

Corruption and Transparency in the Water Sector

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ABSTRACT

This paper sets out the experience of Transparency International (TI) in fighting corruption worldwide in the water sector. It focuses on identifying the sources of corruption in the sector and the available toolkits (best practice) for combating it. Case studies from Cambodia, Japan, Colombia and Pakistan are used to illustrate some of the major points. The paper highlights the importance of forming inclusive multistakeholder approaches to fight corruption, involving government, regulators, utilities, the private sector and civil society organizations (CSOs) and uses as an example the Water Integrity Network (WIN) - a recent initiative to set up a network to combat corruption in the water sector.

Key Words: Water; Corruption; Transparency; Accountability; Governance; Anticorruption Alliances.

A. INTRODUCTION

“Corruption wrecks good governance, inhibits development and sustains despotism. Taken together this can easily translate into economic and societal failure: not only an affront to decency but the tinder that ignites conflict. Stamping out corruption altogether may be unrealistic. Making the world less hospitable to crooks is not.”

Extract from an Editorial in the Financial Times, April 10, 2007.

1.1. Water has an enormous impact on the quality of life worldwide. In addition to meeting the water and sanitation (WSS) needs of the world's 6 billion people, the water sector is responsible for providing 40 % of the world's food requirements, through irrigation (which also accounts for approximately 70% of all worldwide freshwater withdrawals) and for generating approximately 17% of the world's electricity. Water resources management requires the responsible stewardship of the earth's water. The financial resources tied up in the water sector are enormous. According to JP Morgan, the world's municipal water and wastewater business amounted to US\$ 465 billion equivalent per year in 2005; by 2015, it estimates it will have almost tripled to US\$ 1.2 trillion (Graff, 2007). However, the sectoral performance is quite uneven, with more than 1.1 billion people (approximately 1 in 6) without adequate access to drinking water and more than 2.6 billion (approximately 40%) without access to sanitation. In fact, more than 1 out of every 2 families do not have tap water at home or even, nearby. More than 2.2 million people, mostly in developing countries (and many of them young children), die each year from diseases associated with poor water and sanitary conditions. The situation is most grave in Africa, where 1 African out of 3 lacks access to safe drinking water and

1 in 2 lacks access to sanitation. (See also African Development Bank 2007; AquaFed 2007 and Van Norden 2007).

1.2 According to Transparency International (TI), corruption is defined as the ‘misuse of entrusted power for private gain’. Private gain is interpreted to include gains accruing to an economic actor’s close family members, political party and in some cases to an independent or charitable institution, in which the economic actor has an economic or social interest. Corruption can take many forms, including bribery of local and foreign government officials, politicians and private companies, extortion, facilitation payments, fraud, cronyism/nepotism, embezzlement, election vote-buying, collusion among bidders etc.

1.3. This paper has been prepared to contribute towards raising awareness of corruption issues in the water sector as well as identifying opportunities for addressing them. It is divided into the following sections:

- Propensity for corruption in the water sector
- Tools for diagnosing corruption and impact indicators in the water sector
- Tools for addressing corruption in the water sector
- Examples of addressing corruption in the water sector
- Action plan for addressing corruption in the water sector
- Conclusions.

A. PROPENSITY FOR CORRUPTION IN THE WATER SECTOR

2.1. The special characteristics of the water sector (including monopolies, the high levels of discretion and the low levels of accountability) make it highly vulnerable to corruption. Many of the issues mentioned in this chapter are not specific to water. But they have a higher relevance in the water sector than in many other areas. Even more important, in real life they often do not appear separately as presented here but are combined in different ways thus increasing their potential for causing damage. This section draws on the paper of Elshorst and O’Leary (2005).

Traditional and Socio-Cultural Reasons for Endemic Corruption

2.2 There are areas in which corruption is a relatively new problem, at least on an extended scale. If the reasons for its prevalence can be analysed and removed, the problem could be solved with relative ease. Many types of corruption have a long tradition; they may even be rooted in socio-cultural patterns. A lot of literature about the cultural roots of patronage, cronyism and rent-seeking is also typical of the water sector. The elites and the patrons are now part of an administrative system: politicians serve their clients by offering jobs and services in water sector organizations. Farmers have learned to apply their skills in traditional patronage systems, particularly in dealing with irrigation officers (Duflo 2003) in the same way that consumers deal with water company officials.

Buying Profitable Positions in a Rent-Seeking System

2.3 A hierarchy of rent-seeking officials and managers, supported by local politicians, enforces a system of ‘transfers’ and/or promotions that counteracts meritocracy in public service and stabilises the need for rent-seeking. Positions that are most desirable are those posts that involve regular interactions with contractors and suppliers (where kickback systems are in place). The consequence is worse service and a blockade against attempts to reform the system from top to bottom (officers have to refinance the price of getting a position). Drawing on nine case studies in India and Pakistan relating to the management of the WSS sector in urban and rural areas, Davis (2004) has documented some of these practices under the heading of ‘The Market of Transfers’.

Water Fits the Definition where Corruption Flourishes Best

2.4 Monopolies, the level of discretion and power of public officials and lack of accountability are determining factors in the most famous formula explaining corruption (Klitgaard, 1988):

$$\text{Corruption (C)} = \text{Monopoly (M)} + \text{Discretion (D)} - \text{Accountability (A)}$$

Monopoly and discretion are common in water schemes, probably more so than necessary. Typically water is produced and distributed by **monopolies**, usually water utilities. **Discretionary power** is not reserved to management but also includes the operational level of repair, fee-collection, and control of illegal connections. All things being equal, the risks do not become smaller if these roles are carried out by private sector employees. These problems are typically compounded by deficient **accountability** as exemplified by institutional weaknesses in water utilities as well as in regulators charged with sectoral oversight.

Corruption Helps Promote Inappropriate Types of Projects

2.5 Dreaming of the big jump, in the early times of development large scale solutions and their respective technologies were copied in good faith. In the process, financing agencies and business in the North as well as the political elites in the South got used to this transfer- approach to development.

2.6 When problems became obvious at the latest in the 80s, discussions about more appropriate technical solutions became widespread. Business reacted to this threat by bribing the political leadership in the South to continue to request large-scale solutions. An example is a case of blatant corruption in connection with a water supply project for Mombasa in Kenya (Eigen 2003). The financing agencies did not object because these solutions corresponded neatly to their instruments of planning, appraisal and supervision. Developing country water supply distribution networks as well as sanitation and irrigation systems continue to hold a preference for large scale solutions.

Corruption-promoting Activities of Northern Governments, International Financing Institutions (IFIs) Bilateral Donors, and Export Credit Agencies (ECAs)

2.7. Northern governments, international financing institutions (IFIs), bilateral donors and export credit agencies (ECAs) have been responsible for, at least,

facilitating corruption. This was particularly likely to be tolerated in a sector such as water, where disruption of aid seemed particularly inappropriate for humanitarian reasons. Some examples:

- the role of legislation in northern countries, which until recently, allowed bribing abroad and tax-deduction of such bribes;
- the tendency of IFIs and bilateral donors, up to recently, to turn a blind eye to corruption for reasons such as cold war alliances, disbursement pressure, and reluctance to intervene in internal and institutional affairs of the recipient countries;
- the role of consultants and northern companies commissioned by southern public sector water agencies; and
- the role of northern banks offering safe havens for stolen assets.

High-risk Procurement

2.8 Procurement and tendering is particularly prone to corruption if the products offered cannot be standardised. It is for this reason that the construction sector is perceived to be the most corrupt (TI, 2003a). Standardisation is also difficult if the project site conditions affect the technical specifications and quantities of a project. Both elements often are combined in water-related projects, which make these projects even more susceptible to corruption than projects in other sectors with easily controllable unit-prices and specifications. Some of the most frequent fraudulent procedures used include:

- Including unnecessary elements in planning and cost estimates;
- Skewing bid specifications to favor particular contractors or suppliers;
- Building into the tender the necessity to renegotiate the contract; and
- Executing substandard quality work at the expense of project sustainability.

