

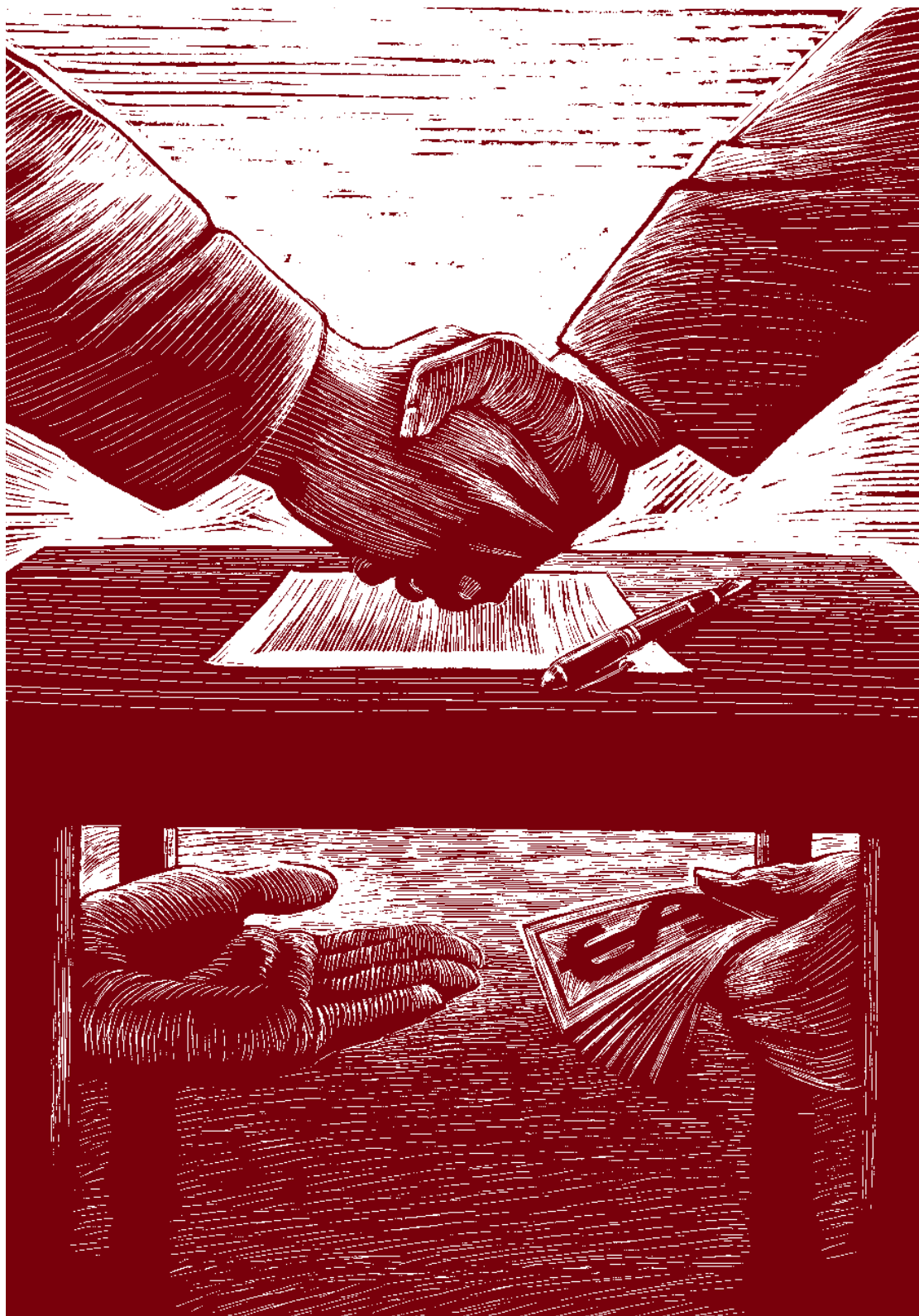


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Departamento Federal de Asuntos Exteriores

# Combating Corruption

## Guidelines





# **Combating Corruption**

## **Guidelines**

# Impressum

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## Graphics title page

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# Contents

<b>Foreword</b>	4
<b>I Introduction</b>	5
<b>II The SDC's Aims</b>	7
1. Appropriate use of public funds	7
2. Promoting good governance	7
<b>III Basic Principles for Combating Corruption</b>	9
1. Prevention	9
– Creating awareness	9
– Deconcentrating power and promoting counter-power	9
– Reducing opportunities for corruption	10
– Guaranteeing acceptable incomes	10
– Promoting moral integrity	11
– Establishing transparency	11
– Maintaining supervision	11
2. Repression	12
– The judicial basis	12
– Political support	13
– Independence and effectiveness of the judicial system	13
– Freedom and responsibility of the media	14
<b>IV Operational Guidelines</b>	15
1. Coherence in development cooperation policy	15
2. Measures to be taken within international cooperation	15
– Transverse measures	15
– Promoting good governance: specific measures to support the fight against corruption	17
– Exerting influence on multilateral institutions	18
– Political dialogue and conditionality	18
3. Measures to be taken within the SDC	19
– List of measures	20
<b>Appendices</b>	
1. Checklist for warning signs	22
2. Procedure in the case of suspected corruption	23
3. Anti-corruption clauses for SDC contracts	24

## Foreword

Today corruption is no longer a problem which concerns only developing countries and Eastern Europe. Corruption has become a serious aspect of development policy for international donors in general as well as for Switzerland and its partner countries. The Swiss Agency for Development and Cooperation (SDC) is aware of the fact that it is often working in an environment which is susceptible to corruption, and for this reason it treats the problem very seriously.

