allows those officials the opportunity to abuse their powers;

absence of defining norms and frequent use of referential provisions (containing references to secondary legislation, decrees etc. that have yet to be enacted): by leaving more detailed regulation of particular relations (usually, the procedures and timeframes for exercising one's powers) at the executive bodies' discretion, the legislator allows departments to create operational environments which are convenient for officials but which operate to the detriment of the citizens' interests and convenience; and

conflicting provisions in legislation, which hinder correct administration of the laws and provide opportunities for officials to use the discretionary provisions for their own personal advantage.

Reducing the scale of corruption is impossible without a serious revision of legislation. Both current and new legislation should undergo expert evaluation to identify and exclude provisions with a potential to allow corruption.

It has been already mentioned that the State Scientific Research Institute of Systems Analysis under the Chamber has developed a methodology and practical guidelines for experts to conduct initial anti-corruption screening of current and draft legislation. This methodology is being actively used by the State Duma's Commission on Anti-corruption as well as by various centres of expertise. However, the complete revision of current and new legislation is a massive task. The body of federal laws alone comprises about thirteen thousand acts and hundreds of thousands of pages. In addition, the compulsory implementation of anti-corruption reviews by bodies engaged in the legislative process often require amendments and additions to the regulations and other documents regulating procedures for the enactment of laws and other regulatory legal acts.

### 2.2.3 The legislation governing the Chamber is not fully compliant with international best practice

An independent, authoritative and effective Supreme Audit Institution playing a lead role not only in the identification but also in the prevention of the violation of good governance principles is one of the key factors facilitating the success of anti-corruption efforts. In accordance with the Lima Declaration<sup>10</sup>, principles for the organisational and functional independence of a Supreme Audit Institution should be defined in the national legislation, preferably, in the constitution.

The Chamber has many of the organizational and functional elements of independence but, as suggested in the functional review conducted by the National Audit Office<sup>11</sup>, some should be clarified and strengthened. According to Part 1 of Article 1 of the Federal Law “On the Accounts Chamber of the Russian Federation”, the Chamber is designated the permanent body of state financial control. Its activities are governed by the Constitution of the Russian Federation (Part 5 of Article 101; item “i” of Part 1 of Article 102; item “g” of Part 1 of Article 103), Federal Law “On the Accounts Chamber of the Russian Federation”, and other regulatory legal acts of the Russian Federation. However there is no clear definition of the Chamber’s independent status neither in the Constitution of the Russian Federation nor in the federal legislation, which makes it potentially vulnerable. Furthermore, there is no clear division of powers between the bodies of external state audit and internal control.

Moreover, there is a need to enhance the independence of the procedures for financing the Chamber’s activities. The funds for the Chamber’s upkeep for the next calendar year are provided for in the law on the federal budget for that year (since 2007, for a three-year period). Federal budget law is drafted and presented to the State Duma by the Government of the Russian Federation. Therefore the Chamber’s budget must be agreed with the Government and the Ministry of Finance of the Russian Federation, the executive bodies audited by the Chamber.

In spite of the fact that the Chamber enjoys the right, in case of

10 See: The Lima Declaration of Guidelines on Auditing Precepts on <http://www.intosai.org>

11 See: National Audit Office. Functional Review of the Accounts Chamber of the Russian Federation. 31 October 2005. pp.8-11.

disagreements with the Ministry of Finance and the Government, to submit its own income and expenditure budget to the State Duma together with the draft federal budget, the established procedure for funding the Chamber may lead to a conflict of interest and do not comply with the principle of supreme audit institutions' financial independence from their auditees. In contrast, in some countries, a special parliamentary commission (committee) reviews the SAI's performance and strategic plan, approves its budget and appoints its external auditor.

One of the challenges facing the Chamber is to clarify the regulations which govern who can carry out the external audit of the Chamber. It cannot be one of the bodies the Chamber audits because of possible conflict of interest. In this situation, some SAIs use private sector audit firms, making sure that these firms are not employed by the SAI on other work to again avoid risks of conflict of interest. In terms of who can appoint the external auditors, this is often the Parliament, again emphasising the independence of the Supreme Audit Institution.

#### 2.2.4 The lack of external control of the disbursement of funds transferred from the federal budget to the budgets of RF subjects and municipalities creates the possibilities for corruption and financial irregularities<sup>12</sup>

In Russia, there is no vertical hierarchy among the external state audit bodies. The subjects of the Russian Federation (RF regions) set up their own independent control and audit bodies (accounts chambers) whose legal status is established in the regional legislation. A similar situation also exists at the local self-government level.

As there is no federal law establishing general principles for setting up and operating regional and municipal accounts chambers, the accounts chambers across the Russian Federation show significant variation in their status, the scope of their work, staff numbers, level of professional skills and audit methodology. By 1 January 2007, regional audit institutions operated in 85 of 86 regions. Among them, the Moscow Control and Accounts Chamber has the largest staff numbers (181

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<sup>12</sup> The new version of Budget Code is presently being reviewed by the Parliament. This draft law contains the provision that the Accounts Chamber of the Russian Federation is authorised to control the federal funds transferred to the regional and municipal budgets. Should such legislation be enacted, this would allow to improve transparency and accountability of the regional and municipal government bodies' activities concerned with managing public funds.

pers.), followed by the Accounts Chamber of the Republic of Dagestan (80 pers.) and the Control and Accounts Chamber of the Republic of Bashkortostan (75 pers.). The regional audit institutions with the smallest staff numbers are the Control and Accounts Chamber of the Nenetsky Autonomous Okrug Deputies' Assembly (3 pers.), the Control and Accounts Chambers of the Kurgan and the Kaliningrad Oblast Dumas (4 persons each).

As regards the local accounts chambers, according to the Association of Municipal Control and Accounts Bodies, to date there exists 1,190 municipal audit bodies<sup>13</sup> with average staff numbers of 2-4 persons. Given this great disparity and the lack of any coherent national structure for ensuring the quality of the work of these bodies, it is impossible to be confident that the different levels of government across the Russian Federation are being properly controlled and audited.

This is particularly important in view of on-going local self-government reform. The aim of these reforms is to devolve significant powers and funding to local government so that they can manage the delivery of social programmes to help improve citizens' quality of life. However the readiness of local government bodies to use these devolved powers effectively and properly manage the resources handed over to them is proving uneven across the country.

The results of the monthly monitoring carried out by the Chamber demonstrate that less than five per cent of municipalities are completely ready to operate under the new conditions.

At the same time, since the beginning of 2006, possibilities for federal and/or regional control over the financial operations of local government bodies have been seriously reduced. Thus, according to the Federal Law No.120-FZ passed on 20 August 2004, and implemented from 1 January 2006, the right of the control bodies of the RF regions to audit the local budgets of municipalities receiving financial support from the budgets of these regions was removed. Furthermore, the Chamber does not have the right to audit the budgets of the regions receiving financial support from the federal budget. These problems continue even though a new version of the RF Budget Code has been promulgated which allows for an extension of the Chamber's powers to enable it to exercise control over federal funds

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13 The total number of municipalities in Russia exceeds 20 thousands.

transferred to the regional and municipal budgets.

These shortcomings in the external control system create favourable conditions for financial irregularities and corruption.

### 2.2.5 The lack of coordination and incompleteness of coverage in the actions of other government bodies engaged in anti-corruption

One barrier to tackling fraud and corruption is the silo mentalities which exist between the different levels (federal, regional and local) and branches (legislative, executive, judiciary) of power. Moreover, silo mentalities and competition between government bodies often exists within the same branch of power (e.g. between the ministries).

Anti-corruption cannot be a 'subject of competence' for only one body. It is a cross-cutting issue that belongs to the sphere of joint competence and concerted actions of all government bodies. However, in practice, departmental silo mentalities often get in the way of rational debate and sensible use of public resources.

In the Russian context, in the process of establishing a national anti-corruption strategy, there may be scope to re-look at the federal arrangements for managing and delivering public audit. Such a review might seek to identify possible scope for rationalising provision in some areas and plugging gaps in others. With the Chamber, the Office of the Procurator General, the Ministry of Finance, and RF President's Control Department carrying out audit or control functions across central government, there is a need to clearly define as far as practical their spheres of responsibilities and to ensure that all parties work together as effectively as possible.

This will help reduce unnecessary duplication of functions and efforts as well as competition among agencies. A clear identification of each organisation's areas of competence and setting up effective cooperation arrangements among the various control bodies will help improve the effectiveness and completeness of audit coverage, and will create the conditions for sharing best practices and standards of internal and external control.

### 2.2.6. The Lack of continuity and consistency in the implementation of anti-corruption measures

While there have been a great number of in-depth studies and recommendations by internal and external experts, most of these remain unimplemented. All too often, there has been a lack of will and capacity to implement appropriate changes. Even when quite progressive legislation has been introduced, capable of helping to prevent corruption, for example arrangements through which public servants must declare any actual or potential conflicts of interest, the legislation has not been fully or properly implemented.

Most organisations in the public sector know what good governance practices should be in place. For instance, they know that senior managers need to be able to set clear objectives and that robust management information needs to be regularly available to them and used to manage public bodies, that sound human resource management principles need to be deployed (including open and meritocratic recruitment procedures), that proper financial controls need to be deployed, backed up with a strong and independent internal audit system reporting to audit committees at the highest level, that whistle-blowing arrangements must be available for staff to voice concerns safely, and that information should be easily available to the public, media and parliamentarians so that organisations can be held to account in a variety of ways.

All these and many other principles, schemes and mechanisms helping to prevent, identify and combat corruption are clear and obvious for government bodies in Russia although they are largely applied unsystematically and without verifying their effectiveness.

## **Part 3: The Chamber makes a valuable contribution to the national efforts to combat fraud and corruption**

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### **3.1 By participating in the identification and prevention of corruption, the Chamber plays an important social and governmental role**

Within its competence as defined by the Constitution of the Russian

Federation, RF Budget Code, and the Federal Law “On the Accounts Chamber of the Russian Federation”, the Chamber as a body of state financial control takes an active part in anti-corruption activities. In accordance with these laws, the Chamber works to identify and curb financial irregularities associated with the utilisation of federal budget funds by the audited government bodies and organisations.

Under the Federal Law “On the Accounts Chamber of the Russian Federation” the Chamber is charged with reviewing draft federal budget laws, laws and other regulatory legal acts, the international agreements of the Russian Federation, federal programmes and other documents concerned with the federal budget and finance issues of the Russian Federation. Realising the powers given to it by the law, the Chamber fights corruption by identifying violations of budget legislation, by making recommendations for improvements in the control environment, and by identifying and disseminating best practices.

The systematic annual audit of Russia’s federal government conducted by the Chamber has a powerful deterrent effect on corruption. The upkeep of the Chamber during the first 10 years of its operations (1995-2004) cost 2.757 billion roubles from the state budget (in parity prices). Basing on the results of controlling activities, the Chamber auditors identified 905.61 billion roubles of losses from misappropriation and poor management. The Chamber’s intervention resulted in returning 66.6 billion roubles back into the government treasury, meaning 24 roubles returned back into the state budget for each rouble spent on the Chamber’s upkeep.

Based on materials forwarded by the Chamber, the prosecuting agencies institute criminal proceedings when there have been violations of legislation, i.e. under the articles of the RF Criminal Code stipulating penalties for malfeasance.

Thus, during the period from 2005 till July 2007, 68 criminal proceedings were initiated under Article 285 of the RF Criminal Code (abuse of office), 9 criminal proceedings under Article 286 (excess of power), and 28 criminal proceedings under Article 290 (bribe taking).

There have been a number of high profile anti-corruption cases initiated by law-enforcement bodies based on the materials supplied by the Chamber.

A criminal investigation of the leaders of the Federal Obligatory Medical Insurance Fund (FOMIF) is one such example. The audit, performed by the Chamber, identified that in 2004-2005 the Fund had repeatedly placed the orders for the procurement of drugs for



subsidised groups either without conducting a competition or with serious violations of the established procedure, which was a direct breach of the federal laws and the Presidential Decree No. 305 “On the top-priority measures for preventing corruption and reducing budget expenditures in the organisation of procurements for public needs” issued 8 April 1997.

The Chamber also conducts analytical studies which attract considerable public attention. Thus, the analysis of the results of the 1993-2003 privatisation conducted in 2005 showed how the shortcomings of legislation and the weakness of the state audit system caused huge losses for the budget and facilitated corruption and financial crime in the course of the privatisation of public assets.

The Chamber has over 1,000 highly qualified and experienced staff involved in the audit of state budget and central government. Its auditors and personnel provide a large reservoir of professional skills and knowledge which is deployed to ensure that public monies are used for their intended purpose and to counter financial irregularities and corruption.

### **3.2 The Chamber’s cooperation with law–enforcement bodies**

Formally, the Chamber has no mandate to conduct anti-corruption investigations. Nevertheless the Chamber enjoys strong contacts with the Office of the Procurator General of the Russian Federation to whom the Chamber passes its findings for further investigation when the Auditors believe that there are grounds for suspicion. On the 16th of April 2007, a joint meeting of the Collegiums of the Office of the Procurator General of the Russian Federation and the Chamber decided to create a working group to review legislation and identify causes and conditions which foster corruption.

In addition, the Chamber has signed cooperation agreements with the Ministry of Internal Affairs of the Russian Federation, Federal Security Service, Federal Tax Service, Federal Customs Service and other executive bodies.

The participants to these agreements conduct inspection checks in areas of mutual interest within the framework of annually prepared joint schedules of work.

Thus, in 2006, the Chamber conducted joint controlling activities with the RF President’s Control Department, Federal Security Service, and RF Ministry of Internal, focusing on the utilisation of budget funds allocated

from the budget of the Russian Federation and the budgets of the municipalities for the local self-government reform. Moreover, the audit of the utilisation of budget funds allocated for the design and construction of facilities and provision of financial support to the citizens affected by the 2004 terrorist act in Beslan has been conducted jointly with the Office of the Procurator General.

The Chamber's growing collaboration with law-enforcement bodies, primarily with the prosecution authorities, is reflected in the growth of criminal cases initiated based on the audit findings. With only six criminal proceedings instituted in 1999, 860 criminal cases have been initiated during the period from 2000 to 2005.

### **3.3 The dissemination of anti-corruption experience in the regions**

The Chamber has taken a central role in disseminating best practices on audit and control across Russia convening the Association of Regional Control and Audit Bodies of the Russian Federation. This organisation unites 85 regional and 69 municipal control and audit bodies. Systematic sharing of information, experiences, standards and recommendations helps to improve the anti-corruption performance of the regional and local control and audit bodies.

### **3.4 The cooperation with scientific research organisations**

The State Scientific Research Institute of Systems Analysis under the Chamber has developed a methodology for identifying the risks of corruption as well as practical guidelines for experts to identify corruption-generating provisions in legislation.

This methodology has been tested for anti-corruption evaluation of the Federal Law No. 38-FZ "On advertising" adopted 13 March 2006, Water Code of the Russian Federation, Forestry Code of the Russian Federation. The conclusion and the recommendations were taken into account in developing, amending and restating the regulatory legal acts under review. This methodology is widely used by interested parties both in the government (Anti-corruption Commission of the State Duma) and non-government sector (Centre for Strategic Developments).

The Chamber and its Institute are also actively cooperating with other scientific organisations through outsourcing and joint projects. Thus in 2006, for instance, within the framework of a joint research project with the Accounts

Chamber's Institute, the All-Russia Public Opinion Research Centre ("VTsIOM") conducted a representative sociological survey of corruption perception in Russia.

Furthermore, the issues of improving anti-corruption mechanisms are being actively discussed with scientists from the Russian Academy of Sciences during traditional meetings devoted to "public evaluation" of the Chamber's audit opinions concerning draft federal budget for the upcoming year and of the government's report on the execution of federal budget.

### 3.5 Cooperation with civil society institutions

The Chamber is actively expanding its cooperation with civil society institutions on issues concerned with improving mechanisms for partnerships between state and society for fighting corruption. The Chamber's key partners in these activities are the Social Chamber of the Russian Federation, the Russian Union of Manufacturers and Entrepreneurs, the Chamber of Commerce and Industry of the Russian Federation, and the Russian Union of Taxpayers.

In June 2006, the Chamber together with the Russian Union of Taxpayers conducted a round table devoted to "The mechanisms for the partnerships between state and society for fighting corruption". The round table resulted in the adoption of recommendations for the parliament, the government and the Chamber containing concrete methods to identify corruption risks in legislation and the activities of government bodies. In particular, the Chamber was advised to actively promote cooperation with law-enforcement bodies and other public authorities in an effort to improve the efficiency of methodologies for identifying corruption risks and indicators and to take additional measures to extend its public relations efforts.

A similar discussion was conducted in February 2007 with the participation of major non-government organisations, manufacturers, entrepreneurs, representatives from the social movements, scientific research institutes and the media. The recommendations adopted by the round table participants emphasised the significance attached to the implementation of modern standards of external and internal control in the state and government corporations to improve their economic efficiency, to ensure the validity of financial information and to combat corruption. The recommendations also mentioned the need to continue the work concerned with regulating administrative activities, adopting the codes of ethics for public servants, practicing good governance principles to improve the efficiency of public administration and ensuring openness and transparency of executive bodies'

decision-making procedures.

In addition, the Chamber's Institute systemically engages various non-commercial, non-governmental organisations such as the fund "Institute for the Modernisation of State and Municipal Administration", and the inter-regional social movement "Against Corruption, Deception and Dishonour" to participate in joint anti-corruption research projects.

### **3.6 The Chamber's cooperation with international organisations**

Corruption does not respect national boundaries and the Chamber works internationally through INTOSAI (the International Organisation of Supreme Audit Institutions) and the Board of the Heads of Supreme Audit Institutions of CIS (Commonwealth of Independent States) Countries, and by liaising with other countries' supreme audit institutions within the framework of bilateral cooperation.

The Chamber, as a participant in international cooperation and a member of international organisations of supreme audit institutions, is expected to make every possible effort to implement internationally adopted resolutions and recommendations. In particular, the Chamber systematically analyses, translates into Russian, and disseminates important resolutions and instructions developed by INTOSAI. One of such documents, for instance, is ASOSAI Guidelines for Dealing with Fraud and Corruption adopted by the 9th ASOSAI Assembly (Manila, Philippines) in October 2002.

Furthermore, the Chamber is actively establishing contacts with other international organisations combating corruption and money laundering to share experiences and to implement joint anti-corruption projects. Thus, the contacts established by the Chamber's Chairman with the leaders of FATF (Financial Action Task Force) and Egmont Group are especially productive.

#### **3.6.1 Task Force on the Fight Against International Money Laundering**

INTOSAI's Task Force on the Fight Against International Money Laundering was created on Russia's initiative at the 17th INTOSAI Congress in Seoul (2001).

The Task Force's first meeting was conducted in Moscow in September 2003. Dr. Genaro Matute Mejia, Comptroller General of the Republic

of Peru, was elected Chairman. The group is engaged in the development of concrete recommendations for possible ways in which INTOSAI members can participate more actively in the fight against money laundering. The Task Force members believe that their efforts can make a significant contribution to the global community's fight against the penetration of trans-border crime into the international financial systems, and against corruption and stealing from the budget (with stolen funds often used to finance terrorist activities, organised crime and illegal immigration).

### 3.6.2 The interaction with supreme audit institutions as part of the G8 summit

Anti-corruption was one of the items on the agenda of the G8 summit which took place in St. Petersburg in summer 2006. Within the framework of the G8 summit, the Chamber organised a tele-bridge with the heads of supreme audit institutions of the G8 countries. Decisions were made concerning the areas and forms of further cooperation, including cooperation in combating corruption.

### 3.6.3 Cooperation with United Nations Development Programme (UNDP)

In September 2006, UNDP Russia and the State Scientific Research Institute of Systems Analysis under the Chamber signed an agreement of cooperation. A pilot project focused on providing support to the state and civil society's initiatives concerned with the development of systemic corruption prevention measures has been implemented as part of such cooperation. Based on a survey of public opinion, practical recommendations were prepared to lessen and prevent corruption in the sphere of public resources management.

A new joint project is planned to be implemented by the Chambers' Institute and UNDP Russia in 2007–2008. This project will be focused on developing national capabilities to evaluate legislation for the presence of corruption-provoking provisions and to further improve the coordination of the state and society's anti-corruption efforts.

### 3.6.4 The cooperation with the UK National Audit Office

Since 2006, the Chamber together with the UK National Audit Office

(NAO), within the framework of a UK Department for International Development (DFID) project, have been working together to explore ways of extending the Chamber's contribution to the national anti-corruption efforts. In the course of the seminars and discussions, the international and Russian experience of supreme audit institutions' participation in anti-corruption work was analysed, interviews were conducted with representatives of key government bodies participating in anti-corruption, and recommendations and a final report were prepared.

## Part 4: What needs to be done?

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The Chamber's powers and functions provide a unique possibility for it to make a major contribution to the fight against corruption.

Due to its status, powers, and staff skills, the Chamber is an essential element in the national anti-corruption effort. Objectively, it focuses primarily on the prevention and identification of corruption and takes an active part in the formation of an anti-corruption culture in the community.

The anti-corruption strategy – both at the level of the Chamber and nationwide should incorporate several key elements:

- cultivating an attitude of zero tolerance towards corruption both within the Chamber and among government bodies and the community;

- preventing corruption (may include conducting various control activities, for example, evaluating the performance of the organisations' internal control systems in minimising the risks of fraud and corruption);

- detering corruption (usually includes giving publicity to successes in anti-corruption as well as raising awareness about planned audits since the very fact of an impending audit may reduce the risk of corrupt actions);

- identifying corruption (e.g. through high quality independent inspections); and

- prosecution – the imposition of appropriate sanctions for those found

guilty of corruption (including prison sentences and confiscation of assets<sup>14</sup>).

The Chamber can improve the effectiveness of anti-corruption efforts through working at two levels:

externally in partnership with Parliament, government institutions and NGOs interested in anti-corruption; and

internally by improving its performance as well as its systems for preventing corruption in order to win wide recognition as a highly effective, efficient and corruption-free organisation and a leading example for other public sector organisations.

## 4.1 The Chamber's external strategy

### 4.1.1 The Chamber will clearly define its functions and powers related to the implementation of the national anti-corruption strategy

One essential task for the Chamber is to clarify its place in national anti-corruption efforts.

The effectiveness of anti-corruption efforts depends substantially on a clear delineation of the roles, responsibilities and powers of the various public bodies involved in the implementation of anti-corruption strategy. This will help to reduce unnecessary duplication of efforts, and maximise the effective utilisation of the budget funds allocated for fighting corruption. In addition to clarifying the jurisdictions of the various public bodies involved in anti-corruption efforts, it is also important to ensure their activities are properly coordinated, their policies and standards are consistent, and there are opportunities for regular exchanges of lessons learned and emerging best practices.

In the Russian context, this will be a challenging task and will require a greater commitment to trust and transparency among the various public bodies involved. For this closer co-operation to work will not only require further development of special rules and procedures for

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<sup>14</sup> In contrast to Soviet legislation, current legislation does not envisage a sanction such as confiscation of assets. As the Russian Federation has ratified the UN Convention on Anti-Corruption and the Council of Europe's Criminal Law Convention on Corruption. The reincorporation of such a sanction in legislation is being considered currently.

liaising and exchanging information between public bodies but also commitment at senior levels to the softer aspects of building trust and openness.

Notwithstanding its role as an independent external oversight body, the Chamber stands ready to take up this challenge and commits itself to strengthening its partnership with the Federal Assembly of the Russian Federation, the President's Administration, the Federal Government and federal government bodies in the development and implementation of a national anti-corruption strategy.

More specifically, the Chamber intends to do the following:

- strengthen the working contacts between the different control bodies to ensure better understanding of the place and role of each body contributing to the development and implementation of the national anti-corruption strategy, as well as to establish policies and procedures for their cooperation;

- contribute to the development and adoption of legislation that would help to clarify the ground rules for designing and operating a unified state control system in the Russian Federation. Such legislation should not only reflect the differences in external and internal control functions and powers but also emphasize the need in their coordinated cooperation to address, among other things, anti-corruption issues;

- increase the number of joint control activities undertaken together with the Office of the Procurator General of the Russian Federation - such practical common work may lead to identifying best practices in the co-operation between public bodies helping to tackle anti-corruption issues efficiently and effectively, incorporating these practices in the routine work and disseminating them among other relevant public bodies; initiate open discussions with the participation of representatives from all branches of power to, giving consideration to different positions, to develop consensus on anticorruption strategy and approaches; to facilitate accelerated adoption of the necessary legislation; and implement the most effective techniques for preventing, identifying, investigating and prosecuting corruption; and

- regularly prepare and present to the Federal Assembly, President and Government of the Russian Federation performance audit reports on the utilisation of federal budget funds allocated for fighting corruption, reflecting both good and bad practices.



#### 4.1.2 When the State Duma reviews legislation to assess its potential for corruption, the Chamber will provide assistance drawing upon its own knowledge and expertise in control and audit

*“One of the areas which can prevent corruption is the creation of legislation that stops state and municipal public servants from engaging in corrupt deals. In view of this, it is urgent and necessary to conduct criminological examinations of new legislation, including reviewing their potential to facilitate corruption. This is also envisaged in the UN Convention on Anti-Corruption.”*

*President of the Russian Federation, V.V.Putin<sup>15</sup>*

The Chamber will continue to work closely with the State Duma of the Federal Assembly of the Russian Federation, including the Duma’s Anti-Corruption Commission to review current and forthcoming legislation to ensure that such legislation does not inadvertently provide scope for corruption. It is necessary to improve the existing system for informing the legislators about the findings of such reviews to ensure that when risks of corruption are identified they are addressed by the legislative and corruption-promoting provisions in legislation are revised appropriately.

The Chamber will also establish an ongoing system to inform its Auditors, and their teams of inspectors, about the results of anti-corruption examination of legislation. Based on this information, Auditors and inspectors will review the availability and quality of internal control systems in the relevant state and municipal government bodies to ensure that these systems are capable of efficiently preventing the realisation of corruption risks.

Particular attention will be paid to those cases where the Chamber’s advice has not been heeded by those drafting and adopting the relevant legislation.

#### 4.1.3 The Chamber will continue to develop its partnership with the Office of the Procurator General of the Russian Federation and law-enforcement bodies

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<sup>15</sup> V.V.Putin. “The opening address at the All-Russia Coordinating Meeting of the Heads of Law-Enforcement Bodies.” 21 November 2006 // Website of the President of the Russian Federation.

As the law enforcement bodies are subject to reviews by the Chamber, co-operation with these bodies should be based on principles which prevent conflict of interests and ensure that the Supreme Audit Institution retains its independence.

Keeping this in mind, the Chamber will continue to explore ways in which it can work more closely with such agencies; including increasing the number of joint control activities undertaken together with the Office of the Procurator General of the Russian Federation, Ministry of Internal Affairs of the Russian Federation, Federal Security Service of the Russian Federation, and other law-enforcement bodies within the framework of cooperation agreements.

The Chamber proposes to undertake more joint audits because public bodies are currently subjected to control and oversight by a large number of bodies. By working together these bodies can reduce the audit burden on the auditees and combine expertise so that better audits are undertaken – audits which not only detect errors or weaknesses but also which offer constructive advice to the audited bodies to help improve the management of public resources.

On occasions, the Chamber will carry out joint audits with the Office of the Procurator General of the Russian Federation and/or other law-enforcement bodies. These audits will be based on an assessment of risks in the audited body and will be aimed at improving controls. Where any suspicion of illegal activity arises, then the Chamber must hand its materials to the General Procurator and the law enforcement bodies.

Procedures will be improved within the Chamber for preserving the documents and the materials that would be used by the law enforcement bodies as evidence of the illegal activity of an auditee. The aim in part will be to share the information, the knowledge and professional skills between the Chamber and the Office of the General Procurator for identifying and investigating suspicious facts that can more efficiently indicate possible illegal activities and/or corruption.

The Chamber will also seek to ensure that the law enforcement agencies are presented with well prepared and well documented materials when there is a suspicion of corruption so that these bodies can make a proper assessment of the feasibility and desirability of mounting a prosecution.

Planning and conducting audits jointly allows an exhaustive and

comprehensive analysis of the auditees' activities from the standpoint of prevention and identification of risks of corruption risks and, when necessary, promptly and efficiently implementing the whole cycle of measures concerned with putting an end to, investigating and prosecuting identified acts of corruption since the Office of the Procurator General of the Russian Federation and law-enforcement bodies are vested with appropriate powers in this sphere.

#### 4.1.4 Cooperation with internal control bodies

Resources for fighting corruption, fraud and financial crime are always scarce and it is important that public resources are used as effectively and efficiently as possible. The Chamber will seek to develop new and improved ways of co-ordinating audit and analytical activities with the control organisations of the Ministry of Finance of the Russian Federation.

One important step will be to more clearly define the roles and responsibilities of both internal control, internal audit, and external audit and document more precisely what financial, human and physical resources are in the system and how these are currently being utilised.

“Internal control” is the system operated by management in an organisation to manage corporate risks. Such a system involves developing and implementing a framework of procedures and processes to identify, prioritise and mitigate those risks and covers everything from transaction controls for processing invoices to monitoring procedures such as exception reporting and management accounts. It also includes safe-guarding assets.

“Internal audit” is an independent and objective appraisal service within an organisation to provide an opinion to senior management on how effective and efficient an organisation is in managing risk, operating its controls, and ensuring proper governance.

“External audit” is an external, independent review of an organisation's system which involves undertaking sufficient, appropriate work to be able to express an opinion on whether the financial statements comply with the applicable financial reporting framework. It increasingly also involves carrying out

other related work to assess whether an organisation is operating efficiently and effectively in achieving its objectives.

A core focus of such a review will be the identification of areas of unnecessary overlap with the aim of freeing up resources to carry out more performance audits and to look for ways in which current gaps in audit provision, particularly in the internal and external audit of municipalities, could be bridged.

In the UK context, National Audit Office acts as the external auditor, and internal audit exists within the spending Ministries as a management tool. The Ministry of Finance (Treasury) acts to set standards and ensure quality of internal audit. Then, in the course of their audits, NAO auditors assess the quality of internal audit and, depending on the results of this assessment, will place more or less reliance on this work. If they find that internal control systems in the ministries and other budgetary funds managers are functioning well, they will rely on these systems' work and if they find that these systems are weak they will do much greater substantive testing.

As a matter of urgency, the Chamber will convene a meeting with the Ministry of Finance to try to agree protocols and plans for achieving greater harmonisation of the audit work. In particular, and in line with International Standard on Auditing 600, the Chamber has to assess the work of the Ministry of Finance and to evaluate the level of assurance it provides. As part of this process, and to avoid wasteful duplications, the Chamber is keen to work with the Ministry of Finance to ensure the two entities identify any weaknesses and gaps in current audit provision and coverage, find ways of spreading their resources across the risks and regions to best effect, and seek to maximise opportunities to co-operate and share information and data.

The Chamber also will initiate discussions with the Ministry of Finance of the Russian Federation and all interested parties to make clear the Chamber's position that it is necessary to ensure that ministries and other spending bodies use unified standards of internal audit quality and to introduce external reviews of internal audit systems quality. The Chamber will insist that it is a matter of urgency to agree the protocols and standards of internal and external auditors' activities as this will enable the Chamber's Auditors and inspectors to place greater reliance on the findings of internal reviews. Moreover, the Chamber will look to develop strategies for dealing with any weaknesses and gaps in the current state control system (including

protocols, standards, and quality of controls) and will support any efforts of other interested parties in this direction.

#### 4.1.5 The Chamber supports moves to increase the transparency of government, including freedom of information and whistle blowing

The Chamber believes that transparency of public administration and freedom of information are necessary prerequisites for preventing corruption and ensuring fair and effective management of national resources in the interests of the general public.

In particular, the Chamber believes that whistle blowing legislation should be strengthened, to make it easier for members of the public to lodge complaints where they have been asked for a bribe or a 'contribution' by a public servant or where they are aware of collusion or other corrupt practices involving the private sector and the state. At the same time it is important to promptly investigate such complaints and to protect whistle-blowers from possible persecution by corrupt officials.

The Chamber will co-operate with efforts to strengthen such legislation, including reviewing the role played by other leading Supreme Audit Institutions in supporting such legislation.

#### 4.1.6 The Chamber will participate in public education campaigns aimed at fostering a community ethic against corruption

To successfully tackle corruption, there is a need to change the attitudes of civil servants and the public towards corruption, i.e. to create an anti-corruption culture in the community.

It has been mentioned that to form an attitude of zero tolerance to any manifestations of corruption is one of the most difficult challenges facing Russia. It is obvious that the Chamber is unable to achieve this objective on its own and should act in close cooperation with other stakeholders. First and foremost, the Chamber will foster the anti-corruption culture internally.

Publicity is clearly one of the most important tools for nurturing zero tolerance culture and the Chamber will work with both chambers of the Federal Assembly and the media to ensure that its work is given

even greater publicity – paying particular attention to the practical impact of its work.

The formation of an anti-corruption attitude among citizens should begin at the earliest possible age. To ensure positive changes in this area, there is a need for a major educational push across schools and higher education establishments and the Chamber would like to see that schools and higher education establishments pay more attention to anti-corruption education. Resources permitting, the Chamber would be willing to supply presenters to talk with students about the Chamber's role in anti-corruption or to participate in the preparation of special training aids.

## 4.2 The Chamber's internal strategy

### 4.2.1 The Chamber will continue to work to improve the legal framework regulating its operations

The Chamber believes that a strong independent SAI is a vital component of Russia's fight against corruption. Therefore the Chamber will continue to initiate and lobby for the necessary legislative changes which will better guarantee the Chamber's legal, financial and administrative independence. This will allow the Chamber to become the truly effective external state control institution the Parliament and people of Russia need and deserve.

The legal framework defining the Chamber's powers to identify and investigate acts of fraud and corruption is also very important. International experience shows that tuning the different types of control activities conducted by SAIs to particular cases of fraud and corruption can be usually accomplished under the existing powers (mandates). However, where the existing powers are insufficient, SAIs may need to encourage legislatures to enact additional legislation extending their powers.

