

Preventing Corruption

A Handbook of Anti-Corruption
Techniques for Use in International
Development Cooperation

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Contents

I. Introduction	6
PART I: Approaches to preventing corruption in development cooperation	10
2. The political dialogue with developing countries	10
2.1 Participation in political dialogue through multilateral organisations	10
2.2 Bilateral political dialogue	11
3. Supporting anti-corruption projects	13
3.1 Institutional approaches	13
3.2 Bilateral programmes	16
3.3 Multilateral programmes	18
3.4 NGO activities: citizen groups and voluntary organisations	19
3.5 What has been learned?	21
3.6 Summary	22
4. Corruption prevention as a comprehensive principle	24
4.1 Anti-corruption measures when planning and implementing national programmes for the prevention of poverty and	24
sector programmes	24
4.2 Anti-corruption measures when planning and implementing bilateral projects	27
4.3 Some anti-corruption aspects of support for NGO development cooperation	32
4.4 Some anti-corruption aspects of commercial development cooperation	33
PART 2: Legislative, judicial and administrative means of preventing corruption and intervening when it is discovered	36
5. Finnish legislation	38
5.1 The Constitution, the Administrative Procedure Act and the Principles of Administrative Law	38
5.2 The Act on the Openness of Government Activities	38
5.3 The Penal Code and the Civil Servants Act	39
5.3.1 Receiving bribes	39
5.3.2 Giving bribes	40
5.3.4 Bribery in the private sector	41
5.4 The Accounting Act, the Auditing Act and the Act on Chartered Public Finance Auditors	41



6.	Development cooperation agreement clauses to prevent malpractice	43
6.1	Bilateral development cooperation	43
6.1.1	Intergovernmental development cooperation agreements	43
6.1.2	Agreements between the Ministry for Foreign Affairs and consulting companies and others involved in project implementation	46
6.1.3	Administrative procedures for investigating suspected corruption	47
6.2	Multilateral development cooperation	50
7.	International agreements and recommendations	52
7.1	OECD anti-corruption rules.	52
7.2	EU anti-corruption measures and agreements	54
7.3	Council of Europe conventions	54
7.4	UN resolutions and recommendations	56
7.5	International recommendations for harmonising development cooperation procedures	56
8.	Internal auditing in development cooperation	58
9.	Training officials and consultants in anti-corruption work	60

APPENDICES

Appendix 1:	Resource bank of guidelines for preventing corruption held in the Department for International Development Cooperation of Finland's Ministry for Foreign Affairs.	62
Appendix 2:	Preventing corruption in bilateral projects throughout the project life cycle	63
Appendix 3:	External auditing of bilateral projects	64
Appendix 4:	Some common abbreviations	69
Appendix 5:	Anti-corruption policy guidelines adopted by Finland's Department for International Development Cooperation	70
Appendix 6:	Literature and Links	76

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I Introduction

In recent years the international community has come to pay increasing attention to corruption and the possible means of preventing it. Corruption jeopardizes development and constitutes a threat to people's well-being in many different ways. To put it bluntly, we could say that corruption is an institutionalised way of stealing from the poor, from men and from women alike.

This handbook concentrates particularly on the developing countries. It aims to discover new means whereby the fight against corruption can become an integral part of the mainstream of development cooperation. We must of course always bear in mind that corruption is a wider problem, not a matter affecting only developing countries. The approach taken here is, however, based on the fact that consequences of corruption are more damaging in developing countries, where the public sector is usually weak and economic resources in any case limited.

WHAT IS CORRUPTION?

Corruption is the exploitation of public means and powers for private ends and benefits. A distinction is sometimes made between small-scale, petty corruption and corruption on a larger scale, grand corruption. Petty corruption is the form of corruption that people in developing countries meet most in everyday life. For example, in order to obtain a driving licence a person may have to run from office to office and from counter to counter and fill out endless forms. Officials may demand payment of a small sum of money to speed up a process that could otherwise last several weeks. The justification for this is that the officials' salaries are so small that in order to survive they have to supplement their incomes with additional "earnings". Grand corruption is the misuse of public assets for private purposes, and the guilty parties are often high-ranking civil servants and politicians. A typical case involves a high-level official receiving large sums of money as "commission" or for "expenses" in "helping" a particular company to win a tender award in competitive bidding. The worst form of corruption is "kleptocracy", the institutionalised thievery that was practiced for example in Mobutu's Zaire.

Corruption is a problem of developed countries and of developing countries. Corruption readily transcends borders and large-scale corruption is one form of international crime. The "globalisation" of corruption in the past few years has spurred the international community to acknowledge the problem and demand action that is not restricted to mere recommendations but also involves legally imposed remedies. The international community has thus decided to deal systematically with the problems of corruption, money laundering and other forms of financial crime. The aim is to create a binding legal framework for action in at least some of the areas of the struggle against corruption.



MORE EQUALITY BETWEEN WOMEN AND MEN MEANS LESS CORRUPTION

International research seems to show that better rights for women and a more equal participation of men and women in public and community affairs are linked to better governance and less corruption in business. The level of corruption seems to be lower in countries where women play a significant part in public affairs, irrespective of the countries' level of income, civil rights situation, education level or legislative institutions. This seems to point to the additional benefit to be obtained from women's increased participation in politics and the promotion of proper legal administration and good governance.

THE CONSEQUENCES OF CORRUPTION FOR DEVELOPMENT

Corruption threatens economic growth and social development, the consolidation of democracy and people's morality. In other words, corruption has truly far-reaching effects with regard to the building up of the nation state. Corruption reduces people's confidence in the public sector and thereby has a negative impact on development.

Corruption in the public sector, and the bad governance connected with it, hardens divisions and inequalities between people and so destroys the basis for securing human rights.

Misuse of public resources leads to economic inefficiency and promotes economic inequalities, including inequalities between women and men. Corruption is one of the main reasons for continuous poverty.

Corruption prevents sustainable development. It has been found that the goals of long-term economic, political and social development can only be achieved by developing good governance and preventing corruption.

Unfortunately corruption is a phenomenon that is particularly widely spread because certain groups benefit from it. Although this fact is more or less self-evident, it is still worth reminding ourselves of it.



THE CAUSES OF CORRUPTION

Significant causes of corruption include:

- Inadequate wages and salaries in the public sector and poor working conditions without motivation for efficiency
- The misuse of public resources to obtain quick profits and wealth
- Lack of transparency in administrative regulations and procedures
- Lack of a code of conduct and ethical rules and guidelines
- Weaknesses and deficiencies in administrative cultures, in which higher officials and political leaders set bad examples by promoting their own interests instead of respecting regulations and procedures
- Inadequate democratic institutions in which independent control mechanisms, such as an independent judiciary and a free press, do not function effectively.

WHAT CAN FINLAND DO?

Human rights, equality, good governance and the promotion of democracy have come to form a central objective of Finland's policy regarding developing countries. Finnish development cooperation has taken heed of corruption and it is certainly worthwhile to consider how corruption can be overcome with the use of development cooperation. It is, however, important to distinguish between bad governance and weak governance when we look at development cooperation with our cooperation country partners. Bad governance is a consequence of corruption and irresponsible practice, while weak governance is a consequence of scarcity of resources. In the latter case, the strengthening of capacity is one of the main means of improving the situation.

In the international field, Finland has for its part tried to promote good governance through the United Nations, the OECD and the development banks. A general agreement produced under the auspices of the OECD (14/99) concerning the bribery of foreign civil servants in international business led, amongst other things, to the revision of development cooperation rules so that an anti-corruption requirement was written into them.

Finland has also, together with the other Nordic countries, actively supported the development of new loan conditions in the African Development Bank, the International Development Association (IDA) and the Asian Development Bank during the last supplementary negotiations. These loan conditions include requirements for good governance and prevention of corruption.



Other measures that Finland can take to prevent corruption:

- It is important that the dialogue about corruption is seen as part of the ongoing political dialogue with our development country partners. There are open discussions about corruption in many different forums and there is no reason to treat the subject as being in anyway tabu.
- We should give support to our development cooperation country partners in work against corruption whenever the preconditions exist for this work. This means, for example, supporting national anti-corruption campaigns and integrating work against corruption into all bilateral development aid, not forgetting various non-governmental sector activities.
- We must analyse our own administrative practices to ensure that there are no deficiencies in our development cooperation programmes that could facilitate corruption.

The policy of the Department for International Development Cooperation of Finland's Ministry for Foreign Affairs is annexed as appendix 5.

This handbook is divided into two parts. The first part examines existing anti-corruption measures and how they can be implemented in practice in development cooperation. The second part considers the possible scope of legislation regarding corruption, and the administrative rules and procedures that can be utilised in anti-corruption work.



PART I: APPROACHES TO PREVENTING CORRUPTION IN DEVELOPMENT COOPERATION.

2 The political dialogue with developing countries

Political dialogue makes it possible to direct attention to the fact that emphasis is being placed on action to suppress corruption. In such dialogues it is important to follow the progress of each developing country's own measures to combat corruption, but without comparing one country with another. If national anti-corruption programmes do not move forward and it appears that corruption is increasing, the situation should be brought up frankly in the discussions. If this negative trend continues, Finland can, preferably together with other EU countries, reduce its development cooperation with the country concerned or redirect it into forms that involve less risk of corruption.

2.1 PARTICIPATION IN POLITICAL DIALOGUE THROUGH MULTILATERAL ORGANISATIONS

EU dialogue

Meetings of EU countries' Heads of Missions are frequently arranged in development cooperation countries to strengthen EU coordination. This sort of forum is a "fast channel" for intervening at the political level with regard to abuses that have become evident.

The EU agreement with the African, Caribbean, and Pacific (ACP) countries includes the promotion of good governance as a fundamental principle. This demand for good governance is designed above all to cover cases of serious corruption. Such grave cases of corruption lead to official bilateral discussions between the EU and the ACP country concerned. In extreme cases appropriations for the country may be cut or their disbursement suspended.

Multilateral dialogue

The UN is preparing a general agreement against corruption. With regard to previous UN measures we should note the declaration and resolution of the General Assembly concerning the opposing of corruption and bribery in business relations. According to these, bribery should be a criminal offence and member states are encouraged to implement action programmes to prevent and combat corruption and bribery. Many



countries have signed the anti-corruption agreements that exist today. However many countries in Asia and Africa have remained outside these agreements. International dialogue, for its part, can help to advance matters so that these countries also ratify the existing international agreements against corruption.

Forums such as the Consultative Group provide settings for multilateral political dialogues with individual cooperation countries. Discussions are often held in them about the promotion of good governance and the effectiveness of work against corruption. These meetings have proved to be possible channels whereby the members of the donor community can put forward a common view of matters they believe to be important, if necessary by laying down conditions.

Preparatory papers for Consultative Group meetings are drawn up by the aid-providing community and the government of the country concerned. Finland can call for anti-corruption measures to be systematically included on the agenda for these meetings. The aim would be to establish a requirement for continuous reporting follow-up at this level.

2.2 BILATERAL POLITICAL DIALOGUE

Cooperation negotiations and the demand for good governance

Increasing emphasis has been placed on the importance of cooperation negotiations in recent years. There are a number of reasons for this. Responsibility for development cooperation project planning has shifted to the partnership country in line with the principle of ownership. At the same time the existence of a strong, constitutionally governed, partner state is seen as a precondition for efficient cooperation. One of the tasks of cooperation negotiations is to ensure that the cooperation partner country respects the principles of good governance both in theory and in practice.

Bringing the prevention of corruption systematically to the forefront in cooperation negotiations.

Corruption is a sensitive topic, so anti-corruption measures must be brought up in cooperation negotiations in an objective and well-founded way. One of the most reliable ways is to make use of international assessments and indicators that are accepted as widely as possible.

It is difficult to measure corruption. In cooperation negotiations it is necessary to use both qualitative assessments and special measurements of the degree of corruption. Qualitative appraisals can be based on research and studies at the national level about the seriousness of corruption. For example, the regional arm of the United Nations in Africa, the Economic Commission for Africa (ECA), is starting a study of corruption in countries in the area that the majority of African countries accept.



In addition, use should be made of changes in the index rating of the “Corruption Perception Index” (CPI) produced by Transparency International. The CPI results are published every year. From the point of view of a country's development, the important thing is not so much the country's ranking in an international comparison, but the direction in which it moves in the yearly listings. There must thus be a clear reaction in cooperation negotiations to any weakening of a country's index rating.

CPI evaluations can readily be found on Transparency International's Web site at www.transparency.org. An analytical approach must be taken to the CPI assessment that a country receives. It is useful to check the extent of the sampling material on which the country's CPI is based in each individual year. The wider the statistical base, the more reliable the CPI assessment. Information about the sampling base is also to be found on the same Web pages.

Some additional possible sources of information about a country's measures to prevent corruption are noted in chapter 6 of this handbook.

Interactivity in dialogues

Alongside traditional forms of corruption there now exists a tangled web of international money laundering and trading in women, children, drugs and weapons. Large-scale corruption is no longer the problem of individual countries but affects the entire international order. There are no simple solutions to problems like these. It is clear that the search for solutions necessitates open discussions between all sorts of very different countries.

It is regrettable that all too frequently large-scale corruption has revolved around political activities. If political decision-makers are the targets of corruption, interference with it requires great care and precision. Political decision-makers may, for example, be legally justified in receiving gifts which others may not accept. The possibility also arises that one political figure may make unfounded allegations of corruption about another in order to put the latter in a bad light. For these reasons accusations of corruption levelled at political figures must be dealt with very carefully.

According to a number of assessments, Finland is one of the least corrupted countries in the world. This achievement has partly been obtained through systematic legislation and follow-up work. All the same, corruption does exist in Finland as well. In bilateral political dialogues it must be stressed that the point at issue is a joint problem, affecting all the parties involved. Corruption always involves at least two parties. Political dialogue is one way to try to find out whether Finnish companies are breaking the law in the partner countries. The dialogue naturally also includes the mutual exchange of information and experience. Affluent western countries like Finland must take very clear stands against corruption with regard to their own countries and their own companies. Finnish law also makes it possible to take action against corruption practiced by a Finnish company outside Finland in certain cases.



3 Supporting anti-corruption projects

Developing countries are implementing reforms whose main purpose is to reduce corruption. The reforms are aimed at such organs of government and administration as judicial institutions and the police. Finland can help these projects by using bilateral and multilateral instruments. Under normal project conditions it is generally most effective to support initiatives coordinated by multilateral organisations.

3.1 INSTITUTIONAL APPROACHES

Anti-corruption work has recently been ruled to qualify as eligible for Official Development Assistance (ODA). ODA eligibility gives access to support for relevant activities in the sphere of official development cooperation with a clear development objective. The Development Assistance Committee (DAC) has specific rules as to which fields of activity qualify for official development cooperation assistance. Peacekeeping, for example, is not ODA eligible. Anti-corruption work should be seen as part of the development of democracy and good governance. In the OECD/DAC Creditor Reporting System, the code for anti-corruption work is 15020, "Public Sector Financial Management", with the sub-title "Measures against waste, fraud and corruption". This detail is important in itself, because it is no longer unclear whether anti-corruption work is ODA eligible or not. The following account deals with anti-corruption activities by way of a number of examples.

