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Collaborative Frameworks to Address Corruption

As a follow-up to their previous meeting of October 8 1998, ministers and senior officials from Benin, Botswana, Ethiopia, Ghana, Malawi, Mali, Mozambique, Senegal, South Africa, Tanzania, and Uganda, met in Washington DC on February 23, 1999, to discuss collaborative frameworks to address corruption in Africa. They were joined by representatives of Africa's partner countries and development institutions at the meeting, which was held under the auspices of the Global Coalition for Africa and co-sponsored by the Government of the United States. The meeting, which specifically considered principles to promote and facilitate collaboration among African countries to address corruption, was scheduled to coincide with an OECD conference on the role of the private sector in fighting corruption, February 22-23, 1999, and an international anti-corruption conference hosted by US Vice President Gore, February 24-26, 1999.

Mr. James D. Wolfensohn, President of the World Bank, opened the meeting and congratulated the eleven African countries for their initiative. In his remarks, he stressed the centrality of good governance and action against corruption to sustainable development, and underscored the need for effective leadership on these issues. He

commented on how initiatives such as that proposed by the meeting could play an important role in changing attitudes toward corruption -- changes that were already underway throughout the world. Mr. Wolfensohn reaffirmed his own commitment, and that of the World Bank, to support anti-corruption efforts, and encouraged the countries to continue, both at the country level and in collaboration with each other.

In his luncheon address, Ambassador Stuart Eizenstat, US Under Secretary of State for Economic, Business, and Agricultural Affairs also commended the participants for their action, and stressed that regional approaches would complement and strengthen the national efforts already underway in their countries. In commenting on the initiative, he emphasized the importance of concrete enforceable actions, and of monitoring and information sharing mechanisms, as well as the involvement of civil society, and promotion of integrity, transparency and accountability in both the public and private sectors. Under Secretary Eizenstat reaffirmed the readiness of the United States government to assist the individual and collective efforts of the African countries represented at the meeting to address corruption.

The meeting benefited from a background paper and draft principles prepared by Hon. Justice Joseph Warioba, former Prime Minister of Tanzania, and his colleague, Mr. Frederick Werema, Acting Director, Constitutional Affairs and Human Rights. There was broad agreement with the focus and recommendations of the background paper, and with the draft principles. African participants suggested revisions to the draft principles based on their own experience, and unanimously agreed to the adoption of the Principles as revised (copy attached). It was agreed that the principles provide a framework for collaboration among countries as well as for national action.

Adoption and Implementation of the Principles

After agreeing on the Principles, representatives of African countries participating in the meeting proposed an action-oriented process of adoption and implementation. This process includes adoption of the Principles at the Ministerial level; formal endorsement of the Principles by the Heads of State and Government of the eleven countries; dissemination and explanation of the Principles to the general population of each country; incorporation of the Principles into a national anti-corruption strategy, with the active involvement of civil society and the private sector; implementation of the national strategy and the Principles, including monitoring; and regular information sharing between and among countries implementing the Principles.

Recognizing the need for "homegrown" anti-corruption efforts, and the important role of civil society in the fight against corruption, participants agreed that the Principles should be incorporated into national anti-corruption strategies involving governments, civil society and the private sector. Awareness of these strategies should be built through public campaigns and national debate, in order to engage the general public and monitor progress. In addition, members of the recently-formed Network of African Parliamentarians Against Corruption will be encouraged to support the adoption and implementation of the Principles in their countries.

It was agreed that formal adoption of the Principles and endorsement by the Heads of

State and Government of the countries should take place within the coming months. Following this, other like-minded countries could be invited to consider, adopt and endorse the Principles. Each country should establish a timeframe for the adoption of the Principles, and a framework for their implementation. In order to maintain momentum, it was proposed that a meeting be held to discuss progress toward the implementation of the Principles and their incorporation into national legislation, and to share information on national strategies and best practices. Although such a meeting could provide an opportunity for collective affirmation of the Principles, national adoption and endorsement should not, however, be delayed until then.

