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1. INTRODUCTION

1.1. Objective of the Toolkit - Making a difference by preventing corruption

The officials of the Ministry for Foreign Affairs of Finland, working in the field of development co-operation, face the challenge of making a difference in citizens' lives. At the same time, they have to manage the risks for development effectiveness arising from corruption and weak governance environments. While, the risks caused by corruption, cannot be eliminated entirely, they can be mitigated, by following the governance and anti-corruption (GAC) tools and guidance provided by the Toolkit.

The objective of the Toolkit is to provide conceptual and technical guidance to enable "development practitioners" to:

- Become better equipped to effectively support the anti-corruption work of Finland in development co-operation;
- Acquire useful tools to analyze the governance situations by using tools like governance assessments (GAs) and the United Nations Convention Against Corruption (UNCAC) and thus, to operationalize the potential these tools provide, to political dialogue and operational activities;
- Better contribute to the design and implementation of development programmes by mainstreaming governance and anti-corruption (GAC) issues and to better design and follow-up specific anti-corruption programmes, NGO support, general budget and sector support.
- Become familiar with the legislative, judicial and administrative means of strengthening governance and preventing corruption.

1.2. Rationale of the Toolkit

Corruption is an obstacle to development. Corruption distorts economic growth and threatens democracy, rule of law and human rights. It is a concern for individuals, societies, private field and international organizations. The seriousness of corruption as a phenomenon is widely recognized. Preventing corruption is a responsibility of every civil servant in the Ministry for Foreign Affairs. It is not an issue of "will" but it is an issue of "must".

"The red line "of the Toolkit is that preventing corruption requires strengthening governance. Addressing corruption through preventive lenses and tools and strengthening the preventive governance measures through political dialogue and operational activities both at bilateral and multilateral fora, form the basis of the Finnish anti-corruption work.

The more we address governance and anti-corruption issues throughout all the Finnish funded development programmes, the less we are confronted by corruption.

The Toolkit is built around the question: What can we do to prevent corruption, instead of describing all the damage corruption can cause. Thus, the Toolkit helps in building capacity in the way, Finland implements its development co-operation.

1.3. Structure of the Toolkit

The Toolkit is divided into four thematic parts:

1. Part I: Anti-corruption framework for development co-operation. Part I focuses on governance strengthening and corruption prevention: i) by concentrating on what is

meant by concepts like governance, corruption and anti-corruption, ii) by introducing tools like governance assessments and UNCAC to analyze governance challenges and iii) by challenging the concept of political will.

2. Part II: Technical guidance for political dialogue and operational activities. Part III addresses the key issues and principles of governance and anti-corruption to be followed in political dialogue and operational activities.
3. Part III: Legislative, judicial and administrative framework for strengthening governance and preventing corruption. Part III firstly, introduces the key legal and administrative means to be followed in governance strengthening and corruption prevention in development co-operation and secondly, it addresses the wide array of international legal commitments, Finland is party to.
4. Part IV: Thematic approach to anti-corruption. Part IV provides key issues to be considered in relation to governance and anti-corruption in the following thematic areas: humanitarian assistance, aid for trade, gender equality and rule of law.

1.4. Information sources

The Toolkit draws its contents from the Finnish legislation, international conventions Finland and its partner countries are party to, international "rules of the game" agreed under the auspices of the EU, United Nations, World Bank and other international financial institutions and OECD/DAC. The Toolkit consists of the commitments Finland has already agreed to follow and operationalizes the commitments to the daily work of development practitioners.

The Toolkit contains also operationally relevant material provided by U4 – Anti-Corruption Resource Centre – based in Bergen, Norway. This centre of excellence in the field of anti-corruption provides up-to-date information on anti-corruption programming and policy to the development community.

The information sources used in the Toolkit and links to further information are found in Appendix 1.

PART I: ANTI-CORRUPTION FRAMEWORK FOR DEVELOPMENT CO-OPERATION

1. STRENGTHENING GOVERNANCE AS AN ENTRY POINT TO ANTI-CORRUPTION

This chapter highlights “the red line” of this Toolkit – Preventing corruption requires strengthening governance. Anti-corruption is one of thematic areas of governance but in the context of the Toolkit it plays the most crucial role. Addressing corruption through “preventive lenses and tools” and strengthening the preventive governance structures through political dialogue and operational activities both at bilateral and multilateral fora, form the basis of the Finnish anti-corruption work.

We can only strengthen governance and anti-corruption structures: i) by understanding what is meant by concepts like governance, corruption and anti-corruption; ii) by analyzing what are the main governance challenges by using tools like governance assessments and the United Nations Convention against Corruption (UNCAC) and iii) by being capable to define the role of political will in anti-corruption.

1.1. Making governance real

There is strong evidence of a link between the quality of a country’s governance system and its development performance. Problems of poverty and governance are inextricably linked like stated in the Millennium Declaration:

“11. We will spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected. We are committed to making the right to development a reality for everyone, and to freeing the entire human race from want. 12. We resolve, therefore, to create an environment — at the national and global levels alike — which is conducive to development and to the elimination of poverty. 13. Success in meeting these objectives depends, inter alia, on good governance within each country....”

Declarations like the Millennium Declaration are of good intent. However, one has to be aware, that there is a big difference between the role of governance in international development discourse and the role of governance in development co-operation. There is “a lot of talk” but “the talk” has not always ended as a concrete work with results. So far, there has been too little attention on the delivery side of governance.

Corruption comes into the picture when there are too many unresolved governance problems, resulting from incompleteness of the process of building an effective and accountable state.

In order to help the partner countries to develop capable and accountable states and institutions that can devise and implement sound policies, provide public services, set the rules governing markets, and combat corruption, Finland needs to focus on strengthening governance in its partner countries. Strengthening governance is the best way to prevent corruption and thus, failed states.

The real test on the success of governance work is, how much it increases development effectiveness. In order to follow the delivery side of governance, one has to take governance into account in all development interventions:

- Governance assessments (GAs) both general and sectoral set priorities based on systematic diagnosis of country-specific governance and anti-corruption challenges to development effectiveness. Challenges caused by political will and status of ratification of international conventions can be analyzed when participating actively in the drafting process of GAs.
- Programme/Project design and implementation should build on the results derived from the governance assessments in ways that provide opportunities to incorporate enhanced participation, rule of law, transparency, responsiveness, effectiveness, efficiency and accountability, and other strengthened checks and balances (including fiduciary controls and third party monitoring if feasible) into operational design;
- Strengthening governance capacity of country systems and institutions enables governance and anti-corruption related development benefits to be realized across the spectrum of public action, not only in donor-financed projects. Thus, having an impact on the overall governance situation in the country.

1.2. Legally binding governance

Even though good governance materializes in myriad contexts and the definition depends on the international organization in question, there is something universal about the concept. The normative principles of governance (e.g. participation, rule of law, transparency, responsiveness, effectiveness, efficiency and accountability) are all found from legally binding international conventions ratified by Finland and also by the partner countries of Finland.

Good governance as a concept is not directly a topic in itself in any legally binding international instrument but there is a wealth of United Nations human rights instruments of direct relevance and applicability to questions of governance. UNCAC has added a big wealth of new stipulations on governance to the already existing international agreements.

The normative principles of good governance

Participation by both men and women is a key cornerstone of good governance. Participation could be either direct or through legitimate intermediate institutions or representatives. It is important to point out that representative democracy does not necessarily mean that the concerns of the most vulnerable in society would be taken into consideration in decision making. Participation needs to be informed and organized. This means freedom of association and expression on the one hand and an organized civil society on the other hand.

Rule of law. Good governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, particularly those of minorities. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force.

Transparency means that decisions are taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is distributed and that it is provided in easily understandable forms and media.

Responsiveness. Good governance requires that institutions and processes try to serve all stakeholders within a reasonable timeframe.

Effective and Efficient. Good governance means that processes and institutions produce results that meet the needs of society while making the best use of resources at their disposal. The concept of efficiency in the context of good governance also covers the sustainable use of natural resources and the protection of the environment.

Accountability is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organizations must be accountable to the public and to their

institutional stakeholders. Who is accountable to whom varies depending on whether decisions or actions taken are internal or external to an organization or institution. In general an organization or an institution is accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency and the rule of law.

1.3. Defining governance

If the national economic, political, and administrative systems in the poor countries were working properly and governance structures were aiming toward the common good, much less external aid would be needed. No amount of external assistance can help to reduce poverty or narrow the gap between the rich and the poor if 1) governments and public servants are not taking up the responsibility and are not accountable; 2) if national governance structures are weak and proper institutional and legal frameworks are not in place.

One of the leading interpretations of governance is the definition of UNDP. The interesting part of this definition is that governance becomes an issue for everyone and not just a remote issue of political leadership and executive elite. UNDP defines governance as:

“The exercise of political, economic and administrative authority in the management of a country’s affairs at all levels. Governance comprises the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, mediate their differences and exercise their legal rights and obligations.”

How can one define what is good governance? Like mentioned before the normative concepts make good governance a legally binding issue but they also make it possible to define what is good governance. Good governance is:

“participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society” (UNDP, 2004)

Bad governance refers to the undesirable (i.e. self-interested) conduct of a government combined with a negative performance in making and implementing political and economic decisions. This includes corruption and other forms of mishandling public resources. Bad governance is used to refer to a lack of transparency and also to smothering of public participation.

Poor governance, on the other hand, is used to refer to the lack of capacity, weak institutions or in general lack of knowledge and experience in managing public resources. Sometimes, particularly in the context of fragile states and conflict prone societies the term weak governance is used instead.

Weak governance is ambiguous, as it has been used when governments are either unwilling or unable to assume their responsibilities in relation to responsible and responsive public administration and in protecting human rights. The use of all these terms is sometimes overlapping and not always clear-cut.

1.4. Governance and anti-corruption

Governance and corruption are often used synonymously. But they are quite different concepts and conflating them can be very damaging. While governance comprises the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, mediate their differences and exercise their legal rights and obligations, corruption is an outcome and a failure of this complex system.

Sometimes an exclusive focus on corruption causes simple-minded anti-corruption initiatives, which neglect the complex challenge of strengthening national governance systems. Thus, the focus has to be in strengthening governance structures of the partner country, but also in building capacity in the way Finland implements its development co-operation.

Anti-corruption work is an essential part of good governance work. Anti-corruption work includes activities, which strengthen not only national but international governance structures. It normally strengthens checks and balances institutions like parliaments, independent oversight agencies, the judicial system, a free press, and democratically accountable local institutions. United Nations against Corruption (UNCAC) is a good example of international level initiative, which promotes transparency and accountability – the key principles of good governance.

Anti-corruption work can take many different forms in development operations since the checks and balances structures are not always the national anti-corruption structures, but structures which have been incorporated to the development programme. Anti-corruption activities at the programme level can take e.g. the following forms: supporting the formulation of legal framework, sound public financial management, inclusive structures for participation in decision-making or involving independent financial agents to follow the financial management of the programme.

1.5. Governance and aid effectiveness

Paris Declaration (2005) and the 2008 Accra High Level Forum on Aid Effectiveness show many entry points for linking with governance agenda in general and especially, with the anti-corruption agenda. Among other things, the Paris declaration insists on results-based reporting and assessment. The Accra Agenda takes this further towards pro-poor development being the ultimate goal for results-based management. The Agenda also makes clear that transparency and accountability are at the core of the aid effectiveness agenda.

National governance systems consist of many institutions and actors, which do not only need to have the capacity to perform their functions, but who also need to be accountable to someone if governance is to be effective. In addition, transparency is an essential cross-cutting aspect of the governance system, contributing to the efficacy of both the actors and the accountability relationships. Transparency is, of course, also important if a governance system is to be monitored regarding its effectiveness to produce development results.

All this not only shows the relevance of good governance for the aid effectiveness debate. It also puts a convention like UNCAC at the centre of the Paris Declaration and re-emphasizes UNCAC as a good governance convention, not a convention solely focused on anti-corruption. UNCAC is not only a technical guide for targeted anti-corruption measures, but also a comprehensive development and governance framework. In order to know how much governance matters in development, one needs to understand the multifaceted phenomenon of corruption.

1.6. Key issues to be considered in relation to governance and anti-corruption

- ✓ Strengthening governance. Addressing corruption through “preventive lenses and tools” and strengthening the preventive governance structures through political dialogue and operational activities both at bilateral and multilateral fora, form the basis of the Finnish anti-corruption work.

- ✓ Delivery side of governance. The real test on the success of governance work is, how much it increases development effectiveness. In order to follow the delivery side of governance, one has to take governance into account in all development interventions.
- ✓ Good governance as a legal responsibility. Good governance as a concept is not directly a topic in itself in any legally binding international instrument but there is a wealth of international legal instruments of direct relevance and applicability to questions of governance.
- ✓ Conceptual understanding what is meant by, governance, good governance and anti-corruption.

2. UNDERSTANDING THE PHENOMENON OF CORRUPTION

Understanding the phenomenon of corruption is essential in preventing corruption. The following chapter provides information about the definition of corruption and about different types and forms it takes. The chapter also highlights the responsibility of foreign ministry officials to prevent corruption.

2.1. Responsibility to prevent

It is not only a moral responsibility for foreign ministry officials to try to prevent corruption. Neglecting this responsibility can have legal implications. In Finnish legislation corruption is a criminalized act and naturally also, bad governance.

2.2. Anti-corruption for development

"...let us all do our part to foster ethical practices, safeguard trust and ensure no diversion of the precious resources needed for our shared work for development and peace."

Secretary-General Ban Ki-moon on International Anti-Corruption Day 9 December 2010.

Corruption is an obstacle to development. It is a crime that works globally, crossing boundaries. Corruption distorts business and economic growth, increases environmental degradation and threatens democracy, the rule of law and human rights. It is a concern for individuals, societies, companies, governments and international organizations alike.

Corruption requires two sides. There is always a supply and a demand side, whether out of greed or out of need. The impact of corruption extends beyond the people involved in the corruptive activity. Corruption may reveal itself as unfinished bridges, ill-equipped schools and ultimately as lost lives.

Although corruption works globally, it impacts the low-income people the worst. The low-income people pay relative the highest price of corruption. Corruption can affect them directly by impeding the access to public services, such as water, health and education. It affects them indirectly too, by diverting resource away from investments in infrastructure and social services.

2.3. Defining corruption

There is no single, comprehensive or universally accepted definition. Attempts to develop such a definition invariably encounter legal, criminological and, in many countries, political problems.

In an academic corruption literature a distinction is often made between classic and modern conceptions of corruption. The classic conception of corruption dates back to Aristotle's and Plato's times and has a moral meaning: it refers to a moral decadence of human and society, which is caused by an excessive concentration of power. The modern meaning of corruption is narrower, more value-free, and is based on characteristic of a modern state, the separation of public and private. It is understood as a twisted relationship between state and society.

The current definitions are based mainly on the modern conceptions of corruption. The most definitions of corruption share an emphasis on the abuse of public power or position for personal advantage, with an over-emphasis on the public office.

Transparency International (TI) defines corruption as "the abuse of entrusted power for private gain". This definition of corruption represents a broader phenomenon where private agents also share responsibility with public servants. Corruption is a challenge to private sector as well as to public sector.

TI further differentiates between "according to rule" corruption and "against the rule" corruption. Facilitation payments, where a bribe is paid to receive preferential treatment for something that the bribe receiver is required to do by law, constitute the former. The latter, on the other hand, is a bribe paid to obtain services the bribe receiver is prohibited from providing.

When viewing corruption as abuse of entrusted power for private gain, many acts which are unethical (and regarded as corrupt) may not necessarily be illegal. E.g. big private companies may play an undue role when influencing and shaping public policies and laws of developing countries.

To further develop the concept, corruption can be defined more neutral as "the privatization of public policy", in which public policy is seen as including access to public services. Thus within such a definition, a responsibility resides with both those who exert undue influence, and those who are unduly influenced.

2.4. Different types of corruption

Corruptive practices take place in all levels of society. The practices vary from everyday petty corruption such as illegal school payments to outrageous state captures. The main corruption types can be divided into bureaucratic corruption, political corruption and to state capture. The causes for different types of corruption differ as well; corruption can be due to greed, need, opportunity, lack of punishment, lack of enquiry or follow up, peer pressure, and habit.

- Bureaucratic, administrative or "petty" corruption is everyday corruption. It takes place at the implementation end of politics, where the public meets public officials. Petty corruption is described as "survival corruption", a form of corruption which is pursued by underpaid agents who depend on extra-payments to feed and house their families. Although petty corruption involves small sums of money, the amounts are not "petty" for the individual adversely affected. Petty corruption challenges the low income members of society, who may experience bribes regularly in their encounter with public administration and services as police, hospitals etc.

- Grand and high level corruption takes place at the policy formulation end of politics. It refers not so much to the amount of money involved as to the level at which it occurs - where policies and rules may be unjustly influenced. The kinds of transactions that attract grand corruption are usually large in scale. Political corruption is in some instances used synonymously with grand and high level corruption, referring to the misuse of entrusted power by political leaders. In others it refers specifically to corruption within the political and electoral processes.

- State capture is recognized as a most destructive and intractable corruption problem. It is a phenomenon in which outside interests (private sector, mafia network etc.) are able to bend state laws, policies and regulation to their benefit through corrupt transactions with public officers and politicians.

2.5. Main forms of corruption

Corruption is susceptible to variations across time and space. The main forms of corruption are bribery, extortion, favouritism, embezzlement, conflict of interest and fraud. They take place in petty as in grand corruption, varying from legal to illegal practices. Corruptive transactions extend beyond financial practices to “non-financial corruption” such as nepotism, sexual exploitation and abuse, coercion and social or political gain.

- Bribery is the act of offering money or other valuables in order to persuade someone to do something for you. Bribery is corruption by definition. Bribes are also called kickbacks, payola, hush money, sweetener, protection money, boodle, gratuity etc. Bribery is widely criminalized through international and national laws.
- Extortion is the unlawful demand or receipt of property or money through the use of force or threat. A typical example of extortion would be when armed police or military men exact money for passage through a roadblock. Synonyms include blackmail, bloodsucking and extraction.
- Favouritism refers to the normal human inclination to prefer acquaintances, friends and family over strangers. It is not always a form of corruption. However, when public (and private sector) officials demonstrate favouritism to unfairly distribute positions and resources, they are guilty of cronyism (friends) or nepotism (family), depending on their relationship with the person who benefits.
- Embezzlement is the misappropriation of property or funds legally entrusted to someone in their formal position as an agent or guardian.
- Conflict of interest arises when an individual with a formal responsibility to serve the public participates in an activity that jeopardizes his or her professional judgment, objectivity and independence. Often this activity (such as a private business venture) primarily serves personal interests and can potentially influence the objective exercise of the individual's official duties.
- Fraud is economic crime involving deceit, trickery or false pretences, by which someone gains unduly. An actual fraud is motivated by the desire to deceive another to his harm, while a constructive fraud is a profit made from a relation of trust. Synonyms: Swindle, imposition, deceit, double-dealing, cheat, and bluff.

2.6. Key issues to be considered

- ✓ Legal responsibility to prevent corruption.
- ✓ Multiple nature of corruption including:
 - definition of corruption,
 - different types of corruption and

- main forms of corruption.
- ✓ Understanding the phenomenon of corruption will assist in:
 - understanding the country context,
 - preventing corruption and
 - in detecting and reporting corruption.

3. FRAMEWORK FOR MONITORING GOVERNANCE

Monitoring developing country governance has become a growth industry. There is by now a broad consensus among policymakers and academia that good governance matters for development and herein, for the effectiveness of development assistance. This in turn has increased the demand for monitoring the quality of governance.

While a multitude of motivations and purposes lie behind decisions to carry out governance appraisals, most assessments are used as a planning tool to enhance the effectiveness of aid. In addition to that, governance assessments act as “early warning systems” to alarming governance situations and provide a possibility to assess the Finnish response to the situation.

