



# ETHIOPIA

## Anti-Corruption Report

World Bank  
Poverty Reduction and Social Development Unit  
Africa Region  
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## **GOVERNMENT FISCAL YEAR**

July 7 - July 6

## **CURRENCY EQUIVALENTS**

Currency Unit: Ethiopian Birr (Br)  
Official Rate: US\$1.00 - Br 6.70 (1997)

## **ACRONYMS AND ABBREVIATIONS**

AU	Anti-corruption Undertaking
APL	Adaptable Program Lending
BIS	Bank for International Settlements
CAS	Country Assistance Strategy
CEO	Chief Executive Officer
CIDA	Canadian International Development Agency
CPC	Central Procurement Cell
CS	Civil Service
CSRFP	Civil Service Reform Program
CTC	Central Tender Committee
EDI	Economic Development Institute of the World Bank
EMCP	Expenditure Management and Control Program
EPRDF	Ethiopian People's Revolutionary Democratic Front
FDI	Foreign Direct Investment
FY	Fiscal Year
GO	Non-business Governmental Organisation
GOE	Government of the Federal Democratic Republic of Ethiopia
IDF	Institutional Development Fund
LIL	Learning and Innovation Loan
MEDAC	Ministry of Economic Development and Co-operation
MOF	Ministry of Finance
NGO	Non-governmental Organisation
OAG	Office of the Auditor General
PAC	Public Accounts Committee
PFP	Policy Framework Paper
PMO	Prime Minister's Office
RIA	Regional Internal Auditors
SAC	Structural Adjustment Credit
TI	Transparency International
TPLF	Tigrayan People's Liberation Front
TGE	Transitional Government of Ethiopia
UNDP	United Nations Development Program
UNCITRAL	United Nations Commission on International Trade Law
USAID	United States Agency for International Development

# **Report of a World Bank Mission to Support the Program of the Federal Democratic Republic of Ethiopia to Improve Economic Governance and to Combat Corruption**

## **Executive Summary**

1. At the request of the Government of the Federal Democratic Republic of Ethiopia, a multi-disciplinary World Bank mission visited Ethiopia from December 8 to 12, 1997 to examine ways to support Government's program to improve economic governance and to combat corruption.<sup>1</sup> The mission's objectives were to assess the scope and status of Government's efforts to combat corruption, to report its findings, and to suggest areas where the Bank could provide support. A specific objective was to investigate the use of an Anti-corruption Undertaking (AU) in Bank procurement as a means of furthering Government's anti-corruption program. A follow-up mission visited Ethiopia from June 28 to July 10, 1998 to discuss the report with Government. Based on these discussions, the report has been adjusted to reflect a shared appreciation of the Government of Ethiopia's program to combat corruption.

2. The request that the Bank incorporate anti-corruption clauses into future agreements led the mission to determine whether the conditions set out in the recent revision to the Bank's Procurement Guidelines were met. Clause 1.16 of the Guidelines specifies three criteria with which there must be accord before the Bank can incorporate an AU into procurement documents:

- the adequacy of existing laws on bribery
- the willingness of government to broaden the AU to other categories of procurement
- the existence of a satisfactory anti-corruption program.<sup>2</sup>

3. Each criterion requires an assessment, but the third is the most encompassing. It requires an examination of the capacity of government institutions efficiently to manage the procurement and project implementation processes, detect corruption, establish a prosecutable case, and then shepherd it through the judicial process. There must be a capacity to detect and prosecute corrupt practice both when contracts are being awarded

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<sup>1</sup> The mission members were: Roger Sullivan, Mission Leader and Manager, Institutional and Social Policy Unit, Mr. Steve Weissman, Sector Director, Operations Support; Mr. Jean-Jacques Raoul, Technical Specialist (Procurement); Mr. Iraj Talai, Senior Financial Management Specialist; Mr. Paatii Ofosu-Amaah, Chief Counsel; Mr. Mike Stevens, Principal Public Sector Management Specialist; Mr. Rick Stapenhurst, Public Sector Management Specialist and Mr. Jack, Titsworth Senior Public Sector Management Specialist. Susan Chase edited the report.

<sup>2</sup> These revisions were incorporated in the World Bank's procurement guidelines at the behest of the World Bank Board of Directors.

and when they are being implemented by a prime contractor, with or without sub-contractors. This requires an assessment of all the institutions of government with which a contractor might engage while implementing a project, because the AU applies equally to grand corruption and petty corruption. These institutions could include: registering or licensing authorities, providers of services such as telephones, electricity and water, operational ministries, with whom a contractor must collaborate, procurement authorities, customs, police, local government, the civil service commission, and so on. Should an institution or process appear wanting, its performance would be brought to a standard such that the Bank could collaborate with government to use an AU.

4. In an effort to understand corruption during this mission, members of the mission met key government officials, members of civil society, the private sector, and the donor and diplomatic communities, and reviewed documents relevant to this area of work. The observations and findings in this report should be seen within the perspective of consultations with selected focus groups and individuals and the short period over which these took place. The Government of Ethiopia has agreed that it will carry out a Corruption Survey with the assistance of the Economic Institute of Development of the World Bank (EDI) in the near future. The survey is expected to consult a broader spectrum of society and, therefore, enrich the basis for determining anti-corruption measures by the Government.

### **Corruption: A Global Concern**

5. The international community, increasingly concerned with corruption, has launched a wide range of anti-corruption activities. Defined as *the abuse of public office for private gain*, corruption can take many forms, but the current concern is with corruption in the public sector or at the interface between public and private sectors.<sup>3</sup> Investigating and sanctioning corrupt practice are critical, but enforcement and punishment will not achieve sustainable results unless accompanied by efforts to correct underlying causes. Fighting systemic corruption should be addressed as part of a broad strategy for improving public sector performance.

6. The causes of corruption often lie in: policies, which give rise to favouritism, distortions, and perverse incentives; a regulatory regime, which imposes excessive burdens on the private sector; and an over-extended government, which cannot adequately reward its civil service. Weak public sector financial management—the mishandling of government procurement, inadequacies in public sector accounting and auditing, and failure to hold public officials accountable for misuse of public resources and deficiencies in the legal/judicial system—are also factors. These factors lead to a breakdown in formal rules governing public and private sector behaviour and informal rules take over, with bribery becoming the norm. Corruption flourishes when public

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<sup>3</sup> The mission’s principal Ethiopian interlocutor, Dr. Kebede Tedesse, Minister in Charge of Social and Administration, asked us to expand this definition to read: “*The abuse of public **and** private office for personal gain,*” to reflect the fact that many corrupt practices entail benefits to two parties, one public and one private.

officials have monopoly power over a good or service and the discretion to decide who will receive the good or service and at what price, and when transparency and accountability are weak or absent.

7. Grand corruption and petty corruption are closely intertwined—it is difficult to address one and not the other. The use of additional ex-ante controls to reduce corruption usually has an effect opposite to the one desired—it increases the opportunities for corrupt practice. Corruption also has a political dimension, which includes how politics are financed, and how power is managed. In some countries, the distribution of economic rents is both a way of paying off political constituencies and enriching elites.

8. The fight against deeply-rooted corruption is a long-term challenge, which requires changing attitudes, establishing transparent procedures, holding public and private sector actors accountable, strengthening the judicial system, and facilitating the active participation of civil society. Despite the need for this long-term approach to battle corruption, Government can take short-term actions to win control over its occurrence.

### **Government's Views on the Causes of Corruption**

9. Government recognizes that corruption in Ethiopia does not approach the levels obtained in other Sub-Saharan Africa (SSA) countries, and is determined to take measures to prevent its growth. With many large, public-sector contracts with foreign firms on the horizon, the Government is aware of the risks of bribery in international procurement, and wants to take a proactive approach to preventing it. It acknowledges the widespread existence of petty corruption but believes that moving forward with the Civil Service Reform Program (CSRP) should lead to its progressive reduction. In Government's view, the following are the major determinants of corruption: a poorly functioning legal and judicial system inconsistent with the 1994 Constitution; an over-regulated bureaucracy, emphasising regulation rather than service delivery; a low-paid civil service; a new yet rudimentary government, based on a federal structure; and weak budgetary and financial control, with an outdated procurement structure, and poorly trained financial staff. While Government has strong ownership of its multi-faceted program to curb corruption, implementation is proceeding slowly.

### **Government's Program to Improve Economic Governance and Combat Corruption**

10. Government's program to improve economic governance and to combat corruption is embedded in an ambitious Civil Service Reform Program (CSRP), which covers a broad agenda dealing with judicial, legal, and financial management reform. Government rightly sees anti-corruption as a subset of measures required to improve the performance of the public sector. The Prime Minister presides over a Steering Committee that oversees CSRP; Regional Presidents chair regional level committees. The CSRP has been prepared by an Ethiopian task force, supported by UNDP consultants. Senior officials oversee the implementation of the program's five pillars, and a small secretariat underpins the Steering Committee. The five pillars include:

Economic Management and Control, Ethics and Judicial Reform, Human Resource Management, Service Delivery, and Top Management Systems.

### **Analysis and Recommended Actions**

11. The mission found that Government has made efforts to develop a program to combat corruption, which addresses governance issues, and fundamental institutional and capacity building requirements. The effectiveness of Government's anti-corruption program will depend on the sequencing and timing of reforms. The CSRП is an ambitious and comprehensive program, which appears to be moving on all fronts. Progress is most advanced in Expenditure Management and Control, but the sweeping reforms required will take decades to implement completely. Short-term activities are recommended to launch the anti-corruption program, establish its credibility, and to demonstrate Government's commitment to undertaking legal, civil service, financial-management and procurement reform, as well as reforms relating to parliament, civil society, and the media.

### **Conclusions and Possible World Bank Assistance**

12. The mission's findings reflect insights and perceptions obtained through reading a significant amount of written material and discussion with many Ethiopian and foreign interlocutors. In Ethiopia today, while grand corruption may appear less common, there are some instances, especially at the interface between civil service and the public, where society appears to function according to informal rules. Consequently, petty corruption flourishes, and the individuals involved will likely set their sights on larger, more lucrative targets. The mission believes that Government will have to address the causes of corruption at all levels if it is to target effectively its ultimate goal: grand corruption.

13. The World Bank could assist Government to combat corruption through a program that supports both improvement in public sector performance and introduction of an AU in government procurement. This assistance could be structured as follows:

- TECHNICAL SUPPORT FOR LEGAL AND JUDICIAL, FINANCIAL MANAGEMENT, CIVIL SERVICE, AND PROCUREMENT REFORM. World Bank support for these reforms should complement other donors' support, and could be financed through Bank instruments.<sup>4</sup>
- ENGAGEMENT OF CIVIL SOCIETY AND LESSONS FROM INTERNATIONAL EXPERIENCE. Government should strengthen links with civil society and the private sector to identify critical areas relating to corruption, establish priorities, and monitor progress. EDI can provide support through national integrity workshops, workshops for parliamentary oversight bodies, journalist training, and regional and global workshops on anti-corruption.

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<sup>4</sup> The Bank could provide support through such instruments as an Institutional Development Fund (IDF) grant, a Learning and Innovation Loan (LIL), or Adaptable Program Lending (APL).

- **ECONOMIC POLICY REFORM.** Government should continue to liberalise the economy, eliminate excessive regulation, and promote competitive market conditions and greater transparency
- **RESEARCH.** The Bank knows through experience that a systematic, well-structured, independent, and transparent program of research into the locus, nature, causes, and effects of corruption is required to orient government activities to expose and combat corruption. The Bank could support government to establish such a program.
- **ANTI-CORRUPTION UNDERTAKING (AU).** One measure to be considered is the introduction of the AU in government procurement, beginning with a World Bank financed project.

### **Specific Recommendations**

14. Acknowledging that there are no easy solutions to fight the economic consequences of pervasive corruption, the mission recommends that the Government of Ethiopia strive to undertake the following mutually reinforcing steps to launch its anti-corruption program.

