

Anti-Corruption Policies in Asia and the Pacific *Self-Assessment Report Indonesia*

Over the last decade, societies have come to realize the extent to which corruption and bribery has undermined their welfare and stability. Governments, the private sector and civil society alike have consequently declared the fight against corruption to be of highest priority.

In the Asia-Pacific region, twenty-one countries have expressed their commitment to fight corruption by endorsing an anti-corruption action plan within the framework of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, a first-of-its-kind partnership between all stakeholders of Asian and Pacific countries. The Action Plan comprehensively promotes the regions' objectives and needs for reform to develop effective and transparent systems for public service, to strengthen anti-bribery initiatives, to promote integrity in business operations, and to support citizens' involvement.

In order to gain a comprehensive and structured overview of the endorsing countries' legal and institutional framework in place to ensure and enhance transparency in the public sector, combat bribery and promote transparency in business operations, and facilitate public involvement in the fight against corruption, endorsing countries of the Action Plan have decided to take stock of their relevant legal and institutional provisions in place.

The following report reflects the Anti-Corruption Policies that Indonesia has reportedly in place as of October 2003. Organized along the topics of the Anti-Corruption Action Plan for Asia and the Pacific, it outlines the legal and institutional framework governing each of its issues, the respective implementing agencies and recent of planned reforms.

Self-assessment reports provided by the other countries that have endorsed the Anti-Corruption Action Plan for Asia-Pacific as well as a summarizing overview of the anti-corruption policies in the region are available at the Initiative's website (www1.oecd.org/daf/asiacom/stocktaking.htm). For further information about the Anti-Corruption Initiative for Asia-Pacific and its work, please refer to www1.oecd.org/daf/asiacom/.



Pillar I: Developing Effective and Transparent Systems for Public Service

Action Plan objective	Regulatory or legal framework
<p>Integrity in Public Service: Establish systems of government hiring of public officials that assure openness, equity, and efficiency and promote hiring of individuals of the highest levels of competence and integrity through:</p>	<p>The possibility to increase salaries and benefit are constantly reviewed by Ministry of Finance (the Fiscal Analysis Agency) with inputs from several relevant agencies. It is a general government policy to adjust salaries and benefit to the level of the economy. Such as policy is strongly supported also by the Indonesian parliament. However, due to the country's financial condition, Indonesian government can not adjust salaries to the ideal rate all at once. There is a priority for several areas of activities to adjust their salaries and benefit earlier than other areas because of their important role as a law enforcement unit, such as police, judges, attorney general office, and army. The adjustment has been established for those units by Government Regulation No14/2003, 12/2003, and 13/2003, dated on February 17th 2003 consecutively. They also have had higher allowances.</p> <p>On the 2002 Budget Law, government proposed to increase all of public servant salaries by 10 % in the year of 2003 and it would be executed in April 2003. In the year 2002, there was also an increasing allowance for government auditor and public teachers establishing by president decree no. 23/2002 dated May 29th and no. 2002 consecutively</p>
<p>Development of systems for transparent hiring and promotion to help avoid abuses of patronage, nepotism, and favoritism, help foster the creation of an independent civil service, and help promote proper balance between political and careers appointments.</p>	<p>Oversight of appointment and promotion for first and second ranking official is provided by State Minister for Administration Reform and by a committee within each department consecutively. The committee consists of all of the first ranking officials within a department. Recruitment is mostly done through open invitation by advertising in national news paper.</p> <p>Meanwhile, for several important positions such as attorney general, chief of police department, judges should be appointed by president and approved by parliaments. There is also a conscious policy giving local governments an authority to recruit their own employee by their self.</p>
<p>Development of systems to provide appropriate oversight of discretionary decision and of personnel with authority to make discretionary decisions.</p>	<p>The State Minister for Administration Reform circular regularly remains every government unit to provide and maintain a public compliant mechanism and follow up complaints immediately.</p>
<p>Development of personnel of systems that include regular and timely rotation of assignment to reduce insularity that</p>	<p>Government regulation no. 100/2000 dated November 10th 2000 obliged ministries to rotate officers which have been 2 or 5 years in their position.</p>