There was general consensus that African countries should move toward the adoption of an African anti-corruption convention, and that the Principles could form the basis of such a convention. In this regard, it was proposed that the Principles, once endorsed by the Heads of State and Government of the eleven countries, be introduced for consideration at sub-regional organizations and at the OAU. Countries were encouraged to explore and promote cooperation at the sub-regional level to implement the Principles, in order to facilitate the formulation of an anti-corruption convention. It was suggested that a framework and schedule for the development of an anti-corruption convention be prepared, taking into account the complexity of the process and length of time required.

Participants affirmed that the primary responsibility for developing anti-corruption strategies, and for adopting and implementing the Principles, lies with the African countries themselves. However, they agreed that there is a role for Africa's development partners in assisting them, and in supporting and endorsing their efforts. In particular, assistance could be provided for institution building and for national programs and campaigns aimed at furthering the awareness and participation of the public.

While recognizing the importance of sub-regional and regional efforts, and understanding the difficulties inherent in formulating global action, participants nonetheless agreed that African countries should promote and actively participate in global anti-corruption efforts, and support a global convention against corruption.

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Principles to Combat Corruption in African Countries

We, Ministers and representatives of Government, the list of which is annexed hereto, having met under the auspices of the Global Coalition for Africa in Washington DC on February 23, 1999,

Concerned about the devastating effects of corruption on the social, economic and political foundations of nations, and on their economic and social development and efforts to eradicate poverty;

Desirous of launching a concerted and collaborative effort to combat corrupt practices and thereby contribute to the global fight against corruption;
Acknowledging that anti-corruption efforts, to be successful, require political will at the highest level and committed leadership at all levels, and must involve civil society;
Determined to eliminate corruption through effective preventive and deterrent measures including strict enforcement of legislation, rules and regulations;
Aware that good governance, accountability and transparency are necessary to counter corruption;
Mindful of the UN General Assembly resolution on actions against corruption and other collective regional efforts to combat corruption such as those by the Organization for Economic Cooperation and Development (OECD) and the Organization of American States (OAS);

Now therefore do agree that Governments should:

1. Demonstrate the leadership and political will to combat and eradicate corruption in all sectors of government and society by improving governance and economic management, by striving to create a climate that promotes transparency, accountability and integrity in public as well as private endeavors, and by restoring popular confidence in the government.
2. Establish budgetary and financial transparency and strong financial management systems.
3. Eliminate unnecessary government regulations that negatively affect economic activity; and establish simple, readily available regulatory procedures with clear criteria and deadlines.
4. Enact and enforce criminal laws which will deal effectively with corruption offenses by imposing severe penalties on individuals convicted of corruption or corrupt practices, and on business entities found to be involved in such practices. Enact and enforce criminal and civil laws that provide for the recovery, seizure, forfeiture or confiscation of property and other assets acquired through corruption.
5. Eliminate conflicts of interest by adopting and enforcing effective national laws, guidelines, ethical regulations or codes of conduct for public officials, which include rules on conflict of interest and requirements for the regular disclosure of financial interests, assets, liabilities, gifts and other transactions.
6. Undertake necessary administrative reforms to restore the morale and integrity of the public service, for example by ensuring merit-based recruitment and promotion policies and procedures and providing adequate benefits, including remuneration and pension schemes.
7. Promote transparency in procedures for public procurement and the sale or licensing of economic rights and interests by eliminating bureaucratic red tape, by providing for open and competitive bidding for government contracts, by the prohibition of bribery, and by adopting procedures for resolving challenges to the award of contracts or the sale or licensing of economic rights.
8. Adopt revenue collection systems that eliminate opportunities for tax evasion, and reform regulatory processes that facilitate customs duties evasion, especially in regard to international business transactions.
9. Require companies and organizations to maintain adequate and accurate financial

books and records, and to adhere to internationally accepted standards of accounting.

10. Establish and enforce self-regulating codes of conduct for different professions, including those in the private sector.