#### *Legal and Judicial Reform*

- Establish a Legal and Judicial Reform Co-ordinating Committee under the auspices and chairmanship of the Minister of Justice, with representation from all stakeholders. This committee will identify the constraints to the effective administration of justice by commissioning diagnostic studies within the legal and judicial system, drawing extensively from the ongoing activities funded by USAID and CIDA.
- Operationalise the newly created Justice and Legal System Research Institute. This Institute will take the lead in implementing the law reforms, paying particular attention to aligning the legislative texts to the 1994 Constitution, researching the efficacy of establishing special courts to deal, *inter alia*, with corrupt practices, commercial matters and revenue collection, and to support deregulation.
- Consider seeking support from an appropriate bilateral donor to help establish the proposed Anti-corruption Unit which is likely to be attached to the Prime Minister's Office.

#### *Civil Service Reform*

- Engage in a policy review of the role of government to identify and concentrate resources on high priority functions. This would include both the development of a realistic scheme of remuneration for the civil service embodying a decompression of pay scales for technical, professional, and managerial grades, and the development of an adequate pension plan.
- Implement decentralisation reforms, with special attention paid to staff training and institution building, without increasing overall staff costs.
- Streamline regulations, procedures, licensing systems, and requirements which affect doing business in Ethiopia and which impinge on private citizens' daily lives.



- Orient civil servants toward service rather than control.

### *Policy Reform*

- Over time, there should be a re-orientation of government policy, both *de jure* and *de facto*, away from a presumption-of-need for government control and intervention, toward a role of facilitation, with government intervention employed where necessary to correct market failures and to provide needed public goods.

### *Financial Management Reform*

- Strengthen financial management capacity and improve pay and compensation.
- Mobilise qualified personnel from the MOF (inspectorate), OAG, MEDAC, the Audit Service Corporation, and private audit firms for a nine to twelve month program to train trainers and staff, at the centre and in the regions, to improve the capacity and qualifications of accounting and internal audit staff in sectoral institutions, Regional External Auditors, Regional Internal Auditors, and all accountants in the regions. Provide up-to-date guidelines, manuals and formats to all participants.
- Revise and update the curricula and syllabi of all accountancy training institutions to improve their quality and relevance, and to reduce the requirements for post-graduation, in-service training.
- Ensure that the annual budget reflects strategic priorities, policies and programs are in line with resources, and develop a Medium-term Expenditure Framework (MTEF);
- Establish the planned Public Accounts Sub-Committee of the Finance Committee of Parliament, and publish the reports of the Auditor-General;
- Reform the administration of customs.

### *Procurement Reform*

- Public procurement reform should be pursued, preferably on the basis of the UNCITRAL Model Law, for both central and subordinate tiers of government.
- Political and administrative decentralisation should ensure that regions adopt a reliable procurement system as a condition for the Federal financial contributions to their capital and recurrent budgets.

### *Dialogue among Parliament, Civil Service, Civil Society, the Private Sector, and the Media*

- Expose Ethiopian officials to examples of international good practice by inviting them to EDI's global and regional anti-corruption workshops and/or by conducting workshops in Ethiopia for Parliament, the Office of the Auditor General, and the media, using international experts.
- Facilitate a dialogue through EDI among government, the Chamber of Commerce and other members of the business community, and civil society on implementing the anti-corruption program and developing complementary activities (for example, the

establishment of an Ethiopian chapter of Transparency International, the international anti-corruption NGO, or a National Integrity Workshop).

- Invite Ethiopian participation in a number of EDI's planned anti-corruption activities which include regional anti-corruption workshops, regional investigative journalism workshops, regional workshops for parliamentary strengthening.
- Conduct anti-corruption workshops facilitated by EDI in national integrity, investigative journalism, parliamentary strengthening, and auditing for enhanced accountability.

### *Research*

- Establish a research program to map comprehensively and objectively the locus, frequency, causes and effects of corruption;
- Deepen Government's understanding of corruption risks by carrying out selected service delivery or other sample surveys of households, firms, and civil servants on corruption perceptions;
- Link the research agenda to external sources of information on corruption in Ethiopia such as the indices published by Transparency International and the International Competitiveness Survey;
- Feed research information and analyses into government policy formulation, the examination of the performance of government programs and decision-making.

### *Anti-corruption Undertaking (AU)*

- Introduce an Anti-corruption undertaking in government-financed procurement, starting with a large contract for a World Bank assisted project, once the following measures are agreed;
  - (i) critical reforms in the government's procurement law and regulations;
  - (ii) establishment of a reliable complaints mechanism so that there are clear channels for reporting and investigating complaints of fraud and corruption; and
  - (iii) a timetable for introducing the AU in all similar procurement.

# **Report of a World Bank Mission to Support the Government of Ethiopia's Program to Improve Economic Governance and to Combat Corruption**

## **I. Background**

1. A multi-disciplinary World Bank mission visited Ethiopia from December 8 to 12, 1997 to examine ways to support the government's program to improve economic governance and combat corruption.<sup>5</sup> The mission's broad objectives were to assess the scope and status Government's efforts to combat corruption, to report its findings, and to suggest areas where the Bank could provide support. A specific objective was to examine the use of the AU in Bank procurement as a means of furthering Government's anti-corruption program.

2. The mission took place following an exchange of letters between Prime Minister Meles and President Wolfensohn—an exchange which was preceded by a visit to Ethiopia in October, 1997 by Mr. Robert McNamara, former President of the World Bank and Co-Chairman of the Global Coalition for Africa. Prime Minister Meles and Mr. McNamara discussed the need for strong measures to address corruption and the possible use of the AU as a component of Government's anti-corruption program.

3. The request that the Bank incorporate anti-corruption clauses into future agreements led the mission to determine whether the conditions set out in the recent revision to the Bank's Procurement Guidelines had been met, and over what period. Clause 1.16 of the Guidelines specifies three criteria, which must be met before the Bank can incorporate an AU into procurement documents:

- the adequacy of existing laws on bribery
- the willingness of Government to broaden the AU to other categories of procurement
- the existence of a satisfactory anti-corruption program.<sup>6</sup>

4. Each criterion requires an assessment, but the third is the most encompassing. It requires an examination of the capacity of government institutions efficiently to manage

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<sup>5</sup> The mission members were: Roger Sullivan, Mission Leader and Manager, Institutional and Social Policy Unit, Mr. Steve Weissman, Sector Director, Operations Support; Mr. Jean-Jacques Raoul, Technical Specialist (Procurement); Mr. Iraj Talai, Senior Financial Management Specialist; Mr. Paatii Ofosu-Amaah, Chief Counsel; Mr. Mike Stevens, Principal Public Sector Management Specialist; Mr. Rick Stapenhurst, Public Sector Management Specialist and Mr. Jack Titsworth, Senior Public Sector Management Specialist.

<sup>6</sup> These revisions were incorporated in the World Bank's procurement guidelines at the behest of the World Bank Board of Directors.

the procurement and project implementation processes, detect corruption, establish a prosecutable case, and then shepherd it through the judicial process. There must be a capacity to detect and prosecute corrupt practices both when contracts are being awarded and when they are being implemented by a prime contractor, with or without sub-contractors. This requires an assessment of all the institutions of government with which a contractor might engage while implementing a project, because the AU applies equally to grand corruption and petty corruption. These institutions could include: registering or licensing authorities, providers of services such as telephones, electricity and water, operational ministries, with whom a contractor must collaborate, procurement authorities, customs, police, local government, the civil service commission, and so on. Should an institution or process appear wanting, its performance would be brought to a standard such that the Bank could collaborate with government to use an AU.

5. In an effort to understand corruption during this mission, members of the mission met key government officials, members of civil society, the private sector, and the donor and diplomatic communities, and reviewed documents relevant to this area of work. A follow-up Bank mission visited Ethiopia from June 28 to July 10, 1998 to discuss the draft report with Government. Based on these discussions, the report has been adjusted and now reflects a shared appreciation of the Government of Ethiopia's program to combat corruption.

## **II. Corruption: A Global Concern**

6. The international community is increasingly concerned with corruption and its corrosive effects on economies and societies. Evidence is growing in rich and poor countries of the costs of corruption, its relationship to international, organized crime, and its effect on foreign direct investment, growth of local entrepreneurs, protection of the environment, the poor, public policy, and the informal contract which provides legitimacy between governors and the governed. A wide range of anti-corruption activities have been launched with support from the Global Coalition of Africa (GCA), the World Bank (WB), the International Monetary Fund (IMF), the United Nations Development Program (UNDP) and others. Corruption can be most simply defined as *the abuse of public and private office for private gain*.<sup>7</sup> While corruption can take many forms, including corruption entirely within the private sector, the current concern is with corruption in the public sector, especially at the interface between the public and private sectors. In bribery cases, two parties are usually guilty—the briber and the bribe-taker.

7. While investigating and sanctioning corrupt practices are critical, an emphasis on enforcement and punishment will not achieve sustainable results unless accompanied by

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<sup>7</sup> The mission's principal Ethiopian interlocutor, Dr. Kebede Tedesse, Minister in Charge of Social and Administration, asked us to expand this definition to read: "*The abuse of public and private office for personal gain*," to reflect the fact that many corrupt practices entail benefits to two parties, one public and one private.

efforts to correct underlying causes.<sup>8</sup> Systemic corruption is a symptom of public sector breakdown, which should be addressed as part of a broad strategy for improving public sector performance. Part of that strategy entails strengthening key institutions of the public sector, principally the executive branch, but also the judicial and legislative branches. It also involves reviewing policies to eliminate, when possible, policies that give rise to economic rents. Furthermore, combating corruption is not an end in itself, but part of a broader goal of creating a more effective government.

8. Grand corruption and petty corruption often go hand in hand. When grand corruption is practised by politicians and senior officials, their comportment sets the standard for the people under them, and so on down the line. Should petty corruption be initiated by junior staff, the people to whom they report will either take disciplinary action or demand a share of the take. When seniors and juniors collude, corruption can become syndicated with each member of an entire hierarchy playing a role and sharing in the proceeds of corrupt practice in a government organisation or enterprise.

9. Corruption also has a political dimension, which can arise from the way in which politics are financed and power is managed, either in an authoritarian or pluralistic and democratic way. In some countries, the distribution of economic rents is used both to pay off political constituencies and enrich elites. When corruption is deeply rooted in a society, the fight against it is a long-term challenge which involves both institutional and attitudinal reform. The challenge requires establishment of transparent procedures, holding both public and private sector actors accountable, strengthening the judicial system to handle corruption cases efficiently, but also the active participation of the civil society in all its forms in the anti-corruption battle. Despite the long-term nature of the anti-corruption struggle, the government can take many actions in the short term to reduce policy-generated “economic rents” that are the source of much corruption, thereby demonstrating to the citizenry its commitment to its anti-corruption campaign.

### **III. Government’s Views on the Causes of Corruption**

10. Ato Kebede Tedesse, Minister in Charge of Social and Administration, in the Prime Minister's office, was the mission’s principal interlocutor. Minister Tedesse said that Government was primarily concerned about grand corruption—the risks of which it feared might increase as internationally bid contracts financed by international aid rose in number. He also noted the case of the former Deputy Prime Minister who is on trial for grand corruption. The Government is concerned about petty corruption but viewed it as a lesser threat. Government believed that it was caused primarily by the low emoluments paid to civil servants, abetted by the low risk of detection and the difficulties of prosecution given the bottlenecks in the justice system. He did not believe that specific,

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<sup>8</sup> Robert Klitgaard, who has written extensively on corruption and economic development, relates the scope of corruption (C) to the presence of monopoly power (M), discretion (D), and accountability (A) in the formula:  $C = M+D-A$ . See Robert Klitgaard, “International Co-operation Against Corruption” in World Bank/IMF, *Finance and Development*, March 1998, pp. 3-6.

targeted action was required in the short term, and expected that its incidence would fall as the CSRPF went forward.