National anti-corruption strategies provide frames of reference for combating corruption in which attention is focused on institutions in the public sector. Support for just one institution, for example an anti-corruption committee, is not sufficient. It is much better when effective and enduring anti-corruption work is composed of varied and sometimes overlapping institutions that watch over the accountability of parties in the public sector.

Examples of institutions that work to safeguard the accountability of organisations and individuals in the public sector include anti-corruption commissions, the Ombudsman's offices, auditing agencies and bureaus, and the legal system as a whole. These could be termed the "horizontal institutions".



- All sorts of prohibitions concerning corruption, including nepotism and misuse of public resources, should be written into the legal code.
- Anti-corruption commissions are institutions with the power to investigate the activities of officials and government employees, and their incomes and assets.
- The Ombudsman's office receives and investigates complaints from the general public about the activities of public authorities.
- Auditing agencies and bureaus are independent bodies that are authorised to make systematic audits of the use of assets in the public sector.
- The legal system as a whole sees to it that laws are obeyed and administers justice in cases of malpractice or misconduct.

A precondition of the effective functioning of the above-mentioned institutions is that people and organisations exist who stimulate and create the pressures necessary to ensure that the horizontal institutions fulfil their roles in the way the public expects.

- Independent media are in a decisive position to create pressures for the proper functioning of horizontal institutions.
- A transparent and competitive electoral system is essential in order to prevent corruption.
- Non-government organisations (NGOs) that form public opinion, so-called watchdog bodies, demand that functionaries in the public sector comply with the principles of good governance. NGOs that aim to promote gender equality are particularly interested, for example, in the equal treatment of men and women in legal proceedings, where corruption can influence the results in different ways for men and for women.

The institutions just referred to are also called “vertical institutions”.

Development cooperation can provide ways to support both horizontal and vertical institutions whose objective is to watch over the use of public sector assets and also to support anti-corruption work. Even though just one or another of the institutions mentioned may be chosen as a focus for development cooperation, it is more useful to give support to national anti-corruption programmes, and the action plans connected with them, in which all the institutions referred to are involved.



- A good national anti-corruption programme approaches the problems from all angles. The approach must also be that of preventing possible cases of corruption in the future and developing and changing systems, rather than conducting various kinds of “witch-hunts”. A national anti-corruption campaign will typically contain the following elements:
- Comprehensive anti-corruption legislation;
- Identification of those parts of the public sector in which corruption is most evident, and action plans to correct the situation;
- Development of legislative and administrative processes through which corruption can be prevented;
- Development of creative partnerships between the public sector and civil society, including the private sector and religious organisations, that can be involved in anti-corruption work.

The guiding principles in implementing an anti-corruption programme include the following aspects:

- The basis for preventing corruption consists of administrative rules and practice that are clear and straightforward, civil servants who receive adequate salaries for their work, and sufficiently effective supervision of the actual functioning of the various authorities;
- Laws must be rigorously respected, and institutions with the power to investigate cases of corruption must have enough capacity to carry out their functions;
- The general public must know enough about the problems that give rise to corruption, and about the possibilities of individuals to take action in cases of corruption.
- Institutions and organs engaged in anti-corruption work must be strengthened so that they can play a central role in the prevention of future corruption.

In order to derive real benefit from a good national anti-corruption programme, the programme must also be linked to a realist action plan and a budget.



3.2 BILATERAL PROGRAMMES

Anti-corruption work plays an essential part in promoting good governance in Finland's bilateral development cooperation.

Box 1. Support for Tanzania's anti-corruption programme

Finland supports the Tanzanian government's efforts to fight corruption. Finnish support is channelled through the framework of a UNDP-administered programme called Strengthening Capacities to Combat Corruption in Tanzania. This programme backs the work of the Prevention of Corruption Bureau, operating under the President's Office. The Bureau's task is to coordinate and follow up the implementation of the national anti-corruption programme. Support is directed towards the execution of strategic action plans in selected ministries. Assistance is also provided to the Prevention of Corruption Bureau's publicity campaign, whose purpose is to inform the general public about the effects of corruption on society and gain the support of local citizens' organisations and the media in advancing the Bureau's work. In addition, a certain number of citizens' organisations receive some aid for carrying out investigations in questions of corruption.

Bilateral cooperation may be arranged between Finland and the cooperation partner directly, or through programmes for individual countries arranged with coordinated multilateral donors. It is normally more effective for support to be given through coordinated programmes with multilateral backing (for example UNDP and World Bank), because the problems arising from overburdening the local administration with small projects are avoided.

Finland's support for Tanzania's Prevention of Corruption Bureau (see Box 1) is an example of assistance for the implementation of a national anti-corruption programme. In actual practice, it should be noted that national anti-corruption programmes are big undertakings and are worth supporting only if it is possible to follow their implementation very closely. In Finland's case, this means that national anti-corruption programmes should be supported only in countries where Finland has an official mission on the spot and sufficient resources to follow the implementation of the programme.

As another example, support can also be provided for the development of legislation against corruption (see Box 2). Legislation provides a framework for other activities. Development activities connected with legislation can be aided in so far as Finland has sufficient expertise in the area in question.



Box 2. The Stability Pact for South Eastern Europe – an anti-corruption programme

Finland has supported a programme in the Balkans called the Stability Pact Anti-Corruption Initiative (SPAI) that is being implemented in the framework of the Stability Pact for South Eastern Europe. Support is being provided in the form of personnel, by sending Finnish experts as members of the OECD's Team for the Stability Pact Anti-Corruption Initiative. This team has been put together to put into practice the 4th and 5th "pillars" of the Stability Pact's anti-corruption programme, in the frame of reference known as the SPAI Compact. Under the mandate given to the OECD in the Stability Pact for South Eastern Europe, the team's role is to help the countries in South Eastern Europe develop effective policies for action in anti-corruption work on the basis of present international agreements. The aim is to develop the countries' own anti-corruption legislation and follow-up mechanisms, including international cooperation in juridical matters.

An example of support for vertical institutes is the strengthening of activities related to law enforcement, particularly with regard to the agencies that work in the field of financial crime (see Box 3). Illegally acquired funds must be "laundered" before they can be put back in circulation. This gives the law enforcement authorities the possibility to intervene at the money-laundering stage.

Box 3. Support for the Money Laundering Investigation Unit in Zambia's Drug Enforcement Commission

Zambia has been identified as a central link in regional and international drug smuggling (heroin, cocaine, Mandrax, cannabis), illegal arms trading and diamond smuggling. The Zambian Drug Enforcement Commission (DEC) estimates that illegal trading produces about 130 million kwacha a year. Black market activities on this scale have serious political consequences for Zambian society. They pose a direct challenge to government administration.

The Money Laundering Investigation Unit (MLIU) works under the DEC, with a mandate to combat money laundering in Zambia. Finland has supported the Zambian MLIU through the money laundering investigation centre of the Finnish Central Criminal Police. Support is principally in the form of training and materials.



3.3 MULTILATERAL PROGRAMMES

A number of multilateral organisations have taken anti-corruption work into their programmes. They try to coordinate their work to avoid overlapping. The UN has coordinated cooperation at a high level by arranging the International Finance for Development Conference, by promoting international anti-corruption resolutions in the General Assembly, and – ultimately – by developing binding international laws.

The World Bank, for example, has acknowledged that corruption is no longer a tabu subject and is actively working to prevent corruption, both within the Bank itself and in its programmes. It has set up anti-corruption units and created instruments to track corruption systematically, both in cooperation countries and in individual development programmes. The Bank's anti-corruption strategy also includes taking corruption as a measurement of the extent of cooperation (conditionality) and trying to influence international anti-corruption rules and laws. The World Bank has also brought national anti-corruption programmes into use in selected countries. Finland can support international organisations in their anti-corruption work by directing its support to funds set up for this purpose (see Box 4). When decisions about funding are being made, attention should be paid to the funding bases of the institutions involved. For example, development banks often have wide financial bases and careful consideration is required as to what real added value Finnish support would contribute to such institutions. Just writing checks does not automatically add value. It is better to concentrate support to selected institutions whose activities can be positively influenced by Finland's normally relatively small contribution.

Box 4. UNDP PACT

- Finland has given support to the UNDP Programme for Accountability and Transparency (PACT). The aim of this programme is to build up and strengthen public sector capacity from the point of view of transparency and accountability in the economic, political and administrative environment, and so create the preconditions for good governance. PACT works in close cooperation with other participants globally, regionally and at the level of individual countries. Emphasis is particularly placed on:
- Support for the principal international networks and professional institutions and building up partnerships between the main parties involved in cooperation;
- Developing new strategies and approaches, analysing mechanisms for more effective accountability and developing systems accordingly;
- Testing innovative approaches on an experimental basis.

A component of PACT called integrity improvement is directly related to anti-corruption work. The approach to enhanced financial accountability involves improved records, bookkeeping and auditing.



The UN Centre for International Crime Prevention and the UN Office for Drug Control and Crime Prevention have drawn up an anti-corruption Global Programme Against Corruption. The programme includes two components, one of which offers a research and investigation programme, dealing with corruption-related matters amongst other matters, while the other offers technical cooperation to developing countries in their efforts to combat corruption.

The OECD has set up an Anti-Corruption Unit whose task is to coordinate activities connected with the struggle against corruption as part of the OECD's work against bribery and corruption in international business. The unit's work in corruption-related issues arising in Latin America, Asia, Eastern Europe and the CIS countries is particularly noteworthy as far as development cooperation is concerned. The unit has many programmes in these areas, especially involving the development of operational models for eradicating corruption. The unit also gives assistance to the SPAI project in the Balkans that is being implemented in the framework of the Stability Pact for South Eastern Europe (see Box 2).

The Anti-Corruption Unit has started up a number of initiatives aimed at building up cooperation programmes and ensuring that the various parties are committed to anti-corruption work. The unit has a wide range of connections to the main parties involved in the private sector, to professional groups and to citizens' organisations. As well as that, the unit takes part in many cooperation programmes with bilateral donors and international organisations such as the Asian Development Bank (ADB), the Council of Europe, the EU, the IMF, the Inter-American Development Bank (IDB), the Organisation of American States (OAS), the Organisation for Security and Cooperation in Europe (OSCE), UNDP, the World Bank and the World Trade Organisation (WTO).

3.4 NGO ACTIVITIES: CITIZEN GROUPS AND VOLUNTARY ORGANISATIONS

Civil society has a considerable role to play in promoting good governance. The public has a right to know how politicians and officials are using public funds. One of the ways in which development cooperation can support democracy is to support non-government organisations (NGOs) in their role of "watchdogs", monitoring the functioning of government administration. It is also worthwhile to direct support to NGOs that press for the development of good governance by influencing political decision-making. These include, for example, the groups whose objective is to promote equality between men and women. At the international level such organisations as Transparency International play a central part in raising public awareness and developing possible solutions (see Box 5). It is also important that the anti-corruption action policies produced by specialists and activist groups are brought to the awareness of the wider public (see Box 6).



Box 5. Transparency International

Finland supports the work of Transparency International (TI) in preventing corruption. TI is an international NGO whose objective is to analyse the situation concerning corruption in different countries and to develop ways of combating it. TI is the only worldwide organisation that takes the issues of corruption as its main point of focus. TI looks at corruption from a number of points of view. One of them is humanitarian, because corruption undermines development and it is the poor who suffer. Another is moral and ethical, because corruption undermines equality and human rights. And from a third point of view it can be seen that corruption distorts competition and deprives ordinary people of their possibilities to benefit from a properly functioning market economy.

Transparency International produces a Corruption Perception Index every year. This is a listing of the perceived corruption situation in different countries, locating each country in relation to all the others.

TI also has national offices around the world that play an active part in anti-corruption programmes. The national offices also lobby their countries' governments in matters concerning the use of public funds.

Box 6. Comic strips help the work against corruption

World Comics is a small Finnish non-governmental organisation that promotes the use of comics as a communication tool in education, development cooperation and cross-cultural dialogue. The organisation's reasoning is that comic strips and cartoons provide an outstandingly good means of communication when used in carefully and well-thought-out ways.

Finland's Department for International Development Cooperation has supported the organisation's publication "Comics with an Attitude – A Guide to the Use of Comics in Development Information", Leif Packalén and Frank Odoi, 1999.



3.5 WHAT HAS BEEN LEARNED?

Much has still to be learned about overcoming corruption. Anti-corruption work has become an integral part of the process of promoting democracy and good governance. Practical lessons from the field are continuously being absorbed into planning processes and the development of more effective operations.

Essential aspects

- Corruption is no longer tabu. It is the subject of frank discussion in many different forums. The anti-corruption message must be brought home to cooperation partners: misuse of development aid funded by taxpayers will not be tolerated. There is intensive competition for the decreasing quantities of development aid and misuse of funds will influence decisions as to which parties are suitable cooperation partners and which are not.
- The basis of anti-corruption work is the political will to do something about it. It is quite futile to try to implement an anti-corruption programme if the political leadership is not actively committed to it.
- It is important to distinguish between bad government and weak government. There are countries where the wish to do something exists, but the capacity, know-how and resources for effective intervention are lacking.
- It is important to support "islands" of good governance in the public sector. There are almost always some people, individual departments and ministries that try to fight against corruption and keep to the principles of good governance in spite of all the difficulties. The identification and encouragement of such "islands of good governance" is important because, whatever the problems, they may well be in key positions in the anti-corruption struggle. Transparency International has developed a concept called the "Integrity Pact" that is useful in developing national and local administration, particularly with regard to public sector contracts. The contents of the Integrity Pact cover such aspects as simplifying decision processes, increasing transparency, publishing budgets, strengthening the abilities of ordinary people to influence matters through independent agencies, and making improvements in the chain of processes involved in obtaining licences and authorisations.



- It is important to realise that while anti-corruption programmes form part of the whole process of advancing good governance, any support or intervention involved must be carefully directed and defined so that results obtained can be followed and measured. The roles of Finance Ministry auditors and Parliamentary Commissioners or Ombudsmen, for example, are not always completely understood. Support for these sorts of departments is a matter of making allocations to try to reduce “unfairness” or “unreasonableness” that can arise in connection with the use of public funds. It is also important to remember that positive experiences have a cumulative beneficial effect as time passes. Anti-corruption work always calls for large doses of realism. Nevertheless cynicism and constant reference to bad experiences does not lead to any constructive results. Much more could be said in this respect, but here it may shortly be stated that corruption crucially effects the development of society and new methods of preventing corruption must be developed all the time.

3.6 SUMMARY

When planning cooperation with developing countries, a donor country has many channels available through which it can support anti-corruption projects. Choosing the most suitable channel or instrument requires analysis both of the donor country's own capacity and of the developing country's needs. Table I gives some guidelines as to suitable methods in each case.

