

**INTERAMERICAN DEVELOPMENT BANK**

**CONFERENCE:  
TRANSPARENCY AND DEVELOPMENT IN  
LATIN AMERICA AND THE CARIBBEAN**

**Speech of the General Counsel of the Legal Department**

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**Introduction**

It is indeed a pleasure to welcome you to this conference on transparency and development in Latin America and the Caribbean. The Bank invites all of us to reflect on an issue that increasingly has been in the forefront of the current multilateral discussion on development and in the dialogue with our member countries. Ensuring transparency, efficiency and accountability in the function of the state will minimize opportunities for corruption. The serious hindrance that corruption represents for social and economic development has long been acknowledged; the governments and civil society in our region are engaged in efforts at addressing these issues. As we discuss the various examples of best national and subregional practices during this conference, our hope is for a frank and open exchange of views among all participants.

The Bank has long been concerned about the link between transparency and development. Corruption is a sign of poor governance systems and structures. In accordance with the clear mandates given by member countries to the Organization of American States and in declarations of the Summits of the Americas, the Bank has engaged in financial and non-financial activities in its borrowing member countries designed to support good governance and the modernization, efficiency and accountability of the state. My presentation is intended to review the development of the Bank's thinking in this area and to look forward to what can be expected in the future.

**Background**

The region has certainly witnessed a trend to democratic systems of government in the last decade. We have seen freely elected national governments in the region and elections on the local and state level as well in many countries. The role of local governments has been greatly expanded with the trend towards decentralization in the region. Civil society has played an active function in many countries, seeking additional mechanisms for participation of the citizenry in decision-making and evaluation functions traditionally reserved for the state. A free press, with an expanded investigative function, has been effective in keeping the population informed and up to date on the activities of the state at all levels. Many governments have made an important effort at ensuring that all elements of the society are included in the participatory process of democracy, and these have found organizing elements in non-governmental organizations and foundations.

The trend to democratization has been accompanied by a new economic model in the region, that is predicated on the belief that the marketplace is the most effective resource allocation mechanism. Accordingly, the functions of the state have been diminished and national economies have been opened and integrated with others in the region. The role of the state has substantially changed, and the private sector has assumed a number of the functions traditionally associated with the state.

The sustainability of the new economic and political framework that I have described has been beset by a series of problems that states are recognizing and must address. Poverty has increased in the hemisphere, as has the inequality in income distribution. The continuing socioeconomic exclusion of great sectors of the population represents a challenge to any type of true social

integration. The region remains vulnerable to external shocks. Fledgling democratic institutions are still in the process of consolidation in most countries in the region.

The lack of transparency in the decision-making processes, excessive discretion in government functions, weaknesses in the civil service, outdated legal systems and the absence of public participation in government functioning are all issues of concern to our borrowing member countries and can lead to poor functioning of the institutions of the state.

### **Mandates for the Bank**

The Bank's Board of Governors has given the institution specific mandates in these areas when it agreed to the terms of the Eighth General Increase in Resources in Guadalajara in 1994. A smaller state, whose efforts at modernization needed support, was responsible for the achievement and maintenance of macroeconomic stability and the establishment of appropriate social sector policies and programs. The Governors stressed the need to strengthen public institutions, by inter alia, establishing appropriate regulatory and supervisory functions, promoting the strengthening and modernization of judicial systems, reforming tax and budgetary systems, and supporting national parliaments. The state's capacity to prepare and execute development programs and projects also needs to be strengthened.

Most recently, during the meeting of the Board of Governors in Brazil to celebrate the fortieth anniversary of the institution, the Governors agreed to certain goals for the Bank's activities in the future. The need to continue efforts to support the modernization of the state was stressed. Included in this rubric were activities to support ethics and transparency, particularly in state procurement; the internal audit function; the institutions of the judiciary and the legislative branches of government; the supreme audit institutions; and the private sector. In addition, specific anti-corruption programs or strategies of member countries could be financed.

At the Bank's Annual Meeting in New Orleans, the President of the Bank summarized the key goals facing the Bank in the near to mid-term. Included in this listing was the need to reduce inefficiency and to reduce corruption.