Since the main governance assessments and indicators are used in all partner countries of Finland, one gets a possibility to consult other Finnish partner country embassies if, they have experienced similar governance challenges in their respective countries. Thus, improving the cohesion of Finnish responses to changes in governance.

This chapter addressed the challenge of assessing developing country governance:

- By presenting the different governance assessments and the indicators and indices;
- By identifying the key governance assessments and indicators to be used at the country level;
- By highlighting the existing political commitments for the use of governance assessments and the opportunities they provide for use in development co-operation.

3.1. Governance assessments

There are several types of governance assessments. Some are studies of political economy and drivers of change at the state level, while others are more focused on particular issues that are crucial from a governance perspective, such as human rights, corruption, accountability, capacity, conflict or transparency, within the country context. Studies of institutional quality and functioning or that examine the capacity issues within the enabling environment (for instance in the context of poverty reduction, for specific sectors such as health or education, or linked to organizations) are also common.

The observed tendency of proliferation of the various governance assessments and limited ability of external parties (e.g. donors) to build on each other initiatives is a critical issue that should be addressed by development partners. Development partners might have legitimate reasons for carrying out individual and varied governance assessments linked to their individual agendas and aid portfolios.

It has to be remembered that, a myriad amount of governance assessments, can lead to confusion at the country level since the results of these assessments can vary. As an end result there can be a situation that there is no harmonized approach to governance among development partners which complicates both political dialogue and operational activities.

In light of Paris Declaration, Finland has not developed a governance assessment of its own. The clear policy line is that the first priority is given to the common EU tool on assessing governance – the governance profile. This approach is the consequence of the active role Finland played, in creating the harmonized approach to governance, during its EU presidency in autumn 2006.

The clear guidelines for the use of governance assessments can be found from “the Council Conclusions on the Governance in the European Consensus on Development: Towards a

harmonised approach within the European Union" adopted during the Finnish EU presidency in October 2006.

3.2. Different categories of governance assessments

There are a number of different ways to distinguish between different groups and categories of assessments. The option used here is to distinguish between the following two categories:

Assessments:

- 1) External assessments (general and sectoral): EU Governance Profile and the World Bank Country Policy and Institutions Assessment
- 2) Peer-review assessment: African Peer Review Mechanism

Indicators/indices:

- 1) The World Bank Institute: The Worldwide Governance Indicators
- 2) Transparency International: The Corruption Perceptions Index, the Global Corruption Barometer and the Bribe Payers Index

Both World Bank initiated governance indicators and African Peer Review Mechanism play an important role in monitoring the partner country governance situation. However, Finland does not have a role in the compilation process of these assessments. The only governance assessment, in which Finland can have an active role, is the EU governance profile.

The value of indices of Transparency International (TI) lies in their ability to raise awareness on corruption and advocate anti-corruption action but they can only give some indication on the corruption trends at the country level.

3.3. External assessments

3.3.1 Governance profile of the European Union

The EU "Governance Initiative" is an incentive mechanism that gives the ACP partner countries access to additional funding on the basis of their commitment to deliver governance reforms. There are several stages to this process. The EC first prepares together with the EU Member States a "Governance Profile", which provides an overview of governance in the country. Partner country governments are then requested to put forward a "Governance Action Plan" detailing the ongoing and planned initiatives designed to address priorities identified in the Governance Profile.

As stated in the Council Conclusions in October 2006 the EU Member States need to actively cooperate in the development of the profiles:

"15. WELCOMES the use of governance profiles based on current situation and on trends; STRESSES however that the profiles should reflect national development plans and indicators; INVITES the Commission and the Member States within their respective competences to actively cooperate in the development of the profiles and assessment criteria both in the headquarters and in the field with a view to their possible use also by the Member States in their bilateral strategies, policies and programmes;"

The EU governance profile is a country specific joint programming tool constructed by the European Commission and the EU member states (missions) present in the country. Its main

objective is to help identifying specific areas of cooperation (weaknesses) and agreeing on benchmarks and targets for reform (Government commitments).

The governance profile does not need to be done necessarily jointly with the partner country but its contents should be shared (but not negotiated and agreed) with the partner country. The EU Member States need to be associated in the drafting process. So the nature of the profile as a governance assessment is purely external. This does not mean that the drafting process should not be a widely consultative in nature in the country in question.

The governance profile should provide a qualitative, extensive and detailed assessment that helps identifying the main constraints in governance related areas in the broad sense. It is not meant to be exhaustive but focuses on some core areas of governance, which are in harmony with the World Bank Institute worldwide governance indicators:

1. Political/Democratic Governance
2. Political Governance/Rule of Law
3. Control of Corruption
4. Government Effectiveness
5. Economic Governance
6. Internal and External Security
7. Social Governance
8. International and Regional Context
9. Quality of Partnership

The governance profile can also be used to identify sectoral performance indicators, particularly when governance is a focal area. It will help to assess the extent to which commitments undertaken by partner country are relevant and credible. For example in the governance sector, the profile can identify e.g. the following issues:

- Rule of law (constitutional development, police performance, judicial system, legislative framework, human rights, etc.);
- Democracy development (public participation, electoral system, freedom of speech/media freedom etc.);
- Financial management (the state of the public financial management systems, the institutional and legal framework for oversight and audit authorities, efficiency and transparency income revenue system and redistribution of public funds, etc.);
- Gender (the legal framework, political participation and its support, opportunities in the public and private sector, etc.);

Like in any of the wide-scale exercises, the drafting process and use of governance profiles have not always been consistent in different countries thus, there has been some 'hick-ups' in the process. One of the raised concerns has been the lack of transparency in the process in relation to the EU member states and to the partner countries. Thus, some member states have felt that the process at the country level has not followed "the spirit of Council Conclusions". In some countries the European Commission (EC) has asked for wide member state participation in constructing the governance profile, in others the process has been more 'internal' in the Commission.

The Finnish embassies participating in the drafting process of governance profile need to emphasize the necessity to follow the principles agreed in the Council Conclusions. The embassies present in the partner countries, in which governance profile is used, need to participate the process stressing the following principles:

- Transparency and inclusiveness of the process. Governance profile is an external assessment but it is not meant to be "secret" in nature. To make sure that the partner

countries are committed to the reform processes, they need to be aware of the contents of the profile. Thus, giving the EU governance profile more local credibility and national ownership.

- Wide consultation of the larger society in the drafting process. In order to get credible results out of any governance assessment, “the voices of people” have to be heard. The civil society, private sector and specifically, people in the most vulnerable position, need to be heard in the drafting process. Even though, the EC and the EU member states draft the profile, it does not need to be done as “desk work”.
- Do no harm – harmonized EU approach to governance. To avoid confusion that follows when the various EU member states have very different approaches and views on governance, all the EU countries present in the partner country need to be involved in all the stages of the governance profile process. Since some of the EU member states have governance assessments of their own, it is crucial that there is a harmony between individual assessments drafted by the EU member states and the EU governance profile. Thus, guaranteeing a consistent and harmonized European view on the main governance issues in the partner country.

3.3.2. Governance assessments and indicators of the World Bank

The World Bank produces two sets of governance assessments/indicators of major importance. One is the Country Policy and Institutions Assessment (CPIA), which is produced annually by the Bank's own staff i.e. its country teams, to assess the quality of Bank borrowing countries' policy and institutional frameworks for fostering poverty reduction, sustainable development and effective use of development assistance.

The other is the most comprehensive publicly available set of governance indicators – the worldwide governance indicators - published bi-annually since 1996 by the World Bank Institute (WBI). (See below under Indicators and Indices.)

3.3.3. Country Policy and Institutions Assessment (CPIA)

In the late 1970s the World Bank began using systematic country assessments to guide the allocation of International Development Association (IDA) resources. By the late 1990s the CPIA had evolved to something close to its current format. A further round of fine-tuning came in 2004, to implement suggestions by an independent panel of outside experts.

CPIAs examine policies and institutions, not development outcomes, which can depend on forces outside a country's control. The CPIA looks at 16 distinct areas grouped into four clusters. For each criterion, very detailed guidelines are provided to help World Bank staff to score individual countries along an absolute 1–6 scale.

The CPIA's four clusters and 16 criteria:

- A. Economic management cluster
 - 1. Macroeconomic management
 - 2. Fiscal policy
 - 3. Debt policy
- B. Cluster on structural policies
 - 4. Trade
 - 5. Financial sector
 - 6. Business regulatory environment
- C. Cluster on policies for social inclusion/equity
 - 7. Gender equality

8. Equity of public resource use
9. Building human resources
10. Social protection and labor
11. Policies and institutions for environmental sustainability
- D. Public sector management and institutions cluster
12. Property rights and rule-based governance
13. Quality of budgetary and financial management
14. Efficiency of revenue mobilization
15. Quality of public administration
16. Transparency, accountability, and corruption in the public sector

Governments have been recently informed of the assessment process, which is increasingly integrated into processes of World Bank - government dialogue. From the summer 2006 onwards, the Bank discloses to the public numerical rating for each criterion.

The Public sector management and institutions cluster serves as a major input for the so called "governance factor" which plays a critical role, in addition to the country overall CPIA rating, in the allocation of Bank Funds.

As with all assessments and indicators, the CPIA has its limitations. The assessments, are compiled by, the World Bank officials. Even if, experts in their field and well informed about individual countries, staff sometimes may not be aware of the intimate details as to how things really work in a country.

Some of the criteria do not lend themselves readily to an ordinal scale of quality—even though "the criteria were developed to ensure that, to the extent possible, their contents are developmental neutral, that the higher scores do not set unduly demanding standards, and can be attained by a country that, given its stage of development, has a policy and institutional framework that strongly fosters growth and poverty reduction".

Staff assessments can be affected by the fact that the CPIA forms the basis for allocating IDA resources. To address these limitations and ensure consistency across countries, the World Bank goes through an elaborate multistage process for scoring the CPIAs. The process includes an initial round of benchmarking by a global team drawn from across the World Bank, subsequent rounds within operating regions using the benchmarked countries as guideposts, and a further round of validation by central units.

3.4. Peer-review assessment

3.4.1. African Peer Review Mechanism (APRM)

African countries, which have completed the African Peer Review Process, the EU governance profile will be based on the report of this review process. In addition, the EU tries to support the APRM process like stated in the Governance Conclusions of the Council:

"16. WELCOMES the African Peer Review Mechanism (APRM) as a participatory self assessment tool for encouraging reforms, mutual learning and strengthening ownership and CONFIRMS the readiness of the EU to continuing support to the process and the reforms it generates at the national level; INVITES the Commission and Member States to exchange information on financial support provided to the APRM process and requests the Commission to regularly monitor and report on EU support to the APRM;"

African states have actually undertaken a number of commitments to respect good governance since the African Union (AU) replaced the Organization of African Unity (OAU) in 2002. By the constitutive action of the new African Union, African States are bound to promote human rights, democratic principles and institutions, popular participation and good

governance. More specific state commitments in relation to good governance are included in the framework of the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM).

APRM is a self-monitoring mechanism that African states themselves agree to take. Its mandate is to ensure that the policies and practices of participating countries conform to the agreed values, codes and standards in political, economic, corporate governance as well as in socio-economic development. The APRM has then regional and national ownership. It is not a process where a government would assess its own performance, but it is a demand driven self-assessment by the people of African countries. Thus, it can give a more realistic assessment of the governance issues, problems and gaps in the countries under review. It also provides local suggestions on how to improve the situation.

The conduct of the APRM is a five-stage process that results in two reports: a self-assessment report, completed in the country concerned through a participatory process (led by the government, but with support of the NEPAD and a team of experts); and a peer review report, compiled by members of the APRM 'panel of eminent persons', the APRM Secretariat and technical advisers.

The self-assessment report covers four main areas: 1) political governance and democracy, 2) economic governance and management, 3) corporate governance and 4) socio-economic development. These reports are complemented with a National Programme of Action, which identifies actions for the government to undertake in order to improve the situation.

When fully consultative the APRM reports can give a useful framework for political dialogue. It identifies local governance challenges and if the planned development programmes are anchored to the National Programmes of Action, the whole process can strengthen national ownership of development planning. There is a danger that the whole process remains as a data collection exercise if the related plan of action is not taken seriously forward and is not receiving needed support from the government or from the development partners.

In general the whole process should be taken forward more consistently and its support and follow up needs very careful holistic approach. The National Programmes of Action need to be much better integrated to the wider country assistance for good governance, and development in general. The development partners need to take a holistic approach to the process and the external support need to be well coordinated and harmonized with the other related development assistance programmes. The APRM process needs to be seen as an overarching framework that will be integrated to the on-going work and understood in the prevalent political context, not as a somehow separate process of assessment that may be acknowledged but lacks follow up and implementation.

Kenya and APRM

Kenya signed the MoU committing itself to a review by the APRM in 2003 as a result of the President Kibaki's campaign for 'zero tolerance on corruption'. The APRM process in Kenya took place during the same period, as there was enthusiasm for reform and a re-energized constitutional review process going on. Thus, many relevant constitutional issues were also being considered by the self-assessment.

Of the self-assessments undertaken by the first four countries to engage in the APRM process (Kenya, Ghana, Mauritius and Rwanda) Kenya's process has been rated as perhaps the most widely consultative. It gave Kenyan citizenry a possibility to get their voice and concerns heard. During the process, workshops were held throughout the country, and a wide range of opinions on the state of governance in Kenya, were canvassed.

There were some delays in the completion of the self-assessment report due to tensions over the management of the National Governing Council (NGC) that was supposed to independently guide the implementation of the peer review process. The civil society was widely involved. However, as new

corruption scandals emerged, its criticism was less welcomed by the government. The government funding to the process was also very slow and seemed inadequate.

The APRM panel's country review report critically analyzed the weakness of state institutions and related ethnic tensions, conflicts, human rights violations and persistent socio-economic inequality. The report identified the deficiencies in the judicial system and the rule of law. It acknowledged the problems of drugs trafficking, illegal small arms and conflicts on natural resources. It brought up the poor police performance and the security threats by the militias. It also noted the election violence and partiality of the electoral system as well as the need for wider civic education. The published report did not shy away from calling for difficult decisions to be made and implemented. The final report was made widely available to the Kenyan people.

The report was accompanied by the National Programme of Action, which was meant to tackle the gaps identified. In Kenya this programme was tied up with the already on-going reforms in the public service and justice sector. The additional element was to empower the Kenyan citizens to hold the government accountable to its commitments and to provide a forum to continuing dialogue with the government. The purpose was to continue and institutionalize the dialogue between citizenry and government but this did not succeed to take place.

While the process itself had national ownership, development partners (SIDA and DfID) had set up a basket fund administered through the UNDP to support the process. Also the World Bank supported some of the activities. While the government of Kenya gave financial, technical and political support to the process there seemed to be delays in getting funds, or the funding was insufficient. Thus, many development partners remained skeptical about the political will and the coordination of the full process.

The support for the National Programme of Action was scarce as the government did not come up with a comprehensive and sustainable plan to do this. There was no overarching approach that would have brought together the already on-going reform programmes such as the constitutional review, justice sector reform, and public sector reform with the suggested continuous 'citizen's evaluation' of the progress.

Kenyan APRM reports clearly brought out the main governance concerns and frustrations that the Kenyan people had before the 2007 elections which were followed up by serious violence across the country. The report predicted the fears of flawed elections and their potentially violent consequences. Some of the people's concerns were related to lack of transparency, widespread corruption and impunity, land ownership, and general historical and structural injustices, lack of public trust and failures of the electoral system. If these concerns that were brought up in the report would have been more closely followed up and the related reforms with public evaluation have been set more effectively in the motion, the post-election violence could possibly have been avoided.

Lessons learnt:

1) The development partners referred to the report in political dialogue with the government. This discussion was not constructive as the Government of Kenya praised itself for going through 'this widely consultative APRM process', while the development partners were focusing on the implementation of the plan of action without consistent commitment to support such a programme.

2) The government and the development partners were not able to use this unique opportunity to take a holistic and coordinated approach to governance reforms; an approach that would combine the nationally driven self-assessment and programme of action with the already started (and often externally driven) related reform programmes.

3) The government failed to take use of the possibility of returning the public trust, by providing people a forum for continuous open dialogue. This same forum could have also provided also very useful national assessment mechanism.

3.5. Indicators and indices

It is not possible for one set of indicators or indices to measure the multidimensional aspects of governance and corruption in a reliable and objective manner. The value of indicators and indices lies in their ability to raise awareness on governance and corruption and advocate anti-corruption action, make cross-country comparisons, conduct statistical analysis and assist in establishing correlations between corruption and other variables.

3.5.1. Worldwide governance indicators

The Worldwide Governance Indicators (WGI) are a long-standing research project to develop cross-country indicators of governance. The WGI consist of six composite indicators of broad dimensions of governance covering over 200 countries since 1996:

Six core dimensions of governance measured by the WGI:

1. Voice and Accountability: capturing perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media.
2. Political Stability and Absence of Violence/Terrorism: capturing perceptions of the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including politically-motivated violence and terrorism.
3. Government Effectiveness: capturing perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.
4. Regulatory Quality: capturing perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development.
5. Rule of Law: capturing perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence.
6. Control of Corruption: capturing perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests.

Governance indicators are based on several hundred variables obtained from 31 different data sources, capturing governance perceptions as reported by survey respondents, non-governmental organizations, commercial business information providers, and public sector organizations worldwide.

The WGI project defines governance as the traditions and institutions by which authority in a country is exercised. This includes how governments are selected, monitored and replaced; the government's capacity to effectively formulate and implement sound policies and provide public services; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.

Perceptions of governance in the WGI data is drawn from a wide variety of sources, and then organized into six clusters corresponding to the six broad dimensions of governance listed above. For each of these clusters a statistical methodology is used known as an Unobserved Components Model to (i) standardize the data from these very diverse sources into comparable units, (ii) construct an aggregate indicator of governance as a weighted average of the underlying source variables, and (iii) construct margins of error that reflect the unavoidable imprecision in measuring governance.

It is believed that this is a useful way of organizing and summarizing the very large and disparate set of individual perceptions-based indicators of governance that have become available since the late 1990s. Moreover, by constructing and reporting explicit margins of error for the aggregate indicators, users are enabled to avoid over-interpreting small differences between countries and over time in the indicators that are unlikely to be statistically – or practically – significant.

The Worldwide Governance Indicators are a useful source to follow the status and trends of governance in the partner countries of Finland.

➤ For further information online: www.govindicators.org

3.5.2. Corruption indices of Transparency International

Transparency International has wide range of corruption index tools regarding levels of corruption, both at global and local levels. TI led the global measurement of corruption by launching Corruption Perceptions Index (CPI) in 1995.

The main indices of TI to measure corruption globally are the Corruption Perceptions Index (CPI), the Global Corruption Barometer (GCB) and the Bribe Payers Index (BPI). CPI is the most know corruption survey, measuring corruption in public sector, determined by experts, while GCB takes into account the general public voice and studies public attitudes and experience of corruption. BPI focuses on the supply side of corruption and the likelihood of firms from the world's industrialized countries to bribe abroad.

3.5.2.1. *Corruption Perceptions Index (CPI)*

First launched in 1995, CPI is one of the most known and cited measures of corruption. CPI ranks almost 200 countries around the world, in terms of the degree to which corruption is perceived to exist among public officials and politicians, as determined by expert assessments and opinion surveys.

The CPI ranks countries in a scale from 0 to 10, 0 perceived to be highly corrupt and 10 perceived to have low levels of corruption. The 2010 CPI shows that nearly three quarters of the countries in the index score below five, indicating a serious corruption problem worldwide.

3.5.2.2. *Global Corruption Barometer (GCB)*

The GCB is a large survey to collect general public attitudes toward, and experience of, corruption in countries around the world. The GCB explores the general public views about corruption levels in the country and the efforts of their governments' for anti-corruption.

One of the findings of the GCB 2010 was that political parties are identified as the most corrupt institutions around the word. Political parties were perceived to be the most affected by corruption by Finns. When 1 stands for "not at all corrupt" and 5 stands for "extremely corrupt", Finnish political parties scored 3,7, indicating them to be fairly corrupt in the Finnish context.