The Chamber currently has many of the powers allowing it to seek to prevent and identify fraud and corruption. However, defrauders and corrupt officials are alert, demonstrating great ingenuity in the realisation of their criminal intentions, launching new challenges against the state and community. Therefore the Chamber will use available resources for fighting corruption with maximum effectiveness and, where necessary, will initiate the development and enactment of

additional legal norms to extend its possibilities for countering the new types of corruption-related crime.

#### 4.2.2 Enhancing the Chamber's professional competence to improve efficiency and effectiveness of its anti-corruption efforts

The Chamber's earlier work as well as the audits and inspections (and the analytical studies) currently undertaken by the Chamber already have a substantial impact both as a deterrent and as a means of identifying fraudulent or corrupt actions. However, the Chamber is not content to rest on its laurels and intends to ensure that it is constantly improving its practices and innovating in order to provide an increasingly effective service to the general public, the Duma, and the government.

In particular, the Chamber will work to ensure that the personnel directly involved in the audits will carry out their audits in full compliance with the International Auditing Standard 240, The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements<sup>16</sup> (see Addendum p.253).

This standard places an expectation on auditors that they will constantly think about the risk of fraud while undertaking their audits – it encourages a professional scepticism when interpreting claims made by an organisation's management.

#### 4.2.3 Improving the methodologies for identifying and managing corruption risks

When planning its audits, the Chamber will pay particular attention to those spheres of activities and operations that are most susceptible to fraud and corruption, for which it is necessary to develop effective high risk indicators for fraud and to modify the audit technology and

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<sup>16</sup> ISA 240, The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements // International Auditing and Assurance Standards Board. ISAs 240, 300, 315 and 330 (Redrafted). – New York: IFAC. December, 2006. In October 2005 ISAAB produced draft standard ISA 240 together with three other standards - ISA 300, Planning an Audit of Financial Statements; ISA 315, Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and Its Environment; and ISA 330, The Auditor's Responses to Assessed Risks. ISAAB received numerous feedback and comments and, after extensive consultations with the stakeholders issued the final versions of these standards. Provisional date of these standards coming into force is 15 December 2008.

procedures accordingly.

#### Identification of High Risk Areas

2.28. An understanding of the audited entity should enable the auditor to identify potential high-risk areas and suitably modify audit procedures and techniques. Some of the commonly perceived high risk areas are:

contracts of service/procurement;

inventory management;

sanctions/clearances;

program management;

revenue receipt;

cash management;

general expenditure; and

other areas with public interface<sup>17</sup>.

Based on experience and perceptions, SAIs seek to identify such risk areas while planning audits.

It is deemed expedient to set up a specialised working group to improve anti-corruption methodology. This group will develop methodological recommendations for the auditors and inspectors, concerned with identifying and systematising corruption risks as well as conducting specialised analytical studies aimed at identifying areas of high corruption risks. An important task for this group will be to develop internal control tools and mechanisms (standards) to be implemented by the government bodies to be able to manage corruption risks.

This group will work in close contact with the Auditors and their teams of inspectors to ensure wide dissemination of good practices across the Chamber and the control and audit bodies of the Russian Federation as well as the state and municipal government bodies.

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17 ASOSAI Guidelines for Dealing with Fraud and Corruption (2003) // [www.asosai.org/fraud\\_guidelines/index.html](http://www.asosai.org/fraud_guidelines/index.html)



#### **4.2.4 The Chamber will play a more active role in the evaluation of the internal financial control systems employed by the state and municipal government bodies**

SAIs routinely assess the quality of internal audit and internal controls in organisations and use this as a basis for planning audits and determining the volume of substantive testing which may be needed.

The weaknesses of internal control system may serve as fertile soil for nurturing fraud and corruption. Therefore, when reviewing internal control systems in the state and municipal government bodies as well as in other organisations spending federal budget funds, the Auditors may warn the organisations' senior management about the need to improve their internal control system, thus helping to minimise the risks of fraud and corruption.

The Chamber will seek to regularly carry out reviews of internal control quality across the government sector and to publish a special annual report containing the information on the state of internal audit and offering recommendations on how to improve the internal state control systems and standards.

Based on its findings, the Chamber will prepare a special analytical report devoted to an overall assessment of the state of internal financial control systems, both in the government sector and in the concrete organisations, and focused on their resistance to fraud and corruption. This report will also describe common issues and problems and potential solutions.

#### **4.2.5 The Chamber will carry out more performance audits to improve governance in the public sector and the results will be regularly presented to the President of the Russian Federation, Federal Assembly of the Russian Federation, and the general public**

The Chamber has made a commitment to expanding its performance audit or Value for Money capability. These forms of audit will complement the Chamber's current financial and regulatory audits and be aimed at identifying whether government policies are being delivered efficiently and effectively. These audits are aimed at both providing the Parliament and public with transparent, reliable information on how well government bodies are working and also on

making helpful recommendations to these public bodies so that practices are able to improve.

Performance audit methods provide an opportunity to look at how efficiently, effectively and economically the organisation delivers its objectives and how it makes sure it has the right controls in place to perform its socially important functions adequately, minimising the scope for fraud and corruption.

In such reviews it is important to focus on which controls are not necessary and which are not present and should be introduced. If organisations are over-controlled then the bureaucracy becomes cumbersome and unwieldy and staff find ways of bypassing the prescribed procedures.

Within the framework of joint international projects, the Chamber has received advice and training from the Canadian Audit Office and the UK National Audit Office on how to deliver effective performance audits.

When the current round of pilot performance audits conducted by the joint Russian-British working groups in 2007-2008 is complete, the Chamber will assess the lessons learned and develop a new internal manual for planning and conducting performance audits and a training programme for its staff.

It also appears expedient to set up a special performance audit support team to implement up-to-date performance audit methods in the Chamber's routine operations. The members of this team will be experienced inspectors who have received theoretical and practical training (including those drawn from the pilot audit teams). This team will be responsible for working with Auditors and inspectors to roll out modern performance audit techniques across the Chamber and to gradually improve the approaches currently employed by the auditors and inspectors. It is important that the team will make regular reports to the Chamber's Collegium on progress in implementing the new methods.

In expanding performance audit work, the Chamber will consult with Government, Parliament, and civil society organisations, to ensure wide spread understanding of the role of performance audits in strengthening public administration. It will emphasise the apolitical nature of performance audits and that they do not examine government policies only the way those policies have been

administered by civil servants. Increased attention will also be provided to ensuring that there is greater transparency in the selection of studies.

As the Chamber builds up its expertise in conducting performance audit of the government bodies, compliant with the current international standards, it will then increase the number of such audits and also target studies at areas which will be of particular interest in the fight against corruption. For instance, there is an obvious need to carry out a study across several Ministries to assess public servants' compliance with civil service legislation of the Russian Federation and the extent to which codes of ethics and declarations of interest are being used. Or it could audit the implementation of the overall anti-corruption strategy to examine the extent to which promised actions have been undertaken and expected impacts achieved.

#### **4.2.6 The Chamber will make greater use of IT and data matching tools to identify possible sources of fraud and corruption**

Growing use of IT by audited bodies means that auditors need to have access to reliable computerised systems for interrogating the computer records of audited bodies. The right of access to such data needs to be allowed for when systems are being designed, and, if necessary incorporated in legislation and other regulatory documents<sup>18</sup>.

The Chamber is committed to vigorously pursuing this right of access and to ensuring that Auditors and inspectors are provided with opportunities to continue to develop their IT audit skills including where appropriate having the opportunity to acquire internationally recognised IT audit qualifications e.g. CISA.

The State Scientific Research Institute of Systems Analysis under the Chamber will give special attention to the development of new methods and procedures for analysing computer records and data sets that will help the Chamber better identify cases of fraud by civil servants or contractors.

#### **4.2.7 The Chamber will work with other Supreme Audit Institutions to share best practices and to tackle international fraud and corruption**

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<sup>18</sup> See, for instance, ASOSAI Guidelines for Dealing with Fraud and Corruption (2003)

The Chamber will continue to participate actively in appropriate international forums with other SAIs. It will take forward the process to update the Lima Declaration<sup>19</sup> – the document which currently sets the international standards for SAIs – ensuring that this now properly reflects the need for SAIs everywhere to focus more strongly on the fight against corruption. The Chamber is committed to constantly studying good practices of other SAIs on fighting fraud, corruption, and money laundering and disseminating best practices among its divisions and organisations.

It is also necessary to work to create international databases for different types of fraud and corruption. With the internationalisation of financial crime, the systematic exchange of “the national top lists” of various financial offences will have a great practical impact on fighting fraud and corruption internationally.

#### **4.2.8 The Chamber will continue to work closely with other control and audit bodies of the Russian Federation to develop a unified approach to anti-corruption activities**

The Chamber has good working relationships with regional and local control and audit bodies. It fully recognises the autonomy of these bodies but considers that there is merit in auditors across Russia working to similar standards and developing a coordinated approach to anti-corruption work. To this aim, the Chamber, with other tiers of external audit, will seek to agree and roll-out unified auditing standards, technical regulations, and general policies across the Russian Federation.

To enhance this work, the Chamber will create a network of regional inspection teams, which will provide an opportunity not only to exercise control in the regions over Federal funds but also to raise the level and improve the quality of external financial control in the regions, including co-ordinating audits with regional bodies and providing training and seminars for regional and local accounts chambers.

#### **4.2.9 The Chamber will work with training institutions to ensure that potential new recruits are aware of its commitment to**

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<sup>19</sup> The Lima Declaration of Guidelines on Auditing Precepts: <http://www.intosai.org>

## the fight against fraud and corruption

It is essential that new entrants to the audit profession are aware of the important role the Chamber plays in anti-corruption work. Stronger ties will be developed with the training institutions so that potential recruits receive appropriate advice and training.

Moreover, the Chamber together with its State Scientific Research Institute of Systems Analysis will pay particular attention to the professional training of future auditors in the M.V.Lomonosov Moscow State University's Higher School of State Audit created with the support of the Russian Academy of Sciences. Special courses of lectures will be devoted to the ethics of public service, good governance principles, as well as the fundamentals of anti-corruption culture of the staff of supreme audit institutions.

### 4.2.10 The Chamber will continue to seek to become a more transparent and open organisation.

The Chamber believes that it is important that public bodies are open and transparent – enabling citizens to know what is being done with their monies. Information on the way an organisation functions and on how decisions are made is an important part of the fight against corruption.

The Chamber believes that it needs to lead by example in this area. Currently, interested parties may access relevant legislation and administrative information (including the reports on the results of control activities) on the official site of the Chamber ([www.ach.gov.ru](http://www.ach.gov.ru)) as well as by requesting information from the Public Reception Office of the RF Accounts Chamber. All information is provided free of charge. In addition, information concerned with the Chamber's activities is constantly being published on the websites of the Association of the Control and Audit Bodies of the Russian Federation, State Scientific Research Institute of Systems Analysis under the Chamber as well as on other internet resources. Chamber materials and documents are also regularly published in such periodicals as *Finansovyi Kontrol* (Financial Control) and *Naloghi* (Taxes) (co-founded by the Russian Union of Taxpayers). The Chamber's permanent information partner is a socio-analytical weekly called *Argumenty Nedeli* (Arguments of the Week) whose weekly's audience, according to Gallup Media, amounts to 849,400 people.

The effectiveness of the Chamber's efforts to enhance its openness is reflected in its recognition by the Russian media. On the 23<sup>rd</sup> of May 2007, Financial Press Club of Russia<sup>20</sup> awarded the Chamber a Platinum Diploma "For information openness and impeccable business reputation".

However, the Chamber is not content to rest on its laurels and intends to continue to work to find the new ways and forms to strengthen its relations with the general public and media.

### 4.3 Prevention of corruption within the Chamber

If the Chamber is to be in a position to influence others nationwide it must be at the forefront of good governance issues and to constantly reconfirm its reputation as a corruption-free body. To this end, the Chamber will strengthen its own internal anti-corruption control system and improve the mechanisms for prevention, detection and eradication of corruption.

The Chamber recognises that no institution is totally free from the risk of fraud or corruption. Even in bodies dedicated to the fight to ensure that public resources are used properly and to the maximum benefit of the community, this risk exists. The Chamber takes such risks seriously and has already taken substantial steps to minimise them.

To this end, the Chamber will work closely with the Parliamentary Chambers as they establish the legal regulation to initiate the external audit of the Chamber's annual accounts and to appoint the external auditors<sup>21</sup>.

#### 4.3.1 The Chamber will develop its system for internal monitoring and prevention of fraud and corruption risks

The main principles underlying internal anti-corruption control in the Chamber arise from the current federal legislation provisions concerned with the state civil service of the Russian Federation. Thus, according to paragraph 9, part 1 of Article 15 of the Federal Law No. 79-FZ adopted on 27 July 2007 (the version of 2 March 2007) "On the state civil service of the Russian Federation"<sup>22</sup>, all civil servants are

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20 Financial Press Club of Russia is a public non-commercial organisation uniting more than 100 business journalists from major all-Russia and regional media.

21 The appropriate amendments for the Federal Law on the Accounts Chamber of the Russian Federations were approved by Parliament.

obliged to provide, as per established procedure, the information about themselves and members of their families that is specified in the federal law, the information concerning their income and taxable property, and the information about their property-related liabilities.

In accordance with Decree No. 484 of the President of the Russian Federation issued on 15 May 1997 (the version of 25 July 2000) “On the provision of income and property information by the persons holding governmental positions of the Russian Federation and by persons holding public offices in the state civil service and positions in local self-government bodies”<sup>23</sup>, all public servants employed by the Chamber annually produce a Declaration of Citizen’s Income and Property as well as a “Certificate of a citizen’s compliance with restrictions associated with holding governmental positions of the Russian Federation and public offices in the federal civil service”.

A copy of the Declaration of Income and Property is forwarded to the Federal Tax Service (FTS) while another copy, with the FTS’ mark of acceptance, is stored at the Chamber’s Personnel Department. The staff of the relevant division of the Chamber’s Personnel Department annually monitor the information provided by civil servants in their “Certificates of a citizen’s compliance with restrictions associated with holding governmental positions of the Russian Federation and public offices in the federal civil service”.

The annual submission of the conflict of interest declarations is not practiced yet by the Chamber’s employees. Nevertheless, according to paragraph 12, article 15 of the Federal Law “On the state civil service of the Russian Federation”, state civil servants are obliged “to inform their employer’s representative about their personal interest in performing their official duties, from which a conflict of interest may arise, and to take action to prevent such conflict”. Thus, where a conflict of interests arises, a special commission will be created to settle the issues in question.

The information concerning improper behaviour of public servants employed by the Chamber may be harvested from complaints by

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22 Federal law No. 79-FZ adopted 27 July 2004 “On the state civil service of the Russian Federation” // Corpus of legislation of the Russian Federation, 2004. No 31. Article 3215.

23 Decree of the President of the Russian Federation No. 484 issued on 15 May 1997 (the version of 25 July 2000) “On the provision of information on income and property by the persons holding governmental positions of the Russian Federation and by persons holding public offices in the state civil service and positions in local self-government bodies” // Corpus of legislation of the Russian Federation, 1997. No. 20. Article 2239.

citizens and audited organisations as well as from such sources as the Public Reception Office, internet forum, and hot-lines. The complaints and appeals of the audited organisations and citizens are thoroughly reviewed and in-house investigations are conducted when necessary. On special occurrences the authorised law-enforcement bodies are involved in the investigation. One of the examples of such an investigation is the 'case of ex-senator Levon Chakhmakhchan': in June 2006, the Chamber together with the Federal Security Service and the Office of the Procurator General of the Russian Federation successfully carried out joint activities to detect corruption in the government bodies.

Where improper behaviour by the Chamber's public servants are identified, in-house investigations will be conducted. The procedures for in-house investigations and disciplinary actions in the Chamber administration are established in the order No. 41 issued by the Chamber on 2 June 2006. Such in-house investigation may be initiated by the decision of the Chamber Chairman or by the Head of Administration. The investigation is to be carried out by the Administrative Department with the participation of Legal Department and Chamber's Trade Union Committee.

Where any signs of corruption and other offences subject to prosecution are identified, authorised law-enforcement bodies will be involved in the investigation, namely the Office of the Procurator General of the Russian Federation, and the Federal Security Service of the Russian Federation.

One of the ways to strengthen anti-corruption control system could be ensuring that all staff of the Chamber have signed the Chamber's Code of Ethics<sup>24</sup> and annually submit a conflict of interest declaration. A report will be made annually by the Chamber's Personnel Department to senior management, naming any staff who have not completed such declarations by the due date and disciplinary proceedings may be initiated against such staff.

The Chamber will also set up an internal whistle blowing system so that staff who are concerned about possible fraud or corruption in the

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24 The Code of Ethics for the staff of the control and audit bodies of the Russian Federation was adopted by the 2nd conference of the Association of the Control and Audit Bodies of the Russian Federation on 3 December 2004 and put into force at the Accounts Chamber of the Russian Federation 18 May 2007 (Minutes of the Accounts Chamber Collegium No. 22K (540) as of 18 May 2007).



Chamber will be able to raise such concerns; confident that the concern will be properly examined and that they will be protected.

The Chamber will continue to fully comply with the provisions of the civil service legislation of the Russian Federation aimed to create conditions minimising the risks of corruption and fraud.

#### 4.3.2 The Chamber is committed to implementing job rotation practices in its work

The international standards require the key person responsible for an audit to be moved every five to seven years. While there is no formal requirement for the staff to rotate, it is often seen as good practice . safeguarding the audited body, the audit authority and the individual auditor or inspector from the risks of fraud and corruption.

Auditor rotation is already practiced in the Chamber. One of the immediate tasks is a move towards regular rotation of the inspectors who are directly involved in the audits. However, this needs to be formalised. To this end, the Chamber will undertake a review of all inspectors to identify how long they have spent on any one audit area. The Collegium will review the results and where staff may have exceeded the recognised upper limits or audited the same organisations unnecessarily often, plans will be put in place to ensure that they are rotated within or between auditor teams.

#### 4.3.3 The Chamber will create and constantly improve the system for monitoring overall quality of audits

To ensure that it delivers high quality audit, the Chamber will create a system for monitoring overall quality of audits using the following methods:

cold reviews which are the complex post-audit reviews of the auditors' actions, conducted by persons independent from the auditors;

hot reviews - control of audit quality exerted while conducting audit (carried out before audit reports are finalised);

holistic reviews of competence; and

external reviews by either private sector firms, professional associations and/or other Supreme Audit Institutions.

The Chamber plans to establish a special working group to develop the quality assurance tools to assess the efficiency and effectiveness of the audits. The core of this group will consist of specially selected staff from the Administrative, Report Consolidation (“Svodnyi”) and Legal Departments. Inspectors from other teams not involved in the particular audit will be also asked to participate in such quality reviews.

One of the elements in the quality reviews will be an assessment of the adequacy of the audit team’s assessment of fraud and corruption risks.

The Chamber will produce an annual report of the reviews of audit quality, summarising positive and negative experiences and offering recommendations on how to improve audit quality across the organisation so that staff can progressively learn the lessons from the quality reviews.

#### **4.3.4 The Chamber will seek to improve its internal governance standards to ensure that they are consistent with the relevant international best practices**

The Chamber’s Collegium will pay special attention to reviewing the Chamber’s governance structures – making sure that these are compliant with international best practices. In particular, the Chamber will look at the International Auditing Standard 220 on Quality control for auditors (ISA 220) and the International Standard on Quality Control (ISQC).

According to this international standard, a SAI’s senior management is responsible for creating, functioning, maintaining and improving the internal quality control system to ensure that their organisation is capable of competently delivering high-quality services regardless of external control body’s peculiarities and the types of audit.

Senior management is also responsible for the formation of the necessary conditions helping to maintain and constantly improve the quality of control and, therefore, particular attention must be given to human resources management, institutional risks management, and external relations management.

The Chamber will foster its corporate internal culture as well as each employee’s sense of responsibility and will ensure that both the auditors and personnel comply with the code of ethics requirements.

The Chamber will seek to work in cooperation with audited

organisations to build trust in the recommendations that will be formulated. At the same time the Chamber will report to parliament, the government or law-enforcement bodies where the auditee has compromised the auditors' ability to act with integrity, independence or objectivity.

The Chamber will strengthen the work of its internal audit unit. In addition to the annual accounts audit it will carry out an annual programme of internal audits to ensure that the Chamber is operating its own internal controls properly and it performing efficiently and effectively. The internal audit unit will report to the Collegium.

#### **4.3.5 The Chamber's senior management will seek to allocate the organisation's resources effectively to minimise institutional risks**

It is obvious that the different types of reviews are not equally complicated and risky. Poor management of such risks can undermine the trust in both the Chamber and the results of its work. The Chamber's senior management will undertake to implement the institutional risks assessment in their work concerned with planning the Chamber's control activities and performance audits. This institutional risks assessment procedure includes the following elements:

- assessment of complexity of a control activity;

- analysis of this control activity's cost;

- possible conflicts and disputes that may arise from this control activity;

- assessment of possibilities for cooperation or resistance on the part of an auditee.

#### **4.3.6 The Chamber's senior management will work to improve its human resource management policies, including recruitment and continuous professional development**

Each Auditor, inspector and employee of the Chamber's administration plays a key role in ensuring the effectiveness of the audits. Therefore the Chamber's senior management must spend their time, energy and money to ensure efficient human resource management, an essential element of which is an effective strategy for recruiting and selecting

new staff for the Chamber.

The Chamber's senior management will continue to reward and recognise outstanding performance by employees, to analyse and forecast the Chamber's future staffing needs, and to select new staff so as to meet these needs in the best possible way.

The Chamber will continue to provide a range of training courses for its staff, including the following:

- introductory courses to help new employees to adapt to their new jobs;

- methodological training to arm staff with the skills and knowledge necessary for tackling audit tasks;

- management training to allow staff to develop inspectorate division management skills; and

- continuous training for auditors and inspectors to maintain and improve their professional skills.

The Chamber's senior management will give attention to career development of its staff by improving appraisal systems and individual development plans. Similarly, the Chamber will review the way it appraises staff performance to ensure that it is fair and effective. Personnel management system must ensure that those who perform well are praised, rewarded, and in time promoted, and those who are failing to perform are provided with appropriate training and support and, if performance is not improved, are let go.

## Monitoring

The Chamber recognises that one of the key risks in the fight against corruption is that many policies and plans are developed but not properly and systematically implemented.

The Chamber is committed to developing a detailed implementation plan to ensure that the actions identified in this strategy are carried forward and believes in the importance of close monitoring to ensure that progress is sustained. Accordingly, the Chamber will draw up a detailed action plan based on this strategy, and report annually on progress in achieving the commitments made in this paper. This progress report will be presented annually to the Parliament and other key partners in the fight against corruption and made available to the general public via the Chamber's web-site.

## Addendum

### International Standard of Audit ISA 240 (summary)

This standard is specifically concerned with the approach when auditing a set of accounts (hence the name), however, certain principles are relevant to other projects. Auditors are expected to:

maintain “professional scepticism”, i.e. recognise that fraud and corruption could exist, whether or not previous experience has identified any. The risk of fraud not being detected is higher than the risk of error not being detected because, by definition, there will have been an attempt to conceal it; and

consider at all stages of an assignment whether information, findings (including errors or deficiencies in systems) suggest a risk of fraud or corruption occurring. This includes discussing the possibilities and risks within the team at planning, evaluating the design of controls and whether they have been implemented (there’s no requirement to test effectiveness of the control unless a controls testing approach is adopted, but planning should consider whether a control can mitigate the key risk. Clearly a control is useless if it hasn’t been implemented!), and evaluating findings against the risk that fraud could be concealed in errors identified. This should all be documented.

The standard recognises the inherent limitations in an audit for detecting fraud (and indeed that it is management’s responsibility, not that of the auditor, to guard against fraud), as that is not necessarily the overriding objective of the audit. Even if it is, it is impossible to test everything (especially what’s not there!), although targeting risks can maximise the impact and likelihood of detecting fraud or corruption.

An important factor in designing audit responses (testing) to the risk of fraud is the need to incorporate a degree of unpredictability in the testing. If a client can predict what items an auditor will test, then they can better disguise the fraud or target their corrupt activities to areas less likely to be audited. For example, auditors should not always pick the large contracts to test and there should be an element of randomness about what transactions. This means offices can be visited at any time and also that one visit does not mean necessarily that there will be a long gap until the next.



## **Section 3.2**

# **The role of the Netherlands Court of Audit in the Dutch system development of fighting fraud and corruption**

Netherlands Court of Audit  
July 14, 2006





## Summary of 3.2 The role of the Netherlands Court of Audit in the Dutch system development of fighting fraud and corruption

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Fraud and corruption are specific examples of the lack of integrity. SAIs can play an important role in the fight against fraud and corruption on three levels:

1. On an institutional level, SAIs are well placed to promote the integrity of the public sector by contributing to accountability and transparency.
2. On a strategic level, an SAI can make a difference by wisely choosing its audit subjects and audit approach, fitting to the situation in a country.
3. On an operational level, SAIs, depending on their statutory task and remit, can contribute by performing special investigations, forensic auditing and law enforcement.

The major authorities and their role in the integrity system of the Dutch public sector are:

1. The Ministry of the Interior is the coordinating state institution for integrity within the public sector
2. The police, specially the Rijksrecherche (Dutch National Police Special Investigation Department)
3. The Public Prosecution Service
4. The FIOD/ECD (Fiscal Intelligence and Investigation Service/Economic Investigation Service)
5. SIOD/ AID/ VROM-IOD (special investigation services concentrating on fraud with subsidies and contributions within the fields of social security, agriculture and environmental issues)
6. BIBOB (Facilitation of judgments on integrity evaluations by government bodies)
7. Law Courts
8. National Ombudsman
9. National Security Service (AIVD)
10. Netherlands Court of Audit

The basis of the approach of the Netherlands Court of Audit towards fighting fraud and corruption is the wider scope of promoting the integrity of the public sector. Within this, a three tier approach is adopted:

1. Embedding integrity in regularity and performance audits
2. Monitoring the integrity of the public sector
3. Seeking out strategic allies for knowledge sharing.

# The role of the Netherlands Court of Audit in the Dutch system development of fighting fraud and corruption



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## 1 Introduction

In this paper we describe the approach of the Netherlands Court of Audit towards fighting fraud and corruption. Fraud and corruption are specific examples of lack of integrity. The wider scope of promoting the integrity of the public sector is the basis of the approach of the Netherlands Court of Audit towards fighting fraud and corruption.

We start this paper with a brief description of the different levels on which SAIs can contribute to controlling fraud and corruption and promoting integrity in the public sector. Subsequently we focus on integrity in the public sector in the Netherlands and the audit approach of the Netherlands Court of Audit. We end this paper with a summary.

## 2 Different roles on different levels

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SAIs can play different roles on different levels, seeking different allies in combating fraud and corruption and promoting integrity the public sector. These roles can vary from prevention and detection to prosecution and repression.

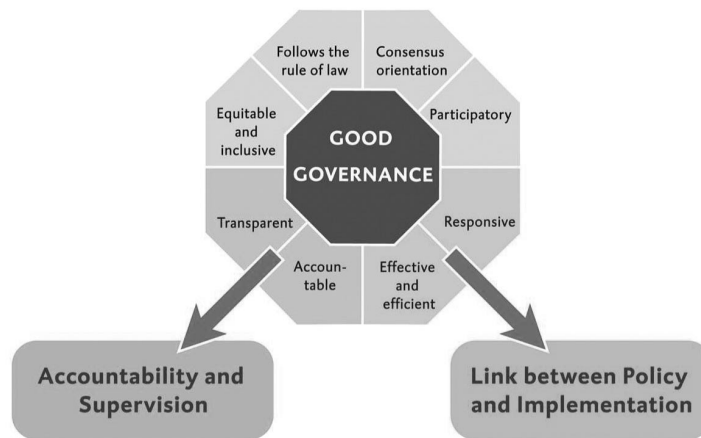
On an **institutional level** a well functioning SAI is invaluable to the establishment and maintenance of Good Governance and the prevention of fraud and corruption in a country. SAIs are well placed to promote the integrity of the public sector by contributing to accountability and transparency. Its allies on this level of institution building are other national institutions, international organizations and the SAI community. UN and World Bank programmes for developing countries and EU accession programmes recognize this. INTOSAI also contributes to the capacity building of SAIs e.g. through its Development Program, IDI. The Netherlands Court of Audit participates in several of these programmes.

The INTOSAI Lima declaration of 1977 is a worldwide recognised basis for the establishment of a SAI. With the 1998 Uruguay recommendations on the role of SAIs in fighting fraud and corruption the INTOSAI community went one step further and formulated 12 different ways in which SAIs could specifically contribute to the fight against fraud and corruption. The Netherlands Court of Audit has evaluated the implementation of these recommendations in a survey, and reported on this during the XVIII INCOSAI in Budapest.

Last but not least a major contribution of a SAI to promoting integrity in the public sector lies in leading by example. Not only by adopting the INTOSAI code of ethics, but also by making sure that its own integrity system can stand scrutiny. The Netherlands Court of Audit is collaborating with some SAIs within the Global Working Group of Auditor Generals to prepare a self assessment tool that SAIs can use for this purpose. We will report on this during the XIX INCOSAI in Mexico.

On a **strategic level** a SAI can make a difference in prevention and detection of fraud and corruption and promote integrity by wisely choosing its audit approach, audit objects and other activities, in accordance with the situation in a country. Allies on this level are other national institutions, public organisations or NGOs within the country that also have an interest in promoting the integrity of the public sector.

The Netherlands Court of Audit has based her strategy of choosing its audit approach, audit objects and other activities on the UN principles of Good Governance. In accordance with our statutory task and mission, we consider four aspects of Good Governance to be within our domain. *They are transparency and accountability*, aimed at the operation of public administration, and effectiveness and efficiency and responsiveness, aimed at the performance of public administration. We have incorporated these aspects in the two “pillars” of our strategy: *Operation of the public administration: Accountability and supervision* is one pillar. *Performance of the public administration: The link between policy and implementation* is the other pillar.



Through monitoring, communication, account management and the exchange of know – how, and building networks we are further developing the effectiveness of our work. Within this strategic framework promoting the integrity of the public sector is one of the “bridges” between the two pillars of operation and performance in the public administration. This means that integrity is an aspect of all our audits

On an **operational level** SAIs, depending on their statutory task and remit, can contribute to prevention, detection and repression of fraud and corruption by testing the integrity system, performing special investigations, integrity audits, forensic audits and law enforcement. Its allies on this level are other institutions and public organisations or NGOs within the country that also have an interest in promoting the integrity of the public sector, e.g. supervisory, investigative and law enforcing agencies.

The Netherlands Court of Audit has no remit that allows it to play a role in the prosecution of fraud and corruption. Neither do we spend our (scarce) resources on investigating cases of fraud and corruption. In our national integrity system other parties are better equipped to play this role. We focus on

the system and audit the functioning of this system and the organizations that are part of it. If, in the course of our audits, we find possible cases of fraud, it is brought to the notice of the responsible management of the organization, in order to enable them to hand over the case to the proper investigating authorities. Only if they fail to do so, we bring the case to the Public Prosecution Service. Very seldom we get a direct request for information from the PPS. In those cases we will assist the PPS.

### 3 Integrity of the public sector in the Netherlands

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*“The government is either incorruptible or it is corruptible. There is nothing in – between. Integrity is unconditional. And integrity is vital to the functioning of the public administration; violation of integrity in the public sector means nothing less than that the government loses the confidence of the citizens. And democracy cannot do without the confidence of the citizens. It would mean the end of democracy.”*

With these words, spoken in 1992, the minister of the Interior, the late Mrs. Ien Dales, put the matter of integrity within the public sector on the agenda. But even until recently the common view among Dutch authorities was that corruption is not a major problem and that it is not a widespread phenomenon in The Netherlands.

Until, with the help of a whistle blower, fraudulent activities in the construction sector came to light, involving civil servants. This led to a parliamentary enquiry in 2002. Also in 2002 it became known that some schools for higher education had ‘virtual students’ on their enrolment lists in order to increase their income from government contributions. These affairs helped in increasing the awareness of the authorities of the weaknesses of the integrity system of the public sector in The Netherlands.

In 2002 and 2004 The Netherlands was examined by GRECO, a group of states against corruption, under the responsibility of the Council of Europe.<sup>1</sup> In their recommendations, they emphasized the importance of a more pro –

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<sup>1</sup> GRECO, First evaluation round: *Evaluation Report on the Netherlands*. Strasbourg (2003) and GRECO, Second evaluation round, *Evaluation Report on the Netherlands*, Strasbourg (2005). [www.greco.coe.int](http://www.greco.coe.int)

active approach from the authorities that are responsible for formulating anti – corruption policies and the need for better statistics in order to measure more clearly the extent of corruption.

This last conclusion is supported by a recent academic study on Corruption in the Dutch public sector<sup>2</sup>, requested by the government. In its report on the state of the integrity systems (2004) the NCA also emphasized the importance of reliable statistics (see also par. 4.2). Recently the Dutch Government sent a white paper on corruption prevention to Parliament<sup>3</sup> in which improvement of registration is one of the five lines of action proposed:

1. Integrity policy aiming at the development of rules, awareness raising and compliance
2. Improvement of the registration of internal investigations into integrity violations, including corruption
3. Improvement of attention – raising of breaches of integrity
4. Strengthening of judicial compliance of the rules in cases of corruption
5. Collaboration between the public authorities and civil society

The major authorities and their role in the integrity system of the Dutch public sector are:

**The Ministry of the Interior** is the coordinating state institution for integrity within the public sector.

Within the decentralised structure of the Dutch government system, it is responsible for legislation and establishes principles and guidelines for assistance to all governmental bodies. Recently the ministry of the interior also has established BIOS, a Bureau for Ethics and Integrity, to support public organisations in maintaining their own integrity policy.