Checklist

- Corruption is no longer tabu
- There must be political will in a country for it to benefit from outside help
- Distinguish between bad administration and weak administration
- Support the “islands of good governance”
- Anti-corruption programmes work best as a part of public sector reform
- Keep support and intervention focused and pay attention to the amount of added value that the donor country's own support produces



Table I:

The suitability of development cooperation instruments for anti-corruption work in different countries

Development cooperation instrument			Country clearly committed to anti-corruption activity		Country not committed to anti-corruption activity	
Instrument	Responsible unit in Finland's Ministry for Foreign Affairs	Example of project	Political leadership and administration committed	Only political leadership committed	Anti-corruption "islands"	Corruption very widely spread
Multilateral programmes	Division for Multilateral Development Affairs	UNDP PACT	(Not country-specific)	(Not country-specific)	(Not country-specific)	(Not country-specific)
Multilateral country-specific projects	Geographical Region Division	UNDP anti-corruption project in Tanzania	Yes	Perhaps	Perhaps	Perhaps
Sector programmes	Geographical Region Division	National anti-corruption programme (no examples yet)	Yes	No	No	No
Bilateral projects	Geographical Region Division	Police training programme in Namibia	Yes	Perhaps	No	No
Support for donor country's own NGOs	NGO Liaison Unit	"World Comics" anti-corruption comic strips	Yes	Yes	Yes	Yes
Support for developing country's NGOs	Embassy (Funds for local cooperation)	"Indonesian Corruption Watch"	Yes	Yes	Yes	Yes
Support for international NGOs	NGO Liaison Unit (or Geographical Region Division)	Transparency International	(Not country-specific)	(Not country-specific)	(Not country-specific)	(Not country-specific)



4 Corruption prevention as a comprehensive principle

Normal development cooperation projects (for example in the water or forest sectors) can become the objects of corruption through local procurement and nepotism. Corruption can also occur in Finland, for example during the project procedure in Finland. With good planning most of the situations that give rise to corruption can be avoided. This chapter presents the most important instruments involved in bilateral projects and the means they provide for preventing corruption.

4.1 THE PLANNING AND IMPLEMENTATION OF NATIONAL POVERTY REDUCTION PROGRAMMES AND SECTOR PROGRAMMES

Programmes for the reduction of poverty

One of the main questions in cooperation negotiations concerns the possibility of providing support to the country within the framework of the overall Poverty Reduction Strategy Paper (PRSP). It is good to remember as far as poverty reduction programmes are concerned that poor people, and particularly poor women, are often ignorant of their rights. This in turn means that they suffer more from the corrupt behaviour of civil servants than do the more well-off members of society. This mechanism makes it difficult to allocate funds and make sure they are used efficiently. In order that the funds should perform as a real addition to the financing already in place, the partner country's Ministry of Finance must be able to guarantee the predictability and transparency of the financial management. If it is not able to give the necessary undertakings, the project will incur problems of misuse and fungibility – the uncontrolled transferability of resources being freed up. For this reason the donor country's representatives must make an assessment of the situation regarding the predictability and transparency of the partner country's financial administration when the cooperation negotiations are being prepared. This assessment can be based at least on the following sources:

- The cooperation country's national auditors' report and the government's explanation of how deficiencies noted in the auditors' report are to be corrected.
- Public Expenditure Reviews (PERs), World Bank coordinated assessments particularly with regard to performance in budget formulation and execution and the efficiency and effectiveness of planning
- (see <http://www1.worldbank.org/publicsector/pe/>).
- Reports on Observance of Standards and Codes (ROSCs), IMF-backed sets of standards, including those for transparency and understandability in financial management, to which a country can commit itself and whose implementation can be assessed (see <http://www.imf.org/external/np/rosc/index.htm>).



- Country Financial Accountability Assessments (CFAAs), World Bank coordinated assessments of countries' financial management and budget implementation (see also www.spa-psa.org).
- The part of the European Commission's auditors' report that deals with aid provided by the EU. It can be obtained through the European Parliament.
- The international institutions that deal with risk assessment and classification also provide valuable information. The data they produce mainly portrays a country's economic stability and the predictability of its financial administration.
- Some development cooperation organs have begun to draw up detailed risk analyses for their own cooperation partner countries. These analyses are made expressly from the point of view of development cooperation so they are directly relevant to the needs of other donor countries.

When participating in funding a poverty reduction programme, the indicators of financial management performance must be closely monitored.

Direct budget support should be provided only if the state's financial administration is predictable and transparent.

Sector programmes

Sector programmes are coming to form an important part of development cooperation. They nevertheless involve risks that must be considered before making financial decisions. Particular attention must be paid to the cooperation partner country's financial administration, including the adequacy and reliability of its monitoring and reporting systems as well as other fiduciary aspects. There is a danger that if the economic management processes do not function in a trustworthy way it will be difficult or even impossible to monitor what happens to the funds paid in by individual donor countries. The strengthening of the financial administration systems should thus be an essential part of preparatory work for sector programmes right from the start of the processes.

The term "sector programme" covers many very different kinds of projects. The administration of sector programmes is usually established within the normal organisation of the ministry responsible for the project. At the planning stage the project has a steering committee backed by high-level political support, and a working group that includes the donors' representatives and generally meets four times a year. Practical planning work is in the hands of the sector programme's secretariat. The secretariat is based on the ministry's normal organisation, but in some cases a separate organ is established within the ministry with responsibility for planning the project. In any case, use is made in sector programmes of local and foreign, short-term or long-term, consultants to undertake the various studies involved. The main question in planning work with regard to "ownership" and transparency is that of how the relations between the ministry and the consultants are organised.



It is typical that at the planning stage there are various very different arrangements for channelling the donors' funds for the planning work. To some extent at the planning stage, and especially at the implementation stage, the aim is to channel the foreign support funds directly to the government treasury, which then disburses them for use in the ministry-administered sector programme through the normal fiscal administrative channels. For this reason the possibilities for corruption within sector programmes (and the requirements laid down for anti-corruption activity) are much the same as in poverty reduction programmes.

The operations and budgets of sector programmes are nevertheless the result of long and detailed work. During the planning period, individual problems in the administration of economic resources can be located and methods of dealing with them draw up.

If the country's financial administration does not fulfil the basic criteria for reliability, it is possible to direct the support to a bilateral project and connect the project loosely to a sector programme, linking the aims of the project in congruence with the framework of sector programme. This is a kind of strong form of earmarking. On the other hand, if the country's financial management is in reasonably good shape but there are certain relevant points of concern, the donors can jointly request these aspects to be put in order (for example financial management reporting, intervening with regard to remarks made by the auditors.) If the country's financial administration is in good order and the political decision-makers wholeheartedly support the implementation of the sector programme, finance would become direct in character, from the funds to the ministry for the implementation of the programme. In this case, too, the financing agreements include the possibility for the donors to make special audits and follow the overall state of the sector's financing as well as the normal requirements for monitoring good governance.

Sometimes a loosely earmarked form of sector programme financing is proposed, whereby an individual donor country supports the sector programme, but that country's funds are earmarked for a certain component or part of the programme. The justification given for this sort of earmarking is that the use made of the donor's funds can be closely monitored. In practice, however, this form of earmarking is a poor solution and virtually meaningless since by directing the funds onto one component the partner government is able to transfer other donors' funds, or its own, to another. The whole point of earmarking is thus lost in the problem of fungibility. Earmarking is also useless in the sense that payments for a component are generally made through a number of operational centres and arranging special audits in order to follow the flow of all the separate payments is not a sensible proposition. Loose earmarking is in fact mostly only demanded by those donor countries whose own laws prescribe that the precise end use of every sum paid out must be individually identified. Finland's laws, for example, do not require this.



In evaluating the risk of corruption in a sector programme it is worth taking the following aspects into consideration:

- What is the track record of the ministry responsible for the project with regard to corruption?
- Are the salaries of the responsible ministry officials on a reasonable level relative to the overall level of salaries and living costs?
- How thoroughly has the financial administration of the sector programme been planned?
- How are the operational tasks connected to the project to be administered?
- How have the project auditing tasks been planned?

The financial administration of sector programmes must fulfil the principles of good governance.

4.2 THE PLANNING AND IMPLEMENTATION OF BILATERAL PROJECTS

In drawing up plans for projects, one of the starting points must be the prevention of corruption. The critical factors must be monitored while the project is being carried out and any manifestations of suspected corruption dealt with according to the project agreement and guidelines.

The table in Appendix 2 provides an outline analysis of the prevention of corruption at different stages of bilateral projects.

Project planning

The purpose of a project plan is to foresee the problems that may arise at the implementation stage and to provide the means for fulfilling the implementation stage. With a good project plan, possibilities of corruption can be prevented in advance. The main points to which attention must be paid in project planning are as follows:

1. Clear responsibilities and roles for the various operators and parties involved.
2. Careful selection of the organisation that will implement the project.
3. Evaluation of the implementing organisation's capacity for financial administration.
4. Clear control mechanisms, especially if there are shortcomings in the implementing organisation's administrative capacity.
5. Sufficient resources for financial administration and auditing.
6. Definition of the activities to be undertaken within the project.
7. Sufficiently precise budgeting for equipment and machinery procurement and/or a mechanism for ensuring supply competition.
8. Sufficient monitoring of the strengthening of administrative capacity.



Clear roles and responsibilities. The project plan must show how decisions are made, who is responsible in each organ of activity, and how conflict situations are to be resolved.

Choice of organisation to implement the project. Perhaps the most important task at the planning stage is the choice of the right organisation to carry out the project. The project implementation organisation must be demarcated as one that has clear administrative responsibility and budgetary powers for the project.

Assessment of the implementing organisation's capacity for financial administration. The project plan or mission identification analysis should provide a precise description of the implementing organisation's capacity for financial administration. This analysis is essential in order to determine whether direct budget support can be given to the implementing organisation, whether it can be allowed to implement projects on the basis of its own regulations, whether it can independently select personnel for the project, and whether operating funds can be paid directly into the implementing organisation's own account.

Box 7. Planning a support project for a national forest administration

If a project plan, for example for a national forest administration, shows that the tax returns from the forest are negligible relative to the estimated logging operations, it is reasonable to assume that the financial administration of the ministry responsible for natural resources and the local authorities is not in order; and that this is the main problem of the forest sector. The improvement of the local financial administration would then be seen as the main result of the project and resources directed to this purpose. This also requires that demands be made for suitable task definitions and expertise. Personnel with skills in taxation and accountancy will have to be sought for the project.

Sufficient resources for financial administration and auditing. The arrangement of sufficient resources for a project's financial administration has generally paid for itself. By planning an exact mechanism for financial administration in advance, uncertainties and disputes over areas of responsibility within the project are reduced, and the project process significantly speeded up, particularly regarding the start-up stage.

Regulation of the project's procurement operations. Procurement operations within a project constitute one of the fields of activity most susceptible to corruption. Purchasing for the project should as far as possible be based on the implementing organisation's procurement rules. If these rules are inadequate or are not respected, the project planners must make further stipulations for project operations.

Sufficient budget accuracy. The project plan's budget must be so clear and detailed that it can be used as a tool to guide the operations.



Selection of consultant to provide supporting services for the project. If a consulting company's services are required in implementing the project, the process of selecting the company should be carried out as meticulously as possible to prevent it being influenced by bribery. The bidding competition for the project takes place under the procurement rules of the donor country's Foreign Ministry. These rules should include clear procedures for exclusion and disqualification, for example because of possible personal interest or conflict of interest, in order to try to create a genuine and effective competition to carry out the project.

In the project competition the same information must be given to all potential bidders. No information about the project may be given to potential bidders during the preparation stage of the competition. During the bidding period questions about the project must be directed to the responsible department in the Foreign Ministry or to the representatives of a specially designated cooperation organisation. Bribery of the people preparing the competition or of the representatives of the cooperation organisation naturally leads to the bid being rejected.

The consultant selection process may give rise to a situation in which Finnish consultants participating in the competition offer bribes to officials in the cooperation country, or officials in the cooperation countries try to obtain inducements from the consultants. To minimise such possibilities the following steps need to be taken:

- Already while the project document is being drawn up and evaluated, the Regional Division of the donor country's Ministry for Foreign Affairs and the local Embassy emphasise to the consultants participating in this work, and to the cooperation country's officials, that the document is an official paper and may not be revealed to consultancy companies who are potential bidders, so that none of them have an unfair advantage in the bidding.
- The Regional Division and the Embassy provide the partner country's officials with the Ministry for Foreign Affairs' rules concerning procurements. Because this body of rules is long and difficult to absorb, it is worthwhile stressing particularly the rules dealing with legal incompetence (bias and conflict of interest), secrecy and good conduct. Another important rule is that after the competition has begun the consultants taking part must not be in contact with officials from the donor country or the partner country other than through the official channels specified in the competition rules. Consultants who break this rule are disqualified.
- During the bidding period, the appropriate authorities in the partner country are asked to arrange a general information meeting for consultants who could be interested in the project, a "fact-finding" occasion for the consultants. The partner country is asked to nominate a number of people to take part in the meeting and ensure that it is given publicity. In this way it is possible to avoid a situation arising in which just one person in the partner country obtains a key position as an information channel in the competition.



- At the start of the stage when the offers are being evaluated, the representatives of the donor country and the partner country must discuss together as to whether any of the consultants have tried to approach them. Possible cases are recorded in the memorandum of the opening of the bids and clear cases lead to the appropriate steps being taken.

In Finland's case, a new law about right of access means that when the competition is over the documents connected with it are more accessible than ever to outside parties (see Chapter 5).

The bidding competition leads to contract negotiations and a contract is normally made with the winning bidder. Anti-corruption clauses in development cooperation agreements are dealt with in Chapter 6.1.

Carrying out the project

Normally the implementing organisation will be responsible for the progress of the project. The consultancy company that supplies supporting services is responsible for its part that those services are provided on time and are of extremely good quality. The consultant must also have adequate financial resources to provide the supporting services. The consultant is responsible for the efficient and proper use of the funds received from the Ministry of Foreign Affairs for carrying out the project. The consultant receives his own payment only after the Ministry for Foreign Affairs has approved the invoices arising from the operation.

Projects are increasingly allowed a certain amount of flexibility during the implementation stage. No specific levels of activity are then budgeted for operations in each year. This sort of open planning for projects brings with it the need to put resources into more precise monitoring than before.

The organisation carrying out the project is responsible for the project proceeding on time and for the resources allocated to it being utilised according to plan. If problems become evident during the implementation stage, they must be reported to the competent authorities. For Finland's part, the competent authority in bilateral projects is always the Finnish Ministry for Foreign Affairs.

Use is made of annual and interim reporting in order to check whether the project has progressed according to the goals laid out in the "logical frame of reference" of the project document. With the help of the reports it must be possible to establish the reasons for any plan in the project document not being fulfilled. The project implementer can thus propose changes but they must have good justifications.



The annual report about the project must show clearly how the project resources have been used and whether their use corresponds to the aims set out in the project document and the annual plan drawn up at the beginning of the year. This information is given in the outcome report for financial estimates.

The Finnish Ministry for Foreign Affairs' publication "Guidelines for Programme Design, Monitoring and Evaluation", pages 56-67, describes the minimum requirements for financial reporting. Financial reporting requires a regular, preferably quarterly, review of the outcome of the budget, comparing the costs actually incurred to those budgeted in the annual plan. It is important to insist that the consultants that supply services also provide financial reports regularly and on time. It is also important that the units, specifications and groupings used in financial reporting correspond to those of the budget so that meaningful comparisons can be made. Invoicing produced by consultants is often based on differing ways of specifying costs and the official responsible for the country cannot get a clear picture of the progress of the project by monitoring the invoices.