The mandates of the Board of Governors as specified in the Bank's Eighth Capital Increase led to the Modernization of the State and Strengthening of Civil Society Policy, approved by the Board of Executive Directors in 1996. This document spelled out goals and action for programs in support of activities dealing with the executive, legislative and judicial branches of government, and with the strengthening of civil society in the countries of the region. In executive branch programs, the Governors foresaw the strengthening of the capacity for overall financial management, improvement of the ability to frame and execute public policies, the promotion of a civil service, the strengthening of regulatory institutions, building capacity for oversight and auditing of public service based on transparency and accountability, strengthening decentralization and fostering civic education. Legislative support programs would be destined to support training and education, establishing professional legislative organization and administration, and support for the framing of legislative action. Judiciary support programs would strengthen the administration of the judiciary system, promote alternative dispute resolution mechanisms, and provide additional education programs.

In accordance with the mandates that the Bank was given, the institution has financed activities in all of these areas over the last 7 years. On the basis of this experience, certain reflections are appropriate. First, the Bank's efforts are geared to ensure effective and transparent governance structures that will ensure the sustainability of the economic and financial reforms that have been undertaken. Second, it is important that the proper controls and mechanisms exist so that the Bank can ensure the proper use of its resources during the lending process. Third, there are a series of new actors that the Bank deals with, including local governments with greater responsibilities as a result of decentralization efforts, the private sector and civil society. Similarly, there are a series of new financial instruments that the Bank now utilizes, including sector loans, the recent emergency loans and the new multi-phase loans. It is important that the Bank design its operations with the new actors and its new instruments with the proper controls that ensure transparency, efficiency and accountability.

### **Development of a Systemic Anti-Corruption Strategy**

The Bank's efforts to ensure transparency, to support the activities of its borrowing member countries in the modernization of the state and to include civil society in their activities, all serve to minimize the possibilities for corruption to exist. The need to stress the commitment to fight corruption and support good governance served as the basis for the decision to create a working group to develop a systemic framework to deal internally and externally with the issue, to take advantage of synergies and strengthen even further the Bank's corporate commitment in this area. The strategy paper that is being finalized will be reviewed by upper management and then transmitted to the Board of Executive Directors for its consideration. It is hoped that the discussions generated during this conference will provide inputs for the strategy paper.

The goals of the working group's activities in preparing this paper were to address three areas as part of an integral whole. First, there is a need to ensure that the Bank staff, which are the institution's greatest asset, always act in accordance with the highest standards of integrity and that our internal policies and procedures reflect this institutional commitment. Second, the Bank must have in place the internal management controls that will ensure that lending programs are properly designed and executed, that funds are used as intended, and that funds are spent in line with the institution's policies and procedures. Third, the Bank must continue to support financial and non-financial activities in its borrowing member countries that combat corruption.

### **Internal Efforts**

With respect to the first of these goals, it is important that the Bank continuously review its internal processes and procedures that are designed to control fraud and corruption. The Bank must seek to ensure that its system of incentives, rewards and sanctions will result in staff conduct that reflects the values of the institution. Clear guidelines and procedures designed to ensure that staff adhere to high levels of integrity must be in place. Its internal processes and regulations, covering such diverse areas as the process for staff recruitment to the ethics code that governs staff conduct to the guidelines that stress the need to be good citizens of the communities in which Bank staff reside and work, must be transparent and clear in their

directions to staff. It is important that the institution's objectives, principles and values permeate its activities and result in staff loyalty to the Bank.

### **Ensuring an Internal Control Environment**

The second goal of the strategy paper that is being finalized is to address the need at all times to have a proper internal control environment within the Bank for its financial and non-financial activities. It is important that in the selection and design of operations and in their execution and subsequent evaluation, the Bank has the proper controls in place to ensure that its activities are properly carried out. Each of these areas has its own set of issues that need to be dealt with in the proper control environment.

With respect to the selection and design of operations, it is important that any potential risks be addressed early on and that preventive controls for such risks be upstreamed to the design phase of an operation. The capacity to perform proper risk analysis is critical at this stage, so that project teams can objectively identify, analyze and manage possible risks. Bank project teams focus on items that are critical for a successful loan, such as the respective executing agency and the necessary mechanisms for proper monitoring, auditing, and evaluation of a lending program. Where needed, external concurrent auditing has been implemented, such as in large social investment programs which incorporate many entities. Where advisable, there has been outsourcing of the procurement process; previous experience includes the designation of independent entities, such as United Nations and crown agencies, to manage the process. While the suspension of disbursement always is available should the Bank suspect the existence of fraud or corruption in a particular loan, it is important that projects be designed ab initio to avoid the possibility of such serious challenges to proper execution.