2.9. Corruption in procurement makes up a large part of damages caused by corruption. Official procurement is estimated to amount to approximately three trillion US Dollars each year. The press release for TI's *Global Corruption Report 2005* states that some US\$3,200 billion per year are lost due to corruption in the construction sector. Thus the amounts wasted globally each year are staggering.

Decentralization

2.10. Decentralization is an important component of ongoing reforms in integrated water resources management (IWRM) and WSS. IWRM consists of an inclusive multistakeholder approach (involving representatives of government, the private sector and civil society) based on water as part of the ecosystem and its economic value. In particular, stakeholder participation is based on a catchment or sub-catchment level. Through decentralization, the expectation is that by involving those who would be the hardest hit by corruption (i.e. poor communities); the expectation is that there would be fewer incentives to engage in corrupt practices. In addition, decentralization is also expected to increase the levels of transparency (including available information for management and oversight) as well lead to closer relationships between service providers and their customers.

The Role of Small-Scale Entrepreneurs such as Informal Suppliers of Water

2.11. In the periurban areas of some major cities, informal suppliers (who sell water from donkey carts, from tankers and from knots of spaghetti pipes trailed around back alleys) often play a very important role in meeting the water requirements of the inhabitants. On occasion, the informal water suppliers source their supplies from illegal connections with the water network or through non-transparent arrangements with the network water supplier. In Tegucigalpa, the capital city of Honduras with a population of approximately 1 million inhabitants, for example, approximately 55 % of the population are linked to the water network; the remaining 45% depend on informal suppliers for their water needs. According to IM, the tariffs of the informal water suppliers can be up to 40 times those of the network supplier.

Corruption Causes Huge Direct, Indirect and Cumulative Damages for the Water Sector

- 2.12 In summary, corruption in the water sector:
- undermines delivery/performance of the WSS system and thus discourages investment;
 - decreases government and water utilities' revenues, while ever more resources are needed to cope with the cumulative damage caused by corruption in the past;
 - as a consequence of the above and of current losses, increases in operation and maintenance costs of providing given levels of services e.g. in Africa, (Estache and Kouassi, 2002) if water utilities were working in non-corrupt environments, their costs of operation and maintenance would be reduced on average by 64%);
 - reduces the quantity and quality of services and limits access, especially for the poor; and
 - breeds impunity and dilutes public integrity and thus undermines the basis for legitimatizing public support for government.

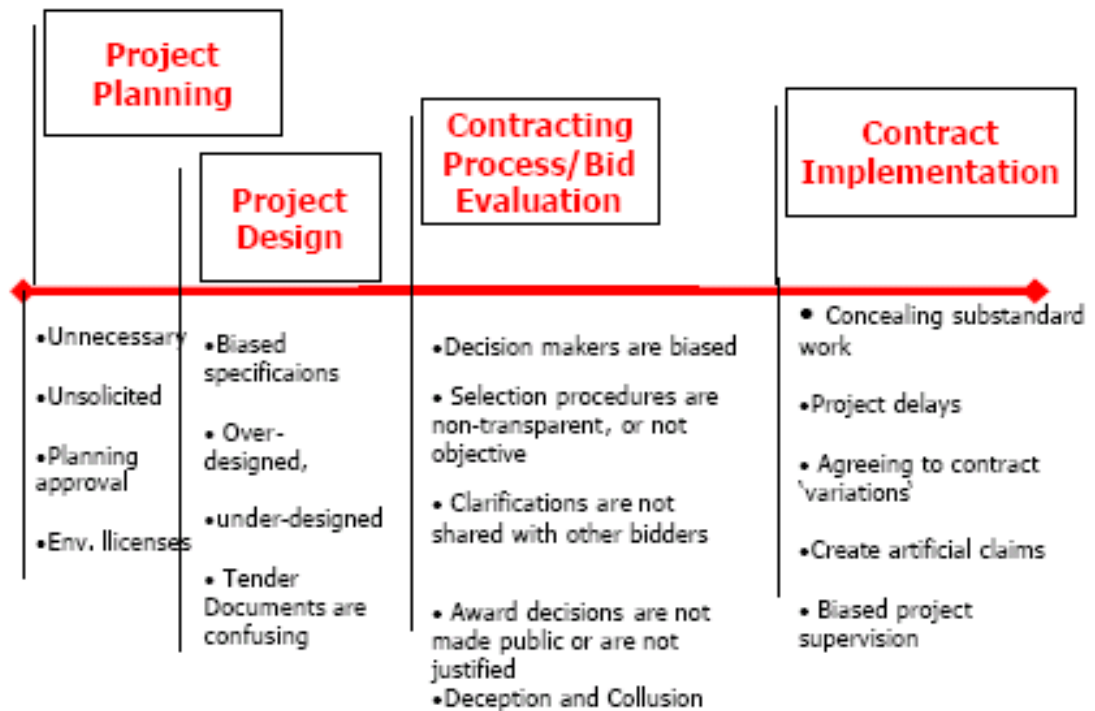
B. TOOLS FOR DIAGNOSING CORRUPTION AND IMPACT INDICATORS IN THE WATER SECTOR

3.1 This section will discuss tools for diagnosing “grand” corruption (See also O’Leary, 2006a). Paras 4.26 -4.31 discuss “petty” corruption. .

‘Grand’ Corruption

3.2. ‘Grand’ corruption is found in all stages of a water project, including planning and design; prequalification and tendering; project implementation; and operations and maintenance. Exhibit 1 sets out many of the sources of corruption.

Exhibit 1: How Corruption Happens in Hydraulic Infrastructure Projects



3.3. **Corruption in Project Planning** can lead to the selection of unnecessary projects. In a similar fashion, authorities may be persuaded to accept unsolicited project proposals, without subjecting them to a rigorous review. Corruption can also be facilitated when planning permission and other approvals (such as environmental licenses) are not awarded transparently.

3.4. **Corruption in Project Design** is facilitated when specifications are biased towards a particular technology, supplier or contractor; the project is overdesigned and thereby overpriced; the project is under-designed, leading to increased operations and maintenance (O&M) costs and thereby higher 'life-cycle' costs; or when the tender documents are confusing, thereby leading to opaque bid evaluation.

3.5. **Corruption in Prequalification and Tendering** is facilitated when decision-makers are biased; contractor selection procedures are non-objective or non-transparent; clarifications are not shared with all the bidders; and contract award decisions are neither published nor justified. Many stratagems can be used to hide the payment of bribes, including through an agent, a joint venture partner, or a subcontractor. In addition, contractors can collude to keep the costs of contracts high as well as to manage the bidding process to assure that bids are awarded to different contractors, under different contracts.