Corruption cannot be dealt with as a general phenomenon; it has to be faced on a small as well as a large scale, in the public as well as the business sector, and at all social levels. More often than not, however, it is the poorest population groups which suffer the most through corruption. If funds destined for development aid find their way into foreign pockets instead of a health programme, for example, the negative effect on the image of state development cooperation is considerable. Corruption does even more damage, however, since it undermines the political and economic preconditions for long-term development. The fight against corruption must therefore be seen in relation to promoting favourable political and economic conditions (good governance).

The Guidelines North-South drawn up by the federal government, which forms the conceptual basis of Swiss development cooperation, urge us to make every effort to *devise concrete measures to overcome the problem of corruption in international cooperation*. Accordingly, the SDC set up an internal Working Group to draw up the present guidelines for combating corruption. These guidelines describe the SDC's measures to fight corruption in and with its partner countries. On the one hand, we must ensure that public funds are used appropriately, and on the other, we must help to improve the framework for development.

There is no patent recipe for solving the problem of corruption. The guidelines show clearly, however, that a successful strategy must be implemented in various contexts; it is only through carefully selected preventive and repressive measures, political will and the back-up of socio-political reforms, which are all tailored to local conditions that corruption can be significantly reduced. We aim to take positive measures to support the efforts our partners are making and to give weight to the fight against corruption in political dialogue and multilateral institutions. As far as concerns our own activities, we are obliged to consider our controlling role carefully at all times.

Walter Fust  
SDC Director

# I Introduction

In many developing countries corruption is an omnipresent evil. There is not a single country in the world where corruption does not occur, but in developing countries its effects are especially disastrous; poor countries can least afford to have fraud committed against the state, their competitiveness ruined and the legal stability undermined. The fact that too many developing countries are in dire economic straits today – even those with ample natural resources – is strongly linked to the susceptibility to corruption of the ruling class.

What is *corruption* exactly? Through its Latin root<sup>1</sup> the word *corrupt* describes someone who lacks moral integrity. *Corrupt* practices are therefore those which are contrary to the generally accepted code of behaviour. *Corruption* in public administration implies unethical behaviour among civil servants.

Ethical values vary from one culture to another, so that different norms apply for corrupt practice in different countries. Although corruption is very common, it is never *normal*. In international development policy today it is generally agreed that the term corruption can be applied to all cultures, despite cultural differences, and that the difficulty of making a distinction between acceptable and unacceptable behaviour applies only to individual cases. Corruption is more common in an environment where institutions such as the legislative body or the judicial system are weak, the rule of law is not respected, clientelism is the norm, the administration lacks independence and professionalism, and where the civil population does not have the means to apply pressure to bring about change.

Corruption is encountered in public administration and politics as well as in the economy. Corruption may occur wherever one person receives a mandate from another or from an institution. In the sense of abuse of authority and trust for personal profit, corruption comprises more than the punishable offence of bribery<sup>2</sup>. Accordingly, the following definition shall apply to the present guidelines:

*Corruption is the behaviour of people entrusted with public or private tasks who disrespect their duties in order to gain unfair advantage of any kind.*<sup>3</sup>

For practical reasons it is useful to make a distinction between grand and petty corruption. Typical cases of grand corruption involve high-level civil servants, major decisions or contracts and large sums of money. In contrast, petty corruption usually involves minor officials, routine goods and services and smaller amounts of money. It would be wrong, however, to make light of petty corruption, since it is frequently the poorest population groups which are most affected by it. Corruption should also be distinguished from small gifts offered as an expression of friendship and mutual appreciation. The distinction between socially acceptable gifts and corruption, which is not identical in every cultural context, must be taken into account. It is often helpful to differentiate between systematic corruption, which involves an entire government or ministry, and individual corruption which is an isolated and sporadic occurrence.

The present guidelines have been drawn up for the benefit of the SDC and its partners and demonstrate how the SDC aims to guard against and combat corruption. For this purpose the

main aims are given first and the general principles for combating corruption are then described. The fourth section comprises guidelines for applying these principles in the SDC's daily operations. Development policy, as well as multilateral and bilateral development cooperation, cooperation with Eastern Europe and internal measures are addressed. The SDC is aware that it and other international players have only limited experience in this field. The guidelines should therefore be understood *as work in progress*.

<sup>1</sup> Corruptere = to debase.

<sup>2</sup> *Corruption* is defined as a punishable offence only in the French and Italian versions of the Swiss Penal Code, and is equated with *bribery*. In addition, there is a series of so-called corrupt offences, which include in particular *punishable acts against the civil service and professional code* according to the terms of Section 18 of the Penal Code, namely abuse of position, demanding excessive fees, disloyal execution of duties, accepting bribes and gifts, and falsifying documents.