<p>would foster corruption</p>	<p>Integrity in Public Service: Establish ethical and administrative codes of conduct that proscribe conflicts of interest, ensure the proper use of public resources, and promote the highest levels of professionalism and integrity through:</p>
<p>Prohibition or restrictions governing conflicts of interest.</p>	<p>Government regulation no 30/1980 has provision to prohibit public employee from: Owning or holding a business which has personal interest in any issue being decided in the course of his/her work. Owning more than 51% shares on private business. Working as a private company director or commissaries unless prior approval (with certain condition) is obtained from their superior. To enhance the GR no. 30/1980 and fulfill LOI, in 2002, ministry of finance has established code of conduct and its commission (Ministry Decree 222 and 223/2002) for tax employees; and (Ministry Decree 515 and 516/2002) for custom employees. Sanction or penalties are also embedded in the code of conduct.</p>
<p>Systems to promote transparency through disclosure and/or monitoring of, personnel assets and liabilities.</p>	<p>The government launched law no. 28/1999 on a clean government free from corrupt practices, which is based on MPR (People Consultative Assembly, the highest legislative body) decree number 11/1999. According to this law, every civil servant must declare his or her wealth. To implement the regulation, the government established the Committee for the Investigation into Civil Servants' Wealth (or KPKPN, as it is known by its Indonesian acronym). The committee is tasked with collecting data on the wealth of civil servants. According to the committee, there are at least 51,500 civil servants in the executive, judicial and legislative bodies, including directors of state-owned enterprises and the members of KPKPN. In the year of 2002, KPKPN efforts begin to obtain outcome since some investigations are being done to high ranking official declarations.</p>
<p>Accountability and Transparency: Safeguard accountability of public service through effective frameworks, management practices, and auditing procedures through</p>	
<p>Measures and systems to promote fiscal transparency</p>	<p>Since September 2000, Government of Indonesia has introduced draft of State Finances Law to the parliament. It lays down major principles on public expenditure management in Indonesia such as: the distribution of power between the executive and legislative branches and among different levels of government on state finances, the limitation of activities funded through extra-budgetary funds, the planning and budgetary process, the authorization for urgent and unforeseen expenditures and etc. Key principles in this reform are: parliament and public accountability; government transaction transparency; and performance optimality. The parliament has passed draft into State Finance Law.</p>
<p>Adoption of existing relevant international standard and practices for regulation and supervision of financial institutions.</p>	<p>The government of Indonesia has launched a bill of Financial Services Authority which is intended to give a mandate to a independent body for supervising banking, insurance, pension plan, securities and others financial services. In the time being, the bill is still been discussing in the parliament.</p>
<p>Appropriate auditing procedures applicable to public administration and the public sector, and measures and</p>	<p>Since September 2000, Government of Indonesia has introduced three separate bills on State Finances and one of the bills is the Audit on state Finance accountability. New supervisory and audit arrangement principles tried to be clearly defined to avoid duplication.</p>