**The police**, specially the Rijksrecherche (Dutch National Police Special Investigation Department). The Rijksrecherche is an independent Special Investigation Service of the Dutch police, under the authority of the Board of Procurators General and is responsible for investigating cases of corruption involving public officials. For internal investigations within the police force there are internal investigations departments.

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2 L.W.J.C. Huberts, J.M. Nelen, *Corruptie in het Nederlands openbaar bestuur*. LEMMA, Utrecht (2005).

3 Tweede Kamer 2005 – 2006, 30 374, nr2

**The Public Prosecution Service.** The tasks of the public prosecutors' offices include responsibility for police work in criminal investigation proceedings. The public prosecutor initiates an investigation after being informed of a criminal offence, provided the case is within his or her jurisdiction, and is responsible both for that investigation and the police work involved.

**The FIOD/ECD** (Fiscal Intelligence and Investigation Service/Economic Investigation Service) is a special unit of the Tax Authorities and is a Special Investigation Service. They concentrate their investigative activities on tax – and customs fraud. They are also responsible for internal investigations of cases of corruption within the tax and customs authorities.

**SIOD/ AID/ VROM – IOD** are special investigation services concentrating on fraud with subsidies and contributions within the fields of social security, agriculture and environmental issues.

**BIBOB** (Facilitation of judgements on integrity evaluations by government bodies), an office within the Ministry of Justice. The purpose of this office is to support authorised local authorities in enforcing the BIBOB law. Under the authority of these local authorities, the BIBOB Office investigates the integrity of applicants for licenses and subsidies. BIBOB then advises local authorities on the danger of misuse of licences, subsidies and contracts. The local authority is responsible for its own decision, it can decide not to follow the BIBOB advice.

In addition to these there are also the Law Courts, National Ombudsman, National Security Service (AIVD), some municipal Integrity Bureaus (notably Amsterdam) and the Netherlands Court of Audit.

## 4 The audit approach of the Netherlands Court of Audit

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As stated earlier in this paper the Netherlands Court of Audit considers fraud and corruption to be specific examples of lack of integrity. We consider the wider scope of promoting integrity within the public sector to be more in accordance with our statutory task and mission. The Netherlands Court of Audit considers integrity an essential condition for trust in the public administration. Therefore integrity is part of the current five – year strategy



and, whenever possible, an aspect of all audits that we do. This way we will be able to use the knowledge we acquire over a number of years to obtain a deeper insight into the main factors that influence the integrity of the public sector in the Netherlands.

The emphasis in our approach is on prevention and not on repression of fraud or corruption.

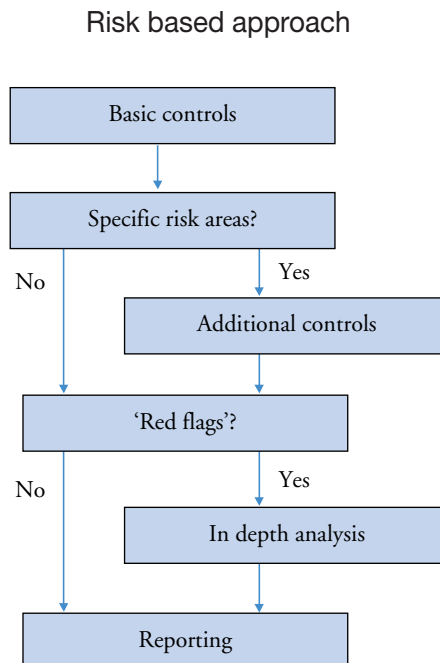
In our audits we therefore focus on the integrity system and the functioning of this system and the organizations that are part of it, not on individual cases.

We have a three tier approach to contribute to the integrity of the public sector: A strategy of embedding integrity in all types of audit that we do, conducting special Integrity Audits and seeking alliances in knowledge sharing.

## 4.1 Embedding integrity in regularity and performance audits

In our regularity audits we certify the reliability of State accounts and the orderliness and auditability of financial and operational management.

Our regularity audits are risk based:



In the risk analysis, we identify high risk areas concerning:

- Procurements and stocks
- Money flows (Cash, bank)
- Collection (taxes, fees)
- Subsidies, transfers
- Information (confidentiality, privacy)
- Inspection and sanctioning

During the audit we are alert to “Red flags” regarding:

- Institutional aspects and governance
- External relations
- Personnel
- Processes
- Documents

The results of our annual regularity audits are presented in audit reports to parliament. Annual regularity audits have a preventative effect on fraud and corruption within the public administration.

In our performance audits we look, among other things, at the performance of public institutions playing a role in the supervisory system of the Dutch society. A good supervisory system is of great importance to prevention, detection and repression of fraud and corruption. The NCA focuses in many of these audits on the cooperation between the actors involved. Experience shows that evaluations by the ministries tend to focus on the performance of individual actors and not on the chain as a whole. So a SAI can contribute substantially to better supervisory systems by aiming at the performance of the chain of actors.

The Netherlands Court of Audit carried out several audits on performance of supervisory institutions in the last decade. The NCA makes recommendations to the organizations it has audited and reports its conclusions and recommendations to Parliament.

On fraud and related topics the following NCA publications should be mentioned:

- Inspection of private income tax returns (2006). This audit focused on the risk – based approach the Tax Administration uses when checking income tax returns filed by private individuals and which makes the tax system susceptible to misuse and improper use.
- Combating fraud: situation 2004. The audit focused on tax and social insurance fraud and fraud within the banking and insurance sector, and is a follow – up of an audit that the NCA conducted in 2000: Detection and Prosecution.
- An insight into police performance (2003). From April 2001 to April 2002 the Netherlands Court of Audit investigated the management and control of the execution of police tasks.
- For the second part of 2006 the NCA has programmed an audit that focuses on identifying the factors impeding an efficient and effective detection, investigation and prosecution of financial – economic crime.

## 4.2 Integrity audits

The NCA has a long term programme to audit the integrity management systems of ministries and non departmental public bodies. These audits focus on the existence of an integrity policy and specific measures to insure integrity of the organization. The first audits were held in 1996 and 1998. In 2004 the NCA stepped – up its efforts along this line and conducted a base – line measurement of all ministries and 10 non departmental public bodies (NDPBs) on elements of integrity management:

- Integrity policy
- Policy evaluation
- Risk analysis
- Code of conduct
- Internal Control
- Integrity audit
- Registration of reporting
- Registration of violations
- Investigation protocol

- Prosecution
- Registration of judgements

The NCA published its report in 2005 and concluded that the integrity management system of the Dutch ministries and NDPBs has improved since 1996 and 1998, but still needed significant intensification. The findings per ministry were published on our website. The same method will be used in performance audits on NDPBs that the NCA is conducting.

Also the NCA does specific integrity audits, either on request of parliament or on its own accord. Two examples:

- In 2002, the Court of Audit conducted, on request of Parliament, a review on the audit of irregularities in the funding of higher education, performed by the audit department of the ministry of education.
- In 1999 the Netherlands Court of Audit investigated the ethical standards and the policies for prevention and sanctioning in penal institutions and the way in which such policies are implemented and carried out.

### 4.3 Seeking alliances and knowledge sharing

In order to ensure the effectiveness of our work, the NCA looks for different ways to disseminate its knowledge. Our auditors are encouraged to write articles about their work and cooperate with other actors in their field. The NCA organizes expert meetings and conferences, gives presentations and participates in training programmes.

A good example is the development of an Intergrity self assessment tool: SAINT (Self Assessment INTegrity), together with the Ministry of the Interior and the Integrity Bureau of the City of Amsterdam. The instrument is designed for the public sector in particular and consists of a one day workshop in which an organization can evaluate its integrity risks and the maturity level of its integrity measures. BIOS, the Bureau for Ethics and Integrity from the ministry of the interior, has now taken over the maintenance and support of SAINT.

Part of this project is the development of a database that can be used for benchmarking.

## 5 Summary

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In the view of the NCA, SAIs can play an important role in the fight against fraud and corruption, on three levels:

On an **institutional level**, SAIs are well placed to promote the integrity of the public sector by contributing to accountability and transparency.

On a **strategic level**, a SAI can make a difference by wisely choosing its audit subjects and audit approach, fitting to the situation in a country.

On an **operational level**, SAIs, depending on their statutory task and remit, can contribute by performing special investigations, forensic auditing and law enforcement.

The scope of the Netherlands Court of Audit is on promoting integrity within the public sector. Our emphasis is on prevention and our focus is on the integrity system. In this we adopt a three tier approach:

Embedding integrity in regularity and performance audits, monitoring the integrity of the public sector and seeking out strategic allies for knowledge sharing.



## **Section 3.3**

# **Bridging ethical collapse in public organizations of Poland**

The Art of Human Resource Management:  
How to Achieve Better Business Management,  
The State Vocational University in Gorzów Wielkopolski  
2009





## Summary of 3.3 Bridging ethical collapse in public organizations of Poland

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The credibility of Polish public agencies has suffered in the last several years as a result of the ethical collapse in this sector. Forces that led to scandals and failures include not only individual greed, inadequate agency governance systems or ineffective regulation and oversight of the accounting and auditing profession, but also lack of culture centered on ethics in human resource management. Examples of ethical collapse have been identified and analyzed for a number of public organizations in Poland in the last several years, such as finance reporting scandals which now seem to be a common occurrence.

Determinants of ethical collapse include pressure, fear and silence, lack of ethical climate in human resource management, differences between executives and those who report directly to them, weak internal controls and weak external supervision, a culture of conflicts, and a culture of rationalization. The most common determinant is found to be pressure. Often, the pressure is political or it stems from the fear of the employee to lose their position within the organization. This is reportedly due to the employees feeling unable to freely communicate their concerns about ethical lapses.

Ethical climate is also known to heavily influence organizations. According to research, lower ethical climate rating within an organization is associated with a higher number of questionable documents, missing or altered documents and a higher number of complaints from the public. A lower ethical climate rating is also found to have an impact on the employees as they noticeably devalue their job and their superiors as well as taking increased amounts of sick leave in comparison to those working in a higher ethical climate rating. Their quality of work is also low because the weak ethical climate rating delays the decision making process and increases the number of mistakes made.

Efforts to determine and punish violators must be made by informing the public and employees that there are mechanisms in place to deter unethical behaviours. Ethics training for managers and employees that enhances detection and prevention is crucial, as it helps to promote an environment that is not conducive to fraud and other types of wrongdoings. Using these factors as examples, a culture of ethics must be adhered to eliminate corruption.

Ethical organizations grow from ethical employees. Administrative and financial benefits for citizens and public organizations will result from having a strong ethical climate. Bridging ethical collapse is a straight shot to better business management.



# Bridging ethical collapse in public organizations of Poland



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## 1 Abstract

The credibility of Polish public agencies has suffered in the last several years as a result of the ethical collapse in this sector. Forces that led to scandals and failures include not only individual greed, inadequate agency governance systems or ineffective regulation and oversight of the accounting and auditing profession, but also lack of culture centered on ethics in human resource management.

Ethical organizations grow from ethical employees. Administrative and financial benefits for citizens and public organizations will result from having a strong ethical climate. Bridging ethical collapse is a straight shot to better business management.

Key words: Culture of Ethics, Human Resources Management, Public Organizations

## 2 Introduction

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Managers and accounting professionals in many organizations have come under scrutiny regarding their involvement in financial reporting scandals. Recently, it seems to be that executives have commonly distorted information about their organization's financial data, and ignored accounting procedures in order to maximize their own self-interest. Unfortunately, in some cases internal and external accountants in an attempt to meet their clients' needs have gone along with the distortions and lax accounting procedures.

The perception has been that such wrongdoing has primarily affected the private sector because of the impact of tax avoidance, or funds obtained through loans or grants by deception. However, this focus may be too limited. As long as human beings run organizations, whether private, profit, nonprofit or public, and those organizations have goals, plans, and reports, there will be pressures that can contribute to ethical lapses of managers' and/or employees' activities.

This article is based on examination of 20 public organizations including local government offices, and public enterprises, carried out during the last 15 years. This examination showed that executives and employees in these public organizations are vulnerable to unethical behavior. Individuals in public organizations, especially elected officials, do not want to be embarrassed by disappointing performance and financial results.

This article is based on case studies of public organizations that examined ethical collapses. Specifically, it attempts to identify the determinants of ethical collapses and ways ethical collapses in public organizations can be prevented.

To gather information on the determinants of ethical failures, public organizations' policies, plans, reports, and documents were reviewed. In addition interviews with selected individual in the public organizations were conducted. These interviews focused on an organization's personnel policy. This article does not identify the names of organizations examined in accordance with law, because some the organizations are subject to ongoing or future legal action.

### 3 The Determinants of Ethical Collapse

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Examination of the activity of 20 public organizations during 15 years showed that employees of these organizations experienced different types of pressure. In 6 of these 20 organizations, where ethical collapse happened, the pressure was political, or came from the fear of losing one's position in organization. The examination found that public employees were not encouraged to communicate their concerns about ethical lapses. They could not be sure that concerns they raised would be properly scrutinized or that retaliation would not be taken against them for raising the concern. These two important components of governance and an ethical culture were missing in the ethically collapsed organizations. In such organizations the examinations found that some employees tried to notify external auditors about wrongdoings in their organization in secret.

At these 6 organizations, the majority of employees (65%) reported not being comfortable because that they did not have the means and ability to voice their concerns and raise issues. The internal control procedures that existed in these organizations were not perceived by employees as sufficient to prevent wrongdoing. The examinations of public organizations identified several factors that can contribute to ethical collapse. These factors are<sup>1</sup>:

- Pressure to meet the numbers for established or expected performance measures
- Fear and silence
- Lack of ethical climate in human resource management
- Differences between executives and those who report directly to them
- Weak internal controls and weak external supervision
- A culture of conflicts
- A culture of rationalization

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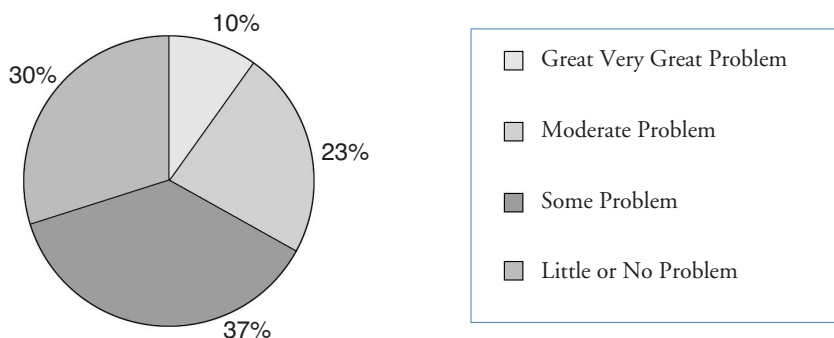
<sup>1</sup> The similar situation occurred in NASA. See: M.Jennings, *Preventing organizational Ethical Collapse* [in:] Journal Government Financial Management, spring 2004 vol. 53, no.1, p. 13

### Pressure to meet the numbers for established or expected performance measures

Executives at public entities felt pressure to “meet the numbers” to show that the organization measured up to established or expected performance measures. This pressure was often transferred to employees. As a result, the performance measure numbers often did not accurately reflect the actual status of the organization’s performance. Under pressure, employees made certain that the numbers they produced reflected what their managers wanted to see. An example of that type pressure occurred at a public company: the accountant explained that her superior represented the company as a profitable organization by making less-than-full and not-so-fair disclosures. The accountant was pressured to use some creative accounting techniques to hide the real situation. In another example, a senior manager engineer was pressured by his superior to commit fraud, because he wanted to hold on to his post.

Employees varied in the extent to which they felt pressure to make the data or operations do what they felt their superiors wanted them to do. In the 6 organizations examined, 80 percent of the employees provided an opinion on this issue. The minority of those with an opinion did not perceive pressure as a problem. However, 33 percent of those with an opinion reported that it was at least a moderate problem. Figure 1 presents public organization employees’ perceptions of the extent to which superiors’ pressure was a problem in their organization.

Figure 1: Extent to Which Public Entity Employees’ Perceived Superior’s Pressure as a Problem in Their Entities



Note: This figure is based on the responses of the 80 percent of employees who had an opinion on the extent to which superior’s pressure was a problem in their entities. The remaining 20 percent did not want to say whether superior’s pressure was a problem.

## Fear and silence

From the human resource management perspective, superior organizations tend to be flatter where managers encourage employees to offer suggestions, and are willing to discuss problems. In order to prevent ethical collapse in an organization or restore the organization after it occurs, it is important that employees have the confidence that they can openly offer suggestions that will be discussed. It means, even providing employees with the confidence to come forward when they have notified the law enforcement community about unethical behavior which resulted in illegal activities.

In 6 of the 20 organizations examined, such confidence among employees was lacking. They were obliged to keep information about unethical behavior to themselves. For example, at one organization (public enterprise), as a team consisted of several employees began to uncover the fact that their superior – a top manager – had committed fraud, waste and abuse, the team was forced to work secretly to document and address the problems. In order to do this they had to work during their superior's absence to avoid detection and punishment. They did not notify local government executives, and the organization's board about their examination of the problem because they were afraid of possible connections between their superior and those executives. Indeed, it turned out that all of these executives had the same unethical goal – self-interest instead the organization's integrity. One of the team staff members took steps to hide the evidence they were gathering and stored it outside of the organization so that their work would not be destroyed. Eventually some employees arranged to meet with external investigators, away from their organization in secret because they feared being discovered and fired.

Taking the factor of fear and silence into consideration the question might be asked: How many people in an organization who know about wrongdoings take any action? The reality in this area is cloudy.

While the knowledge about wrongdoings may exist, fear can prevent employees from coming forth, and notifying investigators. For example, the president of a public company who had served for more than 10 years was fired immediately after investigators revealed that he was involved in illegal activity, and that he had encouraged employees to commit fraud. Such a situation raises the following questions: How many employees had to know of his fraudulent activity before one finally came forward? How many employees were involved in wrongdoings and committed fraud encouraged by managers? How long did these conflicts occurs before someone broke the silence?

While the specifics can differ from one organization to another, a culture of fear and silence was identified in 6 organizations examined. This culture

prevented employees from expressing their concerns. The results of such situations are usually the same. In the end, the perpetrator who took the opportunity to commit fraud was identified and removed from a position of public trust, but the damage to the reputation of the public organization was enormous.

### Lack of ethical climate in human resource management

A culture of fear and silence resulted from improper human resource management. In all of the 6 organizations examined, the mission and vision statements did not identify ethical behavior as a crucial factor in the organization's operations. Ethical behavior requires specific intellectual capacities, skills and attitudes. It is an important issue. Although internal and external regulations exist for managers, accountants, and other employees, regulations by themselves do not provide sufficient detail needed to address all situations, some of which are unpredictable.

In the 6 organizations examined where ethical collapse occurred, the specific intellectual capacities, skills and attitudes associated with ethical behavior were not taken into consideration during employee recruitment and promotion processes. All of the 20 organizations examined lacked efficient "systems to verify" backgrounds of applicants for managerial and staff positions. These organizations' employee performance appraisal and annual assessment procedures did not address ethical issues. In addition there were no explicit and uniform personnel policies at these organizations.

The examinations of these organizations also identified an absence of codes of ethics, or general codes of conduct. Executives at these organizations did not set the tone of ethical conduct at the top of the organization. As a result the professional practices framework at these organizations was not based on standards and ethics, development and practice aids and practice advisories. There were no guiding principles relevant to the ethical issues, because there were no written rules of conduct that described behavior norms expected of employees that focused on integrity. Instead, unwritten rules existed, and were intended to guide the specific conduct of employees – collusive tasks.

The examination of these 20 organizations found that executives did not promptly respond to correct problems identified by internal or external audits. In addition, top management was not knowledgeable of potential problems or tried to abort analysis in this area. Management failed to discuss or adequately consider innovative approaches to address compliance issues. Ethics training for managers and employees aimed at enhancing the detection and prevention of unethical behavior did not exist at these organizations.



The study of these organizations also found lack of systems for tracking down situations, conditions, or occurrences within a program or activity that indicated susceptibility to noncompliance. The accountants of these organizations accepted to some extent departures from proper accounting procedures, being aware of inappropriate operation and side benefits for themselves.

### Differences between executives and those who report directly to them

In studying the personnel policies of the 6 ethically collapsed organizations examined, some differences between executives and those who report directly to them were identified. Age was an important factor. Individuals in executive positions at the organizations were young. The young executives, who had been promoted quickly despite their lack of experience, were exploited by top managers, who were older, because they were vulnerable and waiting for the acceptance of their superiors. The young executives had similar characteristics. They came from low income families and had weak educational backgrounds but were intelligent and had the desire to earn high incomes as quickly as possible. Their lifestyles inspired other employees and a “culture of cunning” spread out. In one of the organizations examined, superiors appreciating young managers’ “obedience” gave them opportunities to obtain funds from fraudulent activities. One of the young managers obtained funds from fictitious accounts and used the funds to purchase goods from his father for his office.

While these young executives may not have received high salaries, they enjoyed other benefits including media attention and deferential treatment by their fellow employees. They were loyal and reluctant to raise difficult questions about unethical behavior of their superiors due to their dependence on the elected public officials for their livelihoods.

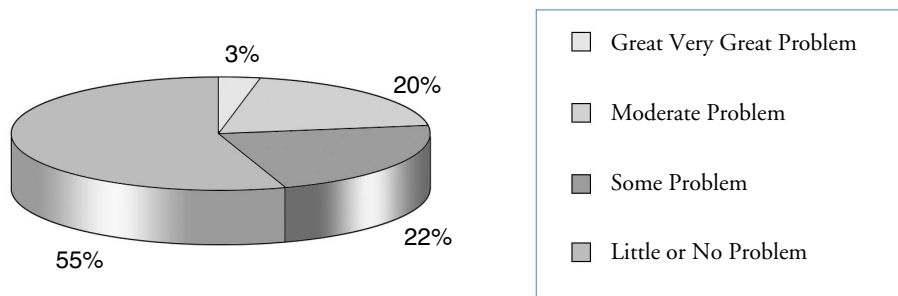
### Weak internal controls and weak external supervision

In exploring causes of ethically collapsed organizations, a striking factor emerged – weak internal controls and external oversight. This factor has been identified as a major contributing cause in all of the significant cases of wrongdoing examined. The examinations of the 6 ethically collapsed organizations found that the governing boards did not exercise effective oversight.

Members of governing boards (from one public enterprise and three local

government offices) varied in the extent to which they perceived ethical lapses of managers as a problem. Ninety percent of the governing boards' members provided an opinion on ethical lapses. The majority of those with an opinion did not perceive it as a problem. However, 23 percent of those with an opinion reported that it was at least a moderate problem. Figure 2 presents governing board members' perceptions of the extent to which ethical lapses of managers was a problem in their organizations.

Figure 2: Extent to Which Governing Board Members' Perceived Ethical Lapses of Managers as a Problem in Their Entities



Note: This figure is based on the responses of the 90 percent of governing board's members who perceived ethical lapses of managers as a problem in their entities. The remaining 10 percent did not want to say whether ethical lapses of managers were a problem.

It is true that citizens are the watchdog of government operations. However the studies of ethically collapsed organizations showed that citizens' roles on boards were intertwined with those who appointed them. This contributed to the boards having a lack of objectivity and limited oversight role, contributing to limited transparency of the organizations' operations.

Internal management controls are defined as the policies and procedures used to provide reasonable assurance that goals and objectives are met, resources are adequately safeguarded, efficiently utilized and reliably accounted for, and laws and regulations are complied with. The effectiveness of internal management controls varied due to sub-goals for agency management, its inherent limitations and the nature of the operations.

The analysis of examined organizations found, that in general, regardless of their design, internal control systems can never provide a complete guarantee that faults will not occur or, if they do, that they are noticed and rectified in

time. All internal management control systems have inherent limitations. These include: a) managers may not follow the controls because they are unaware of or deliberately decide to ignore them (which occurred in the 6 ethically collapsed organizations examined); b) the internal management controls were based on the skills and abilities of designated individuals to make assessment and decisions and could not offer protection against errors made by these individuals.

### A culture of conflicts

The examination of the 6 ethically collapsed organizations found that integrity and independent judgement required in the selling of public properties became clouded by self-interest. It is the result of a culture of conflict where an atmosphere of the “cunning individual” was created. In such organizations facts were distorted. Fictitious accounting evidence was created and funds diverted in a crooked manner were spent for inappropriate items such as gifts. In another example - all notary actions were prepared in one office that was headed by the mother of a well-known politician.

In 3 of the examined organizations a “web of influence” existed. Members of families worked in the same institutions. In one organization, top management wielded such power that each working day looked like doomsday for employees. Those who had to courage to ask unwelcome questions were banished for their “impudence”. They were terminated or relegated to lesser positions because they contested their superior’s ideas. The top manager from this organization was viewed as one of the best managers in the local public sector. All employees who agreed with him could obtain some gains in accordance with their position and role in the “web of influence”.

### A culture of rationalization

The next factor identified during the examination of the organizations is that all of the organizations fancied themselves different and better than others. This view was confirmed in the organizations’ official reports and statements. In all of these organizations dishonest managers overestimated their abilities and underestimated the risks of being found out. They were convinced that they were not subject to the rules and they were without fear of discovery because they considered themselves to be above discovery. They were also convinced that their strong relationships with top managers from other agencies would help them. Individuals responsible for wrongdoing rationalized their activity, believing that the government was so big that what they took would never be missed. Such an arrogant posture developed slowly. Being

convinced that they were unique and that they had a recipe for success they developed a feeling of invincibility.

When responding to a list of possible reasons for exemption from ethical rules at their organizations, executives from the 6 organizations examined most frequently selected “a public interest”. Twenty percent of executives felt some exemption from ethical rules because their superiors pressurized them into wrongdoings. Ten percent of executives perceived competition with other agency divisions as a reason for ethical lapses.

Reasons for ethical lapses cited by interviewed executives included legitimacy of their activity. For example, the decision to build a hypermarket was explained as being useful for the local community and profitable for local government, even if this decision was not made in a transparent and legal manner. In another case where, fictitious accounting evidence was created, the managers involved explained that the funds obtained were not used for planned tasks but were needed by the agency for other important purposes. Another explanation offered for wrongdoing was that pay raises for employees were scheduled and funds were needed. In one case, the public official claimed immunity from ethical and legal liability during the process of building a city market hall because he wanted to help local community businesses. Such “philanthropy” became an explanation for departure from honesty and fairness in performance and financial reporting.

Other cases of manipulation, falsification, alteration of accounting records and supporting documents from which financial statements are prepared, misappropriation of assets, suppression or omission of the events, transactions, or other significant information, misapplication of accounting principles relating to amounts, were explained in ways similar to those mentioned above.

Analysis of data obtained during interviews showed that people absolved perpetrators of their violation of ethical rules when the perpetrators were able to focus the public’s attention on the social benefits or philanthropic nature of their actions.

## 4 Ethical climate influences on organizational costs

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During the examination of the 20 public organizations, an attempt was made to examine the correlation of various factors and the ethical climate of organizations. The following factors were identified that appeared to be associated with the ethical climate in the organization.

- The level to which employees perceive that their executives set a good ethical example. High level indicates that a strong ethical climate exists in the organization.
- The level to which employees perceive that their organization's commitment to implementing and maintaining high ethical standards. High level indicates that a strong ethical climate exists in the organization.
- The level of employee awareness of wrongdoing in comparison to whole employees. High level indicates a weak ethical climate exists in the organization.

Taking into consideration the relationship between ethical climate and organizational costs, the following data were gathered to establish financial and performance impacts: complaints made by citizens, employee assessments of their agencies, and superiors, number and cost of unfair biddings and agreements, number of questionable documents prepared by quality control inspectors at the end of contracts, and number of questionable property estimates.

The following relationships were identified during the examination of public entities:

- A lower ethical climate rating was associated with a greater number of questionable documents, missing or altered documentation, and examples of misrepresentation of the facts.
- A lower ethical climate rating was associated with a greater number of complaints from the public.
- Employees who worked in entities with a lower ethical climate rating noticeably devaluated their job and superiors. Quality of work was low. The weak ethical climate delayed the decision making process, and increased the number of omissions and

accounting mistakes.

- Employees who believed their entities maintained a strong ethical climate took less sick leave and were more likely to plan to keep working for their entities<sup>2</sup>.

## 5 Major ethical climate factors

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Identifying ethical climate factors and making comparison with real situations in public agencies, enterprises, and other entities could help estimate the ways in which the organization follows ethical standards. The major ethical climate factors include:

- Employee perception of consistency between “concert of wishes” – policies and practices
- Compatibility between executives’ declaration and their actual behavior
- Visible endorsement of ethical behavior by organization’s leadership
- Employees’ perception of being treated fairly
- Freedom to question authority
- Employees’ knowledge of ethical lapses’ reporting system and of outcomes
- Employees’ ability to report wrongdoing
- Efforts to detect and punish violators
- The extent in which ethical behavior is a major factor considered in recruitment, assessment, and promotion process
- Existence and frequency of ethics training
- Appropriate follow-up by governing board and/or management when wrongdoing is reported

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2 The problem presented in this article is similar to Austin’s Office. See: C.G.Waring, C’A. Daugherty, *Make Them an Offer They Can’t Refuse* [in:] Journal Government Financial Management, spring 2004 vol. 53, no.1, p. 35-36

## 6 Summary

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No doubt, responsible, honest governance and accountability are critical. They promote efficiency and effectiveness in the capital and credit markets, ensure credible functioning of democracy, and provide benefits to the community. To avoid ethical collapses that will destroy public trust, managers and employees must recognize that they have to follow the same ethical standards as others. They are not beyond law and regulations. They must stick to the law. However, public managers and employees must not simply comply with the law. The law is the minimum standard. Standard of behavior is higher. Therefore managers and employees must focus on creating a culture of ethics in their human resource management. Doing so requires the following<sup>3</sup>:

- Create possibilities for people to do the right thing.
- Assure that people do the right thing.
- Implement effective accountability mechanisms if people don't do the right thing.

Implementing and maintaining public trust requires that human resource management in each agency must focus on a culture of transparency, accountability and integrity. The management, boards, stakeholders, employees and internal auditors have to know that playing games with financial and performance data is strictly forbidden. Full disclosure should be recommended. Individual integrity should be considered as the main factor in recruitment and promoting process.

Failure to discipline violators of organizational policies is the best way to build unethical organization. It starts with petty problems and later leads to ethical lapses, and further to crime. Therefore appropriate disciplinary action should take place in each case of violation of organizational policies. Public entities should maintain accurate personnel records of disciplinary actions.

Employees must have an opportunity to express their concerns and report unethical or illegal conduct. The availability of such opportunities should be well publicized, and individuals should be made aware that they have the opportunity to provide information anonymously and without fear of reprisal.

Informing the public and employees that such mechanisms are in place

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<sup>3</sup> The similar approach was presented during the ICGFM Conference, see: D.M. Walker, *Accountability Challenges in the 21<sup>st</sup> Century*, ICGFM 19th Annual Conference and Training, Miami 2005

deters unethical behaviors because their existence is known by those who have the potential to commit the fraud and other types of wrongdoing. Remember, however, the risk of paralyzing an organization with petty complaints is the cost of implementing such mechanism.

Further, ethics training for managers and employees that enhances detection and prevention is crucial. It helps promote an environment that is not conducive to fraud and other types of wrongdoings.

These factors create a culture of ethics, one in which questionable conduct is identified before it take place. The culture of “cunning individuals” is a powerful one that fuels poor judgments and decisions, and it is highly controlled by unethical individuals. The key to its elimination is creating a culture focused on ethics. The culture of ethics means honesty, keeping promises, and the true realization of public interest. The Accounting Law and International Federation of Accountants (IFAC) standards have to be combined with the culture of ethics. Effort has been made to fully implement a Public Internal Financial Control System as proposed by the European Union<sup>4</sup>.

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<sup>4</sup> IFAC is the global organization for the accountancy profession. It works with its 157 members and associates in 122 countries and jurisdictions to protect the public interest by encouraging high quality practices by the world’s accountants. IFAC members and associates, which are primarily national professional accountancy bodies, represent 2.5 million accountants employed in public practice, industry and commerce, government, and academia. See: IFAC webpage



## **Section 3.4**

# **The role of internal audit in preventing and detecting misuse, fraud and bribery**

20th UN/INTOSAI Symposium  
Vienna, Austria  
11 – 13 February 2009



## Summary of 3.4 The role of internal audit in preventing and detecting misuse, fraud and bribery

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To have an effective anti-corruption program, organizations must have an informed board and management team who understand human behaviour, the risks of fraud and misuse, and the symptoms that corruption has occurred. Once the risks are understood, internal auditors help management design and implement strong control systems, and provide objective feedback on the effectiveness of relevant controls in operation. The Institute of Internal Auditors (IIA) provides standards, guidance and training to support internal auditors in their role in preventing and detecting misuse, fraud and bribery.

Internal auditors have opportunities to educate management and the board on the nature of various risks in their organizations. This occurs as a result of a formal risk assessment. The internal audit activity evaluates risk exposures relating to an organization's operations: financial and operational information, safeguarding of assets and compliance with laws, regulations and contracts. When internal audit identifies a heightened risk of fraud or corruption, a valuable role is to act as a catalyst to help ensure that these risks are addressed. Many times internal audit will help management design (or upgrade) relevant policies to encompass strong internal controls and help mitigate the risk.

The IIA is promoting a new starting point for developing a fraud risk management program, including fraud risk governance, fraud risk assessment, fraud prevention and detection, fraud investigation and corrective action. It is also implementing a new curriculum of fraud training courses and fraud hot topics webinars to support its members in developing the knowledge, skills and experience to address the risks of misuse, fraud and bribery in their organizations.