3.6. **Corruption in Project Implementation.** During project implementation, there are many corruption opportunities. These include:

- *Concealing substandard work* (including bad workmanship or substandard materials) occurs frequently in infrastructure projects, which by their nature often involve concealment of work and materials (e.g. structural steel by concrete). This can be achieved by bribing the project Engineer responsible for certifying the work before it is concealed. It bears noting that the impacts of

the substandard work may not come to light until many years after the project completion;

- *Project delays* are endemic to infrastructure schemes due to adverse weather conditions, contract variations, subcontractor underperformance or defective materials. Depending on who is adjudged responsible for the delay, the contractor may have to pay liquidated damages to the client or the contractor may be able to obtain additional payments due to delay or disruptions caused by the client. Consequently, the person or organization responsible for deciding who is responsible for the delays (including their time and cost impacts) is vulnerable to bribery;
- *Agreeing to contract 'variations'*. Contract variations occur frequently in infrastructure projects due to changes occurring in the scope of work after contract signature (including changes in the design and/or construction methods to correct design errors; and unforeseen ground conditions), which can also be due to changes requested by the client. Since contract 'variations' usually involve cost increases, which have to be agreed by the stakeholders, variations provide opportunities for bribery between the contractor and the client or his representative (architect or engineer);
- *Creating artificial claims*. For example, when a client agrees to a contract variation, a contractor may take advantage of the situation to exaggerate the cost of the variation or the delay it causes. On the other hand, a client may create artificial claims against a contractor to lay the foundation for an exaggerated or false claim to be set off against sums due to the contractor; and
- *Biased project supervision* by project architects and engineers can lead to incorrect decisions and inflated costs in relation to contract variations, project delays and concealing substandard work.

3.7. **Corruption in Project Operations and Maintenance.** Once a project is completed, long term contracts may be awarded for its operation and maintenance (O&M), especially for power plants (both hydroelectric and thermal) and high technology projects. Bribery may be used to influence the award of these contracts.

3.8. The level of O& M contracts may reflect corruption in the bidding phase (overspecification or underdesign of a project, which may increase O& M costs) or in the construction phase (substandard construction may lead to increased repairs and maintenance). Where private-public partnerships are concerned, for example in the power sector, there are opportunities for bribery in relation to the negotiation of the power purchase and other agreements related to independent power projects.

3.9 The paper of Stalgren (2006) provides a useful framework for analyzing corruption in the different water sub-sectors, including WSS, IWRM, hydropower, irrigation and groundwater extraction. Within each sub-sector, corruption is broken down into different spheres of interaction including: public-public, public-private and public-consumer. Stalgren also notes the importance of private-private interactions, including collusion among contractors bidding for public financed projects.

C. TOOLS FOR ADDRESSING CORRUPTION IN THE WATER SECTOR

4.1. This section features some of the available anticorruption tools for addressing ‘grand’ and ‘petty’ corruption in the water sector.

Instruments for Addressing ‘Grand Corruption’

4.2. The instruments for addressing ‘grand’ corruption include (See TI, 2006): International Conventions; National Integrity Systems (NISs); Integrity Pacts (IPs); and Business Principles to Counter Bribery (BPCB). These instruments are described below.

International Conventions Against Corruption

4.3. The following are the most important international conventions against corruption:

- *UN Convention against Corruption*: (UNCAC), which came into force on December 14, 2005, has been signed by 140 countries and ratified by 91, as of March 2007. The UN Convention contains provisions at the preventative-organizational level; at the repressive-penal level; as well as concerning international cooperation. One of UNCAC’s most noteworthy aspects is that it elaborates an **asset recovery framework** for the first time on a global basis. Other notable features of the UNCAC include: the requirement to adopt broad penal provisions against bribery, including bribery of persons in political office; measures relating to the private sector, including accounting requirements and liability of legal persons; provisions for whistle-blower protection; and a provision on compensation for damages. Of all existing anti-corruption Conventions, the UNCAC has the most **extensive provisions** on the ways, means and standards for preventive measures in the public and private sectors; UNCAC calls for **criminalization** of a wide range of offences and contains a broad definition of the term ‘public official’. Moreover it includes offences relating both to public sector corruption and private sector (private-to-private) corruption;
- The *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* (‘The OECD Convention’) was adopted in 1997 by the OECD Member States and associated countries and entered into force on February 15, 1999. There are now 36 parties. A companion instrument is the *Revised Recommendations on Combating Bribery in International Business Transactions* (‘The Revised Recommendations’) Under the OECD Convention, the signatory states undertook to modify national legislation to impose criminal and administrative sanctions on those convicted of bribing foreign public officials to obtain business. The Convention also provides for monitoring and evaluation through country peer reviews. Major OECD and EU member states (e.g. Germany) have extended their national criminal statutes to include the bribery of private business partners in other countries and some (e.g. the UK) include facilitation payments i.e. small payments aimed at ensuring low-level administrative action as opposed to larger scale bribes). In parallel with the implementation of the Convention, many OECD states eliminated the tax deductibility of bribes, pursuant to the 1997 Recommendation. The OECD Convention does not cover private to private bribes and can be interpreted to contain loopholes regarding facilitation

payments and bribery through subsidiaries. By focusing on deterrence and prevention of foreign bribery, the Revised Recommendations complement the Convention ; and

- *Regional Conventions and/or Initiatives* have been adopted in Europe, the Americas, Africa and in Asia-Pacific. In **Europe**, the most important regional conventions are the **Council of Europe Criminal Law Convention on Corruption and the Civil Law Convention on Corruption** that entered into force in 2002 and 2003 respectively. Neither has been ratified so far by several of the leading industrial European countries. These instruments are monitored under the Group of States Against Corruption (GRECO) monitoring process, which includes countries that have not yet ratified the Conventions. There is also the EU-Anti-Corruption-Law of 1998 and the EU Frame Agreement, dated July 22, 2003 of the Council of the European Union concerning the fight against corruption in the private sector. The first regional anticorruption convention was the **Interamerican Convention against Corruption** (IACAC) that was adopted in Caracas, Venezuela in 1996 and came into force on March 6, 1997. It criminalizes active, passive and transnational bribery, illicit enrichment, the improper use of classified and confidential information, using influence on public authorities for illicit personal gain and the diversion of property or assets. Signatory states are obliged to incorporate these provisions into their own legal systems. The **African Union** adopted a Convention Combating Corruption on July 2003 in Maputo, Mozambique and came into force on August 6, 2006. The Convention covers a range of criminal offences including bribery (domestic or foreign); diversion of property by public officials; trading in influence; illicit enrichment; money laundering and concealment of property. It calls on measures on prevention, criminalization, regional cooperation, mutual legal assistance and recovery of assets. It covers public and private sector corruption, on both the demand and supply sides. It contains unique mandatory provisions relating to private-private corruption and transparency in political party financing. **The ADB/OECD Anticorruption Initiative for Asia-Pacific** led to the adoption by 27 countries of the region in December 2000 of the non-binding ‘Anticorruption Action Plan for Asia and the Pacific’ The Action Plan refers to three pillars including ‘developing effective and transparent systems of public service; strengthening anti-bribery actions and promoting integrity in business operations; and promoting active public involvement’. The Action Plan builds on cooperation among governments, international financial institutions, civil society and the private sector. The Action Plan refers to the protection of whistleblowers and the monitoring role of NGOs.

All of the instruments provide for monitoring of country implementation of their provisions, with monitoring already under way for the OECD, Council of Europe, OAS and ADB-OECD instruments and are being planned for the UNCAC and the AU Conventions.

4.4 The key to the success of all these conventions is to have the signatory countries ratify them in a timely manner; then assure that their provisions are fully incorporated into their legal systems and their institutional framework; and finally that their provisions are actively enforced. Effective intergovernmental monitoring has a key role to play. Among the countries that have ratified the UNCAC is the USA,

which has previously passed the Foreign Corrupt Practices Act (FPCA) in 1977 as well as the Sarbanes-Oxley Act in 2002. Civil Society Organizations (CSOs) can play an invaluable role in advocacy and monitoring of the ratification and implementation of international anticorruption conventions as well as of national anticorruption laws and other related legal instruments.