<p>systems to provide timely public reporting on performance and decision making.</p> <p>Appropriate transparent procedures for public procurement that promote fair competition and deter corrupt activity, and adequate simplified administration procedures.</p>	<p>In the time being, the bill is in the parliament at the 4th level discussion. The State Ministry for Administration Reform Government circular no.203/2002 requested all government institutions at least on September 15th 2002 to finalize their Accountability Report because BPKP (Financial and Development Supervisory Board) had to audit such as reports.</p> <p>Indonesia has issued new government procurement regulations governing all procurement of goods and services which is financed, in whole or in part, out of official government budgets, including for state-owned enterprises. (Note: State-owned enterprises in Indonesia frequently finance their procurement internally without resorting to government budgetary outlays. The new decree applies to state-owned enterprise procurements that are financing in whole or in part by the budget.)</p> <p>The decree makes specific reference to new GOI laws on combating government corruption and regional decentralization and is designed with those reforms in mind. Whether the new rules will result in less corruption in government procurement remains to be seen; corruption in Indonesia has usually been more a problem of enforcement than of laws.</p> <p>The sanctions in the decree for violation of these ethics guidelines are provisions that violators would be subject to administrative, civil and criminal penalties. However, the reference in the decree to Indonesia's new Anti-corruption Law No. 28/1999 makes clear that provisions of that law would apply in cases of improper procurement activity. The decree also specifically prohibits procurement officers from making contract commitments in advance of a budget authorization or making commitments that exceed budget authorization.</p>
<p>Enhancing institution for public scrutiny and oversight</p> <p>Systems for information availability including on issues such as application processing procedures, funding of political parties and electoral campaigns expenditures.</p> <p>Simplification of the regulatory environment by abolishing overlapping, ambiguous or excessive regulations that burden business.</p>	<p>The State Minister for Government Administration Reform circular regularly remains every government unit to provide and maintain a public compliant mechanism and follow up complaints immediately.</p> <p>The State Ministry also launched circular no 37/2002 urge all of government institutions to intensify and speed up anti-corruption programs in each department.</p> <p>Ministry of Finance (Custom Agency) in the beginning of January has simplified importing goods procedures introducing priority line for an importer which has a good track of record in their performance.</p>



Pillar II: Strengthening Anti-bribery Actions and Promoting Integrity in Business Operations

Action Plan objective	Regulatory or legal framework
<p>Effective Prevention, Investigation and Prosecution: Take effective measures to actively combat bribery by</p> <p>Ensuring the existence of legislation with dissuasive sanctions which effectively and actively combat the offence of bribery of public officials</p>	<p>Effective Prevention and Prosecution: Take effective measures to actively combat bribery by</p> <p>The Parliament has passed into law a revision of the 1999 anti-corruption law, which they and many observers apparently felt lacked teeth. The new law is indeed quite strong, reflecting general opinion that corruption in Indonesia is so widespread that extraordinary measures are required to bring it under control. Perhaps the most extraordinary clause in the law is that reverses the burden of proof in corruption cases, making it necessary for a corruption suspects to prove his innocence (guilty unless proven innocent) rather than the usual legal procedure of requiring the prosecutor to prove guilt. The absence of proof of innocence can be used as evidence against the suspect.</p> <p>Another important clause is that which expands the types of evidence allowed in corruption cases. Most significantly the law provides that hearsay and all manner of electronic communications can now be admitted as evidence in corruption cases.</p> <p>Also another significant point is the new clause that defines gift giving to government officials as bribing. The definition of “gift” in the clause is also quite broad, including money, goods, discounts, commissions, no-interest loans, all manner of travel, free medical care, and anything else given to an official in connection with his or her position and inconsistent with his or her duties or responsibilities.</p> <p>This last clause would seem to outlaw the common and traditional practice of gift giving if it involves any government official, but, of course, it still remains to be seen exactly how the law will be interpreted and implemented.</p>