## The role of internal audit in preventing and detecting misuse, fraud and bribery



**Patricia K. Miller**

CIA  
/ Former Chairman of the Board, The Institute of  
Internal Auditors

Corruption. Fraud. Bribery. Misuse of company assets. Unfortunately, it seems that rarely a day goes by when there is not another report of a major organizational misdeed which has cost stakeholders large sums and dealt a major blow to the reputation of the organization involved. In government, corruption is often defined as the perpetration of an act that violates the public trust. In business, the same concept applies, and corruption can be thought of as officials conducting an act that violates laws, regulations and ultimately the trust of key stakeholders. In both government and business, corruption encapsulates fraud, misuse of company assets, and bribery. And in both sectors, internal auditors and inspectors general play critical roles, first, in preventing corruption and, when necessary, detecting and exposing it.

To have an effective anti-corruption program, organizations must have an informed board and management team who understand the reality of these risks – understanding human behavior, the risks of fraud and misuse, and the symptoms that corruption has occurred – and who set the right ‘tone at the top’ and take action to prevent the abuses, such as supporting the development of a strong internal audit function. Internal auditors frequently are called upon to educate boards and management on these topics and the risks within their organization, and can act as a deterrent to corruption by their very presence and activities. Once the risks are understood, internal auditors also help management design and implement strong control systems, and provide objective feedback on the effectiveness of relevant controls in operation. In

these ways, internal audit contributes significant value to the organization in helping prevent corruption. Of course, internal auditors also frequently help detect and investigate potential acts of corruption and fraud.

The Institute of Internal Auditors (IIA), as the professional organization supporting more than 160,000 practicing internal auditors worldwide, provides standards, guidance and training to support internal auditors in their role in preventing and detecting misuse, fraud and bribery. This paper further explores the key role that the internal auditing profession plays in preventing and detecting these misdeeds.

## 1 Definition and Role of Internal Auditing

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The IIA has developed a globally accepted definition of internal auditing, which clearly describes the broad role of the internal auditor:

- Auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

Key elements of the definition include organizational independence coupled with an objective state of mind, so that the internal audit activity reports its conclusions in an unbiased and factual way to the board and management, regardless of the topic. When the topic is fraud or corruption, this is especially important!

In addition, internal auditors perform their work in a disciplined manner with a broad scope encompassing not just internal controls, but also governance and risk management activities in an organization. Given that all forms of corruption are frequently indicative of a breakdown in control, risk management and, unfortunately, sometimes governance, these are areas that internal auditors must be well versed in to fulfill their primary role, as defined above.

The IIA has long recognized the criticality of internal audit in the fight against misuse, fraud and bribery. The International Standards for the Professional Practice of Internal Auditing (Standards), promulgated by the IIA, encompasses standards applicable to all practicing internal auditors. New IIA

fraud Standards, effective January 1, 2009, include:

- Standard 2120.A2 – The internal audit activity must evaluate the potential for the occurrence of fraud and how the organization manages fraud risk.
- Standard 2210.A2 – The internal audit activity must consider the probability of significant errors, fraud, noncompliance, and other exposures when developing the engagement objectives.

These new Standards are intended to drive implementation of fraud risk assessments in more organizations, providing a foundation for appropriate risk management actions. Prior to the January 2009 change, fraud was an implicit consideration; now it is explicitly required to be considered on every internal audit.

## 2 Prevention as the First Line of Defense

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### Education

Internal auditors have opportunities to educate management and the board on the nature of various risks in their organizations, and frequently this occurs as a result of a formal risk assessment. The internal audit activity evaluates risk exposures relating to an organization's operations; financial and operational information; safeguarding of assets; and compliance with laws, regulations and contracts. While the potential for corruption will vary from one organization to another based on each organization's specific circumstances, in all organizations, misuse, fraud and bribery pose a threat to the efficiency of operations, integrity of information, security of assets and compliance with laws and regulations.

An internal auditor's assessment of the risk of corruption includes a consideration of such factors as the organization's ethical climate and 'tone at the top', the nature of operations, the location of operations and the local culture and acceptance of bribes and kickbacks, and the strength of the existing system of internal controls. The completed assessment is the basis for communicating the current state, the risk of fraud or corruption, and recommending mitigating actions that management and the board may choose to implement to counter the identified risks.

## Designing Strong Controls

When internal audit identifies a heightened risk of fraud or corruption, a valuable role is to act as a catalyst to help ensure these risks are addressed. Many times internal audit will help management design (or upgrade) relevant policies to encompass strong internal controls and help mitigate the risk. For example, internal audit may take on a consultative role to help management design relevant policies and procedures in areas such as:

- Code of Ethics and Employee Handbook
- Procurement Practices
- Travel Expense Policies and Procedures
- Import and Export Procedures
- Controller's Handbook for Close Procedures

It is critical that policies such as those noted above consistently and strongly reinforce management's commitment to ethical behavior, provide clear definitions of what behavior is acceptable (and not), explain disciplinary action for noncompliance, and offer contact information for questions.

## Coordinated Risk Management

Many organizations have multiple risk management activities to counter misuse, fraud and bribery, in addition to an internal audit function. Examples include an organizational 'ombudsman' to handle questions and allegations; a security function to investigate reports of inappropriate behavior; a compliance group to monitor compliance with laws and regulations such as the FCPA (foreign corrupt practices act) or import/export laws; a general counsel to help set policy for compliant behaviors as well as for disciplinary action. Organizations can help prevent misuse, fraud and bribery by clearly communicating the existence and activities of these risk management functions. Often, internal audit can provide a valuable service to management and the board by gaining an understanding of the role of each of these organizations in fighting fraud and corruption, and providing an overview to management and the board on how effectively these organizations coordinate and align their activities to ensure that all key risks are effectively addressed.



## 3 Detection and Investigation

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### Monitoring Control Effectiveness

As noted in the definition of internal auditing, a key role is to provide assurance to management, and this assurance is provided as internal audit actively monitors the effectiveness of controls, risk management and governance activities. A risk assessment is required by The IIA Standards to determine where to allocate internal audit resources, and the identified risk of fraud or misuse will significantly increase the potential for an audit to be conducted. During the conduct of the audit, identified control weaknesses that could increase the risk of fraud or corruption, such as an inadequate segregation of duties or poorly designed physical or logical access controls; as well as environmental factors that could contribute to heightened fraud risks, such as lack of accountability and transparency, weak 'tone at the top', or increased opportunity for employee rationalization due to such actions as force or salary reductions, will be communicated to appropriate management and the board for action. Management and the board rely on internal audit to provide objective, fair and timely feedback on these critical risks. It should be noted that the presence of internal audit and the effective conduct of risk-based audits also serve to deter acts of corruption.

### Investigating Fraud or Misuse

It is always possible that, beyond just identifying the potential for fraud or misuse due to a control weakness or environmental factor, internal auditing will actually identify the existence of such abuse. Even though we know that more frauds are detected by tips than by other internal controls, Standard 1210.A2 still notes the importance of all internal auditors have the competence to identify fraud indicators:

- Standard 1210.A2 – The internal auditor must have sufficient knowledge to identify the indicators of fraud but is not expected to have the expertise of a person whose primary responsibility is detecting and investigating fraud.

It also acknowledges that some internal auditors will not have the professional competence to do a thorough investigation. Instead, once indicators of fraud are identified, if necessary, internal auditing will bring in trained fraud auditors to complete the investigation.

## Data Analysis and Monitoring Tools

Technology can and should be leveraged to aid in the monitoring and investigation of potential fraud or misuse. Software can be designed to search for suspicious transactions, controls being overridden, and unusual trends. During an actual investigation, data mining tools exist to facilitate the comparison, matching and analysis of large amounts of data to speed up and improve the accuracy of investigative results.

## 4 The IIA's Supporting Role

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In July 2008, “Managing the Business Risk of Fraud: A Practical Guide” was published by the IIA and the other sponsoring organizations, the American Institute of Public Accountants (AICPA) and the Association of Certified Fraud Examiners (ACFE). This guidance recommends ways in which boards, senior management, and internal auditors can fight fraud in their organization. Specifically, this publication defines principles and theories for fraud risk management and describes how organizations of various sizes and types can establish their own fraud risk management program.

The guide includes examples of key program components and resources that organizations can use as a starting point for developing a fraud risk management program, encompassing:

- **Fraud risk governance** - the roles of those charged with governance, such as boards and audit committees, with overseeing the fraud risk management program implemented by the organization's management.
- **Fraud risk assessment** - a structured assessment of the organization's various fraud risks, including those that may be less common but which could cause significant financial or reputational damage if they did occur. Bribery and corruption would be good examples of such risks.
- **Fraud prevention** - outlines policies, procedures, training and communication that can play a key role in reducing the likelihood and potential impact of such wrongdoing.
- **Fraud detection** - recommends ways to optimize training and reporting mechanisms to generate more tips, while also deploying

new technology to expand detection through transaction monitoring and data mining, including continuous monitoring where feasible.

- **Fraud investigation and corrective action** - reflects the practices of leading organizations, which pre-plan their protocols and resources for conducting investigations into alleged or suspected fraud, and implement enterprise-wide changes to their core processes and controls to reduce the likelihood of recurrences throughout their organization.

The IIA is promoting this new guidance, not only in the internal audit community but also with boards, audit committees and senior executives. The IIA is committed to supporting its members in developing the knowledge, skills and experience to address the risks of misuse, fraud and bribery in their organizations, and therefore is implementing a new curriculum of fraud training courses and fraud hot topics webinars to support this commitment.

## 5 Conclusion

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Internal auditing is a valuable resource to management and the board in countering misuse, fraud and bribery. Starting with providing an education on the nature of the risks and the potential for abuse within organizations, helping design appropriate processes and controls to prevent or minimize abuse, working in a coordinated manner with other risk management organizations, and ultimately in monitoring and reporting on the effectiveness of the risk management activities or aiding in investigations, internal auditing is at the forefront in preventing these abuses.



## Section 4

# Citizens engagement in auditing for detecting and deterring corruption

- 4.1 Effective practices of cooperation between SAIs and citizens to enhance public accountability
- 4.2 'Shared Accountability' in service delivery: Concepts, principles and the Australian experience
- 4.3 Enhancing public accountability: Realigning SAIs with social audit
- 4.4 Building trust: Methodologies and tools for civic engagement at the local level



## Introduction to Section 4

### Citizen engagement in auditing for detecting and deterring corruption

The section on citizen engagement in auditing for detecting and deterring corruption management program begins with a documentation of the summary, conclusions and recommendations which are part of the official report on the 21st UN/INTOSAI Symposium which took place 13-15 July 2011 in Vienna, Austria. The document reflects the high relevance and firm commitment of the UN, INTOSAI and SAIs to enhance public accountability and to fight corruption through cooperation between SAIs and citizens.

The following three contributions to the section highlight challenges but also responses to these challenges as they have been developed in the case of Australia, India and Argentina. Chapter 4.2 delivers a deeper analysis of the interrelations between citizen engagement, accountability and the work of audit institutions. It discusses the need for shared accountability in service delivery. Different concepts and principles are presented and the author illustrates her argument with the ‘whole-of-government approach’ towards accountability as it was agreed by the Council of Australian Governments in 2000 and later on applied e.g. in implementing the National Indigenous Reform Agreement 2008.

Chapter 4.3 discusses gaps in the accountability framework and does this with a focus on audit institutions. It describes social audit by using examples from India and argues in favour of the cooperation of SAIs and civil society. Social audit is understood and described in the chapter as important to overcome existing gaps in the accountability framework. In addition, the paper describes measures of SAI to enhance transparency and public accountability in response to corruption.

The fourth and last chapter of the section begins by elaborating firstly the high relevance of local governance and secondly the importance of citizen engagement in the context of local governance. By referring to the example of Argentina, she describes in detail how citizen audit functions can work and what they can achieve as a new form of performance auditing.

While chapter 4.2 has a focus on analyzing the ‘what-to-do’ and not so much on the ‘how-to-do’ of service delivery in the context of engaging citizen and accountability, the ‘how-to-do’ is more in the focus of the chapter 4.3 and 4.4. The UN/INTOSAI conclusions and recommendations at the beginning

and the following articles do not present citizen engagement in auditing as an alternative to traditional forms of audit and related methodologies. Rather, citizen engagement presented as a complementary element to be integrated into the work of audit institutions.



## **Section 4.1**

# **Effective practices of cooperation between SAIs and citizens to enhance public accountability**

21<sup>st</sup> UN/INTOSAI Symposium  
Conclusions and Recommendations  
Vienna, Austria  
13-15 July 2011



## Summary of 4.1 Effective practices of cooperation between SAIs and citizens to enhance public accountability

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The section is opened by documenting the summary, conclusions and recommendations which are part of the official report on the 21st UN/INTOSAI Symposium (pages 13 – 21 of the report). They document the firm commitment to enhance public accountability and to fight corruption through cooperation between SAI's and citizens.

There was a general agreement at the symposium that cooperation between citizens and SAIs benefit all, as citizens and SAIs share the same objectives about increasing the efficiency of government, securing public governance, enhancing transparency, warranting accountability of the public sector and, ultimately, foster development for all, contributing to the achievement of the Millennium Development Goals (MDG). SAIs are aware that they should explore and possibly undertake partnerships and institutionalize the engagement of citizen and their civil society and private sector organizations. In addition, they should adopt a multidisciplinary approach to attain a coherent and diversified communication policy. Such communication is to be seen as a two-way process, as citizens too generate valuable information as input for SAI's audits, enhancing thereby the accountability role of SAIs.

Overall, the introductory chapter underscores that participation between SAIs and citizens is not a secondary subject but that it has to be seen as an integral part of efforts to increase accountability and to fight corruption. At the same time, it is underscored that participation between SAIs and citizen shall not diminish the independence of SAIs which is one of the principles in the Lima and Mexico Declaration of INTOSAI.



# Effective practices of cooperation between SAIs and citizens to enhance public accountability

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United Nations Department of Economic and  
Social Affairs (UNDESA)  
/ International Organization of  
Supreme Audit Institutions (INTOSAI)

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## 1 Summary

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As societies become more diverse and complex, traditional functions of SAIs evolve in innovative ways to improve effective accountability of the public sector to all citizens, and in equitable terms, to those for which public sector accountability may bring better possibilities for economic, social and human development.

New public management and the transformations it has brought with it in the wake of the recent financial, economic and budget crises, have demonstrated that SAIs' audits are only one side of the coin. There was general agreement that cooperation between citizens and SAIs benefitted all, as citizens and SAIs share the same objectives about increasing the efficiency of government, securing public governance, enhancing transparency, warranting accountability of the public sector and, ultimately, fostering development for all, contributing to the achievement of the MDGs. SAIs are aware that they should explore and possibly undertake partnerships and institutionalize the engagement of citizens and their civil society and private sector organizations to assure that public administration is effective, efficient, responsive and adheres fully to the principles of legality.

SAIs should adopt a multidisciplinary approach to attain a coherent and diversified communication policy. They must clearly communicate to the citizens what they do and what added value they generate for their states and societies in order to increase public knowledge about the accountability role played by SAIs. They should facilitate the access of citizens to the information generated by the SAIs, which needs to be relevant and trustworthy and in a comprehensive format which is easily accessible to the public. Such communication with the citizens is a two-way process, as citizens too generate valuable information as input for the SAIs' audits, enhancing thereby the accountability role of SAIs.

It is very important that SAIs are deemed credible before they interact with citizens to build public confidence. Although challenges have also been identified, most of them can be overcome by a careful selection of institutions with whom to partner when interacting with citizens, and by proper planning and implementing measures to address those challenges. It was also made clear that a "one-size-fits-all solution" is inappropriate and SAIs would need to assess the maturity of their own environments to determine the nature and extent of their interactions with citizens. Ultimately, SAIs can learn from each other's experiences, reaffirming the relevance of the INTOSAI motto "Experientia mutua omnibus prodest" – mutual experience benefits all.

As the outcome of their deliberations the Symposium participants unanimously adopted recommendations and conclusions to enhance public accountability through cooperation between SAIs and citizen. These included the following specific practical proposals:

1. Continue the efforts to adopt a UN General Assembly resolution supporting the principles laid down in the Declarations of Lima and Mexico and recognizing the work of INTOSAI;
2. Apply the INTOSAI Framework on Communicating and Promoting the Value and Benefits of Supreme Audit Institutions to enhance the credibility of SAIs and improve the lives of citizens;
3. Increase public knowledge of the work and role of SAIs and their added value through on-going media coverage, public campaigns, use of social media, and other awareness-raising activities in the local languages, as appropriate;
4. Develop and implement public relations and communication strategies for active, accurate, and transparent communication with the media;
5. Support budget transparency systems and actions that will inform citizens about the entire budget process, including amendments to and

the execution of the budget;

6. Promote citizen participation by developing mechanisms to receive and monitor complaints for noncompliance and misuse, as well as suggestions for improved public administration;
7. Commit to contributing to the Rio+20 Summit on Sustainable Development in June 2012, at the UN's invitation, through appropriate INTOSAI mechanisms;
8. Establish a joint agenda with UNDESA to build capacities in all countries, including partnership between developed and developing countries and aiming to improve the audit process, transparency, and the eradication of corruption;
9. Contribute specifically to the prevention of corruption in accordance with the United Nations Convention against Corruption;
10. Encourage sharing of information and experiences among SAIs to promote efficient and effective interactions with citizens;
11. Develop INTOSAI guidance on cooperation with citizens through the work program of the INTOSAI Working Group on the Value and Benefits of SAIs to address the opportunities as well as the risks associated with communication with citizens.

## 2 Conclusions and Recommendations

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**Emphasizing** the importance of effective cooperation between supreme audit institutions and citizens to safeguard and enhance transparency, accountability and good governance within government;

**Confirming** that effective co-operation is only possible through effective communication;

**Considering** that supreme audit institutions are in a unique position to serve the public by contributing towards ensuring that public funds are spent economically, efficiently and effectively and are properly accounted for;

**Knowing** that the efforts of supreme audit institutions and strongly engaged Parliaments supplement each other in increasing the efficiency of public administration, enhancing effective public governance and promoting

trust in government;

**Welcoming** the statement by the Inter-Parliamentary Union (IPU) that it will enhance its work to build greater capacity in parliaments to exercise oversight and carry out their budgetary and audit functions;

**Emphasizing** the essential preconditions laid down in the Lima and Mexico Declarations for the work of supreme audit institutions;

**Welcoming** the resolution of the Economic and Social Council (ECOSOC), that notes with appreciation the work of the International Organization of Supreme Audit Institutions in promoting greater transparency, accountability and efficient and effective receipt and use of public resources for the benefit of citizens. Furthermore, that the ECOSOC resolution takes note with appreciation of the Lima Declaration's Guidelines on Auditing Precepts of 1977 and the Mexico Declaration on Supreme Audit Institutions' Independence of 2007, which set out the principles of independence in government auditing, and encourage the wide dissemination of these principles;

**Supporting** the view of the Committee of Experts on Public Administration (CEPA) that SAIs could influence citizen empowerment by building active citizenship and educating citizens on their rights to access quality public information and exact accountability from government processes, altogether enabling empowered citizens to enhance democracy;

**Welcoming** the role of SAIs in the audit process and its contribution to the implementation of the Millennium Development Goals (MDGs);

**Noting** that audit is not an end in itself but an indispensable part of a regulatory system whose aim is to reveal deviations from accepted standards and violations of and to promote compliance to the principles of legality, efficiency, effectiveness and economy of financial management;

**Knowing** that supreme audit institutions should play an important role in promoting national governance;

**Acknowledging** the importance of citizen contribution/engagement/participation in the budgeting process and the role of respective organizations to promote this objective, such as the International Budget Partnership (IBP);

**Recalling** the continuous combined efforts of the UN and INTOSAI to enhance the cooperation between supreme audit institutions and citizens, especially the 2007 Symposium on the value and benefits of government audit in a globalized environment and the 2009 Symposium on INTOSAI: Active



partner in the international anti-corruption network; ensuring transparency to promote social security and poverty reduction;

**Valuing** the important work of the INTOSAI Working Group on the Value and Benefits of Supreme Audit Institutions and the mandate entrusted to it by the INTOSAI community as stipulated in the Johannesburg Accords of the XX INCOSAI, 2010;

**Emphasizing** that supreme audit institutions strive to be recognized as being independent model institutions if they want to make a difference in the lives of citizens, including generating added value for the state and society at large by being responsive to the demands for accountability and to eradicate corruption expressed by key stakeholders, especially citizens;

**Recognizing** that supreme audit institutions need to safeguard their own reputations by only collaborating with those organizations representing citizens in legitimate, honest and inclusive ways and through channels that will secure the good standing of the supreme audit institution;

## **Benefits of cooperation between supreme audit institutions and citizens to enhance public accountability**

**Responding** to the increased interest of citizens and other stakeholders in public accountability and transparency and the necessity to align public services with citizens' needs;

**Aware** that citizens have become natural partners of supreme audit institutions in terms of enhancing transparency in the public accountability process;

**Aware** that the United Nations have identified complementary traditional and new participatory approaches to the provision of public services as a useful course of action for countries in achieving the Millennium Development Goals (MDGs);

**Aware** that in the development of effective practices of cooperation between supreme audit institutions and citizens, the role of supreme audit institutions that makes a difference in the lives of citizens can be further advanced without jeopardizing their traditional roles and compromising institutional independence;

**Convinced** that strong partnerships between supreme audit institutions and citizens significantly advance economic and sustainable development, improved service delivery and the fight against corruption;

**Knowing** that citizens as end users of government activities and services are a rich source of knowledge and information about government performance and operations;

**Aware** that a continuous dialogue with citizens raises citizens' awareness of the work of supreme audit institutions and strengthens public confidence in public administration;

**Knowing** that effective communication of supreme audit institutions with citizens stimulates their interest and involvement in public affairs, and that civil society organizations can help citizens to be vigilant about the adequacy of public service delivery;

**Aware** that communication of and reporting on irregularities and potential risks improves public accountability and helps society to make informed decisions;

**Noting** that awareness of citizens' expectations enables supreme audit institutions to include these in their strategic, action and audit plans as appropriate, which also could enhance the credibility of their reports;

**Aware** that the audit-specific and credible information that citizens channel to supreme audit institutions is bound to enhance the efficiency and effectiveness of audit activities;

**Aware** that social audits are a good practice to engage citizens, as the recipient of government services, in piecing together evidence of irregularity and corruption and demanding corrective action; **Aware** that several supreme audit institutions in both developed and developing countries already engage citizens in their various strategies and processes as well as that some INTOSAI Regional Working Groups already have introduced citizen participation as an accountability principle;

## **Recommendations to enhance public accountability through cooperation between supreme audit institutions and citizens**

The participants of the 21st UN/INTOSAI Symposium **recommend** the following

**Apply** the principles set out in the Lima and Mexico Declarations, especially the principle of independence of supreme audit institutions as model organisations,

- a. to ensure that audit findings are relevant, clear and concise and therefore easily understood by the general public;
- b. to table audit reports, findings and recommendations to Parliament and make them available to any other stakeholders;
- c. to disseminate and explain audit reports directly to the citizens through innovative and effective means, such as websites, media interviews, press releases and conferences;
- d. to make audit products and services of supreme audit institutions easily accessible on websites, in libraries, upon request or other relevant means;

**Continue** the efforts for the adoption of a Resolution of the UN General Assembly supporting the principles laid down in the Declarations of Lima and Mexico and recognizing the work of INTOSAI;

**Apply** the INTOSAI Framework on Communicating and Promoting the Value and Benefits of Supreme Audit Institutions as a basis for enhancing the credibility of supreme audit institutions and with a view to improving the lives of citizens;

**Increase** public knowledge of the work and role of supreme audit institutions as well as their added value for the state and the public at large through continuous media coverage, public campaigns, use of social media and other awareness-raising activities in the local languages if needed;

**Develop** pertinent public awareness programmes through active cooperation with academic and other research institutions;

**Develop** close on-going relationships between SAIs and Parliaments in order to support greater transparency and accountability that will positively influence public trust in government and in strengthening democracy;

**Encourage** INTOSAI to work closely with the IPU in support of the efforts to build greater capacity in parliaments to exercise oversight and carry out their budgetary and audit functions;

**Build** good relationships between supreme audit institutions and their stakeholders and strengthen the bonds with citizens, social organizations, national authorities and analysts to increase accountability and transparency in the management of public resources;

**Develop** and implement public relations and communication strategies for active, accurate and transparent communication with the media, thus

building relationships of mutual trust;

**Support** budget transparency systems and actions that will inform citizens of the entire budget process including amendments to and the execution of the budget;

**Acknowledge** existing models of citizen contribution/engagement/participation, particularly in budgetary processes to improve the lives of citizens. Accordingly encourage INTOSAI to collaborate with the International Budget Partnership (IBP) and other organizations including through the joint UN/INTOSAI platform and to consider participating in the Steward's Committee of the Multi Stakeholder Initiative coordinated by the IBP;

**Promote** citizen participation by developing mechanisms to receive and monitor complaints for non compliance and maladministration and suggestions for improved public administration and on services being delivered with the aim of informing future audit focus areas, scope and risks, and to monitor and provide feedback to citizens, thereby promoting follow-up of the recommendations of supreme audit institutions;

**Commit** to contributing to the Rio+20 Summit on Climate Change in June 2012 as invited by the United Nations, through the INTOSAI mechanisms;

**Establish** with the United Nations Department of Economic and Social Affairs (UNDESA) a joint agenda to build capacities in all countries, including mutual cooperation and partnership between developed and developing countries, aiming to improve the audit process, transparency and the eradication of corruption at all levels and poverty as well as an overall contribution to the implementation of the Millennium Development Goals (MDGs);

**Contribute** specifically to the prevention of corruption in line with the spirit of the United Nations Convention against Corruption (UNCAC);

**Encourage** sharing of information and experiences amongst supreme audit institutions with regard to efficient and effective interactions with citizens including social audits;

**Develop** INTOSAI guidance on cooperation with citizens through the work programme of the INTOSAI Working Group on the Value and Benefits of supreme audit institutions. Such guidance should address terms and conditions to respond to the opportunities as well as the risks associated with communication with citizens.

## **Section 4.2**

# **'Shared Accountability' in service delivery: Concepts, principles and the Australian experience**

United Nations DESA/DPADM

Expert Group Meeting on Citizens Engagement to Enhance  
Public Service Delivery

Vienna, Austria

7-8 July 2011



## Summary of 4.2 'Shared Accountability' in service delivery: Concepts, principles and the Australian experience

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The analytical paper describes different concepts of accountability and discusses what concept is most useful in the given governance environment in which governments operate across boundaries with other governments and non-governmental actors and engage citizens in the delivery of services. The author then proceeds to discuss key issues to be confronted and how problems can be solved. Following this, some of the accountability principles that also ensure citizen voice and which could be used to guide governments are introduced. Towards the end conclusions are presented from the Australian experience.

Types of accountability addressed in the chapter include democratic accountability, hierarchical accountability, vertical accountability and horizontal accountability, but the article goes beyond presenting a typology. It also addresses issues like the increasingly common situation where third parties deliver services to citizen with or without direct government provision. This situation raises questions about whether or not these third parties share accountability with the government for service delivery and if so how that operates.

Shared accountability as referred to in the title of the chapter is understood as an approach towards building accountability that relies on civic engagement, i.e. in which it is ordinary citizens who and/or civil society organizations that participate directly in exacting accountability. Following the definition of the term, its practical use is explored by featuring the Canadian and Australian perspective. It highlights that shared accountability is not such an easy concept to be applied because it raises tensions to be managed between: accountability and efficiency; accountability and flexibility; accountability to other actors both upwards and outwards; contractual and partnering arrangements between governments and other providers; and formal and informal mechanisms.

In the final part the author describes the case of accountability in the case of Australian indigenous service delivery. For the last decade, there has been a concerted whole-of-government approach, across levels of government. In 2008, a National Indigenous Reform Agreement was enacted. The chapter describes how the concept of shared accountability is applied in this context but it remains cautious in assessing the success or failure of the Agreement since it is still relatively early to analyze the long-term impact of the agreement.





# 'Shared Accountability' in service delivery: Concepts, principles and the Australian experience



## Meredith Edwards

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The demand for accountability is not confined to the richer democracies. Throughout the developing world, citizens increasingly question the unaccountable power of governments and multinational companies as well as that of traditional authoritarian institutions (Mulgan 2003:3).

## 1 Accountability concepts

Accountability is about calling and holding institutions and officials to account in undertaking their functions or duties (Mulgan 2003:15). Beyond that, it is a complex and contested concept, defined both narrowly (e.g. Mulgan 2003) and more broadly (e.g. Langford and Roy 2009) with its use being highly dependent on context.

### Types of Accountability

When elected politicians are accountable to citizens through elections and other means, this is a form of 'democratic accountability'. In turn, officials in implementing a government's agenda are held to account by government

representatives and operate under a concept of ‘hierarchical accountability’. ‘Vertical accountability’ can be said to operate when it is both upwards and downwards; for example, when an office holder, say a senior government official, is held to account e.g. by a minister, but also holds others to account – such as subordinate officials. Accountability here is internal to government and is described as the traditional model of accountability where there is ‘... a vertical chain that provides a continuum of accountability relationships between the electorate, the Parliament, the Government and the public service’. (APSC 2009a:6). External to government are formal mechanisms such as audit offices, ombudsmen and other organizations which exist to ensure accountability arrangements are met.

Accountability takes many forms apart from those already mentioned. Not analysed here but elsewhere are accountability concepts relating to the political, managerial, fiscal, legal, performance, professional, personal and other dimensions (see, for e.g. Mulgan 2003 26ff; Sharma 2008:8). In turn accountability can be analysed from the perspectives of: who is accountable; to whom, for what and how (Mulgan 2003).

Increasingly today governments and their public administrations are confronting not only the above types of vertical accountability but also types of ‘horizontal accountability’, where one government entity is not the only party involved in service delivery. Specifically, three types of arrangement can be identified:

- When two or more government agencies and their ministers are jointly responsible for achieving results or outcomes (e.g. to achieve a reduction in child poverty).
- When two (or more in a federal system) levels of government share common objectives or collectively are accountable to citizens to achieve certain outcomes (e.g. on health and education).
- When non-government or ‘third parties’ - private sector and/or not for profit organizations - collaborate or partner with government(s) in some way to deliver services to citizens.

This third form of accountability is increasingly observed in service delivery arrangements. In turn, this form of horizontal accountability can be divided into two:

- Where there is a formal contractual relationship and the ‘principal’ and ‘agent’ are clearly identifiable (a transactional relationship: Langford and Roy 2009).
- Where the relationship is more collaborative or is a partnering or

even network relationship.

This latter case is especially likely to be observed where both public and private agencies are together involved in achieving longer term outcomes and where there may not be a clearly defined 'principal' or 'agent'. The most common arrangement here would be for shared decision making as well as shared service delivery – for joint governing as well as joint delivery of the service (including co-producing with clients). A less common arrangement would be where the decision making role is shared but the non-government partner delivers. (see Alford and O'Flynn 2012: 17 for further discussion on these types of horizontal and shared arrangement).

In more collaborative or partnering arrangements, even if there is a 'mutual accountability' established between the provider and government, who is ultimately responsible to the citizen is often not clear.

An extreme position is illustrated well by Kettl in his example of nursing home services where services are delivered to citizens through profit and not-for-profit organizations without any government presence at all (Kettl 2009). The question then is, if anything goes wrong, who is in charge and who is responsible? And to whom?

In sum, layers of complexity in accountability arrangements occur when there is more than one agency and/or more than one government (e.g. in a federal system) agreeing to share responsibility for outcomes which, in turn, depend on the role of third parties in delivering services to citizens (This is illustrated in Section 5 below with an Australian Indigenous example).

## Modern uses of Accountability

The increasingly common situation where third parties deliver services to citizens with or without direct government provision raises difficult issues of whether or not these third parties share accountability with government for service delivery and if so how that operates. Mulgan's view is that:

Once a given activity formerly performed by a government agency is handed over to a private sector organization, ....accountability practices and expectations alter significantly. The service providers are no longer under direct government control and are no longer subject to all the requirements of government accountability (2003:186).

The Office of the Auditor General of Canada (OAG) has had a 'long-standing interest in accountability' (2002 chapter 9:3) with its genesis being its work with First Nations (OAG 2003:3). One question it has tackled is: 'in

partnership arrangements between “equals”, how can accountability be shared?’ (OAG 2003:2). It developed a definition of accountability that retains the essential features of traditional or hierarchical accountability but responds to the pressures of today including more parties being involved in delivering services funded by government:

Accountability is a relationship based on obligations to demonstrate, review, and take responsibility for performance, both the results achieved in light of agreed expectations and the means used. (2002 chapter 9: 5)

This definition encompasses accountability relationships: between ministers and agency heads; between departments or agencies of government; between public servants in a hierarchic relationship; between partners in delivery; and between the government and Parliament (*ibid*). The definition is claimed to enhance the traditional concept of accountability; it allows for a shared accountability relationship among partners; encompasses reciprocal accountability of all parties in a delivery relationship; includes both ends and means; and the need for review and adjustment (*ibid*).

## Citizens and Accountability

Where does the citizen fit in here and who is accountable to whom for what and when? ‘*Social accountability*’ is a term increasingly used to describe situations where citizens, through various formal and informal mechanisms, hold government to account; it is defined as: ‘an approach towards building accountability that relies on civic engagement, i.e. in which it is ordinary citizens and/or civil society organizations who participate directly in exacting accountability (Malena et al 2004:3). This is sometimes referred to as ‘*diagonal accountability*’ (see Goetz and Jenkins 2001; Hedger and Blick 2008:13; Sharma 2008:7;) since it involves citizens who are actors in a ‘vertical’ accountability arrangement also in some form of ‘horizontal’ accountability arrangement (Malena et al, 2004:6; Sharma 2008:7). This raises the issue of the extent of government responsiveness to citizens which is usually distinguished from but closely related to government accountability (Malena et al 2004:3; Mulgan 2003:14; Sharma 2008:6).

Accountability is not only related to the concept of responsiveness under a citizen- centric approach but also to transparency. The OAG has suggested three reasons why there needs to be greater transparency when collaborative rather than traditional arrangements are in place for service delivery:

- several organizations involved in delivery makes it difficult for

citizens to know who is responsible for doing what;

- access to redress mechanisms may not be as evident e.g. not the same recourse as to a minister of elected official;
- legislation applying to government agencies about providing information may not extend to partnering organizations.