Auditing the project

Large projects should have their own internal auditing procedures. Internal auditing can be arranged by hiring local auditing services or by employing someone specially to work on the project's internal auditing. The internal auditor should report directly to the project leadership.

The project's external auditing arrangements are stipulated in the project document. Bigger projects costing over one and a half million euros a year must in any case be subjected to an annual audit. Annual auditing is also necessary for smaller projects if they are engaged in sectors that are liable to corruption or if there are clear deficiencies in the financial management of the organisation carrying them out. This concerns, for example, infrastructure projects. Other projects need auditing in the year of their completion.

In addition, the project's supervisory board can call for a separate audit if one competent authority or another so requests. Auditing costs are paid out of the project's budget.

External auditing can be carried out by a local auditing body that meets international standards. If such a local company cannot be found, a regional auditor, or one from the donor country, may perform the audit.

A model of the terms of reference for external auditors is attached in Appendix 3.

If an audit reveals corruption, or gives rise to strong grounds to suspect it, action should be taken in the ways discussed in Chapter 6.1.



Handing over the completed project

The completion of the project is a critical stage that is vulnerable to corruption. The project's final stage must be carefully prepared so that the operations that have been started during the project period continue to be undertaken by the implementing organisation. When the project is handed over, there must be an inventory of the assets that belong to the project. The inventory should specify the value, nature and quality of the assets. Where necessary the inventory can also show the present use of the assets and their specific maintenance requirements. Handing over the assets before the final completion of the project itself may help to prevent the project's assets being transferred into the private ownership of officials in the implementing organisation.

The handing over of the project should also include the transfer of the project's financial assets as a whole to the implementing organisation, the dismantling of the project's separate accounting system and the complete integration of the project operations into the functions of the implementing organisation. It is obvious that this integration cannot be not achieved overnight. Handing over the project therefore requires a transfer phase of a year or two. During this period the operations are handed over and at the same time the transfer of sufficient administrative capacity to deal with them is also ensured.

Guidelines for transferring project are to be found in Annex IX of the Finnish Ministry of Foreign Affairs' "Guidelines for Programme Design, Monitoring and Evaluation".

4.3 SUPPORT FOR NGO DEVELOPMENT COOPERATION

Finland's official development cooperation funds are used to support NGOs in the work they carry out independently in development cooperation. According to the Finnish government's decision in principle in 1996, 10-15% of official development funds are to be channelled through the NGOs.

NGOs can apply for funds for projects in developing countries for which the organisations themselves are fully responsible with regard to planning, implementation and supervision. The principles and criteria on which such funds are granted are laid out in a separate handbook ("Project support", July 2000, Finnish language only).

In the last few years support has been provided for about 200 NGOs and more than 400 projects situated in over 60 countries. Grants for NGO support have risen to over 11% of development cooperation funds. Such state support may not exceed 80% of the total cost of a project and the NGO involved must provide the remaining 20% from its own funds, collected from private contributors in Finland. Half of the NGO's own funding may be covered by voluntary work and donations.



The Ministry of Foreign Affairs' general conditions concerning the use of government aid prescribe the conditions under which support funds are to be used.

The NGO must provide the Ministry with a report on the project's operations and use of funds every year. The use made of the supporting grant is also controlled by performing annual audits and with the help of follow-up visits to the project site by officials from the Ministry's NGO liaison unit. Other project assessments and evaluations are also carried out whenever necessary. The annual project report must enclose the NGO's own annual financial report (income statement, balance sheet and review of activities) and auditor's statement, as well as a special assurance by the auditor that the funds that the NGO has received from the state have been used according to the agreed conditions and according to the relevant sections of the Finnish law concerning government aid. A special anti-corruption clause has been added to the general conditions concerning the use of state aid.

The general conditions for the use of support granted to NGOs include the following conditions:

Support may not be used for purposes other than those for which it was granted without the Ministry's permission. A maximum of 10% of the total cost of implementing the project can be approved as administration costs. The NGO must keep to good accounting practices and its auditing must be properly arranged. The Ministry has the right to inspect the organisation's accounts when it wishes, both in Finland and in the project country. The project's accounts are to be kept in such a way that the entries and explanations concerning Government support funds and the use of total project funds, as well as the NGO's own funds, can easily be examined and checked from the bookkeeping. If the accounts for local expenses are kept in the project country, the auditing of these costs can be carried out on the spot. The local auditor must conform to the requirements approved by the country's authorities. The Ministry recommends the use of auditors who are members of one of the well-known international groups. Cost receipts must normally be sent to Finland. If the accounting and auditing of expenses take place in the project country, the original receipts may be kept there. If the Ministry so requests, the NGO is to deliver the documents relating to the locally performed audit into the hands of an auditor nominated by the Ministry within three months of such a request being made.

4.4 ANTI-CORRUPTION ASPECTS OF COMMERCIAL DEVELOPMENT COOPERATION

At present Finland has one development cooperation credit instrument which is used for financing projects that are comparable with those for commercial purposes. This instrument is known as interest support credit. It is a financing arrangement whereby the financing of export goods that are mostly manufactured in Finland can be supported by subventing the export credits they have been granted with an interest support paid



from Finnish official development cooperation funds. The credit can be either quite interest-free for its receiver or at an interest rate considerably below the market level. Interest support credits can be granted for countries with low levels of development and their purpose is to support those countries' economic and social development. The granting of these credits is regulated by the Finnish law concerning the granting of mixed credits to developing countries (1114/2000) and by the Finnish Government's decree in this respect (1253/2000).

Finland's Ministry for Foreign Affairs makes the decision about the approval of the interest support and the credit risk involved is covered by the state-owned financing company Finnvera Oyj. The credits may be arranged by Finnish credit institutions or others in the European economic area with the necessary authorisation. The exporters select the financing company or organisation.

Section 10 of Finland's law on mixed credits stipulates that the Finnish Ministry of Foreign Affairs and the credit institution providing the credit must control that the credit is used according to the purpose specified in the decision approving the interest support credit. The credit institution has a duty to provide the Ministry with any information it requests that is necessary to ensure that the interest support credit is used for the approved purpose and that the agreed terms are also respected. In the credit agreement the credit institution must oblige the beneficiary of the credit to provide all information necessary for supervision.

Section 6 of the decree on mixed credits stipulates that "If the beneficiary of the credit neglects or breaches the duties and responsibilities imposed by the credit agreement, the credit institution must immediately inform the Ministry of Foreign Affairs and Finnvera Oyj of the negligence or breach. The credit institution and Finnvera decide on the measures to be taken concerning the negligence or breach in consultation with the Ministry."

In practice the regulations are to be interpreted as giving the Ministry the possibility to change or review its decision approving interest support credit if it appears that the credit is not being used for the purpose for which it was granted.

The Ministry for Foreign Affairs does not have any direct means to control possible misuse arising because the Ministry itself does not make any sort of agreement as to the implementation of the project or the granting of credit. In practice the Ministry's power of decision is confined to the decision signed by the minister responsible for development cooperation funds whereby the credit is approved as interest support credit.

In the international sphere, Finland's granting of interest support credits conforms to the OECD's Arrangement for Officially Supported Export Credits. This export credit consensus provides rules and guidelines concerning such matters as the type of projects that may be approved for interest support credit financing.



The OECD's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (SopS 14/1999) was signed in 1997 and came into force 15.2.1999. The OECD's Working Party on Export Credits and Export Guarantees issued an Action Statement on Bribery and Officially Supported Export Credits in December 2000. The statement noted that the OECD Working Party is the appropriate organ for making sure that the aims of the anti-bribery convention are fulfilled in government-supported export credits. One of the most important parts of the statement in practice is section 4, which states that amongst the appropriate measures being undertaken by the members of the export credit and export guarantee group to eradicate corruption the following are included:

- The organisations that approve or grant state-supported credits and guarantees inform applicants about the consequences that giving bribes can involve according to the national laws.
- The applicant for a guarantee, and/or the exporter, is asked to provide a guarantee in a form satisfactory to the arranger of the guarantee or the credit in the country involved that neither the applicant / exporter nor any person acting on their behalf has given or will give a bribe in connection with the project.
- If there is sufficient evidence that the export business has been obtained by bribery state-supported credit, then guarantees or other official forms of support are not granted.
- If, after the credit, guarantee or other government support has been approved, there is evidence that the beneficiary has participated in such bribery, the authoriser of the guarantee / credit shall take such appropriate action as refusing compensation under the guarantee, reclaiming funds that have been withdrawn and/or providing evidence of the bribery to the national authorities.
- The measures listed above must not infringe on the rights of parties that have not participated in bribery.

The Action Statement emphasises that each member of the export credit and guarantee group can implement the statement in accordance with their legal system and taking into account the particular national circumstances.



PART 2: LEGISLATIVE, JUDICIAL AND ADMINISTRATIVE MEANS OF PREVENTING CORRUPTION AND INTERVENING WHEN IT IS DISCOVERED.

Finland's juridical means of preventing and dealing with corruption in development cooperation are based on Finland's own national legislation, on international laws that are binding on Finland, and on government and civil law agreements concerning development cooperation.

The promotion of good governance is one of the aims of Finland's development cooperation and the aim of good governance also guides Finland's administrative procedures. Corruption has no part in good governance. Many Finnish laws are directed towards the prevention of corruption, and provide the means of intervening in cases of abuse and misuse arising. This is perhaps the real reason why corruption is not a problem of the same magnitude in Finland as it is in the administration of many of Finland's development cooperation partners. According to Transparency International's surveys, the degree of corruption in public administration in Finland is one of the lowest in the world.

Finland is not entirely free from corruption. Nevertheless Finnish legislation provides the means for preventing abuses and dealing with cases of corruption if they arise. The provisions of Finnish laws are adapted to Finnish administrative procedures. They cannot always be applied in another country. In those cases where they cannot be applied, regulations for preventing corruption must be based on international law and agreements.

Juridical means for combatting corruption

Finnish legislation

- The Constitution of Finland (731/1999)
- Administrative Procedure Act (598/1982)
- Civil Servants Act (750/1994)
- Act on the Openness of Government Activities (621/1999)
- Penal Code (39/1889)
- Act on the Detection and Prevention of Money Laundering (68/1998)
- Accounting Act (1336/1997)
- Auditing Act (936/1994)
- State Budget Act (423/1988)



- Act on Chartered Public Finance Auditors (467/1999)
- Act on State Economy Comptroller's Office (676/2000)
- Public Procurement Act (1505/1992)
- Decree on Projects that are Not Governed by the Public Procurement Act (342/1994)
- Act and Decree on Mixed Credits Granted to Developing Countries (1114/2000) and (1253/2000)
- Act on Discretionary Government Transfers and Grants (688/2001)

International agreements and recommendations

- The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transaction (SopS 14/199)
- The OECD Revised Recommendation 23 May 1997 on Combating Bribery in International Business Transactions
- The OECD/DAC Report of 7 May 1996, recommending that anti-corruption clauses be included in development cooperation agreements
- The Council of Europe's Criminal Law Convention on Corruption (SopS 107-108/2002)
- The Council of Europe's Civil Law Convention on Corruption (ratified by Finland 23.10.2001, not yet in force internationally)
- The Convention drawn up on the basis of Article K3 of the Treaty on European Union on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union (ratified by Finland 18.12.1998, not yet in force internationally)
- The Cotonou Agreement between the Members of the African, Caribbean and Pacific Group of States, and the European Community and its Member States: (ratified by Finland 18.2.2002, not yet in force internationally)

Development cooperation agreements

- Anti-corruption clauses in government agreements, agreements ruled by civil law and agreements made with international organisations
- Anti-corruption clauses in the general conditions applying to the use of aid by NGOs

Anti-corruption programmes and strategies of international organisations (so-called "soft law")

The OECD Action Statement on Bribery and Officially Supported Export Credits (TD/ECG (2000) 15)



5. Finnish Legislation

Finnish legislation provides rules and guidelines both for civil servants and for companies providing support services for projects.

5.1 THE CONSTITUTION, THE ADMINISTRATIVE PROCEDURE ACT AND THE PRINCIPLES OF ADMINISTRATIVE LAW

Section 21 of Finland's Constitution states that good governance shall be guaranteed by law. Good governance particularly means impartial, open and fair administration. Authorities and officials shall act according to the law, impartially and properly, so that people can put their trust both in the officials and in the institutions.

The effort to ensure good governance is backed up by many legal provisions. Administrative procedure is prescribed not only in the Constitution but also in the Administrative Procedure Act, the Openness of Government Activities Act and the Civil Servants Act. The principles of administrative law also provide an ethical basis for administrative procedures. These include the principle of objectivity, by which possible bias and irrelevant influences are to be excluded from administrative practice. According to the principle of proper intent, an official is bound by the nature and purpose of his task and may not use his discretion to promote unrelated purposes or interests. The requirement of good governance is also expressed in the Civil Servants Act, according to which officials must behave in the ways that their positions and duties call for. An official must likewise refrain from any kind of behaviour that could weaken the public's trust in his or her official actions.

Other provisions to ensure good governance include stipulations in the Administrative Procedure Act as to disqualification or "legal incompetence", which aim to prevent the favouring of relatives or other associates in the performance of administrative functions. Restrictions on secondary occupations permitted to officials, dealing with matters openly, and allowing the public to have access to information about administrative issues all also help to bring about good governance.

5.2 THE ACT ON THE OPENNESS OF GOVERNMENT ACTIVITIES

The more openly administration works, and the more people that have the possibility to learn about decisions and the reasons for them, the less misuse occurs. Finland's Act on the Openness of Government Activities, which came into force in 1999, adds to



administrative openness and the public's right to obtain information. Records concerning the administration of development cooperation are for the most part publicly available. For example, almost all the documents relating to bidding competitions are published after the project agreement has been made.

In addition to the publication of documents, the authorities are responsible for providing information about their activities and about the issues that are under consideration. The Information Unit in the Department for International Development Cooperation of Finland's Ministry for Foreign Affairs is responsible for supplying information about Finland's development cooperation, issuing, for example, bulletins and publications. Information about Finland's development cooperation is also available on the Internet at <http://global.finland.fi>.

5.3 THE PENAL CODE AND THE CIVIL SERVANTS ACT

There are many sorts of improper behaviour that can be categorised as corruption. Studies show that public administration is particularly susceptible to corruption in situations where the public and private sectors come into contact. There are many such occurrences in the administration of development cooperation because many of the services used in implementing cooperation are outsourced: in other words they are purchased from commercial companies, private individuals or the public. Project operations, and many other circumstances where financially significant decisions are involved, are open to abuse. The practice of public administration has increasingly come to resemble that of ordinary business life, including the setting up and running of publicly funded and managed commercial companies, but the ethical backgrounds of public administration and the private sector are still different. Behavioural models that are followed in private sector business are not necessarily acceptable in the public sector.

Corruption can arise when the person in an official position has the possibility to use his or her authority in such a way that someone could pay, or use another incentive, to obtain favourable treatment. The more transparent, public and open the decision process, the smaller the possibilities of abuse. And also, the greater the number of people involved in the decision, and the clearer the rules for making decisions in various circumstances, the less the individual official's power of discrimination and possibility of corruption.