11. Minister Tedesse also said that the Government recognises corruption in Ethiopia falls a long way short of levels in other SSA countries and that it is determined to take measures to prevent its growth. With a large increase in public infrastructure projects on the horizon, the Government is concerned with preventing bribery in international procurement, having already had exposure to the risks. It acknowledges the widespread existence of petty corruption but believes that moving forward with the government's CSRPF should lead to its progressive reduction. While Government has strong ownership of its multi-faceted program to curb corruption, implementation is proceeding slowly.

12. In Government's view, the following governance conditions are the major determinants of poor economic governance and corruption:

- A poorly functioning legal and judicial structure, characterised by inadequate capacity and laws that are not wholly consistent with the provisions of the 1994 Constitution. While government had revised several pieces of legislation, mainly to increase the penalties to be meted out to those found guilty of corruption, including the death sentence for the most severe forms, there is a realisation that the country needs to take the necessary action to improve the functioning of its legal and institutional framework. In particular, there are several capacity problems in the judiciary in terms of manpower and facilities;
- An overly controlling bureaucracy, inherited from the periods of imperial and military rule, which emphasises the enforcement of a maze of regulations rather than stressing accountability and the provision of service to the public;
- A poorly paid civil service, though not large in size relative to the population (500,000 out of a population approaching 60 million), with low and middle-level civil servants receiving incomes far beneath what could be considered to be a "living wage", much less an "incentive wage;"
- A new system of government based on a federal structure with nine regions, introduced without proper training or any prior modification in the civil service rules and regulations that governed a unitary state in the imperial and Dergue eras; and
- A weak system of budgetary and financial controls and, particularly in the regions, an outmoded procurement structure, and inadequate numbers of trained financial staff.

#### **IV. Government's Program to Improve Governance and to Combat Corruption**

13. The Government's program to improve governance and to combat corruption is embedded in an ambitious program entitled the Civil Service Reform Program (CSRPF). The CSRPF covers a broad agenda dealing with judicial, legal, and financial management reform and was prepared by a team of UNDP consultants, with significant contribution from Ethiopian officials. The Prime Minister chairs a Steering Committee that oversees CSRPF; Regional Presidents chaired regional committees. Senior government officials have been assigned to oversee the implementation of the five "pillars." Progress is most advanced in Expenditure Management and Control, but decades will be required to

implement all the reforms required due to a lack of prioritisation of activities or an inappropriate framework in which to sequence them. The five pillars are:

- a) **ECONOMIC MANAGEMENT AND CONTROL.** This includes procurement, customs administration, auditing and accounting, and budgetary reforms, reviews of fees and charges, and an overhaul of the inspections and internal control systems. A New Financial Administration Proclamation and associated regulations and directives have been issued, but specific programs for procurement and financial reforms are in preparatory stages;
- b) **ETHICS AND JUDICIAL REFORM.** Government has started a major law revision exercise to overhaul the legislative framework and to ensure that it conforms with the provisions of the 1994 Constitution. There are plans to strengthen the judiciary, including the appointment of qualified and experienced persons to judgeships (many judges were removed after the Dergue was defeated and new judges, without formal legal training, were appointed). Consideration is being given to establishing a special division of the courts to adjudicate corruption cases;
- c) **HUMAN RESOURCE MANAGEMENT.** Overhaul the bureaucracy, reform performance appraisals and job classifications, improve the incentive system (though there are no plans for any immediate improvements in the pay structure);
- d) **SERVICE DELIVERY.** Carry out programs to assist in changing the attitude of government officials, as well as a program of deregulation, and the over-regulated, control nature of the bureaucracy. Pilot programs will be introduced in five agencies, including customs;
- e) **TOP MANAGEMENT SYSTEMS.** Examine ways to improve the selection and performance of senior government officials. Little has been done to date.

## **V. Problem Areas**

14. The mission was not able to “map” the nature or extent of corrupt practice in Ethiopia in any authoritative sense. Mission members did, however, read extensively and met representatives of government, civil service, private sector, civil society and the foreign, donor, and diplomatic communities who recounted their experiences with or knowledge of corruption. Table 1 summarises the perceptions of these authors and interlocutors (follow-up work could document, analyse, and clarify these perceptions).

**Table 1: Classification of Corruption Risks and Effects**

<i>Location of Corruption</i>	<i>Perceived Risks and Effects<sup>9</sup></i>
⇒ Buying political influence/political manipulation	Medium, affecting procurement, civil service appointments, allocation of concessions, privatisation of parastatals.
⇒ Public Procurement (Federal)	Medium
⇒ Public Procurement (Regional)	High, and primarily because of the scarcity of qualified people to staff the rapid transition to a federal structure.
⇒ Privatisation of parastatal companies	Low
⇒ Licenses, permits, land, and concessions	Medium, and at the petty level, for licences, permits, and land; medium, but at a more senior level for concessions.
⇒ Public revenue system - customs	High and pervasive at the petty level with a negative impact on, for example, foreign investment.
- taxation	Medium
⇒ Influence the outcome of legal processes	Medium
⇒ Patronage	Low to Medium, and primarily with respect to civil service appointments.
⇒ Corruption at the service delivery level	Widespread in practice, but medium in effect although if it continues unabated it could have negative effect on the social contract between the governors and the governed.
⇒ Theft of state property, embezzlement or fraud	Low
⇒ Influence upon the allocation of government benefits (subsidies to enterprises, access to pension funds, exemptions from taxation, etc.)	Low

15. **THE POLITICAL PROCESS.** After a lengthy civil war, the Ethiopian People's Revolutionary Democratic Front (EPRDF) assumed power in 1991 and, together with other groups active in the anti-Mengistu struggle, adopted the National Charter which established the Transitional Government of Ethiopia (TGE). The TGE, headed by His Excellency Meles Zenawi, was responsible for overseeing the transition to multi-party democracy.

16. In May/June 1995, Ethiopia held national and regional elections, which were boycotted by most opposition groups and resulted in an EPRDF landslide victory. International observers considered the elections administratively fair, yet uncompetitive as a result of the lack of opposition candidates, and the better organised and funded EPRDF won 89 per cent of the 547 seats.

17. Since the election, EPRDF has embarked on implementing a challenging policy of ethnic federalism, devolving significant powers from a centralised, unitary state to regional, ethnically-based authorities. According to foreign observers, federal regions are increasingly achieving political and fiscal autonomy, and Ethiopians enjoy greater political participation and freer debate than ever before. Fundamental freedoms, such as freedom of the press and of association, are, however, yet to be fully achieved. Mission interlocutors reported that opposition party activities are discouraged, access to information guaranteed by the constitution is circumscribed; although they acknowledged that the private press is flourishing and more information is available than under the previous regime.

<sup>9</sup> It should be underscored that the "ratings" in this column are not scientific. They represent a subjective consensus by mission members to depict the apparent prevalence and monetary value of corrupt practice in accordance with the anecdotal and other information acquired over a two-week period.



18. **PUBLIC PROCUREMENT.** Government representatives said that the conceptualisation of the private sector in Africa is different from that in Europe. In Africa, they averred, most senior business people have proactively co-opted governments in order to succeed. In this vein, they said that there are active agents of corruption in the Ethiopian private sector and that this was very relevant apropos of grand corruption.

19. According to private sector representatives, little corrupt practice in procurement exists within the private sector, between the private sector and United Nations organisations, or within donor agencies in direct procurement. The perception persists that a good deal of corruption exists within NGOs, and in federal and regional governments. For example, the mission was told that, in some ministries and parastatal organizations, a private sector firm seeking a government contract needs to establish, either directly or through an agent, contact with the representative of a “syndicate” to negotiate an arrangement. Typically, one buys information in advance for Birr 500 to 1,000 and, through one’s contact(s), arranges to pay two to five per cent of the contract value—paying one-third in advance, one-third upon signature of the contract, and one-third upon final payment. Staff in a finance division reportedly are included within the syndicate to assure the issuance of a letter of credit. Corrupt practice in the regions were described as working along similar lines, except in Tigray where working conditions are considered to be better and public morality higher.

20. Private sector and civil society representatives told the mission that political parties belonging to the EPRDF, especially the Tigrayan People’s Liberation Front (TPLF), have established companies which can include banks and insurance companies. There is a common perception among some in the business community that these companies have preferential treatment over private sector companies with respect to government contracts, government-controlled credit facilities, import and export licenses, and customs clearances. The mission was not able independently to confirm these allegations.

21. Government interlocutors explained that a number of organisations developed during the seventeen years of struggle against the Dergue, acquiring assets and property. Once the war was won, the winning side had to decide what to do with them. Since holding companies are not provided for in Ethiopian law, the EPRDF created foundations under which the party-affiliated companies (and NGOs) are located. The intention of such companies and NGOs is to provide benefits to the survivors of war—wounded, widows, orphans, handicapped, etc. Several of the party-affiliated organisations are headed by party members. These organisations are not allowed to acquire institutions which have been or are being privatised.

22. Government is aware of the private sector’s complaints about party-affiliated organisations being favoured for the award of government contracts, accept that there might be individual examples of favouritism, but assert that it is not condoned. More generally, Government believes that several elements of the private sector were favoured historically and are now facing genuine competition for the first time. In addition, Government has noted that the traditional private sector has not demonstrated a

willingness to provide certain services, such as the delivery of fertiliser, down to the peasant level.

23. Referring specifically to NGOs, Government interlocutors said that all major regions have NGOs which are a continuation of socially oriented organisations established during the war. Most of them are headed by party members but the organisations are not part of government and should not receive favours from Government. During the war, most of these organisations acquired a good deal of experience and international connexions which might provide them with a comparative advantage vis-à-vis some other NGOs.

24. Some interlocutors complained of a lack of transparency and consistency in the government's tendering procedures. They said that tender specifications can be set to favour privileged parties and that inside information can be bought, conveying an unfair advantage to bidders who bribe to obtain information. There is also a perception that tender decisions do not necessarily reflect price and technical evaluation, and when firms want to complain of an unfairly awarded contract, it is difficult to establish where the final selection responsibility lies in government. In telecommunications, where government has a monopoly, major purchases were described as being arranged by agreement among members of political parties or families, senior bureaucrats, and foreign firms rather than through competitive international tender. The mission was not able independently to confirm these allegations.

25. **LICENCES, PERMITS, PROPERTY, CONCESSIONS, PRIVATISATIONS.** Some of the mission's interlocutors believe that companies and NGOs with party affiliations receive preferential treatment for licenses and permits. Government's response to this is that it might happen on an individual basis, but it is not condoned. Other interlocutors, including a cabinet minister, said that it had become common practice for citizens to bribe civil servants to get them to provide public services. For example, people described having to bribe to obtain property titles, or to have titles of leased land transferred to children after a parent's death. Also, bureaucratic red tape and corruption weaken property rights in Ethiopia. Representatives of foreign companies described a lack of integrity in the awarding of mining concessions—awards had been re-tendered two or more times with information on tender content publicised each time. Interlocutors agreed with media reports that officials have been involved in the illegal acquisition of privatised enterprises, sometimes in partnership with foreign companies, and cited lapses in the application of the current procurement rules as a contributing factor.

26. **PUBLIC REVENUE SYSTEM (TAXATION).** There is widespread belief that much revenue goes uncollected. The mission was told that some Birr 300 to 500 million per annum remain uncollected (with the central budget amounting to Birr 6 billion and the regional budgets Birr 5 billion). The accumulated value of uncollected taxes in Addis Ababa, going back to the Emperor's time, was described to be about Birr 12 billion. Accounting in Ethiopia is undeveloped, there being only about twenty-one qualified accountants in the country. Accordingly, most private companies do not prepare audited accounts. This is to their advantage in terms of avoiding tax and customs payments.