National Integrity Systems

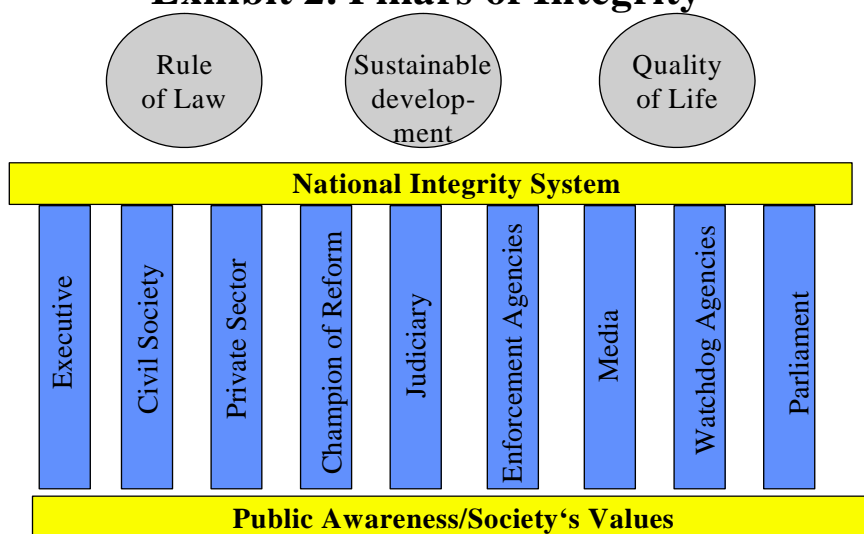
4.5. **Institutional Pillars.** TI developed the NIS concept, which takes as its starting point that a society becomes resistant to corruption when a whole series of institutions are present and functioning well. (See Pope, 2000). These include an elected parliament; an executive; an independent judiciary; the civil service; the enforcement agencies (including the police; the ‘watchdog’ agencies (Public Accounts Committee, Auditor-General, Ombudsman, Anti-Corruption Agency etc.), civil society (including the professional associations); the private sector; the media; and the champions of reform (including the international agencies); they are represented as pillars in Exhibit 2. The pillars are supported by the dual foundations of society’s values, including fairness, integrity, accountability and honest dealing, as well as public awareness. Finally, as Exhibit 2 shows, the goal is not the NIS itself, but rather good governance supporting the goals of the rule of law; sustainable development and the quality of life. As of March, 2007, TI has undertaken diagnoses of the status of NIS in 66 countries, broken down as follows: Americas (12); Europe and Central Asia (11); Africa and the Middle East (12) and Asia-Pacific (31).

4.6. **TI’s Tools to Enhance National Integrity.** In its ‘Corruption Fighters’ Toolkit’ (2003b), TI has developed a suite of tools to fight corruption and facilitate NISs. These include:

- *Awareness raising* tools (such as publications, advertisements, conferences and classes) to bring the corruption issue to the public’s attention;
- *Free and fair election campaigns* are a fundamental NIS pillar. TI chapters have developed tools to monitor media coverage and political spending and encourage accountability among the political parties;
- *Access to information* tools include developing materials for citizens on what to expect of government and how to get government services; and protection of whistleblowers;
- *Public institutions* tools focus on providing information to the public on government including the activities of legislatures, courts and local government;
- *Diagnostics* include TI’s Corruption Perception Index - CPI (which documents a country’s reputation for honest practice), the Bribe Payers’ Index - BPI (which ranks the propensity of private enterprises in particular countries to pay bribes) and the Global Corruption Barometer (which measures attitudes towards corruption and expectations of future corruption levels, thereby measuring trends in attitudes over time). While the TI Secretariat (TI-S) publishes the international versions of these surveys, some of TI’s national chapters have undertaken surveys to document corruption at national and local levels.

In addition, TI’s Toolkit covers public procurement and business ethics, which are covered in the following sections.

Exhibit 2. Pillars of Integrity



4.7 The **Japan NIS** (Transparency International, 2006b) highlights two issues that have a direct bearing on the water sector: (a) *amakudari* (the golden parachute), and (b) *dango* (bid rigging). Under *amakudari* retired government officials approach semi-government or private companies two or three times after they first retire for post-retirement employment at much higher salaries than they had in government service, their retirement packages are oftentimes higher than that of the Prime Minister of Japan. *Akamaduri* is tantamount to bribery, with favorable treatment of a certain supplier or contractor bid being given in exchange for post-retirement employment of the government official in that company. In relation to *dango*, procurement prices and project costs are raised at the expense of the consumer and/or the taxpayer. Authorities have recently cracked down on bid rigging in public construction contracts, in which public officials in awarding contracts in exchange for post-retirement employment with the winner bidder. An example of bid rigging in the water sector was an investigation undertaken by the Yomiuri Shimbun, using the Freedom of Information Law, as reported in the *The Daily Yomiuri* (2006). In this investigation, 'local governments allowed 16 of 49 sewage plant building to go ahead despite knowing that bid rigging had possibly been conducted to determine the prospective winners'. Six of these projects were subsequently investigated by the Fair Trade Commission on suspicion of violating the Anti-Monopolies Act. To address *amakudari*, the report inter alia recommends that all hiring of retired government officials be endorsed at a general meeting of the shareholders of the employing corporation. In relation to bid rigging, the report recommends vigorous enforcement of anti-*dango* legislation, including the Anti-Monopolies Act. In addition, the report recommends the widespread adoption of TI's Integrity Pacts and the 'Business Principles', particularly by construction companies (See paras 4.14-4.22).

Integrity Pacts

4.8. Integrity Pacts (IPs) are based on a tool, developed by TI in the 1990s, to help governments, the private sector and civil society organizations (CSOs) fight corruption in public contracting. They can be described under the following headings: process; rights and obligations; monitoring; and sanctions:

- The *Process* includes an agreement between a government, government department or utility and all bidders for a public sector contract;
- *Rights and Obligations*, set out in the contract are such that neither the government nor the contractors shall pay, offer, demand or accept bribes or collude with competitors to obtain the contract or during its execution. Also, bidders are required to disclose all commissions and similar expenses paid by them to anybody in connection with the project;
- *Monitoring* could be carried out by CSOs or by independent private sector individuals or companies, hired by the government, with the obligation to inform the public of any impropriety, which the contract parties are unwilling to correct. Alternatively, the government could commit itself to provide full public disclosure of all relevant data regarding the evaluation of competing bids; and
- *Sanctions* will apply when violations occur. They can range from loss or denial of contract, forfeiture of bid or performance bond and liability for damages, to blacklisting for future contracts on the side of bidders, and criminal or disciplinary action against government employees.

4.9. **Applicability of Integrity Pacts.** IPs can be applied in the following situations:

- Selection of (architectural, engineering or other) consultants;
- Award of construction and supply contracts;
- Selection of a buyer/recipient of state property under a government's state asset privatization program; or
- Selection of the beneficiary of a state license or concessions (such as for oil or gas exploration or production, mining, fishing, logging or other extraction rights) or for government-regulated services (such as power, telecommunications, and water supply utilities or garbage collection services).

To be comprehensive, the IP should cover all activities, from the beginning to the end related to undertaking a project to award of licenses or concessions. For example, for a water project, the IP should cover all activities from the selection of consultants; undertaking feasibility or other preparatory studies; preparation of bidding documents; award of contract; right through to project implementation and handover to the client. It bears noting that 57 IPs have been put in place worldwide over the period 2003 – 2007 (April) of which 4 were in the water supply and sanitation sector; 5 were in the energy sector (including the power sector); 10 were in the telecommunications sector; and 11 were in the construction sector.

