

8. Fighting Corruption Through Global Promotion of Transparency and Improved Economic Governance

A. Introduction

A significant achievement of the Clinton Administration is that anti-corruption strategy has become an integral component of US foreign policy. This is reflected in the rich variety of ongoing global, regional and bilateral anti-corruption initiatives in which the United States Government is participating. The Clinton Administration has committed significant resources in pursuing the supply side of a global anticorruption agenda. Initiatives to implement a strong policy emphasis on antibribery and related measures directed against those parties that give or offer bribes, discussed above, are moving forward and require ongoing attention to ensure implementation.

In order to lead to sustainable, long-term reduction in the adverse impact of corruption on economic and political governance, however, such measures must be complemented by a corresponding effort oriented to the demand side of the corruption agenda, those parties that accept or solicit bribes. This entails more coordinated and systematic efforts to promote good governance and transparency, particularly in emerging markets and emerging democracies, where the inherent incentives for corruption are high and institutional impediments to it are least well-developed.

The substance of the most desirable supply-side international anticorruption measures relating broadly to economic governance is by now fairly well developed, and is reflected in the growing fabric of global and regional anticorruption regimes discussed above. In economic terms, however, there effectively is a global market for corruption (or, more specifically, corrupt payments), with both supply and demand attributes. Corruption and a lack of transparency are in large part driven by the dynamics of developing and transitional economies. Corruption tends to thrive in emerging markets, or emerging democracies, whose legal, economic and political institutions are incomplete or evolving.

The legacy of political or economic authoritarianism, a state of legal flux, create an environment that affirmatively encourages corruption. Important factors include large numbers of new or untested laws and draft laws under consideration on economic and political reform, evolving political, legal and regulatory institutions, and a weak tradition of an independent or impartial judiciary. Excessively large public sectors, and low levels of government salaries exacerbate the problem, by offering incentives for government officials to seek supplementary income through illicit payments or other advantages. Overregulation, and unnecessary complexity in national legal systems create windows of opportunity for corruption. A maze of licensing rules, for example, encourages payments as a practical way of dealing with the system.

Similarly, the lack of transparency, predictability, accountability and fairness in governmental processes affecting trade and investment (e.g., privatization, licensing regimes, customs, tax, sale of economic rights) facilitates corruption and also raises barriers to U.S.

businesses. Such a dysfunctional situation is a barrier to trade and investment, whether or not corruption actually occurs. The problems of official corruption are not limited to bribery per se (which has been the main focus of attention for the USG and the global community), but extend to conflicts of interest and insider dealings by government officials. This is exacerbated by the closely related phenomena of crony capitalism and non-arms-length dealing in the business sphere (especially bank lending), the effects of which have become manifest as the Asian crisis unfolded. Paradoxically, as economies liberalize and open their doors to foreign investment and trade, the processes of change -- privatization, procurement, licensing of economic rights (telecommunications, etc.), and the like -- become areas where the related problems of dysfunctional governmental decision-making and corruption arise.

The United States strong interests in developing appropriate demand-side anticorruption initiatives. The Asian crisis highlights this interest in improving the transparency of the financial and business environments in developing and transitional economies, in order to promote economic stability and growth, and to alleviate the adverse climate for democratic political development that is created by economic imbalance, turmoil or distress. Corruption inhibits the development of democratic and market-based institutions, and it also impedes trade and investment by U.S. and other foreign firms. As in the case of the problem of illicit drug production, traffic and abuse, it is difficult to suggest how ultimately to reduce the incidence of corruption through supply-side efforts alone. The continued existence of demand for payments would encourage cheating by firms of OECD countries, and an increase in payments from non-signatory countries. Finally, it should be recognized that pursuing a demand-side anticorruption strategy provides important support also to other parts of the United States international anticorruption and global foreign policy agenda, including promoting democracy and the rule of law, U.S. investment policy, and structural economic reforms.

The United States and other governments, intergovernmental and non-governmental organizations are giving increasing attention to this aspect of the corruption agenda. Good governance/transparency themes have become a regular element of policy statements by senior USG officials. The USG works in various ways with other governments, international financial institutions, non-governmental organizations and the private sector on various aspects of this problem. The USG provides direct technical assistance and substantial funding through AID, USIA, State/INL, State/DRL and other programs.