27. **PUBLIC REVENUE SYSTEM (CUSTOMS).** Interviewees ranging from businessmen, officers with donor agencies, and a senior police official, cited customs as a focal point of corrupt practice. Private sector traders reported that procedures at the custom's offices are complex and time-consuming: up to 26 signatures are required before clearance, and customs procedures can take three months or more. As tariff rates are reduced and simplified, customs procedures can also be simplified. One senior interlocutor described the process he endured clearing a parcel addressed to him (care of the Prime Minister's Office). It took two days to pass through 23 people in five institutions in two separate parts of Addis Ababa. He wrote up his experience and sent it to the Prime Minister. A foreign firm, working on a World Bank-financed assignment, tried for three months to clear a shipment through customs in Addis without paying a bribe. When the firm paid the bribe, it was cleared in twenty-four hours. The Police report having attempted to curb corruption in the Customs Service but admit that it persists on a "dramatic" scale.

28. **LEGAL PROCESSES.** The inefficient nature of the legal system and the court administration leads people to try and settle disputes out of court rather than use the current system. As a result of the dismissal of judges who served during Dergue period, some of the best judges are gone. The legal system currently, therefore, has a huge backlog with some 2,000 to 3,000 dockets per judge. There have been no significant corruption cases which have been adjudicated in recent years although there is one pending in the courts which is being watched very carefully by all stakeholders. The judiciary is influenced by its dependent relationship with the executive branch. The personnel management system within the courts was described as being corrupt—at the level of the zonal courts. Employees in the court system were described as not fully competent, and the allegations of corruption in the civil service were indicated as applicable to the court system.

29. **PATRONAGE.** Interlocutors described examples of patronage, particularly of party cadres being appointed to posts (below the level of head-of-department, normally the lowest position that is politically appointed) and thus politicising the bureaucracy. Politically appointed officials, some in low-level positions, are reported sometimes to be more powerful than ministers and to be amongst the people who ensure that government contracts are directed to party-affiliated companies. Several civil-society interviewees said that many post-war appointments, like earlier ones, tend to be based on ethnicity rather than merit, the main difference, they say, is that the ethnicity has changed. The mission was not able independently to confirm these allegations.

30. Government's view is that that federal institutions must better reflect the multi-ethnic composition of the country and is proactively trying to ensure that this happens. The Amhara group which dominated Ethiopia before 1991 represents about 23 percent of the population but occupied about 70 percent of central government positions. At present the Amharas occupy about 65 percent of central government positions, including many at head-of-department level and other senior positions because they are the best qualified.

31. **CORRUPTION AT THE SERVICE DELIVERY LEVEL.** Corruption was described by many interlocutors as being pervasive at the service delivery level whether it is to get a

license, a permit or any government document; to reduce or avoid the payment of taxes, fees or fines, or to advance one's file through a process, for example, in the courts. Much of this corruption is facilitated by an extremely complex regulatory and procedural environment which citizens and clients find opaque and do not understand, and which is conducive to enabling bureaucrats to extort bribes. The mission could not examine Ethiopia's entire regulatory environment in the time available, but Annex 5 describes briefly the regulatory and procedural maze which citizens have to confront in the areas of investment approval and domestic trade licensing, and sets out some of the consequences as citizens avoid licensing and regulatory controls through "informality."

32. **THEFT OF STATE PROPERTY, EMBEZZLEMENT, AND FRAUD.** The mission was not informed of examples of theft of state property, embezzlement, and fraud.

33. **INFLUENCE UPON ALLOCATION OF GOVERNMENT BENEFITS.** The mission was not informed of examples of influence upon the allocation of government benefits.

34. **MISCELLANEOUS.** Representatives of some private consulting firms working for government organisations reported having to pay supplementary funds to government staff to get them to perform normal duties. Other firms reported a type of extortion where senior government officers would inform them that they have to carry out their assignment for a lower sum than agreed in the signed contract and, if they did not do so, they should not expect to be awarded future government contracts. The mission was not able independently to confirm these allegations.

## **VI. Analysis and Recommended Actions**

35. The mission found that the Government of Ethiopia has made efforts to develop a program to combat corruption. Indeed, the government envisions a program to address governance issues beyond anti-corruption and fundamental institutional and capacity building requirements. The mission endorses this broad approach. The effectiveness of Government's civil service reform program to contain corruption will depend on the sequencing and timing of reforms. The CSRPF is an ambitious and comprehensive program, which appears to be moving on all fronts. There is a need to rank activities by priority and establish a time-frame in which interrelated activities can be accomplished. The following describes the mission's perception of the current situation, and sets out short-term activities (over the next three years) to be undertaken for the proposed anti-corruption program to establish credibility and to hold the promise of dealing effectively with the problems identified.

36. **LEGAL AND JUDICIAL REFORM.** The mission examined the nature of the laws pertaining to corruption, the administrative framework for investigating and prosecuting cases of corruption, the efficiency of the justice system, and is recommending a number of areas for Bank and other donor support.

### *Legal Provisions on Anti Corruption*

37. The mission noted that Ethiopian law addresses such areas as corrupt practices, extortion, and traffic in official influence. Furthermore, a major law-revision exercise is contemplated, which, apart from updating existing codes and proclamations, will consolidate and ensure consistency of laws with the 1994 Constitution. Government intends to promulgate a comprehensive law, which will streamline and consolidate the laws in the area of corrupt practices. This work will be carried out by the Justice and Legal System Research Institute, which will focus on amendments required to bring existing laws into conformity with the Constitution, and will strengthen the legislative framework to deal with corruption. A myriad of subsidiary laws and regulations govern the conduct of public officials; their complexity imposes a burden on citizens and either inhibits officials from exercising discretionary powers for fear of making a mistake, or provides an environment which facilitates the collecting of bribes. These will also be reviewed in the context of the work of the Justice and Legal System Research Institute.

#### *Administrative Framework for Investigating and Prosecuting Cases of Corruption*

38. Corrupt practices are identified through financial audits, performance evaluation exercises, and by citizens who report cases of alleged offenders to the police. Investigations are normally carried out by the police, who prosecute after a review by the Public Prosecutor. Grave offences may be prosecuted by the Public Prosecutor's office. The Police were described to the mission as being honest during the time of the Emperor, but reportedly grew corrupt during the period of the Dergue to the point that they would go on patrol to rob (with their hats in their pockets). Government has made some progress to redressing this situation—citizens (elders) within *kebeles* approve new recruits, sting operations have been mounted, and police lose their job for taking even small financial bribes. However, the Force is not well equipped with vehicles, communications equipment, or computers, and its capacity to deal with white-collar crime and corruption is limited. This was partly because the Police College was closed for five years, but it is being re-opened with the intent *inter alia* to train lawyers, accountants and other professionals in anti-corruption disciplines.

39. Government is considering establishing a unit in the Prime Minister's office to deal with corruption. Autonomous units have been established in countries such as Singapore and Hong Kong, and Ethiopian representatives have visited Asia to assess whether this solution can be replicated. For now, an East Asian-style independent agency is considered too expensive, although Government is proceeding to train officials in the investigation and prosecuting of cases involving corrupt practices.

#### *Efficiency of the Justice System*

40. An efficient and effective justice system is a key component of the anti-corruption program. The Ethiopian Constitution has established a federal system of government with nine regions. It also provides a dual system of federal and regional courts with mutually distinct jurisdictions, each with first-instance, high, and supreme courts. This

recent replication of the federal system at the regional level has imposed an additional demand for 2,000 legal professionals, yet the University of Addis Ababa can only produce 50 graduates a year—of whom few opt for careers in government, especially in the regions. Government has established, however, a two-year LL.B. program at the newly established Civil Service College for students from the regions, and judges in the regions have recently participated in intensive, three-week courses run by the Ministry with USAID support.

41. Another problem is the extraordinarily high case-load to be handled by the courts at every level, exacerbated by the Ethiopian law which requires a panel of three judges to hear every case. Similarly, court administration in general and, in particular, facilities and case management systems need improvement. A myriad of systems must be followed to file a claim in any of the courts, e.g., the Federal Supreme Court requires at least 23 separate steps to file a claim. With the exception of this same court, most institutional facilities in most Ethiopian courts have not been maintained and are in disrepair.

42. The combination of heavy case-load, ponderous administration and run-down facilities leads many Ethiopians to avoid using the court system to resolve disputes. Furthermore, the mission was informed that many judges and court officials are taking advantage of the procedural deficiencies to the point that, in terms of probity, more corruption occurs now than before 1991. Government is aware and is planning a number of measures to streamline court procedures and render them more efficient at both the federal and regional levels (see Annex 1).

### **Recommendations**

- **Establish the Legal and Judicial Reform Co-ordinating Committee under the auspices and chairmanship of the Minister of Justice, with representation from all stakeholders. This committee will identify the constraints to the effective administration of justice by commissioning diagnostic studies within the legal and judicial system, drawing extensively from the ongoing activities funded by USAID and CIDA. This could serve as a first step in a comprehensive legal and judicial reform program. The Bank could assist in this process.**
- **Operationalise the newly created Justice and Legal System Research Institute. This Institute will take the lead in implementing law and regulatory reforms, paying particular attention to aligning legislative texts to the 1994 Constitution, and researching the efficacy of establishing special courts to deal, *inter alia*, with corrupt practices, commercial matters and revenue collection.**
- **Consider establishing a modest anti-corruption unit in the Prime Minister's office to deal with corruption.**

43. **CIVIL SERVICE REFORM.** Five inter-related issues need to be addressed and plans articulated as to how to carry them out since each requires a prolonged effort. The following summarises the five issues, which are elaborated in Annex 2. (1) The incentive structure is weak. Low- and mid-level civil servants depend on outside income to survive; this creates incentives for corruption. Salaries for technical, professional, and managerial

staff compare unfavourably with the private sector, which makes it difficult to recruit and retain good staff. Indirectly, this also facilitates corruption. The government needs to develop a public service pay policy, including pensions as an essential element, and integrate it into CSRP. (2) Although the Ethiopian civil service is not numerically large relative to the population, it is too large relative to what can be afforded.<sup>10</sup> A review of government functions and roles may allow scarce resources to be concentrated on strategic policies and programs, freeing up resources to improve emoluments. (3) The government system is over-regulated. Clearing customs and getting licenses requires visits to several offices and numerous steps, which opens up opportunities for facilitation payments. The mission was informed that petty corruption was pervasive throughout government. (4) Government officials have been imbued with a control rather than a service mentality. A change in attitude and approach of civil servants is needed to improve government service, but can not occur without changes in (1), (2) and (3) above. Related to (3) and (4), Government should assiduously switch, across-the-board, from ex-ante to ex-post regulatory controls. (5) Finally, the Government will need to monitor the staff control of the decentralisation program. If it is not controlled, the resources needed in the centre to improve conditions will not be available.

## Recommendations

- **Review the functions of government and associated policies and regulations to develop realistic remuneration and pension schemes for the civil service.**
- **Engage in a policy review of the role of government to identify and concentrate resources on high priority functions.**
- **Implement decentralisation reforms, paying special attention to staff training and institution building, without increasing overall staff costs.**
- **Decompress pay scales for technical, professional, and managerial grades.**
- **Streamline regulations, procedures, licensing systems, and requirements, which affect doing business in Ethiopia and impinge on private citizens daily lives, again with an emphasis on ex-post rather than ex-ante controls.**
- **Orient civil servants toward service rather than control.<sup>11</sup>**
- **Over time, there should be a re-orientation of government policy, both *de jure* and *de facto*, away from a presumption of a need for government control and intervention, and toward a role of facilitation, with government intervention employed where necessary to correct clear market failures and to provide needed public goods.**

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<sup>10</sup> There is no fiscally sustainable way to increase pay and emoluments across-the-board but the Bank could assist Government in developing fiscal scenarios, costing the consequences of pay increases to selected professions to strengthen government performance and to address corruption.

<sup>11</sup> The Bank could assist Government in developing service and performance standards for a number of functions, particularly those at the interface between civil servants and the public.