5.3.1 Receiving bribes

Bribery is the most common form of corruption. Civil servants and others employed by the public administration are not allowed to accept bribes or misuse their positions in any other way. These prohibitions appear both in the Penal Code and in the Civil Servants Act.



Chapter 40 of the Penal Code lays down that accepting bribes, misuse of an official position and grave misuse of an official position are all crimes. According to section 15 of the Civil Servants Act, a civil servant may not ask for, approve or accept financial or other benefits if accepting such a benefit can weaken confidence in the official or the authority or their impartiality.

These prohibitions aim precisely at preventing the acceptance of bribes and at putting a stop to any idea that a civil servant could be bribed or that an authority's performance could be influenced on inappropriate grounds. Accepting benefits is forbidden even if it does not lead to any favourable treatment. The core issue is whether accepting the favour or benefit would weaken public confidence in the civil servant or the whole authority if it became generally known.

Officials must take care to ensure the impartiality called for in their position and therefore as a rule refrain from accepting favours. The acceptance of even the smallest benefit can be forbidden. In considering the boundary between what is acceptable and what is not, it is important to judge whether the favour was granted because of the recipient's ability to do something. If the favour or benefit gives rise to a feeling of a debt of gratitude it must be refused. A favour or benefit in this sense may also be one directed to persons other than the official concerned, for example to a member of the official's family or local community. Such a favour or benefit does not have to be financial.

5.3.2 Giving bribes

Civil servants and others employed by public administration authorities are not allowed to accept bribes. Nor must they be placed in situations of temptation: in other words they must not be offered bribes. The promising, offering or giving of a bribe or other inducement to a civil servant or other public employee is a punishable offence under chapter 16 § 13 of the Penal Code, when the giving of the bribe or inducement influences or attempts to influence that person's performance of his or her duties.

These prescriptions do not just concern Finnish civil servants but also apply as provided in the Penal Code (chapter 1 § 11) to the promising, offering or giving of such inducements by Finns to civil servants and public employees in other countries. The provision about bribery of foreign officials can govern the situation in development cooperation when, for example, the project procedure takes place in the partner country and Finnish companies or contact people want to obtain a contract. Bribery is not acceptable even if the practice in fact forms part of the culture of some particular country and even if the relevant authorities encourage or even demand bribes.



5.3.3 Bribery in the private sector

The giving and taking of bribes is forbidden in other cases in addition to those concerning receivers in the public sector: Chapter 30 of Finland's Penal Code also forbids bribery between companies and people under civil law in the private sector: Section 7 of this Chapter forbids the promising, offering and giving of bribes and Section 8 forbids the demanding, approving or taking of gifts in business if the aim is to favour the interests of the giver or others in action or in duty, or if the donation is given as a reward for such favourable treatment.

Also, for example, if there are several companies making offers in a development cooperation project bidding competition, the giving and taking of bribes between them is not permitted either. The concept of bribery in the private commercial sector nevertheless differs from how it is understood in the sphere of public administration.

5.4 THE ACCOUNTING ACT, THE AUDITING ACT AND THE ACT ON CHARTERED PUBLIC FINANCE AUDITORS

The provisions concerning bookkeeping and auditing provide a significant means of preventing corruption and financial abuses in advance. With the help of these prescriptions it is possible to check whether abuses have occurred in the use of funds by commercial and professional companies, government offices, utilities and other bodies subject to accountancy regulations and whose misuse of funds could be connected with corruption.

The Accountancy Act concerning commercial and professional bodies lays down the way in which different commercial operations should be entered in the accounts, how the final accounts should be drawn up, and how the related documentation should be preserved. The Accountancy Act stipulates that accounting responsibilities include conformity with good accounting practice both in regular day-to-day bookkeeping and in all individual cases of balancing accounts and closing the books.

The Auditing Act stipulates that corporations and foundations must choose auditors and conduct audits according to the detailed regulations of the Act. Additional rules concerning auditing are also to be found in other laws, such as the Finnish Companies Act. Auditing includes the inspection of the bookkeeping of corporations and foundations for the accounting period, as well as of the balancing of their accounts and their administration. The auditor must act in accordance with good auditing practice and must fulfill all the conditions required for unbiased independent auditing. If any of these conditions are not fulfilled the auditor must refuse to accept the task or cease to undertake it.

Companies working on development cooperation projects must take care of their bookkeeping and auditing in the ways laid down by the laws and other regulations



concerning accounting and auditing. Development cooperation project consultancy agreements between the Ministry of Foreign Affairs and a consultant specify that the consultant must keep accounts for the project according to good accountancy practice. The Ministry's must monitor the proper use of the project funds. The agreements give the Ministry the possibility to inspect the consultant's accounts relating to the project and the consultant must permit authorised personnel from the Ministry or the State Auditing Office to inspect the accounts during the project period and after its completion.

Amongst other prescriptions concerning Government accounting, there are provisions in the Constitution and the State Budget Act. Government accounting must conform to good accounting practice, and it must provide correct and sufficient information about the activities and finances of Government offices and institutions and of their development. According to the Constitution it is the responsibility of the Finnish Parliament to watch over the management of the state finances and conformity to the budget. To fulfill this task Parliament selects state auditors from amongst its members. In order to be able to inspect the state's financial management and its conformity with the budget, Parliament is in contact with an independent State Economy Comptroller's Office. The auditor or auditing company that carries out the auditing of public administration must fulfill the preconditions necessary to ensure independence of judgement. Government offices and institutions must also see to it that their internal control systems are properly organised with regard both to their own activities and to other activities for which they are responsible. In line with its other normal duties, the State Economy Comptroller's Office monitors the legality and appropriateness of the use of development cooperation funds and intervenes when necessary in cases where improprieties are found, making recommendations, for example, about ways to improve procedures.



6. Development cooperation agreement clauses to prevent malpractice

6.1 BILATERAL DEVELOPMENT COOPERATION

6.1.1 Intergovernmental development cooperation agreements

Intergovernmental development cooperation agreements form the juridical basis for Finland's development cooperation projects with a partner country. With the main partner countries – the long-term partners – the basic principles of cooperation are laid down in framework agreements. More detailed principles of cooperation, the division of tasks, and the duties of the parties in the project are agreed in the project or programme agreement that complements the framework agreement. If bilateral development cooperation projects are carried out with countries that are not long-term partners, the cooperation conditions are agreed in the project agreement. These agreements give both parties, Finland and the cooperation partner, the right to intervene in case of malpractice.

Contractual clauses concerning the basic principles of cooperation and their significance

The General Principles of Cooperation are listed at the beginning of both framework and project agreements. Cooperation must be founded on democratic principles, respect for human rights, the promotion of good governance and the principle of legal and constitutional government. The basic principles express the values held in common, on the foundation of which the project will be built up. The basic principles are also legally binding on the parties to the agreement. According to the article of the project agreement that covers suspension or discontinuation of the agreement, neglect of the basic principles of cooperation is breach of contract and gives Finland or the partner country the right to stop the project, or the payment of funds, or even to cancel the agreement. The first resort is to negotiate about the issue and try to correct the situation by less drastic means.

Reporting, monitoring and informing

Arrangements for reporting are established case by case in inter-government agreements. It is often agreed that the Competent Authority in the partner country makes regular reports to Finland, on a mutually agreed basis, about the progress being made by the project and the management of its financial aspects. Following the reports helps in



understanding the project costs. One of the aims of the reports is also to make sure that no malpractice has occurred. It is particularly important to follow the reports closely in sector programmes, where Finland otherwise has only a minor share. If reports are not received on time, or if something is missing in them, there are grounds to suspect malpractice. An investigation of the situation may then be demanded.

By virtue of intergovernmental project agreements, audits of the accounts and possible malpractice can be made whenever Finland or the partner country so wish. In agreements about sector programmes there is a stipulation that the competent authority in the partner country must provide Finland with an annual auditors' report. Auditors must always be officially authorised and completely independent with regard to the project.

The principle of good governance with respect to development cooperation projects also means that the implementation of the project is conducted openly and transparently. Each party must inform the other, and everybody else who is involved or who has an interest in the project's implementation, about all the important things that happen affecting the project. The parties are encouraged to publicise the project and arouse people's interest in it.

Contractual clauses concerning procurement

Purchases connected with development cooperation are made either by Finland or by the partner country. According to the project agreement, or programme agreement, purchasing operations must conform to good procurement practice and generally accepted principles. In line with the OECD/DAC recommendation all inter-governmental agreements about procedures and projects include an anti-corruption clause. Whichever of the countries is responsible for a purchase, Finland or the partner country, must include a contractual clause in the request for bids and in the purchase agreement, to the effect that the bid will be rejected, and any possibly finalised agreements cancelled, if the other party or any of its sub-contractors have resorted to bribery in order to obtain the contract. And in addition, the party that is guilty of bribery is obliged to compensate the other party for loss or damage arising from the rejection of the bid or the cancellation of the agreement.

In negotiating a project agreement with a new partner country, the background of the clauses and the DAC recommendation must be explained to that country's representative whenever necessary. It must also be explained that it is a matter of standard clauses that Finland includes in project agreements with all partner countries.

A) Purchases made by Finland

In cases where Finland undertakes procurements the clause about good practice in procurement means in practice that the juridical basis of the purchase is the Finnish Decree on Projects that are Not Governed by the Public Procurement Act (342/1994).



This Decree takes account of relevant stipulations of the EU procurement directive. The Ministry for Foreign Affairs also has its own rules and guidelines for procurement in its Manual for the Procurement of Services within International Development Cooperation.

One of the aims in procurement operations is to minimise the the possibilities of corruption occurring by means of detailed instructions, transparency and normally having a evaluation team of several people to assess the offers. Where possible the team is composed of members both from Finland and from the partner country. The basic principles to be observed in procurement are publicity, competition and impartiality ("legal competence"). Efforts are made in procurement to create competition and to treat all the bidders equally and on the same basis of confidence.

A person who deals with an offer; a purchase agreement, or its interpretation, must not have any possible personal interest in it – the person must be "legally competent". According to sections 10 and 11 of the Administrative Procedure Act, civil servants and other government employees are disqualified as not legally competent if they have a relation to or interest in the matter; or part of the matter; such that their ability to make impartial decisions could be impaired. Grounds for disqualification may arise when, for example, a decision is being made about something in which the individual civil servant involved, or a close relation of that civil servant, is an interested party. A civil servant is likewise disqualified if the outcome of the decision could be of particular benefit or detriment to him or her. And civil servants are also disqualified as a general rule whenever there is lack of confidence in their impartiality for other particular reasons. Civil servants and other employees must themselves take care not to become involved in dealing with any matter for which they are disqualified on grounds of possible partiality.

In practice such circumstances of disqualification can arise, for example, in bidding situations. A member of an evaluation team, or a near relative, might be a shareholder in a company involved in the bidding, or a person who is proposed may be a relative or associate of a member. In such cases the member in question must abstain from dealing with the matter.

Cases when bidders are disqualified include those in which it is found that they have given essentially false information. If bribery or attempted bribery is discovered at any stage of a purchasing operation the offer is immediately rejected.

According to the law on openness and right of access, all the offers that were made are to be published when the agreement has been signed. After this all who wish may see the documents relating to the bid and the offers made by other companies. An interested party, for example a bidder, has a broader right to receive information than that of general access. As a general rule information about all the relevant documents that affected the making of the decision must be made available to interested parties after the bidding has been resolved and the purchasing decision made. Document details that



must not be disclosed, for example commercial and professional secrets, are of course exempt from publication. Nevertheless it is very seldom that the information in bidding documents falls into the category governed by commercial or professional secrecy. This wide-ranging approach to openness and freedom of access aims at strengthening public confidence in decisions made by administrative authorities.

B) Purchases made by cooperation partner countries

More and more it is the cooperation partner country that undertakes the purchasing connected with development cooperation. Procurement by the partner countries will become even more common in the future because with increasing programme and other sector assistance partner countries will come to be responsible for almost all project implementation. Inter-governmental agreements also commit the partner country to observing good purchasing practice and jointly agreed principles in procurement.

Good purchasing practice is a general concept, the most important elements of which are impartiality and the ensurance of competitive bidding in procurement operations. When the partner country is responsible for purchasing, that country follows its own purchasing regulations. If the country has no laws or regulations of its own about public procurement, it can be agreed that it will conform to the purchasing rules of, for example, Finland, the EU or the World Bank. In that case, too, the requests for bids and purchasing agreements must contain clauses whereby a bid will be rejected or a possibly finalised agreement cancelled if the other party or its sub-contractors have resorted to bribery to obtain the agreement, etc. The party that is guilty of bribery is also obliged to compensate the other contract party for any loss or damage arising from the rejection of the bid or cancellation of the agreement.

When Finland provides financial assistance to a cooperation partner country, it is the partner country that undertakes the purchasing. In this case Finland has the right to see all the documents relating to the purchases.

6.1.2 Agreements between the Ministry for Foreign Affairs and consulting companies and others involved in project implementation.

According to the agreements made with consulting firms and other companies, the consultant's activities must conform to the laws of the cooperation partner country and respect that country's customs. Issues related to the agreement are settled according to Finnish law. According to the consultancy agreements, as well, the consultant must conform to the inter-governmental agreements concerning the project. This means that the consultant's activities must be in line with the general principles of development cooperation, including the promotion of good governance.



The consultant's work plays an important part in the implementation and success of a project. The consultant functions as a liaison person or organisation between Finland and the cooperation partner country, and it is essential that the consultant is committed to the objectives of the cooperation. The consultant is also an expert in project administration who can see if something in the project is not progressing as it should.

Large sums of money transferred between Finland and the partner country in development cooperation are traditionally channelled to the partner country through the consultant company. The agreement between the consultant and the Ministry for Foreign Affairs makes the consultant responsible for making sure that development cooperation funds are properly administered. At the end of each calendar year the consultant must provide the Ministry with an auditor's statement that the funds have been administered in accordance with good accounting practice and that the costs invoiced to the Ministry have been incurred by performing the tasks required by the agreement.

If it is agreed that the consultant is to procure goods for the project under the terms of the consultancy agreement, the consultant too must include anti-corruption clauses in the request for offer and the contract. A clause to prevent misuse of funds is also included in the consultancy agreement so that the Ministry or the partner country can cancel the agreement if the consultant or a sub-consultant has given bribes or other forbidden incentives that are seen or could be seen as corruption. In such cases the consultant must compensate the Ministry for any loss or damage incurred. Bribery of a Finnish civil servant or a civil servant from another country is a criminal act under the Penal Code and involves criminal liability. (For more details see section 5.3.2 above, "Giving bribes".)

6.1.3 Administrative procedures for investigating suspected corruption

If something is not as it should be in a project or programme, or if cases of obvious misuse of funds are found, there are a variety of steps that can be taken. The choice of measures depends on how widespread and how serious the malpractice is. It also depends to some extent on whether the person who is guilty of corruption is Finnish or foreign and whether it is a question of an official or someone working on the project in a private capacity. Similarly, the steps that are required when there is only strong suspicion of malpractice without hard evidence cannot be the same as the steps required in cases of clear and indisputable bribery or other corruption.

Development cooperation is a part of Finland's foreign policy and accusations of corruption cannot be made against another country without strong grounds and careful consideration.