11. Promote standards for corporate governance and the protection of shareholder rights.

12. Prohibit individuals found guilty of corruption from bidding on public contracts or otherwise doing business with governments. Publish details of companies that are found to have, or whose subsidiaries, agents or representatives are found to have, engaged in corrupt practices, and bar them from bidding on public contracts or otherwise doing business with the government for a period of time specified in national legislation.

13. Ensure that anti-corruption agencies are autonomous, independent, governed by a clear body of law, and effectively empowered to initiate and pursue investigations of corruption, and provide for the prosecution of offenders in accordance with investigations and due process.

14. Establish other accountability and oversight mechanisms, including as appropriate inspector general and audit offices.

15. Adopt legislative mechanisms and procedures for the public to submit complaints of corruption and corrupt practices, including the protection of witnesses and whistle blowers.

16. Facilitate the involvement and participation of civil society, on a continuous basis, in the formulation, execution and monitoring of anti-corruption reform programs.

17. Restore and maintain the independence of the judiciary and ensure adherence to high standards of integrity, honesty and commitment in the dispensation of justice through, among other things, adopting a judicial code of conduct.

18. Guarantee the public's right to information about corruption and corrupt activities through protection of the freedom of the press and effective parliamentary oversight and scrutiny.

19. Adopt cooperative arrangements at the regional and/or sub-regional level which provide for the mutual exchange of ideas, information, best practices, intelligence and experiences for the purpose of minimizing risks of cross-border corruption including international business transactions.

20. Facilitate the cooperative investigation of cases involving corruption by rendering mutual legal assistance in obtaining evidence, documents, articles, records and witness statements.

21. Provide assistance in the investigation, recovery, seizure, freezing, forfeiture and confiscation of property in respect of the proceeds of corruption as well as the reciprocal enforcement of forfeiture and other such orders.

22. Apply reciprocal obligations for the extradition of those accused or convicted of corruption offenses.

23. Take preventive measures, including the short-term harmonization of relevant laws, regulations and procedures, for example those relating to taxes, customs tariffs and duties, and public procurement.

24. Establish government-to-government mechanisms to monitor implementation of these principles, including a mutual reporting and evaluation process.

25. Consider the elaboration and adoption of an African convention for combating

corruption based on the foregoing principles, and encourage the establishment of a global anti-corruption convention.

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**Global Forum on Fighting Corruption :
Safeguarding Integrity Among Justice and Security Officials
Washington DC, February 26, 1999
International Conference hosted by US Vice-President Al Gore**

DECLARATION

For the past three days, we participants from 90 governments, gathered here in Washington at the invitation of U.S. Vice President Al Gore, have worked intensely to examine the causes of corruption and practices that are effective to prevent or fight it. Elected officials, ministers responsible for security and justice, experts in public ethics and anti-corruption from every region of the world were joined by distinguished academics and lay and clerical figures from many of the world's great religions.

We are on the eve of a new millennium. As never before, the world's people need officials of their governments to serve them with unquestioned integrity. Corruption of justice and security officials especially betrays their trust. Corruption cannot long co-exist with democracy and the rule of law. Corruption misallocate resources, hurts the poor and weakens economies and societies. After three days of serious, searching work, we emerge persuaded that corruption is not inevitable. It is made by the actions of men and women. Governments and their peoples can act and can succeed in our struggle against it, if only we have the will and the determination to do so.

We have considered and shared with one another many practices that help control or punish corruption in public office. We are conscious of the efforts being undertaken in many regional bodies, such as the Organization of American States, the Council of Europe, the Organization of Economic Cooperation and Development, the European Union, and the Global Coalition for Africa. We call on all of our governments to cooperate in appropriate regional and global bodies to rededicate themselves to adopt effective anti-corruption principles and practices, and to create ways to assist each other through mutual evaluation.

We feel a common urgency to act. We will also continue the dialogue we have begun in this forum. We will gather again for the Second Global Forum on Fighting Corruption to

be held next year in the Netherlands and we propose thereafter an annual Global ministerial forum on fighting corruption. Protecting our citizens from the corruption of their justice and security officials must be one of the most basic responsibilities of our governments and of us as individual officials of our governments.

We are one in our personal commitment to this end.