<sup>3</sup> This is the working definition used by a working group set up by the Head of the Ministry of Justice and Police; cf. the working group's Final Report entitled *Security Monitoring and Corruption*, October 1996, p. 24. The World Bank defines corruption more precisely as *the abuse of public office for private gain*. Limiting corruption to the public sector is only for practical purposes: *bribery (...) in the public sector (...) should be the Bank's main concern, since the Bank lends primarily to governments and supports government policies, programs and projects. cf. Helping Countries Combat Corruption. The Role of the World Bank*, September 1997, p. 9.

A distinction is made between active and passive corruption in the current revision of the Swiss Penal Code (report and preliminary draft, para. 232).



## II The SDC's Aims

The overriding aim of all the SDC's efforts is to make the most effective contribution to development in partner countries. Corruption undermines these efforts and prevents the SDC from achieving its aims as laid down in the organisation's development policy. For this reason, the SDC must do all it can to prevent corruption within the framework of its own activities on the one hand, and to help create favourable conditions for development on the other. The thrust of the SDC's anti-corruption strategy therefore has two main aspects: to ensure that the public funds made available to it are used appropriately and to promote good governance.

### 1. Appropriate use of public funds

As part of the federal administration, the SDC is obliged to respect the basic principles of regularity, priority, efficiency and economy in the way it uses its funds. According to Article 33 of the federal law on finance:

*Each office is responsible for ensuring that the funds and resources provided are used wisely, efficiently and economically. They may only enter into financial agreements and make payments within the limits of the amounts allotted to them. Such funds may be used only for the approved purpose and for essential needs.*

Since in the field of international cooperation and humanitarian aid relatively important financial transactions are concluded through decentralised structures, and against a difficult and often corrupt background, there is enormous potential for corruption. This fact means that the SDC must take extra special care, since misappropriated funds represent a financial drain on both the SDC and the development process. Even if only small sums *disappear* the damage to the organisation's image can be considerable; each case of misappropriation of public funds undermines the federal authorities' trust and in the end the public's faith in the SDC. This can in turn weaken Switzerland's international solidarity.

### 2. Promoting good governance

The north-south model drawn up by the federal government requires the corresponding federal offices to apply the OECD (Organization for Economic Cooperation and Development) guidelines for good governance, which were drawn up with Swiss participation. According to these guidelines, administrative reforms and combating corruption are important aspects of good governance<sup>4</sup>. Potential means range from positive measures to political dialogue and so-called conditionality. In this connection the finality of our efforts must be constantly borne in mind: our task is to help improve basic conditions in our partner countries so that the development aims laid down can be achieved.

<sup>4</sup> cf. DAC Orientations on Participatory Development and Good Governance, Paris, OECD, 1995.



# III Basic Principles for Combating Corruption

How can we combat corruption? On the assumption that there are no universally applicable, patent recipes for fighting corruption, these basic principles have been drawn up in general terms and thus need to be adapted for concrete use in each individual case. Chapter IV describes the role the SDC can play in applying them.

The framework for combating corruption rests on two pillars: prevention and repression.

## 1. Prevention

The keywords for preventing corruption are: creating awareness, deconcentrating power and promoting counter-power, reducing opportunities for corruption, guaranteeing acceptable incomes, promoting moral integrity, establishing transparency and maintaining supervision.

### ■ Creating awareness

All players, including those involved in international cooperation, should know what is allowed and what is not allowed with regard to the execution of their duties. This means that everyone should be familiar with the minimum standards required under law and in particular under administrative law. In those cases where corruption is a question of degree, a code of behaviour should be drawn up to lay down clear limits. Since they must set a good example, higher ranks have an added responsibility and should therefore be especially aware of the problem of corruption. The role-model aspect of players in the field of international cooperation is particularly important: their behaviour must be exemplary!

Creating awareness also implies, however, educating the general public as to the direct consequences of corruption. The fact that in the end the damage done by corruption has to be paid for by the general public, especially in the domain of international cooperation, is not generally recognised. This needs to be explained openly. The hidden cost of corruption must be made clear: potholes in roads, funds missing from pension schemes, or a shortage of medicines in a hospital pharmacy are often the result of corruption. The man and the woman in the street must be aware of the effect of corruption at grass-roots level. Only a population group with this knowledge can exert enough pressure to combat corruption.

### ■ Deconcentrating power and promoting counter-power

The basic prerequisite for any corrupt practice is power – power in the form of *de facto* responsibility for material resources or power in the sense of the authority to take decisions independently which are binding for third parties. *Power corrupts, absolute power corrupts absolutely*, as the saying goes. For this reason, division of power and reducing individual power are effective methods of combating corruption.

A basic cautionary rule to prevent corruption is to avoid allowing individuals to manage large-scale resources or take decisions of any magnitude. *The principle of shared responsibility* should

therefore be applied. Internal guidelines, and compulsory reporting and approval processes can be effective in limiting the scope of power of any one player.