44. **FINANCIAL MANAGEMENT REFORM.** The Expenditure Management and Control Program (EMCP) is perhaps one of the best performing of the five pillars of the umbrella CSR (in which Government's anti-corruption program is housed). The EMCP is ambitious, consisting of a long list of important reforms in accounting and budgeting, financial information systems, fees and charges, the Public Investment Program, internal and external auditing, asset, procurement, aid, and cash management, and the development of accounting and auditing professions. The problems to be dealt with are nation-wide and system wide—every element of federal and regional financial management needs to be harmonised; regionalisation has postponed reform of the revenue collection system; spending institutions do not have adequate financial information to manage and do not comply with regulations; the Office of the Auditor General (OAG) does not have the authority to audit regional accounts (even for federal funds); parliament has not established an effective working relationship with the OAG and does not play its oversight role.

45. Given that financial management staff are few in number, inspection and oversight systems are weak, and guidelines and reference manuals are often unavailable to financial staff, the government should consider short-term measures to counter corruption, focusing on capacity building and skills management (see Annex 4). Managerially, the government should consider developing a Medium-term Expenditure Framework (MTEF), to bring policies and programs into alignment with resources.<sup>12</sup>

## **Recommendations**

- **Strengthen financial management and improve pay and compensation.**
- **Mobilise qualified personnel from the MOF (inspectorate), OAG, MEDAC, the Audit Service Corporation, and private audit firms for a 9 to 12 month program to train trainers and staff, in the centre and in the regions, to improve the capacity and qualifications of accounting and internal audit staff in sectoral institutions, Regional External Auditors, Regional Internal Auditors, and all accountants in the regions. Provide up-to-date guidelines and manuals to all participants.**
- **Revise and update the curricula and syllabi of accountancy training-institutions to improve quality and relevance, and to reduce requirements for post-graduate, in-service training.**
- **Ensure that annual budgets reflect strategic priorities, policies and programs are in line with resources, and develop a MTEF.**

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<sup>12</sup> A Medium Term Expenditure Framework (MTEF) is a planning mechanism to help governments assess the cost of policies, programs, and projects to determine headroom for new programs or to assess affordability of pay increases, when the goal is to improve public service pay and conditions. When government is over-extended and activities are inadequately funded, an MTEF can be used to define the envelope within which spending ministries can set new spending priorities. It is a combination of top-down planning ceilings, determined by aggregate fiscal targets, and bottom-up costing of existing policies and programs by department. SSA countries currently making annual budgets in a MTEF include Malawi and South Africa.



- **Establish the planned Public Accounts Sub-Committee of the Finance Committee of Parliament, and publish reports of the Auditor-General.**

46. **PROCUREMENT REFORM.**<sup>13</sup> The mission was informed of irregularities in government procurement. Civil servants and other are reportedly engaging in corrupt practice at both federal and regional levels. Fortunately, improvement to the procurement system is included in the CSRP, and government has produced new procedures in draft. The mission felt that proposed procedures could be improved if brought into conformity with the best international practice. The use of the Model Law developed by the United Nations' Commission on International Trade Law (UNCITRAL) would be a good starting point. In addition, government could consider establishing a central procurement oversight and policy-making body, and changes which would render procurement more transparent and less prone to corruption. The changes effected at the federal level ought to be replicated at the regional level, and a cadre of professional procurement staff should also be developed at both levels (see Annex 5).

47. In response to Government's request, the mission examined the feasibility of introducing the AU. The mission concluded that an AU could be implemented once Government had proceeded with key procurement and complaints referral reforms (see paragraph 55).

### **Recommendations**

- **Procurement reform should be pursued on the basis of the UNCITRAL Model Law for both central and subordinate tiers of government.**
- **Political and administrative decentralisation should ensure that regions adopt a reliable procurement system as a condition for the Federal financial contributions to their capital and recurrent budgets.**
- **Introduce an AU in government-financed procurement, starting with a large contract for a World Bank project, once some key procurement and complaints referral reforms have been undertaken, thus providing a better opportunity for the AU to have an impact.**

48. **PARLIAMENT, CIVIL SERVICE, CIVIL SOCIETY, THE PRIVATE SECTOR, AND THE MEDIA.** The mission's interlocutors representing academia, NGOs, the private sector and the media articulated a sense of ignorance of and exclusion from the design and implementation of reforms in governance, including those which demarcate the interface between government and citizens where corruption frequently occurs. The mission believes strongly that Ethiopia's anti-corruption program could be strengthened if Government were to adopt an inclusive approach whereby representatives of parliament, government, the private sector, civil society and, if Government wished, the donor

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<sup>13</sup> The World Bank undertook an assessment of Ethiopia's procurement system in mid-1998. The findings in this report are consistent with the Country Procurement Assessment Report (CPAR), which was transmitted to the Minister of Finance on August 12, 1998. The transmittal letter, which indicates the CPAR's recommended priority actions, is provided as an addendum to Annex 5.

community, were involved. The World Bank, through EDI, is in a position to help in this regard through workshops, surveys, and other mechanisms set out in Annex 6.

### **Recommendations**

- **Help Ethiopian officials appreciate examples of international good practice by inviting them to EDI's global and regional anti-corruption workshops or by conducting workshops in Ethiopia for Parliament, the Office of the Auditor General, and the media, using international experts.**
- **Facilitate a dialogue through EDI among government, members of the business community, and civil society on implementing the anti-corruption program and developing complementing activities, such as a National Integrity Workshop.**
- **Invite Ethiopian participation in EDI's planned anti-corruption activities which include regional anti-corruption workshops, regional investigative journalism workshops, regional workshops for parliamentary strengthening.**
- **Conduct anti-corruption workshops facilitated by EDI in national integrity, investigative journalism, parliamentary strengthening, and auditing for enhanced accountability.**

### **VII. Conclusion and Introduction of the Anti-corruption Undertaking**

49. The mission's conclusions reflect the insights and perceptions obtained through reading, and discussion with many Ethiopian and foreign interlocutors. In Ethiopia today, while grand corruption does not appear common, there are many instances where, at the interface between the civil service and the public, society functions according to informal rather than formal rules. Consequently petty corruption is widespread, and it is possible that the individuals and syndicates involved will set their sights on larger and more lucrative targets. The mission believes that government will have to address the causes of corruption at all levels if it is to succeed in addressing effectively its principal target: grand corruption.

50. The people of Ethiopia are frustrated with the petty corruption, which touches their daily lives, and speak candidly of larger-scale corruption and favouritism (even if not openly discussed in the media). The problem facing government is that with petty corruption so widespread, there are numerous intervention points. As corruption becomes more deeply rooted, addressing it becomes a longer-term challenge. If government addresses the current corruption problems in a focused and sustained manner, it can succeed in returning the country to the low-corruption status it enjoyed in the past.

51. Although the Bank is involved in areas which will indirectly contribute to Government's anti-corruption effort, it is prepared to assist Government in implementing its anti-corruption strategy. An initial two-part approach is proposed: the first oriented towards addressing corruption through improved public sector performance in selected areas, the second towards the introduction of an Anti-corruption Undertaking (AU) in government procurement.

52. The Bank believes that corruption can be reduced through economic policy reform, which includes liberalisation of the economy, elimination of excessive regulation, and promotion of competitive market conditions and greater transparency. Such measures must be accompanied by reforms to improve governance and institutional capacity, including the judiciary. Many of these are contained in the government's Civil Service Reform Program (CSRP). Importantly, the pay and incentives of public servants must be enhanced, while establishing higher standards of performance and accountability. The Bank could help Government determine the cost of increasing the pay and pensions of strategic professions or units of government, and establish service or performance standards in areas where corrupt practice is known to flourish.

53. The World Bank is supporting reform programs, which aim to liberalise trade regimes, reduce constraints to private sector development, enforce policies to form contestable markets, reform parastatals, and strengthen and diversify financial services. Donors are providing support in complementary areas. The Bank could provide more direct support to Government's anti-corruption efforts, perhaps in form of assistance to the Office of the Prime Minister and other key organisations involved in the anti-corruption program. Finally, on the issue of corruption in general and corruption linked to the financing of political processes, the Bank is conducting research which will be shared with the Ethiopian Government.

54. The Bank is willing to assist Government introduce an AU into major international procurement. However, to be effective, the AU needs to be a credible undertaking: first, on the part of bidders who must commit themselves to submit tenders and, if chosen, execute the contract without bribes, large or small; second, on the part of the agency that supervises the contractor; and, third, on the part of civil servants with whom the bidders have contact during all stages of the procurement cycle.

55. The Bank would thus recommend the following sequence of measures to introduce an AU into a World Bank-financed contract, and, subsequently, to mainstream the AU into public procurement. The following are the key steps:

- Government would need to make major modifications in its procurement system. In this respect, the Bank has recently conducted a procurement assessment—the results of which were communicated to Government in August, 1998. Considering the observed requirements for change in the present procurement rules and organizations, the Bank's ability to proceed with the AU is dependent on the Government's agreement on key proposed procurement changes, commitment on the actions to be taken to address these changes and a timetable for carrying them out.
- Government would need to establish a reliable complaints mechanism so that there are clear channels for reporting and investigating complaints of fraud and corruption either during the process of bidding and award, or during subsequent execution of the contract.

- Government would need to agree to introduce the AU in all similar procurement, according to an agreed timetable.

## ***Annex 1: Legal and Judicial Reform***

### **Legal Provisions on Anti-corruption**

1. The government's anti-corruption program includes provisions of the law that have been supplemented, and legislation that has been promulgated, both of which would increase the punishment (imprisonment) and fines associated with such practice. Under Title III—Offences against Public Office in its Penal Code of 1957—the crimes of corrupt practices, extortion, and soliciting are defined as follows:

#### ***“Article 425: Corrupt Practices***

- 1) Any public servant who, in consideration for the performance of or omission of an act, in violation of the duties proper to his office, seeks, exacts a promise of or receives a gift of any other advantage to which he is not entitled, is punishable with simple imprisonment for not less than three months, and fine.
- 2) Where the purpose of the breach of duty solicited, the size of the sums or gifts received in consideration, the official capacity or powers of the person corrupted, or the extent of the breach of duty committed renders the case of particular gravity, the punishment shall be rigorous imprisonment not exceeding five years and a fine not exceeding ten thousand dollars.
- 3) In like case, arbitrators, experts, jurors, translators, or interpreters engaged by the public authorities in their technical capacity are liable to the same punishments.

#### ***Article 426: Extortion***

- 1) Any public servant who, with intent to secure profit and with the object of appropriating the profit to himself, exacts, orders to be collected or collects rights, dues, taxes, rates or other moneys due, emoluments, wages, compensation or expenses which he knows to be not due or to exceed the sums, charges or amounts due, is punishable, without prejudice to his liability to repay, with simple imprisonment and fine.
- 2) In more serious cases, the punishment shall be rigorous imprisonment not exceeding ten years and fine not exceeding twenty thousand dollars, in addition to the forfeiture of the profit made by the offender (Art. 90 (2)).

#### ***Article 437: Soliciting of Corrupt Practices***

Whosoever, with intent to procure a public servant to commit a breach of the duties imposed upon him by his office or service, offers, promises or hands over to such public servant or causes him to keep, even subsequent to the act expected of him, a sum of money, a gift or an advantage, or any kind, is punishable with simple imprisonment or fine.”

2. The penalties for these offences have been made more rigorous by the promulgation of Proclamation No. 214/1981—The Revised Special Penal Code Proclamation. This proclamation underlines the regime’s view that “misuse or abuse of authority, disregard and mishandling of state public property and self-aggrandisement at the expense of the interest of the society, fraud, favouritism, miscarriage of justice, bribery and such other illegal acts should be done away with.” Chapter III of the proclamation revised the provisions of the Penal Code of 1957 with respect to breach of trust and offences against the interest of the government or the public by revamping the definition of such offences and increasing the penalties as follows:

***“Article 20: Corrupt Practices, Acceptance of Undue Advantage, and Traffic in Official Influence***

- 1) Any public servant, official or elected member of any mass organisation who:
  - a) in consideration for the performance or for the omission of an act in violation of the duties proper to his office solicits, exacts a promise of or receives a gift, money, or any other advantage;
  - b) for himself solicits, exacts a promise of or secures contracts, deals, undertakings, orders or other benefits from a government office or mass organisation placed under his authority, immediate responsibility or control;
  - c) is punishable with rigorous imprisonment from one to 25 years.
- 1) Where the commission of the offence is exceptionally grave, the punishment shall be imprisonment for life or death.
- 2) Where the offence is committed by an arbitrator, expert, assessor or witness sworn to speak the truth, who is not a public servant or an official or an elected member of a mass organisation, by an officially appointed translator or interpreter, or by any person on whom similar power has been conferred by the government or the people, the

punishment shall be rigorous imprisonment from one to 25 years.