3.5.2.3. *Bribe Payers Index (BPI)*

The BPI evaluates the supply side of corruption - the likelihood of firms from the world's industrialized countries to bribe abroad. These countries account for approximately 75 per cent of total foreign direct investment outflows and export goods worldwide. The Index is based on interviews with senior business executives.

In parallel to these global indices and surveys, TI national chapters in Africa and the Middle East, the Americas, Asia and Pacific and Europe and Central Asia have engaged in a number of efforts to measure corruption, transparency and governance - often combining objective and subjective data in their analyses.

3.6. Key issues to be considered in relation to governance assessments

3.6.1. General considerations

- ✓ Profound understanding of the drafting and use of governance assessments (GAs)/indicators. Incomplete understanding of the assessments or indicators may lead to overly simplified interpretations. Particularly media tends to streamline its reporting in order to create head-lines and “horse races” between the countries.
- ✓ Comparability across the world and comparability over time. While appearing objective, governance and corruption assessments are based either partially set indicators, or perceptions of a sample of people in a particular country. People views on corruption may vary depending on their socialization, cultural expectations, traditions and other circumstantial variables.
- ✓ Inventory of GAs at country level. The Finnish embassies in the partner countries should be fully familiar with the GAs used at that country. The first priority is given to the common EU approach on governance but the World Bank assessments and indicators provide also a good basis for the governance analysis at the country level.
- ✓ “Spirit of Paris Declaration”. Because of a big variety of GAs, there is a risk of confusion on the quality of governance at the country level. Sending misleading messages on governance to the partner country should be avoided. Finland should avoid being involved in creating new GAs unless they are necessary in the country context or agreed together with the other EU countries.
- ✓ Importance of a demand driven self-assessments like APRM. International assessments are sometimes seen as Western pressure on other cultures. Financial support to self-assessments like APRM increases the impact of these assessments on improving governance situation in the country. Support to self-assessments might have a positive impact on the political will for governance reform.
- ✓ GAs provide a possibility for systematic diagnosis of country-specific governance and anti-corruption situation. The priorities for political dialogue and country programming should be drawn from the findings of the main GAs. Thus, governance and anti-corruption challenges can be confronted at the operational level and special attention and support can be given to the deficits of anti-corruption structures.
- ✓ Priorities in the field of governance. GAs cover all the dimensions of governance. This provides a possibility for embassies to focus on the most strategic and prioritized governance areas of a specific country. E.g. democracy development is a crucial dimension to be followed before the elections. When planning new operational activities or reviewing the suitability of current aid instruments, one can get guidance for new direction from the results of GAs.
- ✓ Early warning system. E.g. Kenyan APRM reports clearly brought out the main governance concerns and frustrations that the Kenyan people had before the 2007 elections, which were followed up by serious violence across the country. One should immediately react to these alarming challenges in the governance situation and highlight the key findings of GAs immediately in the country reporting.
- ✓ Follow-up mechanism for improved governance. Most of the GAs and governance indicators are updated every year and they include a scoring system of their own. The EU governance profile is the only assessment, where there is a lot of variation among countries for a progress follow-up. Since governance profile is also linked to the

government action plan, this provides a possibility to follow the progress, especially through political dialogue.

- ✓ Responses to changes in governance situation. Even though, donors normally react to governance challenges at the country level in a fairly harmonized way, Finland needs to pay more attention on harmonizing its own response systems to “alarming governance challenges”. There is a variety of different responses depending on the partner country in question. Even though, there cannot be “a one model” to be followed since the situations vary a lot, a more cohesion should be reached by closer coordination among the different Finnish embassies present in the partner countries.
- ✓ For further information on different governance assessments: i) A User’s Guide to Measuring Corruption by UNDP and ii) Democratic Governance Reader – A reference for UNDP practitioners (UNDP).

3.6.2. Governance profile

- ✓ For guidance, see “the Council Conclusions on the Governance in the European Consensus on Development: Towards a harmonised approach within the European Union”, 16 October 2006.
- ✓ Harmonized EU approach to governance. Acknowledging the multidimensional and holistic nature of governance and that it is based on an approach respecting national ownership, dialogue and focusing on results and incentives for reform within the overarching objectives of poverty reduction and sustainable development.
- ✓ International/regional anti-corruption conventions obligate both the EU member states and partner countries. Support to governance is more than tackling corruption and that it cannot be addressed in isolation. Corruption is a major obstacle to achieving development objectives and a symptom of poor governance. International and regional agreements on corruption, must be adhered to, ratified and duly implemented by all development partners.
- ✓ Active participation by the Embassy of Finland. The EU governance profile forms the common EU position on governance in the country. No matter how many “hick-ups” it might have or whatever form the assessment may take in the future, the main reference for the Finnish position comes from “the EU umbrella.”
- ✓ Participate in the drafting and development of the GA. Embassies participating in the drafting process and in the use of the assessment, should indicate to the Foreign Ministry, on all the possible challenges and doubts they have related to the process. It is also important that officials dealing with governance issues at the country level will participate in the actual drafting of the GA.
- ✓ Flag for transparency and inclusiveness of the process while recognizing the nature of external assessment. The EU governance profile is an external governance assessment drafted by the EC and the EU member states. However, in order to be an assessment of real quality, it cannot be done without a real connection to the society in question.

4. UNCAC FOR DEVELOPMENT PRACTITIONERS

This chapter focuses on the potential, the United Nations Convention against Corruption (UNCAC), can provide both to Finnish bilateral and multilateral development co-operation. In order to capture the potential of the Convention as a framework in political dialogue and in operational activities, the Foreign Ministry officials need to be aware of the contents of UNCAC and its implications to their work.

Misleading interpretations on the stipulations of UNCAC can have damaging implications to the Partner Country relations. Instead of speculating on the interpretations of different treaty articles, one has to become familiar with the Convention.

UNCAC obligates every Foreign Ministry official. This obligation derives from the “public official” definition of the Convention. In defining who might be considered as possible participants in corruption, UNCAC uses a functional approach to the term ‘public official’. ‘Public official’ covers anyone who holds a legislative, administrative, or executive office, or provides a public service, including employees of private companies under government contract.

4.1. UNCAC in brief

The United Nations Convention against Corruption (UNCAC) is a landmark, international anti-corruption treaty adopted by the UN General Assembly in October 2003.

UNCAC does not define corruption as such. It rather defines specific acts of corruption that should be considered in every jurisdiction covered by UNCAC. These specific acts are described in the Toolkit under the title “Understanding the Phenomenon of Corruption”.

UNCAC is unique not only in its worldwide coverage but also in the extent of its provisions, recognizing the importance of both preventive and punitive measures. Many preventive measures stipulated by UNCAC like building sound financial management systems and having an effective access to public information are extremely important for the success of development co-operation (see below – Preventive measures).

It is important to note that many of UNCAC’s provisions are mandatory, while others are either ‘strongly encouraged’ or optional.

UNCAC addresses the cross-border nature of corruption with provisions on international cooperation and on the return of the proceeds of corruption. States Parties are also obliged to help each other to prevent and combat corruption through technical assistance. Thus, UNCAC provides a framework for development assistance in the field of anti-corruption.

Preventive measures

The preventive policies covered by the Convention include measures for both the public and private sectors. These include, among others, transparent procurement and sound financial management, a merit-based civil service including clear conflict of interest regimes, effective access to public information, auditing and other standards for private companies, an independent judiciary, active involvement of civil society in efforts to prevent and combat corruption, and measures to prevent money-laundering.

Criminalization and law enforcement

States Parties must criminalize bribery, as well as embezzlement of public funds. Other offences that States Parties are required to criminalize include obstruction of justice and the concealment, conversion or transfer of criminal proceeds. Sanctions extend to those who participate in or attempt to commit corruption offences.

Acts that states are encouraged – but not required – to criminalize include acceptance of bribes by foreign and international public officials, trading in influence, abuse of function, illicit enrichment, bribery and embezzlement within the private sector, money laundering and the concealment of illicit assets.

International cooperation

States Parties are obliged to assist each other in cross-border criminal matters. This includes, for example, gathering and transferring evidence of corruption for use in court. The requirement of dual criminality, which has traditionally hindered cooperation, is loosened. Cooperation in criminal matters is mandatory. In civil and administrative matters, it must be considered.

Asset recovery

A 'fundamental principle' of the Convention, and one of its main innovations, is the right to recovery of stolen public assets. Asset recovery is the main "selling point" of the Convention, and the reason why so many developing countries have ratified it. The UNCAC provisions lay a framework for countries to adapt both their civil and criminal law in order to facilitate tracing, freezing, forfeiting, and returning funds obtained through corrupt activities. The requesting state will in most cases receive the recovered funds as long as it can prove ownership. In some cases the funds may be returned directly to individual victims.

Technical assistance and information exchange

Technical assistance refers generally to support aimed at helping countries comply with the UNCAC's provisions. The Convention encourages the provision of training on topics such as investigative methods, planning and developing strategic anti-corruption policies, preparing requests for mutual legal assistance, public financial management, and methods used to protect victims and witness in criminal cases. States Parties should also consider helping each other conduct evaluations and studies on the forms, causes and costs of corruption in specific contexts, with a view to developing better policies for combating the problem.

4.2. UNCAC for political dialogue

UNCAC implicitly promotes the Paris Declaration on Aid Effectiveness by providing a commonly agreed framework for support, and by promoting accountability and transparency – the two cross-cutting issues of the Declaration.

As donor coordination normally takes place based on national development plans or poverty reduction strategies, anti-corruption obligations under UNCAC may be best addressed by integrating them into such strategic documents rather than relegating them to a separate forum or plan.

Embassies as part of donor coordination mechanisms at country level, should agree a division of labor among different dialogue fora that constitute the aid architecture in a partner country and "mainstream" compliance with UNCAC into the macro-level as well as into sector dialogue. The participation of civil society in these fora should be promoted. It is important that those working at the level of policy dialogue and those working at sector level interact and have a common understanding of how compliance with UNCAC can be pursued.

UNCAC provides a more neutral basis for dialogue, where donor interventions might earlier have been perceived as "moralizing" or external interference in internal affairs. UNCAC sets international standards for both developing countries and developed countries. Thus, recognizing well the global nature of corruption. In addition, UNCAC provides a unique tool for political dialogue due to its holistic approach to corruption prevention, calling for attention to both the supply and demand sides of corruption.

While UNCAC provides a new and unique way to address governance and anti-corruption issues, one has to be careful when interpreting the treaty obligations. Article on illicit enrichment (art 20) has already caused confusion in political dialogue with the Partner

countries. Illicit enrichment is an article, which imputes criminal behavior to individuals whose assets cannot be explained in relation to their lawful income. Art 20 is not mandatory in nature, which is important to be remembered.

Article 20 has raised criticism of human rights advocates, saying that such requirements reverse the presumption of innocence protected by many legal systems. Defenders of the provision argue that prosecutors still shoulder the burden of proof, as they must demonstrate, beyond reasonable doubt, the lack of legal avenues for the accumulation of excess wealth. One should remember that in Finland, the burden of proof lies in the shoulders of prosecutors and the legal system is based on the presumption of innocence.

UNCAC review mechanism is rather basic and it remains to be seen how much it will be able to capture de facto implementation and enforcement of anti-corruption policies. It is therefore important that embassies in countries that are up for review encourage their local counterparts to make the most of the review process.

4.3. Making UNCAC operational in development co-operation

Status of UNCAC implementation in a partner country should be a starting point for the planning of operational activities in the country. Governance assessments provide an excellent tool to analyze the status of implementation. The preventive measures of UNCAC reflect generally accepted principles of good governance agenda.

Embassies can engage in discussions with the partner government as to the status of UNCAC implementation, where gaps exist and where support is needed on the basis of governance assessment made of the partner country.

Ratification of UNCAC obliges States Parties to take concrete steps towards compliance. Hence, one can assist partner countries to define concrete indicators or benchmarks of progress and integrate them into aid agreements or into already existing performance frameworks in order to ensure regular monitoring. In setting benchmarks, government reform priorities need to be considered, and actual performance, not just the existence or introduction of anti-corruption legislation and measures, should be evaluated.

UNCAC provides an organizing framework to deliver technical assistance to partner countries and may catalyze better coordination of analytic work and technical assistance among donors in a given country. Technical assistance includes short-term assessment initiatives to help to prepare the ground for dialogue and assistance, or longer-term initiatives, which are necessary to sustainably advance in reducing corruption. Gap analyses can be used to identify reform needs at country level.

One should be able to identify the links between existing aid-funded programmes and UNCAC implementation as a way of assessing the relevance of current initiatives. It has to be notified that Finland has many development interventions that have either a direct or indirect implication on the effective implementation of the Convention. A big amount of Finnish assistance is going to the non-governmental organizations. The role of NGOs is crucial in the follow-up of effective UNCAC implementation.

4.4. Key issues to be considered in relation to UNCAC

- ✓ Tool for better governance. UNCAC is a means to achieve and support better governance by safeguarding resources aimed at poverty reduction.
- ✓ Responsibility of civil servants. UNCAC obligates every Foreign Ministry official. The stipulations of the Convention have to be followed in development co-operation.
- ✓ Structure for multilateral and bilateral dialogue and co-operation. As UNCAC is a fairly new instrument, it still needs further exploration on its role as an anti-corruption

mechanism. However, its stipulations already frame the previously scattered international and national level dialogue and co-operation on governance and anti-corruption.

- ✓ Neutral tool for political dialogue. Donor interventions on anti-corruption issues have sometimes been perceived as “moralizing” or external interference in internal affairs. The implementation of UNCAC is a challenge to both developing and developed countries.
- ✓ Get to know what the partner government is doing to implement UNCAC.
 - I. If the country you work in/with is not party to the Convention, the embassy in question should find out reasons for not joining the Convention and engage in dialogue with the partner government to support accession to UNCAC;
 - II. If the country you work in/with has signed but not ratified the Convention, this usually means the legal basis for adoption has not yet been prepared. In this case, the embassy in question should find out the reasons and engage in dialogue with the partner government about ratification of UNCAC, and support necessary legislative changes through legal advice and other assistance as considered feasible;
 - III. If the country you work in/with is among those having ratified the UNCAC, try to assist to incorporate UNCAC obligations to all political dialogue and operational activities.
- ✓ Avoid “over-interpreting” UNCAC. UNCAC is an expression of global will to prevent and criminalize corruption. UNCAC is an excellent tool in political dialogue but only so, if it used in a coherent manner and it is well understood that not all the articles are mandatory in nature.
- ✓ Existing aid architecture. Donors should agree on a division of labor among different dialogue fora that constitute the aid architecture in a partner country and “mainstream” compliance with UNCAC into the macro-level as well as into sector level dialogue.
- ✓ “Being aware” of UNCAC assistance. Inventory of assistance at the country level helps to identify which already existing development interventions support the implementation of UNCAC.

5. CHALLENGING POLITICAL WILL TO CONFRONT CORRUPTION

This chapter addresses maybe the most commonly used explanation for poorly performing countries in the field of anti-corruption – lack of political will. Lack of political will is often identified as the culprit for failed governance and anti-corruption efforts both at political dialogue and operational level. Recognizing that political will plays a big role in the success of anti-corruption work, one has to address the lack of political will. In addition, one needs to analyze how can an entry point for anti-corruption reform be found in politically challenging environment.

Political will is a complex and by far a static phenomenon. One should not draw too hasty conclusions, on the lines of yes or no, on the existence of political will.

In order to overcome some of the challenges lack of political might cause in anti-corruption work, one should pay attention to the following questions:

- 1) What is meant by political will in relation to anti-corruption;
- 2) Can the amount of political will be assessed;
- 3) What are the options available to strengthen political will and reduce corruption.

5.1. Clarifying political will

By understanding political will more as a set of action-based components that are observable and measurable, and amenable to external reinforcement and support, more clarity regarding the degree of political will can be achieved. Governance assessments like African Peer Review Mechanism (APRM) or the EU governance profile provide excellent tools to measure action based political will.

Though political will may be expressed in spoken or written words (e.g. legal documents, speeches), it is only manifested through action. A shorthand definition of political will is: the commitment of actors to undertake actions to achieve a set of objectives – in this instance, reduced corruption – and to sustain the costs of those actions over time.

Clarifying political will confronts two interrelated challenges. The first is determining what to observe that can provide a reliable basis for inferring the existence of political will. The second is distinguishing between will and capacity.

Public declarations like ratification of international treaties like UNCAC are insufficient signals of the presence of political will absent a connection to some form of concrete action.

Inaction is often interpreted as an indicator of lack of political will. Indicators like failure to pass legislation or pursue corruption cases in the courts are considered as, negative indicators of political will. Such indicators are problematic since the failures can result from variety of factors beyond simply insufficient motivation or low prioritization, including factors like low levels of capacity, political or institutional rivalries.

The decision makers' assessments of their capacity to implement reforms influence their willingness to make commitments. What may look to outsiders like a lack of political will can be linked instead to insufficient capacity.

"Would-be" reformers might not be confident that they have sufficient capacity for the implementation of challenging anti-corruption initiatives. Particularly important for pursuing

sustainable anti-corruption reforms is building cross-sectoral coalitions of support to create a critical mass of public officials, civil society groups, and private firms.

5.2. Enabling environment for political will

The major enabling factor for political will is the quality of governance. Without some governance structures and procedures that establish checks and balances among the various branches of government and enable citizens to voice their concerns and hold officials accountable to some degree, political will to tackle corruption is likely to be weak, as is the ability to pursue reforms.

In poor governance environment there is very little room for changed governance behavior. Public officials feel little obligation to be accountable to citizens and citizens have very limited expectations for their leaders. Further, poor governance constraints the emergence of a strong civil society and disempowers citizens who would become advocates for anti-corruption policies and initiatives.

Political will to address corruption and the associated capacities to move from intent to action depend upon an enabling governance environment that provides incentives, authority, and operating space.

Anti-corruption requires good governance, which is characterized by an absence of corruption – it highlights the need for sufficient space to initiate some form of action, whether simply a public dialogue on corruption, or a more ambitious reform agenda.

Because the relationships between the enabling environment and political will and capacity are not at all one-way, reform success can in some cases contribute to better governance, more empowered civil society, and the break-up of vested interests and patronage networks.

Concerns about the impact of corruption are worldwide. The global governance environment to prevent corruption is replete with potential contributors to political will. These include various international conventions and international initiatives like UNCAC or Extractive Industries Transparency Initiative (EITI).

Initiatives, which aim to provide country actors with the resources and the motivation to be accountable to their citizens for concrete results, can strengthen political will.

5.3. Components of political will

Political can be divided into seven components:

- 1) Government initiative – “inner drive” concerns the impetus for a particular anti-corruption policy. Political will is suspect when the push for reform derives purely from external actors. Initiative from country decision-makers must exist to some degree in order to talk about political will.
- 2) Choice of policy/programme. When country actors choose anti-corruption policies and actions based on their own assessments of the likely benefits to be obtained, the alternatives and options, and the costs to be incurred, then one can credibly speak of independently derived preferences and willingness to act.
- 3) Mobilization of stakeholders. This component concerns the extent to which government actors consult with, engage, and mobilize stakeholders.
- 4) Public commitment and allocation of resources. The extent that country decision-makers reveal their policy preferences publicly and assign resources to achieve those announced policy and programme goals.
- 5) Application of credible sanctions. Without effective sanctions, corruption cannot be

- reduced.
- 6) Continuity of effort. Anti-corruption requires resources. Episodic efforts signal weak political will.
 - 7) Learning and adaptation. Political will is demonstrated when country actors establish a process for tracking anti-corruption policy/programme progress. Learning can apply also to country policymakers observing policies and practices from other countries and adopting them for their own use if feasible.

Strong existence of these seven components sum up naturally to the most powerful manifestation of political will. Political will needs to be assessed in terms of relative degree of presence or absence, and in terms of whether it is positive or negative.