4.10. **Minimum Standards for Public Contracting.** These standards focus on codes of conduct for the employees of the contracting authority and the bidder; debar companies blacklisted by multilateral development banks (MDBs); require that all contracts entered into by the authority and its contractors comply with strict anti-corruption policies (using a tool such as the IP); promote open competitive bidding; promote easy access to information by bidders (and ideally the general public); and ensure that internal and external control and auditing bodies are independent and functioning

effectively, and that their reports are accessible to the public Further information on the 'Minimum Standards' are available in the paper of O'Leary (2006b) and on IPs is set out in the TI document entitled "The Integrity Pact", dated May 5, 2003, which is available under TI's Integrity Pact and Public Contracting Programme.

4.11. An **Example of an Integrity Pact** is the IP agreement between the Karachi Water and Sewerage Board and Transparency International Pakistan in relation to the award of contracts for the PAKISTAN: Greater Karachi Water Supply Scheme, Phase V, Stage II, 2nd 100 MGD, K III Project. Following an invitation, dated April 13, 2001, by the Managing Director of the Karachi Water and Sewerage Board (KW&SB), to Transparency International, Pakistan (TI – Pakistan) to 'establish procedures, which should be built to include the Integrity Pact (IP) for Transparency in Public Procedures within the KW&SB' the Board and TI-Pakistan agreed to implement the IP in the PAKISTAN: Greater Karachi Water Supply Scheme, Phase V, Stage II, 2nd 100 MGD (the K III Project), with an estimated cost in Pak Rupees (PRs) of more than six billion.

4.12. The KWS&SB implemented a multi-phased approach in close cooperation with TI-Pakistan:

- (a) An IP, developed by TI-Pakistan, was signed between the KW&SB and all the participating consultants and contractors in the K III Project;
- (b) Based on the IP, the KW&SB awarded, in July 2002, the consultancy contract for PRs 62 million. This compares with the estimated cost of PRs 248 million i.e. a savings of approximately 75%;
- (c) The selected consultants agreed to follow transparent procedures in the award of the construction contracts for the K III Project and the consultancy contract included the TI-Pakistan IP;
- (d) Tendering for the K III construction contracts was concluded in September 2003 and were awarded for a combined sum of PRs 4448 million i.e. resulting in a saving of 15.85 % compared with the estimated approved cost of PRs 5286 million; and
- (e) As a result of a well-managed procurement process, including an IP, the total cost of contracts awarded, over the period 2002-2003 was 18.5% less than the cost estimate prepared under the Government of Pakistan (See Exhibit 3).

The K III Project was completed ahead of schedule and below the official estimated cost; it was inaugurated by President Musharraf on May 21, 2006.

4.13. Among the lessons learned were:

- (a) In tendering for the consultancy and construction contracts, the KW&SB, in collaboration with TI-Pakistan, fully implemented the procurement guidelines of the Pakistan Engineering Council;
- (b) The project tendering was reorganized by reducing the number of packages from 18 to 8. This process facilitated the work loads of the bidders; speeded up the tendering process and enhanced the ability of the KW&SB to monitor the awarded contracts; and

- (c) The role of the MD of the KW&SB was critical in assuring that contract award followed transparent and merit-based tendering. During the entire process, including prebid meetings, bid evaluation and contract award, **no negotiations were held to change the contract stipulations, scope of work or reduction of contract prices.**

*Exhibit 3: Results of Application of an Integrity Pact to the
PAKISTAN: Greater Karachi Water Supply Scheme, Phase V, Stage II, 2nd 100
MGD, KIII Project*

<i>Nature of Assignment</i>	<i>GOP Approved Estimated Cost</i>	<i>Contract Award</i>	<i>Saving Amount</i>	<i>Saving %</i>
Design and Supervision Consultants	248 Million	62 Million	186 Million	75.00.
Construction Contracts	5286 Million	4448 Million	838 Million	15.85
Total	5534 Million	4510 Million	1024 Million	18.50

Source: Transparency International, Pakistan, 2003.

All figures in Pak rupees.

Business Principles for Countering Bribery

4.14. The Business Principles for Countering Bribery (BPCB) (See Transparency International, 2005a) state that:

- The enterprise shall prohibit bribery in any form whether direct or indirect; and
- The enterprise shall commit to implementation of a Programme to counter bribery.

These principles are based on a commitment to fundamental values of integrity, transparency and accountability. Enterprises shall aim to create and maintain a trust-based and inclusive internal culture in which bribery is not tolerated. A Program is the entirety of an enterprise's anti bribery efforts including values, policies, processes, training and guidelines.

4.15. The BPCB have been complemented by a suite of tools produced by TI to help companies wishing to implement the Business Principles or review their existing anti-bribery processes.

- ✓ A **Guidance Document** provides background on each section of the Business Principles, explains how to implement each Principle, answers frequently asked questions and gives examples of corruption and of good practice.
- ✓ The **TI Six-Step Implementation Process** (See the next exhibit) is a how-to guide for companies who wish to introduce an anti-bribery programme within their organization. This tool is also available as an interactive electronic module.
- ✓ TI is currently developing a **Self-Evaluation Module (SEM)** to assist companies in assessing their anti-bribery performance, which can also serve as the basis for external verification. The SEM includes over 200 indicators, which companies can use to check progress.

- ✓ TI also plans to develop an **External Verification Tool** which would be used by companies to obtain verification (by a 3rd party or an internal auditor) of their compliance with their anti-bribery codes. This tool will be based on the BPCB and the SEM.
- ✓ In addition, TI is developing an Interactive Knowledge Tool as well as a tool for small and medium enterprises (SMEs).

4.16. The guidance documents have been field-tested with several focus groups and with managers and staff in three diverse corporate environments: BP Exploration Azerbaijan (a multinational corporation operating in a transition economy); Tata Iron and Steel Company India (a major national corporation in a developing country) and Sika AG Switzerland (a medium-sized enterprise in a developed country). Both company executives and compliance managers found them to be comprehensive and realistic. The BPCB initiative is overseen by an international steering committee, consisting of representatives of companies, NGOs, trade unions and academia.

4.17. The objective of this program is not to get individual companies to adopt the Business Principles per se, but to provide a model or benchmark against which corporate anti-corruption programmes could be assessed. A number of international corporate reporting initiatives and indices are using the BCPB as the standard for one of the criteria they use to evaluate company performance:

- UN Global Compact,
- Global Reporting Initiative (GRI)
- FTSE4Good Index
- World Economic Forum (WEF) Partnering Against Corruption Initiative (PACI).

4.18 The Role of the BPCB in the Anticorruption Policy of the Overseas Private Investment Corporation (OPIC). OPIC, an export credit agency (ECA), based in Washington, DC requires (See OPIC (2006)):

- ✓ Companies to have anti-bribery programs in place, such as TI's BPCB;
- ✓ Certification by officers, directors, employers and especially agents that the project is being carried out in compliance with all applicable laws on corrupt practices; and
- ✓ Disclosure by project sponsors if they are under investigation or have been convicted of FCPA violations.

4.19. Through incorporation into recognized corporate reporting standards, anti-corruption programs are increasingly accepted as a normal part of good corporate governance. These important reporting initiatives are creating a strong incentive for companies to adopt adequate anti-bribery programs and the Business Principles offer the tools to help companies comply. The following exhibit sets out the BPCB six step implementation process.