Mulgan makes this point forcefully: 'Critics who complain about the potential loss of citizen rights through outsourcing.... make a substantial case.....citizens are being deprived of traditional rights of inquiry and complaint in the interests of supposedly cheaper and better service' with inevitable reduction in accountability (2003:183).

## 2 'Shared accountability' explored

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### Canadian Perspective

As indicated above, around a decade ago the Canadian OAG rethought accountability in the context of partnering arrangements in service delivery. It spelt out types of accountability relationships in an environment of 'shared accountability':

- accountability among the partners
- accountability between each partner and its own governing body – in the case of..... Government (to) Parliament; and
- accountability to the arrangement's joint co-ordinating body, in many cases.

'The last may involve accountability to the public when the federal and provincial governments jointly agree to report to the public' (OAG 2002: Exhibit 9.7). Importantly, the OAG claims that 'shared accountability does not get you off the hook at all' and 'responsibility is not reduced'. It is just more demanding of partners (OAG 2003:5).

### Australian Perspective

In comments on this Canadian perspective, the Australian Auditor General recently has observed that. 'This is a very useful framework to work

with. It could also be extended to cater for citizen engagement, beyond the formal accountability dimensions, because there is an expectation that we will 'integrate inclusiveness' into our analysis and approaches' (McPhee 2012:10).

The concept of 'shared accountability' has increasingly been found in Australian government documentation as part of a call for new models of accountability. In Australia, the terms 'joint', 'collective' or 'shared' accountability are used interchangeably to accommodate horizontal ways of working, including, importantly, with citizens in our indigenous communities (see example in Section 5 below). Use of this terminology arose particularly when the Australian government focused on 'wicked problems' and asked questions around the most appropriate accountability framework which would ensure flexibility for programs whose outcomes involved many players and could take many years to realize (APSC 2007:23).

Two more recent Australian Public Service Commission (APSC) publications have reiterated and expanded on this theme (APSC 2009a, b). For example one of these acknowledged the need for a new accountability framework:

The greatest challenge and perhaps most radical way of reforming accountability arrangements to support new ways of working would be the transition to an accountability framework that acknowledges the pressures for shared decision-making power and funding authority through the development of collective accountability for joint governance (APSC 2009a: 48).

Key elements of a 'joint accountability' approach include:

- the establishment and maintenance of negotiated and shared commitments, parameters and a strong sense of goal congruence and trust in the relationship;
- streamlining reporting to ensure that resources used are consistent with agreed objectives but not unduly restrictive of local flexibility and discretion;
- effective locally-based, devolved governance arrangements to provide assurance on resource management and setting of priorities – indeed the existence of such a capability may be a necessary precondition to taking this route; and
- evaluation to ensure that the programme is working to achieve its overall objectives and to identify learnings which can be fed into any necessary recalibration and continuous improvement (APSC 2009b:28-29)

The APSC notes that despite the above, the government agency remains responsible and accountable 'for the design, establishment and management of effective arrangements and the performance of the network or initiative' (APSC 2009b: 27-28).

The challenge ahead is how to move from using traditional notions of accountability, to notions that can accommodate more players sharing roles and responsibilities in service delivery alongside greater sensitivity of governments to engaging citizens in this process. In part this was recognized in the most recent public service reform process in Australia where the Commonwealth government proposed a new outcomes structure 'that will establish shared responsibility for outcomes across portfolios, creating shared agency accountability in critical interrelated areas, such as Indigenous affairs' (AGRAGA 2010; Sedgwick 2010: 8).

Issues around the sharing of accountability have become a pertinent in Australia in the context of its federal system of government where the Commonwealth government has strategic partnership agreements with the states of Australia 'where it makes sense to share accountability for outcomes' (Moran 2011: 5).

Shared accountability issues are addressed in the Australian government legislation on a new financial accountability framework (Parliament of Australia 2013). In a Position Paper leading to the legislation, the Australian Department of Finance and Deregulation argued:

.... Although traditional vertical and hierarchical accountability models can provide efficiency and clear lines of accountability, they have limitations when it comes to dealing with many contemporary public policy issues that require action across several portfolios and sectors. Joined-up systems, which recognize the concepts of dual and multiple accountabilities, are needed to effectively address these issues (2012:26).

Similarly, clarification around how to deal with shared accountability issues can be expected to be covered in the forthcoming Australian National Audit Office's Better Practice Guide on public sector governance.

### 3 Modern accountability questions

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Several issues arise here. Probably, the overarching question which arises

from the above discussion is: how can we adapt the traditional hierarchical accountability model or framework to environments where boundaries between public and private sectors are blurring and where many players are involved in delivering services to meet citizen needs? (Langford and Roy 2009: 236). In other words, how can hierarchical bureaucracies cope with services increasingly delivered through many and often non-government partners? (Kettl 2000:1)

Other issues include:

- When we use the language of ‘shared accountability’ (or joint, collective, multiple) to describe circumstances where more than one government entity shares in the delivery of services and also when it is a non-government or third party delivering services:
  - can we distinguish between shared responsibilities and ultimate single entity accountability?
- If we accept that accountabilities can be shared:
  - in what specific circumstances is this relevant? And why?
  - can it operate so that there is not an ‘accountability deficit’ with its cry of ‘who is in charge here?’ (Lenihan et al 2003)
  - or, do we inevitably accept reduced accountability especially when third parties are involved?
  - or, only as a trade off for improved efficiency and perhaps also responsiveness? (Mulgan 2003:177)
- In the context of third party providers who engage with citizens:
  - to whom is the service provider to be accountable and how: to the citizen or to the funding body, or to both?
  - and, what if there is more than one funding body?
- Is there a case for external audit organizations having the power to follow government funds into the operations of other levels of government and non- government third party providers (as can now occur in Australia) (Sharman 2001; ANAO 2011)?
- Where does the public servant fit in here?
  - where many players are involved in service delivery, are they accountable outwards as well as upwards?



- and are they compromising their accountability upwards if they exercise flexibility and are innovative in attempting to see that citizen needs are met (APSC 2009b:24)?
- What, if any, accountability obligations can be placed on citizens?
  - when individual behavioural change is needed for service delivery outcomes to be realized?
  - can there be rights without obligations/responsibilities?
  - can there be obligations without matching resources/capabilities?

These issues come into sharp focus when dealing with a long, perhaps tangled (as Kettle 2003 calls it) implementation chain between governments and citizens. The chain can be too complex for governments to exercise overall control which can lead accountability to easily become confused and diffused (Possner 2002:528). (*see Attachment A* for the World Bank diagram depicting the long route of accountability)

The above set of questions raises several tensions to be managed between: accountability and efficiency; accountability and flexibility; accountability to other players both upwards and outwards; contractual and partnering arrangements between governments and other providers; and formal and informal mechanisms. In the context of engaging citizens to ensure governments are held to account in delivering services, there can also be the need to balance the lengthy time it might take to engage citizens and the demands to get action on the grounds as quickly as possible. The challenge is how to reshape governance processes and practices so that the inevitable tensions are minimized and managed (Edwards 2008:14).

## 4 Starting principles

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### Modern Accountability Principles

The relevant literature suggests some commonality in essential principles for governing accountability arrangements in service delivery where there are many providers in the implementation chain (for example, ACAG 2011; ANAO 2007; 2010; ACAG 2011; Auditor General of Canada 2002; APSC; Langford and Roy 2009).

The list below relies most heavily on those of the Canadian OAG which identified five ‘Principles for Effective Accountability’ when vertical and horizontal dimensions are relevant (2002: Chapter 9; Exhibit 9.2).

1. Clear Roles and Responsibilities: ‘The roles and responsibilities of the parties in the accountability relationship should be well understood and agreed upon’.
2. Clear Performance Expectations: ‘The objectives pursued, the accomplishments expected, and the operating constraints to be respected (including means used) should be explicit, understood and agreed upon’.
3. Balanced Expectations and Capacities: ‘Performance expectations should be clearly linked to and balanced with each party’s capacities (authorities, skills and resources) to deliver’.
4. Credible Reporting: ‘Credible and timely information should be reported to demonstrate what has been achieved, whether the means were appropriate, and what has been learned’.
5. Reasonable Review and Adjustment: ‘Fair and informed review and feedback on performance should be carried out by the parties, achievements and difficulties recognized, appropriate corrections made, and appropriate consequences for individuals carried out’.

*Attachment B* provides a set of questions to guide implementation of the above principles and *Attachment C* a diagrammatic representation of the accountability process incorporating the above principles.

The Australian National Audit Office has identified similar factors to those above (ANAO 2003; 2010: 63f) in the context of cross-agency agreements. One factor it particularly emphasized that is not singled out in the above list and which was not often achieved was ‘*shared risk management*’, both in terms of delivery of services and management of any contract (2010: 48, 64). (See *Attachment D*)

## Citizen–Centred Principles of Accountability

While the above principles were devised for collaborative and shared accountability environments, they do not specifically focus on principles relating to achieving ‘social accountability’ in the context of service delivery.

The World Bank (2003) has developed an accountability framework which includes three key service delivery relationships that can be strengthened:

*citizens* (and clients) influencing policy makers; *policy makers* influencing providers; and *providers* delivering services to citizens/clients (Commins 2007:1). The relationship between citizens and government is where '*voice*' is heard; the relationship between government and providers is often by '*compact*' and together leads to what the World Bank has called the 'long route of accountability' (World Bank 2003: 49). The short route describes situations in which citizens/client deal more directly with providers exercising '*client power*' (see Attachment A).

Rocha Menocal and Sharma (2008: 57-61), however, have found there is no evidence that increasing citizens' voice on its own makes public institutions more accountable to citizens needs. They argue from their synthesis of evaluations that efforts to increase '*voice*' may not work 'without a parallel effort to build the effectiveness and capacity of state institutions to address growing demands and expectations' (2008:ix). Voice and Accountability are seen to be in a two way relationship: '...voice can strengthen accountability, including by pushing for more transparency, whilst accountability can encourage voice by demonstrating that exercising voice can make a difference' (Sharma 2008:12).

Core elements underpinning the Citizen Voice and Accountability (CV and A) approach include participation, inclusion, accountability and transparency. One of the key principles Rocha Menocal and Sharma acknowledge is the importance of existing power relationships which can prevent effective citizen voice: linking CV and A is only meaningful when citizens are powerful enough to make demands as well as those in positions of power being willing and having the capacity to respond (see also Edwards 2008). Other conclusions they reach based on research and evaluation include:

- the often neglected interaction of sometimes powerful informal institutions with better recognized formal ones;
- working as much as possible with existing institutions rather than creating new ones;
- focusing capacity building on political as well as technical skills; and
- the need for patience in terms of the length of time it might take to get desired results (2008:v).

In the same vein, though earlier, Goetz and Jenkins (2001: 369; 380) identify the following key institutional characteristics or conditions for 'effective state-citizen co-operation for improved accountability':

- legal standing for non-governmental observers within institutions of public-sector oversight;
- A continuous presence for these observers throughout the process of the agency's work;
- Well-defined procedures for the conduct of encounters between citizens and public-sector actors in meetings;
- Structured access to the flow of official documentary information; and
- The right of observers to issue dissenting reports directly to legislative bodies.

They go on to argue that to be effective, 'efforts to engage in horizontal accountability functions are ultimately done in collaboration with the state' rather than in parallel because the latter risks limited impact, lack of legitimate authority and controls on power (2001:381).

Though the World Bank leans toward favouring the short route (2003:58), this can be at the cost of 'supporting stronger and more accountable public institutions at all levels, especially in fragile states' (Commins 2007:6). Which route is preferable in what circumstances is difficult to determine; the linkages between citizen engagement and service delivery are 'complex and highly contextual' (*ibid*). An added accountability complexity arises in deciding whether more than one (public and/or third party) organization is to be accountable for the same service delivery outcomes.

## 5 Australian Indigenous Service Delivery: Experience so far

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Service Delivery to indigenous communities in Australia, particularly in its more rural and remote parts, does display many of the characteristics of a 'fragile' if not 'failed' state in terms of levels of poverty and dysfunctional governance arrangements alongside failed program implementation. (Dillon and Westbury 2007). This is despite decades of effort by governments using a variety of approaches. For the last decade, however, there has been a concerted whole-of-government approach, across levels of government. The Council of Australian Governments (COAG) agreed in 2000 to 'an approach based on partnerships and shared responsibilities with Indigenous communities, program

flexibility and coordination between government agencies, with a focus on local communities and outcomes' to 'Close the Gap' (COAG 2000).

Much has been learnt from past reform experiences, particularly evaluations of some COAG trials which evolved into the current Closing the Gap agenda. (See lessons learnt in Attachment E). Some of the more important lessons from these trials and other initiatives are:

- lack of clarity on objectives, roles and responsibilities;
- relationships that were not effective or respectful, pointing in part to the need for cultural awareness training;
- capacity gaps both within government and within communities;
- systemic issues, including the time it takes to understand what is needed for working across boundaries with shared responsibilities;
- lack of funding flexibility (Gleeson 2011).

## National Indigenous Reform Agreement 2008

The National Indigenous Reform Agreement (NIRA) was agreed by all Australian governments in 2008. 'The agreement:

- commits all jurisdictions to achieving the Closing the Gap targets
- spells out an integrated strategy for achieving the targets in urban and regional areas, as well as in remote Australia
- defines responsibilities and promotes accountability among governments
- notes the significant funding provided through Indigenous-specific National partnerships to assist in meeting the targets; and
- links to other National Agreements and National Partnerships for all Australians that include elements of addressing the Closing the Gap targets'  
<http://www.fahcsia.gov.au/sa/indigenous/progserv/ctg/Pages/NIRA.aspx>

One of the NIRA schedules includes service delivery principles: 'These principles are:

1. Priority Principle: Programs and services should contribute to Closing the Gap by meeting the targets endorsed by COAG while being

appropriate to local needs

2. Indigenous Engagement Principle: Engagement with Indigenous men, women and children and communities should be central to the design and delivery of programs and services;
3. Sustainability Principle: Programs and Services should be directed and resourced over an adequate period of time to meet the COAG targets
4. Access Principle: Programs and Services should be physically and culturally accessible to Indigenous people recognizing the diversity of urban, regional and remote needs
5. Integration Principle: There should be collaboration between and within government at all levels and their agencies to effectively coordinate programs and services;
6. Accountability Principle: Programs and services should have regular and transparent performance monitoring, review and evaluation.' (ibid)

The body responsible for monitoring the extent to which the NIRA targets are met emphasises the critical role of a robust performance reporting framework. (COAG Reform Council 2011: xiv). This is a real and continuing challenge even in developed countries, such as Australia. Much reliance is placed, therefore, on highlighting examples of good practice.

### **National Partnership Agreement on Remote Service Delivery**

One of the Indigenous Partnership Agreements is 'The National Partnership Agreement on Remote Service Delivery'. It is a fundamental change in the way in which governments engage and do business with indigenous communities:

- It is based on high level and long term commitments through formalized partnerships across levels of government;
- It is a place-based approach with a single government interface for each community;
- It requires the development of Local Implementation Plans that allow for holistic and integrated approaches to address the multiple challenges facing communities;
- It recognizes that enhanced engagement and ownership by communities in developing the agenda of change is essential; and

- It recognizes the need to support community capacity development ([http://www.cgris.gov.au/site/2011\\_overview\\_of\\_remote\\_service.asp](http://www.cgris.gov.au/site/2011_overview_of_remote_service.asp))

Three core areas underpin this new way of working:

- Improved engagement: two ways
  - across levels of government
  - between government and communities
- Better service systems
  - the central mechanism being Local implementation Plans, publicly available
- Stronger communities
  - with skills transfers, capacity building and empowering community members (ibid)

This Indigenous Agreement has built on previous approaches and drawn lessons from them. It has also applied place-based, social capital, social inclusion and community strengthening principles (Gleeson 2011). It has consciously incorporated the community development model on the grounds of its success elsewhere (Gleeson, personal correspondence, 2011).

A significant new initiative here is the appointment of independent oversight by a Coordinator General for Remote Service Delivery who has authority to work across agencies and governments to cut through red tape. The Coordinator General has a responsibility to 'ensure that all government agencies are held accountable for their implementation responsibilities'.(see [www.cgris.gov.au](http://www.cgris.gov.au) ). The Local Implementation Plans are agreed with communities, contain specific actions and timelines and are publicly available. They are a 'key accountability tool' (Coordinator General 2011:17) and so a strong mechanism for communities to hold governments to account. The Coordinator-General believes that Community Working Groups can use the Plans to keep governments and service providers honest.

It may be too early to come to any definitive conclusion on how successful this significant change in approach has been. However the Australian Auditor General in a performance audit of this National Partnership Agreement has noted that over half of the government commitments in the Local Implementation Plans were 'process' related deliverables, with a minority of 'concrete deliverables' related to actual provision of new services and

infrastructure (ANAO 2012: 20). In response the Coordinator-General has highlighted the need to achieve more accountability and to measure progress more effectively; only then will governments be able to report accurately and in a timely manner to communities and the general public on how well they have acquitted the commitments they have made in the Local Implementation Plans. (Coordinator General 2013:4-5)

As important as the Local Implementation Plans are in reflecting the voice of Indigenous communities and as an accountability tool, they cannot address more systemic issues for which governments are responsible such as: capacity issues, funding flexibility and reducing red tape. (Coordinator General 2011:106).

A final cautionary note on the Australian indigenous experience with service delivery: over the past decades, Australia has tried a variety of approaches but it could well be argued that the impatience of governments for short term results has prevented any one of the approaches from having a chance of success. To date, a real strength of the Australian Closing the Gap agenda is its long term focus (Coordinator General 2013:6).

## 6 Conclusion and caveats

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This paper has attempted to open up discussion on the following questions:

- What concepts of accountability are most useful in the current governance environment in which governments operate across boundaries with other governments and non-government players and engage citizens in the delivery of services?
- What are the key issues to be confronted and how can they be resolved?
- What are some of the accountability principles that also ensure citizen voice which could be used to guide governments?
- What can we learn from the Australian experience especially with the complexity of issues involved in delivering services to indigenous communities?

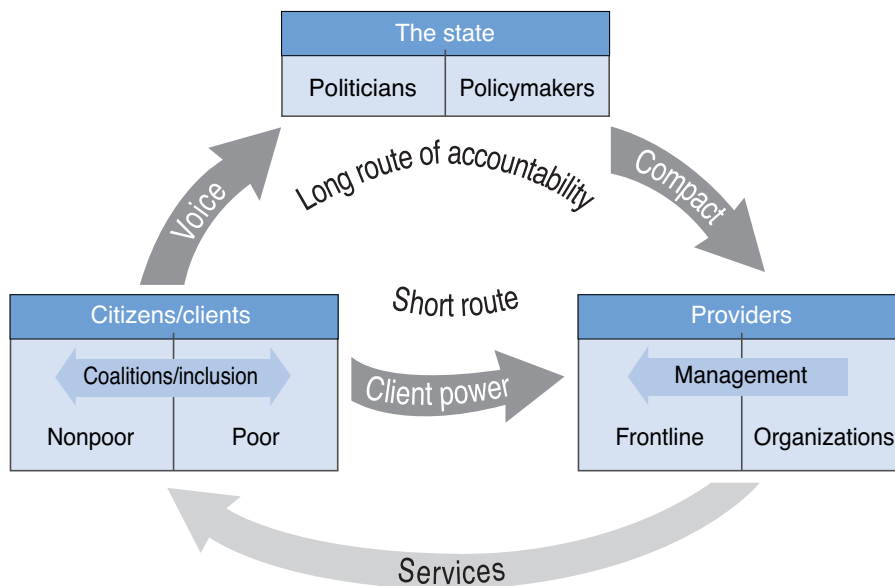
There is much not covered in this paper. It deals more with the ‘what’



than the 'how' of service delivery in the context of engaging citizens and accountability. It draws its examples mainly from two Westminster systems and so does not relate directly to experiences in developing countries, though the Indigenous example has many similarities. It also places more emphasis on accountability concepts and issues than those dealing with citizen engagement alone – see Edwards (2008) for key challenges in achieving participatory governance. The paper is therefore very much a discussion opener. One Australian government publication has observed (APSC 2009b: 29), there is a need for:

.... a strategic conversation among public service leaders, policy designers and external scrutiny agencies about how to set and meet accountability requirements while fostering innovation and a results orientation, framed on the premise of maximizing the generation of public value through the appropriate use of public resources. This would be assisted by comparative analysis of, and sharing information about, approaches taken and lessons learnt. With the growing acceptance of the need for community engagement and collaborative approaches for local development of responses to difficult policy issues, how accountability is supported in these cases could be a useful focus for further attention and research (APSC 2009b:29).

**ATTACHMENT A Short and long routes of accountability**  
(See World Bank 2003)



## ATTACHMENT B Questions arising from Principles of Effective Accountability

(Based on OAG 1999, Chapter 5)

### 1. Clear and Agreed Expectations

- Are the common objectives agreed to?
- Are the expected results clear?
- Are the operating principles and procedures to be followed clear and agreed to?
- Have human resource management issues been addressed?
- Has provision been made for adequate financial control?

### 2. Clear Roles and Responsibilities

- Are agreed roles and responsibilities clear?
- Have adequate decision-making processes been established?

### 3. Balanced expectations and capacities

- Have the partners the capability to do what they expect?

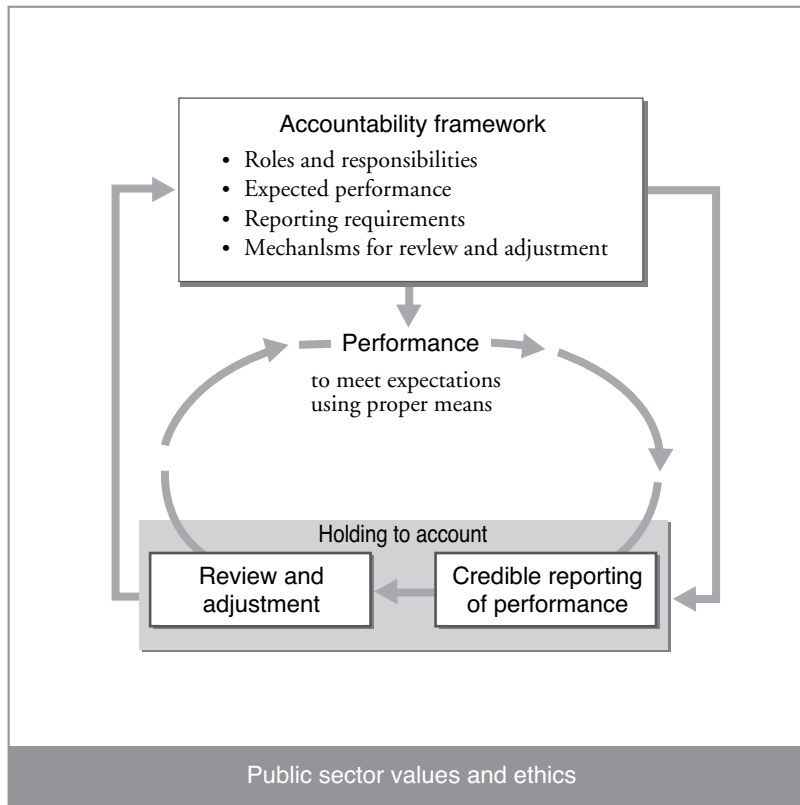
### 4. Credible reporting

- Is provision made for adequate reporting?
- Is information for Parliament sufficient?
- Is the reporting credible?

### 5. Reasonable review, program evaluation and audit

- Has provision been made for reasonable internal audit and program evaluation?
- Is sufficient monitoring underway?
- Is sufficient learning taking place?
- Are procedures in place to follow if things go wrong?
- Has provision been made for audit?

**ATTACHMENT C The accountability process**  
(OAG 2002: Exhibit 9.3)



**ATTACHMENT D Key Provisions in Cross Agency Agreements**  
(Adapted from ANAO 2010: Table 4.1)

- |                               |   |
|-------------------------------|---|
| 1. Objectives                 | A clear objective will assist in focusing each agency on the overall intention and expected outcome of the cross-agency initiative.       |
| 2. Context of the agreement   | Help to ensure all parties are aware of respective responsibilities, and the the context and legal requirements of the services required. |
| 3. Roles and responsibilities | Gives clarity and direction for implementation, review, evaluation and dispute resolution.  |

4. Activities	Details main activities to be undertaken by each party to the agreement.
5. Performance measures	Usually as performance indicators or service standards and targets – important for measuring deliverables and alerting management to potential problems.
6. Deliverables	As a statement of work/requirement and should explain what is to be provided.
7. Funding arrangements	To improve transparency and conveys the significance of the agreement in terms of materiality.
8. Shared risk management	Ensures risk don't fall in the gaps of agency responsibility and materialize for lack of management awareness.
9. Review and evaluation	Encourages early consideration of data collection and other needs so that a review can have a sound basis and be conducted on time
10. Dispute resolution mechanisms	A tool for managing risk of disputes affecting the success of the activity.  Supports timely resolution of problems to minimize disruption.

**ATTACHMENT E Lessons from COAG trials, Australia**  
(ANAO 2007: 87)

- Governments must be willing to understand and work respectfully with indigenous communities, and indigenous communities must be willing to understand and work with governments. Both may need to review the ways in which they interact with one another to ensure the interactions are appropriate and foster the development of productive and lasting relationships.
- Government staff need training in how to engage with respect for the protocols and processes in indigenous communities; this is

particularly true for those staff who are new to indigenous affairs or to a community.

- Whole of government, place-based initiatives require systemic changes at the local community, state and national level. The extent to which an initiative can achieve a whole of government approach is impacted by the effectiveness of interaction within and between these systemic levels (i.e. not just government levels). Coordination and decision-making mechanisms need to be effective and differentiated from each other and decision-making needs to be timely. More widespread reward and recognition for good whole of government practice is needed.
- Staff engaged in whole of government initiatives need training to provide them with the skills and knowledge on how to do whole of government work. Training is needed across all levels: senior executive, middle management and field staff. Similarly, communities and their leaders need to be supported and resourced to enable development of capabilities which will assist in engaging in whole of government and community-led solutions.
- Community leaders in Indigenous communities demonstrated that they can engage actively in initiatives to find solutions which work for families and communities. The evaluations provide evidence of the value of governments and communities working together and sharing responsibility for establishing foundations for achieving longer-term outcomes through locally agreed solutions.

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## **Section 4.3**

# **Enhancing public accountability: Realigning SAIs with social audit**

21<sup>st</sup> UN/INTOSAI Symposium

Vienna, Austria

13-15 July 2011



## Summary of 4.3 Enhancing public accountability: Realigning SAIs with social audit

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The paper discusses gaps in the accountability framework and does this with a focus on audit institutions. The paper introduces the concept of social audit by referring to examples from India and it argues in favour of the cooperation of SAIs and civil society. Social audit is understood and described in the chapter as important to overcome existing gaps in the accountability framework. In addition, the paper describes measures of SAI to enhance transparency and public accountability in response to corruption.

According to the author and the SAI India accountability is not to be understood merely as administrative accountability to a hierarchy of officialdom and oversight systems with a static edifice of laws/rules as the invariable point of reference. Instead, it is an interactive process with multiple objectives in the life-worlds of people. Enhancing public accountability requires recognizing that in a globalised world, there has been a paradigm shift from viewing governance as the concern of only the bureaucracies of the State to appreciating governance as a sphere where both the bureaucracy of the State and common citizens contest spaces.

Social audit is defined in the article as a form of performance monitoring. The contrast between social audit practices and more traditional practices of process documentation and monitoring (PDR) are the following: (i) that social audit is collective and PDR is normally carried out by a non-project individual researcher/auditor; (ii) social audit verifies the records of project implementation to not just cast doubt on parts of the records but investigates the social story which explains the false part of records whereas PDR follows a parallel ; (iii) social audit is undertaken for a local public whereas PDR aims at enlightening a wider public at a remove.

The article lists and values practical measures of SAI India to enhance transparency and public accountability. In India realigning relations between SAIs and civil society is proving to be productive. For instance, SAI India appointed a task force to advise on strengthening compliance as well as performance audit by auditors taking the trouble to attend social audit public hearings. This has enabled SAI India to gain certain insights into the modus operandi of different kinds of corruption at different places. SAI India has also actively participated in meetings of the Ministry of Rural Development where Social Audit Guidelines were framed and issued. Social audit is now viewed even by government in India as a feature essential for good governance and e.g. two provincial governments have already established Directorates of Social

Audit and others are likely to do so. This and other developments are supported by new channels and tools for communication between SAI India and citizen.

# Enhancing public accountability: Realigning SAs with social audit



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## 1 Introduction

Accountability is a notion that naturally relates to trust. Philosophers recognise the fact that there are strategic, moral and emotional reasons for reposing trust in any person or institution. In recent years, Barack Obama's election campaign is probably the most dramatic example of the intermingling of these various reasons we find in most situations. The remarkable moral tone of the campaign with students mobilising small donations by using digital technology, the economic crisis providing the strategic reason for a sharp rise in support for him and the emotional groundswell of black Americans led to a tumultuous shout for 'Yes, we can!'.<sup>1</sup>

Feminist contributions<sup>1</sup> have emphasised that building trust has to be understood in an interactive matrix of gaining and losing trust based on the 'audit' of actual behaviour, with degrees of forgiveness and some punishment thrown in, because persons and institutions have multiple objectives in their lives. Accountability, therefore, cannot be reduced to judging words and actions in relation to a static edifice of laws, rules and regulations. It is intrinsically an interactive process.

With the rapid social transformation of the public sphere, in a post

1 See Annette Baier's Tanner Memorial Lecture on 'Trust', delivered at Princeton University, 1991.

modern flattened out world, by transparency we no longer mean the visibility of whatever may be chosen to be displayed by the State, but more substantively, as the process of seeking a correspondence between the registers of experiences/memories in the minds of people and the registers of the State. There is no 'public' in the singular, but many 'publics' - ranging from ethnic groups/religious denominations to the rich, the middle class and those who live in poverty and so on. Public accountability is no longer confined to an activity transacted between a hierarchy of officialdom and the several organs of the State. The media peeps in, and with it, civil society and different sets of people, depending on the issue involved. Public accountability is a far more dynamic affair today than reporting by SAIs to legislatures or acting as courts for merely administrative accountability to be judged with reference to a static edifice. Enhancing public accountability requires SAIs to take struggles and discourses in the life-worlds of people into account.

Apart from this intrinsic reason for SAIs to relate not only to other organs of the State but also to the plight and struggles of citizens, globalisation has generated added reasons for the direct engagement of SAIs with citizens in recent times. Issues in fiscal and financial management thrown up by the need for collective efforts by countries to respond to the global economic crisis, need for sustainable development, pursuit of the millennium development goals and allegations of collusive corruption in governments, high and low, require SAIs to hear citizens more intently and make timely efforts to investigate and inform them.

Citizens expect a lot more from SAIs because they enjoy credibility and the status of a privileged voice in most countries. Simply adding on performance audit with the help of 'domain' experts to the more conventional business of carrying out compliance and financial audits is not a sufficient response for SAIs to address the challenges they face today. It is necessary to make accounts of government more usable by citizens and take feeble or critical voices of citizens based on their everyday encounters at various sites of the State into account to acquire a more complete knowledge in different domains. The insurrection of knowledges that question received disciplines is a vital resource in understanding public concerns<sup>2</sup> to add value to compliance and performance reporting by SAIs. Insurrections of knowledge are part of the social history of every locality, province and country. What excites me about the emergence of social audit practices in India is the manner in which, by

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2 See Amitabh Mukhopadhyay, Oversight Offices and Civil Society Insights : the case of India, paper presented at the workshop on 'Building Trust through Civic Engagement', 7th Global Forum, UNDESA, pages 137 onwards available at <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan028357.pdf>, later published as a book by UNDESA



means of social audit, citizens are able to relate their life-worlds to systems of accountability and how this process generates an ethical tone in the public sphere. I draw on the current Indian experience of media and civil society activism and SAI India's initiatives for greater transparency of government accounts, communication of audit reports in simple terms and incorporation of the emergent practices of social audit in its audit activities.

## 2 Globalisation and the public sphere

In a globalising world, the complexity in concerns of SAIs in relation to enhancing public accountability needs to be borne in mind. The national government in power that commands a majority in the House may be churlish about uncomplimentary reports by SAIs though the citizens hail them as true and fair. While abiding with the expectations of legislatures from them, SAIs must stand on their objectivity and credibility. The span of domains for audit that SAIs face is wide, with a rapidly changing world posing tricky issues in planning audits. For instance, in a world of public-private partnerships, apart from ensuring transparency and competitiveness in the process of award of licenses and contracts, it is equally important to protect the public exchequer from any unintended misuse of claims from concessionaires.

In an exploratory study<sup>3</sup> of autonomous administrative and regulatory authorities, conducted in 2004 by the Netherlands Court of Audit, a view was expressed that “Government policy in matters of governance, social responsibility and social accountability is currently more advanced and more active for the private sector than in comparable areas of the public sector”. Four years later, the world woke up with a rude shock to news about regulatory failure in government policy for governance of private banks and other financial institutions in US and UK. Taking note of the crisis, the Inter Parliamentary Union resolved<sup>4</sup> in October 2008 that parliaments should “spare no efforts in working on ideas and initiatives aimed at promoting a new rules-based financial system that could help to achieve a more just and transparent world economic structure, which in turn could also help to achieve peace and

3 Enhancing Public Accountability – Developments in social reporting, quality assurance and governance, Netherlands Court of Audit, Background study, 10th march 2004

4 The role of Parliaments in containing the global financial crisis and its economic impact, both in developing and developed countries, *Resolution adopted unanimously by the 119th Assembly of Inter Parliamentary Union (Geneva, 15 October 2008)*

stability”.