A proper institutional control environment also signifies that appropriate management controls exist during the program execution phase. It is critical to ensure that policy directives are carried out and that there exist proper oversight mechanisms at headquarters and in the Bank's country offices. The role of the Office of the Auditor General and its work in the periodic audit of country offices and operations needs to be stressed. The existence of the Bank's country offices is critical in exercising the necessary controls in this process.

Two particular issues in the program execution phase deserve special mention. First, it is critical that any procurement undertaken with resources of Bank loans be absolutely transparent. The Bank's procurement rules and regulations contain the necessary safeguards to ensure that the Bank may act if there are allegations of fraud and or corruption. The high-level management Procurement Committee serves as the authority to review any such allegations and the Policy and Coordination Office of the Bank, in conjunction with the country offices, serves to ensure that the Bank's policies are properly followed. The Office has also coordinated the effort at harmonization of policies and procedures with other multilateral development banks. The Bank maintains the right and should more regularly perform spot audits on companies involved in Bank procurement. The second area that should be stressed is the need for further training activities both at headquarters and in the Bank's country offices in, inter alia, forensic techniques for fraud detection.

Lastly, it is important that post-execution evaluations of operations that the Bank has funded be performed carefully and that the lessons learned be properly disseminated and taken into account in the design on new operations.

### **Support of Activities in the Bank's Borrowing Member Countries**

The Bank will continue to support programs presented by borrowing member countries in these areas. The need to curb corruption and to design programs that will support a modern, efficient and transparent state ranks high in social and political agendas of the region. This certainly does not mean that corruption is rampant; rather it signifies that there is a new awareness by our governments and by the citizenry that these issues demand action. The Bank will continue to work in those areas already identified in funding operations designed to eliminate the focal points where corruption is most likely to arise, adding, where appropriate, specific anti-corruption components.

In the public sector, then, activities identified in the Modernization of the State and Strengthening of Civil Society document, such as support of the reform and strengthening of the executive, judiciary and legislative branches of government will continue to be funded. Also critical are other activities in support of the state such as those dealing with strengthening the financial management capability of the state, tax reform, reform of customs services, support of supreme auditing institutions, such as controllers' offices, and the promotion of a professional civil service. With respect to financial systems, programs that strengthen the supervision and regulation of domestic and off-shore financial institutions, including specific anti-money laundering efforts, are important. Also critical are efforts to foster transparency in monetary and financial policies and in fiscal policies (support of the Code of Good Practices in Fiscal Transparency and Code of Good Practices in Transparency in Financial and Monetary Policy of the International Monetary Fund) and to implement standardized norms. With respect to public procurement, it is important to support appropriate national legal frameworks, the use of modern information systems, and the necessary institutional strengthening. In all potential public sector loans, the Bank should fund specific anti-corruption programs at the borrower's request.

In its private sector activities, the Bank must ensure that privatization processes are transparent and should encourage the use of corporate codes of conduct and corporate governance frameworks.

### **The Conference**

This conference focuses on specific best practices in the region in the fight against corruption. It addresses good examples, both on a national and on a sub-regional basis. With respect to national initiatives, we will hear of a novel and interesting experience in Colombia, in which the government, private sector entities involved in public sector procurement and other elements of civil society sign so-called integrity pacts to ensure that any public sector procurement is done with transparency throughout the process and with social auditing. We will also hear of a far-reaching experience promoting transparency in the legislative branch of government in Brazil, the INTERLEGIS project. The project is designed so that the legislative branches at the federal, state and municipal levels are connected electronically to share experiences and information,

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bring some common approaches to the legislative process, serve as an additional mechanism for the education of legislators, and provide the citizenry with real time information on the activities of the respective legislative bodies. Lastly, the national experiences in Mexico, Chile and Canada in moving to a system through which all state procurement is done on-line will be described.

With respect to regional initiatives, the role of banking supervisory bodies in the fights against asset-laundering will be analyzed, focussing on the experience in the Caribbean. The efforts of the Caribbean Financial Action Task Force in combating financial crimes both on-shore and in off-shore banking centers will be discussed. The regional effort to fight corruption is embodied in the Inter-American Convention Against Corruption, negotiated and signed under the auspices of the Organization of American States. The Convention is designed to criminalize corruption and encourage regional cooperation to combat it. Lastly, the efforts at reaching region-wide standard principles and guidelines and best practices for fiscal and financial transparency will be discussed.