<p>Ensuring the existence and effective enforcement of anti-money laundering legislation that provide for substantial criminal penalties for the laundering of proceeds of corruption and crime consistent with the law of each country</p>	<p>The House of Representatives, on 17 April 2002, enacted the money-laundering law No. 15/2002, which is quite comprehensive, clear-cut and forceful. In general, the law will make it extremely difficult for corruptors and other criminals in Indonesia to invest, deposit or move their ill-gotten gains, unlike now, when one can bring in hundreds of millions or even billions of rupiah in cash from the bank without raising any questions, nor alerting the authorities. The draft legislation makes it compulsory for banks and other financial institutions to report to the authorities any receipt of Rp 100 million (US\$9,520) or more in cash or the equivalent sum in foreign currency. Failure to do so will make them liable to a minimum fine of Rp 250 million and a maximum fine of Rp 1 billion. They are also punishable by the same range of fines if they do not report suspicious transactions.</p> <p>The bill also stipulates that people who receive money or other financial assets, which they know or suspect to be derived from criminal offenses, are liable to minimum prison sentences of five years to a maximum of 15 years and by fines of at least Rp 5 billion or at the most Rp 15 billion.</p> <p>The 52-article bill goes farther than simply strengthening the ability of law enforcement to investigate and prosecute crimes involving money laundering. It seeks to create an overall conducive environment for the fight against money launderers who try to legalize the origin of their money or property.</p> <p>The bill stipulates proceeds not only from corruption and drug trafficking but also from a wide range of other crimes, including smuggling, bribes, banking crimes, crimes related to psychotropic substances, gambling, terrorism, the slave trade and the trafficking of women and children.</p> <p>The Anti Money-Laundering Commission, which will be set up as an independent agency in charge of enforcing the legislation. The commission is responsible to the House and will be vested with the authority to investigate financial organizations and persons suspected of being involved in money-laundering crimes.</p>
<p>Ensuring the existence and enforcement of rules to ensure that bribery offences are thoroughly investigated and prosecuted by competent authorities: these authority should be empowered to order that Bank, financial or commercial records be made available or be seized and that Bank secrecy be lifted.</p>	<p>With the issuance of the law of commission for combating corruption (UU No. 31/2002) by the end of year 2002, has been established the Commission for Combating Corruption whose function includes performing actions needed to investigate, prosecute, prevent, and increase public participation. Those actions include conducting anti-corruption education program at every level of education and holding anti-corruption campaigns to the society. The Commission, however, is given a year before it effectively functioning.</p>
<p>Strengthening of investigative and prosecutorial capacities by fostering inter agency co-operation, by ensuring that investigation and prosecution are free from improper influence and have effective means for gathering evidence, by protecting those persons helping the authorities in combating corruption, and by providing appropriate training and financial</p>	<p>The Public Servants' Wealth Audit Commission (KPKPN) will soon collaborate with the Attorney General's Office (AGO) and the National Police for the provision of training on conducting investigations. The Chairman of the audit commission said that based on the collaborative venture, commission officers would receive training on how to question suspects and prepare the dossiers required for further investigation of corrupt civil servants suspected of corruption. This collaboration is expected to help speed up the investigation process, he said.</p>

<p>resources.</p> <p>Strengthening bi- and multilateral co-operation in investigations and other legal proceeding by developing systems which- in accordance with domestic legislation – enhance (i) effective exchange of information and evidence, (ii) extradition where expedient, and (iii) co-operation in searching and discovering of forfeitable assets as well as prompt international seizure and repatriation of these forfeitable assets.</p>	<p>Indonesia has not had to such as good mutual legal assistance with other countries. We only have an agreement with Government of Hong Kong for surrender of fugitive offender which is established by law no. 1/2001 dated on May the 8th 2001. Beside the agreement Indonesia also has had an extradition agreement with Government of Australia.</p>
<p>Corporate Responsibility and Accountability</p>	<p>Corporate Responsibility and Accountability : Take effective measures to promote corporation responsibility and accountability on the basis of existing relevant international standards through</p>
<p>Promotion of good corporate governance which would provide for adequate internal company control such as codes of conduct, the establishment of channel for communication, the protection of employee reporting corruption, and staff training.</p> <p>The existence and the effective enforcement of legislation to eliminate any indirect support of bribery such as tax deductibility of bribes.</p> <p>The existence and thorough implementation of legislation requiring transparent company accounts and providing for effective, proportionate and dissuasive penalties of bribing a public official, or hiding such bribery, in respect of the books, records,</p>	<p>For the first working period of the DPR in 2002/2003 the House plans to discuss 26 bills, two of which the "Witness and Victim Protection Bill. Rights activists hailed the House of Representatives-sponsored draft law as further easing the way for human rights trials to nail down abusers. If passed, the law will replace the government regulation on witness and victim protection compensation.</p> <p>The bill requires the state to set up a witness and victim protection body. Under the bill, witnesses and victims may determine their own protection and security arrangements.</p> <p>Other rights include getting a new identity and relocation to a new home. These and other rights as stipulated under Chapter 5 of the bill may also be available to the families of the people under the witness and victim protection program. In cases of gross human rights abuses, Chapter 6 of the bill offers witnesses and victims a rehabilitation program and medical aid, while Chapter 7 allows them to seek compensation from the abusers.</p> <p>Government of Indonesia also has established National Committee of Corporate Governance.</p>