The global financial crisis that hit home in September 2008 was a cruel reminder that there was something terribly wrong in the architecture of public financial management, not just in developing, but in developed countries as well. In his Oct. 16 2008 column in *The New York Times*, Paul Krugman wrote, “It’s politically fashionable to rant against government spending and demand fiscal responsibility. But right now, increased government spending is just what the doctor ordered, and concerns about the budget deficit should be put on hold.” The bailouts of banks by governments in the developed countries and the cooperation of developing countries in stabilising the global financial system – even at the cost of a pause in their respective national fiscal consolidation programs – required that SAIs also think beyond the boundaries of compliance of governments with national fiscal management laws.

This was possible for SAIs to do because they have been aware in modern times that the government budget is not a matter of voting the King’s supplies from a stagnant pool of resources. Everyone realises that what we call the government budget, is not merely a statement of estimated revenues and expenditure classified under different heads. It is a macro-economic intervention in the ever-expanding, ever-growing ambit of circulation of goods, services, money, new technologies, and above all, of public opinion. Unless the circulation was stimulated by increased government spending, another great depression might have set in.

However, the limitations or failure of SAIs in the developed world to investigate the early signs of regulatory failure in the securitised debt and derivatives markets – signs that were picked up and feebly voiced by some academics<sup>5</sup> ever since 1992 and the media<sup>6</sup> prior to the failure of major financial institutions – should occasion some soul searching among SAIs. Just as SAIs had, in the 1980s, lent their privileged voice to the murmurs in civil society about countries entering the debt-trap and persuaded many governments to take note of the dangers, people expected them 25 years later to issue timely warnings against the consequences of central banks throwing financial regulations to the wind.

In my view, the concerns of the Netherlands study retain their importance inspite of the fact that government policy in governance of private financial institutions clearly failed to prevent the economic crisis. The reason is that the

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5 John Kenneth Galbraith, *The Culture of Contentment*, Chapter 5 : The License for Financial Devastation, in Mariner Books, 1992

6 Krugman, Paul “Greenspan and the Bubble” *The New York Times*, August 29, 2005

success of activities for sustainable development, progress on realising the MDGs and containing corruption are all of a nature that requires a focus on public authorities and bodies which enjoy a dominant position as agencies of the State but remain impervious to demands for public participation in decision making.

Sustainable development to contend with the threat of climate change or contain inter-generational inequity requires strengthening the regulatory (not just the development functions) of government authorities and local bodies. The management of common property resources in an equitable manner bearing the value of bio-diversity in mind – management of grazing lands, rivers and water bodies, forests, mines – is the most important and arguably the least developed aspect of public administration in the developing world. Even the smallest anicut in a particular watershed requires public participation of those affected by the tampering with the run of the water to arrive at informed pro-choice local solutions. The pre-eminence of the State in this sphere often creates situations where public participation is smothered by influential private interests in collusion with unmindful agencies of government.

The Millenium Development Goals Report of UN released by the Secretary General on 7<sup>th</sup> July 2011 states that forests are rapidly disappearing in South America and Africa, while Asia led by China is experiencing net gains. Asia had registered a net gain of 2.2 million hectares annually in the past 10 years, mostly because of large afforestation programmes in China, India and Vietnam. This was achieved, according to the Report, by afforestation activities of governments in the protected areas around the forests. The fact that several scientists working in government establishments in India challenged this reading of remote sensing data was not taken into account. The costs of such afforestation in India, in human terms of denial of rights of traditional forest dwellers to live in their habitat, is not mentioned, even though Parliament of India passed a landmark legislation in 2006 to uphold the rights of tribal forest dwellers denied to them over decades as a result of the continuance of colonial forest laws in India. The implementation of the Act by settlement of claims of displaced tribals by the same forest officials who have lost their suzerainty over hapless tribals just recently, remains problematic. By the nature of their institutional remit, SAIs may be constrained in lending their privileged voice to the struggles of citizens affected by government policies and regulatory functioning but they can definitely intervene in the public sphere with analysis relying on testimonies of tribals that calibrate government data and taking multiple objectives of State policy into consideration. Since information through government channels in these circumstances cannot be wholly reliable, hearing the voices of tribals will remain important for this process.

Based on surveys conducted by the World Bank, the UN Report also states that poverty continues to decline in many countries and regions and that the fastest and sharpest reductions in poverty were in Eastern Asia particularly in China where the poverty rate is expected to fall under 5 per cent by 2015. Reportedly, India has also contributed to the large reduction in global poverty. In China and India combined, the number of people living in extreme poverty between 1990 and 2005 declined by about 455 million, and an additional 320 million people are expected to join their ranks by 2015. The proportion of poverty in India is projected to fall from 51 per cent in 1990 to about 22 per cent in 2015. SAIs, at any rate in India, must remain sceptical about these projections for several reasons : (i) defining a poverty line by income as a proxy for nutritional intake is intrinsically problematic; data brought out not so long ago by WFP on nutritional status, especially of children, does not lend credibility to the projections in the MDG Report, 2011; (ii) estimation of a household's income in the process of surveys can only be as good or as bad as the quality of the questionnaire which can, for poor households in the unorganised sector, only list diacritical signs of high or low incomes ; and (iii) just as there are a number of households that rise above any poverty line, year on year, there are those that fall below the poverty line due to unemployment and disease.

The Report admits that despite progress, the most vulnerable sections of society were being left out of the benefits from economic growth. For instance, the poorest children have made the least progress towards improved nutrition. On the health front, it said that on the whole the prevalence of tuberculosis was declining. However, India had one of the highest number of tuberculosis cases along with China, South Africa, Nigeria and Indonesia. China and India combined accounted for 35 per cent of the world's new tuberculosis cases.

As far as India is concerned, it is possible that poverty will be halved by 2015 but this is by no means certain. No doubt enormous investments are being made by government to address poverty but the delivery mechanisms at sub-district levels remain riddled with widespread corruption. SAIs will have to objectively assess the landscape that smiles suppressive of the zest for the vicissitudes by which men, women and children die.

### **3 Public services delivery in India**

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While India's growth story has been making the news internationally,

there has been somewhat less publicity to the fact that ever since 2005 a perceptible shift is discernible – towards converting aspects of human rights, which are by themselves ethical in nature, to legal rights. Parliament in India has moved unmistakably in this direction of legislation on the rights of individual citizens to information, of children to free and compulsory education, of tribals to dwelling in forests, of rural worker households to 100 days' employment in a year and right now we are nationally debating the right to food in the context of providing for food security which is an even larger issue, involving questions related not only to production and distribution of food but also to land and water use patterns. SAI in India is obliged, therefore, more than ever before, to report on the performance of government in delivering services for these legal rights to be realized by the people. The need to strengthen public financial management has to be viewed in the context of the efforts of countries towards democratic consolidation to sustain an economic reforms agenda.

The lack of reliable delivery mechanisms at sub-district levels pose the greatest challenge to the government and the marginalised poor, be they tribals, women, landless workers in unorganised sector or disabled persons. While liberalisation of the economy in 1991 paid rich dividends for the Indian growth story, unfortunately the Constitutional Amendments for local self government in 1992/93 remained half hearted in actual devolution of powers by provincial governments to such bodies. Meanwhile, public spending on flagship programmes for improving employment, health care, universal elementary education and infrastructure has increased by leaps and bounds. Many government programmes are being implemented under the society mode by direct transfer of funds from central ministries to registered government societies at state/district/block and village levels. Bypassing the budgetary process of state (provincial) legislatures, Government of India transfers large amounts of funds every year directly to various district agencies and NGOs for implementing various developmental programmes and schemes. The release of funds directly to the implementing agencies is a paradigm shift to facilitate speedy programme delivery.

Each implementing agency maintains its funds in a separate bank account outside the treasury. The number of such societies and agencies in different states implementing different programmes at different levels is very large and the number of bank accounts in which Government funds are kept is also enormously high. Ensuring proper financial management in a situation of a wide array of instrumentalities of government is a daunting task. There are serious gaps in the accountability framework of these implementing agencies at the level of districts and villages and towns.

## 4 Performance monitoring by Social Audit

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Today, there is hardly any Parliament that passes a national budget without increased emphasis on the social sector – health, education, employment and environment. Moreover, these are not simple cash authorizations for spending; the authorizations are performance-linked and there are various ways in which projects are monitored by management within the executive wing. These rely on statistical frames of surveys and reports/complaints from a wide range of sources which are scrutinized. Even in the best of circumstances, such monitoring constantly gropes for more and more information while progressively doing less and less, in terms of decisions taken by administration, with the information at hand. This happens for at least two reasons. One, individuals that make up bodies are often swayed by career considerations, professional networks as well as rivalries and loyalties that are removed from a service orientation. Second, because increasingly, contemporary service delivery is by public bodies which secure actual provision of services by an agency or under contract from private providers, this not only propels corruption in the interstices but also compromises online correction due to a negotiated and contracted efficiency that gets legally frozen in time.

A more recent usage is Process Documentation and Reporting (PDR). This refers to a different independently conducted exercise by civil society institutions. PDR records site-specific information about the interface between actors/institutions involved in a project or programme. While economists provide this service for the private sector, only some beginnings have been made for this service in the public realm. Of course, participatory processes and techniques for data collection have become ever more sophisticated. Yet, the inevitability of political factors in the conversion of data into information has been acknowledged by social theorists. As against social theorists who make a sharp distinction between knowledge and opinion, appearance and reality, others reject ‘objectivity’ in an appeal to solidarity. They look for as much inter-subjective agreement as possible<sup>7</sup>. It may well turn out that the system of governance manipulates a consensus to rule the roost.

In the professional world of audit and corporate scandals such as the ones related to Enron or Worldcom, it was even argued more than a decade ago on the basis of the legal obligation of corporate executives to maximize shareholder value and the fact that organizations comprise multiple individuals and

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7 See an excellent review of literature on PDR by Pari Baumann, *Information and Power : Implications for Process Monitoring*, Working Paper No. 120, Overseas Development Institute, London, Sept., 1999.

agendas, that corporations do not have ethics; they have instead, only public relations! We can see that the problems of 'objectivity' are confounding in a schema of deploying individual researchers or auditors in process documentation and monitoring.

An alternative mode of a collective process of social audit, deserves greater attention. The contrast between social audit practices and the existing practices of process documentation and monitoring (PDR) are : (i) that social audit is collective and PDR is normally carried out by a non-project individual researcher/auditor; (ii) social audit verifies the records of project implementation to not just cast doubt on parts of the records but investigates the social story which explains the false part of records whereas PDR follows a parallel ; (iii) social audit is undertaken for a local public whereas PDR aims at enlightening a wider public at a remove.

The practices of Mazdoor Kisan Shakti Sangathan (MKSS), a union of labourers and peasants in Rajasthan, India in developing the methodology of social audit since 1990 have been documented<sup>8</sup> and acclaimed as remarkable. A demand for minimum wages to be paid to workers at famine relief works near Dev Dungri village in Bhim tehsil of Udaipur district in Rajasthan led to an interesting development. The demand was refused on the grounds that 'they did not work'. The workers protested, but were told that the measurement books for the works filled in by junior engineers of PWD showed they had not worked. Their hard labour had been penned off! The stupefied workers naturally demanded to see the records. Administrators, who quoted the Official Secrets Act of 1923, told them that they could not see the records. The need to access records was hammered home and rural workers organized themselves as a union of workers and peasants – Mazdoor Kisan Shakti Sangathan (MKSS) – to struggle for ways and means of wresting their right to know from government.

The first public hearing was held by MKSS at Kot Kirana, Rajasthan in December, 1994. Known as a jan sunwai, this became an incredibly powerful step in revivifying the centrality of citizenship in a democracy. People from about 18 surrounding villages gathered. Small public works of 1993-94 were probed, muster rolls were read aloud and were found to be fake. Fingers pointed at a retired school teacher, the gram sevak and the junior engineer who certified the muster rolls. People fearlessly spoke against the deputy speaker of the vidhan sabha (provincial legislature) who had camped for a week in the village to intimidate people. Thereafter, when the bills related to construction

8 Neelabh Misra, 'People's Right to Information Movement: Lessons from Rajasthan,' Discussion Paper Series-4, Human Resource Development Centre, United Nations Development Programme, New Delhi, 2003.

of a patwar ghar, stated in the accounts to have been completed but visibly roofless, were read out, people burst into laughter. Soon, however, laughter gave way to anger and people went all the way to lodge an FIR. A month later, the retired teacher's son lost the panchayat election.

The struggle illustrated that the right to information was not just a component of people's right to freedom of speech and expression but was also a part of their fundamental right to life and liberty. It was needed to obtain the basic living wage, entitlements under the ration quota at the fair price shops, the medicines the poor ought to receive in public health centres and for contending with coercive abuse by the police. By January 1995, when the fourth Jan Sunvai was held, it was clear that this mode of struggle was widely feared by the gramsevak (official secretary of the gram panchayats). An order had been obtained by MKSS from the collector (district magistrate) in Ajmer that all records should be given by panchayats and preparations for the Jan Sunvai at Jawaja were on. Gram sevaks of the district staged a dharna at the collector's office agitating that records should be shown only to government auditors. Gram sevaks then organised for a state-wide protest. Though records were denied to MKSS, the Jan Sunvai was held on January 7, 1995. People from seven panchayats gathered to give oral evidence. Within two days of the hearing the sarpanches and gram sevaks started paying back the pilfered money. Many workers received full payment of wages. It is from this point onwards that MKSS focused on the people's right to information on a statewide basis. The fact that the people's right is crowded out by institutional privileges of the organs of the state – courts, legislatures, government audit and the media – was brought home.

Leading up to a jan sunwai, typically, the MKSS first obtained the records related to the public works carried out by the panchayat. Once the documents were accessed, the Sangathan took the records to each village where the works were supposed to have been executed and checked them out by asking the village residents and the workers who had been employed on the site to authenticate the records. On the day of the public hearing in front of the general assembly of the village residents, the details were read out and testimonies sought. A panel of 'men of letters' from different walks of life, like lawyers, writers, journalists, academics and government officials, were invited to the public hearings to act as a jury. In the presence of officials from the district administration, an effort was made to arrive at appropriate corrective measures for the irregularities identified. Communicative action characterized the movement for social audit and the right to information. By means of puppetry, street plays and folk songs, on every occasion, the attention of large audiences was gathered and brought to a friendly temper rather than an inquisitorial mood.



Jan sunwais have touched a social chord. The malpractices usually uncovered at sites for anti-poverty employment generation works are overbilling in purchase of materials, fake muster rolls, under-payment of wages and, in some very interesting cases, ghost works (construction works that are there on record but do not exist on the ground). Workers denied payment after repeated visits to the sarpanch over years have been often paid overnight at the mere announcement of a jan sunwai. Cases where, after an embezzlement being proved at a public hearing, the sarpanch has promised and has in fact paid back the amount into the panchayat account are not rare. Action has sometimes been initiated by government against officials without whose complicity the embezzlement could not have occurred or remained unnoticed.

Triggered by these experiences gained from social audit in Rajasthan and experiences of civil society groups engaged in human rights and displacement issues, a concerted national campaign for the right to information and for an employment guarantee act was launched in 1996 in India<sup>121</sup>. The campaigns succeeded in wresting both a Right to Information Act (RTI) and a Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) from the Government of India in 2005.

RTI has become a buzzword in India and heralds a transformation in civil administration because it enables individual citizens to participate in governance, not just as supplicants, but as invested with rights to gather information and agitate, if need be, any signs of foul play by public officials. MGNREGA, which is the largest employment programme ever in the world, is providing millions of mandays of employment to poor rural landless workers on earth works to deepen ponds, build earthen rural roads, develop land cultivability. It has certainly succeeded in checking seasonal migration of rural labour which becomes vulnerable to the nefarious practices of labour contractors once they move away from their villages. It has actually raised rural wage rates to the level of legally stipulated minimum wages for agricultural labour which appeared to be a distant dream prior to MGNREGA being launched. It has established equal wages for both men and women workers. On the downside, it is riddled with collusive corruption and might be reduced as a program to political slush funds if the battles against corruption fail.

## 5 Supportive action by SAI to Enhance Transparency and Public Accountability

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Spontaneous activist efforts that seek to influence state outcomes through outside pressure have been contrasted by social scientists in a theoretical frame<sup>9</sup> with a model of deliberative democracy for which the Kerala campaign for decentralized planning in India is cited as one of six examples across the world. Professors Fung and Wright at Harvard University, for instance, draw the contrast in terms of (i) the larger reform scope of deliberative democracy experiments, (ii) their being characterised more by an external deliberation process (ie. with people in participative activities) as against the reliance on internal deliberations by activist groups, the results of which are then taken to people and (iii) the focus on transforming mechanisms of power rather than trying to gain power vis-à-vis the state. Since each of these criteria for the contrast lend themselves to a wide range of interpretations, it is difficult to accept this as a conceptual contrast between activist efforts and campaigns like the one in Kerala.

The Kerala campaign for decentralized planning which was based on the exercise of State power earned the dubious distinction of being dubbed a case of decentralization of corruption. Not even its greatest proponents, like Thomas Isaac, contest that corruption was in fact in evidence though they do question its extent. The Report of CAG of India on the campaign is, however, quite damning. The complete rollback of the experiment in Kerala since 2005 calls into question the scope of reflexivity in State-sponsored initiatives which are invariably propagandist. In contrast, we have the counter-example for the theoretical framework of Fung and Wright in the story of MKSS in Rajasthan which has throughout dwelt on developing concrete practices of social audit built around the workers trying to investigate the whys and wherefore of the denial of the benefits of anti-poverty programmes by collusive corruption of the local elite and officials. The self-learning modes of MKSS and reflexive modes led on, through struggles to undertake social audit, creation of a national campaign for people's right to information and finally to enactments on right to information in seven states and finally by Parliament.

In 2006, MKSS undertook an audacious leap from engaging in exercises of post-implementation audit to one for monitoring the implementation of the

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<sup>9</sup> Archon Fung and Eric Olin Wright, *Deepening Democracy: Innovations in Empowered Participatory Governance*, Politics and Society, Vol. 29 No. 1, March 2001, pages 5-41.

Rural Employment Guarantee Scheme in Rajasthan. The twin objectives of NREGA are to provide wage employment/create assets and establish the *right* to employment. As participants in the first district-wide monitoring exercise, at Dungarpur, Rajasthan in April 2006, where persons from NGOs, unions of workers, individual activists and officials undertook investigations along 30 different routes in groups of 30 persons, what struck all of us over the few days was the quality of the verbal transactions that occurred when the groups interacted at sites with workers and their supervisors. These were adult – to-adult transactions on concrete matters like a wage payment to a worker, measurement of a pit, distance from the habitation/village, lead and lift of earthwork, schedule of rates, measurement books, job cards, etc. – in complete contrast with the nature of child-to-adult (think about it!) transactions of patronage when anybody goes to people with the imagined mission of raising their ‘awareness’ about programmes.

The specific methodology adopted, of transacting/interacting on the details of matching what’s on the ground with original records of applications, job cards, works estimate, muster rolls, measurements and assets being created, is clearly most appropriate. It is in contrast to transactions in abstract terms, like responses to multiple choices in an administered monitoring questionnaire or to the nature of transactions at meetings of beneficiaries with experts where abstract opinions are expressed. The method of social audit as a monitoring device added value in two ways : (i) the very process of monitoring catalyzed the administration and (ii) the method of reporting collectively, which condensed a large number of narratives to produce a conjoined local representation allows for refinements/corrections to be made by government in situ.

Participation in such collective local gatherings leads to an *objectivity in a defined local context that comes home as a collective representation*. Some truths are attested and other novel representations are forged. For example, at Dungarpur, Rajasthan, the lack of deliberations to decide on the nature of works that can be more fruitfully undertaken (eg. watershed based land development of the workers’ land holdings) and hastily sanctioned earth excavation works for deepening existing village ponds or fortifying a huge existing anicut and non-payment of wages for more than 15 days were discussed. The major unintended mechanism of benefits to manual workers in terms of the reduced compulsion to seasonally migrate to places outside the village where exploitation by contractors was far more intense, were noted. The reasons for poor record keeping of measurement of works – to allow more powerful non-workers to grab wage payments – come across as new truths apprehended in the effervescence of local assemblies. The blank application forms, not filled in but signed or thumb-impressed by workers lying at the local body’s office, a few with a mention of 15

days' requested and just three or four with 30 days written, tell the tale of an instruction somewhere along the line that the demand can be entered after the supply is made! Blank application forms signify an abject surrender of workers to the powers that be. With no payment for work done and an acceptance of whatever mandays might be allowed by the village elected headman and the local official, the gathering wondered if the rights to information and employment were anywhere in evidence even though in aggregate terms, a large amount of funds were being spent.

It is arguable that such facts can be captured by statistical reporting as variances in data. However, such variances do not lend themselves to immediate explanations nor are they immune from doctoring of information. If anybody looks at the data in the portals of national and state governments in India related to NREGA, the aggregate figures of demand and supply of wage work will be found to be identical. This is simply due to the fact that instead of being compiled from figures in the application for work submitted by the workers (which is politically discouraged by implementers on the ground), they are derived from the estimates of mandays in work orders. By contrast with social audit, monitoring by the State machinery creates a situation where failure is seldom admitted.

MKSS inspired the State Government of Andhra Pradesh to take the movement further in September, 2006. A campaign for social audit at local assemblies was undertaken by the State Government in partnership with a consortium of NGOs in Anantapur. Investigating teams consisting of persons from NGOs, MKSS and government gathered and attended local assemblies across the district.

I was privileged by an invitation from the State Government, to participate in the campaign. A feature of NREGA in Andhra Pradesh was that wage payments under NREGA in Andhra Pradesh had been arranged to be made by the post offices in savings accounts for workers. What came through to all of us during the *padayatras* and village assemblies was that by and large, wage payments ranging from Rs 80 per day to Rs 200 had been received (compared to the prevalent agricultural wage rate of Rs 47 for men and Rs 36 for women which remained stagnant over a decade), the wage rate paid to men and women was the same, works had by and large been sanctioned on workers' own lands (the opposite of what happened at Dungarpur) signifying the same thing again, i.e., sanction by administrative fiat rather than any basis in local-level planning. It also brought home the involvement of postal officials at some places in fraudulent withdrawals of money from savings accounts of workers. The last signifies the political fact, of how even when administration tries to get around frauds in cash transactions by means of payments credited to accounts

of workers, the local mafias and local officials collude to get at the money. The timeliness of the social audit monitoring exercise, however, raised hopes that next year round, the problems will have been addressed to a large extent due to the transparency and publicity to the process which therefore cannot be laid aside as merely sectional or individual opinion.

It is this nascent social movement for social audit that called for the participation of SAIs with civil society institutions to establish good governance. The distinctiveness of social audit from other kinds of process documentation and monitoring methods was fleshed out to develop the notion of 'objectivity as collective representation'. It was accepted that as against the limited concerns of departmental auditors for *classification* of transactions under relevant schemes and programmes for certification purposes, citizens are more interested in the veracity of the details in forms, Below Poverty Line surveys, vouchers and muster rolls, in short in original books of entry and subsidiary records. The actual construction of permanent assets along proper specifications also matters to them.

Realigning relations between SAIs and civil society along this channel is proving to be productive. SAI India appointed a task force to advise on strengthening compliance as well as performance audit by auditors taking the trouble to attend social audit public hearings. This has enabled us to gain certain insights into the modus operandi of different kinds of corruption at different places. SAI India has also actively participated in meetings of the Ministry of Rural Development where Social Audit Guidelines were framed and issued. Two provincial governments have already established Directorates of Social Audit and others are likely to do so very soon. In short, social audit is now viewed even by government in India as a feature essential for good governance.

To facilitate the engagement of a large number of literate and educated citizens in this process of investigating reasons for their own subjugation in their respective predicaments, what is required is transparency of government accounts on web portals designed in a manner that allows any person to query the program expenditure in the local school, or roads & buildings with a list of contracts immediately available. What we have in India at present is a system of cash based accounting and budgeting which do not allow for such querying of accounts relevant for a citizen as, for instance, providing by the excellent site [www.usspending.org](http://www.usspending.org).

As is well known, cash based accounting is not an informative way of presenting government accounts. It disguises the true state of the public accounts and lacks an adequate framework for accounting of assets and

liabilities. More importantly, as capital expenditure under the cash system is brought to account only in the year in which a purchase of an asset is made, an asset once acquired virtually disappears from the accounts. This creates a need for an elaborate parallel but largely dysfunctional system of tracking assets and dilutes the accountability of departments for management of government's assets and liabilities. A system of accrual accounting will allow better cost price calculations, record capital use properly, distinguish between current and capital expenditure, present a complete picture of debt and other liabilities and focus policy attention on the financial position as shown in the whole balance sheet of Government and not just on cash flows.

SAI India has launched a major project under a Government Accounting Standards Advisory Board (GASAB) to change over to accrual-based accounting. The mission of this Board is to formulate and recommend Indian Government Accounting Standards (IGAS) with a view to improving standards of Governmental accounting and financial reporting which will enhance the quality of decision-making and public accountability. Since government accounting is spread across a very large number of government offices at three different tiers of government – national, state and local – conversion to accrual accounting is a mammoth project in developing standards and training staff to handle double entry system of book-keeping. It will perhaps take a decade to complete and stabilise the new system. In view of its intrinsic merits and functional utility to offer transparency in accounts for citizens to query and act on, the game is certainly worth the candle.

SAI India is communicating with citizens by making available quarto sized 20 page publications summarising some of its important reports, along with a CD containing the full text of the report. By means of a project entrusted to a reputed government-funded research institution, for disseminating the evidence and findings in the reports of CAG in the form of simple web-based stories, efforts are being made to help journalists across India to learn how to use these reports to create a better understanding of accountability issues among the general public.

We are also communicating through press conferences on every report after it is tabled in the concerned legislature. Though some legislators have expressed their ire regarding this practice, the judiciary has upheld it as not violative of any privilege of parliamentarians. Since November 2010, when the widely acclaimed Report of CAG<sup>10</sup> on the issue of licences and allocation

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10 Report of C&AG of India on Performance Audit of Issue of Licences and Allocation of 2G Spectrum by the Department of Telecommunications (Civil) ( Ministry of Communications and Information Technology) for the year 2010-2011 available at : [http://saiindia.gov.in/english/home/Our\\_Products/Audit\\_Report/Government\\_Wise/](http://saiindia.gov.in/english/home/Our_Products/Audit_Report/Government_Wise/)

of 2- G spectrum by Ministry of Telecom was tabled in Parliament, the media, which till then used to report perfunctorily on his reports, has created a dedicated beat for its reporters for covering audit reports. With three eminent Ministers of the ruling government in jail already as a direct result of the credibility lent by SAI India to murmurs and sporadic reports about corruption in high places, which the Supreme Court took serious note of, SAI India today enjoys the trust of the educated classes.

When a series of reports by CAG on scams in housing and profit sharing contracts of government with the most influential industrialist in India also appeared in the media, conditions were created where civil society activists launched a national demand for the institution of an ombudsman to be created by legislation to deal with punishing the guilty involved in practices of corruption, public grievances or attacks on whistleblowers. The forthcoming session of Parliament in August, 2011 promises to be a tumultuous one with a highly controversial bill, drafted jointly by civil society activists and a group of Ministers, for setting up an Ombudsman is tabled in Parliament.

## 6 Conclusion

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Accountability does not mean merely administrative accountability to a hierarchy of officialdom and oversight systems with a static edifice of laws/rules as the invariable point of reference. It is an interactive process with multiple objectives in the life-worlds of people. Enhancing public accountability requires recognising that in a globalised world, there has been a paradigm shift from viewing governance as the concern of only the bureaucracies of the State to appreciating governance as a sphere where both the bureaucracy of the State and common citizens contest spaces.

SAI in India is deeply aware that civil society is not society at large but only that part of it which enjoys greater life chances. Its value lies in the fact that they table the knowledges generated by the struggles of people in their everyday encounters at different sites of the State – knowledges which challenge received disciplines in different subjects. Therefore, an attempt is being made by SAI India to reach out to not only civil society institutions, but citizens themselves, who are engaged in social audit of different activities of the State.

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[union\\_audit/recent\\_reports/union\\_performance/2010\\_2011/Civil\\_%20Performance\\_Audits/Report\\_no\\_19/exe-sum.pdf](http://union_audit/recent_reports/union_performance/2010_2011/Civil_%20Performance_Audits/Report_no_19/exe-sum.pdf)

At the International Centre for Audit of Sustainable Development (iCED) established recently by SAI India, as a first step, the participation of civil society institutions has been institutionalised.

Lending support to social audit for the precious information it is throwing up in the various areas of social services delivery is important. With support from SAI India, social audit processes have been incorporated in the monitoring processes of the executive. This has been a constructive move, with dividends in terms of launching a fight against corruption and gaining insights into domains for compliance and performance audits which cannot be expected from a sole reliance on 'domain experts'. With the lessons learnt from this experience in the context of anti-poverty measures of government, it should be possible for SAI India to relate to social audit of development and regulatory activities of government agencies in the sphere of sustainable development and high-tech areas as well.

SAI India believes, more than ever before, that securing accountability of government and public servants not only to legislatures but to common citizens in their ordinary business of life is what the Constitution of India expects from his unique positioning in law.



## **Section 4.4**

# **Building trust: Methodologies and tools for civic engagement at the local level**

United Nations Public Service Day and Forum 2010

UNDESA/DPADM/DMB Workshop

Engaging Citizens in Development Management and Public Governance for the Achievement of the Millennium Development Goals

21-23 June 2010

Barcelona, Spain



## Summary of 4.4 Building trust: Methodologies and tools for civic engagement at the local level

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Trust between governors and governed is necessary to develop a worthy democracy, which in addition to being representative, gives way to citizen participation which opportunely allows those matters which affect the life of the population to be foreseen and understood so that the most appropriate action can then be taken to aid public welfare. The natural channel for developing this trust is that in which participation is established.

An exceeding stage of participation, like that traditionally known, is civic engagement, which alludes to an orderly intervention by people and organizations that agree to face the obstacles which may exist, and decide to cooperate with the actions carried out by a government. This way, participation generates transformations which attribute another dynamic to the democratic system, and open permanent channels of communication between the governors and governed. Civic engagement, while “multiactoral” and inclusive, also incorporates greater information and perspectives for decision-making, improves the quality of policy implementation, increases the legitimacy of the government, contributes towards reconstructing credibility amongst agents, and constitutes itself as a strong social and educational imprint for public action. The methods and tools for organized intervention of citizens in public arrangements in the stages of design and implementation of programs and in the control of services and results are various, many of which have an extensive application.

In this document the author describes the case of citizen audits in Argentina where citizen audit is applied as a methodology which allows governed and governors to evaluate the carrying out of democracy on a local scale, which opportunely provides citizenship with tools of deliberation, participation and control which contribute towards its perfectionism in terms of a necessary cultural transformation. Awareness of the background of civic engagement practices offer lessons to make concrete formats of associated measures and plural alliances which weave a network of growing mutual confidence in order to have a bearing on the making of a public agenda which gives priority to the Millennium Development Goals.



## Building trust: Methodologies and tools for civic engagement at the local level



**Marta Oyhanarte**

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### 1 Democracy and Institutional Quality

At present nobody argues about the fact that the quality of democracy is an indispensable condition for an equitable and sustainable development. No good public policies may be established without well-performing institutions. Referring to quality of institutions is equivalent to talking about quality of life and learning how to assess them is learning to upgrade them and change them.

Democracy should not only be lived as an addition to a set of conditions in place to vote or be elected. It is therefore indispensable for democracy to be experienced as a way of organizing society to ensure and expand the rights of all. Democracy requires the comprehensive development of citizenship.

“Effective citizenship is not only about freedom to vote; but also a form of interaction between citizens and State and among citizens themselves” (O’Donnell, 2003). “The problems of democracy are solved with more democracy and more democracy involves more citizenship” “...and after many years and tough political and social struggles, we have succeeded in enjoying democratic political rights but we still lack a full democratic citizenship. It is necessary to move away from an electoral democracy toward a democracy of citizenship. And this is for two basic reasons: a) because the quality of democracy is limited in terms of full civil rights and expansion of social rights; b) because the

sustainability itself of political democratic rights and the social value of democracy may be affected if citizenship is not expanded” (UNDP, 2004).

“Democratic governance needs to be addressed in depth, understood as the institutional strengthening of the regime, understood, above all, as the political culture involving the creation of equitable participation opportunities for, primarily the most disadvantaged in Latin American societies. A necessary condition to achieve this is the political will as well as leaders truly committed to their countries and to the region and citizens determined to confront problems and face challenges to increasingly enjoy more and better democracy.” “It is a matter of discussing how to move forward toward a more comprehensive citizenship, which involves placing politics at the center as a mechanism for citizens, and more precisely for the community of citizens, to be able to participate in substantial decisions. Globalization is a fact, but it is not a matter of merely admitting that everything occurring as a result of technological advancement and of the expansion of markets should be accepted with no reflection or action. The ongoing and swift transformation taking place in today’s world should be understood, coexisting with uncertainties also needs to be learned, but action is also required to modify these macro trends present in the circumstances of individual countries. It is a matter of implementing it at a regional and local level with a proactive attitude and not with a mere passive mindset, for it to be regionally and locally rooted (UNDP, 2004).

A hard-pressing need of the time is to develop and strengthen state public institutions capable of consolidating a democratic order that stimulates dynamic and competitive market economies in order to promote a virtuous circle that joins a sustainable and equitable economic growth with a new institutional political balance that directs its actions towards the fulfillment of the Millennium Development Goals.

Joan Prats maintains that institutional development - respecting the rules of the game - is not a luxury of rich countries that could do without poor countries in their development strategies, but is a necessary condition for the surfacing of markets that are internally and internationally competitive, so that the necessary integration processes are credible and so that the poor can gain access to productive activities (Prats, 2005).

At present nobody argues about the fact that the quality of democracy is an indispensable condition for an equitable and sustainable development. But institutions do not come ready made. They have to be built, amongst us all. Building a sound democracy requires the commitment of a basic three-legged structure: government, private sector and social sector to:

- Develop a global view based on a culture of cooperation and

solidarity to reach the objectives established in the Millennium Goals.