In 1999, it is important to afford greater emphasis to more effective coordination of these activities. Concerned elements of the USG must establish overall priorities, resolve issues of uneven focus or integration of these issues in various regions, and conform practical activities of anticorruption policy implementation with the principles of transparency and global economic good governance standards.

B. Demand-Side Anticorruption Measures

Many countries seeking to define a national anticorruption concept first address crime

and law enforcement elements of the problem. These are clearly important. Corruption cannot ultimately be effectively deterred without the element of accountability for acts of official or other corruption created by the effective and impartial maintenance of the rule of law by impartial officials of proven integrity. Similarly, both the polity of a nation and its legitimate economy must be protected from the manifold damaging impacts of transnational organized crime. However, corruption is a widely varying set of broad systemic problems, which in different societies and national economies has many economic aspects that can be unbundled and separately addressed. It is necessary to analyze such measures with consideration to a wide variety of country-specific factors; no single set of anticorruption measures that is viable everywhere and under all circumstances exists, or can exist. That said, the following is a selection of types of anticorruption measures and systemic or institutional reforms that may advance the international demand-side international anticorruption area in relationship to economic good governance and transparency.

i. **Deregulation and Regulatory Reform.** It is desirable to eliminate or reduce discretionary governmental authority over business matters -- re-inventing the government/business relationship to change the role of state from owner to regulator. This includes deregulation -- the removal or reform of onerous and unnecessary laws, rules and licensing requirements that preclude investment and growth (e.g., business licensing rules), regulatory reform in accordance with sound, nonarbitrary principles, and the introduction of competition. The World Bank has been active in this area in a number of countries, including Russia and Ukraine. The key is to select areas of most importance to the business community, or where the reduction of unsupervised, non-transparent or unaccountable official discretion in economic matters can serve to reduce institutional incentives to corruption without engendering other undesired adverse economic, social or environmental consequences to a nation.

ii. **Transparency Reforms.** These include steps to streamline and make more predictable administrative processes affecting trade and investment, including publication of rules, criteria and guidelines, opportunity for public comment, firm deadlines, clear criteria, etc. Specific transparency reforms, many of which are addressed by the Guiding Principles and Effective Practices compiled for the Vice President's conference on official corruption, may address:

a. **Government Ethics.** Codes of conduct governing conflicts of interest (e.g., disclosure and recusal rules) and rules on disclosure of financial assets by public officials.

b. **Administrative law rules.** Rules on public notice and comment and limits on arbitrary government action.

c. **Customs.** Clearer customs laws and procedures, with greater accountability of public officials responsible for their implementation.

d. Procurement. Establishing open and competitive procurement systems in accordance with WTO norms.

e. Open governmental and public agency budget processes.

f. Bank and financial system transparency.

g. Privatization. Privatization processes must be managed with appropriate regard for transparency considerations, and in open and impartial fashions.

h. Shareholder rights and corporate governance.

i. Judicial Reform and Dispute Resolution. Private parties must have, or create, an ability to effectively challenge arbitrary or unlawful government actions and resolve commercial or other private disputes. The absence of such effective remedies invites political interference in dispute settlement, enhancing incentives and opportunities for corruption. In many countries, the problem is one of enforcement; judicial rulings are simply not honored.

j. Internal Oversight. Public institutions and officials involved in economic or commercial spheres should be subject to appropriate measures for internal oversight, which provide for the prevention, detection and investigation of corrupt acts.

Such regulatory and transparency reforms best advance their purpose in promoting economic good governance and preventing corruption when carried out in the larger context of national civil service reforms, government downsizing, and comprehensive measures to promote democracy and civil society. The latter include election reform, increasing public awareness of the costs of corruption and building public pressure for reforms, the role of the press, non-governmental organizations like Transparency International, etc. Specific U.S. Government programs to advance these related aspects are discussed further below.

C. Advancing a Demand-Side Agenda: Bilateral Approaches

To advance such a demand-side anticorruption agenda in the good governance/transparency area on a bilateral basis with selected specific countries, a number of policy tools are available. All of these are employed to a greater or lesser degree in existing USG and international activities in this area, if perhaps not necessarily in consciously concerted fashion. During 1999, the USG will seek ways to better organize its efforts to employ them effectively, in an integrated approach and in specific countries and situations where they will best advance United States interests.