***Article 21: Soliciting Corrupt Practices***

Whosoever with intent to procure to a public servant, or an official or an elected member of a mass organisation, or a person mentioned in sub-article (3) of Article 20 to perform or to omit an act in violation of the duties proper to his office or service hands over, offers or promises to such person a gift, a sum of money or any other benefit, even subsequent to the act expected of him is punishable with imprisonment or having regard to the gravity of the offence, with rigorous imprisonment not exceeding five years.

***Article 27: Extortion***

Any public servant or any elected member of any mass organisation or co-operative society or any member of any revolution defence committee who, with intent to secure unjustifiable profit and with the object of appropriating the profit to himself, exacts, orders to be collected or collects rights, dues, taxes, rates or other moneys due, emoluments, wages, compensation or expenses which he knows to be not due or to exceed the sums, charges or amounts due, is punishable, without prejudice to confiscation or liability to repay, with rigorous imprisonment not exceeding ten years and a fine not exceeding twenty thousand Birr.”

3. In addition, proclamations have been promulgated to deal with the efficient administration and management of the Federal Government’s financial resources and to improve the registration and licensing procedures for commercial activities and for the re-establishment and modernisation of the customs authority—all of which have supplemental or complementary provisions covering offences related to corrupt practices.

4. The Proclamation on Financial Administration of the Federal Government, Proclamation No. 57/1996 includes a provision (Section 64 of the Proclamation) which make it an offence punishable on conviction of a fine not exceeding three times the amounts offered or accepted as a bribe and to a rigorous imprisonment for a term of not less than 10 years and not more than 15 years if a person promises, offers or gives a bribe to any person appointed to or employed in any public body connected with the collection, management or disbursement of public money, with intent:

- a) to influence the decision or action of that person on any question or matter pending, or may, by law, be brought before him in his official capacity, or

- b) to influence that person to commit, or aid or abet in committing any fraud on the revenue, or to connive at, collude in, or allow or permit any opportunity for the commission of any such fraud.

5. With respect to commercial registration and business licensing, Proclamation No. 67/1997 makes it an offence punishable by imprisonment from 10 to 15 years for a public official or servant who, in the performance of duties related to commercial registration and issuance of licenses, takes a bribe, or through nepotism or favouritism or other illegal relationships, issues or causes to be issued licenses or the renewal of licenses. This law applies without prejudice to administrative measures which may be applicable and unless the offence is punishable with more severe penalty under other applicable laws (Section 46 of the Proclamation).

6. The Proclamation for the Re-establishment and Modernisation of Customs Authority also provides a penalty including a fine of 5,000 Birr up to 10,000 Birr and with rigorous imprisonment from 10 to 15 years for any person who offers, procures or induces a corrupt practice from a customs officer or customs police to do offences against the law or directives prescribed by the customs law (Section 70 of the Proclamation).

7. According to the Minister of Justice, a major law revision exercise is under way which, apart from updating the existing codes and proclamations from the 1950s through the 1980s, will consolidate and ensure consistency of these laws with the 1994 Constitution. With respect to the laws relating to corrupt practices, the intention is to promulgate a comprehensive law which will streamline and consolidate all the laws and proclamations referred to above. This should clarify the legal position with regard to corrupt practices. This work is likely to be carried out in the context of the activities of the newly established “Justice and Legal System Research Institute,” an entity which is slated to undertake studies and research activities with a view to strengthening and modernising the justice and legal system.

8. The main objective of the Institute includes: revising the laws to guarantee the effective implementation of the 1994 Constitution; ensuring the prevalence of the rule of law and promoting economic and social development; and building capacity and improving efficiency of organs involved in the administration of justice. Thus, its main function will include, *inter alia*, a review of existing laws, carrying out of studies and research to assist in the revision of the laws to bring them up to date and to make them accessible to users, and assistance to Federal and Regional organs in the judicial and legislative reforms.

9. The Institute will focus on amendments required to bring existing laws into conformity with the Constitution as well as to strengthen the legislative framework to deal with corruption. These activities were the focus of attention at a recent seminar on the Constitution and the legal system.



10. There is a myriad of subsidiary pieces of legislation and regulations which governed the conduct of public officials. These regulations required people wishing to obtain service from public officials to fulfil tremendous requirements, and, as important, public officials were unwilling to exercise discretionary powers in their work for fear of taking decisions which could be second-guessed by their superiors. These inordinate regulations placed a heavy burden on the lives of the citizens, particularly those engaged in business activity. The process of deregulation streamlining and simplification was, therefore, a priority of the civil service reform program which has been adopted by the government.

### **Administrative Framework for Investigating and Prosecuting Cases of Corruption**

11. According to those interviewed during the mission and, in particular, the Minister of Justice, the responsibility for prosecuting persons charged with having engaged in corrupt practices is vested in the Ministry of Justice (the Public Prosecutor's Office) and the Police Department. The incidence of corrupt practices is identified through several possible avenues. Some have been identified through the financial audits carried out by the Auditor General or the Audit Services Corporation from time to time. Others have been discovered during performance evaluation exercises routinely carried out within the public service. In many cases, ordinary citizens report cases of alleged offenders to the police. Normally, an investigation is carried out by the police, and the prosecution is carried out by the Public Prosecutor. Investigative work is therefore carried out by the police. However, the government is considering whether to establish an autonomous agency to deal with corruption in Ethiopia, as in the case of other countries. To assist in this decision, government delegations have visited Singapore and Hong Kong to ascertain the experience in their anti-corruption agencies. It was noted by officials interviewed that the government was unlikely to establish such an agency at this time in view of the tremendous cost associated with operations of such entities, particularly those in East Asia. It is likely the Government will set-up an anti-corruption unit in the Prime Minister's office.

### **Efficiency of the Judicial System**

12. With the recognition that the operation of the judicial system is an important ingredient in the government's program on anti-corruption, the mission held discussions with senior officials of the judicial system as well as senior members of the Association of Ethiopian Lawyers, other practising lawyers and representatives of the private sector and non-governmental organisations. Discussions were also held with representatives of the two donor agencies which were at present assisting the judicial system in the training of judges and the improvement of court administration and case management. A brief description of the judicial system is relevant for the purposes of this section.

13. The Ethiopian Constitution of 1994 established a federal system of government consisting of a Federal government and nine Regions. The Constitution also provides for a dual system of Federal and Regional courts with jurisdiction over specific matters

specified in the Constitution. Under the Constitution, each region is required to establish a system of first-instance, high and supreme courts, and such courts are to be established also at the Federal level by the Council of People's Representatives. The net effect of the new Constitution and respective Proclamations (e.g., Proclamation 25 of 1996) promulgated since then is that the government was suddenly faced with the prospect of appointing over 2,000 officials to administer the judicial system, including judges, public prosecutors, registrars and other administrative officers. Apart from the paucity of trained lawyers who meet the requirements for appointments to judicial positions, there was also the factor of language facility required to operate efficiently and satisfactorily in the Regions outside Addis Ababa. Another factor was that the faculty of Law at Addis Ababa produced only close up around 50 graduates per year since 1963 and the graduates produced so far would not cover the Regional or Federal needs even if all were to join the judicial system. In addition, many had other careers in government, in the private sector or had lived abroad. Further, even for those who lived in Ethiopia, there was not always a willingness to move to the Regions.

14. This situation was further exacerbated by the widely reported decision to remove many judges who served in the courts during the Dergue period for allegations, including corruption. After taking all these factors into account, the government has taken steps to ameliorate the situation. The first action was the issuance of Proclamation 24 of 1996, which states that all judges must have either "legal training or have acquired legal skill through experience." This provision enabled the government to appoint lawyers with LL.B. degrees as well as other persons without legal credentials, but who had worked in the court systems or held socially distinguished positions, to become judges in the courts. This, however, has had the effect of having a significant range of judges with some fully qualified as lawyers and others without basic training in law and thus a lack of knowledge of essential concepts, such as procedural requirements, judicial independence, and conflict of interest. As important, the government established a Faculty of Law at the newly-established Civil Service College where students coming from the Regions (excluding Addis Ababa) could undergo a two-year intensive LL.B. course so that they can be appointed on completion to the Regional Courts. This training program was intended to supplement the four-year LL.B. program at the University of Addis Ababa. In addition, the government, with the assistance of USAID, has been carrying out training programs for judges in the Regions on a wide variety of legal issues and procedures. This training has been given by a team of experienced Ethiopian practitioners and judges, and as of this writing, about 300 judges have participated in the three-week training program. The Ministry of Justice has also carried out crash courses for judges especially those who do not have any formal legal education. The Ministry has also undertaken a five-year training program for referral judges and prosecutors with the assistance of CIDA. Other training courses have been planned for the future to assist in the improvement of the knowledge base of the judges.

15. Another problem area relates to the case-load expected to be handled by the courts, which seemed extraordinarily high. Indeed, as some legal practitioners and judges pointed out "the courts are not doing much" except to hear petitions and issue injunctions

and similar orders on imminent matters. Apparently, in April 1996, the Federal Supreme Court took over 2,815 cases, the Federal High Court over 8,916 cases and the Federal First Instance Court over 40,937 cases. The Federal High Court (First Civil Bench) has about 1,500 cases and the (Second Civil Bench) about 1,500 to 2,000 cases. While the mission did not visit the Regional courts, the case loads, according to our interviews, were probably as much. We were also informed that the case loads in the criminal benches are much higher. A further complication to the issue of the case load overhang is that Ethiopian law requires a panel of three judges to hear every case. Thus, when a member of the panel is not in court, the matter is adjourned. What has apparently become the practice in some courts is that, while the three judges sit as a panel, they in fact deal with three separate cases at the same time, with one judge hearing arguments, while the other two study separate files or write separate court orders.

16. A similar problem area relates to court administration in general and in particular, to the issue of facilities and case management systems. There are apparently a myriad of procedures required to be followed to file a claim in any of the courts. As was indicated by a senior member of the bench, the Federal Supreme Court requires at least 23 separate steps to file a claim. The institutional facilities in most of the courts (excluding the Federal Supreme Court, which was in excellent condition and rivals such courts in the advanced countries) have not been maintained in a long time and are in disrepair. All of these institutional deficiencies appear to hamper the efficiency of the judicial system and have led to a feeling of distrust of the system by most Ethiopians. In particular, the protracted procedures result in unreasonable delays which leave many parties, including the government, unable to enforce their legitimate rights under the law. As was indicated to the mission by the Ethiopian private sector representatives, they seldom use the court system as a means of resolving disputes.

17. The result of the foregoing is that cases before the courts take a long time to be resolved, whether in the civil or criminal courts, and indeed, as a number of practising lawyers indicated, cases were being adjourned until 1999. In their view, the courts were not functioning as could be expected, and such long delays would inevitably lead to corruption. Indeed, it was indicated to the mission that there were rampant rumours about corruption in the judiciary, with judges and other court officials taking advantage of the procedural and other deficiencies noted. As a senior official of the judiciary indicated, in terms of probity, there was more corruption in the judicial system in recent times than was the case before.