BUSINESS PRINCIPLES FOR COUNTERING BRIBERY: SIX STEP IMPLEMENTATION

Step	1	2	3	4	5	6
Action	Decide to adopt a no bribes policy	Plan the implementation	Develop detailed anti-bribery Programme	Implement Programme	Monitor	Evaluate and improve
Primary responsibility	Owner of company / board / CEO	Appointed senior manager / Project Team	Appointed senior manager / heads of department	Appointed senior manager / line managers / support functions / business partners	Ethics / compliance officer / Internal and external auditors	Owner of company / board / CEO / audit committee
Process	<p>Obtain commitment to no-bribes policy "from the top"</p> <p>Decide to implement an anti-bribery Programme</p> <p>Decide extent of any public disclosure</p> <p>Appoint senior manager / cross-functional Project Team</p>	<p>Define specific company risks / review current practices</p> <p>Review all legal requirements</p> <p>Write no-bribes policy, develop and write anti-bribery Programme</p> <p>Test / get commitment from senior management / selected employees</p>	<p>Integrate no-bribes policy into organisational structure and assign responsibilities</p> <p>Review ability of service functions to support new Programme</p> <p>Develop detailed implementation plan to include: • adapt HR policies • communications • training programmes</p> <p>Set up issues reporting function</p> <p>Prepare for incidents</p>	<p>Communicate anti-bribery Programme - internal / external</p> <p>Run training courses for all employees and business partners</p> <p>Ensure capabilities are in place of specialist functions up to speed: internal audit, finance, legal department</p> <p>Deal with incidents</p> <p>Review role of Project team</p>	<p>Regular reviews of the system</p> <p>Capture knowledge from incidents</p> <p>Use external verification providers</p> <p>Review use of issues (whistle-blowing) channels</p>	<p>Receive feedback from monitoring</p> <p>Evaluate effectiveness of Programme</p> <p>Develop improvements to Programme</p> <p>Report to management</p> <p>Board review and sign-off on Programme</p> <p>Publish Programme process and results (optional)</p>
Time span	One Month	Three to six months	Three to six months	One year	Continuous	At least annually

TI Six Step Process © Copyright 2005, Transparency International

4.20. **Sectoral BPCB Agreements.** In April 2005, the TI Chapter in Colombia sponsored the signature of a sectoral antibribery agreement between 11 water pipe manufacturers, which is based on the BPCB. The agreement included:

- Establishment of a general anticorruption policy in each company;
- Development of specific guidelines in each company regarding each of the forms of bribery specified in the BPCB;
- Development of specific policies regarding pricing policy, distribution and sales schemes and transparent purchasing;
- Development of implementation mechanisms within each company including designating legal representatives, internal controls and audits, human resources, communications, internal reporting and consulting, as well as protection of 'whistle-blowers'; and
- The roles of the Ethics Committee and the Working Group.

4.21. Implementation of the Agreement is supervised by an **Ethics Committee** whose decisions are mandatory on all parties and lack of compliance would make the guilty party legally liable. **A policy of penalties** would be applied in those cases of non-compliance with the Agreement. It is also be the responsibility of the Committee to report to the relevant authorities any questionable behavior that is brought to its attention. A **Working Group** was established with the following responsibilities: (a)

develop an action plan to promote the Agreement; (b) establish parameters to monitor implementation of the Agreement; and (c) evaluate compliance with the Agreement. The Working Group consists of members of the waterpipe manufacturing companies and receives administrative and technical support from ACODAL, the Colombian Association of Sanitary and Environmental Engineers, with which all the piping manufacturing companies are affiliated.

4.22 Issues Addressed in Developing the Agreement included:

- Assuring sufficient funding for developing the Agreement
- Involving top management of Companies, a sine qua non for the success of the Agreement;
- Keeping the National Interest as the point of reference for the Agreement rather specific needs of individual businesses;
- Interacting with all participants on an equal basis, regardless of each company's sales volume;
- Coordinating all issues with up-to-date national legal and commercial legislation as the basis for the Agreement; and
- Assuring that the Agreement is followed up by parallel work in the public sector to prevent corruption risks arising from the State.

4.23 Opportunities Provided by the Agreement include:

- Inducing some Government agencies to develop internal anticorruption policies;
- Inducing more transparent processes in public procurement processes; and
- Promoting good practice in self-regulation for other industry sectors.

4.24 Future Challenges relate to:

- Continuously improving the environment of trust related to the Agreement implementation and particularly in the Ethics Committee;
- Taking into account the Agreement in the procurement of water distribution and sewage piping by the public sector;
- Continuing the downward pressure on contractual prices of water distribution and sewage piping and thereby reducing the scope for paying bribes; and
- Developing similar anticorruption agreements in complementary business sectors such as public sector companies, consultancy and design companies and contractors.

Further information on this agreement is available in the reports of Balcazar Romero (2005, 2006).

4.25. Largely self-financed by the signatories of the agreement, a similar agreement was signed by nine waterpipe manufacturers in Argentina in December 2005. The TI

Chapter in Argentina was very instrumental in facilitating this agreement, including organizing a high-level workshop in Buenos Aires, in June 2005, which was attended by senior representatives of the industry as well as senior management and staff from the TI Chapters in Argentina and Colombia as well as from the TI Secretariat. The next steps are to extend this process to other Latin American countries, including Mexico and possibly Brazil

Instruments for Addressing ‘Petty Corruption’

4.26. In reviewing the instruments that can be used to address ‘petty’ corruption, it is very illuminating to discuss them in the context of improving sectoral performance. The example discussed below is taken from the water sector.

Exhibit 4: Water Utility Performance: Where We Are and Where Can We Go

Utility performance in a majority of developing countries	Currently recorded	Attainable levels*
Unaccounted-for water (UFW)	>45%	<25%
Staff /1,000 Connections	>20	<6
Bill Collection Period	>18 months	<3 months
Working Ratio	>1	<0.7
Connection Charges (%GDP/capita)	5-60%	<20%
Service Continuity	< 12 hrs/day	24 hrs/day

* Based on the performance of the top 23% of utilities in the data set.
Source: Jenssens (2005)

4.27. Exhibit 4 summarizes the current performance of water utilities, based on a worldwide survey; and compares the potential for performance improvement, based on the performance of the top 23% in the data base. In the short to medium term, the easiest problems that can be addressed are related to NRW reduction because it is not necessary to deal with buried infrastructure (piping) and high investment costs. An integrated approach to reducing NRW addresses key parameters of operational/financial efficiency as well as service and institutional sustainability (including demand management, capacity increases and financial flows) and the elimination/reduction of corruption. Further information on well-performing utilities is included in the report of Baietti, Kingdom and Van Ginneken (2006).

4.28. Frequently, NRW and other water utility management issues can be addressed by **outsourcing the management of the utility through a performance-based management contract (MC)**, (Marino, Stein and Wulff, 1998). The management contractor will be paid through a fixed fee with bonuses against baseline targets. Given the major institutional changes involved in implementing an MC, their

acceptance by all the stakeholders (customers, staff, management and the Board) is essential. An effective external and internal communications strategy is essential. The World Bank is building up experience with existing or planned MCs in Africa, Asia and South America. As described by Kingdom, Liemberger and Marin (2006) another promising approach in addressing NRW and related management issues is the use of **performance-based service contracting**, which has shown good results in countries as different as Brazil, Ireland, Malaysia and Thailand.

4.29. For revenue earning organizations in the network sectors (power telecommunications and water supply), there is also scope for adapting the BPCB, through focusing more on both extortion and bribery. The key requirement is for these organizations to demonstrate that they in place a comprehensive program to combat bribery and extortion including values, policies, processes, training and guidelines (See paras 4.14-4.24).

4.30. **Case Study: CAMBODIA: Performance of the Phnom Penh Water Supply Authority (PPWSA).** The story of the PPWSA, as summarized in Exhibit 5 is remarkable. In a post-conflict country, the PPWSA has been converted into a well functioning over 13 years. Providing 90% coverage and 24 hour service to a city of 1.3 million, the PPWSA has reduced NRW from 72% to 8% and has reached full cost recovery with tariffs covering water production and distribution costs. Tariffs and connection fees are subsidized or paid in instalments by the poor. Crucially, the PPWSA also is able to provide to provide water to Phnom Penh’s formally unconnected residents at Riels 5,000 per month compared to Riels 1,000 per day, when water is supplied from a water tanker.