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Pillar III: Supporting Active Public Involvement

Action Plan objective	Regulatory or legal framework
<p>Public Discussion of Corruption: Take effective measures to encourage public discussion of the issue of corruption through</p> <p>Initiation of public awareness campaigns at different levels.</p> <p>Support of non governmental organizations that promote integrity and combat corruption by, for example, raising awareness of corruption awareness of corruptions and its costs, mobilizing citizen support for clean government, and documenting and reporting cases of corruption</p> <p>Preparation and/or implementation of education programs aimed at creating an anti-corruption culture.</p>	<p>Lots of such as campaigns are performed Partnership for Governance Reform in Indonesia, an NGO which is supported by Indonesian Government, civil society, private sector and international society with the objective of facilitating and supporting the governance reform in Indonesia. The NGO launched several projects relating to anti-corruption campaigns such as publishing brochures, books, and other publications, broadcasting anti-corruption campaign thought radio and TV program</p>
<p>Access to information: Ensure that general public and the media have freedom to receive and impart public information and in particular information on corruption matters in accordance with domestic law and in a manner that would not compromise the operational effectiveness of the administration or, in any other way, be detrimental to the interest of governmental agencies and individuals, through</p> <p>Establishment of public reporting requirements for justice and other governmental agencies that include disclosure about efforts to promote integrity and accountability and combat corruption.</p>	<p>Under the law of governance free of corruption, collusion, and nepotism (UU No. 28/1999), the President of Indonesia has given the instruction regarding the performance accountability of government agency. This instruction required all government units to report the performance of the units with regard to its strategic plans.</p> <p>Although there is not any law specifically governs the public information access that pass the legislation, the law of combating corruption (UU No. 31/1999) and Government Regulation of public participation in state governance (PP No. 68/1999) state that society has the right to obtain the information regarding the governance of the state.</p>

<p>Implementation of measures providing for a meaningful public right of access to appropriate information.</p>	<p>Access to the information is currently widened with the press freedom. People can watch the trial of corruption cases which are directly broadcasted. Mass media also displays the wealth of government officers audited by the commission for investigating the wealth of states officers. At the same time, the agencies of government of Indonesian launch their web site so that society have access to the information they probably need.</p>
<p>Public participation: Encourage public participation in anti-corruption activities, in particular through</p>	
<p>Co-operative relationships with civil society groups such as chamber of commerce, professional associations, NGOs, labor unions, housing associations, the media, and other organizations Protection of whistleblower. Involvement of NGOs in monitoring of public sector programs and activities.</p>	<p>There are several NGOs that have the objective of monitoring the performing of government functions. The NGOs include Indonesia Corruption Watch, Government Watch, and Masyarakat Transparansi Indonesia. Those NGOs have the roles of, among others, facilitating for the awareness of the public about any issue of corruption, supporting the society to report the corruption cases, facilitating the reinforcement of public capacity in governance watch, and monitoring the follow up of a corruption case. Up until now, there has not been a whistleblowers act but some parties have drafted the act. However, witness in human right cases is protected in human right act.</p>