5.4. Strengthening political will to confront corruption

How can Finland direct its support to reinforce political will in the partner countries? Finland can assess development interventions through the lenses of their likelihood to build critical elements of political will. One can find a good entry point e.g. to support the efforts of the country in stakeholder mobilization.

The sources of motivation to confront corruption are most often seen as coming from the top political level of the country, frequently embodied in prominent individuals.

It is important to recognize that political will does not flow only from the top-down. There are bottom-up sources of political will as well. In some cases these sources may be public officials on the frontlines of service delivery and in some cases e.g. the representatives of civil society organizations or private sector.

Political will is hardly ever static and will shift over time, calling for a graduated and flexible approach.

5.5. Key issues to be considered in relation to political will

- ✓ Political will is manifested through action.
- ✓ Use of governance assessments (GAs). GAs provide necessary information on the quality of governance situation and on clarifying the strength of different components of political will in the partner country.
- ✓ “Willing and able”. Distinguish between will and capacity. Insufficient capacity might look like a lack of political will. Outside support strengthens capacity and thus, political will.
- ✓ Avoid distinction “presence or absence” of political will. Political will is not a static phenomenon. One can find an entry point to anti-corruption dialogue or activities, by focusing on one or several components of political will or by strengthening the constituencies for change.
- ✓ Support governance structures. The major enabling factor for political will is the quality of governance. Enabling environment is needed to initiate concrete action whether a dialogue on anti-corruption, or a reform agenda.

PART II: TECHNICAL GUIDANCE FOR POLITICAL DIALOGUE AND OPERATIONAL ACTIVITIES

1. GOOD GOVERNANCE AND ANTI-CORRUPTION IN POLITICAL DIALOGUE

Part I of this Toolkit provides the anti-corruption framework for development co-operation. The anti-corruption framework is the structure Finland follows in its political dialogue with the partner countries but also, in its operational activities through the whole programme cycle. The same framework should be applied to both bi-lateral and multilateral dialogue and operations.

International political dialogue can take place in different levels and in different forms. It can use multilateral forums, like the United Nations and its agencies. It can also use regional arrangements such as the EU. Multilateral anti-corruption agenda will be addressed separately.

This chapter addresses bi-lateral and international/EU political dialogue at the country level. Even though, the aid architecture has changed quite drastically due to an increased donor co-ordination, the bigger ownership of the partner countries over their development agendas and the appearance of new donors to the scene, there is still some room for bi-lateral political dialogue and arrangements.

To make a difference in weak governance environments, one needs to focus on the larger donor co-ordination at the country level and mainly, under the EU umbrella.

1.1. Bi-lateral political dialogue

Political dialogue with the partner country gives an opportunity to give emphasis to the governance and anti-corruption issues. In this dialogue it is important to follow up the partner country's progress in measures for good governance, and against corruption. If there is no progress and/or corruption seems to be increasing rather than decreasing, this has to be openly acknowledged in the dialogue.

Finland can, preferably with the other the EU countries (or with the wider international community), decrease the scale of development cooperation in the partner country. Alternatively, Finland can change its focus towards the forms of cooperation that have fewer risks. A regular and continuous political dialogue is a prerequisite to the successful implementation of development programmes and vice versa. Thus, political dialogue and operational capacity are closely connected.

The EU aims for a harmonized approach to development cooperation. However, for the time being, the focus and level of development assistance and the aid instruments of the individual member states are still agreed on, during the bi-lateral country cooperation consultations. These consultations are an important part of the wider political dialogue.

The objective of the bilateral country consultations is to guarantee that Finnish development cooperation takes place in development friendly context. In addition, one can better analyze if political will is manifested through action or if one needs to give a more specific attention to the different components of political will. Thus, during the bi-lateral consultations, Finland can

get country-specific information on the successes and concerns that either side might have. Nevertheless, corruption and/or the lack of good governance remain politically sensitive. Therefore, it is important to bring them out neutrally and with good justifications on the negotiation table.

Governance assessments, the status of UNCAC implementation and other anti-corruption conventions (e.g. African Union Convention on Preventing and Combating Corruption and Inter-American Convention against corruption) provide valuable tools for the negotiations (See Chapter 5 – Framework for monitoring governance). However, the biggest focus should be on the trend of governance and the amount of corruption in the partner country. Indicators like the worldwide governance indicators and the corruption perception index (CPI) can be useful for analyzing general trends on governance and corruption.

One needs to invest time to understand the local governance environment of the partner country. In addition to general governance environment, one needs to be familiar with the sector governance in those sectors in which, Finland is active. The governance challenges of the sector can be brought to the bi-lateral political dialogue since many of these challenges are political in nature.

The more familiar one is with the local governance situation, the more specific the Finnish officials can be in bi-lateral negotiations. Thus, the time spent with the partner country, can be spent firstly, by focusing on the challenges on the structure and capacity of the general and sectoral governance environment. Secondly, one can address current and on-going governance issues.

For Finnish development cooperation the country consultations used to be held every year. Nowadays, there is a bit of variation among the different partner countries on how often the bilateral country consultations are organized. They can be held either in Finland or in the partner country. Since the donor coordination has become more of a rule in the partner country level, Finland under the EU and the larger aid community participates in political dialogue more and more under these wider set-ups.

Finland should clearly point out that its national development policy is in line with the wider EU approach to development cooperation. Finland can refer for example to the above mentioned and cited Council Conclusions on the Governance in the European Consensus on Development (16.10.2006) that emphasizes the commitment for good democratic governance in partner countries. The relationship between the EU and Africa is defined by the Cotonou Agreement that is designed to promote and expedite the economic, social and cultural development. (See below)

Finland is often recognized as one of the least corrupt countries in the world. However, in political dialogue it is important to point out that corruption touches everyone and is a shared problem. Its prevention is a mutually beneficial goal. The country consultations and related political dialogue can, for example, also be used to find out whether Finnish companies have paid bribes or otherwise broken the laws or principles of good corporate governance in the partner country.

It is the nature of the dialogue between the partners that information and experiences are mutually exchanged and shared. Affluent partner countries, like Finland, need to be particularly strict in its attitude towards corruption within its own borders as well as in practices the Finnish companies apply abroad if it expects commitment to good governance from the partner countries. This approach also makes the important point that corruption is not only a problem in the public sector. Thus, it is important to engage private sector, media, academic institutions and civil society in the efforts to prevent and overcome corruption.

In order to avoid corruption and/or misuse of the agreed funds both partners need to agree on the detailed cooperation arrangements, set realistic objectives and approve mechanisms for monitoring and evaluating the use of development aid. In other words, it is essential to find mutual understanding and agreement on how the cooperation and aid will be organized, administered and accounted for. Sometimes this can be very difficult. The views may differ on the state of governance and accountability in the partner country.

The Paris Declaration (2005) and the Accra Agenda for Action (2008) promote ownership and harmonization in development cooperation. They also encourage alignment of external aid to the partner countries national systems. Sometimes the governments of the partner countries appeal to these joint agreements in order to pressure the use of their national system, even when Finland might not be ready and willing to do so. In such cases, in order to still maintain the ownership with the partner country, it is vital to clarify why the national systems are not relied on.

It needs to be remembered that using independent third party monitoring in the follow-up of programme implementation, one can still build the capacity of the partner country systems. So it does not automatically mean that there is no benefit to the partner country systems.

Since development co-operation normally takes place in fairly corrupt environments, "it is better to be safe than sorry" when planning a large development intervention. One has to be realistic when considering the capacity of the partner country systems. Finland can also suggest support directly to various anti-corruption programmes in the partner country to increase the capacity to prevent corruption.

1.2. International and the EU political dialogue at country level

Bi-lateral country consultations use political and policy dialogue to agree on the objectives, instruments and administration of bi-lateral aid. Political dialogue, however, can be used also in wider scope to promote good governance and to bring out any concerns about corruption. Political dialogue aims to bring out the expectations and concerns of all interested sides in the political and development cooperation. Sometimes there might be different views on whether political and development issues can and should be out in a joint dialogue. Particularly in countries with governance problems, the national governments may prefer to keep political discussions separate from the development dialogue. However, most of the international political guidelines include both. As long as governance is high on the development agenda, politics and development cannot be fully separated. Particularly important this is to clarify when dealing with difficult political environments or with fragile states.

International political dialogue can take place in different levels and in different forms. It can use multilateral forums, like the United Nations and its agencies. It can also use regional arrangements such as the EU. Alternatively, or complementarily, it can use forums like Consultative Group (CG) that brings the development partners together with the relevant, high-level authorities of the partner country (usually ministers responsible for finance and overall development cooperation). Normally a country level dialogue is done between relevant partner country government representatives and the ambassadors/Head of Mission of the Embassies and/or Development Agencies. Ministerial and other high level visits can also be used to take the dialogue forward.

There are different international and regional frameworks and agreements for political dialogue. For the EU members the most relevant is, the Cotonou Agreement, which is an integrated framework based on the partnership and promotion of cooperation, trade and political dialogue between these blocs of countries.

The purpose of the Cotonou Agreement is to contribute to development, peace and security. Thus, it also promotes a stable and democratic political environment. The Cotonou Agreement puts emphasis on the political dimension of its objectives and operations, as well as the global commitments of the ACP States.

Article 8 of the Agreement makes political dialogue an integral part of the partnership between the EU and the ACP. As part of this relationship Article 8 calls for political dialogue to play a key role in tackling issues, concerns and any difficulties at an early stage. As the dialogue emphasizes political and governance obligations of both sides in relation to human rights, democratic principles, and the rule of law, concerns in governance should also be taken up in this Article 8 dialogue when needed.

The Conclusions by the Council of the European Union on the Governance in the European Consensus on Development: Towards harmonized approach within the European Union (16.10.2006) acknowledge the multidimensional and holistic nature of governance. The EU approach respects national ownership, dialogue and mutual accountability. While development aid needs to be aligned to national processes and the country systems need to be used to the maximum extent, the need for political commitment and the responsibility of the national governments is underlined.

The national governments are expected to promote democratic principles, the rule of law, access to information, access to justice and to ensure a transparent management of resources. The Conclusions also call for shared analyses, joint assessment tools, common programming frameworks and joint identification of objectives for support to the reform processes, including those used by the World Bank and OECD/DAC.

The EU, and its member states, and now show their willingness to support efforts that focus on improving governance at all levels. Simultaneously they should also demonstrate that they are ready also to take action, if there is no progress.

In the political dialogue Finland can continue to try innovative approaches to tackle the possible lack of political will in improving governance in order to prevent corruption while it continues its support to strengthen governance systems of the partner country like the justice sector and the formal oversight mechanisms. Since Finland is considered as a fairly neutral partner, one can bring sensitive issues like the status of human rights defenders more easily to the common agenda than maybe some bigger EU countries.

1.3. Key issues to be considered in relation to political dialogue

- ✓ Political dialogue should be a regular and continuous process that ensures exchange of information and establishes common priorities and goals.
- ✓ Finland should clearly point out that its national development policy is in line with the wider EU approach to development cooperation.
- ✓ Apply the Finnish anti-corruption framework for development co-operation in all political dialogue. The new EU anti-corruption framework "Fighting corruption in the EU" (under preparation) clearly states that minimum international anti-corruption standards as set out in UNCAC, in which both the EU member states and the partner countries are party to, need to be complied. Especially, the preventive measures of UNCAC (Chapter II) should be crucial part of political dialogue (see "UNCAC for Development Practitioners").

- ✓ Finland as a neutral partner. As long as governance is high on the development agenda, politics and development cannot be fully separated. However, Finland often benefits from its image as a fairly neutral country without big political motives and can negotiate in a result oriented way even in politically challenging environments.
- ✓ Invest time to understand the local governance environment. Use time to understand the structure and capacity of the partner country governance system. In addition, follow carefully the on-going governance challenges and successes in the partner country. Governance assessments and indicators provide concrete tools for the understanding of local governance context. They also make it possible to have a more focused dialogue with the partner country.
- ✓ Monitor trends on governance. Political dialogue provides a unique opportunity to follow up the partner country's progress in measures for good governance, and against corruption. If there is no progress and/or corruption seems to be increasing rather than decreasing, this has to be openly acknowledged in the dialogue.
- ✓ Mutual exchange of information. It is the nature of the dialogue between the partners that information and experiences are mutually exchanged and shared. Affluent partner countries, like Finland, need to be particularly strict in its attitude towards corruption within its own borders as well as in practices the Finnish companies apply abroad if it expects commitment to good governance from the partner countries.
- ✓ Responsive political dialogue. As political, economic and other conditions may radically and suddenly change in the partner country, agreed development cooperation may need to refocus or its forms may need to be reconsidered. New issues introduced to the dialogue need to be clarified. Particularly important the above is in the countries that are in transition towards democratic regime. In the transitional societies the legitimacy of the government is often weak and the interlocutors of dialogue may suddenly change. Thus, having a well-planned structure and agenda for dialogue is important.
- ✓ Impunity cannot be tolerated. The governments of the partner countries need to quickly respond to the instances of corruption. Those found guilty of any misuses should be made accountable and punished. It is important to show in political dialogue that there is no room for a culture of impunity.

2. PROMOTING GOOD GOVERNANCE AND ANTI-CORRUPTION IN OPERATIONAL ACTIVITIES

Good governance cannot always constitute a precondition for development assistance but it is central to achieving development objectives. Reaching good governance is a process. Therefore, as long as good governance has not been achieved, pragmatic approaches must be pursued to support progress.

It is not usually possible to tackle all the aspects of governance in a programme or project. But there are always opportunities to insert aspects of good governance into any programme or project; and activities that are contrary to good governance should not be supported. Mainstreaming is a continuous process, requiring repeated application at every opportunity.

Part I introduced the Finnish anti-corruption framework, which provides the frame for policy and programming level. The application of tools like governance assessments and UNCAC help development practitioners in identifying the choices of areas and methods, of intervention. In addition, the results of GAs and the assessment of UNCAC implementation are the basic criteria to be analyzed when approving a programme/project or deciding on the use of budget support.

Current governance and corruption assessments and indicators often lack progress indicators and benchmarks. The challenge with any governance or anti-corruption work is that we cannot give clear guidance on the following issues:

- Measurable corruption risk tolerance i.e. at which level of corruption the risks outweigh the benefits;
- Identify clear criteria for decreasing the aid, withdrawing from one aid instrument or even from the partner country;
- Setting up strict criteria on the exact components to be in place in order to use e.g. budget support;
- Give a list of tools to be used in every partner country context since the tools vary from country to country.

Situations are country specific and there is no “one size fits all” model to be provided in the Toolkit. However, when followed step by step, the Toolkit provides both an anti-corruption framework and operational advice, which will drastically increase the capacity of development practitioners to better analyze the specific country context and the scope for operational activities.

In the following chapters, we address the key issues and principles of governance and anti-corruption, to be considered in operational activities. The information provided here should be relevant when dealing with not only bilateral projects or programmes, but also with other forms of co-operation like sector-wide approaches, budget support, common-pool or basket funding.

The more we address good governance throughout all the Finnish funded development programmes, the less we are confronted by corruption. In the following chapters operational advice is given on how to address a wide array of issues of securing development friendly operational environment and on how to address governance and anti-corruption (GAC) in all development interventions.

The operational advice is mainly drawn from the following sources:

1. Handbook on Promoting Good Governance in EC Development and Co-operation;

2. European Commission: Analyzing and Addressing Governance in Sector Operations;
3. World Bank: Dealing with governance and Corruption Risks in Project Lending - Emerging Good Practices;
4. Democratic Governance Reader – A reference for UNDP Practitioners.

The issue-areas to be covered in the following chapters are:

1. Analysis of development friendly operating environment by applying the UNCAC obligations and a situation analysis of country level anti-corruption system;
2. GAC issues to be considered in the programme/project cycle;
3. Specific GAC considerations in relation to some aid instruments (general budget support, sector support, NGO support and anti-corruption programmes).

2.1. Development friendly operating environment

2.1.1. UNCAC as a governance and anti-corruption framework

States parties to UNCAC are required to undertake legal reforms and realign their laws and institutions to comply with UNCAC provisions. The legislative reforms needed to implement the mandatory provisions are only a first step; the serious implementation of the convention would require in many cases comprehensive revision of the institutional structure.

However, UNCAC provides only a framework, not a blueprint. Each country needs to assess its priorities and determine the most appropriate course of action. There is also the risk of countries adopting UNCAC to satisfy donors, but without taking any real steps to implement it. On the other hand, an overambitious agenda can quickly deflate after initial setbacks.

Finland together with other development partners can play a valuable role in delivering development assistance through UNCAC implementation since the ongoing activities in many operational areas are affected by corruption.

UNCAC promotes the application of the principles of good governance through many of its provisions, in particular under the Chapter II (Preventive Measures). The articles mentioned below are a few examples of how the Convention can be leveraged for programme activities in the field of governance and anti-corruption or in the other fields of development interventions.

Leveraging UNCAC for programme activities

Article 5 stipulates that anti-corruption policies shall promote the principles of rule of law, proper management of public affairs and public property, participation of the civil society in public affairs, integrity, transparency and accountability.

Article 6 provides for the establishment of preventive anti-corruption bodies to implement the policies outlined in Article 5 and to disseminate knowledge about the prevention of corruption.

Articles 7 and 8 urge states parties to improve governance by introducing several measures, such as fair procedures for selecting and promoting civil servants, adequate salaries and training. It also urges states parties to promote integrity, honesty and responsibility among public officials through codes of conduct and safeguards against conflict of interest.

Article 9 promotes the introduction of a transparent, effective system of public procurement and public finance management.

Article 10 requests states parties to enhance transparency in public administration, including with regard to organization, functioning and decision-making processes. Article 10 also advocates for public access to information on the organization, functioning and decision making processes of the public administration.

Article 12 promotes transparency and integrity in the private sector, and Article 13 requests that states parties take appropriate measures to promote the active participation of society in preventing and fighting corruption, and to raise public awareness regarding the threat posed by corruption. Article 13 also calls on anti-corruption bodies to allow public access to information and undertake public information activities and education programmes.

2.1.2. Situation analysis

Integrating UNCAC requirements to the programme or using them as a justification for choosing a specific aid instrument (e.g. budget support), one needs to analyze what kind of anti-corruption system is in place in the partner country.

The below mentioned scoping of existing anti-corruption system might sound trivial e.g. when planning a programme in the field of health. However, if answers to the questions are mainly negative, there might be very little room for any successful programme activity in the country in question.

The below listed questions can give valuable information on, what kind of issues need to be incorporated to the planned development programme. They also reveal the level of implementation of UNCAC. E.g. If there is very little commitment to anti-corruption work at country level, one needs to specifically focus on integrating well structured anti-corruption structures to the planned programme.

In relation to general and sector budget support a complete lack of national anti-corruption system or a serious doubt on the functioning of the system should prevent the use of these instruments. Naturally, the development partners can support through specific anti-corruption programmes the capacity of the national anti-corruption system, parallel to the use of budget support. However, one cannot start setting up a system in the partner country.

The situation analysis consists of the following issue areas and the below mentioned questionnaire should be used to analyze what aid instruments are feasible to be used in a given country context:

- ✓ **POLITICAL ENVIRONMENT.** Is there political will to support anti-corruption interventions?
- ✓ **INSTITUTIONAL CAPACITIES.** What kind of democratic governance institutions are in place (ombudsman, parliamentary committees)? What are their mandates? Do the mandates conflict? How are the mandates coordinated? What is the lead institution? How strong is its human resources base? Is it adequately resourced? Can the available personnel deliver? How are processes of appointment, promotion, demotion and dismissal carried out?
- ✓ **OVERSIGHT MECHANISMS.** Which oversight institutions exist? Are they effective?
- ✓ **ANTI-CORRUPTION FRAMEWORK.** Are any anti-corruption strategies in place? What is the status of the legal framework (e.g., does it cover all mandatory crimes in the UNCAC)? Is there consistency of laws, punishment and definitions? What is the relationship between anti-corruption laws and the criminal code? Which institution carries out anti-corruption investigations? Does the Attorney-General investigate and prosecute? Is there delegated authority from the Attorney-General for prosecution?
- ✓ **DEMAND SIDE OF ANTI-CORRUPTION.** Is there demand for anti-corruption efforts? How many CSOs work in the area? Are there community initiatives? How does the community participate?
- ✓ **FREE MEDIA- ACCESS TO INFORMATION.** Are there independent media and access to information laws? Are there official secret laws or defamation laws?