It is often necessary to encourage *counter-power* in order to implement this principle on a political and social level. In this connection, a broad-based democratic system, support for the civil society and *empowerment* of grass-roots organisations are of decisive importance. As far as the economy is concerned, a free market system and avoidance of monopolies or oligopolies are effective tools in combating the abuse of power.

### ■ Reducing opportunities for corruption

Another important way of fighting corruption involves rescinding unnecessary regulations, simplifying the issuing of permits, doing away with licences and lowering excessive customs duties and taxes, thus reducing opportunities for bribery and extortion. Issuing permits is an ideal opportunity for corrupt civil servants to earn some additional income. Complicated and lengthy procedures allow them to demand a high price for a signature and an official stamp – and a rapidly processed application. It is clear that changes in rules and regulations must be introduced with care. It must not be a matter of removing important state functions but of repealing regulations which are seen as superfluous, inappropriate or ineffective.

In situations where a free market economy can develop, privatisation of state-owned sectors is a valuable tool in the fight against corruption. In this respect it should be noted, however, that the privatisation process itself can be a mine of opportunities for corruption. Nevertheless, the state should restrict itself to a supervisory role in particular in the financial sector, in order to best avoid politicians having any influence over the granting of loans by national banks or the payment of state pensions.

### ■ Guaranteeing acceptable incomes

For many civil servants corruption is a matter of survival because the salary they receive is below subsistence level. In order to reduce corruption such salaries should be raised wherever possible; the best way to do this is as part of comprehensive administrative reforms. Such a plan should also include redimensioning departments which employ an excessive number of people and checking lists of salaried employees (in order to eliminate *non-existent employees*). The state can raise funds in order to increase civil servants' salaries by charging for goods and services which have so far been provided free, through a concerted effort to prevent customs duty and tax fraud and by reducing excessive military spending.

A guaranteed acceptable income is a necessary although not infallible condition for encouraging moral integrity.

### ■ Promoting moral integrity

An employee of integrity always puts the interests of the state or the company before his or her own, and those priority interests alone govern his or her behaviour. The first prerequisite for moral integrity is a clear, conscious differentiation between one's function and oneself, although this notion may well run contrary to many traditions and thus be difficult to accept.

Since only those employees who see themselves as part of a whole will act accordingly, it is important to promote the players' identification with the higher aims of the state or the company. A basic condition for achieving this identification is an acceptable level of remuneration<sup>5</sup>. Remuneration covers not only a fee or salary; a system of promotion based on performance and ability, opportunities for further training and social recognition for services provided also have their value. In this connection it is important to build up a *corporate culture* which provides the necessary motivation for its employees. Furthermore, the public image of the department or company also helps to establish identification with one's employer. A favourable corporate culture will affect the staff since they will be happier to identify with a positive organisation.

### ■ Establishing transparency

Transparency in public administration fulfils two purposes: it provides increased *empowerment* for the general public and makes supervision easier. Transparency means that all regulations, procedures and processes should be accessible and generally comprehensible. All relevant *rules* must be easily available to all parties concerned. Decisions must be handed down in writing and properly justified. In the case of administrations, the general principle of public access should apply and secrecy should only be permitted in exceptional circumstances. This also applies to civil servants' identity.

Transparency facilitates supervision, but it will only work as a preventive measure if it is combined with supervision.

### ■ Maintaining supervision

Corruption is made possible through a lack of or insufficient supervision. It is therefore necessary for managerial staff to set up a reliable system of internal supervision. Superiors must be aware of the potential for corruption in the various activities of those who work for them and pay special attention in sensitive areas. It is also the responsibility of each and every employee to ensure that rules and regulations are respected in their own areas.

Special supervisory bodies may advise managerial staff on how to fulfil this task; they should also carry out their own additional inspections, however. The important criterion is that they should be independent. This can be achieved by appointing various supervisory bodies to various institutions: for example in public administration, supervisory bodies can be mandated to check on the parliament, the president, the head of government, the minister of finance or the various heads of state departments. Some supervisory tasks can be carried out by bodies outside the administration itself, i.e. delegated to either international private organisations or supranational

<sup>5</sup> In addition, what is considered *acceptable* remuneration may vary enormously from one culture to another, a fact which must be recognised and taken into account as far as possible.

authorities. Internal and external auditors with overlapping mandates will complement each other's work. At a local level supervisory units can also be organised on a militia basis. Requirements including a basic knowledge of accountancy and familiarity with the relevant regulations would ensure that local-level supervision is effective.

Inspections should be a surprise; they should therefore be carried out at irregular intervals. Spot-checks can also be carried out. If an inspection reveals evidence of corruption, repressive measures must be taken immediately.

## 2. Repression

Repression is clearly the second tool in the strategy for combating corruption, i.e. after preventive measures. Repressive measures should be used on the one hand to prevent corrupt players causing further damage (*special prevention*) and, on the other, to discourage copycat behaviour (*general prevention*).

In a constitutional state there is no point in instituting repressive measures when corruption is already widespread; they must be implemented before the situation becomes too serious. Corruption can only be successfully repressed when firstly a competent judicial system exists, secondly there is political support, thirdly the responsible institutions are able to act independently, fourthly they have the back-up of the necessary know-how and a sufficient infrastructure, and fifthly the media are free to report cases of corruption and do so in a responsible manner.