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Washington DC, October 8, 1998

Frameworks to Address Corruption

The meeting, which was co-sponsored by the GCA and the Government of the United States, brought together senior representatives of ten African countries and several of their donor partners to share experiences and consider collaborative measures to address corruption in Africa. The discussion also reviewed the problem of corruption in individual countries and measures which are being taken by the countries themselves. This report is a summary of the main points discussed, the issues raised, and the suggestions made with respect to collaborative efforts among like-minded African countries and supportive measures from their development partners.

The meeting was co-chaired by Mr. Witney Schneidman, Deputy Assistant Secretary of State for African Affairs and Ambassador Ahmedou Ould-Abdallah, Executive Secretary of the GCA. African countries represented at the meeting were Benin, Botswana, Ethiopia, Malawi, Mali, Mozambique, Senegal, South Africa, Tanzania and Uganda. They were joined by representatives of Canada, Denmark, Netherlands, Switzerland, United Kingdom, United States, the OECD Development Assistance Committee and the World Bank. The meeting was opened by Mr. Stuart Eisenstat, United States Under-Secretary of State for Business, Economic and Agriculture Affairs, and by Justice Joseph Warioba, Chairman of the Presidential Commission on Corruption of Tanzania. Mr. Brian Atwood, Administrator of the United States Agency for International Development, gave a luncheon address.

In his opening remarks, Mr. Eisenstat emphasized the tremendous negative impact which corruption has on development and prosperity throughout the world, and the need to create effective international partnerships to address corruption. While stressing the importance for African countries of more complete integration into the global economy, he also indicated that, as the international economic and financial crisis has demonstrated, open markets need to be supported by accountable and transparent public and private institutions. Mr. Eisenstat outlined the measures which the United States has taken and

will continue to take to counter corruption, and indicated the readiness of the United States to support the anti-corruption efforts of African countries, including collaborative initiatives.

In commenting on the global dimensions of corruption, Mr. Warioba indicated that regional and international cooperation is essential if large scale corruption is to be countered. He outlined some of the experiences of Tanzania, and urged that attention be paid to the root causes of corruption in African countries. He also commented on the difficulties of dealing with entrenched corruption, and the deleterious effects of widespread petty corruption on the lives of ordinary people, especially the poor, who bear the brunt of it. Mr. Warioba underscored the need for ethical standards, leadership and political will to combat corruption at the national level. He also stressed the need for openness and public information, and the importance of involving civil society in anti-corruption efforts.

Mr. Atwood's remarks focused on the global economic crisis and its threat to development as a backdrop to the problem of corruption. While deploring the current situation and the plight of those most directly affected by it, he urged that lessons be drawn. Prominent among these is that economic growth which results in grossly unequal distribution of income and leaves the majority of people in poverty and without social safety nets is not a sufficient basis for development. He proposed that efforts to address corruption have to be incorporated into a process of development which gives people a voice and a stake in national systems, as well as the opportunity to participate in the economic development of their countries. Anti-corruption strategies need to go beyond law enforcement, to also bolster the rule of law, enforce property rights, strengthen institutions, and create a functioning and transparent financial system. Mr. Atwood emphasized that these are the same measures that are necessary for the creation of a climate conducive to investment and long-term development.

During the wide-ranging and informative discussion, participants stressed that corruption is an international phenomenon, and is not unique to Africa. Indeed, it was recognized that corruption is probably greater in some countries in other regions than in Africa. African countries were commended on their commitment to addressing the problem, and for assuming the responsibility to do so themselves, not as a result of external pressure. It was noted that the sort of dialogue which African countries are engaged in to address corruption is an example worthy of emulation by other regions. It was, however, recognized that relatively little real progress has been made in combating corruption, and that significant concerted action is required if tangible results are to be achieved and public confidence created.