i. **Diagnostics.** Surveys of private firms, public and government officials are being used to document the costs of corruption in particular areas (customs, business licensing, procurement, etc.) and highlight areas of greatest concern. They can provide useful information in shaping a reform agenda and are particularly effective where the government concerned requests this work (from the World Bank's Economic Development Institute or AID) and, therefore, the survey results have more legitimacy. Based on these surveys, countries can develop serious, results-oriented "action plans", avoiding anticorruption plans consisting largely of rhetoric.

ii. **Results-Oriented Policy Dialogue.** An important tool is to raise the profile of these issues on the bilateral agenda and encourage change by working on them at senior levels through an existing bilateral economic commission, one of the Vice Presidential bilateral commissions, or some similar policy-level bilateral consultative mechanism. In such a framework, the USG can request that the other government appoint senior level interlocutors on this set of issues and structure joint initiatives. This framework can then be used for appropriate follow up at defined later periods to review results of any agreed initiatives. While more and more governments are comfortable in having discussions about "corruption", addressing such issues more directly in terms of their character as transparency or investment climate measures may better promote their acceptance in some circumstances. It is also possible to build other "investment" issues into this type of dialogue on a country-specific basis as appropriate (e.g., intellectual property).

iii. **Technical Assistance.** Within the context of ongoing policy dialogue, it can be very useful to offer limited and focused technical assistance on various reform items as part of a bilateral initiative. This approach allows technical assistance to be more closely married to policy dialogue. In the assistance area, we can and do provide: technical expertise on a government-to-government basis; regional pilot projects (for example, addressing corruption issues in a holistic way in a city or region as a model); and support for non-governmental organization and diagnostic/survey activities.

iv. **Work with International Financial Institutions.** The World Bank in particular, through the Economic Development Institute, is already active in this field –focusing on diagnostics and structural reforms (deregulation, promoting competition, etc.); we have had initial discussions and there is the prospect of serious cooperation. Some issues are best handled through the Bank rather than bilaterally, and close coordination at

a working level can be mutually reinforcing and very useful in shaping such bilateral USG initiatives. The Bank already includes loan conditionality on some of these points, but this area probably can be improved.

v. Mutual Evaluation. Use of the practice of mutual evaluation by governments of performance in implementation of governmental policies in a variety of areas relating to crime and criminal justice is becoming more widespread. As work progresses in this area, it may be possible to develop approaches for ongoing evaluation or at least monitoring, in the fields of economic governance and transparency reforms and anticorruption efforts in these fields. In the near term, the prospect of this issue being raised and progress being expected, at the next meeting of a bilateral commission or similar group can usefully serve a comparable purpose.

vi. Work with Non-Governmental Organizations. Transparency International, the best-known and most active NGO in this field, has conducted AID-funded workshops in various countries. Work with this and other NGOs focused on economic issues also can be important in encouraging demand-side reforms, in providing local policy advice to governments, and helping to build business community and other grass roots support for change. AID has at times financed such efforts.

vii. American Business. It will be critical to more closely engage the American business community in promoting demand-side anticorruption efforts in the area of economic governance and transparency reforms. Discussions with local American Chambers of Commerce and other groups abroad can help to shape appropriate priorities for a transparency agenda. A key priority in shaping bilateral initiatives should be to focus on areas of greatest impact on the trade and investment climate. The business community can help promote corporate best practices in emerging markets (by example and through training) and can help to encourage governments and private sectors on the need for these reforms as a means of generating investment and growth. As discussed below, one approach is a public/private partnership (through the vehicle of a non-profit entity) that could work to promote transparency through training, educational programs and other initiatives focused on the private sectors in emerging markets.

It will be particularly important to carefully select specific countries in which such initiatives should be advanced to best serve overall United States foreign policy priorities. Criteria that should be important in making such selection would include an assessment of the seriousness of the corruption/transparency problem in a given country. It should evaluate the

extent of actual and potential U.S. business engagement in and trade with the country, or the significance of security or other significant U.S. foreign policy interests that would be preserved or advanced by promoting measures against corruption (the seriousness of our stakes). We should consider the effect of economic governance and transparency issues on the trade and investment climate. A pertinent consideration is whether bilateral commissions or similar mechanisms to advance such a bilateral initiative exist or can be established. Most importantly, we must assess the willingness of foreign governments involved to engage these issues at senior levels and take concrete reform steps.