### ■ The judicial basis

One essential condition for combating corruption is the existence of practical provisions in local criminal and administrative law. These provisions must cover a full range of offences *from pilfering to money-laundering*. In many countries, including Switzerland, criminal law still has some delicate deficiencies which cannot be made up for without good collaboration between the lawmakers and those who apply the law. Exchanging experience at an international level can also help to keep criminal law up to date. From a preventive point of view, the purpose of clear criminal and administrative regulations is to define what is allowed and what is not.

Many offences involving corruption present the criminal investigators with enormous technical problems: there are often only accomplices and no witnesses, and corrupt practices can easily be disguised. Ways of protecting the plaintiff and witnesses must be examined (*whistle-blower protection*), as well as the question of the suitability of a state's evidence ruling. Furthermore, under certain circumstances politicians and civil servants can be required to regularly reveal the source of their wealth. Sanctions may include barring corrupt politicians from public office.

Prosecution must, however, remain a last resort in the fight against corruption. The demand for deterrent sentences (e.g. the death penalty in certain Asian countries) is dangerous and not a

suitable way to combat corruption at grass-roots level. The maximum punishment for crimes involving corruption should be in proportion to the seriousness of the offence.

In addition to criminal law, the scope of administrative and civil law should also be used to the full. The inclusion of corruption clauses in contracts should be combined with provisions concerning contractual liability and sanctions. Companies which accept bribes should be *black-listed*. Professional organisations can also make an important contribution by setting standards, for example, which go beyond legal minimum requirements. Non-observance of such standards would result in the company in question being barred from the relevant professional organisation and, by implication, from practising its trade.

### ■ Political support

If legal provisions are going to have any meaning a political climate must be created in which the public prosecutor is able to bring charges against any corrupt persons, be they high-ranking military staff, influential politicians within the ruling party or other leading personalities. A credible anti-corruption campaign relies on back-up from the highest level of state administration. Such a campaign must not on any account degenerate into a *witch-hunt*, however, which bypasses constitutional law and fosters the dangerous illusion that the problem can be solved by eliminating a few corrupt elements. Experience shows that quick and sweeping anti-corruption measures are a more effective deterrent than sacrificing a *black sheep* now and again.

A strong civil society is capable of creating a political climate which will help to combat corruption. Non-governmental organisations which deal with corruption can convert spontaneous indignation and diffuse attitudes among the general public into concrete demands and follow them up with continued pressure.

### ■ Independence and effectiveness of the judicial system

Investigating authorities, administrative courts, in fact the judicial system as a whole plays a major role in combating corruption. It goes without saying that these institutions must be anchored in a democratic and constitutional system and respect the rules laid down by it. It is against such a background that they can enjoy the greatest degree of independence. If they are to fulfil their tasks correctly they must be free to act, regardless of the position or reputation of the person under investigation. They must be sure that they will suffer no disadvantages because they have carried out their duty. In particular, they must not be corrupt themselves. Preventive measures and (self-)supervision are especially useful in this area.

The *gatekeepers* – persons who control access to justice – must be carefully scrutinised. Normally a public prosecutor must issue a transferral before proceedings can be started. If the areas of responsibility of several prosecutors overlap it is easier to avoid cases being abandoned in the early stages.

Investigating bodies and the judiciary should be independent and be given political support – as long as their institutional capacity is insufficient they will not be very successful in their fight against corruption. In order to perform properly they must have staffing and financial resources, know-how and a suitable infrastructure at their disposal. The quality of the work they do must meet the most stringent requirements, as they are involved in serious accusations which should not be made lightly.

### ■ Freedom and responsibility of the media

The media can play a repressive role in two respects: on the one hand, they can publicise proven cases of corruption and thus bring the repressive apparatus into operation, and on the other, they can pillory convicted civil servants and politicians. In this way they increase the deterrent effect of punishment through the judicial system.

Publishers must be granted freedom in their work and the media must be highly professional if they are to carry out these tasks in a reliable manner. On the one hand, they must not fear the most powerful people in the land nor should they have any reason to fear them. On the other hand, to ensure credibility they must avoid sensational, unfounded accusations; it is all too easy to use accusations of corruption for political purposes. If they are to fulfil their obligations regarding good practice and their demanding task journalists need time, a solid training and a series of common professional rules and regulations.

It must never be forgotten that people working in the media can also be bribed. The most effective tool against this is to have a broad palette of media operators: one newspaper (or radio or TV channel) of many will pick up on a story that could easily have been covered up if there was only one information outlet. One media operator can correct a wrong impression given by another.



## IV Operational Guidelines

This chapter deals with what the SDC can contribute towards implementing the general principles described in the previous chapter. In this connection the organisation has at its disposal a variety of tools, depending on the context of the fight against corruption. The SDC can take action at the level of national politics, within its own walls, or in bilateral or multilateral cooperation, a distinction being made between transverse and specific measures.