Strong suspicions, without clear evidence

It is notoriously difficult to prove corruption. Instead of direct proof, however, it can often be shown that:

- Purchases prices are higher than average
- The quality of purchases and operations is low.
- The project's accounts are unclear and badly documented
- The project's accounts are behindhand and incomplete
- Project resources have been used for other purposes than those that are important for carrying out the project
- The people who have been selected for the project do not possess the best possible expertise

If corrupt behaviour is only suspected and there is no direct evidence, it is possible to act as follows:

- When representatives of the Ministry for Foreign Affairs visit the project or programme to see how it is progressing, they can emphasise the issues that Finland considers to be important. At such times it is natural to express concern about matters that are not going according to plan. Particular weight can be laid on the importance of regular and comprehensive reporting.
- An active process of publicising the project, and particularly its aims, can be started up in the partner country itself. The Finnish mission in the country concerned can look after the spread of information, or a consultant can be engaged for this purpose. The purpose of such publicity is to engage local people's interest in the project and to strengthen social controls on the civil servants and politicians who are responsible for it.

If corruption cannot clearly be shown to exist in a project but nevertheless audit reports or other outside evaluations seem to show that the project's resources seem to be employed ineffectively (for example in the choice of personnel, the use of administration models that are susceptible to corruption, or dubious purchases) the appropriateness of the various factors involved in the project can be evaluated by normal project administration routines:

- Concern about the progress of the project should be voiced at the annual meeting of the Supervisory Board. Suggestions should be put forward as to the corrective measures required. If necessary an independent investigation can be set in motion or the timetable for an interim report or evaluation speeded up.

On the basis of the investigations the project document that rules the project can be changed and in more serious situations the project can be run down more quickly.



Strong suspicions that can probably also be proved

If there are very strong suspicions of corrupt activity, or if the cooperation partner country is unable to account for the use of funds in the way agreed, the following actions can be considered:

- The sending of an official letter concerning the situation with a request for clarification of the disquieting state of affairs.
- If the letter is not answered in a satisfactory fashion the Finnish mission in the country can request the responsible ministry to take action, for example by arranging a meeting of the project's or programme's Steering Committee on the subject. At the meeting the mission's representative can refer to the agreement and call for a special audit of the matter. Whenever possible the special audit should be carried out by the state auditing authorities of the government concerned, especially if the issue concerns the activities of government officials. If there is some particular reason for not using the government's special auditors, a reliable auditing company may be chosen from the country concerned, or, as the final alternative, from Finland or another country abroad.
- The carrying out of an audit.
- If it becomes evident in an audit that there has been some malpractice, the cooperation organisation must first be granted the possibility to correct the abuses that have occurred. The authorities of the partner country must commit themselves to proceeding against those who are guilty of corruption, either in the courts or in some other effective way. If the partner country does not wish to rectify the situation, Finland has the right under the inter-governmental agreement to suspend its financing of the project or programme, or its other inputs, or even the whole project, until the problematic issues are remedied.
- If there is no desire to take steps that affect the entire project or programme, for example when some individual working with the project is guilty of corruption (one of the partner country's civil servants, for instance), Finland can propose that the partner country takes steps against the individual concerned. The partner country should then demand that the guilty party returns the missing funds or if necessary dismiss the individual from his post. The principle of good governance to which the cooperation partner country is committed gives Finland the right to intervene in another country's internal affairs.
- If the party who is guilty of malpractice is an employee of the consultant that has made the consultancy agreement with the Ministry, or stands in the relation of sub-consultant, Finland can refer to the clause of the agreement which gives both Finland and the partner country individual rights to demand changes in personnel by informing the other party of this.



Consultants who provide support services are in a good position to notice cases of malpractice. Nevertheless a consultant suffers costs and loss of income if a project ends prematurely for reasons beyond the consultant's control. In case of an agreement being cancelled, the Ministry for Foreign Affairs is responsible for the costs incurred by the consultant providing services only within the limits set out in the agreement. The Ministry compensates the costs directly incurred in winding up the project until its cessation. Nevertheless it is in the Ministry's interest to interpret this flexibly and offer the consultant reasonable compensation for loss of earnings. This is an important incentive to help ensure the consultancy company's commitment to taking preventative measures against corruption right from the start.

6.2 MULTILATERAL DEVELOPMENT COOPERATION

When development cooperation agreements are made with international organisations and international NGOs they include anti-corruption clauses whenever the receiver of the assistance is responsible for the purchase of goods and services. Exceptions to this include the United Nations, the World Bank and the WTO, which have their own purchasing regulations, and organisations that are committed to working against corruption. When agreements are made they refer to the procurement regulations of the organisations concerned.

The UN's anti-corruption clauses in procurement and other agreements

A large part of Finland's development cooperation funding is channelled to developing countries through UN organisations. Both Finland and the UN try to ensure that the funds are used for the purposes for which they are intended.

Agreements between Finland and UN organisations include a condition that funds must be used according to the agreement. They also include a condition whereby purchases are to be made in conformity with good procurement practice.

Almost every UN organisation has its own procurement regulations that set out rules for purchasing procedures. The purchasing rules for particular organisations are to be based on the UN's general principles for procurement as laid down in the manual *General Business Guide for Potential Suppliers of Goods and Services with Common Guidelines for Procurement by Organizations in the UN system* (20th ed., September 2001). The UN's general procurement rules do not separately specify rules whose purpose is to prevent corruption. Nevertheless the principles aim at establishing good and corruption-free purchasing procedures.



According to the UN's general procurement principles, purchasing is to be based on:

- Integrity (non-corruption), impartiality and openness which is to be achieved through competition
- Economy and efficiency
- Efforts to obtain the best possible value for money

Offers must be treated impartially. All UN employees who participate in purchasing procedures must be uncorrupted. They may not abuse their position, for example by advancing their own interests. Any party making an offer who knowingly provides false or misleading information is disqualified.

The World Bank

In projects funded by the World Bank, the receiver of the loan is responsible for preparing and implementing the project and thus for procuring the goods, consulting services and other purchases associated with the project. The Bank is responsible for monitoring the procurement process and making sure that the funds are used for their intended purpose. For this reason the Bank has guidelines for procurement and consulting, including rules about procedures for purchasing and, selection of consultants and about the supervision of those procedures. The Bank's procurement and consulting guidelines are rooted in purchasing being an open procedure and based on bidding competition. An important aim of these guidelines is to protect the projects financed by the Bank from corruption.

The procurement and consulting guidelines also contain a separate section about corruption. The Bank's policy requires that the receivers and beneficiaries of loans maintain the highest possible ethical standards in procurement and in implementing agreements concerning purchases. According to this policy the Bank can, for example:

- cancel the portion of the loan allocated to a consultant or for other purchases if it at any time determines that corrupt practices were engaged in by representatives of the borrower or of a beneficiary of the loan, without the borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation.
- require that, in contracts financed by a Bank loan, a provision be included requiring consultants, suppliers and similar parties to permit the Bank to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the Bank.

In October 1988 the World Bank established a telephone hotline which both the general public and the Bank staff can use anonymously to report allegations of fraud and corruption within the World Bank or in connection with Bank-financed projects.



7 International agreements and recommendations

7.1 OECD ANTI-CORRUPTION RULES

The anti-corruption activities of the Organization for Economic Cooperation and Development also, as the name suggests, very much concern development cooperation and related projects.

In May 1996 the OECD Development Assistance Committee (OECD/DAC) approved a recommendation, DCD/DAC (96) 11/Final, whereby member countries should take into use, or require the use of, anti-corruption rules in procurements made with development cooperation funds. The DAC also recommends that member countries encourage the proper implementation of anti-corruption clauses and draw the attention of multilateral organisations to the importance of acting in conformity with their anti-corruption rules.

In accordance with the OECD/DAC recommendation, anti-corruption clauses are included in all Finland's development cooperation intergovernmental project and programme agreements and procurement documents. In drawing up the recommendation it was emphasised that by including such clauses in development cooperation agreements there is no intention to imply actual malpractice in the other party to an agreement, but the aim is to strengthen the party in the joint effort to fight corruption.

In 1997 the OECD Council adopted a recommendation on action against corruption in international commercial transactions. This recommendation requires, in the same way as the OECD/DAC recommendation, that anti-corruption clauses are used in agreements concerning bilateral projects financed with development cooperation funds.

In December 1997 the member countries of the OECD signed a Convention on Combating Bribery of Foreign Public Official in International Business Transactions. In addition to the OECD member states the convention has been signed by 5 non-member states (Argentina, Brazil, Bulgaria, Chile and the Slovak Republic, of which the Slovak Republic has since become an OECD member). The convention came into force 15.2.99 both for Finland (SopS 14/1999) and internationally.

When the convention was drawn up it also took account of the above-mentioned OECD Council recommendation against corruption which demanded effective action to deter, prevent and combat the bribery of foreign public officials and particularly to criminalise such bribery in an effective way.



Agreement on the convention was driven by a real need to deal with the powerful threat that bribery of foreign officials in international business poses to the development, good governance, economic growth and democratic institutions of societies based on the rule of law. One important effect of the convention is that it imposes a duty on the signatory countries to criminalise bribery directed at foreign officials. In many countries legislation about bribery only concerned the countries' own officials. One of the aims of the convention is to coordinate the laws of different countries to eradicate the bribery of authorities and civil servants that arises in international commerce.

According to the convention it must be made a criminal offence for any person intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties. It must also be a criminal act, for example, to give a bribe in order to obtain a desired business relation.

The convention also stipulates that if a person, company or other legal entity with rights and obligations cannot be brought to justice, the signatory country is to make other effective and sufficient arrangements for punishment, such as imposing economic sanctions on a company involved.

The convention further stipulates measures other than those under criminal law that a signatory country must take in order to prevent and combat corruption in an effective manner. Amongst these should be mentioned the most effective use possible of the agreement for mutual legal assistance and other arrangements for investigating bribery offences in those countries and bringing the guilty parties to justice, the rules for extradition and the requirements for openness and candour between the signatory states. The convention also requires the signatory countries to take whatever measures are necessary within the frameworks of their accounting laws and regulations to prohibit companies within their jurisdictions from, for example, recording non-existent expenditures for the purpose of bribing foreign public officials or hiding such bribery.

When adopting the convention, Finland modified its own penal code so that the offence of bribery was extended to cover the bribery of foreign public officials. In other respects Finnish laws are considered to correspond significantly and widely to the respective regulations of the convention.

The convention's prohibition of bribery also means that as far as the recipient is concerned the giving of bribes at the international level is forbidden and is not acceptable in making business agreements. Initiatives have also been formulated in the OECD concerning the party who receives a bribe, such as the initiative concerning guidelines for ethical behaviour in public administration.



7.2 EU ANTI-CORRUPTION MEASURES AND AGREEMENTS

In the EU's anti-corruption work emphasis is placed on the criminal aspects of corruption and the EU's rigorous attitude towards bribery as a crime. For example the EU protocol and convention of 1997, on the fight against corruption involving officials of the European Communities or officials of the Member States of the European Union, require that the acceptance of bribes by European Community officials, national officials and officials of other member states, and the offering of bribes to these officials, must be made criminal offences in the national criminal codes of each of the member states. Finland approved the EU Convention in 1998. The Convention is, however, not yet in force in Finland or internationally. According to Finland's Penal Code the criminalisation applying to giving and receiving bribes also applies to people in the service of the European Union and to officials of other member states.

In 1997 the European Commission issued a Communication to the Council and the European Parliament on a Union Policy against Corruption that applies both to the EU and to its relations with other countries. The Union's programme of action aims at the implementation of anti-corruption programmes in the countries outside the EU with which the EU cooperates and has aid agreements.

There are anti-corruption clauses in agreements between the EU and third countries. For example the Council's decision of the year 2000, about the cooperation agreement between the EU and the African, Caribbean and Pacific (ACP) Countries, notes that the agreement concerns commitment to good governance as a fundamental element of cooperation and also to a discussion process in cases of serious corruption. Under the agreement its application may be suspended in part or entirely in cases of serious corruption. Such measures are, however, only for use as a procedure of last resort in cases of corruption. Agreements between the EU and individual third countries also contain anti-corruption stipulations.

7.3 COUNCIL OF EUROPE CONVENTIONS

Finland has ratified the 1999 Council of Europe Conventions on corruption, both the Criminal Law Convention on Corruption and the Civil Law Convention on Corruption. The Criminal Law Convention came internationally into force 1.7.2002 and shall come into force for Finland 1.2.2003 (SopS 107-108/2002). The Civil Law Convention is not yet in force in Finland or internationally. It becomes effective only when 14 states have ratified it.

The Criminal Law Convention on Corruption emphasises that corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development, and endangers the stability of democratic institutions and the moral foundations of society.



The aim of the Convention is to criminalise bribery very widely in its different manifestations. The Convention covers bribery both in its active forms (the promising, offering and giving of bribes) and in its passive forms (the requesting or receiving of bribes). The Convention requires bribery to be established as a criminal offence with regard to both active and passive bribery of the following people: domestic and foreign public officials, members of domestic and foreign public assemblies exercising legislative or administrative powers, officials of international organisations, members of international parliamentary assemblies, and judges and officials of international courts. Bribery in the private sector must also be established as a criminal offence. In addition the Convention stipulates an obligation to establish as criminal offences certain activities connected with abuse of authority (trading in influence), money laundering and accounting offences.

The Convention specifies in further detail the characteristics of active and passive bribery and the substantive contents of the forms taken by bribery.

States that are party to the Convention are required to take the necessary legislative and other measures to ensure that corruption is made a criminal offence and to create effective sanctions. The Convention contains stipulations as to the measures to be taken within the party states against corruption and regarding investigations into corruption, and also stipulates measures regarding judicial cooperation between the states.

When adopting the convention, Finland has modified its own Penal Code for example so that receiving of bribes of the members of parliament is criminalized.

The purpose of the Civil Law Convention on Corruption is to contribute to the means of combating corruption that are available through civil law. The Civil Law Convention concerns the rights of persons who have suffered damage as a result of corruption to obtain compensation for the damage they have incurred. "Each Party shall provide in its internal law for effective remedies for persons who have suffered damage as a result of acts of corruption, to enable them to defend their rights and interests, including the possibility of obtaining compensation for damage." Finland's own present laws are considered to fulfill the Convention's requirements. The application of both Conventions within the member states is watched over by an inter-state group set up in 1999 within the framework of the Council of Europe, the Group of States against Corruption (GRECO). Finland is a member of GRECO.



7.4 UN RESOLUTIONS AND RECOMMENDATIONS

On the international level the most significant project for developing legislation to combat corruption is the UN's effort to create an international legally binding convention on action against corruption by the end of 2003. The objective of developing such a legal instrument is mentioned, for example, in Resolution 55/61 of the General Assembly 4.12.2000. The UN has already adopted a resolution against corruption in 1999 and the Millennium Declaration afterwards officially approved the principle of "good governance" for the first time. The preconditions for the development of a binding legal instrument have thus improved considerably in recent years.

Practical preparatory work in the UN is carried out by a group of experts that reports to the Commission on Crime Prevention, and this in turn reports to the General Assembly. The UN's Center for International Crime Prevention coordinates the work of the group of experts. One important area that the planned legal instrument will deal with is money laundering.