a. National Level Anti-Corruption Strategies

Ministers and senior officials from African countries outlined the approaches which have been adopted to combat corruption at the national level. Most of these involve a combination of legislation, public awareness and investigation. Although the differences between petty corruption and grand corruption were acknowledged, it was emphasized that both need to be addressed. Once widespread petty corruption comes to be regarded as the norm, it creates the conditions in which large scale corruption thrives. All African

participants expressed concern at the extent and rapid spread of corruption in their countries, recognizing that this will inevitably undermine governance and social values. While it was understood that poverty and low public sector salaries may make people more vulnerable to corruption, it was also admitted that corruption is spurred by human greed and vanity. For this reason, raising public sector salaries alone will be insufficient to counter corruption once it has become entrenched. It was, however, noted that poverty makes corruption harder to combat in many African countries, and that poverty also makes it more difficult to apportion scarce public resources to anti-corruption measures.

A number of participants indicated the need to link anti-corruption measures with broader governance, institutional, and economic reform policies. In this regard, promoting more competitive and open economies, reducing the role of the state in the economy, streamlining the regulatory environment, and building capacity in both the public and the private sectors, were considered essential to limit the opportunities for corruption. All participants emphasized the need to build anti-corruption coalitions between the state, civil society and the private sector, and in this regard the importance of the press and public education to increase awareness of the costs and consequences of corruption was underscored. National integrity assessments and service delivery surveys were considered to be useful mechanisms for uncovering incidences of corruption and raising public awareness. However, it was stressed that such assessments and their findings have to be made public and provide specific examples if they are to be effective anti-corruption tools.

Although the limitations of a purely legal approach were admitted, participants indicated that lack of public confidence in legal systems is a major obstacle to combating corruption. They acknowledged that the judicial system in many African countries is slow, expensive and cumbersome, and that the process has to be more rapid and more transparent if the threat of prosecution and conviction for corrupt practices is to act as a deterrent. Participants affirmed that where adequate regulations and comprehensive laws exist, for the most part their implementation has been ineffective, with the result that they are largely ignored. Several African countries have formulated codes of conduct which public figures are expected to adhere to and politicians and senior government officials are required to declare their assets. Some have extended these measures to parliamentarians. However, participants noted that disclosure has to be both public and verifiable if it is to be taken seriously. In addition, strict and prompt enforcement of penalties for lack of compliance or deceit are required.

Above all else, participants emphasized that political will and commitment are essential if corruption is to be countered in African countries. The importance of leadership and of heads of state and senior politicians setting examples of probity and accountability was underscored. Indeed, it was stressed that heads of state themselves have to show greater commitment and interest in the problem, and make combating corruption a major public issue. Without this, it was cautioned that other efforts would have relatively little impact. It was also stressed that prompt and visible action has to be taken against political figures and senior officials found guilty of corruption if the public is to have any confidence in governmental anti-corruption efforts.

b. Regional and International Cooperation to Address Corruption

With regard to relations between African countries and international business, there was concurrence that corruption is a two way street, and that it has to be addressed from both sides, regardless of whether the impulse for bribery and corruption comes from companies or from African officials. It was indicated that a number of OECD countries are in the process of developing legislation to comply with the provisions of the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which is expected to enter into force in December 1998. Recognizing the difficulties of ensuring adherence, the OECD has developed mechanisms to monitor the performance of signatories and to review the adequacy of national legislation. Private sector representatives stressed the willingness of the international business community to be partner in efforts to combat corruption, and outlined a number of anti-corruption measures adopted by the private sector, including the rules of conduct developed by the International Chamber of Commerce (ICC). As yet, however, there is no independent mechanism for monitoring compliance with ethical standards. While the actions of both the OECD and the ICC were welcomed, donor countries were urged to do more to investigate corrupt practices and punish those engaged in them.

The problem of corruption in public procurement in African countries, which can involve both international and domestic companies, was raised. Several countries are in the process of taking action to counter this, including revising procurement regulations, speeding up tendering procedures and making public procurement processes more transparent. The inclusion of specific “no-bribery” clauses in public procurement bid documents and contracts, coupled with strict enforcement, is also being considered by some countries as an explicit mechanism to address bribery and corruption in large procurement actions. The World Bank, at the request of these countries, has agreed to include no-bribery clauses in World Bank-funded contracts, and to work with them to strengthen systems to ensure compliance. Once in place, the procedure would be extended to other public procurement, including that funded by other development assistance partners.