Below is a sample questionnaire that officials dealing with the partner countries, should use when carrying out consultations on, the possible aid instruments in the partner country:

1. Policy framework against corruption:

- Is there a state anti-corruption strategy? What is the status of strategy?
- Have there been any other supplementary policy statements?
- What is the level of commitment by government to implementing the policy?
- Are there any policy gaps? If so, what is being done about them?

2. Implementation mechanisms:

- Which institutions are involved in anti-corruption work?
- What are the coordination mechanisms?
- How are the mandates derived? Constitution, decree or statutes?
- Is any duplication or conflict of mandates been identified? Consider the different levels of operation, e.g. national, provincial, district and community.
- What are the main constraints that institutions face?
- How are the institutions funded, and is the funding adequate?
- Is there a progress report on the work plan for the implementation of the state strategy for combating corruption?

3. Programming issues:

- Are there any public awareness programmes, such as school competitions, posters, radio and TV programmes? Are such programmes continuous or are they ad hoc? What has been the impact to date?
- Are there any requirements for declaration of assets by public officials? Where are the declarations archived and how do the public and media access it? What are the penalties for transgressing non-disclosure? Has the government any intention of developing these or expanding them?
- Are there any codes of conduct for public officials, and if so, which ones? If not, are there any intentions of developing codes of conduct in the near future?
- Are there any activities around asset recovery?
- In terms of criminalization of corruption, what are the relevant statutes?

2.2. Governance and anti-corruption in programme cycle

Strengthening governance and preventing corruption can be approached from two angles in every development intervention, no matter, what aid instruments are at use:

1. Mainstreaming governance and anti-corruption (GAC) issues across all operational activities to enhance their development impact. The anti-corruption framework introduced in the Part I of this Toolkit, provides tools, to be used in the mainstreaming process. These tools are the means to make the GAC approach concrete. In other words, at operational level, the GAC approach is transformed to operational activities e.g. strengthening the capacity of local communities to participate in the design process of the national forest policy in the partner country.
2. Giving greater attention to assessing critical governance and corruption risks at different development interventions and incorporating measures to mitigate those risks in the design and implementation of Finnish financed programmes/projects or other forms of assistance e.g. budget support. Assessing and mitigating risks are mainly a country and intervention specific and can vary from one aid instrument to another. While it is important not to be risk-averse in programme/project identification but one has to guarantee that sufficient resources are available to risk mitigation during project design and implementation. In other words, "governance

costs money” and concrete operational activities need to be in place to strengthen a governance and anti-corruption capacity in every operational activity.

Governance and anti-corruption should be addressed as part of normal programme/project processes. In addition, the assessment of governance and corruption risks should be available for use in every operation.

As a starting point to any development intervention identification the following issues should be considered:

- It is crucial to balance needs and resources. Governance and anti-corruption measures at the intervention level must reflect the reality that not every issue can be addressed fully and immediately.
- Engaging the country team in assessing GAC issues and incorporating them into any development intervention. In order to start any intervention identification there should be available an updated report (ASKI) on the status of governance in the partner country. The governance report should consist of the following items: 1) Summary of the key governance challenges and constraints as analyzed in the GAs conducted at country level (EU governance profile, APRM, CPIA and worldwide governance indicators); 2) Status of ratification of anti-corruption conventions (UNCAC and regional conventions) and 3) Situation analysis on the status and quality of national anti-corruption framework in the partner country.

Different GAC considerations introduced below should be followed, when mainstreaming GAC and reducing GAC risks in the programme cycle. They provide guidance to all the different aid modalities and should be followed even if the development intervention is not purely a programme or project, unless differently advised.

2.2.1. GAC considerations in programme identification and design

- ✓ Full understanding of GAC challenges and risks by using governance assessments and governance performance indicators to identify the key challenges on general and sectoral governance situations. Designing effective mitigation measures requires “drilling down” on the nature of those risks at the programme/project level. Identifying key stakeholders, their behaviors and motivations, and potential entry points for changing the governance equilibrium. Once the governance and corruption challenges and risks have been identified the planning team can consider which of these challenges and risks might be tackled effectively through the proposed development programme, and which are better pursued through a parallel track involving other programme or other path like political dialogue.
- ✓ Programme specific risk analysis consisting of the following categories of risks:
 1. Programme/project stakeholder risks;
 2. Operating environment risks (country specific and institutional);
 3. Implementing agency risks (capacity, governance, fraud and corruption);
 4. Programme risks (design, social-environmental, programme-donor, delivery quality).Risks should be clearly described in the analysis and proposed mitigation measures should be a part of the analysis.
- ✓ Overcoming the GAC risks and vulnerabilities. One can choose a low key approach which means targeting the specific weaknesses in the programme delivery or a more

explicit and extensive effort involving the design of a detailed anti-corruption action plan to the programme.

- ✓ Institutional set-up of the programme. The programme plan must include the institutional set-up of the programme, decision-making structures, internal controls and accountability mechanisms, transparency and participation/inclusion mechanisms, conflict prevention and resolving mechanism.
- ✓ Strengthening participation and external accountability mechanisms. In many programmes, the participation of beneficiaries and affected people in programme identification and design can improve the quality of implementation and the sustainability of development outcomes. It can also reduce the potential for fraud and corruption.
- ✓ Communication plan to send the signals, consistently, to all the stakeholders. One can enhance accountability by increasing the amount of information available to the public regarding sector plans, budgets, programme performance, and results.
- ✓ Ensuring effective project oversight and supervision. Where governance is poor and corruption risks high, it might be appropriate to introduce an independent agent to ensure acceptable outcomes. It may be also possible to supplement government oversight with oversight by local NGOs and community groups.
- ✓ Implementing organization. The programme implementation organization must be demarcated as one that has institutional capacity, administrative responsibility and budgetary powers for the programme. The implementing organization needs to have a comprehensive anti-corruption strategy in place and clear guidelines on how to proceed if there is any suspicion on the misuse of financial resources.
- ✓ The financial management capacity of the implementing organization. The programme plan or a mission identification analysis should provide a precise description on the capacity of the implementing organization for financial management. This analysis is essential in order to determine whether direct budget support can be given to the implementing organization, whether it can be allowed to implement programmes on the basis of its own regulations, whether it has relevant accountability mechanisms in place e.g. budgetary transparency, whether it can independently select staff for the programme, and whether operating funds can be paid directly into the account of the implementing organization.
- ✓ Resources for financial administration and auditing. The arrangement of sufficient resources for the financial administration of the programme has generally paid for itself. By planning an exact mechanism for financial administration in advance, uncertainties and disputes over areas of responsibility within the programme are reduced, and the programme process significantly speeded up, particularly regarding the start-up stage. Expanding the scope of the audit to include technical and/or "value for money" audits make it more difficult for consultants to get away with short-changing the programme during implementation.
- ✓ Regulation on the programme/project procurement operations. Procurement operations within a programme constitute one of the fields of activity most susceptible to corruption. Purchasing for the programme, should as far as possible be based on the procurement rules of the implementing organization. If these rules are inadequate or are not respected, the project planners must make further stipulations for programme operations.

- ✓ Budget accuracy. The budget of the programme plan must be so accurate and detailed that it can be used as a tool to guide the operations. Specific governance strengthening and corruption prevention measures need to be clearly incorporated to the planned budget.
- ✓ Selection of consultant to provide supporting services for the programme. If the services of the consulting company are required in programme implementation, the process of selecting the company should be carried out as meticulously as possible to prevent it being influenced by bribery. The tendering process for the programme/project takes place under the procurement rules of the donor country's Foreign Ministry. It is crucial that the consulting company, have clear guidelines on, how to prevent corruption in its operations and that the consultants have been instructed on how to inform the company on governance and corruption concerns they might have. The possible legal implications of neglecting the responsibility to report on the possible incidences of corruption should be made clear to all the implementing agents.

2.2.2. GAC considerations in programme implementation and completion

- ✓ Governance capacity of the implementing organization. The capacity of the implementing organization needs to be followed in the following areas: 1) accuracy of the administrative responsibility and budgeting for the programme; 2) financial management and 3) application of the anti-corruption strategy of the organization
- ✓ Action plan and follow-up of the governance assessment. Sectoral governance assessments need to be accompanied by an action plan on, how the governance challenges are translated into operational activities, under the programme. The governance action plan makes it easier to follow GAC activities, and to incorporate them to a logical framework analysis (LFA) and thus, to the monitoring mechanism of the programme. Governance trends and risks - governance performance indicators - need to be monitored under the programme follow-up and decision making structures. If serious doubts on the quality of governance are raised, an immediate action needs to be taken. E.g. in sector programmes worries can be brought to political dialogue level.
- ✓ Programme document and work plans as a framework for GAC issues. A fundamental principle is, that the implementing organization of the programme and other stakeholders (e.g. a partner country government agency), are responsible for the proper use of programme funds including complying with procurement rules and financial management requirements. However, the officials of the Ministry for Foreign Affairs have a responsibility to ensure that the programme proceeds are used for intended purposes. The quality and punctuality of the programme document is an essential part of the programme implementation together with detailed work plans. Work plans provide an excellent tool to incorporate changing GAC considerations to the programme since governance situation might change during the programme.
- ✓ Timely and accurate reporting as agreed under the contractual framework. Quarterly, semi-annual or annual reporting, on the progress of the programme, and financial reporting on the use of funds. Specific governance strengthening and corruption prevention measures and GAC financial reporting need to be clearly incorporated to the reporting.

- ✓ Reviewing the programme. Joint review meetings (semi-annual or annual) in which all the stakeholders assess the progress of the programme and bring out concerns related to the programme implementation. These meetings can also be used to share “lessons learnt” experiences and look jointly for ways to improve the GAC issues in the programme. The role of civil society should be supported in the review process.
- ✓ Follow-up and monitoring mechanisms. Well-planned and –staffed supervision missions, site and field visits, thematic or other working groups that can follow the different aspects of the programme, external advisory assessments, publicizing both “good practices” as well as problem areas provide the basis for monitoring together with the normal follow-up and monitoring mechanisms as set up in the programme. Third party follow-up and monitoring by NGOs or other external agents of GAC processes and outcomes – in “real-time” as much as possible – and strategically communicating these results to all the stakeholders. One needs to find innovative ways to support and fund third party monitoring by actors outside the executive branch of the government in ways that build local accountability institutions.
- ✓ Information exchange and mutual trust. A strategic communication of results of the programme can help to create a virtuous cycle of trust and support. In order to have mutual trust, a constant and transparent flow of information, is needed between the different stakeholders. More information should lead also to “more voice to decide” for the beneficiary communities and, for all the relevant stakeholders.
- ✓ Evaluation and sharing ‘the lessons learnt’. GAC issues should always be incorporated to evaluation processes. Since they are fairly new items in the evaluation processes, a specific attention needs to be given firstly, on how the general and sectoral governance settings have contributed to the outcomes of the programme and secondly, on how the programme has improved governance situation in the sector or in the wider governance context. Mid-term reviews give already some guidance on how well the programme is proceeding in GAC issues. The recommendations of the mid-term review should always be given a high priority since governance situations can change quickly and thus, to have big implications to the success of the programme.
- ✓ Auditing. In addition to normal auditing, a separate audit can be requested if there is any suspicion on the possible mishandling of the funds of the programme or it seems that the performance level in the programme is not satisfactory.
- ✓ Capacity building of the partner government/organization for taking over the strengthening the GAC systems, especially accountability systems. As noted earlier, improving governance is an endogenous long-term process involving accountability systems in the country. For sustainable results, it is important that no harm is done to the development of country GAC systems in general, and evolution of accountability institutions in particular. Specific “phase-out” arrangements are needed for development programmes, but the objective should be that the strengthening of governance systems starts from the very beginning of the programme, which decreases the burden, put on a phasing-out period.

2.3. Addressing GAC in development interventions

Finland has a big variety of aid instruments at use in development co-operation. It is important to keep in mind that the choice between different aid instruments need not to be a binary one and in practice, a mix of different aid modalities is used. The key questions to be considered when deciding on a country aid package are:

- What is the level of trust between Finland and its partner country?
- What type of aid instruments will produce the best development results in a country context in question?
- How the chosen aid instruments affect governance and anti-corruption reform?

The challenge facing donors like Finland is how to draw a line between countries that are considered “too corrupt” and those that have “acceptable” levels of corruption. For most donors, the overall governance situation – including respect for human rights, civil and political freedom, commitment to development – will be decisive, rather than corruption in its own. Most developing countries fall into the bottom third of the most widely used governance indices; the level of corruption is not the only dimension that matters in the decision matrix. However, one needs to take into a consideration that there is a point when corruption prevents fully the realization of other dimensions of governance e.g. human rights.

In the previous chapters, we have clarified all the relevant GAC considerations to be considered in political dialogue and in programme/project planning and implementation. In addition, there are some aid instruments, which need specific GAC considerations because of the nature of the aid instrument and its relevance to governance and anti-corruption work. More focus is given to the following aid instruments (Note! All the aid instruments at use in the Finnish development co-operation are listed below in a box):

1. General budget support (GBS)
2. Sector support
3. NGO support
4. Anti-corruption programmes

2.4. General Budget Support (GBS)

Budget support is meant to support a partner government’s programme of policies and institutional reforms intended to promote growth and reduce poverty. With budget support, aid is given directly to the partner country’s government in support of its national or sectoral budgets. In practical terms, this means that rather than being linked to specific project activities, the funds are transferred to the partner government’s national treasury, and are managed through the government’s own budgetary procedures and accounting systems.

In addition to greater predictability of aid, budget support is expected to reduce high transaction costs that result from the multiplicity of donors’ reporting and accounting requirements. Budget support is envisioned to promote the recipient country’s ownership of development policies and increase both the institutional capacity and allocative efficiency of partner countries. Using country systems is also assumed to increase the effectiveness of the state and public administration by avoiding the establishment of special staffing arrangements and parallel structures.

The most compelling argument for using budget support is the intention to strengthen partner countries’ domestic accountability to their own constituencies (rather than to the donor community) in the management of public resources through greater use of the government own accountability and review mechanisms (public account committees, external audit offices, etc).

In spite of these positive outcomes, one of the main concerns associated with the scaling up of aid and the provision of budget support relate to fiduciary risks, including corruption risks, generally defined as the risks that aid: 1) is not used for the intended purpose; 2) does not achieve value for money and 3) is not properly counted for. Many factors can contribute to

higher fiduciary risks including lack of capacity, skills and knowledge, bureaucratic inefficiency and corruption.

Although the evidence is inconclusive, it is often assumed that budget support is more vulnerable to corruption than other forms of aid, as it is vulnerable to potential weaknesses in the partner countries' public finance management systems. In addition, budget support gives partner countries greater discretion in the allocation of aid, providing increased opportunities for rent-seeking and corruption.

In countries where domestic accountability mechanisms are weak or inexistent, there is also a substantial risk that aid resources are captured by the political elite, increasing its power relative to other groups in the country and ultimately, undermining domestic accountability.

By entrusting countries with the overall responsibility of managing aid, the provision of budget support also implies that donors tend to focus more on policy dialogue with the local authorities, prioritize policy planning over project monitoring and gradually step back from overseeing the actual implementation of development projects and programmes.

While corruption has been found to be a serious issue in most countries receiving budget support, there is a broad consensus in the donor community that corruption risks do not outweigh the potential benefits of budget support, as there is no clear evidence that this form of aid is more affected by corruption than other aid modalities. When successfully managed, budget support can have tremendous development implications. In addition, budget support as an aid instrument give donors and partner countries a possibility for a dialogue on governance and anti-corruption issues, which no other aid instrument can provide. Thus, the governance dialogue can contribute to improved governance in a country.

2.4.1. Fiduciary safeguards for minimizing corruption risks in budget support

While donors usually do not consider corruption as a prohibitive factor to the provision of budget support, there is a broad consensus that diagnostic corruption information needs to be integrated into decisions on budget support operations. This is usually done in the form of ex-ante fiduciary risks assessments using tools such as the World Bank's analytical tools to assess procurement and PFM systems or the joint assessment framework known as the Public Expenditure and Financial Accountability (PEFA) performance framework.

Although most of these fiduciary risk assessment tools do not comprehensively capture corruption risks, it is usually considered that conducting such assessments has a positive impact on the partner countries' PFM systems and reform programs.

Various assessment tools have been developed to monitor the level of fiduciary risks involved in providing budget support and using country systems for managing aid. The growing trend in this regard is for donors to collaborate and/or use a harmonized framework for assessing fiduciary risks. Examples of such diagnostic tools include:

2.4.2. FRA framework and evaluation of corruption risks

All fiduciary risk assessments must include an evaluation of how the risk of corruption affects the performance of PFM systems and related fiduciary risks, and expect information on whether related reforms (including anti-corruption reforms) represent a credible programme of improvement. The evaluation of corruption risks draws on various sources. These include information from the regular information sources available for evaluating PFM systems, diagnostic material on governance and specific corruption risks, such as the EU governance profile, African Peer Review Mechanism (APRM), the World Bank Country Policy and Institutional Assessments (CPIA) and World Bank Institute Worldwide Governance Indicators.

2.4.3. World Bank analytical tools

The World Bank tends to see the improvement of PFM systems as one intended outcome rather than a prerequisite for the provision of budget support. The Bank does not establish minimum PFM performance levels as a precondition for the provision of budget support. Instead, it prefers to focus on the partner government's commitment to PFM reforms, as well as on evidence of progress overtime. However, the Bank requires an ex-ante assessment of the partner country's PFM and public procurement systems, using tools such as:

Public Expenditure Reviews (PERs) or Public Expenditure and Institutional Reviews (PEIRs) provide a basis for improving the efficiency and efficacy of resource allocation and help countries establish effective and transparent mechanisms to allocate and use public resources for promoting economic growth and poverty reduction. Topics include analysis and projection of revenue flows, budget preparation and execution, the level and composition of public expenditures, inter- and intrasectoral analysis, and the governance of public sector enterprises. Programmatic PERs/PEIRs involve the preparation of a series of analytical reports/notes over a multi-year period.

Country Financial Accountability Assessments (CFAAs) are a key financial management diagnostic tool designed to describe and assess financial accountability arrangements in a country's public and private sectors. CFAAs support both the exercise of the World Bank's fiduciary responsibilities and the achievement of its development objectives by assessing the strengths and weakness of accountability arrangements and by identifying the risks that these may pose to the use of World Bank funds.

Country Procurement Assessment Reports (CPARs) assess, in practice, the efficiency, transparency, and integrity of a country's entire procurement system. They identify the risks that these systems are vulnerable to and outline action plans to bring procurement in line with internationally accepted best practices.

The Country Policy and Institutional Assessment (CPIA) rates countries against a set of 16 criteria grouped in four clusters: (a) economic management; (b) structural policies; (c) policies for social inclusion and equity; and (d) public sector management and institutions.

The IMF's Report on Observance of Standards and Codes (ROSCs) summarize the extent to which countries observe certain internationally identified areas and associated standards as useful for the operational work of the Fund and the World Bank, including accounting; auditing; anti-money laundering and countering the financing of terrorism (AML/CFT); banking supervision; corporate governance; data dissemination; fiscal transparency; insolvency and creditor rights; insurance supervision; monetary and financial policy transparency; payments systems; and securities regulation.

Governance and Anticorruption (GAC) Implementation Plan. This implementation plan establishes processes to ensure a systematic analysis of GAC issues in the design and implementation of Country Assistance Strategies (CAS), as well as in sector work, sector programmes and projects, with the view to systematically addressing GAC impediments to delivering development outcomes. This can include formulating action plans that include a series of measures designed to mitigate GAC risks associated with programmes and activities.