### 1. Coherence in development cooperation policy

If it is to enjoy credibility, Swiss international cooperation's commitment to fighting corruption must actively build on a basis of coherence in development cooperation policy. It is contradictory to encourage foreign governments to try to combat corruption and at the same time to begrudge them legal assistance in their fight, to tolerate bribery of foreign officials in one's own country, or even to allow bribes to be deducted from taxable income as *professional expenses*. Such contradictions between one's own laws and demands made on partner countries with regard to development cooperation need to be eliminated in Switzerland and in other industrialised countries. It is the SDC's task to actively show its support for coherence in development cooperation policy within the federal administration and vis-à-vis the general public, in line with the north-south model. This it can do through participating in working groups, consultancy work for public offices and helping to draw up reports, through maintaining personal contact with decision-makers and through direct contact with the general public.

Moreover, coherence in development cooperation policy obliges the SDC to take full account of the example it sets as a development agency vis-à-vis its partners.

### 2. Measures to be taken within international cooperation

In international cooperation the SDC enjoys a partner status, the main responsibility for development lying with the SDC's partners. Both sides, however, must be conscious of the fact that cooperation depends on a number of basic conditions. The resources supplied by the SDC may only be used for the purposes agreed upon in advance and laid down in the corresponding contract. They may not be used to cover losses incurred through corruption. In extreme cases, sanctions against partners must be not only used as a threat but put into practice.

#### ■ Transverse measures

In almost all areas of international cooperation and humanitarian aid there is a possibility of corruption, for which the SDC must make sufficient allowance when planning and implementing its programmes. The organisation can minimise this risk by choosing its partners and the tools it uses with care. If materials are acquired in a regular manner and contracts are drawn up prudently, it should be possible to prevent problems arising and, if needs be, to deal with any case of corruption in an appropriate way. The following points should be taken into consideration:

### **A) Planning and partner assessment**

- corruption or the risk of corruption in country and sector programmes, annual programmes, credit applications, contractual negotiations and within the framework of environmental monitoring in connection with development policy should be addressed as a topic in its own right;
- the compulsory use of funds (short-term projects aimed at using up the budget) should be avoided through long-term planning and alternatives should be kept in reserve;
- politicians should be prevented from using development projects for the personal benefit of their constituency members;
- power centres in the SDC and other projects should be identified. They should not be allowed to be misused in order to strengthen authoritarian and undemocratic structures;
- the managerial and administrative ability as well as the weaknesses of partner organisations should be assessed in detail, and in particular internal control mechanisms and rules concerning power of signature should be checked;
- cooperation should be adapted to the managerial and administrative ability of local partner organisations; weak points should be eliminated and in particular assessment and auditing ability should be strengthened;
- partner organisations should be encouraged to reveal corrupt practices within their programmes and projects.

### **B) Drawing up contracts**

- all contracts should be worded and supervised according to current regulations;
- effectiveness of transfers of funds: funds advanced must be in suitable amounts and must be checked; suitable bank accounts; financial security; checking rules concerning signatures; direct transfer of funds avoiding middlemen (e.g. ministry – association or other non-governmental organisation – project);
- the relevant regulations concerning operational implementation, book-keeping and finance must be observed: the regulations laid down in the general conditions and provisions etc. of the contract must be adhered to. If the book-keeping and auditing is delegated to a state or partly state-run institution the auditing system used by the corresponding public sector should be checked and the contract must stipulate that the SDC has the right to inspect the books kept by the partner. The SDC must also have the right to demand a second audit by a jointly appointed, neutral institution if irregularities are discovered or if the original audit is deemed unsatisfactory;
- International Accounting Standards (IAS) should be introduced for the book-keeping, including the necessary training;
- an anti-corruption clause (see Appendix 3) should be included in all contracts and its implications should be explained;
- financial systems should be straightforward and transparent;
- free access to the project as well as to all relevant books and documents should be guaranteed through stipulations in the contract;
- the control mechanisms to be used if corruption is suspected should be stipulated in the contract;
- the stipulations to be included in the contract concerning liability and sanctions must be agreed upon;
- regular inspections should be carried out.

### **C) Acquisition procedure**

- the current Acquisition Instructions 9A and 9B and the *Operational Principles for Awarding Contracts* should be followed carefully;
- authority with regard to placing orders or awarding contracts should be restricted;
- a project should be abandoned if grand corruption is necessary to complete it;
- the mandatary should be offered fair compensation if a project has to be abandoned;
- the SDC must intercede politically if a project has to be abandoned owing to grand corruption;
- all available sources of information and influence, including examination of inspection reports, should be used in the case of a project funded jointly through multilateral institutions.

### **D) Monitoring and implementation**

- procedures should be monitored with reference to contractual stipulations; any deviations from agreed procedure must be discussed;
- statistics should be used in order to expose irregularities (comparisons with similar projects);
- expenditure should be monitored formally and materially;
- electronic programmes which cannot be manipulated should be used for project bookkeeping;
- implementing agencies and mandataries should be encouraged to report any cases of corruption in projects through guarantees of fair compensation.

### **■ Promoting good governance:**

#### **specific measures to support the fight against corruption**

*Helping to create favourable political and economic conditions* is already one of the main objectives in a series of country programmes. It is possible to introduce a specific programme focus *Support for Combating Corruption* within the framework of this or another aim in which questions of good governance play a major role. This is particularly appropriate in those partner countries where corruption significantly hinders the process of development but at the same time powers exist in civil society and/or within the state which are determined to stamp out this problem.