4.31. The keys to PPWSA’s success include: (a) the strong political support of the Cambodian Government particularly in relation to the institution’s autonomy and its financial viability (through permitting the utility to raise tariffs to cover costs); (b) having an outstanding ‘water champion’ at its helm. Last year, Ek Sonn Chan received the prestigious 2006 Ramon Magsaysay Award for Government Service for his “exemplary rehabilitation of a ruined public utility, bringing safe drinking water to a million people in Cambodia’s capital city.”; and (c) being able to invest in and motivate its staff. It set up inspection teams to find leaks and illegal connections and had the power to cut off water supply of high-ranking delinquent clients and dramatically increased billing and collection through installing meters for all connections; computerized billing systems and updating its customer base.

Exhibit 5: Performance of the Phnom Penh Water Supply Authority (PPWSA)

	1993	2006
Staff per 1,000 Connections	22	4
Production Capacity	65,000 m3/d	235,000 m3/d
Non-Revenue Water	72%	8%
Coverage Area	25%	90%
Total Connections	26,881	147,000
Metered Coverage	13%	100%
Supply Duration	10 hours/day	24 hours/ay
Collection Ratio	48%	99.9%
Total Revenue	0.7 billion riels	34 billion riels

Citizen Report Cards

4.32 The concept of the Citizen Report Card (CRC) has been used with great success to help improve public services, particularly for the poor in Bangalore, India (See Thampi, 2005). The CRCs were first introduced in 1994 by the Public Affairs Foundation because of dissatisfaction of the poor quality of service and the high levels of rent seeking by public service officials, pointing to very low levels of public accountability. Over a ten-year period, the PUF has noted significant improvements in public satisfaction with the quality of WSS services and a noted reduction in the corruption levels associated with routine transactions. In addition to the CRC, these changes were also driven by the establishment by the State Government under the leadership of the Chief Minister of the Bangalore Agenda Task Force (BATF), a public-private partnership that catalyzed and provided assistance to service providers to upgrade their services and responsiveness.

4.33 The keys to success of the CRC include: use of shame/pride as non-monetary incentives to improve institutional performance; importance of communication campaigns, including the role of the media; the use of comparative ratings to introduce an element of competition amongst service providers; the importance of an *independent and neutral monitor* to keep the pressure on supply-side reforms; user surveys of perception provides a real-life check; the need to build up a culture of accountability amongst public agencies as well as among CSOs; and the need for clarity in relation to the design, measurement and implementation of the CRCs. It also bears noting that these changes did not occur overnight; significant time and pressure was needed to bring about these changes.

E. THE WATER INTEGRITY NETWORK (WIN): EXAMPLE OF A SECTORAL COALITION TO COMBAT CORRUPTION

Objectives

5.1. The overall development aim of the WIN is to reduce poverty by fighting corruption in the water sector. Detailed objectives of the Network include to: promote increased awareness and understanding of corruption issues related to water; research and disseminate effective anti-corruption information, methodologies and best practices relevant for organizations working in water; support practical actions and hands-on methods to fight corruption in water; develop monitoring mechanisms relating to corruption in water; and encourage and support enhanced capacity of governments, civil society, the private sector and all other interested parties to undertake, coordinate and work together against corruption in water.

Scope

5.2. The Network scope is to: develop the appropriate balance between advocacy work (such as through media campaigns, access to information and other advocacy/awareness instruments) and concrete action (including start-up activities on

the ground, particularly by NGOs); capacity building, such as strengthening anti-corruption monitoring by civil society, the private sector and public agencies in areas, such as decentralization of services; application and implementation of anti-corruption tools and methodologies (ranging from international conventions and national public sector reforms to tools developed by CSOs such as integrity pacts, codes of conduct, report cards and participatory budgeting); diagnosis, assessment and research of corruption in the water sector as well as the effectiveness of various anti-corruption measures; and dissemination and management of information and knowledge pertaining to corruption and anticorruption measures. The network covers all aspects of water supply and sanitation (WSS), irrigation, hydropower and water resources management, in general; and since corruption is a worldwide phenomenon, the network will be worldwide. Because of the interests of the founding members, many of the network's initial activities are expected to focus on WSS.

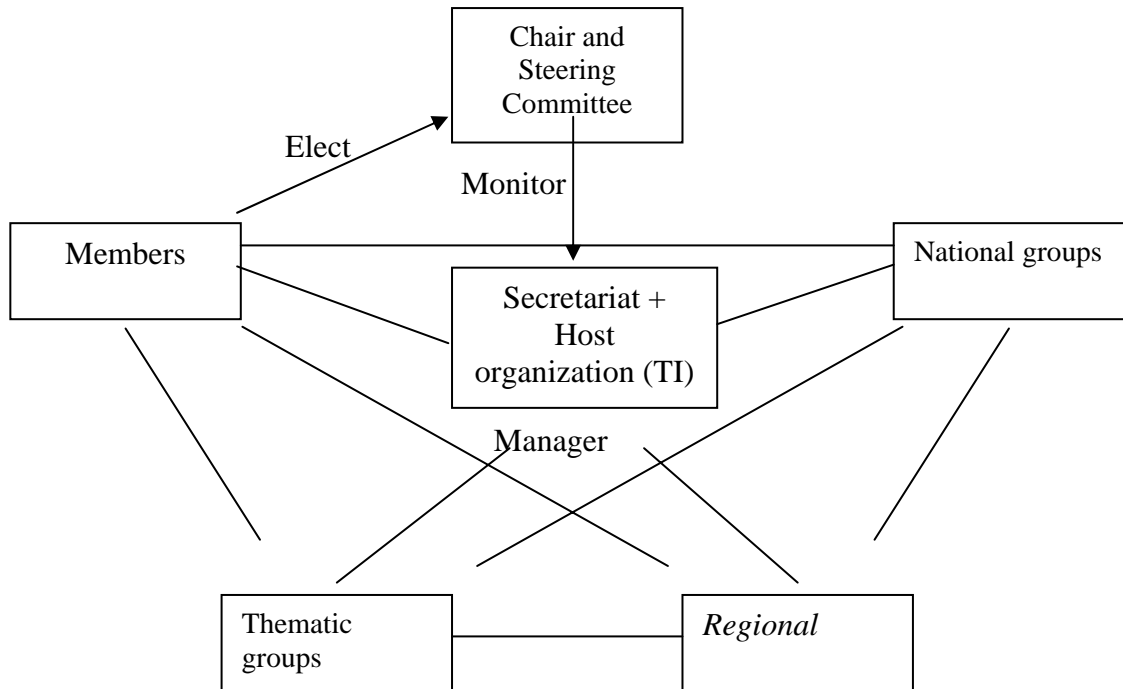
Membership

5.3. The membership of the WIN is inclusive being open to representatives of Governments; utilities; regulators; the private sector; the donor community; the Water and Sanitation Program (WSP) of the World Bank; policy advice organizations including relevant agencies of the UN System and regional bodies; universities and research organizations; professional organizations; and civil society organizations. The Network was launched during World Water Week, held in August, 2006 in Stockholm; as of the end of August, 2007 it had 243 members from 66 countries.

Network Governance and Organization

5.4. The WIN Secretariat (WIN-S) is hosted in the Secretariat of Transparency International (TI-S) in Berlin. The Secretariat currently reports to an Interim Steering Committee (ISC) consisting of representatives/staff of AquaFed (The International Federation of Private Water Operators), Deutsche Gesellschaft fuer Technische Zusammenarbeit (GTZ), IBON (an NGO based in the Philippines), the International Water and Sanitation Centre (IRC) of Delft, the Stockholm International Water Institute (SIWI), the Swedish Water House (SWH), Transparency International (TI), the United Nations International Childrens' Fund (UNICEF) and the Water and Sanitation Program (WSP). The WIN ISC will be replaced early in 2008 by a Steering Committee elected by the WIN Members. A communications specialist joined the WIN-S in summer 2007; the programme manager is scheduled to join the WIN-S early in 2008. Further information on the Network governance is set out in Exhibit 6.