7.5 INTERNATIONAL RECOMMENDATIONS FOR HARMONISING DEVELOPMENT COOPERATION PROCEDURES

The complicated procedures involved in development cooperation, and the different administrative practices that exist alongside each other, provide many opportunities for corruption to arise. The "harmonising" of procedures is one of the most effective means of reducing corruption in the long run.

The recommendations of individual international organisations (such as the EU and the World Bank) have been presented above regarding, for example, procurement and auditing arrangements. "Harmonising procedures" means drawing up recommendations whose signatories include all the more important active parties, for example the OECD, the World Bank, the UN and the EU. International auditing standards provide an example of an internationally approved set of rules. When the majority of countries accept international audit standards it is possible to conduct audits in a way which is reliable and easy to understand.

As far as development cooperation is concerned, the harmonisation of procedures is moving ahead, even if only slowly. The structure of Finnish bilateral development cooperation has been built up in line with OECD recommendations. Nevertheless these recommendations are so loose that they provide a great many possibilities for variation in the planning and implementation of projects.

A concrete example of harmonising procedures is provided by the efforts of the World Bank and regional financing institutions to establish a uniform procurement procedure.



There is the intention to extend the common rules about procurement to cover other aid donors as well. Uniform procurement rules – particularly concerning the procurement of local services – are a great help from the point of view of combating corruption.

One problem with harmonising procedures is the negative influence of international commercial practices on development cooperation. There are many aspects of international trade that feed corruption. Bribery and giving bribes has not absolutely been made a criminal offence. The dismantling of barriers to international trade – especially of the non-tariff trade barriers – for its part reduces the susceptibility of administrative procedures to corruption.

As the harmonising of procedures makes progress in international forums, Finland for its part also aims to put the uniform procedures into practice.



8 Internal auditing in development cooperation

The task of internal auditing is to ensure that development cooperation is conducted according to its aims and does not involve any criminal activity

The main channels of development cooperation are bilateral cooperation, international organisations and development finance institutions, humanitarian aid and NGOs. Until now scrutiny has mainly focused on bilateral development cooperation in the forms that correspond to projects, a heading that also serves to include NGO activities. Other types of inspection as well, the control of sector programmes and targets of attention that have arisen through the EU, fall within the sphere of internal auditing.

Auditing responsibilities normally involve auditing the administration, functioning and finances of projects at the consultants' premises in Finland, but may in certain cases also involve audits of the actual projects themselves in the countries where they are being implemented. Finland's development cooperation activities are based on partnership and the developing countries' responsibility for their own development. Administration and bookkeeping should thus be integrated with the partner country's own systems. This means that the country concerned must be familiar with administrative routines and international accountancy practice, must know about possible corrupt practices, and must be ready to take countermeasures.

Internal auditing is an independent and objective process of evaluating, checking and consulting that brings added value to an organisation and improves its performance. At the same time it helps the organisation to achieve its goals by providing a systematic approach, in this case to the development cooperation department, by evaluating risk management and the effectiveness of supervisory and administrative processes and by proposing development models. Internal audits should also investigate and evaluate the adequacy and efficiency of monitoring systems and the quality of the work being carried out. The aim of investigating the adequacy of the internal monitoring system is to find out whether the system that has been created sufficiently ensures that the organisation will achieve its goals and objectives.

Internal auditing requires professional care and precision so that cases of wrong procedures, negligence, inefficiency, waste and inappropriateness can be discovered. The physical performance of auditing tasks is carried out either by an evaluation and internal auditing unit or by an outside firm as a special operation, or, in certain cases, by VTY, the supervision and auditing unit of Finland's Ministry for Foreign Affairs.



In addition to those connected with the organisation itself, the most important bodies with an interest in the internal auditing of the Ministry's development cooperation department are the state auditors chosen by Parliament, the State Economy Comptroller's Office, the Advisory Board for Relations with Developing Countries (KESU), universities and research institutes, and the project implementers and companies associated with development cooperation.

Development cooperation is also the object of outside audits. Government auditors can look at the activities of development cooperation projects if they so wish in order to ensure that Finnish state funds are being used as they should be.



9. Training officials and consultants in anti-corruption work

To prevent corruption effectively both officials and consultants must be fully informed about the legal obligations involved and must be able to implement them in letter and in spirit. This means that training is required.

Preventing corruption, discovering it and dealing with the cases that arise, calls for the officials concerned with development cooperation and the parties involved in implementing it (the consultancy firms) to receive the necessary training. Training can to a great extent be arranged by making use of the instruction facilities that are already available, expanding them and topping them up.

Providing information

Information about the measures to be taken to prevent corruption that are the subject of this handbook should be comprehensively disseminated. Information must not just be in written form, but backed up with, for example, short seminar-type presentations in the Department for International Development Cooperation, and similarly in missions abroad. Representatives from consultant companies can take part in such seminars as well as the staff who look after development cooperation.

Training development cooperation staff in Finland

Instruction in anti-corruption work can be included as part of the development cooperation training that Finland's Ministry for Foreign Affairs provides for new entrants to official service, for example in the International Affairs Training Course (KAVAKU) and in the Basic Course for Civil Servants (TOIVI).

It would be particularly useful to make the prevention of corruption form part of the further education curriculum in general financial administration and project management. This supplementary teaching would concentrate on the practical implementation of the guidelines laid out in the handbook.



Training staff in missions and consultants abroad

The staff of missions and consultancy companies engaged in development cooperation work abroad can be trained by, for example, arranging regional training. Such regions would be Africa, South America, and the Middle East and Asia, and teaching would be arranged in cooperation with the missions in the area. The courses would include the main aspects dealt with in the anti-corruption handbook as well as financial and project management. The aim would be a practically orientated approach to the prevention of corruption. The number of people to be trained could be limited by making the trainees responsible for ensuring that the information they receive is passed on to others. In any case key staff should be allowed to take part in the training opportunities.

The issue of corruption can also be included on a general level in the programmes of regional conferences and such occasions as Ambassadors' Days and middle management meetings and seminars. It is not, however, possible to deal with corruption deeply or on a practical level in such regional conferences or other meetings on different or general themes.

Training Finnish experts going to work in development cooperation abroad

Prevention of corruption can be included in Finland's VALKU training programme for Finnish experts who are going to work in development cooperation abroad and for staff in the missions in developing countries. The goal would be to teach everyone who* is moving to take up development cooperation work. The training units of the Department for International Development Cooperation and the Administration Department of the Ministry could take part so in arranging that the necessary staff members attend the courses.

Training for NGOs

NGOs have become aware of the need to acquire further training in the financial management of projects and in the prevention of corruption. The NGO unit of the Department for International Development Cooperation can for its part coordinate and support the necessary training to meet these needs.



Appendix I:

Resource bank of guidelines for preventing corruption held in the Department for International Development Cooperation of Finland's Ministry for Foreign Affairs.

Policy statements

- Policy statement on Finland's development cooperation 15.10.1998
- Decision in Principle on development cooperation 12.9.1996
- Policy objectives concerning developing countries in the implementation of Finland's development cooperation. Government Resolution 22.2.2001

Administrative and financial frameworks

- Operational and financial plans of the Ministry for Foreign Affairs
- Budget for the Ministry for Foreign Affairs

Binding general administration instructions

- Rules and norms for financial administration and invoicing
- The Ministry for Foreign Affairs' financial regulation (norm 21)
- Guidelines for preparing Finland's cooperation negotiations with developing countries (HELD 2630-4/4.6.2001)
- Handbook for development cooperation agreements (HELD0274-2/26.8.2002, norm 21/2002)
- Guidelines concerning the publication of development cooperation administration documents (HELD 2692-24)

Instructions for specific applications

- Economic, Industrial and Technological Cooperation (The Ministry for Foreign Affairs' collection of regulations, No. 7/15.4.1996)
- Projects and programmes
- Programme Planning and Monitoring
- Manual for Procurement of Services within International Development Cooperation (12.12.2001, norm 25/2001)
- Standard terms for the payment of fees and reimbursement of costs (1.3.1987, revised version 15.5.1995)
- General Conditions for Consulting Services provided by firms, companies and corporations in the field of development cooperation (1.6.1998)
- Funds for Local Cooperation (HELD2662-32/16.7.2002, norm 18/2002)

Binding agreements concerning individual cases

- Agreements concerning procedures
- Agreements concerning individual projects
- Consultancy agreements, including project documentation
- Agreements concerning financing

Guidelines in the form of recommendations

- Guidance manuals ("Navigators") for each main objective
- Individual sector publications
- Financial management manual (in progress)
- "Overcoming Corruption" handbook
- Process descriptions for development cooperation management (in progress)



Appendix 2:

Preventing corruption in bilateral projects throughout the project life cycle

	Task	Potential problem	Principal / responsible party
Country programming	Monitoring indicators of corruption	Susceptibility of country's administration to corruption	Geographical Region Division
	Monitoring state financial balances and the predictability of economic planning	Weak budget discipline, fungibility of aid funds	Geographical Region Division
Project planning	Impartial drawing up of project documents	If the rules for excluding legally incompetent interested parties are not respected, competition will not be fair and open	Geographical Region Division
	Locating committed implementers; clear denomination of responsibilities	The parties chosen may put private interests above the common interest	Project planners
	Preparing budgets	A budget that is not strict enough may later give rise to over-pricing	Project planners
	Clarity and validity of plans	If there are insufficient indicators as to progress and results, the project plan is not binding on consultants and implementers	Project planners
	Auditing and inspection of operations	The preconditions or resources for auditing may not exist	Project planners
Bidding competition and project agreement for supporting services	Open competition for consultant's supporting services	Bribery of the competition assessors	Geographical Region Division; bidding competition assessors
	Drawing up the project agreement	Understanding by all parties of the consequences of the project agreement's anti-corruption clauses.	Geographical Region Division
Project implementation	Efficient supply of equipment	Procurement procedure not ensuring competition	
	Ensuring competition between subcontractors	Procurement procedure not ensuring competition	
	Management of authorisations, licences, taxes and insurance	Corrupt administration in the partner country or the consultancy company	Local officials
	Financial administration	Possible abuses of weaknesses in financial administration	Project consultant and implementer
	Auditing	Auditing not carried out properly Project consultant and implementer; supervisory responsibility of the project's	Supervisory Board



Appendix 3:

External auditing of bilateral projects

Finland's Ministry for Foreign Affairs is the appropriate authority that approves the proposed auditors.

The matters that are to be audited must be clearly defined. An example of an audit's terms of reference follows below. The audit must include both a financial assessment (that the accounts are in order) and a physical assessment (that the purchases for the project have actually been acquired and that the project's assets are well looked after.) The audit must also include an assessment of efficiency (that the inputs to the project are of high quality and applied in the most important areas from an operational point of view.)

It is possible to stipulate that the field of the audit be restricted to cover only part of the project operations. In this way the inconvenience and cost of the audit can be kept within bounds.

On the other hand the audit can be further extended to cover the operations of the implementing organisation over and above the resources directly related to the project. This is justifiable on two grounds. Firstly, the implementing organisation may use both project resources and its own in such a way that it is difficult to distinguish the project resources separately. Secondly, an audit of the implementing organisation is the only way to be sure that inputs into the project have not been invoiced twice, for example that a car is not invoiced both to the project and to the implementing organisation itself.

The audit report must be dealt with at the project's highest management level, by the Supervisory Board or the Steering Committee. Deficiencies brought to light in the audit must be rectified immediately.

The audit report must be clear and easily comprehensible. It must provide sufficient information to make the conclusions drawn easily verifiable. It must provide facts for the people responsible for the project's financial management to learn from and be guided by. Auditing is thus not just a means of control but also a means of strengthening capacity.

AN EXAMPLE OF TERMS OF REFERENCE FOR A PROJECT AUDIT

These terms of reference constitute a model as regards the demands of the Ministry for Foreign Affairs (MFA) on accounting requirements, external audits, and internal control that needs to be carried out with reference to the Finnish development assistance funds.



MFA recommends that both MFA and the partner country take all steps necessary to ensure that laws, rules and practices with respect to accounting requirements, external audit and internal controls are in line with the following principles and are fully used in order to prevent and detect corruption in the management of development projects.

Adequate Accounting Requirements

- (i) MFA and the partner country must ensure that the project maintain adequate records of the sums of money received and used, identifying transactions in respect of which the receipt and expenditure takes place. In addition, a provision should be established that explicitly prevents the establishment of off-the-books accounts and the making of off-the-books transactions.
- (ii) Both MFA and the partner country should adequately sanction accounting omissions, falsifications and fraud.

Basic terms of reference

I. BACKGROUND

(Describe the programme in its current situation)
(List the key documents for directing the programme)

2. THE OBJECTIVES OF THE INDEPENDENT EXTERNAL AUDIT

The auditor is expected to give an independent view on how the funds disbursed by the financing parties have been accounted and utilised. The opinions on the project financial statement regarding compliance will be used as a tool by programme coordinators, MFA and partner country in meeting their responsibilities that the project funds are spent for intended purposes and in accordance with laws and regulations.

The terms of reference presented here are not intended to be a complete manual of procedures, nor are they intended to supplant the auditor's judgement of the work to meet the audit's objectives. These terms of reference may not cover all circumstances encountered while performing the project-specific audit, and similarly not all procedures will apply to every situation. Auditors must use their professional judgement in determining the work necessary to provide the required opinions.



3. THE SCOPE OF THE ASSIGNMENT

3.1 Responsibilities of the auditor

The independent audits and examinations should find out, and provide professional information, assurance, and advice, whether:

- Financial procedures, transactions, vouchers and reports of collecting, spending or accruing donor funds are valid and done according to related effective financial and accounting rules, regulations and systems.
- The final account reports and financial statements of the project are valid, objective and represent the status of the project for the year under audit.
- Appropriate and adequate corrections and control has been taken by the management of the project to check any corruption or misuse of project funds under their authorities.
- The financial and administrative rules, regulations and systems are adequate,
- appropriate and effective.
- The management and delivery of project are conducted economically, effectively and efficiently.

3.2 The auditor's work

The auditor conducts the following audits:

- Checking and reviewing the transactions and operations of the project to recognize whether the project are meeting their obligations under the effective financial, accounting, and administrative laws, rules, regulations, and systems;
- Expressing an opinion on the projects of financial, accounting, auditing or administrative laws, rules, regulations and systems.

3.2.1 Project asset management

Suggested Examination Procedures

- a. Check that the programme has a fixed asset system to identify equipment purchased, including the source of funds for the equipment, location, cost and other relevant information.
- b. Check that a physical inventory is conducted every year.
- c. Check the disposal of project-funded equipment during the award period, and determine whether disposition instructions were followed.



3.2.2 Procurement

Suggested Procedures

- a. Review the project/partner country written procurement policies. Verify that the policies comply with MFA requirements. If the previous project specific audit did not reveal any problems with the project/partner country's procurement policies, then examine only changes to those policies since the last audit.
- b. Test a sample of procurement transactions. Determine whether the information available has adequate detail to document the significant history of the procurement, including the rationale for method of procurement, selection of contract type, contractor selection or rejection, and the basis of contract price.