2.4.4. PEFA assessments - Overview of the PEFA PFM Performance Measurement Framework

In recent years, donors have strengthened their collaboration with the objective to develop a common integrated approach to measurement and monitoring progress in PFM performance as well as to establish a platform for dialogue. Within this framework, a PEFA working group supported by the World Bank and the IMF has developed a harmonized framework for assessing budget performance, transparency of the budget formation process, audit reports and other budget related practices known as the PEFA PFM Measurement framework.

The PEFA PFM Performance Measurement Framework incorporates 31 high level indicators that assess PFM performances against six critical objectives, including the credibility of the budget, comprehensiveness and transparency, policy-based budgeting, accounting, recording and reporting, external scrutiny and audit. Each indicator receives an alphabetic score, which is

usually perceived to be relatively difficult to understand and use, especially for cross country comparisons.

2.4.5. Common fiduciary risk mitigation strategies

The identification of fiduciary risks associated with the provision of budget support in a given context needs to be followed by the introduction of appropriate fiduciary safeguards to address these risks. These measures can include: 1) short term safeguards; 2) mechanisms for monitoring key corruption risks and related reforms in the middle term; and 3) a credible programme of improvement that specifically addresses corruption risks to PFM systems in the longer term.

1) Short term measures

In countries where corruption risks are particularly high and not effectively addressed in the proposed programme of improvement, some donors introduce shorter term measures to mitigate fiduciary risks. There are a wide variety of measures that can be used to address weakness in PFM systems when providing budget support.

- ✓ “Earmarking” budget support to particular purposes, usually priority sectors that contribute to poverty reduction. For example, funds can be linked to certain budget line items to protect these expenditure items such as civil service salaries or pro-poor expenditures.
- ✓ Adopting a “negative” list concept, such as the World Bank does under certain circumstances, under which budget support funds cannot be used for certain expenditures perceived as non pro-poor. While in practice, it has been very difficult to track the use of funds beyond initial receipts of funds, this approach has a clear advantage in mitigating the reputational risk for the donor. In some cases, a “positive list” of expenditures may also be used.
- ✓ Dedicated accounts may also be established to enable the tracking and accounting of receipts and payments as well as to allow for the auditing of these dedicated accounts.
- ✓ Undertaking Public Expenditure Tracking Surveys (PETS) to analyze the extent to which budgeted funds actually reach the intended point of local service delivery.
- ✓ Requirements to implement specific controls or new legislation. This approach, however, may lead to uncoordinated and unrealistic PFM improvement plans.
- ✓ Requirement for timely audited aggregated financial statements (focusing on budget execution) from the partner country as a condition of budget support. This can help identify how the budget support was spent.

2) Medium term measures

- ✓ Anti-corruption arrangements in cooperation agreements. Most donors incorporate explicit anti-corruption clauses and formal commitments to a ‘no bribes’ policy into their cooperation and financing as an important means for addressing corruption in the political dialogue with partners. Within this framework, corruption and anti-corruption targets and indicators have been explicitly introduced in the performance matrices and conditions linked to the design and implementation of budget support. These targets and indicators mainly refer to a set of legal measures, policy actions and administrative actions to be taken such as the implementation of codes of conduct, anti-corruption programmes and policies. In addition, donors’ corruption risk management strategies also include efforts to promote greater transparency, disclosure and civil society participation, as well as to strengthen the monitoring and supervision mechanisms. Appropriate mechanisms also need to be in place for detecting, investigating and sanctioning misuse of development resources.

- ✓ Monitoring corruption risks and related reforms. It is also important to agree in advance with partner governments on the introduction of effective corruption risks monitoring and supervision mechanisms. This can include measures aimed at strengthening internal and external controls, as well as reporting, accounting and auditing provisions. Further risk mitigation measures can include providing opportunities for independent monitoring of aid by the media, parliament or CSOs and the introduction of effective complaints mechanisms and whistleblower protection.

3) Long term measures

Short- and medium-term measures cannot substitute for more coherent and longer term approaches that address the underlying causes of corruption and provide a basis for longer term development of government systems. The above mentioned PEFA study recommends prioritizing measures that are focused on establishing effective government / donor / stakeholder relations and on building momentum for government reform.

- ✓ Provision of budget support as an opportunity to strengthen PFM. Budget support itself can be seen as an opportunity to strengthen PFM systems and provide incentives for long-term institutional reforms. It is usually assumed that passing more funds through government systems may result in PFM improvements through the combined effect of capacity development efforts and the provision of technical assistance as well as the agreed upon performance conditions attached to the provision of budget support. The provision of budget support has resulted in greater attention being given to strengthening PFM systems in the partner countries. In many cases, the provision of budget support is tied to the introduction of fiduciary safeguards such as improving the government's procurement and expenditure management systems.
- ✓ Support to comprehensive anti-corruption strategies. Donors can support credible anti-corruption strategies that include reforms specifically addressing identified vulnerabilities of the PFM system as part of their longer term risk mitigation strategy. These planned reforms can ideally address specific weaknesses and risks identified by the initial fiduciary risk assessment. They can include transparency and accountability mechanisms such as codes of ethics for government employees, adequate procedures for reporting bribes and protecting whistle blowers, access to administrative review and appeal, as well as anti-corruption legislation. Finland has provided and provides technical assistance to support anti-corruption and accountability institutions such as audit offices, anti-corruption commissions, parliaments, civil society etc.

2.4.6. GAC issues to be considered in relation to GBS

- ✓ Status and constant follow-up of governance situation. Part I of the Toolkit provides the elements to be reviewed and followed before making a decision to give general budget support or when making a new commitment to continue GBS. Governance assessments, UNCAC and the political commitment of the government should be part of the country level monitoring system in parallel to fiduciary risk assessments. Fiduciary safeguards for minimizing corruption risks in budget support are excellent technical tools to follow specifically the status of public finance management. By focusing on the whole of public sector and providing incentives for larger governance and economy-wide reform, budget support operations have a better chance of addressing the governance problems that plague a country. Budget support is

problematic in countries, which are highly corrupt and have an oppressive government – in such cases, there is the greatest risk that allocation decisions are driven by rent-seeking motives, and that budget support enhances the power of incumbent government in ways that may reduce rather than enhance good governance and especially the realization of human rights.

- ✓ Anti-corruption in political dialogue. While donors usually do not consider corruption as a prohibitive factor to the provision of budget support, there is a broad consensus that diagnostic corruption information needs to be integrated into decisions on budget support operations. This is usually done in the form of ex-ante fiduciary risks assessments using tools such as the World Bank’s analytical tools to assess procurement and PFM systems or the joint assessment framework known as the Public Expenditure and Financial Accountability (PEFA) performance framework. The challenge facing donors is to draw a line between countries that are considered “too corrupt” and those that have “acceptable” levels of corruption. Since there are no clear guidelines when a country is “too corrupt” for budget support, the role of political dialogue on addressing corruption issues becomes crucial. UNCAC contains standards that were negotiated and agreed upon by a vast number of countries, including all the partner countries of Finland, which gives additional legitimacy to the recommended preventive anti-corruption measures. UNCAC can be used in political dialogue to remind of mutual legal obligations of the donors and partner countries. It has to be remembered that by continuing to aid and support to corrupt governments, donors are contributing to corruption.
- ✓ UNCAC as a consensual institutional and organizational framework to address budget support corruption related risks. Donors can use the provisions on prevention and criminalization as a basis for supporting partner countries anti-corruption efforts, and use UNCAC regulations on public procurement, public sector hiring and promotions rules and procedures, ethical codes, public reporting and access to information as guidance for anti-corruption reform. Budget support can be linked to the effective implementation of UNCAC preventive measures. “Positive international pressure” can therefore have an impact, create a momentum for governance reform and offer an opportunity to advocate for the effective use of UNCAC in preventing corruption.
- ✓ Participatory policy formulation and budgeting. Support initiatives aiming at empowering and building the capacity of civil society and elected representatives to hold the government accountable for aid and public resources.
- ✓ Promote information sharing and coordination mechanisms between the various stakeholders in a country on budget support.
- ✓ Developed public procurement system. Procurement processes are corruption sensitive. Thus, particular attention has to be paid to the procurement legislation, systems and practices in the partner countries receiving GBS. Legislative framework that controls procurement practices is important. Sometimes the problems in procurement are due to negligence, lack of capacity or appropriate training, lack of knowledge of the proper standards, rules and procedures. Thus, capacity building and further training should be considered.
- ✓ See Chapter: Governance and anti-corruption in programme cycle.

2.5. Sector support

When general budget support (GBS) is not feasible, the commitments to the principles of harmonization, alignment and ownership may encourage the use of sector support instead. Sometimes sector support is also used in parallel with the GBS. This form of support can mean supporting the partner country's own development programmes on different sectors and thus, can take the form of sectoral budget support. The term sector support in itself covers different kinds of instruments from a sectoral budget support to a sector (or sub-sector) specific programme financed under several types of financial instruments (e.g. basket funding).

It is important to acknowledge that the sector division is not always easy or clear cut. Many times sectors contain different sub-sectors, such as social sector (health, education), infrastructure (roads, transport) or productive (agriculture, forestry) sector. Sector support can also target wide (trans-sectorial) programmes such as a justice system reform, a public service reform, or a local government reform. These more ambiguous sector programmes are sometimes very difficult to manage as they fall under various different ministries and other institutions. Their successful implementation requires careful and smooth coordination between the different actors and stakeholders (ministries, departments, agencies, organizations and other public, and sometimes also civil society organization).

Governance in itself is one of the sectors of Finnish development co-operation. In addition, governance issues cut across all the sectors. Thus, improving governance should be a part of any sector support programme. When governance and anti-corruption issues are addressed successfully at sector level, it can have positive implications to a general governance situation in a country.

When Finland considers the provision of aid into a sector programme, it is essential to assess not only a country-level governance situation, but also to identify sector-specific governance challenges and shortcomings. Some sectors are more prone to governance problems and corruption than others. Sectors in which investment to infrastructure is central and procurement needs high (roads, water, education, health) tend to be more at risk. Some sectors are better regulated by the legal or policy framework (justice sector), others need more work on setting up those regulations (health, education, etc.).

Sometimes governance assessment needs to analyze deeper the causes of different types of governance problems. These may include interference in decision-making by influential persons, improper connections between political and business actors, conflicts or interests between senior officials, nepotism and patronage in appointments in civil service, collusion with bidders, ethnic tensions and competition on resources, bribery and kickbacks in public procurement. Sometimes some or all of the above are intertwined which makes the situation even more complex. Untangling these different connections and causes is essential in order to find a proper way for enhance good governance and to prevent corruption. Different countries have different combinations of the various issues and causes. Thus, a country-specific approach is essential.

Contractual framework is important as it defines not only the objectives of the programme, but also identifies the roles and responsibilities of all parties involved. The contractual framework is equally important with all the aid instruments but, since the sector support is often considered to be "free" from the general governance context of the country, the role of the contractual relationship becomes more important.

If a country is suffering a general governance backlash where regime legitimacy is questioned by citizens and an authoritarian rule increasingly used to oppress dissent and voice, or if

corruption and nepotism are rampant, then the scope for shorter term governance enhancement at sector level is likely to be limited.

If governance is consistently poor with no clear signs of readiness to improve it by the authorities, this will impact the scope of the Finnish support on the sector and on the modality through which Finland can channel its funds. In order, to avoid getting stuck with sector support, one should always assess the sectoral governance environment before entering a sector.

2.6. Addressing governance in sector operations

Ensuring sustainable results with sector aid is a challenging task. Often the issue is not lack of good ideas and funding, but governance constrains in and beyond the sector. Sector programmes sometimes face challenges because the governance environment is not conducive for them. Analyzing and addressing sectoral governance is a fairly new approach to strengthen governance and thus, to prevent corruption. Finland has started only recently to ensure that governance is adequately addressed at sector level. So far, a proper sectoral governance assessment has only been conducted under the forest programme “Miti Mingi Maisha Bora” in Kenya. However, sector governance assessment should be part of the identification phase of any development programme from a sectoral budget support to a specific sector or sub-sector programme.

Poor governance is widely recognized as the root cause of various systemic inefficiencies and corruption. With the help of general governance assessments like the EU governance profile or APRM, one will get an overview of the governance challenges and risks they might pose to any development intervention. However, despite of difficult governance environment in a country, sector operations might be successful if the governance deficiencies are addressed within the sector.

The main objectives of conducting a sectoral governance assessment is firstly, to get the overview of the challenges in the sector and secondly, to translate these challenges into operational activities to support the strengthening of governance within and beyond the sector.

In the following chapters, we address the ways and means to organize the process of assessing governance at sector level and how to cross the bridge from analysis to action. There are several ways of conducting a sectoral governance assessment. International financial institutions (IFIs) are at the forefront in analyzing sectoral governance. European Commission has also guidelines for “Analysing and Addressing Governance in Sector Operations” and in this context, the main aspects are withdrawn from the EC guidelines.

2.6.1. Guiding principles for the sectoral governance assessment

- 1) Define the purpose of the governance assessment. It is important to define the purpose of a governance assessment at the outset, since the same process is unlikely to be suitable for several purposes. The key justification for doing an assessment in the sector is to enhance the domestic actors’ capacity to assess and change sector governance so that the sector performance improves. Work together with other actors and build on domestic processes. The governance assessment process should be as inclusive as necessary to achieve best results e.g. the involvement of domestic actors is essential. Try to build on existing consultation mechanisms.

- 3) Make public more than you think you can. Sector governance assessments can be used to table identified governance shortcomings for further discussion with domestic stakeholders.
- 4) Consider the assessment as a continuous process including monitoring and evaluation. The governance situation in a given sector changes continuously (e.g. actors change, laws and policies improve etc.). Therefore updating and monitoring an assessment is a permanent ongoing process.

2.6.2. Sector governance assessment framework

1) Analyzing the context of sector governance. The broader national governance context sets the stage for how sector governance is configured and how it can develop. The wider perspective is also necessary to appreciate the difficulties or limitations of creating sector islands of markedly better governance. Existing governance assessments like the EU governance profile and APRM can provide a quick appraisal of the main factors that influence sector governance processes. The objective is to get a concise overview of national drivers and constraints on governance improvement in the sector. The assessment is thus largely a selection process: which broader governance factors are most relevant for the sector and why and how are they relevant?

2) Mapping the actors – their interests, power and incentives. The focus on actors is central to sector governance assessment. The purpose of the mapping is to identify those organizations and individuals which are (i) the main stakeholders in the sector and (ii) those presently playing an important role in governance and accountability relations in the sector. The underlying hypothesis is that sector governance will be more effective for sector development when there is:

- An effective supply of governance (i.e. where actors in power share information, take decisions within clearly defined regulatory framework and allocate resources transparently, offer space for participation and are accountable for their actions etc.);
- A demand for accountability from non-state actors and checks and balances organizations, mediated through the political system.

What is the best way to map the actors of the sector? It is important to map those actors that really matter; those with the strongest formal and informal say in governance and those with the most important formal or informal accountability obligations. In order to make this selection process, it is important to assess the interests, power and incentives of the various actors.

The broader picture of stakeholders, their importance, interests, power and incentives is an important part of the broad sector governance dialogue and provides a starting point for discussing possible changes to move towards effective governance.

3) Analyzing governance and accountability relations. Knowing the context and mapping the key actors in the governance accountability set-up are the first steps. The next task is to analyze the governance and accountability relations between key actors. Most often these governance and accountability relations operate within more complex settings. The governance assessment framework identifies different governance mechanisms through which authority and power can be exercised (e.g. governance by hierarchy, patrimonial governance, market governance and voluntary network governance) following “different rules of game”.

When looking at governance relations, the first task is to analyze the mix of governance mechanisms that determine the functioning of the sector. The aim is not to pass judgment,

but simply to describe and understand how the sector is actually governed, as an essential prerequisite for a dialogue about how governance can be enhanced.

4) Summing up – Assessing governance reform readiness. As a final step, the above three steps can be brought together in a summary matrix which presents:

- The key features shaping and describing the existing governance relations in the sector;
- The key strengths / opportunities as well as the key weaknesses / threats for change in governance and accountability on the demand and supply sides.

The matrix is intended to synthesize the detailed assessments made and to provide an overview and major trends, with a focus on the overall readiness – or resistance – to enhancing governance.

Its purpose is to stimulate discussion and to help those engaged in enhancing governance to identify feasible and realistic options for change. Although the best approach is to work on both demand and supply side at the same time, the analysis may in some countries and sectors lead to a fairly negative picture with few drivers of change and windows of opportunity for governance enhancement from the supply side. In such cases, alternative entry points need to be looked for e.g. channeling the funds through NGOs.

2.6.3. Assessment areas for sector programmes

When working to support sector programmes in the partner country, we need to analyze seven sectoral governance elements with a view to determining the scope and feasibility of support. The seven assessment areas are:

- 1) Sector policy/strategy;
- 2) Budget and expenditure management;
- 3) Sector coordination and management;
- 4) Institutional setting and capacity;
- 5) Performance monitoring system;
- 6) Macro-economic framework;
- 7) Public financial management.

When working to prepare a sector programme, governance and accountability aspects should be considered and addressed, in each of the seven assessment areas. Though not formally prescribed, significant value may be added to the seven assessment areas by looking at governance across the components of a sector programme, because governance aspects in one area (e.g. participation in policy processes) may be closely linked to governance aspects in another area (e.g. accountability for results according to policy). From this perspective, governance concerns need to be identified and addressed throughout the whole sector programme cycle.

2.6.4. From analysis to action

How can Finland and other development partners support steady, gradual processes of improving governance? The primary focus should be on strengthening the capacity of the domestic sector governance system to deliver, and challenges to be seen as a long term step-by-step process.

Contributing to the strengthening of sector governance in the partner country is likely to be a slow and complex process, requiring realism and pragmatism. These realities dictate the need for "a basics first approach". It means looking for multiple small and practical steps on how to accelerate the ongoing processes of change. Evidence confirms that overambitious governance reforms are unlikely to be sustainable.

The key governance principles participation, inclusion, transparency and accountability need to be acknowledged in sector operations. They need to be promoted in ways that fit the specific country context and respect "the basics first approach".

The choice for relevant action will depend on country and sector specific conditions. The entry points for sector governance support will vary accordingly. The range of possible actions is fairly broad, and can be broken into the three areas of action:

1. Actions that strengthen the supply side for improving governance. E.g. strengthen the government's sector and national monitoring capacities. One particular area of support for capacity development relates to developing local institutions' monitoring capacity of sector governance.
2. Actions that strengthen the demand for improving governance. Support to those stakeholders that articulate concrete demands for effective governance. There is a need to think strategically, if the government is not reform minded, on how to engage with civil society and other players in order to strengthen the demand for improved sector governance. E.g. investing in information and communication on sector matters. An informed citizenry is essential in strengthening the responsiveness of the state and a prerequisite for meaningful participation by civil society organizations in sector dialogue processes.
3. Actions that deal with governance constraints outside a particular sector. Reform initiatives in a sector can have an influence beyond the sector boundaries. National and cross-sectoral governance dynamics or mechanisms set the limits on how far sectors can make it alone, as well as represent opportunities at sector level. Institutional and organizational strengths and weaknesses in the public sector will set the scene for what sectors can and cannot do. E.g. various governance issues cannot be tackled at sector level alone. Thus, sector governance issues need to be addressed at the national policy and political dialogue level.

2.6.5. GAC issues to be considered in relation to sector support

- ✓ Reform readiness in sector level is connected to a governance situation in the country. If a country is suffering a general governance backlash where regime legitimacy is questioned by citizens and an authoritarian rule increasingly used to oppress dissent and voice, or if corruption and nepotism are rampant, then the scope for shorter term governance enhancement at sector level is likely to be limited.
- ✓ Sectoral governance assessment as a prerequisite. The sector governance assessment is undertaken partly to create a better insight into the degree of political will and the capacity for reform of a partner government, or certain key or less central actors within government. The findings can range from partner countries that are willing to engage in meaningful and relevant governance reforms, to situations where there is little or no commitment to improve sector governance. Where the willingness exists – even though sector capacities are weak – donors can help to develop a more comprehensive sector agenda. If there is no political will for reform, alternative entry

points for sector support can be searched for or an another aid instrument than sector support, can be chosen to target sector reform needs (e.g. support to NGOs).