In 1999, concerned United States agencies will elaborate specific plans to employ bilateral anticorruption initiatives in the economic governance/transparency area in selected countries, emphasizing emerging market countries or emerging democracies, where there is commitment to reform, and the United States has strong economic or security interests. Such initiatives would primarily be bilateral in scope and tailored to the particular country involved. It would be possible to “debundle” corruption/transparency issues, and focus in coordinated fashion on discrete problems from the menu of key areas of reform suggested above. Such initiatives could be advanced also, when appropriate, through the provision of technical assistance to the foreign governments involved; and coordination and consultation with relevant international financial organizations (e.g., the World Bank and the IMF) and nongovernmental organizations (e.g., Transparency International) active on these issues. Concerned United States agencies will consult to establish more effective and systematic coordinating mechanisms for policy development and implementation, and to select specific countries where such bilateral economic governance initiatives may best be advanced.

D. Advancing a Demand-Side Agenda: Promulgating and Adoption of Multilateral Standards

One very important approach, which has gained currency following the Asian financial crisis, is the idea of taking steps to foster the development and application of global standards in key economic governance and transparency areas such as accounting and auditing, bankruptcy, budgetary transparency, banking lending and transparency practices, corporate governance, customs, ethics, etc. In reality, standards exist or are under development in many of these areas, by regulators or, in most cases, by private expert groups. There is, however, much work to be done in this area. Many standards are incomplete or still under development. The role of governments, for the most part, is not to develop standards but to urge and encourage their adoption and promulgate rules and laws that apply these standards.

In this area, the United States can engage in two specific ways. First, it can work, in some cases together with other governments and in multilateral and regional organizations, to promote development of these standards. Second, it can work to achieve broad application of these standards, in emerging markets and emerging democracies, and by the international community as a whole.

In the area of standards development, a key issue is whether to develop a generic set of

“transparency” standards for good government -- as a core standard that countries can be evaluated against. Such a generic set of standards could in broad terms address such issues as:

- publication of all rules affecting trade and investment matters;
- opportunity for notice and comment by interested parties;
- establishment of specific criteria bounding governmental discretion in areas like procurement and the licensing of economic rights;
- establishment of rules on conflict of interest and financial disclosure;
- definition of related standards for corporate governance and conduct, in the areas of transparency and prevention of corruption, and related areas including labor and environment, and elaboration of means to promote the implementation of such standards in the private sector.

The issue which the United States must work to resolve is whether such a statement of principles would be too generic to have significant meaning and effect. There have already been similar types of general standards adopted in APEC and other groups with little real effect.

Second, there are numerous efforts in progress by intergovernmental and non-governmental bodies to elaborate various aspects of standards for governmental and private sector policies relating to economic governance, transparency and preventing corruption. The United States will work with those bodies to promote the further elaboration of a comprehensive regime of such standards that have general international acceptance. Some of the most important such international standards-setting efforts that are in process and not discussed elsewhere in this document include:

i. Accounting and Auditing Practices. The International Accounting Standards Committee (IASC), consisting of representatives of the accounting profession from 91 countries, promulgates international accounting standards. Thirty-three such standards have been issued since 1974. [See web site <http://www.iasc.org.uk>] The International Federation of Accountants, with parallel membership, has gone some way toward formulating international auditing standards. The International Organization of Supreme Audit Institutions similarly issues auditing guidelines and standards.

ii. Bank Lending & Transparency/Disclosure Rules: The Basle Committee on Banking Supervision, made up of banking supervisors from the leading industrial countries, has developed Core Principles for Effective Banking Supervision. The Group of Thirty recently recommended in 1997 that the world’s largest financial institutions develop standards for monitoring and managing financial risks. Other standards are now being developing, including for deposit insurance systems and financial sector safety nets; and prohibitions on directed lending and non-arms-length relationships” between lenders and borrowers.

iii. Bankruptcy. The United Nations Commission on International Trade Law (UNCITRAL) has adopted a model law on the treatment of cross-border insolvencies. Committee J of the International Bar Association is developing a model insolvency code designed to guide countries seeking to reform and update their bankruptcy laws.

iv. Financial/Fiscal Transparency. The IMF has established a Special Data Dissemination Standard for the provision of economic and financial information by countries seeking to access international capital markets and a code of fiscal transparency (complete with handbook) to be adopted as a standard of good fiscal practice by its member countries

v. Securities (Insider Trading & Disclosure Rules). The International Organization of Securities Commissions (IOSCO) serves as a forum for securities regulators and has established working groups to set standards and coordinate regulatory initiatives. Website [Http://www2.iosco.org](http://www2.iosco.org).