18. The government is aware of the problems facing the judiciary and is planning, according to government sources, to amend the Proclamations and Codes relating to the procedures within the court system to require only one judge to sit in all first level cases instead of the present three and to establish various special courts, including one which will deal exclusively with cases involving corrupt practices. In addition, the Federal Supreme Court, with financial and technical assistance from the Canadian International Development Agency, is implementing a pilot system for, *inter alia*, the recording of oral evidence and submissions during hearings, transcribing of such evidence and the safe

keeping and retrieval of transcripts, as well as the introduction of a case tracking system. If these systems lead to significant efficiency gains, the intention is to introduce them in all the courts within the Ethiopian judicial system, whether Federal or Regional.

19. To summarise, the deficiencies which hinder the effective and efficient operation of the judicial system include the following:

- the paucity of qualified and experienced judges;
- stringent procedural requirements, particularly with respect to the number of judges required to sit on cases;
- the inability of judges to deliver timely judgements, and so on;
- insufficient financial and material resources needed to administer the courts;
- outdated rules, regulations and procedural requirements applicable for the filing of cases;
- absence of qualified and experienced judicial system staff such as clerks, transcribers, process servers, etc.;
- absence of client-centred or user-friendly atmospheres, access, treatment, interaction and service to the clients of the judicial service; and
- strong belief in the incidence of corruption on account of the constraining procedures and regulations.

## **Recommendations**

20. Recommendations are preliminary and made on the basis of discussions held and documents reviewed in connection with the mission. The first is that the government needs to take actions in the legal and judicial system if it is to implement its well-conceived anti-corruption program with due diligence and efficiency. In particular, while the government has taken important steps towards improving the efficiency of the judicial system, and the mission is impressed by the projects implemented with assistance from USAID and CIDA, much remains to be done to restore the citizens of Ethiopia's confidence in the system.

21. Justice should be dispensed in a transparent, even-handed, and effective manner and should protect individual rights and enforce the Constitution. The effectiveness of the judicial system is crucial to the anti-corruption program for, if cases of alleged corruption cannot be prosecuted because of delays in the administration of justice, public confidence will dissipate. In addition, delays and procedural complications and inordinate requirements open up avenues for corruption which would not be supportive of the government's program. Also, the introduction of the AU in government procurement means, in effect, a pledge by the government to ensure enforcement of its laws and regulations with respect to contracting, which cannot be achieved without an appropriately functioning judicial system. To that end, the mission would like to recommend for government consideration a program to identify the problems and constraints with respect to the administration of justice, taking into account the ongoing activities funded by USAID and CIDA. We believe that such a program should

supplement existing programs and not duplicate them. As a starting point, it would be useful to establish a Legal and Judicial Reform Co-ordinating Committee, under the auspices and chairmanship of the Minister of Justice, with representation from all interested entities in Ethiopia, including members of the judicial service, legal practitioners, the civil service, the private sector, the Chamber of Commerce and the law faculties of Addis Ababa University and the Civil Service College. This Committee could commission diagnostic studies of various areas within the legal and judicial system, including, *inter alia*, the following areas, which have been gleaned from documents obtained during the mission:

- training and other requirements for staff in the Ministry of Justice;
- facilities and materials needed for Regional staff involved with the legal and judicial system;
- improvement of the court record management system, including transcribing of submissions during trials, and record and docket management systems;
- continuing training needs of judges, both at the Federal and Regional levels;
- requirements of the registrar offices as well as preparation of a training program for court clerks, process servers, and so on; and
- resource requirements for the Regional courts, especially facilities.

22. In addition, the government should pursue activities in making the existing codes and proclamations consistent with the provisions of the Constitution. This work is as important as the work on the judicial system, particularly since the need originates from the conclusions of the recently held seminar on the Constitution in Ethiopia. The mission recommends, therefore, that immediate action be taken towards operationalizing the newly-created Justice and Legal System Research Institute, which will take the lead in law reform. The role of this Institute will be important for the alignment of legislative texts to the Constitution, but also in deregulation and the research on establishing special courts to deal, *inter alia*, with corrupt practices, commercial matters, and revenue collection. Further, while the government has made progress in reorganizing Customs Authority and its rules, regulations, and requirements, much needs to be done to streamline the procedures, licensing systems, and requirements, which affect the carrying out of business activities in Ethiopia, and which impinge on the daily life of Ethiopian citizens. While deregulation is a long-term process, there is no doubt that streamlining and communicating processes, and making them transparent, will reduce business costs and assist in reducing the incidence of corruption.

23. These recommendations are preliminary, since the mission did not conduct an in-depth review of the legal and judicial sector. However, subject to the Country Assistance Strategy (CAS), the Bank should be willing to assist the Ethiopian authorities in developing a program of action in the two areas identified—judicial and legal reform—under the auspices of the Ministry of Justice and Justice and Legal System Research Institute.

## *Annex 2: Civil Service Reform*

1. Before the Dergue period, Ethiopia's civil service had a reputation of professionalism and technical competence, even if somewhat traditional, centralist, and rule-bound in its culture. It had prestige, and university graduates saw it as a rewarding career and a way of serving the country. Now the government is struggling with the Dergue's legacy of a de-skilled, demotivated, and demoralised bureaucracy. At the same time, it is pressing forward with an ambitious program of decentralisation—a politically necessary but huge undertaking which involves the creation of institutions at province, zone, and woreda levels, and staffing them from a depleted skill base.

2. In earlier times, the civil service was considered largely free of corruption. Nowadays, the government leadership sees the civil service as being depleted in critical technical skills and management, bureaucratic and risk averse, unresponsive to needs of citizens, and vulnerable to bribery. The view of the civil service from the outside is forthright and critical. The Ethiopian civil service, particularly at lower levels, is characterised as obstructive, incompetent, excessively rule-bound, and increasingly involved in petty corruption. The amounts solicited are not large, but the cost of not meeting bribe demands is costly delay. Stories were told to the mission about the maze of regulations encountered when clearing goods through customs, obtaining a license, registering a company, or getting treatment at a government health facility, and the threats of delay unless a bribe was “negotiated” with the relevant official (or a syndicate of officials). In the past bribery was frowned upon; now it is seen as part of the “rules of the game” for business and private dealings with the public sector.

3. It is easy to understand how petty corruption has grown in the fertile soil of the regulatory mind-set—suspicious of the private sector, left over from the Dergue, with the present inadequate salaries. These factors have contributed to pushing many civil servants below the minimum income needed to keep a family above poverty. One locus of corruption mentioned by many is the Customs Department where importers must pay a bribe or make repeated visits, experiencing long delays in clearing goods. Bribes, reportedly, are also solicited when obtaining bidding documents and throughout the execution of a public contract.

4. The Civil Service Reform Program (CSRP), launched in November 1994, is the government's response to the decline in bureaucratic performance. The program was devised by an Ethiopian-led task force and its implementation is being co-ordinated by a high-level ministerial steering committee chaired by the Prime Minister, and supported by a Civil Service Reform Management Unit. This ambitious program covers the following areas, each of which is broken down into sub-programs and activities:

- Core institutions of the civil service
- Financial management
- Human resource management
- Top management systems

- Accountability mechanisms
- Service delivery
- Ethics

5. The CSRP is more comprehensive than those found in comparable countries, but necessarily so, given the damage Ethiopia's government has experienced with 17 years of communist rule, culminating in civil war. In the mission's view, the program is appropriately comprehensive, and, while the government accepts it will take years to implement, its success is central to achieve the transformation the present government leadership seeks. It is required to control corruption—at the level of petty bribes and at the level requiring installation of financial management and control systems to deter large-scale theft and the operation of transparent public sector procurement systems. The CSRP is thus a key component of the overall institutional strengthening Ethiopia needs to control corruption.

6. Five issues require consideration as the government moves forward with CSRP, which include: pay; government functions; deregulation; selected agency reform, and decentralisation.

### **Civil Service Pay**

7. The mission did not collect sufficient data on public and private pay scales to make quantified comparisons (the CSRP does provide regular comparative studies). Little doubt exists, however, that civil service pay at the lower levels is below a living wage, and for many grades, particularly those for technical, professional, and managerial staff, the comparable private sector rates are a multiple of public rates, contributing to a serious loss of skilled and enterprising staff. For many staff in daily contact with the public, solicitation and acceptance of small payments has become a necessity and an entitlement. For others, it is a reason to moonlight in second jobs, or to search for better career prospects outside the civil service. For pensions, which should be perceived as part of an overall pay policy, the situation is similar. If career civil servants lose confidence in the value of their pension upon retirement, the temptation to build a nest egg corruptly will be large.

8. Policy-makers are aware of the need for pay improvements, but are constrained by the lack of headroom in the government budget to do more than make adjustments to selected categories (as has been done for medical doctors and university teachers). Other urgent claims on the budget include provision of capital replacements, non-wage operations and maintenance expenditures, and debt service. Although the task force which developed the CSRP made recommendations on pay structures, the level of civil service pay was outside its terms of reference. Absence of a pay strategy remains a serious gap in the government's plans to improve public sector performance.

10. It is beyond the scope of this report to recommend specifically what form a pay policy should take. Developing realistic pay levels for the civil service is not a sufficient condition for the control of corruption, but an essential one. The government's goal of an ethical, motivated, competent, and non-corrupt civil service can only come about with fundamental improvements in pay levels. The principal constraint, however, to achieving better pay levels is affordability. Uniform, across-the-board increases, while politically easier to manage, are neither necessary nor appropriate, since the gap between public sector and labour market rates varies across the spectrum of skills the government employs. Pay scales will probably have to be decompressed for technical, professional, and managerial grades. Fortunately, decompression is less costly for the aggregate wage bill than an across-the-board proportional increase. It may be necessary to reconsider the affordability of a unified public service, and identify a core civil service to be paid at realistic rates. Pay reform, however, will not be possible within present and foreseeable fiscal parameters unless action is taken to review the functions of government and the associated policies and regulations.

### **Functions of Government**

11. A thorough review of the functions of government is missing from the CSRP, which, strictly speaking, should be a policy matter for the Council of Ministers. Experience suggests that programs aimed at improving public sector performance are incomplete if there is not a critical review of the role of government. This is particularly necessary in Ethiopia given the accretion of regulatory activities during the Dengue, notwithstanding the efforts the present Government is taking to streamline functions.

12. Such a review needs to take place at two levels. The first is strategic, deciding at the level of policy what the role of government should be in each sector, and how that role should be discharged—by regulatory policy, by direct provision, by contracting out or by delegation to lower tiers of government. Since the object of the exercise is to identify and concentrate resources on priority functions, policy review is an essential component of a broad program of civil service reform. Changes may be needed to the public expenditure planning and budgeting framework to facilitate this. An early priority should be the elaboration of a Medium-Term Expenditure Framework (MTEF).

### **Deregulation**

13. A review of the role of government needs to be accompanied by scrutiny of the means by which policy is implemented. The view of many in the private sector is that government still maintains too dense an array of regulations. This constrains business development, encourages informality and invites corruption. Government should therefore press forward with scrutinising the utility of existing regulations, simplifying or scrapping them if the costs outweigh their benefits.

14. In this connection the Government might find it helpful to institutionalise a dialogue with the private sector and civil society, identifying existing policies and



regulations that give rise to economic rents and other costs, and that create opportunities for corruption. The advantage of deregulation as an instrument in the fight against corruption is that it can be achieved with the stroke of a pen and is not dependent on gradual institutional capacity building. Generally, institutionalising consultation on policy (as Government has done in some respects) improves the quality of public policy and communicates the Government's intentions to combat corruption.

### **Selected Agency Reform**

15. Such a dialogue may point to the need to reform selected agencies of government to improve government performance and to fight corruption. An early candidate for attention, in the eyes of the business community, is the Customs Department. Our understanding is that administrative reforms have begun on a pilot basis, and their application is strongly supported. Tariffs should be reviewed and simplified.

### **Decentralisation**

16. The final topic in the control of corruption is the government's decentralisation program, which is a parallel initiative to the CSRP. The decentralisation program is ambitious in scope and is considered a top priority by Government (which the mission respects). The Government has been able to implement the decentralisation program with, reportedly, only a 20,000 person increase in staffing across levels. Formidable staff training and institution building requirements must accompany this effort.