Basically, all measures should be considered which can be included in the strategy mentioned in Chapter III. The constructive character of these measures should be emphasised – they should be seen by all those concerned as an opportunity to master the problem. The measures cannot be implemented without committed partners and political support. Those to be considered include:

#### **A) Civil society**

- creating awareness among the general public through methods of communication (from electronic media to street theatre) adapted to suit the target population group;
- training journalists: how to carry out an investigation, how to handle cases of corruption;
- empowering those who suffer as a result of corruption through information on civil rights and legal advice;
- negotiating moral integrity pacts<sup>6</sup> between the authorities and companies for open calls for tenders in certain sectors.

<sup>6</sup> In a moral integrity pact all the parties involved in calling for tenders, i.e. government departments, administration and private suppliers or companies, undertake to avoid all forms of corruption and to ensure transparency. Violation of this undertaking will be punished by, for example, barring the guilty party from being awarded any public contracts for a given period.

## **B) Administrative reforms**

- in-depth research into the characteristics of corruption in the sector or institution in question;
- technical and financial support for administrative reforms (concept and implementation) based on knowledge acquired;
- setting up institutions: for example, appointing an ombudsman to facilitate contact between the public and the administration, to deal with complaints and to suggest measures to be taken within the administration;
- capacity building in the fields of management, use of human resources, controlling and auditing within the administration.

## **C) Controlling bodies, judicial system**

- strengthening the existing legal system;
- training and providing logistical support for special anti-corruption units;
- training and providing logistical support for the judiciary;
- offering book-keeping courses for lay people in order to promote public participation in monitoring the administration and auditing at a local level.

These measures can be implemented bilaterally, as part of a multilateral programme or in collaboration with non-governmental organisations.

### **■ Exerting influence on multilateral institutions**

A considerable part of Swiss development cooperation is carried out through multilateral organisations. It is the duty of Swiss delegates in the managerial bodies to help to ensure that the public funds invested here are also used appropriately as well as to promote good governance. In this respect the multilateral organisations also need to have a strategy for combating corruption within and outside the institution. The role each organisation can play in helping to promote good governance depends on its own particular strengths.

The obstacle to development that corruption represents must also be taken seriously by multilateral organisations. Swiss delegates must raise the topic whenever necessary and must insist that the pressure that the organisation can exert be used to encourage a given government to fight corruption. In this respect the Bretton Woods Institutions should play a leading role. Double standards – one rule for large countries, another for smaller countries, for example – must not be tolerated. In the same way, the *performance-based lending system* operated by the World Bank's International Development Association (IDA) should be supported. Standards should be applicable to both the seriousness of the fight against corruption and the absolute level of corruption.

### **■ Political dialogue and conditionality**

The SDC pursues political dialogue with high-ranking representatives of the partner country who are responsible for the basic conditions for development programmes. In this way the SDC can draw the attention of major decision-makers to the problem of corruption, point out the

damaging effects it can have (including on governability) and remind them of promises that have been made. The degree of governmental commitment to the fight against corruption can be estimated from monitoring the development cooperation environment, but equally from political dialogue. This can also be used as an opportunity to identify and decide on specific, positive measures to surmount the problem.

If the government is not willing to change its tack and takes no other anti-corruption measures, conditions and legal consequences must be made clear. Postponing or abandoning a project should only be a last resort if the following is shown to apply:

1. The aims laid down for the cooperation project cannot be achieved or an unacceptable increase in costs will be incurred owing to corruption.
2. The authorities responsible are making no serious effort to eliminate corruption.

Efforts to coordinate with bilateral and multilateral donor institutions should be made, with respect to both political dialogue and conditionality. If international cooperation is abandoned in one sector it does not necessarily mean that it must be abandoned in others.

### **3. Measures to be taken within the SDC**

On the basis of the role-model function of the SDC that has already been mentioned several times, it is especially important that the organisation does all it can to prevent corruption within its own ranks, i.e. in relation to its own staff and mandataries such as consultants. Firstly, employees at all levels should be made aware of the problem and their abilities should be properly valued. This applies in particular to administrative staff. Consistent implementation of the PEMI (*planning, evaluation, monitoring and implementation*) system can provide considerable support in this context. It is essential, however, that staff at all levels fulfil their monitoring tasks and duties at all times. If corrupt practices are discovered within the SDC they must be dealt with appropriately. The organisation must take disciplinary measures against corrupt employees, even going so far as to dismiss them.

However much care needs to be taken, precautionary measures should not destroy our local employees' faith and sense of responsibility. Mutual trust remains an essential element of any productive cooperation. At the same time, risks must be recognised and minimised.

## ■ List of measures

### A) Human resources

- careful and transparent selection of staff;
- fair salaries and fees (according to performance, level of responsibility, market conditions);
- social appreciation of all tasks and positive recognition of performance (in particular by superiors);
- carefully discussed and worded job descriptions, in particular information concerning the significance of the tasks involved in relation to the project as a whole, clear regulations concerning competencies, areas of responsibility and authority.