Third, the United States must work to achieve broad application of internationally accepted economic governance and transparency standards in emerging markets, emerging democracies and the global community as a whole. The key problem here is how to achieve “buy in” by emerging countries into standards that they have not for the most part engaged in developing. A key approach is to broaden engagement in developing standards to include emerging market countries and emerging democracies, in order to promote broader adoption of resulting standards. This can be done through expanding various expert groups to ensure or ensuring broader input into these groups.

The following are a number of approaches concerned United States agencies will consider elaborating in order to promote development and global adoption of these standards:

i. Using G-8 to Highlight Standards. The G-8 can be used as a forum to highlight economic governance and transparency standards and the need to comply with them as important steps for encouraging foreign direct investment and growth. G-8 countries could themselves pledge to ensure their own compliance and encourage corporate best practices.

ii. Establishing Emerging Market Investment Forum to Seek Broad “Buy In”. Either the G-22 or some other alternative forum could be used as a vehicle to seek emerging market “buy in” to a global economic governance and transparency standards agenda. One approach that concerned U.S. agencies will consider is establishment of an Emerging Market Investment Forum, connected with the OECD or some other appropriate group, that can be used as a vehicle for dialogue on such

standards at senior government levels (finance and economic ministries). The ultimate goal would be some type of protocol or agreement wherein emerging market countries agree to take steps to pledge compliance with certain standards and then establish a mutual evaluation process to ensure compliance. The business community also could engage in this forum as well. Technical assistance could be offered to countries willing to pledge compliance. Such an approach could be used to focus on broad cross-cutting investment climate problems in emerging markets. This might permit future definition of investment policy to focus more attention and efforts on structural impediments to investment in emerging markets.

iii. IMF/World Bank Conditionality. Concerned U.S. Government agencies may give consideration to whether and how IMF and World Bank lending could be made conditional on willingness to apply internationally accepted economic governance and transparency anticorruption standards. These institutions could then in effect become “good housekeeping seals of approval”. (Such an approach would appear questionable, however, unless advanced in the context of a broader effort to secure emerging society “buy in”, such as that discussed above).

iv. Regional Fora and Technical Assistance. Anticorruption standards relating to economic governance and transparency can be promoted in regional fora such as APEC. To some extent, this is already done (e.g. the procurement focus within APEC). The OECD has distributed Corporate Governance Guidelines for notice and comment. The OECD could consider organizing seminars in various regions to promote engagement and input about these rules, to prevent their becoming perceived solely as a product of “rich” countries. Concerned United States agencies will consider how best to incorporate economic governance and transparency anticorruption issues in ongoing dialogue on regional economic fora, and evaluate opportunities for enhanced technical assistance organized around promoting the adoption and implementation of specific standards areas most appropriate to specific situations.

In 1999, concerned United States agencies will evaluate and define measures that can be taken to develop the approach of definition and promulgation of international anticorruption standards relating to economic governance and transparency, and incorporate this effort as an established, ongoing element of our foreign diplomacy. This will include efforts by those agencies to improve their coordination in policy planning and implementation, and improve prioritization of efforts to countries or regions most significant to U.S. national economic or other foreign policy interests. All agencies will emphasize strong ongoing consultation with and engagement of the United States international business community in these U.S. Government efforts.

E.. Advancing a Demand-Side Agenda: Better Engaging American Business

During 1999, concerned United States agencies will carefully consider and elaborate concepts to more closely engage the American business community in comprehensive efforts to promote economic governance and transparency anticorruption agendas abroad, as an important interest common to business and government. Concerned agencies will continue measures to implement the call by the Secretary of State for a private sector peace corps, to establish a unique public/private partnership that would draw on the strengths of the US private sector, in resources and expertise, to advance U.S. national policy goals. Study will be given to the concept of creating a new not-for-profit entity, managed by a cross-section of American business leaders, that would serve as an umbrella organization to develop a series of targeted initiatives and pilot projects directed primarily at the private sectors in emerging markets (initially in Asia). The projects would include training, educational programs and other approaches designed to promote the adoption of international standards and best business practices in broad areas affecting business and financial transparency, accountability, and environmental and labor practices, including accounting, corporate governance and shareholder rights, ethics, and prudential lending standards. The new entity would initially receive USG funding and would seek to self-finance through raising corporate funds and seeking contributions of the time and efforts of America's talented businessmen and women.