3.2.3 Financial reporting

Suggested Examination Procedures

- a. Test that required reports are filed on timely basis.
- b. Obtain an understanding of the partner country procedures for preparing and reviewing the financial reports and the request for advance or reimbursement.
- c. Select a sample of financial reports and requests for advance or reimbursement to determine that the reports are prepared according to the given accounting instructions. For the sample, trace significant data to support documentation (for example, summary worksheets, ledgers, etc.) and determine all material differences between financial reports and the project accounting records.
- d. Review the project's system for monitoring payment requests from employees and other recipients.
- e. Review significant adjustment made to the general ledger accounts or other accounting records affecting the project evaluation.

3.2.4 Internal project control

MFA and the partner country should encourage the development and adoption of adequate internal project controls, including standards of conduct. MFA and the partner country should encourage the programme to make statements in their annual reports about their internal control mechanism, including those, which contribute to preventing corruption.

MFA and the partner country should create monitoring bodies independent of the project management such as the supervisory board. MFA and the partner country should encourage the provision of channels for communication by, and protection for, persons not willing to violate professional standards or ethics under instruction or pressure from hierarchical supervisors.



The auditor should analyse whether adequate internal project control is in place.

3.2.5 The relevance and cost-effectiveness of the project expenditure

The auditor is expected to assess whether the funds have been used for activities that are in line with the stated project objectives.

The auditor is expected to analyse whether the costs for achieving the expected results are reasonable.

(Since the analysis of relevance and cost effectiveness is a demanding and time-consuming task, the scope of the analysis can be limited to some specific activities.)

4. REPORTING THE AUDIT RESULT

The auditor produces several audit reports, the nature and contents depending on the nature of audit objectives and tasks and the type of audit and the requirements of the competent authorities. The auditor produces the following audit reports:

- Reports of project audit results submitted to the representatives of competent authorities,
- Reports of fraud or financial and administrative corruption audits results submitted to the competent authorities, to be forwarded to the judicial or concerned parties or authorities when appropriate,
- Other auditor reports of different public issues that the auditor sees to be relevant to the project submitted to the concerned parties as agreed upon in the contract.
- Timetable for reporting:
(Date)
(Number of copies)
(Language understood by both parties. Usually English)

5. MANDATE

The mission is entitled to discuss any matter relevant to its assignment. However, it is not authorised to make any commitments on behalf of the Government of Finland.



Appendix 4:

Some common abbreviations

- ADB: Asian Development Bank
- ACP countries: A group of 71 African, Caribbean and Pacific countries with which the EU has made a development cooperation agreement.
- CG: Consultative Group is a consultative group of donor countries that are invited together by the World Bank to discuss development assistance strategy and finance.
- CPI: Corruption Perception Index is Transparency International's annual list of perceived corruption levels in different countries.
- DAC: Development Assistance Committee, the OECD's development aid committee
- OSCE: Organisation for Security and Cooperation in Europe
- GRECO: The Group of States against Corruption
- IDA: International Development Association
- IDB: Inter-American Development Bank
- IMF: International Monetary Fund
- HOMS (meetings): Heads of Missions representing EU countries
- KESU: Finland's Advisory Board for Relations with Developing Countries
- ODA: Official Development Assistance, fulfilling criteria drawn up by OECD/DAC
- OECD: Organisation for Economic Cooperation and Development
- OAS: Organisation of American States
- PACT: Programme for Accountability and Transparency
- PRSP: Poverty Reduction Strategy Paper
- SPAI: Stability Pact Anti-Corruption Initiative
- TI: Transparency International
- UNDP: United Nations Development Program
- WTO: World Trade Organization



Appendix 5:

Anti-corruption policy guidelines adopted by Finland's Department for International Development Cooperation

5.12.2001 the Steering Group of Finland's Department for International Development Cooperation approved the following policy guidelines on the main ways of working to combat corruption:

1. Finland aims to harmonise laws and administrative regulations through common international recommendations. Finland plays an active part in the development cooperation work of international organisations, especially the UN and international financing institutions, whose aim is the prevention of corruption international and national levels.
2. Through bilateral dialogue Finland influences the combating of corruption, ascertaining both positive and negative development trends.
3. In preventing corruption in the public administration of partner countries, particular attention is paid to the organs of law and order and the system of financial administration.
4. The planning of projects and the rules concerning procurement contribute to the prevention of corruption. At the implementation stage of projects more attention than ever is paid to financial management and auditing. Properly functioning and reliable financial administration is a necessary condition for participation in sector programmes and poverty reduction programmes (including budget support).
5. The activities of Finnish officials and companies providing support services are regulated by the laws of Finland. Finland's means of preventing corruption in development cooperation and dealing with cases arising are based on the laws referred to, international law and both state and private sector agreements. These means are used in cases where there is a need to intervene regarding corruption.
6. Instruction in the prevailing laws and regulations is to be arranged for the staff of the Ministry for Foreign Affairs, and interest groups linked to it. The International Development Cooperation Department's Unit for Sectoral Policy is arranging appropriate teaching material.

I THE STARTING POINT

Traditionally corruption has been opposed by short-term means and case by case. Nevertheless there has been an increasingly clear understanding in recent years of the great damage corruption causes to the development of individual societies and to the international economic system. There is a need to develop long-term means to grapple with the structures of society that enable corruption to exist.



In international comparisons Finland has shown itself to be one of the least corrupt countries. Finnish public administration has been able to operate exceptionally effectively and transparently both with companies and with the elected representatives of Finnish society, in a way that creates confidence and social stability. Finland's own achievements provide a good starting point in the field of active international anti-corruption work.

These policy guidelines provide an outline of anti-corruption measures in use in Finland's International Development Cooperation Department. The guidelines are based on an analytic review and teaching material being prepared by the International Development Cooperation Department's Unit for Sectoral Policy, in which the various components of anti-corruption work are dealt with in more detail.

II DIFFERENT LEVELS OF ANTI-CORRUPTION WORK

Anti-corruption work comprises five different levels:

- 1) Support for international organisations and participation in drawing up international agreements and recommendations.
- 2) Political dialogue
- 3) Projects in developing countries that focus on preventing corruption
- 4) Anti-corruption action in development cooperation projects
- 5) Improvement of development cooperation procedures and personnel skills

1) Support for international organisations and participation in drawing up international agreements and recommendations

Finland takes part in drawing up multilateral agreements and international recommendations through the OECD, the Council of Europe, the European Union, the UN and international development financing institutions. The changes in legislation required by the agreements are followed, and efforts are made to implement the changes in administrative regulations required by the agreements and recommendations as quickly as possible.

Finland has given active support to initiatives to combat corruption put forward by the EU, the UN and international financial institutions. Anti-corruption work was put on a firm footing when the UN approved a resolution to combat corruption, and the whole international system has raised cross-border crime, including money laundering, as an important operational target for action. The UNDP and the World Bank in particular have developed concrete procedures for combating corruption. The UN's Center for International Crime Prevention (CICP) concentrates on developing legal systems, standards and norms.

Finland supports the harmonisation of procedures in development cooperation because this improves the ability of developing countries and donors to work reliably and predictably as development cooperation partners. Finland also tries to implement changes in administrative regulations resulting from harmonisation as quickly as possible.



Means:

- a) Rapid handling of international initiatives. Keeping legislation and administrative regulations up to date.
- b) Supporting the more important international institutions that concentrate on combating corruption. The most effective of these is Transparency International (TI), an NGO that concentrates entirely on anti-corruption work.

2) Bilateral dialogue

In bilateral dialogue it is possible to express concern about the possible diffusion of corruption and its effect on society. Calling attention to both positive and negative developments constitutes a natural part of such dialogue. It is the task of the Finnish mission to be well informed and take part in discussions about the incidence of corruption in the country.

Means:

- a) Systematically drawing attention to corruption, with backing evidence, in the discussions about cooperation that are held with partner countries. Evidence in this connection can be, for example, TI's corruption index, independent assessments of public administration, and court cases dealing with major corruption. It is particularly important to follow developments from the previous cooperation negotiations to the present in order to establish the actual trends.
- b) Giving political support to the government leaders who possess a high degree of integrity.
- c) Actively taking part in the meetings of EU Heads of Missions and Delegations (HOMS) in partner countries and thereby raising the prevention of corruption on the agenda of discussions between the EU and the partner countries.
- d) Actively participating in policy-level forums like the Consultative Group, which are country-specific but draw many interested parties together, and bringing the prevention of corruption forward on their agenda.

3) Projects in developing countries that focus on preventing corruption

Finland supports projects that use various instruments to promote good governance, administrative transparency, efficiency in public administration, and the basic economic rights of citizens. It is normally appropriate to channel support to projects at the national level through multilateral parties in a coordinated way. Since many different types of projects are involved, the donor country must set out its own criteria as to the kind of projects it sees as being feasible and sustainable.

Means:

- a) Developing functioning national public administration organs in developing countries alongside the prevention of corruption. The first priority should be given to the main organs of government administration (the judicial system, the police and



- state auditors) and the prevention of corruption arising within them. Only after people's confidence in these "law and order" organs has been established can anti-corruption measures lead to sustainable improvement in the situation.
- b) Supporting special bodies that are founded to combat corruption (anti-corruption committees) when their programmes are realistic and based on clear commitment from the government.
 - c) Supporting initiatives connected with the development of state financial administration in developing countries. It is most important that the state budget is realistic, comprehensive and reliable. The situation is monitored, for example, in the World Bank's "Public Expenditure Review" and "Country Financial Accountability Assessment" publications. Monitoring and follow-up mechanisms provide an important means of ensuring that funds are used as they should be. In addition, it is important to support the capability of people in the state financial administration and its technical ability. Such support should be directed particularly to long-term projects that improve the country's own ability to evaluate and steer its economy.
 - d) Supporting anti-corruption work in civil society, for example through allocating funds for local cooperation.

4) Anti-corruption action in development cooperation projects

In addition to taking other particular measures, the principles of combating corruption must be followed through transparency in all development cooperation work.

Development cooperation involves the transfer of large sums of money from one organisation to another and from one country to another. It requires relatively complicated administrative arrangements and is thus susceptible to corruption. Combating corruption calls for clear rules and guidelines. And it is still more important that resources are directed to cooperation partners and forms of activity that are known to be able to use those resources legally and appropriately.

"Legally" in this connection means using the resources according to the laws of Finland or the partner country and according to the terms of the cooperation agreement. The opposite of this is corruption in the traditional sense: the use of public funds to further a private interest.

"Appropriately" in this connection means using the resources efficiently and in ways that serve the purposes for which they were originally intended. In discussing the problems of using resources, the question of their proper use is of the first importance. Measured in financial terms, ensuring that resources are properly used is at least as important as weeding out concrete cases of corruption.

**Means:**

- a) At the project planning stage an assessment must be made of the administrative ability of the organisation suggested as a cooperation partner by the developing country. Based on previous experience, is the organisation capable of performing legally and appropriately? Or is its performance affected by special interests, deficiencies in its administrative capacity, defects in its operational strategy or other important problems? Can these problems be kept under control by the resources ensured by the development cooperation programme? If the answers to these questions are negative, there is not enough of a basis for cooperating with the organisation.
- b) Building up a clear and transparent model of administration for the project already at the planning stage. The administrative model must be so clear and transparent that everyone involved can identify the relevant tasks and responsibilities. Moreover the project must have an information strategy that ensures the transparency of operations. A clear and transparent administration model is a precondition for all follow-up of activities.
- c) In cooperation negotiations, support should be directed to sectors and instruments that have shown their ability to reduce corruption in operations.
- d) In national poverty reduction programmes, predictable and transparent financial administration must be required from partner countries as a condition for participating.
- e) In sector programmes, good financial administration must be demanded of the partner country's ministry as a condition for participation, or else it must be possible to build the necessary structures for controlling resources into the project.
- f) In planning bilateral projects, the prevention of corruption must be taken as a conscious starting-point. It is important that sufficient resources be directed to financial administration, procurement operations, auditing and following up in the field of activity concerned. While the project is being put into operation, the monitoring of financial routines constitutes a key part of anti-corruption work. In all bilateral projects yearly reports must be made as part of the overall financial implementation evaluations. At least in the big bilateral projects (for example those involving over 1.6 million euros a year) there must be an annual audit. If the project resources are not used well and there is reason to suspect corruption, something must be done about the problem immediately. Alternative lines of action include an extraordinary review / inspection (in which the appropriateness and efficiency of the project are assessed) or bringing the evidence for the suspected corruption to the attention of the relevant authorities and freezing the project resources.
- g) In cooperation work with NGOs, attention should particularly be paid to the Finnish parties, but also to the institutional ability of the organisation in the developing country to implement projects (supervisory board, financial responsibility, etc.) and to its previous activities. Evaluations, including audits, should be made of all cooperation work. The organisations with which a longer-term cooperation is desired should be monitored most closely. In monitoring projects special attention



- should be paid to reporting on the state of the operations and to financial reporting.
- h) Interest support projects, for their part, should follow the anti-bribery convention drawn up by the OECD's export credit and export guarantee group. The Finnish Ministry for Foreign Affairs has the possibility to change or review a decision approving interest support if it appears that the credit has not been used for the purpose for which it was intended in that decision.
 - i) All models of agreements concerning development cooperation contain anti-corruption clauses whose purpose is to prevent abuses in advance and to enable steps to be taken in any cases of malpractice.

6) Developing procedures and staff capabilities in Finland's Department for International Development Cooperation

The forms and environment of development cooperation are continuously changing. Development cooperation must be able to adapt to the global economy, real-time financial transfers, the internationalising of crime and the complicated challenges of society in general. This also poses challenges to the development of administrative procedures and the instruments themselves.

In the field of bilateral development cooperation Finland uses an integrated project life cycle control model. It includes the control of the legal and appropriate use of resources. This model can be developed still further, making use, for example, of the international experience that has been gathered by the World Bank and Transparency International.

Means:

- a) Following the development of Finnish legislation and informing officials of the changes.
- b) Updating rules and guidelines for measures to be taken to combat corruption
- c) Systematically informing the Ministry staff and other interest groups about the rules and guidelines, and arranging training sessions about them for all the units and missions that are engaged in development cooperation.



Appendix 6:

Literature and Links

Transparency International: Confronting Corruption. The Elements of a National Integrity System. TI Source Book 2000.

- A systematic description of the elements of a programme for preventing corruption at the national level. For example the roles of the judicial system, the police and the Ombudsman (Parliamentary Commissioner).

Transparency International: Global Corruption Report 2003.

<http://www.globalcorruptionreport.org>

- A collection that describes various successful initiatives and standard procedures.

<http://www.l.worldbank.org/publicsector/anticorrupt/>

- Home page of the World Bank's corruption prevention programme

<http://www.nobribes.org/>

- Links to Eastern European anti-corruption programmes

<http://www.l.oecd.org/daf/nocorruption/index.htm>

- Home page of the OECD's anti-corruption programmes

<http://www.worldbank.org/gender/prr>

- A summary of the World Bank's research report "Engendering Development", which looks at corruption from the point of view of gender equality.

<http://www.undp.org/governance/oslocentre.htm>

- As a global thematic facility the Centre plays a major role in promoting an enabling environment for sharing experience and knowledge in the Democratic Governance Practice area.