- Rethink the role of the State in relation to both, local and trans-national phenomena.
- Extend the opportunities for participation in order that citizens find channels through which to demand of their governments minimum levels of social cohesion and integration.

Each key player should contribute to this process with new values and specific skills:

Governments, **leadership and accountability**. Leadership to wisely approach challenges that allow the community to be directed towards an equitable and sustainable development. Accountability to accept the rendering of accounts; this requirement includes plans, processes and results of government actions.

The private sector, **innovation and social responsibility**. Innovation is a call to build into company business plans cultural, technological and environmental aspects that would clearly open multiple paths to growth. Social responsibility implies matching virtue with benefit. We are not only referring to the fulfillment of legal obligations but also to the need to include ethic, social and environmental considerations in private sector practices.

The social sector, **participation and commitment**. Citizens should be placed beyond complain and should learn about exercising their rights and acknowledging their responsibilities. Proactive citizens are discovering that politics is the great instrument to balance diverse interests coexisting in social plurality and that it is important for institutions and institutions are important for development.

## 2 Participation and Civic Engagement

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A worthy democracy is that which, in addition to being representative, enables citizen participation which allows us to opportunely foresee and understand the matters that affect the life of the population in order to act in the most appropriate way to aid public welfare.

The commitment an individual shows towards achieving a personal goal

or something that they hold in high esteem can be one of the strongest and deepest powers that exist inside a human being. So that it may be achieved, many factors come into play; conscientiousness, desire, will- power, motivation and finally, the action itself of expressing this commitment in front of others<sup>1</sup>.

Is it easy to achieve participation? How is it done? How does one achieve that climate of collaboration between the inhabitants of a community? A fundamental principle for success and the sustenance of participation is trust, which grows amongst the people of civil society that meet to try to have a bearing on public policies. Trust that makes management, organization and delegation of tasks for the concretion of actions decided on together. This trust must be extended to those who carry out government duties, and from these back to civil society.

The natural medium in which trust is developed is that in which participation is established. Furthermore, it is a necessary resource so that social planning brings about better results in terms of quality and efficiency. Participation incorporates greater information and perspectives for making decisions, better quality of implementation of public policies and increases legitimacy. It is a process that integrates various parties, and for this reason, constitutes an educational experience which shows networks, interests and principles involved in public action.

However, it would be a good move to clear up all ‘magical’ conceptions about participation: it is never an automatic consequence of having been mentioned in the outline of a policy nor of a government program. It urges knowledge of the mechanisms it facilitates, consideration of the tensions that can be generated, concretion of future projects and learning of how to sustain the process.

For effective participation it is worth bearing in mind:

- A person is willing to participate and learn, as long as doing so gets results. Their capability to have a bearing on the problem solving process encourages them to get involved and propose changes.
- All fictitious judgments about public decisions already adopted deepen mistrust in the institutions and damage the vocation of social engagement.
- If the decision makers of a policy treat the participation of ‘non-

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1 Jacqueline Butcher. *El poder del compromiso*. Revista Prometeo. Revista Mexicana Trimestral de Psicología Humanista y Desarrollo Humano, n° 35, 2003.



specialists' as slightly or utterly worthless, they will make channels of participation superficial and will debilitate possibilities for social growth.

- Capacity for arrangements and dialogue allow for the creation of efficient agreements to organize the most appropriate participation in terms of assigning roles based upon the transformative potential of each of the parties.

Social, popular, communitarian, citizen participation..., many names to designate to a process according to which certain parties in civil society mobilize themselves, they 'activate' themselves, they burst onto a public stage and try to influence the rules and processes which provide the framework for their conditions of existence and reproduction. In particular, regarding state policies and the type of social organization they are aiming at (Oszlak, 2008). Recently the concept of 'civic engagement' has been brought up, referring to individual and collective action aimed at identifying and facing matters of public interest (Yang y Bergrud, 2008).

In other words, citizen participation can be extended to public policies. In this case, it constitutes orderly intervention from people and organizations that agree to face obstacles that may exist and decide to cooperate with the activities carried out by the government. This way, participation turns into a transforming process which confers another dynamic onto the democratic system and which requires permanent channels of communication between the governed and governors. Furthermore, both offers of space for participation on behalf of the government, and its demand from civil society, can show themselves at different stages throughout the creation of a public policy: in the phases of design, decision making, implementation and/ or monitoring and control. It is important to point out here that without information, it would be very difficult for society to get involved in the creation of public policy. We also know that information alone does not provide transparency, which is needed in order to fulfill at least three attributes: relevance, accessibility and exigibility. Thus, society sets itself up as the consignee of the information which is useful for their purpose and which could really be used (Cunill Grau, 2008)<sup>2</sup>.

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2 Cunill Grau, Nuria (2008) "La construcción de la ciudadanía desde una institucionalidad pública ampliada" en Contribuciones al debate Vol. II Democracia / Estado / Ciudadanía. Hacia un Estado de y para la democracia en América Latina. Programa de las Naciones Unidas para el Desarrollo.

### 3 Civic Engagement in Development Management

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Participation and civic engagement is a promising contribution to democratic governance, given the fact that it is built upon the attainment of virtuous circles gradually multiplying as successful steps move forward in the territory: “the more transparent a government is, the higher the trust of citizens in institutions; the higher the level of trust, the better the leadership is; the better the leadership is, the more likely it is to establish viable pro-positive relations among stakeholders; the greater the interaction among players, the easier to produce outcomes and more participation; the higher the participation is, the more sustainable the processes are” (UNDP, 2004(2)).

This virtuous circle is nourished by diverse components that a community possess, which are not always visible in everyday working and are relative to the articulation of the resources that have a bearing on possibilities of growth and development.

These resources or basic capitals are:

- Natural capital: made up of the natural resources that a country boasts.
- Constructed capital: generated by human beings; including infrastructure and capital, financial and commercial goods, etc.
- Human capital: determined by the different levels of nutrition, health and education.
- Social capital: agreed by the level of trust existing between the social actors, civic behavior norms and the level of associability that characterizes a society<sup>3</sup>.

Social capital is based upon cohesion from the social actors, upon identification with the style of government, with cultural expressions and social behavior that make society something more than simply a group of people. It is supposed that horizontal institutional agreements have a positive impact on the generation of trust networks, good governing and social equity. It is an important factor to stimulate solidarity and to overcome short-comings in the market through collective actions and the communitarian use of resources. It is

a vast set of ideas, ideals and institutions, through which people find their voice and mobilize their personal effectiveness for public causes (Kliksberg y Tomassini, 2000)<sup>4</sup>.

Social capital makes evident wealth and strengthening of the internal weaving within a society. One of the key features, trust, 'saves potential conflicts.' On the other hand, in a community in which distrust, lack of respect for the norms and isolation prevail, a vicious circle is generated, in which society finally reaches 'a state of equilibrium' in which the risk is run of taking an authoritarian government and 'clientele' practices as natural (Bomrad, 2005).

Trust reinforces social tissue, which leads to an increase in creativity, generation of initiatives, facilitation of group actions and, in a virtuous circle, makes the 'stock' of social capital in a community increase with its use. In this way, society reaches a state of equilibrium based upon cooperation.

This happening depends on the socially perceptible threats and opportunities, and also on a social culture, its values and beliefs, sources of motivation and priorities. Perhaps it is time to mobilize the debate about participation - today something at a standstill and circular - to institutionalize mechanisms to make civic engagement possible, and substitute the participation that emerges spontaneously like a volcanic eruption which subdues and runs over the players and institutions in uncontrollable alluviums, even for its protagonists; instead of this it should pass through socially regulated channels to capitalize opportunities and resources. But also create learning which moves away from those risks related to opportunism, asymmetry and improvisation (Pulido, 2008). The social volcanic eruption, on occasions with explosive results in material terms, and of cohabitation and social peace in the framework of a Right State, usually exceeds in dimension and damage the demand itself that motivate them. The costs of lack of organization of social participation, to be blunt, are growing and on occasions and are difficult to reverse, regarding recovery of routines and norms that make up the everyday life of an organized community. There are also growing and varied risks that range from frustration of the original objectives of those participating, to the distortion and loss of control on behalf of the driving forces themselves.

A wide repertoire of devices allow harmonizing, organizing and capitalizing of citizen participation in favor of more successful public programs which include what commits governments in decision making processes to

<sup>4</sup> Bernardo Kliksberg y Luciano Tomassini, comp. Capital social y cultura: claves estratégicas para el desarrollo. 2000. BID y FCE de Argentina.

drive these programs through their administrations.

Citizen engagement, if developed through an inclusive multiactoral process, incorporates greater information and perspectives for decision making, improves the quality of policy implementation, increases legitimacy of the government, contributes towards the reconstruction of credibility between agents and establishes itself as an experience of strong social and educational imprint for public action.

## 4 Methodologies and Tools to Enhance Civic Engagement

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Methodology is the science of method and, as well, a set of methods. In other words, of procedures which follow on from one another in an orderly fashion in order to achieve specific objectives. The tool is the instrument with which to do this<sup>5</sup>.

There are various methods and tools for the organized intervention of citizens in public management during the design and implementation stages of a program and during the control of its services and results. An example would be;

- ✓ Participatory budget
- ✓ Participative planning
- ✓ Open executive meetings
- ✓ Citizens charts
- ✓ Citizen Forums
- ✓ Dialogue boards
- ✓ Public Hearings
- ✓ Social Audits
- ✓ Social Observatories

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<sup>5</sup> Real Academia Española.

- ✓ E-government
- ✓ Agencies of associated management
- ✓ Advisory Councils
- ✓ Town - council inspectors
- ✓ Open legislative sessions

It is important to bear in mind that the breach between the governed and governors is fertile land for acts of eruptive participation which forebode the escalation of social tension and conflicts. However, new management technologies accumulate a wide repertoire of devices proved to channel, organize and capitalize citizen participation in favor of more successful public programs which include what commits governments in decision making processes to drive them through their administrations.

Background knowledge of civic engagement policies offer lessons to make concrete the formats of associated management and plural alliances that weave a network of growing mutual trust to determine the creation of the public agenda that gives priority to the Millennium Development Goals.

## 5 Starting Point: Improvement of Democratic Quality at a Local Level

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To think about democracy, to think about development involves thinking “from bottom to top”, it is not a process going from the general to the specific, instead, it implies thinking in terms of a region, a town, a municipality. In the past few years, the most active participation which has taken place outside political parties seems to be related to the trend toward strengthening local discussion and decision-making levels. A new political culture may start at the local level and there are signs reinforcing this perception<sup>6</sup>.

Furthermore, local governments are not only service providers; they

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<sup>6</sup> Human Development Report published in Argentina (UNDP, 2005) states that the level of trust of the Argentine people in institutions places the media in the first place (radio and TV), the church in the second place and Local Governments, with 32 percent acceptance rate, rank third. Far below in the scale are political parties, the National Congress and trade unions - traditional institutions mediating between society and the State -.

constitute high complexity systems which may play a core role in the globalized World, be it to effectively regulate existing systems in place, or to extend territory opportunities through knowledge and agreements with other similar realities. All challenges of today's world are present in a small community and the proximity among key players makes changes easier.

A historic, globalized cycle that reinforces, paradoxically, the visibilization of human communities, enlightens the protagonism and complexity of local singularities and demands demonopolizing the analysis of problems, solutions and opportunities. In this sense, the need to assemble the symbolic and human capitals and materials available to guide the development grants a leadership opportunity to local governments, whose agenda is nourished by new problems and dilemmas that demand participative policies for territorial management.

The agenda with which local governments manage policies nowadays has been amplified, but has also been complicated, both in matters and dilemmas, with locally situated social expectations and a demanding population. Frequent treasury restrictions and the interference in basic services, restores overbearing loosening of participation mechanisms and citizen engagement in the planning, management and evaluation of territorial policies (Pulido, 2007).

## **6 The Case of Citizen Audits: A Methodology for Making Citizen Engagement a Reality**

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This section summarizes six years of work, commitment and enthusiasm to achieve a manageable democracy, one which is transparent, legitimate and efficient. The Citizens Audit Program was implemented between 2003 and 2009 in more than 70 municipalities (13 million inhabitants) in the Republic of Argentina. It boasted support from the United Nations Development Program (UNDP) and sustained support from local governments, civil society organizations, universities and citizens from all over the country.

The case addressed herein is an institutional innovation leading to the assessment of democracy performance at a local level while offering citizens a tool for deliberation, participation and control contributing to its improvement in the framework of a necessary cultural transformation. The main protagonists are the community and the local government, which meet in the Civic Forum, a plural ambit which is flexible and produces consensus and projects for the

welfare of the community.

This mechanism recreates bonds of trust between the governors and governed, produces information about the state of democratic co-inhabitation in the community and has a bearing on the definition of public policies. It is a kind of a participation that uses a rigorous methodology, but at the same time, a flexible one which facilitates the integration of all those social actors in a space for dialogue. Onward of determined investigation methods, it allows a community to self-evaluate and improve their democratic life, joining politics with everyday life and problems of its people. Citizens and their local governments, once creating a map of weaknesses and strengths based on the findings and opinions of the community itself, have the possibility to develop capabilities which allow them to identify tendencies in order to improve certain public practices that make the democracy one of quality.

The idea of *auditing democracy* tracks back to the University of Essex and to the Human Rights Center in the UK suggesting that it is important for a democratic assessment to be guided by a citizen inquiry and participation strategy. However, undoubtedly, the best assessment experience of the quality of democracy was carried out in Costa Rica between 1998 and 2002. There, the *citizen audit of the quality of democracy* was defined as a method to research and to assess in a participative manner, the political life of a country or part of it, as an innovative tool combining participative research with civic action and that, under certain conditions, may have an impact on the quality of democratic community life and on the academic reflections about democracy (Vargas Cullell, 2003).

The *audit* concept refers to an assessment based on a systematic review of records and has as its ultimate purpose, to ensure an as-thorough-as-possible accountability method of those responsible for undertaking the audited functions. By definition, an audit should compare reality data with certain *parameters* and standards to evaluate its level of compliance. In the Costa Rican experience, the evaluation standards were called *democratic aspirations* and the idea of *the quality of democracy*, responds to the degree that, within a democratic regime, politics and community life is closer to the democratic aspirations of its citizens. (Vargas Cullell, 2003).

The Costa Rican citizen audit was an inspirational guide but, in Argentina, the program has developed distinctive characteristics that have enriched the entire process.

As conceived in Costa Rica, the program establishes three types of conditions to be evaluated which are relevant to determine its implementation possibilities:

- a) Design restrictions;
- b) Political viability conditions to undertake it and
- c) Technical conditions(Vargas Cullell, 2003:173).

The main design restrictions are related to the effective existence of a democracy under conditions of political and institutional stability and to the country's territorial and population extension<sup>7</sup> – especially because of the participative nature and the extensive use of research methods during the implementation thereof.

In Argentina, despite the fact that there was a stable democracy, the size, the number of people and the cultural diversity required that consideration be given to these parameters. Thus, the selection of municipalities as units of analysis was based on design practical and methodology reasons, but was also based on strategic reasons given the fact that they are the level of formal government closest to citizens and the most qualified to link public institutions with the community.

Political Viability refers to the fact that stakeholders involved in the process feel that they are actually part of the process and, at the same time, with the fact that they consider it a neutral and useful experience contributing to self-criticism and to the improvement of their community. Thus, the Costa Rican experience was carried out by civil society and the Academia.

In Argentina, the decision was made by the Federal Government to implement the program as a public policy at the local government level; and a fair approach was used since it was implemented in municipalities ruled by different political parties and the process was strengthened by using the State structure as a tool.

Technical Conditions refer to the fact that the team responsible for the implementation be unbiased, reliable, objective and that it practices the same qualities it intends to assess, therefore it is even more indispensable to have transparency as an essential component and to ensure that all activities are recorded, documented and that they be open and available to citizen control.

In Argentina, to meet these requirements, CAP has built an Internet site [www.auditoriaciudadana.com.ar](http://www.auditoriaciudadana.com.ar) where information about technical, operating

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<sup>7</sup> Costa Rica covers an area of 51.000 km<sup>2</sup> and a population close to 4 million inhabitants. Argentina extends over approximately 3,700,000 Km<sup>2</sup> of which 2,700,000 Km<sup>2</sup> correspond to the American Continent and almost 1,000,000 Km<sup>2</sup> to the Antarctic Continent and to the Southern Islands and with a population of almost 38 million of inhabitants.



and budgetary aspects is posted for consultation. Likewise, a Documentation and Information Center was established compiling all the information resulting from citizen audits, their outcomes and subsequent impact.

A substantial difference between the Costa Rican and the Argentine experience is the staggered design, by progressively adding more municipalities. This design allows to correct mistakes and to make adjustments in the implementation strategy.

In the first stage<sup>8</sup>, CAP was implemented in two municipalities that were selected on the basis of pre-determined criteria: a) that the population should not exceed 100,000 inhabitants; b) that unsatisfied basic needs should not affect more than 15 percent of the population; c) that civil society should have certain level of organization and coordination with the local Government; d) that the municipality should have a minimum systematization of administrative and governmental information, e) that mayors should be from different political parties.

The parameters considered for the selection of the first-stage municipalities were crucial to be able to smoothly test the methodology and gain the necessary experience to work in municipalities with higher complexity situations as the ones added at later stages. From this first experience onwards, and in consecutive stages, more municipalities joined in. As of November 2009, the CAP boasts 52 municipalities - in which the process has already been carried out- and 18 municipalities already prepared to commence with its implementation. In other words, within almost five years of management the program has reached almost seventy municipalities, which cover a population of around 13 million inhabitants - in other words, 30% of the country's population.

After listing the main conditions necessary for the implementation of this citizen assessment and participation tool and describing the reasons for the necessary customization to the Argentine context, a description and analysis has been made of the stakeholders' map, beneficiaries and allies that are part of CAP as well as of the sequence of activities carried out during the implementation phase.

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8 The first stage of CAP was implemented in the municipalities of Pergamino (Province of Buenos Aires) 100,000 inhabitants and Rafaela (Province of Santa Fe) 100,000 inhabitants.

## 6.1 Main Stakeholders

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The Stakeholders' Map put forward by CAP consists of a Coordination Unit, local governments and citizenship assembled in Civic Forums, UNDP, and an Advisory Council.

**CAP Coordination Unit:** the Under secretariat has established a technical team comprised by the director general, a general coordinator, a technical coordinator, a person responsible for linkage and cooperation, staff in charge of the regions (north, center and south of the country) and a group of researchers, facilitators and interns, with the direct responsibility of implementing CAP in the selected municipalities.

**Local Civic Forums:** in the conviction that the quality of democracy is closely related to the functioning of the institutions that are the foundation of democracy and that these institutions are based on a collective construction process requiring a demanding, and at the same time responsible citizenry, the methodology strategy adopted has a high participative and educational component. This implies putting civic forums together which, as defined by CAP, are open groups for a pluralist and representative participation of their communities; where both citizens and representatives from public and private institutions are called upon. The initial function thereof is to complete and validate the aspirations put forward by the CAP Coordination Unit. Likewise, civic forums spread CAP objectives throughout their organizations to contribute to the strengthening of the democratic values practiced therein, to promote plural and open participation of diverse organizations and government officials and to analyze CAP methodological and descriptive documents. Should forums be disregarded, CAP would limit its actions to performing a diagnosis of the democratic performance of each community without involving its citizens in this effort, which would turn it absolutely unproductive for the purposes of the specific objectives it pursues, namely: a) to provide the community with (citizens and government) a detailed picture of the strengths and weaknesses of its democratic community life; b) to develop citizens' skills to participate on a critical and informed basis in public affairs; c) to highlight the availability of best democratic practices and disseminate them to encourage their implementation and d) to build a participative system of citizen control and assessment to make accountability more transparent and stronger.

**United Nations Development Program:** is another key stakeholder that, in addition to managing CAP, it has technically and financially sponsored and supported the program since its inception.

CAP Advisory Council<sup>9</sup>: a consultation body formed by academicians from public and private universities who are experts in the issues evaluated by the Program and by civil society organizations focused on the construction of citizenship. The main function of this Council is to make contributions and suggestions to CAP, to contribute to its spreading, to control the rigor of the methodology used in this effort; all with the explicit purpose of taking the Academia closer to the State and involving it in a concrete public policy.

As part of a publicity and communication strategy of citizen audits and of the processes deriving thereof, CAP has built an extensive network of internal and external allies.

Included among the internal allies are the Ministry of the Interior of the Federal Government, via its Municipal Affairs Secretariat<sup>10</sup>, the Ministry of Social Development of the Federal Government, via its Secretariat for Social Policies, the Ministry of Health of the Federal Government, via the Network for Healthy Municipalities and Communities and the Ministry of Education of the Federal Government. Alliances have also been extended into different areas of the provincial administrations and/or into other local governments.

Included among the external allies, UNDP may again be mentioned – which in addition, is a main stakeholder-, as well as the Government of New Zealand, via the New Zealand Agency for International Development (NZAID) which – since May 2006 – has also assumed the role of a main stakeholder in a new project with the objective of strengthening the civic forums and turning the projects prioritized by these forums themselves, into tangible outcomes – via concrete funding<sup>11</sup>. Other external allies are the Institute for Democracy and Electoral Assistance (IDEA), headquartered in Sweden, sponsoring and supporting the activities carried out by CAP since 2005 and the InterAmerican Foundation (IAF) to jointly manage a project focusing on the strengthening of local communities with special emphasis on production development.<sup>12</sup>

9 See membership at: [www.auditoriaciudadana.com.ar](http://www.auditoriaciudadana.com.ar)

10 This agency of the Argentine Federal Government is naturally entitled to work with municipalities.

11 The “Bridging the Gap” project: collaborative planning to strengthen ties between local government and civil society in Argentina” is implemented over a four-year period in five municipalities of the country: Yerba Buena (Tucumán), Crespo (Entre Ríos), Morón (Buenos Aires), Palpalá (Jujuy) and Rafaela (Santa Fe).

12 IAF encourages the so-called “*Opportunity Zones in Latin America*”, self defined areas of economic development fostering economic growth through tax incentives, training and technical assistance to community leaders, governments and enterprises. Similar zones currently called Renewal Communities and Empowering Zones have been used for two decades in urban and rural areas of the Unites States of America.

## 6.2 Democratic Practices: Assessment Tools

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For the purpose of implementing citizen audits in Argentina, attention has been focused on four *democratic practices*<sup>13</sup> given the fact that they are the foundation for the construction of new democratic institutions: democratic civic culture, citizen participation in public policies, citizen treatment and accountability.

Citizen participation in public policies describes the extent to which rules and public programs create opportunities for citizen participation in public policies and, in addition, the effective use that citizens make of these opportunities to advocate in decision making within government institutions, demand information about status or outcomes of public policies or file allegations before the appropriate control agencies.

The democratic civic culture is the set of values and beliefs nourishing relations between citizens and institutions in a democracy. This culture is the foundation for the legal regime establishing and safeguarding the rights and liberties of people and banning any citizen or government institution to be beyond the law (O'Donnell, 2003:72).

Citizen treatment is the form adopted by the relation between government officials and citizens and is reflective of the training of government officials and of the respect for the dignity of people. This interaction should not be described as good or bad, but rather as a democratic interaction. This entails that it should meet two conditions: that it is subject to a legal and administrative framework passed pursuant to democratic rules and that it acknowledge and be respectful of the dignity of people (Esquivel and Guzmán, 1999).

Accountability is rendering explanations, justifications for all decisions and actions of government officials and submitting the latter to the scrutiny of the public and to the examination and review of citizens. This accountability includes both the action carried out by the government to inform citizens about the performance and outcomes of its efforts as well as the extent to which citizens demand this information.

Aspirations are set for every individual practice, that is, ideal situations that citizens would wish to collectively build. For every aspiration to be considered a parameter, it should meet the following requirements:

- a) That it be put together by several people following a process including activities that are documented and open to public

scrutiny,

- b) That it includes specifications or criteria allowing it to be used in an evaluation process,
- c) That a methodological design be used to gather relevant information and to check compliance thereof.

CAP Coordination Unit proposes -within the framework of the pre-selected themes- a set of aspirations, indicators and data gathering techniques (Table N°1) and submits it to the members of every *civic forum* (see further ahead: *Workshops with Civic Forum*), who will in turn introduce changes, additions and deletions until it is approved to be used as a tool during the evaluation process. The only restriction imposed on civic forums is that no themes can be changed or added, in the understanding that it is a matter of learning how to use a tool that the forums will later on be able to replicate when evaluating other relevant issues for their respective communities.

The indicators arising from the aspirations are: perception indicators -intended to elicit people's opinion about an individual situation- and verification indicators -intended to check the existence or absence of something or of a situation-.

Data corresponding to the above indicators are gathered based on the following methods or research techniques:

- Focus groups
- Household surveys
- Interviews to local leaders
- Surveys to teachers and students
- Review and analysis of administrative records and of public documents.

Focus groups and household surveys are carried out by one or several research teams selected in a public bidding process. The last three techniques are directly used by the Coordination Unit.

During the two consecutive sessions following the local launch event, a workshop is scheduled into two parts to establish and organize the Civic Forum

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13 *Democratic practices*, is our view about how Government institutions are organized and their interaction with society in public policy-making, enforcement and evaluation (Vargas Cullell, 2003)

calling upon the largest possible number of social players. The outputs to be delivered by this workshop are the following:

- ✓ Rules for dialogue (the regulatory framework for dialogues at all future meetings, collectively put together by the Forum plenary session)
- ✓ Forum concerns in matters related to local practices regarding the four themes evaluated by CAP.

## 6.3 Road Map

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Citizen audits are carried out in Argentine municipalities using activities, agreements and institutional mechanisms that are key links in the CAP implementation chain:

- ✓ Selection of municipality

At the onset, a few basic criteria<sup>14</sup> were established by CAP to select the municipalities and, though they were all taken into account, the ultimate selection is always determined by a decision that is beyond the power of the Coordination Unit and a sine qua non requirement for its implementation is that the local government allow the audit to be carried out in the municipality and that the local government adhere to the objectives thereof.

What motivations or reasons encourage a local government to perform an assessment of the quality of local democracy together with a heterogeneous community where incumbents, opponents and indifferent citizens coexist? Despite the fact that these processes oftentimes may imply a self limitation to the mayor's powers, we are in a position to state that there is increasing evidence showing that these government officials are beginning to understand that all players in democratic political systems profit from participation as a response to the legitimacy crisis, as a strategy to improve the performance of public policies and as a mechanism to build social capital. On the other hand, the valuable information found by the research work and by the rigorous methodology it is based on, provide mayors with significant elements to improve local governance.

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<sup>14</sup> See page 9

The government, represented by the Mayor, signs a Letter of Intent pursuant to which the Municipality adheres to the Citizen Audit Program. From then forward, a local liaison<sup>15</sup> is designated who will be in charge of interacting with the regional representative – his/her counterpart at the Under secretariat – in everything related to operating issues during the implementation process.

✓ Awareness and sensibility

Prior to Launch, the Coordination Unit shall visit the municipality to deepen awareness among all local players, of the different steps included in a Citizen Audit Program. Meetings are hosted with the government team, legislators, civil society organizations, different faiths, business chambers, professional bar associations and other institutions active in the community. During this stage, an intense communications campaign is put on in the local media to call upon the population to the CAP launch. Simultaneously, the Coordination Unit contacts school supervisors<sup>16</sup> and all school administrators and leaders of higher education institutions to invite them to attend the Launch event and Workshops, telling them about the importance of their participation in the Civic Forum of their community.

CAP specially promotes the participation of members of the education community in civic forums. In this regard, students, teachers, parents and value champions at large play a key role in the implementation of citizen audits.

✓ Launch

The CAP launch constitutes one of the relevant milestones in the audit program. It consists of a public event - with coverage by local and provincial media- at which the program is presented to the community and during which an Accession Agreement is signed, a document explaining the obligations assumed by the Coordination Unit and by the Local Government for the effective development of the process.

✓ Establishment of Civic Forum - Participatory Workshops - Forum Organization, by establishing two working committees: one made up by the education community (educators, students, value educators in the broad meaning of the word: sports leaders, religious leaders, social communicators) and the other committee, including government

15 In most cases, the local *liaison* function falls on government secretaries, directors of a specific strategic area -usually linked to community participation affairs- or, in other cases, on city councilors.

16 In Argentina, education is under the jurisdiction of individual provincial governments, and not of local governments; consequently contacts are established directly by the Program.

representatives and civil society (legislators, government officials, non-profits, business chambers, association of merchants, citizen at large).

- ✓ Forum Coordinators, elected by committee members to be part of the Forum Executive Committee.
- ✓ Action Plan where Coordinators set the meeting Schedule for the agenda proposed by the Program (methodology analysis and suggestions to be made to the Program, submission of proposals).
- ✓ Data from questionnaires completed by workshop participants-provided by CAP- about the usual civic behavior of forum members themselves.

For forum members to participate in the Public Hearing stage with a well-informed opinion about the outcomes of the Audit program (see item g further ahead), and in addition with an effective willingness and commitment to take part in the changes that need to be started, CAP provides technical assistance services to the Civic Forums including activities such as:

- ✓ A systematic approach of initial concerns included in a matrix allowing to record and organize participation.
- ✓ Prioritization.
- ✓ Distribution of a guide to propose projects to be used as a guiding tool for dialogues.
- ✓ Hosting of a workshop to propose projects.

#### a) Field Work

As soon as agreement has been reached about the methodology tool, the data collection stage begins, based on the indicators reviewed and revised by the civic forum. A thorough and participative field work depends, to a great extent, on the level of cooperation and commitment established between the CAP Coordination Unit, the local liaison officer and the members of the civic forum.

The compilation and analysis of local legislation related to the themes evaluated by the citizen audit program and the information about its effective implementation is a task undertaken by the Coordination Unit itself.

The Coordination Unit also interviews community leaders, distinguished citizens based on their track-record in the community, who enrich audit reports



with their views. CAP uses different sources to identify these leaders such as the following: opinions of government officials, community organizations, social communicators, stories in the media, among others. Interviews are recorded, designed following an agreed upon and semi structured plan and based on the written transcript of the interview, the most significant paragraphs are selected, in terms of identity, idiosyncrasy and community past track-record.

Surveys and Focus groups are retained from an external research group, selected through a public bidding process called upon CAP. In the first and second stage, these tasks were carried out by private opinion consulting firms. Following the third stage and with the firm intention of including the role of universities within the framework of a local and regional development strategy and of fostering and extending their capacity of intervention in communities, CAP decided to only call upon public and private university institutions of the country to perform these studies.

### **b) Submission and distribution of the Preliminary Report**

All the diverse and valuable information gathered following the field research work is organized and classified by every regional representative who puts an Outcomes Preliminary Report together and submits it to the Civic Forum. From that point forward, the Report is disseminated and it is the right time for government and community to move forward in the drafting of comments and proposals in different directions: on the one hand, to retain and deepen what is already in place and considered to be a good practice and, on the other hand, to build in new practices addressing weaknesses arising from the report, be it because it is something that is not working and needs to be modified, or because there is something lacking and needs to be implemented. The report is made public by distributing a booklet which includes an abstract of the Preliminary Report inviting citizens to attend a public hearing.

### **c) Public Hearing - Final Report**

The second relevant milestone in the process is the organization of a Public Hearing where the Preliminary Report is available for consideration by citizens so that the government and the community submit proposals for change following the outcomes obtained. Interventions and proposals submitted in the Public Hearing are added to the Final Report<sup>17</sup> of the Citizen

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<sup>17</sup> The Final Report of each one of the Citizen Audits completed becomes an excellent tool to work on values, rights and duties of citizens and government in educational institutions.

Audit published by CAP and disseminated across the municipality.

#### d) Cooperation and Articulation Strategy

The Under secretariat designs cooperation actions intended to provide tools for the Community and the local Government to implement the projects they have decided to undertake, following the proposals submitted during the Public Hearing as well as the proposals resulting from the Civic Forums, even after completion of its implementation. For the same purpose, the articulation strategy is undertaken with the national and provincial programs, non-governmental organizations, international agencies, foreign governments, the private sector and other municipalities, to strengthen the viability of projects to be implemented locally.

Supplementation lines and basic alliances put together by CAP may be summarized as linkages amongst:

- Municipalities, through the identification of local projects including practices eligible for replication, with the adjustments demanded to implement them in a different context.
- Federal and Provincial Government areas and Municipal Governments, by linking federal and provincial government agencies, with programs and projects with a local scope, to turn relevant programs, services and technical assistance efforts into converging and complementary actions. This allows connecting the local community with the federal level when the nature of the ongoing Project deems it appropriate.
- NGOs and Local Governments, to build alliances strengthening the impact of Projects.
- Foreign Governments and International Cooperation Agencies and Local Governments, so that management -primarily impacting the quality of life of people and the quality of democracy-, has access to greater opportunities of development and strengthening.
- Private Sector and Local Governments, to link specific opportunities for technical and/or financial assistance with specific needs in local communities.

## 6.4 CAP Evaluation

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The Program defined for itself a strategy of periodic internal and external assessments, with the objective of gathering lessons learnt, and adjusting the implementation in each of the stages of the latter.

The first internal evaluation was carried out in November-December 2004, through a qualitative investigation of key actors and of organizational learning and evaluation workshops. It included a revision exercise, evaluation and appropriation of lessons learnt with two main purposes:

- a) Detection of gaps between the logic, strategy and actions of project implementation, and the perception of the results obtained;
- b) Encounters of learning opportunities based on the concept of learnt lessons.

*It is widely-known that the Program, as a whole, is acknowledged by all the actors linked, both directly and indirectly, to it. From this premise, we understand as an evaluating team that one of the greatest challenges facing the Program is that regarding the concept of growing without loss of quality, managing to articulate itself in this movement of growth and development, and looking after quality as a distinctive value, which at the moment is both desired and achieved.*

**Assessment Report, Blejmar & Assoc., 2004.**

The second internal evaluation, named Evaluative and Reflexion Workshop, was carried out on the 14th and 15th of February 2006, with the constituents of the Coordination Unit, members of the Advisory Council, UNDP, public opinion consultants, intendants and representatives of Civic Forums from various municipalities, and strategical allies.