### B) Creating awareness

- drawing up and distributing a code of behaviour for managerial staff and others in positions of particular risk as compulsory guidelines for fulfilling the tasks in question;
- informing employees, in particular managerial staff, about the risks and the damaging consequences of corruption;
- further training and information so that rules and regulations, including those concerning book-keeping, are observed more strictly.

### C) Monitoring

- checking that rules and regulations, including those concerning book-keeping and contractual conditions, are being adhered to;
- consistent application of the *shared-responsibility principle* (e.g. need for two signatures);
- written justification and efficient filing system for all business transactions;
- regular monitoring and spot-checks by superiors in areas which are known to be sensitive;
- internal and/or external audits by qualified people;
- investigation if corruption is suspected and prosecution of guilty parties if necessary;
- systematic assessment of all cases of corruption; feedback to Directorate;
- compilation of *best practices* with regard to combating corruption (*best handling of bad practices*);
- inspections.

The *Warning signs* and *Procedure in the case of suspected corruption* checklists should be strictly adhered to.

# Appendices

## 1. Checklist for warning signs

In this context the regulations laid down in the SDC Instruction 13 *Misappropriation of Funds*, in particular Appendix 1, apply, as well as the following:

- delay in submitting operational and financial reports;
- significant and unjustified deviation from operational plan;
- excessive budget in relation to proposed activities;
- unjustified changes in the budget or accounts;
- muddled or badly kept books;
  
- discovery of irregularities in operational reports as well as in financial and auditors' reports;
- unusual short or long-term expenditure items;
- inappropriate commission in relation to expenditure;
- poorly defined responsibilities in fund management (separate or joint fund management; who does what and how?);
  
- excessive remuneration;
- flaws in acquisition procedures (goods and services and deliveries);
- poorly kept inventory;
- delayed deliveries;
  
- repeated purchase of small quantities of goods from the same supplier;
- discovery of weaknesses in the countries' administrative systems and/or the administrative ability of local partner;
- non-observance of preventive measures;
- an employee who refuses to accept a new position even if it involves promotion;
  
- an employee who regularly works late when there are very few other people present;
- opulent life-style, e.g. expensive cars or accommodation;
- personal dependence, preferences;
- unusual, peculiar or irregular (administrative) procedures.



## 2. Procedure in the case of suspected corruption

### **Measures to be taken upon discovery of irregularities or corruption in international cooperation and humanitarian aid projects.**

Defining an irregularity as corruption depends on the context. In view of the varying background conditions guidelines can only be drawn up in the knowledge of the specific circumstances of the case. An accusation of corruption must be based on evidence of irregularities. Simple suspicion is not reason enough to accuse someone of corruption. In any case, the measures taken must be chosen with great care; first and foremost, they must be based on the contractual stipulations agreed by the parties involved. The measures indicated below are of a general nature and must be adapted to each individual case. The numbering is random and is not a guide as to the order in which they should be implemented.

#### **A) Internal procedure within the SDC**

- as indicated in Appendix 2 of Instruction 13;
- inventory of cases of corruption – evaluation – ascertaining previous cases.

#### **B) Procedure vis-à-vis partner**

1. The partner should be requested to produce a report, the points which must be addressed being clearly and precisely indicated. A deadline should be set for submitting the report. The contents should then be discussed. Measures should subsequently be taken jointly to eliminate the irregularities. Another deadline should be set for implementing the measures.
2. The SDC's right to examine the partner's book-keeping and other documents is to be exercised. This inspection may be carried out by a jointly appointed external auditor if this conforms with the terms of the contract.
3. A criminal investigation should be instigated or other legal measures taken (e.g. annulment of the contract with the accused party) in consultation with the Legal Division.
4. If the measures listed under (1) are not completed before the deadline or if the irregularities are considered to be very serious, the following should be done:
  - a) Notification of the formal suspension of the agreement; such action must be based on the terms of the contract, and/or
  - b) notification of a stop on payments;
  - c) in extreme cases the contract is to be annulled.
5. If corruption is suspected in relation to acquisitions: contractual documents should be requested or a representative should sit in on meetings where decisions are taken on awarding contracts.
6. Political statements.

### 3. Anti-corruption clauses for SDC contracts

#### ■ Anti-corruption clause for agreements with governments

The contracting parties share a common concern in the fight against corruption, which jeopardizes good governance and the proper use of resources needed for development, and, in addition, endangers fair and open competition based on price and quality. They declare, therefore, their intention of combining their efforts to fight corruption and, in particular, declare that any offer, gift, payment, remuneration or benefit of any kind whatsoever, made to whomsoever, directly or indirectly, in order to be awarded the present agreement, or during its execution, will be construed as an illegal act or corrupt practice. Any act of this kind constitutes sufficient grounds to justify annulment of the present agreement or for taking any other corrective measures foreseen by applicable law.

#### ■ Anti-corruption clause for other contracts

The contracting parties shall neither offer a third person nor seek, accept or get promised directly or indirectly for himself or for another party any gift or benefit which would or could be construed as an illegal or corrupt practice.





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