In addition to corruption in international business transactions, the increasing problems of international crime, arms and drugs trafficking, and flow of illicit funds through African countries were commented on. It was noted that while international crime and corruption is increasingly sophisticated and well-financed, African countries lack the capacity and technology to effectively combat it. African participants also emphasized that development assistance, and particularly tied aid and donor-funded procurement, can encourage corruption. Given the levels of development assistance in some African countries this can seriously undermine national anti-corruption efforts. Political pressure on countries from donors to award contracts was cited as an incentive to corruption, while the lobbying practices of companies seeking donor-funded contracts in African countries serve to create an atmosphere conducive to corruption.

The World Bank and bilateral donor representatives indicated that they are taking measures to counter corruption within their development assistance programs. These encompass strengthening internal oversight procedures, increasing audit and financial management requirements, un-tying aid, and revising procurement guidelines and

processes. Africa's development partners are already assisting national efforts to address corruption, including supporting longer-term measures such as public sector reform, as well as specific anti-corruption strategies, and will continue to do so. They also indicated their willingness to provide assistance should African countries decide to develop collaborative arrangements, including the adoption of regional anti-corruption agreements or conventions.

In terms of existing regional cooperation in Africa, it was indicated that existing informal networks could be further strengthened and formalized. Some, but not all, countries have extradition agreements, and have taken steps to harmonize relevant legislation with surrounding countries. Within SADC, a regional network to address corruption is being promoted, and this is likely to evolve toward the adoption of an anti-corruption convention or other formal agreement between SADC member countries. The SADC experience to date could be shared with other regional organizations, which might be interested in developing sub-regional anti-corruption agreements. In time, these efforts could be combined and consolidated by the OAU, should it be decided to move toward a continent-wide convention.

c. Potential Collaborative Actions

The importance of greater collaboration between African countries, as well as more operational partnerships with donor countries, was recognized. It was considered that highly visible collaborative initiatives would signal the commitment of African countries to combating corruption. In this regard, a number of possible actions were suggested:

- Development of networks and mechanisms at the regional level to exchange information on problems and best practices. Such networks could be used to formalize and strengthen the existing dialogue between countries, as well as facilitate the development of common formulae and supportive legal and regulatory arrangements.
- Consideration of anti-corruption charters or conventions. Such consideration could be within existing sub-regional groupings, such as SADC, UEMOA, or EAC, or between groups of like-minded countries outside of existing institutional arrangements. Use of autonomous definitions could facilitate the process by helping to overcome differences in interpretation.
- Exchange of information on companies, contracts and procurement, including best practices and competitive pricing information, between groups of countries. Major corruption often goes undetected because of limited familiarity with international practices and costs. Routine notification of incidences of bribery would serve as an early warning system, as well as act as deterrent. Circulating of names of companies blacklisted for corrupt practices would also be useful.
- Agreement of groups of countries to strengthen police capacity and encourage police cooperation, as well as to develop cooperative investigation and extradition procedures in support of other anti-corruption measures taken on either a national or regional basis.
- Organization of a meeting of selected African heads of state to discuss the problem of corruption and how it could be addressed, to emphasize the need for political will and commitment from the highest levels. Such a meeting, which could be convened

by the GCA or other neutral body, could explicitly consider the political dimensions of corruption and the role of heads of state in setting an example by taking action to send an unequivocal message that corruption would not be tolerated.

- Support of African regional and cooperative arrangements by donor countries and agencies. Continuance of efforts to address corruption in development assistance programs, and punitive action against international companies engaging in corruption. Support for and compliance with the OECD convention by member countries.

Another similar meeting should be convened in 3-4 months to give greater definition to ideas, to formulate steps toward formalizing anti-corruption arrangements between countries, and to consider specific options for action. Such a meeting could review progress toward the formulation of anti-corruption agreements at the sub-regional level, as well as consider approaches which could form the basis of an anti-corruption convention.

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