Exhibit 6: Governance of the Water Integrity Network (WIN)



Activities

5.5. The network activities will include:

- (a) Development of *Knowledge Products* including (I) research on corruption in the water sector; (II) a water sector anticorruption toolkit, focusing on tools, methodologies and strategies; and (III) supporting TI's Global Corruption Report (2008) featuring the Water Sector;
- (b) Supporting *Networking Activities* including: (I) Developing a Members' Database; (II) Setting Up a Network 'Home Page', a Helpdesk and a newsletter to communicate with WIN Members; (III) Organization of discussions grouped around topics of interest; (IV) Facilitating the setting up of National, Regional and thematic groups;
- (c) Organization of *Regional and National Workshops* aimed at identifying and facilitating practical anticorruption activities; and
- (d) Supporting *Local Actions* in anticorruption in the water sector, particularly by NGOs.

TI-S will be involved in organizing a Workshop in South Asia later this year which will be hosted by TI Bangladesh. Other cosponsoring organizations include the International Water and Sanitation Centre (IRC) of the Netherlands and IBON, an NGO located in Manila, the Philippines. UNICEF has also expressed interest in being involved in this event.

D. ACTION PLAN FOR ADDRESSING CORRUPTION IN THE WATER SECTOR

6.1. **Premises:** This section proposes an action plan for addressing corruption issues in the water sector. It is based on the following premises:

- ✓ Addressing corruption is part of a wider effort to put in place the conditions for maximizing national growth and improving the quality and access to services, particularly for the poor;
- ✓ Addressing sectoral issues complements activities/factors at the macro level, such as: civil service reform; clear anti-bribery legislation; an independent judiciary; effective access to information legislation; a strong and vigorous press and an active and autonomous anti-corruption organization;
- ✓ In relation to international and national anticorruption conventions, it is important for the signatory countries to ratify them in a timely manner; then assure that their provisions are fully incorporated into their legal systems and their institutional frameworks; and finally that their provisions are actively applied, enforced and monitored;
- ✓ A multistakeholder approach involving government, the affected communities/consumers, water utility companies (either public or private), the private sector (including commercial banks), the international financing institutions, the donor community, CSOs and other organizations;
- ✓ Comprehensiveness, i.e., it needs to address corruption as it affects the construction and operation and maintenance of water infrastructure as well as delivery to and payment from consumers; and
- ✓ Focused action research is needed to constantly incorporate lessons from ‘best practice’.

6.2. The **Action Plan** may be broken down into the following components:

Sectoral Reform

- ✓ Government support (‘political will’) is critical to facilitate the sectoral and institutional reforms needed for high-level water services to the consumer
- ✓ Define and implement a water policy, set a regulatory framework, create a basis for qualifying and monitoring work as performed by different agents of the public and private sector, and explore effective approaches to such capacity development such as “Public-Public-Partnerships”;
- ✓ Cost recovery is one of the keys for sustainable development of the sector. **‘Water does not have to be free’**
- ✓ Foster an appropriate level of decentralization, including the possibility of NGO support;
- ✓ Explore underused potential for competition;
- ✓ Active involvement of CSOs to mobilize citizen/customer involvement and support, particularly in relation to needed tariff increases as well as assuring high levels of high levels of bill collection and low levels of illegal connections; and
- ✓ Be complemented by a vigorous multimedia communications strategy aimed at raising public awareness of unsatisfactory performance in the water sector, the pervasiveness of corruption and the steps that can be taken to address these issues.

Comment: Integrating a deep rooted reform program with a vigorous communications strategy should help transform political power in water from a liability to a strength.

Institutional Strengthening/Capacity Development

- ✓ Water utilities and other executing agencies should be autonomous and made attractive for high-calibre leadership (water sector champions') and accountable for performance and delivery;
- ✓ Public-private partnerships, based on management contracts or performance-based service contracting can help utilities significantly improve performance and reduce 'petty' corruption;
- ✓ Institutions should be supported with appropriate staffing levels and adequate salaries and other incentives, including relevant training opportunities; and
- ✓ The BPCB, suitably adapted, could provide the framework for instilling a culture of integrity, transparency and accountability within a water utility

Procurement

- ✓ Should be based on the implementation of an effective procurement law, with acceptable controls and vigorous law enforcement;
- ✓ TI recommends that its 'Minimum Standards for Public Contracting' be adopted. It bears noting that these standards refer to the provision of goods and services as well as the implementation of works;
- ✓ Imbedded in this is the Integrity Pact (IP), which TI believes is an effective vehicle for addressing corruption in specific contracts; and
- ✓ Public confidence in the procurement process can be further strengthened through involving CSOs in its monitoring.

Operation and Maintenance (O&M)

- ✓ Performance-oriented management contracts are a realistic option for addressing O & M issues (including NRW) in water utilities

Research

- ✓ Quantifying (by region) the benefits for the private sector to participate in IPs; and
- ✓ Development of effective tools for monitoring corruption in the water sector

6.3. The following steps can be taken by **MDBs and the donor community** in general to support the action plan set out in para, 6.2 above:

- ✓ Expand project preparation to focus on the identification of the sectoral and project corruption risks as well as developing an action plan to address them; and
- ✓ The action plan would focus primarily on **preventative anticorruption measures**

6.4. The following due diligence can be taken by organizations facilitating or providing private sector funding for water sectors projects (including public-private partnerships) such as **export credit agencies, commercial banks and the private sector wings of MDBs** in the context of the action plan set out in para. 6.2 above:

- ✓ Require companies to have anti-bribery programs in place, such as TI's BPCB
- ✓ Require certification by officers, directors, employers and especially agents that the project is being carried out in compliance with all applicable laws on corrupt practices" and

- ✓ Disclosure by companies if they are under investigation or have been convicted of violations of anticorruption laws, such as the FPCA or have been debarred by any MDB.

6.5. In addition, TI (Transparency International 2005b) believes that the following steps can be taken by ECAs to reduce the risks of corruption in projects for which they provide 'cover':

- Upgrade due diligence/undertakings required of the applicant;
- Upgrading the due diligence of the ECA;
- Disclosure by the ECA for applications for 'cover' of the name of the applicant; amount(s) applied for; and the country into which the goods and services will flow; and
- Clear remedies to be implemented by the ECA (e.g. refusal of cover; suspension of cover; debarment).

E. CONCLUSIONS

7.1 The major conclusions relate to:

- (a) Progress has been made in **raising awareness** of the amount and impact of corruption on national economies and particularly the water sector, especially in the last five years;
- (b) Addressing corruption issues in the water sector can contribute significantly towards meeting the multilateral development goals (MDGs). According to the World Bank, 20-30% of water finances are being lost due to corruption and dishonest practices. If we assume an average corruption level of 30% in Sub-Saharan Africa, this would result in a leakage of US\$ 10 billion over the next 10 years. This compares with the estimated annual expenditures of US\$ 6.7 billion needed to meet the MDGs;
- (c) While anticorruption strategies should focus both on the prevention of corruption, its discovery as well as the enforcement of anticorruption laws and regulations, the sustainable (and less dangerous) approach is to focus on the **prevention of corruption**; and
- (d) Although some clear advances have been made (such as eliminating the tax deductibility of bribes in industrialized countries), due to the **lack of political will**, progress has been slow in both industrialized and developing countries in defining and implementing anticorruption strategies at both the national as well as the sectoral levels;

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