This activity had the objective of evaluating the following CAP dimensions: grade at which goals are achieved; processes and methodologies employed; definition of roles and global participation; quality of the ordinance conversations; administrative support systems; strategy; planning and management of political contingency, appoggiatura and congruence.

*In this team, the capacity to work with what little they have and even with what they do not have, is praiseworthy and acknowledged, speaking literally and rhetorically. Their power of motivation and spirit of commitment, does not just support their practices, but is also an element that is transmitted and spread to those people that are gained through the program in different municipalities. By this, we are talking about a motivational feature acting as an impelling force for the program.*

**Assessment Report, Blejmar & Asoc., 2006.**

During 2008 and 2009, an integral external evaluation was carried out of the Program, financed by the UNDP and run by the Centre of State and Society Studies (CEDES). This task derived from an exhaustive investigation of the Program processes and performs a series of evaluative trials based three dimensions of analysis and a sample of 8 municipalities. The following dimensions were evaluated: a) theoretical framework and methodological proposal b) implementation of citizen audits: operations and products, and c) impact results. In addition, good practices were identified and recommendations were created to impel improvements in the design and implementation of the CAP, both in the substantive and operative.

*Amongst the efforts to improve the quality of democratic practices in Argentina, the Citizen Audit Program (CAP) has been a pioneering and innovative initiative. It has fulfilled an outstanding role amongst policies that endeavor to increase the role of civil society in decisions regarding development and wellbeing of local communities, in close connection to the municipalities.*

*It deals with an unprecedented experience in Argentina and, probably, the world, since the Program has a peculiar feature. It attempts, from the national level, and relating directly to the municipalities, to promote not only a better knowledge about the quality of democratic practices in those jurisdictions, but also impel the carrying out of participative activities on behalf of the citizens themselves, through legitimate instruments that have a solid theoretical, methodological and technological backing.*

*Facing the enormous difficulties that are deeply attached to this task, and at the same time pedagogical and promotional, which must overcome ancestral cultural barriers, spread new values and mobilize the creative forces of those citizens not totally aware of their rights and potentials, the CAP has demonstrated a permanent vocation for*

*transforming itself based on the experiences gained and opportunities arisen from the process itself of implantation of the audits and the different stages that it has passed through from its initial conception 6 years ago.*

*The permanent expansion of the Program is a significant indicator of its continued force and search for mechanisms that support its actions, such as the Bridging the Gap Project, an unmistakable sign that it is aware that consolidation of experience is not the result of pure voluntarism.*

**Final Report on the External Evaluation of the Project PNUD ARG  
04/007 Citizen Audit - Quality of Democratic Practices in  
Municipalities.  
CEDES, 9 de noviembre de 2009.**

## 6.5 Systematization

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The objective of a process of systematization is to close the gap between theory and practice, and provide services based on products of knowledge. This is put into effect through a methodology of knowledge management, which transforms 'raw' empirical and conceptual knowledge into tools ready to be used within a project cycle. The key is making the knowledge apprehensible and applicable for future users.

This is how, as part of a diffusion and dissemination strategy, the Citizens Audit Program aimed for actions directed at systematizing the knowledge obtained as of its implementation in order to be able to project the experience towards the improvement of sub national democratic processes, the development of local talent and the strengthening of new alliances and articulations between different levels of government.

The results of these actions are expressed in:

- Fruits of Democracy. Implementation Manual of the Citizen Audit Program - Quality of Democratic Practices in Municipalities (2009). This manual identifies the key components for planning and conducting citizen audits in a successful way anywhere in the world.
- Catalogue of Local Practices implemented in municipalities

throughout the country as of the Citizens Audit Program (2009). This catalogue gathers together 30 successful local practices that had been developed by municipalities in the country as of the citizen audits implementation in its territories, and was edited for the Local Practices Fair “Democracy bears fruit”.

- ‘Tools to analyze citizen audits and their results’ project. In the framework of this project, the data bases of the surveys conducted in 46 municipalities were put together, and 4 indices were elaborated linked to four thematic nucleuses evaluated by the CAP, with the objective of obtaining a tool which allows the comparative analysis of the results reached in different municipalities.
- Learning Forum: “Public-Private Networks for Local Democracy” (2008). This platform has the objective of raising awareness of different ways of association and experiences related to public-private alliances in which municipalities play a main role.
- Creation of the Under Secretary’s Information and Documentation Centre (2008). The importance and ultimate purpose of organizing and conserving documents draws strength, on one hand, from a practical-administrative focus, and on the other hand, from an institutional-historical feature.

## 6.6 Outcomes, Impacts and Outlook

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*“The Citizen Audit Program shows the community the glass half full and shows the town council the glass half empty”.*

*Dr. Emilio Vogel, Mayor of Libertador San Martín (Entre Ríos)*

The potential shown by this participation tool and the social energy it creates, cause the outcomes and impacts we can describe in this document, to be far less than the outcomes and impacts actually triggered by it.

A few outcomes:

- 70 municipalities engaged with CAP (accounting for almost 13 million people).
- 52 municipalities joined CAP.

- 47 Reports of Local Democratic Practices Quality published and distributed at the local and national level.
- 32 Public Hearings were held in the municipalities to consider reports on the quality of democracy (2004 -2009).
- 47 surveys (400 cases each) were held in municipalities joined to CAP (Data bases available at the Under Secretary's Centro de Información y Documentación).188 focus groups were held in municipalities joined to CAP ( Recordings available at the Under Secretary's Centro de Información y Documentación).
- "Citizen Audits - A mirror for our democracy" Audio-Visual presented and broadcast at a local and national level (2006). It reports the objectives of the program, its methodology and offers testimonies from the protagonists of the Program's first and second stages.
- "Sustainability of public-private cooperation in the territory" Documentary (2008), 11 town councils from the CAP met to analyze the sustainability of public-private cooperation for local development, through concrete cases and with the aid of prominent specialists.
- Platform of Municipalities on line. This platform has the purpose of making municipal policies known that favor the participation and control of citizens in public policies, and articulating networks between local actors who have taken a lead role in experiences in this sense.
- "Constantino - Argentina (a national metaphor)". Documentary, directed by Miguel Rodriguez Arias (2009). Accounts from the avatars of a cultural icon in the Bragado municipality: the Florencio Constantino Theatre - retrieved as of the CAP- and its parallelism with the last hundred and fifty years of history in our country.
- "Fruits of Democracy" Documentary, directed by Miguel Rodriguez Arias (2009). This institutional documentary presents the experience of the Citizens Audit Program.
- "Fruits of Democracy" story competition, aimed at youngsters between 12 and 18 years of age, and organized by the Under Secretary, the National Education Ministry's National Reading Plan and the United Nations Development Program.

A few impacts:

New legislation or legislative reforms:

- Public Hearing Local Law authorized as of a project presented by the Villaguay Civic Forum (Entre Rios).
- Debate event about the Constitutional Reform in Entre Rios organized by the Diamante Civic Forum (Entre Rios) in which representatives from different political parties in the city participated.
- Local Law on Access to Public Information, sanctioned in Crespo, Entre Rios.
- Local Law on Access to Public Information, sanctioned in Palpala, Jujuy province.
- ‘Carta Organica’ (local laws) Municipal Project, presented by the Civic Forum in Concordia, Entre Rios.

New government plans and programs:

- Project “Each street with its name, each house with its number” elaborated by the Diamante Civic Forum (Entre Rios). In this framework, and with the cooperation of the town council, the provincial government and the private sector, more than 30 streets in the city were sign posted with their names.
- Concourse to fill two positions of Council Inspectors. The Cerrito Civic Forum (Entre Rios) drew up the requirements at the request of the local government.
- “108 - Pergamino Alert”, citizen security system installed by the VOXIVA company, financed by company itself and by a donation from Microsoft.
- Interinstitutional Forum in Lavalle. It deals with a participation space impelled by the Civic Forum that unites the different areas of the municipal and provincial ambit to promote articulated actions of public policies that improve the population’s quality of life.
- Integral management of rubbish. The Civic Forum in Firmat and organizations in the community created a participative project, regarding the installation of a Rubbish Treatment Plant, the establishment of the specific days for collection of organic rubbish (previously separated at origin), the collocation of various containers throughout the city and the creation of the Eco Club (Environmental watch) in which children and youngsters participate.



- Participatory Budget Program: in the district of Moron (Buenos Aires) it was decided to commence with the implementation of this tool as a result of the Citizens Audit carried out in the municipality.
- Implementation of Participative Planning in Crespo (Entre Rios). Henceforth, the citizens determine where investments will be made and which are the priorities and actions to be carried out by the local council.

New ways of managing local administration:

- The Junin Government, in the Buenos Aires province, decided to modify the communication strategy through a program on a local television channel and the edition of a municipal news bulletin.
- The Pergamino Government, in the Buenos Aires province, restarted publication of the municipal news bulletin that had been discontinued.
- The Moron Government reinforced its strategy of rendering accounts through its Transparent Accounts Leaflet which are distributed in homes, with the municipal tax rates.
- Public Hearing to deal with the selling of council land, organized by the Diamante Civic Forum (Entre Rios).
- Workshops to debate the urbanization and investment project in thermal estates, organized and moderated by the Diamante Civic Forum proposed by the Federal Investment Council.

Innovative Citizens' Actions:

- Learning and training guidance for teachers, elaborated by members of the Presidencia Roque Saenz Peña Civic Forum (Chaco) who are teachers.
- Good Practices Decalogue for a Healthy Municipality, elaborated by the Yerba Buena Civic Forum (Tucuman).
- Training workshop for citizens chosen by local governments to oversee elections on 28/10/07 organized by the Junin Civic Forum (Buenos Aires)
- Family and Society Project elaborated by the Villa General Belgrano Civic Forum (Cordoba), in the framework of which different seminars were carried out related to sex education, teen pregnancies, childrens

‘rights and parents’ responsibilities towards their childrens’ education (2006-2007).

- Transit Education Campaign “Save Your Life” organized by the Yerba Buena Civic Forum (Tucuman).
- Meetings with Candidates, organized by the Civic Crespo Forum (Entre Rios) and Yerba Buena (Tucuman). At these meetings, citizens had the possibility to listen to proposals from each intendat candidate for each of the management areas.
- The Perri-Oca is a board game based on the Local Law no. 65/05, establishing regulations for responsible ownership of pets in Crespo (Entre Rios). All the advances and obstacles in the game were related to articles of the law. It was created by secondary school pupils with the collaboration of the Dog Shelter and the Animal Health Centre.
- Renovation of the Florencio Constantino Theatre in Bragado (Buenos Aires). In 2007, the Civic Forum in Bragada and the Florencio Cobstantino Association took the initiative of restoring the installations in this lyrical theatre and raising sensitivity within the community towards its historical and cultural value. On the 22nd November 2008, after 96 years in silence, the Constantino Theatre reopened its doors, with a lyrical gala starring the orchestra from the Colon Theatre Academy, in front of 500 people.
- Projects “Addictions: a problem for everyone” and “Youngsters and alcohol” elaborated by the Firmat Civic Forum (Santa Fe). Two events were organized for pupils in year 8 and year 9, in which an expert from SEDRONAR (Secretary of Programs for Prevention of Drug addiction and the Fight against Drug Trafficking) explained about the topic of addictions. Furthermore, the Civic Forum designed and carried out a survey for the pupils with the objective of examining the problems related to addictions in the city.
- Event about Transit Education carried out in the framework of the Transit Education Program organized by the Las Rosas Civic Forum (Santa Fe). The event was aimed at all the schools in the municipality, and experts on the topic participated.
- Workshop about Civic Culture and Participation, with pupils from primary school number 147 “Entre Rios Province” in the North West district, and carrying out of the Audio-visual “Learning to be democratic and participative” organized by the Rosario Civic Forum together with the Municipality of Rosario (Santa Fe) with the

objective of spreading to other schools. Available video at [www.auditoriaciudadana.com.ar](http://www.auditoriaciudadana.com.ar).

- Concourse for the election of the campaign logotype for the prevention of excessive consumption of alcohol, aimed at youngsters, by the Cerrito Civic Forum (Entre Ríos).

And some other impacts, resulting from linking and cooperation actions undertaken:

- Civic Forums from 9 CAP municipalities contributed towards the National Education Law Debate which were published as institutional contributions on the web site [www.educ.ar](http://www.educ.ar)
- Final reports from the Citizen Audits carried out, added to [www.educ.ar](http://www.educ.ar) as documents of pedagogical use.
- 8 youngsters from CAP Civic Forums participated in the CALIDEM Program (Training for Democratic Leaders), organized by the Fundación para el Cambio Democrático, the Centro de Implementación de Políticas Públicas para la Equidad y el Crecimiento (CIPPEC), the University of San Andres and the Red de Acción Política (RAP). It was financed by the OEA and the BID.
- 68 members of the Civic Forums trained in Project Formulation with a Logical Framework by experts from CIDEAL (Spain), financed by the Spanish Agency for International Cooperation Development (AECID), and as a result of managed cooperation by the CAP with the Secretary of Social Policies from the Ministry of Social Development of Argentina.
- Bridging the Gap Project (financed by the New Zealand Government)<sup>18</sup>.
- Training and Exchange event for Civic Forums coordinators and local liaisons, organized by the Under Secretariat in which 52 officials and citizens from Civic Forums participated.
- Members of the Civic Forums in Las Rosas (Santa Fe), Las Heras (Mendoza), Godoy Cruz (Mendoza), Guaymallén (Mendoza), Diamante (Entre Ríos), Coronel Moldes (Salta), Cerrito (Entre Ríos) and El Trébol (Santa Fe) participated in the XIII Argentine Social Sector Event, “How and with whom do we prepare for the ranges of change”.
- Mission to the United States in which officials participated from Firmat (Santa Fe), Lavalle (Mendoza), Rawson (San Juan), San

Fernando del Valle (Catamarca) and Crespo (Entre Ríos) in order to get to know the experience of “Renewal Communities” in the cities of Santa Ana, Parlier y Orange Cove, in California; a model designed by the Housing and Urban Development Department in the USA (HUD) to confront poverty. The mission was financed by the (InterAmerican Foundation) based upon an initiative from the Under Secretariat.

- Expert technical advice from the Centro Nacional de Organizaciones de la Comunidad (CENOC) for the Civic Forums in Bragado (Buenos Aires) and Las Heras (Mendoza) concerning the requirements necessary to put forward local development projects as social organization.
- Women members from different Civic Forums participated in the Seminar about Training in Gender, Access to Public Information and Use of Information and Communication Technologies (TICs), organized by the British Council together with the Fundación Mujeres en Igualdad.
- Civic Forums organized various local activities in the framework of the National Reading Campaign from the National Ministry of Education. In Diamante, there was a reading week and distribution of literature in its 14 public squares through the voices of volunteer narrators. In Palpalá (Jujuy), within its planning to strengthen bonds between the government and civil society through the “Bridging the Gap Project”, it was decided to nourish libraries located in neighbourhoods centres, and in Malargue, CAP accompanied the distribution of books during the VI Provincial Congress on Education.
- Lets learn to listen: The Civic Forum in Rawson (San Juan), the main judicial centre for mediation, and two schools in the city put into practice activities to promote dialogue as a tool to encourage mutual respect and understanding towards the level of conflict and violence within the community.
- Nutrition and health. The Civic Forum in Rawson (San Juan) organized a workshop event to raise awareness about eating habits, the benefits of growing your own fruit and vegetables, and the nutritional value of food, run by professionals from the INTA.

Likewise, we are aware of cooperation and exchange ties established with two programs to replicate the tool:

- Citizen Audit Project at the community level in Chile implemented by the Santiago de Chile University in six municipalities of the country.
- Citizen Audit Project in the Legislature of Mendoza, implemented by the Center of Research and Innovation for Democratic Governance of the National University of Cuyo, Mendoza, Argentina.

But the things that CAP cherishes the most are the testimonies of people involved in this change who are permanently encouraging CAP to continue to focus on this slow and steady process of reinventing democracy. Below are a few examples of these testimonies:

*“...in the process of learning and understanding this participation tool, we gradually realized that it was really the opportunity to turn ideas into action that are often in the air and never materialize. That’s why we believe that it is a very significant, non-partisan participation forum, but also involving all political parties. I wonder: What political party does not wish the common good of its community? So my conclusion is: The Civic Forum wishes the common good...I believe this is a significant forum and, given it is a Municipality that has solved many of the problems faced by other municipalities, today as adults we should raise the bar. We should work looking ahead with a 10 or 15 year projection and, in this manner, we will be able to reach a standard of living increasingly better for everybody who, ultimately, are those of us living together...”* Juan Jorge Tomasi. Crespo Civic Forum Coordinator, Entre Ríos<sup>19</sup>.

*“...As a citizen and member of the education community, I decided to become involved in the Crespo Civic Forum because it is different from political parties and it is a place enabling me to contribute to the community, since I consider it as an indispensable tool for the strengthening of democracy; a vehicle to channel the need to participate as a citizen and to somewhat contribute to the improvement of the quality of life of my family and of the people of the city...”* Ana María Colombani, teacher. Crespo Civic Forum.

*“...My view is that every individual citizen should make all talents freely gifted by God available to the community. With the Citizen Audit Program I believe I can also improve communications with the people representing me today, be them, public servants or government officials, because more flies are trapped with a drop of honey than with a barrel of vinegar...If human relations are improved,*

<sup>19</sup> Crespo, Province of Entre Ríos.

*interaction with the society of this dear community of Crespo will also be improved”... Oscar Schell, Carpenter. Crespo Civic Forum.*

*“...this proposal, in my view, is a way of opening doors to citizens and of representing the interests that, at one point in time, were delegated in me by their vote... Citizen Audit is a participation tool directly linked to public policies. And talking about public policies is discussing every day problems...In earlier days; policies were made by leaders, or by the incumbent rulers, and the rest of the community, for different reasons, did not participate because the community did not have the opportunity or because it was not willing to participate. Today, society is increasingly demanding. Public policies have to necessarily be more participatory. If we fail to include those affected by the problems, we will hardly be able to find effective solutions to these problems...” Ariel Kihn, City Councilor of the Municipality of Crespo and the local liaison with CAP.*

*“...Citizen Audit is a discussion forum, not a forum to criticize or destroy, but rather by agreeing, by understanding, by highlighting and by participating it makes a constructive contribution...”María Isabel Báez. Citizen. Crespo Civic Forum.*

*“...The other day, we were talking about the Citizen Audit Program with the children at school and a question came up calling for reflection”: Why? What is the purpose of the Citizen Audit Program? The immediate response was: “To assess democratic practices in this society”. “Yes, but why now? Is this program new? There was a feeling that it was a new practice; this was the perception... Rapidly, the children at school gradually began to understand little by little the reason for this tool, the value of this tool which promotes the evolution of the social process...” Alejandro Bustos, teacher and Chief of Staff of the Municipality of Villa General Belgrano.*

*“... I would like to say that I am amazed by the Civic Forum where Democracy is exercised to some extent. This is the opportunity we all have to stop being mere opinion factors and achieving real participation and becoming a power within our own town, and going beyond that...” Liliana Estrella de Lellis, Support Committee of the Day Care Home and Director of the Villa General Belgrano Mediation Center.*

*“...-in my view the experience of Citizen Audit has been extremely enriching... this is the challenge faced by those of us who were voted into a seat by those who feel represented by us. Participation is not achieved with the mere passage of an ordinance...I believe that the basis and the great challenge faced by city councilors today, is educating for participation. Going to neighborhoods and knocking on the doors to tell neighbors: Do you know that the City Council is an open forum, and that meetings are open to the public, and that your problems can be listened, and can even be solved by us? Do you know that we are here to serve and that when you*

*have a problem the only thing you need to do is to go to the City Council were we are willing to listen to you?...” Ana María Díaz, City Councilor. Concepción del Uruguay Civic Forum.<sup>20</sup>*

*“... We actively work in Civic Forum tasks, within the framework of this Citizen Audit, following the line of Civic Education because we believe that improving the solidarity civic culture of our community, will translate into serious and participatory work of all those striving for a fairer society with equal opportunities for everybody. Every citizen, in their roles, merchants, businessmen, housewives, teachers, civil servants, government officials, etc should encourage this participation...” María Anadón de Marcó, Lawyer representing the Community Mediation Center. Concepción del Uruguay Civic Forum.*

*“...through this Civic Forum we can contribute to the strengthening of democracy by participating in a sincere, honest and respectful dialogue facilitating the reestablishment of relations between political organizations and civil society. The Civic Forum is designed for citizen and non-partisan participation where, in an environment of mutual respect, the debate of issues of general interest is facilitated and points of agreement are reached to establish government policies, with the strength of common sense and citizen support...” Carlos Iñurrategui. Yerba Buena Civic Forum Coordinator.<sup>21</sup>*

*“...what is magic of this experience lies on the fact that it promotes an unusual horizontality where senior positions do not ensure an advantage in advance... Mayors are voluntarily stripped of the “protection” usually offered by a representative democracy hardly accustomed to the accountability process...those submitting themselves to these practices should be appreciated because of the quality of the democratic leadership they embody by adopting innovative practices expanding the limit of what can be demanded from our representatives in democracy...”*, *“...maturity also prevails, because citizens favor the assessment of institutions rather than the personal characteristics of their circumstantial rulers.” Osvaldo Iazzetta, Universidad Nacional de Rosario, member of CAP Advisory Council.*

## 6.7 The Challenge of Ranging Changes

There are different strategies for approaching ranging perspectives that

<sup>20</sup> Concepción del Uruguay, Province of Entre Ríos.

<sup>21</sup> Yerba Buena, Province of Tucumán.

contribute towards increasing the expected impact of a public policy. One can choose a strategy aimed at extending the amount of consignees or beneficiaries - focus placed upon increasing cover -; at adopting a replica strategy brought forward by the institution itself or by others- focus placed upon systematization, optimization and transmission of the experience- or at having an effective bearing on the public policies or on the social systems- focus placed upon generating a sufficient amount of mass criticism so that this happens. These strategies usually appear together and feed of each other.

The CAP components are put forward and tested; rescue of public dialogue and deliberations, creation of horizontal spaces, generation of trust networks, political and social leaders with high levels of participation and commitment in the community, organization and method. In addition, conditions present themselves which are essential for confronting this change.

- Demand: Demand for implementation of the program has not only grown amongst municipalities, but various provincial governments from different parties have also shown interest in participating in it.
- Feasibility: this deals with considering (and taking advantage of) the opportunities that present themselves throughout the project. A favorable political context must be taken advantage of, since invested effort can strengthen the results.
- Flexibility: the CAP is, above all, a flexible program and one which is constantly in motion, since it adopts a permanent attitude of evaluation and reflection of the processes, with the objective of feedback from the results as part of an organizational learning process.
- Technical conditions: the CAP is implemented by a team of professionals with experience and a deep knowledge of the project topic area, with proven methodologies and technical capabilities to systemize the hard nucleus of experience and transmit it.
- Vocation for change: all parties committed to the CAP process have a deep desire to contribute towards a cultural change in the medium and long term.

For all the above, and once the accumulated experience, results and repercussions are obtained, we adopt a replica strategy that allows the acceleration and affirmation of the incidence strategy. The replica strategy supposes the existence of an organization that transmits experience - the Undersecretary - and of one or various that receive information in a systematic way. The receiving organizations of experience from the CAP will be in this case, regional or provincial executing units, with which join provincial



governments, civil society organizations, foundations, companies, and educational institutions, amongst others. In this framework, the transmission of the hard nucleus of experience through a careful component of learning and training, and that of accompaniment and monitoring of the implementation during the replica stage. Both turn out to be crucial in order to conserve the programs identity and the values it represents<sup>22</sup>.

## 6.8 Findings as of a Used Methodology

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The methodology used in the implementation process of the citizen audits:

- Is a highly replicable methodology in other countries because of its local scale, and because it is designed into a set of stages providing an opportunity to adjust parameters, to correct mistakes and to adopt learned lessons following the evaluation thereof.
- Is a promising contribution to democratic governance, given the fact that it is built upon the attainment of virtuous circles gradually multiplying as successful steps move forward in the territory.
- Unleashes a public debate in municipalities about the quality of democracy, the values embodied thereby and the pending challenges, this debate is educational and learning experience for both citizens and rulers.
- It has an impact on the quality of democratic because it is not an evaluation carried out by a group of technocrats and academics locked up in ivory towers. It is a deliberation from the citizens about their everyday democratic life, and at the same time, it is a process of social change based on academic rigorousness.
- Favors and promotes a new type of relations and interrelations that it moves the local Government away from a monopolizing position over public actions and contributes to viewing social organizations and the private sector as players to be associated to the implementation of public policies.

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<sup>22</sup> La primera experiencia de réplica comenzó en agosto de 2008 en la Provincia de Salta, a cargo de la Secretaría de Relaciones Institucionales del gobierno provincial.

## Conclusions

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In the year 2000, the 189 members of the United Nations formulated the Millennium Declaration and incorporated eight Goals regarding eradication of poverty, universal primary school education, gender equality, infant and maternal death rates, advance of HIV and maintenance of the environment. These goals have conformed an integral development agenda and have been expressed in policies and instruments adapted to the needs and possibilities of each one of the communities.

The process has been unmatched. Some countries are better positioned in the path towards achieving these goals while others have a long way to go, which will not be free from difficulties. In this sense, improvement of both developing countries and the rest of the world are fundamental in order to speed up this step. This task must be the responsibility of all the social actors. A key element to strengthen this responsibility is interpersonal trust, a central variable of civic and political culture. A comparison between regions and countries shows that high levels of trust are strongly related to good performance of public institutions, democratic stability and the population's standard of living.

Building trust nourishes development management, strengthens government leadership, spreads more democratic practices and opens effective opportunities for a better government and sustainability of public practices. If there is trust, it is much easier to install participative processes, above all, those which express a civic engagement from citizens willing to collaborate with their government in public policies that favor the common good. The most appropriate means of building trust is on a local level. Local governments are not just lenders of public services any more. They are highly complex systems that can play a central role in the globalized world.

All the challenges in today's world are present in a small community. The global economic, political and cultural processes have become entangled with local ones, and have growing incidence in the territories. Each one of us belongs to a community. It is desirable that the municipal level develops dynamic links and synergy between its own vision about development policies, and that of the province and nation.

In all cases, the topic of public policy implementation should be borne in mind, a topic which, while growing in importance in academic ambits and theoretical investigations, still hasn't managed to attract the necessary attention from those responsible for executing it. What is understood by

implementation? Nothing other than operating a basic political decision, which is usually incorporated in a norm. But it can also be a question of executive or legislative decisions. Operating a political decision means knowing that there are expectations and opportunities, occasions and multitudes of actors, interests and responsibilities, which will have to be borne in mind at all times. The effort to change the behavior of a large number of people requires a conceptual framework, one of technical skills to know how to use the methodology and tools which can be adjusted to diverse contexts.

Finally, as expressed by the Millennium Declaration (U.N 2000), “the change of century constitutes a unique moment, and one which symbolically urges the 189 member states to articulate and maintain a vision full of inspiration for the United Nations in this new era.”

## ANNEX N° 1

### Decalogue of a good Citizen Audit

1. Know what is going to be assessed without losing sight of the fact that the objective is to restore democratic values in order to improve the quality of life.
2. Rely on the political decision and participation of the maximum local authority during all the citizen auditory process.
3. Form a unit of coordination, in which the constituents practice the same values that an attempt is being made to establish in the territory.
4. Integrate an advisory council with capacities in the academic ambit and civil society organization, dedicated to the construction of citizenship.
5. Rigorously apply the methodology with those adaptations that better ensure its objectives in each context, paying attention to local features.
6. Learn to systematize the steps of the citizen audit to make the implementation and transfer of knowledge more efficient.
7. Conduct periodic internal and external evaluations to adjust the tools and decide what should be kept, changed or improved.
8. Add natural partners, or rather, national or international organisms with similar or complementary objectives that accompany the process and contribute towards its expansion.
9. Build networks of cooperation and articulation so that the Civic Forum is maintained and is not limited to the diagnosis.
10. Work enthusiastically, have fun, perceive how the civil landscape is being modified. Reap the fruits of democracy, and enjoy doing so!

## ANNEX N° 2

## Assessment Instrument: Aspirations and Indicators

DEMOCRATIC CIVIC CULTURE	INDICATORS
<p>ASPIRATION N° 1</p> <p>That citizens of the Municipality relate and commit to democracy as a value in itself.</p>	1.1 Level of support for democracy on the part of citizens in the municipality.
	1.2 Citizen's perception about the degree of knowledge regarding the rights of citizens and the responsible exercise made thereof.
	1.3 Citizen's perception about the degree of knowledge regarding the duties of citizens and the responsibility and effective compliance in fulfillment thereof.
	1.4 Citizen's perception about the degree of respect for legislation and value and care of community aspects.
	1.5 Level of citizen's knowledge about the respective responsibilities and functions of the different levels of government: local, provincial and federal.
	1.6 Citizens from the municipality voting at elections.
	1.7 Citizen's perception about the role played by educational institutions in the training of democratic citizens.
<p>ASPIRATION N° 2</p> <p>That citizens in the Municipality have the conviction that democracy is the most appropriate system to improve the quality of life of people.</p>	2.1 Level of citizen's satisfaction regarding the government's performance in democracy, as provider of basic services.
	2.2 Citizen's perception about the quality of politics and institutions.

**SECTION 4** Citizens engagement in auditing for detecting and deterring corruption

CITIZEN PARTICIPATION IN PUBLIC POLICIES	INDICATORS
<p>ASPIRATION N° 3</p> <p><b>That Municipal Government promotes citizen's participation in public affairs.</b></p>	<p>3.1 Availability and use of direct and semi-direct democratic mechanisms (referendum, plebiscite, public hearing, removal from office)</p> <p>3.2 Regulated mechanisms in place and opportunities offered by municipal governments to citizens to empower them to participate in public affairs.</p> <p>3.3 Availability and use of citizen participation mechanisms in the design, drafting, approval, execution and control of the municipal budget.</p> <p>3.4 Availability of expert agencies and government officials focused on promoting and coordinating citizen participation in the municipal State.</p>
<p>ASPIRATION N° 4</p> <p><b>That citizens make effective use of existing opportunities to voice their opinions about the decision, design, implementation or evaluation of public policies in the Municipality.</b></p>	<p>4.1 Level of citizen knowledge about participation opportunities and mechanisms existing in the municipal State.</p> <p>4.2 Citizen's perception about the use of available participation forums and mechanisms in the municipal State.</p> <p>4.3 Citizen's perception about the effective impact that opinions, suggestions and projects have on government actions through current participation opportunities and mechanisms.</p> <p>4.4 Level of citizen's participation in political and social organizations.</p> <p>4.5 Number and type of projects submitted by citizens and civil society organizations to the City Council and to the Executive Branch, and outcomes deriving from the process.</p>

CITIZENS TREATMENT	INDICATORS
<p>ASPIRATION N° 5</p> <p><b>That municipal public institutions offer a dignified service to citizens.</b></p>	<p>5.1 Citizen’s perception about citizen relations with municipal public institutions.</p> <p>5.2 Availability of claims records for inappropriate or disrespectful treatment and/or procedures with citizens on the part of government officials and municipal public servants and results thereof.</p> <p>5.3 Self-governed public entities in place, responsible for processing citizen claims due to inefficiencies or irregularities of municipal public institutions.</p>
<p>ASPIRATION N° 6</p> <p><b>That the Municipality selects its staff through a public contest system, provides training and undertakes regular performance evaluations.</b></p>	<p>6.1 Procedures in place to hire public servants based on technical standards open to the public and publication of the procedure and results thereof.</p> <p>6.2 Training programs in place for government officials and public servants and dissemination of contents and who they are directed to.</p> <p>6.3 Specific municipal staff performance evaluation mechanisms in place.</p>
<p>ASPIRATION N° 7</p> <p><b>That the municipal government guarantee access to all the information that it produces and to the services it offers through clear rules respectful of equality of opportunity and interaction.</b></p>	<p>7.1 Specific legislation and regulations in place authorizing the availability and access of citizens to public information from municipal public institutions and actions developed for the effective compliance thereof.</p> <p>7.2 Availability of mass distribution publications compiling and disseminating municipal public administration rules (Executive Branch and City Council)</p> <p>7.3 Citizen’s perception about the availability, quantity, quality, use and truthfulness of information from municipal public institutions.</p> <p>7.4 Publication in different local media of the activities and services provided by municipal public institutions.</p> <p>7.5 Citizen’s perception about the existence of political patronage practices to access services provided by municipal public institutions.</p>

**SECTION 4** Citizens engagement in auditing for detecting and deterring corruption

CITIZENS TREATMENT	INDICATORS
<p style="text-align: center;">ASPIRATION N° 8</p> <p><b>That municipal government be accountable before citizens with sufficient detail and on a timely basis for its actions.</b></p>	8.1 Legislation in place regulating the duty of municipal government officials to be held accountable for his/her actions and the right of the people to demand thereof.
	8.2 Identification of actions deriving from institutions and municipal officials directed to the general dissemination of information related to the municipal budget, procurement, municipal contracts and public bids, and related to government officials and public servants' salaries.
	8.3 Rules in place regulating the filing of asset statements of government officials upon taking and leaving office and publicity thereof.
	8.4 Control systems in place of municipal government actions.
	8.5 Citizen's perception about corrupt practices in municipal public institutions.
<p style="text-align: center;">ASPIRATION N° 9</p> <p><b>That citizens demand accountability from municipal government and government officials.</b></p>	9.1 Level of citizen's knowledge about rules and procedures to demand accountability from their political representatives in the municipal government.
	9.2 Citizen's perception about usefulness of accountability.
	9.3 Citizen's initiatives in place intended to promote government officials and municipal public institutions accountability.
	9.4 Citizen's perception about voting as an effective vehicle to hold political representatives accountable.



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