- ✓ Consider the assessment as a continuous process including monitoring and evaluation. The governance situation in a given sector changes continuously (e.g. actors change, laws and policies improve etc.). Therefore updating and monitoring an assessment is a permanent ongoing process. Reliable statistical information is a prerequisite for the meaningful monitoring of sector governance and related aid programmes.
- ✓ Framework for sector dialogue. When looking at governance relations in the sector governance assessment, the first task is to analyze the mix of governance mechanisms that determine the functioning of the sector. The aim is not to pass judgment, but simply to describe and understand how the sector is actually governed, as an essential prerequisite for a sector dialogue on how governance can be enhanced. Ensure that a regular dialogue takes place first and foremost between key domestic stakeholders as identified in the sector governance assessment.
- ✓ Follow-up how the governance challenges are addressed under the programme. It has to be followed carefully, under a sector programme set-up or a sectoral budget support co-operation, that the identified sectoral governance challenges are supported by concrete operational activities. Governance challenges are very often considered more at "lip-service level" than in concrete terms. Thus, it takes a lot of follow-up to guarantee that, supporting governance activities are really incorporated to the programme document, annual work plans and to the budget of the programme.
- ✓ Cross-sector linkages as an asset. Even if sector support focuses and targets particular sectors and can sometimes target the current development needs more accurately than GBS or other aid instrument, clear-cut definition of sectors is sometimes difficult. Many sectors are interlinked: agriculture sector relates to the developments and reforms in legislation/judiciary, water and infrastructure. There is a need to make sure that the sector approach does not become so wide that it is impossible to follow the development effectiveness of the programme. However, sector support brings together several actors in the sector and helps them to coordinate their work while avoiding double budgeting, overlapping work plans and inefficient use of resources available. Support has to be organized in a manner that avoids local competition on the positions or resources, but rather gives different agents possibilities to complement each other's duties.
- ✓ See Chapter: Governance and anti-corruption in programme cycle.

2.7. NGO support

Finnish official development assistance is also used to support non-state actors, and particularly the civil society. Non-state actors can be financed from the NGO support fund, from support to international NGOs and from the Local Cooperation Funds (LCF) used at embassy level.

Non-governmental organizations (NGOs) are often seen as preferred implementation partners because of their closer ties to communities, particularly in contexts where state infrastructure is lacking, or due to the perception that they are less corrupt than the governments of the partner countries or profit motivated consultancy companies. NGOs can play the role of "watch-dogs" in the society or even worldwide like Transparency International (TI) or Global Witness. They are the key "helpers" in promoting good governance and reducing

corruption. Sustainable governance improvements are produced over time as a result of interactions between the state and non-state actors. For a balanced interaction, development programmes must go beyond supporting the supply side of governance reforms by the executive branch, to support the demand side of governance activities by civil society and other non-state actors.

But NGOs are not immune to corruption. It has to be remembered that they are not subject to potentially rigorous integrity regimes that apply to a national civil service and state institutions, including relevant internal and external oversight bodies. As a result, NGOs need to develop effective internal standards to ensure that they operate with the highest levels of integrity.

2.7.1. Limiting GAC vulnerabilities of NGOs

The existence of a governance structure with clear lines of accountability, internal conflict or interest rules, specified operational policies, as well a financial management system that follows good practice indicates that, with appropriate human resources, the organization has the appropriate framework to operate with integrity.

Reviewing the soundness of NGO governance and financial management structures, particularly their adherence to the below indicators, can help to separate professionally functioning organizations from “NGO businesses”.

NGO governance indicators:

- ✓ Clear governance structure, particularly role of the principal governing body (the Board): 1) name of body, 2) description of relationship to other organizational entities e.g. board functions need to be separate from management; if CEO member of the board, non-voting only.
- ✓ Governing body description to include: 1) basic responsibilities and powers, 2) duties of individual board members, 3) minimum number of board members, 4) membership rules and terms of office, 4) clear election procedure, 5) minimum number of board meetings and method of convening meetings, 6) decision-making procedures, 7) record of board meeting minutes, 8) conflict-of-interest provisions and 9) board member remuneration.
- ✓ Board competencies to include: 1) annual review of CEO performance, 2) review of financial management performance / annual financial statements, 3) responsibility to recruit CEO and 4) responsibility to engage auditor.

Financial management indicators:

- ✓ Existence of basic accounting tools: 1) books of accounts, 2) cash receipts book, 3) cash disbursement books and 4) bank account records.
- ✓ Basic accounting practices: 1) written policies and procedures that follow accepted principles of accounting and control and 2) division of functions: the approving officer for fund releases is different from the bookkeeper and the cash custodian.
- ✓ Financial reporting and record keeping: financial statements of income and expenditures, on a file for a certain number of years.
- ✓ Auditing practices: annual audits commissioned by Board (auditor must not have a relationship to anyone in the organization).

- ✓ Fraud prevention and anti-money laundering practices: 1) existence of full and accurate audit trails of funds transferred outside NGO jurisdiction/country, 2) use of registered bank accounts for money flows in case of every transaction (small amounts of cash for daily expenditure excepted), 3) procedures to verify the identity, credentials and good faith of their beneficiaries, donors and associate NGOs, and 4) secure and confidential maintenance of the list of the bank account numbers under the name of the NGO and any document of identifying information of persons.
- ✓ Advanced systems for sound investment policies and resource generation plan (for big and advanced organizations).

Since there are a big variety of different NGOs to be supported, the above mentioned indicators, can only be applied selectively. There are no “one size fits all” solutions to accountability measures: the size and level of capacity of NGO matter greatly. Requirements should be adjusted to the institutional and administrative capacities of better established vs. newer and smaller NGOs. However, the list of indicators provides some guidance to ensure that the pre-conditions for operating with integrity are in place.

There are a number of implementation period mechanisms not only to detect any potential corruption or fraud, but also to ensure that the programme is carried out as planned. These activity-level monitoring systems consist of activity and financial reporting by the NGOs, and field monitoring of activities or outputs.

To fully assess the relevance of activity and financial reporting, independent monitoring of activities during the implementation stage, or post-implementation forensic audit, are needed. In contrast to reporting, field visits are recognized as a more effective corruption prevention and detection mechanism. Considering the huge amount of NGOs to be supported, field visits are often time consuming and expensive.

More attention should be given to developing and promoting corruption reporting and whistle-blowing mechanisms. External monitoring approaches often function as an add-on to internal monitoring systems. The rationale is to extend the range of “eyes watching”, and thus engage the stakeholders and programme beneficiaries in ensuring that funds are being used as intended and that programme is delivered as expected.

Historically, NGOs have been more accountable to donors financing them than to their beneficiaries. The answer to increase downward accountability is to develop better and more extensive consultative and participatory mechanisms with stakeholders, especially with beneficiaries, at all phases of a programme.

The objective is to promote the engagement of the beneficiaries with the initiative and to provide them with the opportunity to contribute to the success of the initiative. From the corruption prevention perspective, the approach involves enlarging the range of persons who have an interest in the programme being carried out as intended and providing them with the means to react if they detect a problem.

2.8. Anti-corruption programmes

It is vital to be aware, that more governance measures do not necessarily mean less corruption. Good governance and anti-corruption work go hand in hand. However, while governance measures can be used against corruption, there are situations where seemingly important governance measures do not significantly reduce corruption. Sometimes countries that appear to use “best practices” by way of governance inputs (e.g. the legislative and

institutional framework and related mechanisms in place) do not end up with ideal governance outputs (e.g. reduced corruption and increased government accountability).

As has been the case with, for example, Uganda and Kenya, there can be a strong legislative framework and institutional structures in place, complemented with a number of governance strategies and anti-corruption programmes, but corruption prevails. This problem occurs particularly when the governance measures are not genuinely aiming towards good governance, that is, they are not properly enforced and implemented. In these particular conditions the development partners need to be particularly careful with their assistance.

Governance and anti-corruption programmes may involve public financial management reforms, anti-corruption bodies and laws, freedom of information, judicial reforms, citizen participation, social accountability and so on.

Introducing programmes that depend on capable and functioning bureaucracy might not be wise in countries with weak bureaucratic capacity. In such situations, efforts to ensure integrity may have to focus on building up country systems to deliver services and supplement them with demand side of governance measures, that involve civil society organizations and other non-state actors, providing independent third party monitoring to verify outputs and outcomes.

As expected, in weak governance environments the key accountability institutions in the country cannot be relied upon to ensure good governance and prevent corruption. Where it is clear that elites practice corruption with impunity, direct attacks on corruption may have little chance to succeed.

What to do then in weak governance environments? There is no point to abandon efforts to prevent corruption. However, anti-corruption programmes have to go hand in hand with programmes focusing on the delivery of a few basic services in which all segments of society share an interest. In other words, for anti-corruption programmes to succeed, the foundation for corruption prevention is created, by changing citizen expectations on the delivery capacity of the regime.

2.8.1. Anti-corruption bodies

Like stated in the article 6 of UNCAC, the role of anti-corruption bodies is considered crucial in corruption prevention. Even though, there is no link between the existence of an anti-corruption body, and the amount of corruption in a country, the setting up of such a body is often considered as a commitment to anti-corruption work:

"Article 6 provides for the establishment of preventive anti-corruption bodies to implement the policies outlined in Article 5 and to disseminate knowledge about the prevention of corruption."

Many poor developing countries that have had problems with bad governance and corruption have set up agencies to prevent and investigate corruption. The structures, efficiency and the mandates of these agencies may vary significantly. Nevertheless, many development partners are either giving direct support to these agencies or supporting them through sector reforms. When considering support to such an agency several factors need to be acknowledged:

- ✓ Why is there a need to set up a separate anti-corruption body, and what added value does this body bring? What does it add to the work of regular institutions of justice,

law and order? After all, in many countries where there is little corruption, there are no additional agencies with restrictive mandate on corruption.

- ✓ Various agencies may have overlapping mandates in corruption prevention: anti-corruption commissions, investigative police units, prosecution, the Ombudsman, and parliamentary committees. The roles, mandates, and responsibilities of the different actors need to be clarified. Otherwise there is a danger that resources are wasted and these agents end up competing with each other rather than complementing each other's work.
- ✓ While there are also strong and effective anti-corruption bodies, it is important to consider the political motives for the establishment of such bodies. Some governments may have genuine concern with the adverse developmental impact of corruption. Other may do it to self-interested reasons.
- ✓ Sometimes policymakers are reluctant to enact real reforms that might threaten profit from systemic corruption. At the same time, governments in poor countries need international investments. International community, international business and development partners, however, require evidence on the commitment to prevent and reduce corruption. An anti-corruption body may represent an effort to do just this. However, without a real mandate and enabling legislation, dedicated and competent staff, or a proper budget they remain watch-dogs without "teeth".
- ✓ In the worst case, the anti-corruption bodies become tools to repress political rivals and the members of the opposition or previous governments become the targets of investigation. Many anti-corruption bodies are dysfunctional and lack independence from the executive, receive no budgetary support from the legislature to investigate venal officials, and have no procedures for forwarding the cases of corruption for prosecution by the relevant judicial authorities.
- ✓ If the anti-corruption set-up is unsatisfactory, it may be better to support the changes in legislation first, and then reconsider direct support to the agency, or support the legislative reform and the anti-corruption bodies both simultaneously through wider sector support.
- ✓ It makes a difference whether the anti-corruption body has full powers and can take a holistic approach. This means it has preventative, investigative and communicative functions and enough resources to implement its mandate. The system of appointments to the agency is also to be considered. If the appointments are political the independence of the agency is in jeopardy.

2.8.2. Designing successful anti-corruption initiatives

Anti-corruption programmes fail sometimes because of over-large "design-reality gaps"; that is too great mismatch between the expectations built into their design as compared to on-the-ground realities in the context of their deployment. As a starting point for designing a successful anti-corruption programme, one has to have a good contextual understanding of the governance realities of the country or of a specific sector.

It is good to be selective and realistic when supporting programmes whose primary objective is improving governance and preventing corruption. It is best to concentrate on a few anti-corruption initiatives rather than disperse limited resources attacking multiple targets. This is advisable considering the challenges in weak or poor governance environments. By prioritizing

and sequencing interventions on the most pressing and opportune targets, reformers can better optimize resources and limit negative interaction effects which may occur if they were to pursue many different reforms at the same time. Donors should also scale up and replicate programmes that have local origins and involve high-performing local institutions that have proven successful in the country governance environment.

Priority should be given to anti-corruption reforms in sectors and agencies where stakeholders inside and outside government are committed to achieving results. The prerequisites for more direct anti-corruption programme to succeed include credibility of the reformers and public trust and confidence in the capabilities of the implementers. When these are not in place, it is best to defer direct anti-corruption programmes and take time to help to develop the enabling environment.

Sometimes the direct support to anti-corruption in a partner country can be best organized when the various different actors in the field work together as the following example from Tanzania describes.

Tanzania Corruption Tracker website and archive in Tanzania

Agenda Participation 2000 is a Tanzanian non-governmental organization that grew out of a need to create awareness on multi-party elections and different policy options in Tanzanian general elections in 2000. It has developed into an advocacy organization that follows public policies, scrutinizes the use of public funds and organizes various advocacy and educational campaigns.

Due to Tanzanian public scandals linked to the misuse of public funds widely published by the press, people have become increasingly aware of the corrupt practices in the country and eager to get more reliable information on what has really happened and who is responsible. At the same time, Tanzanian Prevention of Combating of Corruption Bureau (PCCB) was re-organized and its mandate, but also workload, grew significantly. PCCB defines as one of its objectives to cooperate with non-state actors in order to mobilize better public awareness.

Finland, which had been involved in supporting anti-corruption work in Tanzania, decided to channel its support via non-state actors if suitable partners and projects are found. The Finnish Embassy in Tanzania facilitated a discussion between Tanzanian and Namibian civil societies by funding a non-state actors' conference against corruption in 2008. It brought together non-state actors from Southern and Eastern Africa and was organized by a Tanzanian NGO ForDIA. PCCB opened the conference and called for cooperation with the civil society. Many good practices were shared and a Tanzanian action plan drawn that divided the roles and responsibilities for different organizations and media.

As a result of the cooperation, Agenda Participation 2000 (AP2000) came up with a creative technical idea to provide information on corruption and other related incidences in both public and private sector. They proposed to set up a public website and an archive that would record, analyze and store data on corruption. The idea was developed from a Namibian two-page electronic publication called Corruption Tracker published by an independent newspaper Insight. When the project was agreed to start, AP2000 set up an editorial board and recruited a well-known Tanzanian investigative journalist to lead the work. Finland was a partner with Switzerland and pooled funding for a first pilot year 2009. PCCB gladly agreed to cooperate and provide all its public statistics for use. Strict rules were made to protect cases under investigation and the website does not publish information on any cases in process. A provision was also made in case of liabilities and court cases. Good journalistic practices are followed e.g. in the protection of sources. The first of its kind in the area of corruption prevention, the Tanzanian Corruption Tracker was launched in April 2009.

The website is updated four times a year and it receives over 100 hits a day. The objective is to present information in a simple and systematic manner, and also keep a record on cases. It maintains a network of regular subscribers, and informs them by e-mail when news are published. The editors of the website advice people not to engage in corrupt practices, and encourage people to contact local PCCB offices to report on incidents. Journalists and development partners can refer to Corruption Tracker as a reliable and independent source with the knowledge that information is confirmed by the PCCB.

Whether the project has indeed decreased corruption is difficult to conclude, but it has definitely impacted positively on awareness and transparent information sharing and allowed systematic follow-up of corruption in Tanzania. Increased public awareness in its part compels authorities to work more effectively against corruption and take action against those whom are involved.

2.9. Aid instruments

General Budget Support

GBS is funding for the implementation of a national poverty reduction strategy of the partner country. GBS is paid directly into the state budget of the developing country.

Sector Budget Support

SBS is non-earmarked budget support, but the objectives of cooperation are sector-specific. SBS is part of the budget planning and state accounts of the partner country.

Joint funding modalities

Joint funding modalities can be used, e.g., for the implementation of a national development program, sector program, regional program or thematic program. Joint funding modalities can be basket funds, pooled funds or trust funds.

Bilateral and regional projects and programs

Bilateral and regional project and program cooperation consists of bilateral projects, technical assistance and multi-country and regional projects. It is important where management systems are not conducive to programme-based cooperation.

Multilateral Cooperation

Finland's multilateral cooperation partners are the UN agencies, funds and programs, the international financial institutions (World Bank, IMF) and regional development banks (AsDB, AfDB, IDB) and other international organizations, in the form of core funding or financing of a thematic or regional program.

EU cooperation

Finland participates, through its share of the European Union's development aid, in the funding and influencing of all development policy instruments, such as EDF, DCI, and various ad hoc instruments for recent food and economic crises.

ICI

The objective is to strengthen the skills and know-how of government actors in the developing countries. The action resembles twinning with a Finnish government agency.

HEI ICI

The intention is to create a mechanism through which HEIs in Finland and developing countries can cooperate to produce institutional reforms, such as strengthening of developing country HEIs' administrative, methodological and pedagogical capacity, as well as to support their own development plans.

North-South-South

The North-South-South Higher Education Institution Network Programme's aim is to generate and disseminate knowledge and to create sustainable partnerships between higher education institutions in Finland and in partner countries. The focus is on the higher education in partner countries.

Finnpartnership

The business partnership programme allows Finnish businesses to contribute to development cooperation in their own special fields. Forms of business partnership cooperation are e.g. long-term trade partnership, investment and joint venture.

Finnfund

Finnfund is a Finnish development financing institution, which offers long-term risk funding for profitable investments in developing and transition countries. The funded projects have an important development objective, specifically for the increase in the production capacity of developing countries.

Concessional Credits

Concessional credits are used primarily for non-profitable environmental and infrastructure public-sector investments under national development programmes. They should not distort local markets or reduce the competitiveness of local or other suppliers in partner countries.

Funds for Local Cooperation

FLCs are an efficient way for Finnish embassies and missions to assist different actors in various countries, including CSOs, NGOs and private companies.

NGO Cooperation

NGOs' work complements official bilateral, multilateral and EU development cooperation. The special value that NGOs can add is their direct contacts with grass-roots level and their work to strengthen the civil society in developing countries.

Research cooperation

Finland funds various forms of development policy research. Some funding are targeted at researchers and research groups while other funding goes to institutions. The main research partners of Finnish development policy are the Academy of Finland, UNU-WIDER, Nordic Africa Institute, UNRISD, ECDPM and CGIAR. In addition, Finland organizes application rounds of commissioned development policy research for funding of more specific and target-oriented research projects.

3. Multilateral anti-corruption agenda

The multilateral agenda has been touched upon several times in this Toolkit. Most of the commitments drawn to the Toolkit, stem from the multilateral forum. The EU governance profile is a commonly agreed governance assessment applicable to all the EU member states. The United Nations Conventions against Corruption (UNCAC) is a binding international convention, which Finland has ratified. Most of the governance indicators or public finance management tools originate from the World Bank. The OECD Convention on Combating Bribery of Foreign Public Officials guides Finland on several anti-corruption areas including development co-operation.

Multilateral forum is an incredible resource for norms and guidance on anti-corruption work but it is also a forum, where Finland plays an active role, to keep governance and anti-corruption issues high on the agenda. Since the multilateral forum is increasingly well advanced in the field of anti-corruption, Finland needs to take care that all “the added value” is brought to its bilateral GAC work. Even though, the line between bilateral and multilateral work is very blurred, one has to pay attention to, that Finland has a coherent and harmonious anti-corruption agenda suitable to both levels. Bilateral co-operation can often support multilateral development initiatives to increase development effectiveness. Finland has experience of this from EITI (Extractive Industries Transparency Initiative).

In this chapter, we address the different levels of multilateral GAC work, and the specific characteristics the different organizations have in the multilateral forum.

- Support to international organizations and participation in drawing up international agreements and recommendations;
- Participating in the Boards of the international organizations and influencing and following-up their GAC work;
- Channelling development funds through multilateral organizations to implement development programmes.

3.1. EU governance agenda – Umbrella for Finland

The EU is the “umbrella” for Finnish development co-operation. GAC issues are no exception of that rule. What makes the EU exceptional is, that Finland is part of the decision-making machine and thus, Finland can contribute effectively to the common EU governance agenda. In addition to country level co-operation and co-ordination, the EU countries co-ordinates their work together, in most of the international organizations.

In recent years, the EU has made major efforts to build a comprehensive policy framework on democratic governance, including several thematic Council Conclusions. This culminated in the 2006 EC Communication on Governance in the European Consensus on Development, which sought to develop a coherent and common approach to democratic governance. The result of the above mentioned Communication was the design of the EU governance profile, which has been addressed widely in the Toolkit.

The EU has a comprehensive anti-corruption policy. The objective is to reduce all forms of corruption, at every level, in all EU countries and institutions and even outside the EU. The current policy does not address widely development co-operation. However, the policy is under review and there is already a new Communication on “Fighting Corruption in the EU” and thus, there is a new chance to contribute to a new comprehensive anti-corruption policy. UNCAC will play a crucial role in the new policy in relation to development co-operation.

3.2. UNCAC at the forefront of the United Nations agenda

United Nations is dealing with governance and anti-corruption issues at every possible level and governance is an issue in all the UN organizations. Finland follows all the UN organizations it finances and it participates also at the UN Headquarters level to further improve the UN internal governance and also, contributes to how the different UN organizations address GAC issues in their relations with partner countries.

Most of the UN organizations have very similar anti-corruption policies and structures than below addressed multilateral development banks. They are very advanced in the field of anti-corruption. In addition, governance and anti-corruption are thematic areas of two UN organizations: 1) United Nations Development Programme (UNDP) and 2) United Nations Office on Drugs and Crime (UNODC) – the Secretariat of UNCAC. The tools and guidelines of both of the organizations are addressed in the Toolkit.

Even though, UNDP is the mandated UN governance organization, most of the UN organizations work in the field of governance. Finland gives core funding to UNDP and channels earmarked money to many country level governance operations and some thematic funds.

Since the UN works everywhere and in places, where other actors cannot work, it is extremely important that Finland follows carefully, how GAC issues are addressed at the UN. The UN system through its special organizations can have the biggest impact on improved governance.

Even though, the UN is a big source of international conventions addressing many dimensions of good governance, it is only UNCAC, which gave “the teeth” to really address GAC issues. UNCAC is widely addressed in this Toolkit. However, the real test for the Convention comes from the level of implementation. UNCAC is the structure, which Finland should follow, in its bilateral and multilateral work.

3.3. Multilateral development banks (MDBs) – “From blacklisting to corruption hunters”

Although the anti-corruption efforts of MDBs also include support to the anti-corruption initiatives of partner countries, a lot of attention has been given during the recent years on, how to prevent corruption at organizational and operational level.

Since MDBs operate in highly corrupt environments, they are faced with high corruption risks. Due to this, firstly, MDBs have harmonized a lot their anti-corruption policies, and secondly, they have openly waived for “zero tolerance” to corruption.

MDBs led by the World Bank, have in the last decade, invested considerable resources in improving internal controls and establishing appropriate integrity management systems to prevent and combat corruption in their projects and activities. Efforts have mainly focused on strengthening the basic elements of any comprehensive anti-corruption framework, namely prevention, detection, investigation and sanctions.

In its Governance and Anti-Corruption (GAC) strategy implementation plan, the World Bank, recommends assessing corruption risks by conducting a systematic analysis of GAC issues in the design and implementation of Country Assistance Strategies (CAS), as well as in sector work, sector programmes and projects. This involves looking at country or sector environments, as well as the nature of project activities to identify specific areas of vulnerabilities. A detailed anti-corruption action plan including necessary risk mitigation

measures can be developed for projects or programmes that are exposed to very high risks of corruption. In addition, regular risk reviews of project and lending portfolio can be conducted to identify the projects exposed to the highest risks that need to receive enhanced managerial oversight.

The World Bank's GAC strategy insists on the importance of disclosure, participation and oversight, including third-party monitoring to prevent corruption. This includes strengthening supervision and oversight mechanisms, ensuring timely disclosure of project information and giving voice to beneficiaries.

In the area of procurement, most MDBs have also reviewed their policies in recent years, requiring competitive bidding and increased transparency for most projects, as well as strengthening anti-corruption provisions in all procurement processes.

Most MDBs have established a complaint mechanism supported by whistleblowing protection provisions to encourage people involved with Bank supported projects to report suspicions of corruption and wrongdoing.

Any person who has knowledge of alleged corruption involving activities supported by MDBs is entitled to report that information per mail or through secured hotlines. The main receiving points for complaints are usually the Banks' respective investigative bodies.

A major breakthrough in cross debarment of firms and individuals involved in wrongdoing ("blacklisting") has been the recent agreement by a number of MDBs on multiple debarments of firms and individuals involved in fraud and corruption. In April 2010, the ADB, the AFDB, the EBRD, the IADB and the World Bank signed an agreement to cross debar firms and individuals that have engaged in wrongdoing in MDB financed projects.

Under the new agreement, entities debarred by one MDB for more than one year may be sanctioned for the same misconduct by other participating development banks. Criteria for cross debarment include: 1) debarment has to be public; 2) it has to exceed one year; 3) it should be based on independent findings; and 4) sanctionable practice should have been committed within the previous 10 years. This collaborative process aims at increasing the cost of corruption in development projects by preventing a company found to be using corrupt means by one development bank from obtaining contracts from another bank.

The World Bank together with other MDBs has a unique anti-corruption system. Even though, the system has not managed to abolish corruption from the operations of MDBs, there is a lot to be learnt from the system. Some components of the MDBs anti-corruption systems, can be used as examples to be followed, by other international organizations and bilateral donors. They are not flawless anti-corruption systems but apply well the obligations deriving from international anti-corruption conventions.

The World Bank has also a big role in operationalizing UNCAC (e.g. StAR – Stolen Asset Recovery Initiative) and has also set up the International Corruption Hunters Alliance. The International Corruption Hunters Alliance aims to create an international enforcement regime to track and resolve bribery and fraud cases that reach beyond borders to affect more than one country.

3.4. OECD – Creating common guidelines

The Organisation for Economic Co-operation and Development (OECD) is active at several levels in governance and anti-corruption work. Addressing corruption is at the heart of the OECD's work. In the last years, the organization has become the leading source of anti-

corruption tools and expertise in areas such as international business, taxation, governance, export credits and development aid.

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is addressed in the Part III. It is one of the cornerstones of effective anti-corruption work also in the field of development co-operation (See more, Part III).

The OECD-DAC Governance Network (GOVNET) and the Anti-Corruption Task Team (ACTT) are also key platforms in the field of governance strengthening and corruption prevention. They have compiled a wide array of material and guidelines to increase effective joint responses to corruption and to increase awareness on domestic accountability.

More guidelines: www.oecd.org/dac/governance

3.5. Multi-donor trust funds – Reducing corruption risks

Making a difference in weak governance environments through free standing and fragmented donor programmes involves high risks and high costs for individual donors, particularly, for those with relatively small programmes, and imposes high transaction costs on recipient countries. The multi-donor trust fund (MDTF), used commonly in challenging political environments, post-conflict situations or to support global governance initiatives like EITI, is useful in overcoming these drawbacks.

Multi-Donor Trust Funds (MDTFs) have become an important funding mechanism to channel and leverage resources in an effective and coordinated way. The increasing use of MDTFs is a direct application of the aid effectiveness agenda and they support nationally determined and led development programmes.

MDTFs are not one-size-fits-all instruments; they are designed to fit the realities of a specific country or global situations. Nevertheless, they are established on common core principles and strategies. For example, they:

- Involve a broad range of stakeholders, including national authorities, donors, participating UN Organizations or the World Bank in the decision-making process, as appropriate;
- Build on existing frameworks or plans rather than creating new, parallel structures;
- Strengthen aid effectiveness through coordination and harmonization of interventions to ensure increased coherence, efficiency, reduction of management and reporting burdens and associated transaction costs;
- Ensure that the funding, operations and implementation modalities provide for full transparency and accountability.

MDTFs (as opposed to bilateral efforts) have the comparative advantage in rebuilding core public administration functions and funding capacity development in public sector. For donors, MDTFs reduce information, coordination, administrative, and various access costs. They reduce fiduciary risk exposure when interaction involves possible corrupt processes. For national authorities, they can increase untied funding, reduce transaction costs, and they can bring credibility nationally and internationally. MDTFs can be set up at global, regional, country, and sector levels.

MDTFs are not risk-free either. They create political and reputational risks to parties involved when MDTF does not deliver on expectations. Even though, MDTFs are a good instrument to channel funds to, it does not mean they should not be followed. The amount of MDTFs financed, should not exceed the capacity of the Ministry for Foreign Affairs, to follow

them. MDTFs have well regulated organizational set-up including strict public finance management regulations and internal and external oversight mechanisms. Due to very high public finance management requirements, especially the World Bank led MDTFs, have difficulties to deliver in very weak governance environments. This not to say, that they should not be used in very demanding governance environments – the opposite.

3.6. Key issues to be considered

- ✓ Contribute to the comprehensive EU anti-corruption policy. The EU is reviewing its comprehensive anti-corruption policy. Finland needs to be active in the development process of the policy esp. in relation to a development co-operation part since the policy will frame Finnish GAC work in the future.
- ✓ Governance on the UN agenda. Finland needs to be active in keeping governance high on the agenda of the UN. Special attention needs to be given to organizations like UNDP and UNODC, since governance and anti-corruption are part of their mandate. UNCAC can be used to structure multilateral work both at discussion level in annual meetings and in operational level.
- ✓ Ensure the existence of comprehensive corruption prevention system. Prevention of corruption implies that explicit anti-corruption policies, guidelines, and internal integrity management systems are in place at the organization level, backed by credible leadership and adequate resources that demonstrate the institution's firm political will and institutional commitment to effectively address corruption issues.
- ✓ Follow-up the capacity of international organizations in anti-corruption. The international organizations' investigative bodies' annual reports indicate the big amount of corruption they confront every year. This is partly due to improved mechanisms to detect corruption. However, the amount of corruption needs to be followed annually, since it might be a sign of a structural problem in the organization. Most of the organizations have their investigative bodies working at their limit, so more resources should be targeted to them, in order to keep the capacity to detect and investigate corruption.
- ✓ Ensure cohesion between bilateral and multilateral GAC approach. Recognizing that corruption risk level of MDBs is much higher than an average bilateral donor since they operate in high-risk environments. However, one should not let the gap between the multilateral and bilateral GAC work to increase, but to harmonize it to the level, it is possible under the Finnish legislation. Thus, one needs to follow-up the constant development of MDBs anti-corruption policies.
- ✓ Multi-Donor Trust Funds (MDTFs). The word "trust" being a key word when channeling funds to MDTFs. Since the UN and the World Bank apply extremely strict regulative frameworks for MDTFs, they have proven to be an added value instrument, for the Finnish development co-operation. Bilateral country level programmes can support the objectives of MDTFs.

To be put in a box to give some background:

Global anti-corruption movement

Corruption has been at the centre of development discourse since it was brought up to the top of agenda in 1990s. At the same time, global efforts in preventing corruption have been formulated as global anti-corruption movement. The movement has promoted anti-corruption in form of international mobilization, agreement and regulation. The United Nations, the Organisation for Economic Co-operation and Development (OECD), the International Chamber of Commerce, Transparency International and a number of other organizations and actors consider corruption and its impact damaging and are seriously engaged in anti-corruption.

Before 1990s

The research on corruption rather than anti-corruption has been relatively long. Corruption research emerged in the 1960s in the field of economic and political science, with influences from development studies, anthropology and sociology, philosophy and history. During the political events of the time, decolonization, the question of corruption arose, as it appeared to be a challenge in the newly emerging countries in the global south. At the time, corruption was understood as a domestic phenomenon and mostly related to individual behavior.

Academic research aside, before 1990s corruption wasn't considered a pressing problem. It was rather seen as "business as usual". Corruption was believed to promote economic growth by "greasing the wheels of commerce". Those times most European countries allowed the tax deductibility of bribes.

The 1990s as a turning point

The idea of anti-corruption entered into international discourse in the 1990s, defining corruption as a major global problem, being "sand for the wheels of commerce" and affecting development negatively.

There are a variety of reasons for a changed perspective on corruption. First of all, the 1990s introduced a shift in geopolitical climate as the Cold War ended. The political climate was favorable to international cooperation. During the same time, international trade grew and world globalized. There was a need to correct market distortions as corruption, by creating common play rules for commerce.

Civil society and NGOs formed an integral part of the anti-corruption movement. One of the most known NGOs in the field of anti-corruption is Transparency International (TI), founded in 1993. TI broke the taboo of corruption and raised it to the global agenda.

TI has been a leading force in methodological innovation, introducing a cross-national corruption perception index that helped rank countries according to the levels of corruption perceived. The most known corruption indicator, Corruption Perception Index (CPI), was published by TI, in 1995.

From the Millennium onwards

The World Bank:

In 1996 James Wolfensohn, the President of the World Bank of that time, made a groundbreaking speech on the "cancer of corruption" to all the Bank's shareholders at the 1996 Annual Meetings, placing the issue squarely on the development agenda for the first time for a multilateral institution. "Let's not mince words - we need to deal with the cancer of corruption..." Wolfensohn said. "Let me emphasize that the Bank Group will not tolerate corruption in the programs that we support, and we are taking steps to"

International conventions were agreed to curb corruption around millennium. The OECD Anti-Bribery Convention was signed in 1997 and it came into force two years later. It establishes legally binding standards to criminalize bribery of foreign public officials in international business transactions. Another major convention was signed a few years later. The United Nations Convention against Corruption (UNCAC) is the only legally binding universal anti-corruption instrument. It entered into force in 2005, taking into account public and private sector corruption.

Today anti-corruption movement is as local as it is global; it has actors from civil society to private companies, organizations and governments around the world. Anti-corruption movement has been able to lift the theme to the global agenda, raise awareness, and encourage the development of international conventions and national legislation, promote research and methodological innovations. It has taken gigantic steps since it was formed. Despite of an apparent cohesive outlook, anti-corruption movement is not a single-tone movement. For example, different forms and types of corruption do not reach the same degree of concern among all actors. However, the aim is still the same for all - less corruption.

Anti-corruption movement and development

Development enjoyed an important focus in the early anti-corruption movement and corruption became a key concern for many donors during the 1990s. The end of the Cold War caused a re-examination of the development aid priorities, placing anti-corruption criteria for aid instead of ideology. The World Bank, International Monetary Fund (IMF), United Nations Development Programme (UNDP), European Bank for Reconstruction and Development (EBRD) and European Union (EU) in 1996/7 revised their guidelines for relations with Third World countries, making their loans conditional on anti-corruption efforts. Also the amount of anti-corruption programmes increased rapidly during the 1990s.

In development cooperation, anti-corruption is now considered to be one of the key issues. Firstly, development partners have promoted anti-corruption efforts in their partner countries. Secondly, they have begun to re-examine their internal practices and procedures to ensure aid effectiveness. Besides a growing number of anti-corruption programmes, a sector-based approach in the anti-corruption work, where “islands of integrity” are supported, has gained more popularity. In thematic anti-corruption work, fragile states and difficult political environments and natural resource management have gained increasing attention.

To be put in a box as an example:

WORKING GLOBALLY TO IMPROVE NATURAL RESOURCE GOVERNANCE

Natural resources as a curse

It is paradox that people who live in a country full of diamonds and oil suffer from poverty. The majority of the world's poorest people live in resource-rich countries. The oil and diamond revenues haven't transformed into positive development outcomes. On contrary, finding natural resources can be a curse – especially for the societies of the bottom billion. Paul Collier's famous book *Bottom Billion* analyzes this paradox of the poorest countries not being able to grow economically even if most of them have valuable natural resources. Thus, it is not surprising that natural resource management has become a crucial aspect in the discussion on good governance.

Weak governance and corruption lie behind a natural resource curse. The relationship between natural resources and corruption is twofold. Firstly, when resource rent is high and institutional quality is the opposite, a number of entrepreneurs choose to become rent-seekers and as a consequence, total national income will be reduced. Secondly, corruption may happen inside natural resource management itself; instead of diverting state's public funds to poverty reduction efforts, public funds may be targeted to areas and sectors that guarantee the continuum in power, patronage implying to inefficient allocation of public resources.

International transparency initiatives

As a response to bad governance and to the rise in resource-related conflicts since the end of the Cold War, a number of global and domestic initiatives and mechanisms have been created in order to reduce corruption in natural resource management.

Since 1993, Global Witness has been a leading international non-governmental organization in campaigns against natural resource-related corruption and associated environmental and human rights abuses. Through its investigations, advocacy and campaigning, Global Witness seeks solutions to the resource curse. It has worked as a driver for a number of international mechanisms and initiatives such as the Extractive Industries Transparency Initiative and Kimberley Process, and was involved in Publish What You Pay initiative.

Publish What You Pay (PWYP) is a global network of civil society organizations that campaign for transparency in field of extractive industry. Since the launch of the PWYP campaign in 2002, PWYP's objectives have been for companies to "publish what you pay" and for governments to "publish what you earn" as a necessary first step towards a more accountable system for the management of natural resource revenues. When companies and governments disclose what they pay and receive, the people in resource-rich countries get a chance to hold their governments accountable for the management of natural resources.

The most established global responses to more transparent natural resource management are: The Extractive Industries Transparency Initiative (EITI) and the Kimberley Process Certification Scheme (KPCS).

The Extractive Industries Transparency Initiative (EITI) aims at strengthening governance by improving transparency and accountability in the extractives industry. The EITI is a global standard that promotes revenue transparency. It

has a robust yet methodology for monitoring and reconciling company payments and government revenues at the country level. The process is overseen by participants from the government, companies and national civil society. The EITI Board and the International Secretariat are the guardians of the EITI methodology internationally.

Kimberley Process (KP) is an international certification scheme for diamonds that aims at stem the flow of conflict or rough diamonds used by rebel movements to finance wars, such as in Democratic Republic of the Congo and Sierra Leone. The aim is to cut the linkages between diamonds, corruption and conflict by requiring member governments to certificate shipments of rough diamonds as conflict-free. This conflict-prevention mechanism is seen to stabilize countries and to create more prosperity from legal diamonds to governments, thus contributing to development. Kimberley Process Certification Scheme (KPCS) was negotiated between governments, the international diamond industry and civil society organizations. KP members account for approximately 99.8% of the global production of rough diamonds.

EITI has been a major incentive for changes in legal frameworks for natural resource management at national level. A major step was taken by President Obama when transforming the Dodd-Frank Wall Street Reform and Consumer Protection Act, known as the Dodd-Frank Act, into law in July 2010.

The Dodd-Frank poses mandatory disclosure obligations for companies getting revenues from natural resources, companies that have securities registered with the US Securities and Exchange Commission. The Act obligates the biggest companies in the world to strict transparency. The Act represents a major step to improve national anti-corruption legislation in the field of natural resource management.

In addition to non-renewable resources such as oil, gas, minerals (as diamonds) and metals, the risk of corruption cuts across renewable resources too, such as forests, fisheries and land. Europe's response to the illegal logging is reflected in the FLEGT (Forest Law Enforcement, Governance and Trade) Action Plan. The EU FLEGT Action Plan provides measures to exclude illegal timber from markets, to improve the supply of legal timber and to increase the demand for responsible wood products.

More transparency in the revenue side of natural resource industry is not a guarantee of a corruption free process. The chain of corruption works before and after "publishing what you pay and earn". A big part of corruption takes place e.g. when deciding which company gets the license to drill minerals, or how much minerals it can drill.