17. The government is making efforts to ensure decentralisation does not add to staff costs. An increase would have fiscal consequences for the implementation for the CSRP and risk the government's ability to improve pay and conditions in core government agencies. In turn, this would have adverse effects on the government's ability to make progress controlling corruption in central government and achieving a well-performing civil service.

### ***Annex 3: The Regulatory Environment***

1. The mission was unable to examine Ethiopia's regulatory environment in depth, but members were apprised of general issues, and were able to consult others who had examined some elements of it. The following is a summary of particular issues which have been treated in depth by the Bank or others.

#### **Investment Approval Procedures**

2. The investment approval procedures existing in Ethiopia today are considered to be amongst the most complex and cumbersome in the world. They may have made sense when Government's intention was to control private investment, but are no longer consistent with the present objective of Government to encourage private investment.

3. In Ethiopia, the application procedure for an investment license is still fairly involved, although its simpler than the former one which required some twenty steps involving seven different ministries.<sup>14</sup> At present the Ethiopian Investment Authority (EIA) still has to go through several steps and co-ordinate with four ministries to try and issue a Company Registration Certificate over a period of ten days. Many of these requirements were inherited from the previous system of a planned economy, but serve little purpose now as the country is moving into a market economy.

4. Ethiopia's domestic market has the potential to grow if appropriate policies are pursued, but currently as the GDP and per capita income demonstrate, the market is too small to attract significant foreign investment. Moreover, Ethiopia's past economic and regulatory policies, and its administrative bureaucracy, appears to have left behind a reputation for the country of being market-unfriendly. Ethiopia ranks 110 out of 150 countries in the 1997 Index of Economic Freedom, based on data gathered during 1996. The index does, however, document Ethiopia's slow but steady progress in improving its climate for investment. In comparison, two noteworthy African reformers, Ghana and Uganda, ranked, respectively, 66 and 87 in the list of 150.

5. The overall low level of FDI inflow is not consistent with the country's potential attractiveness to investors. With a domestic market of 57 million people, a wide range of natural resources, and a geographic location that gives relatively easy access to different parts of the world, Ethiopia has a higher opportunity to receive interest from serious investors than many other African countries. But Ethiopia's laws, regulations and procedures that govern business entry and business operations currently compare unfavourably not only with countries of "best practice" around the world, but even with many competitors in the African region.

#### **Domestic Trade Licensing**

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<sup>14</sup> USAID. 1994. *Outline of Steps Required to Obtain Necessary Licenses to Start an Agribusiness Share Company*, Addis Ababa.

6. A USAID-sponsored study documented over 60 steps required to establish a share company in the agri-business sector. An analysis of each of these steps suggests that less than half of them are clearly necessary to protect social welfare (e.g., to protect human health or safety or the environment) or are common to countries with a robustly growing private sector. Many of the rest appear to be designed as *ex-ante* guarantees that all legal and contractual obligations are in order—in most other countries, it is up to the parties to the contract to verify it by hiring their own lawyer or advocate. If a contract is not in order, the courts can simply refuse to enforce it. A number of other steps appear to be designed to ensure the identity of the parties to a contract and to ensure that they are eligible to enter into such a contract (civil servants, for instance, are not allowed to engage in private business in order to ensure against conflicts of interest). In Ethiopia, all is verified by an individual's *Kebele*—an official village or neighbourhood level association that can vouch for him or her. In many other countries, simple verification of identities and signatures can be obtained from a notary public. One of the critical differences between a *Kebele* and a notary public is that any individual can turn to one and only one *Kebele* for certification.

### **Avoidance of Regulatory Controls through “Informality”**

7. Since every business in the formal economy must have a trade license, and since the Trade Registry is used by the tax authorities to locate private sector businesses, a subject which emerges as an important matter is the issuing of regulatory procedures so burdensome that many small firms prefer to remain “informal” in order to avoid them. Why do some businesses stay informal?

8. Many businesses start informally to avoid the regulatory red-tape and rent-seeking that normally accompany formal registration. The policies of the previous regime spawned a large and robust black market, which avoided the regulatory harassment of the Dergue. Since the TGE came to power, there has been discernible growth in the formal, private business sector—at least some of which has been from businesses that once operated informally but who actually appreciate the current enabling environment.

9. There is still a very large informal business sector operating in Ethiopia. This is a cause for concern because: (1) Informal businesses make use of (and often contribute to the congestion of), public goods and services such as roads, waste removal, drainage and sewerage systems, as well as such utilities as water, power (a survey in Mexico showed that the “subterranean” economy used up to 38 per cent of national electricity production without paying for it)<sup>15</sup> and telephones, which are usually subsidised for household consumption. (2) They usually pay little or no taxes to contribute to the costs of these public goods and services. (3) If their businesses are in a position to expand, but they still want to stay “informal,” their investments may be designed to keep them hidden from

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<sup>15</sup> Alejandro Portes. 1994. “The Informal Economy and Its Paradoxes,” in Smelter, Neil and Richard Swedberg (eds), *The Handbook of Economic Sociology*. Princeton University Press.

the authorities, which may represent an inefficient use of resources relative to the social optimum. (4) Owing to their illegal status, informal businesses can not turn to the State to enforce their property rights. (5) Similarly, informal business find it difficult to obtain loan financing from the formal banking community, or to obtain government-provided services such as training. (6) Both economic theory and empirical evidence suggests that economies with larger informal sectors have lower overall capital returns and growth rates.

10. Informality is not only costly to the economy, it is costly to the informal entrepreneur—hiding is not without cost, and informal firms that are caught operating illegally are subject to punitive fines. If the costs of staying informal are higher than the costs of becoming formal (i.e., registration and licensing fees, the opportunity costs of the time required to comply with regulations, and the new tax liabilities), then firms will choose to become formal. Government can encourage informal firms to register by lowering the direct and indirect costs of licensing and registration and by keeping taxes for small business and associated indirect costs as low as possible, consistent with overall revenue requirements and the need to minimise distortions within the tax system.

11. Bank staff have determined in the past that a large proportion of small- and medium-enterprises encountered delays in certification, registration, and licensing, sometimes up to one year. About one quarter reported that the Inland Revenue Authority was the greatest source of difficulty among the various agencies.

12. Over time, there should be a re-orientation of government policy, both *de jure* and *de facto*, away from a presumption of a need for government control and intervention, and toward a role of facilitation, with government intervention employed where necessary to correct clear market failures and to provide needed public goods.

## ***Annex 4: Financial Management***

1. The Expenditure Management and Control Program (EMCP) is perhaps one of the best performing of the five pillars of the Civil Service Reform Program (CSRP). The EMCP is ambitious, consisting of a long list of reforms in accounting and budgeting, financial information systems, fees and charges, the Public Investment Program, internal and external auditing, asset, procurement, aid, cash management, and the development of accounting and auditing professions.

2. The mission found the CSRP to be comprehensive and ambitious but lacking a discernible ranking of priorities, sequencing, and operational planning. Given the lack of skilled staff, its implementation is likely to be slow. The program does not focus on capacity building or civil service salary issues, nor does it accord the revenue side of government finance adequate attention. The CSRP does not have a functional or operational orientation. The current capacity of financial management staff is low at every level and, due to unappealing terms of service, turnover is high and capacity is deteriorating. The focus is on developing management systems at the expense of improving operational considerations and capacity—a critical element identified by the task force and recognised by the government.

3. Expenditure controls of the CSRP are comprehensive, however, it is not clear how or when over-regulation and the lack of authority at the federal and regional levels will be addressed. The system is front-end loaded (ex-anti controls are strong), to compensate for organisational, systems, and structural shortcomings.

4. On the revenue side, two studies have been carried out: a pilot scheme to reform the customs administration; and a study on income tax, including recommendations. Due to cost considerations, shortage of staff, and regionalisation—reducing the number of federally taxable entities—implementation of recommendations has been postponed. With the existing capacity, it is difficult to understand how the revenue collection backlog and rent-seeking opportunities will be reduced.

5. The Financial Administration Proclamation was approved in December 1996, followed by approval of federal regulations by the Council of Ministers on July 1997; the directives are under preparation. These documents do not, however, place the responsibility for preparation of accounts in the line spending institutions—accountability remains with the Ministry of Finance. According to the task force's diagnosis, this is one reason for the lack of financial information and non-compliance with regulations by the spending institutions. Other reasons include the lack of authority, skills, guidelines, and of a legal budget calendar.

6. The above legislation applies to federal, and not regional, institutions. Relations between the central and regional institutions, and among regional institutions, are unclear. Two examples are: the Office of the Auditor General (OAG) (federal) has no authority to audit regional accounts, even for federal funds; and, although, the working relation

among the central bureaux at the regional level is good, relations between the central bureaux and the sectoral bureaux are unclear and difficult.

7. Existing legislation provides adequately for the independence of the OAG, but is not put in practice. The OAG submits its budget to Parliament, but, due to lack of capacity, the latter forwards it to the MOF for review. Similarly, audit reports systematically are sent to parliament, but are not acted upon. With respect to staffing issues, the OAG still comes under the Civil Service Commission. Lastly, the commercial code which, *inter alia*, regulates taxation, audit of the private sector and the development of the profession, dates back to 1960 and needs total revision.

8. OAG has high standards and well-qualified staff (unlike the regions which have new, inexperienced staff, old manuals, and little equipment). Since internal controls are not fulfilling their functions, the work load for OAG is greater than expected and it difficult for them to perform their audits. The absence of feedback to their findings and recommendations contributes to low morale among OAG staff.

### **Priorities for Possible Bank Assistance**

9. The recommendations stem from the perceived sense of urgency to build up a minimal but critical mass of finance and control-function staff, especially in the regions, without which the CSRP will not achieve its intended results and management systems will not be effective. Recommendations focus on the best use of resources that are being spent, complemented, if and when necessary, by additional external inputs.

### **Capacity Building and Skills Development**

10. The improvement of capacity and of the qualifications of accounting and internal audit staff is a high priority. In the context of the comprehensive program which is under implementation, this is the area which deserves immediate attention. One possibility for improving the quality of staff in the centre and the regions could be to mobilise resources from the MOF (inspectorate), OAG, MEDAC, the Audit Service Corporation, and even private audit firms, for a short-term intervention (about 9 to 12 months). Under supervision of a task force, the staff from these institutions could be assigned to train trainers and staff, in the centre and the regions, in three steps: first, a workshop in Addis for organisers of workshops and staff in sectoral institutions; second, two sets of workshops in each region (or a group of regions) for Regional External Auditors (RAG) and Regional Internal Auditors (RIAs) staff. The former (workshop for RAG) would be run by OAG and the latter by MOF; third, workshops for accountants in all regions run by trained auditors and facilitated by inspectors of MOF. At each workshop, new guidelines, manuals, and formats would be distributed to participants and the training could be transformed into on-the-job training. If necessary, staff from the Audit Service Corporation and private auditors (national and international) could assist at different stages of preparation and/or training.

### **Improving the Relevance and Quality of Training**

11. MOF is reviewing the curricula and providing in-service training. The mission wishes to flag the relevance and quality of the graduates of educational institutions. At present, about 200 to 300 people graduate annually in accounting and business from schools and university at high cost. Those who join the civil service need to be retrained before becoming operational. To maximise the impact of educational resources, the curricula and syllabus should be revised and the quality and relevance of the courses improved so students are operational upon graduation.

12. To improve OAG's capacity and deterrent effect, its relationship with parliament could be strengthened through the creation of a Parliamentary Accounting Committee or Public Accounts Committee with a clear mandate and strong leadership.

## ***Annex 5: Public Procurement***

1. Public Procurement is being reorganised within the CSRP. Following the change in government, public procurement was decentralised. Government ministries and agencies, and public enterprises were in charge of procurement, and followed generally acceptable procurement procedures, including open tendering. However, the increasing occurrence of complaints forced the Prime Minister's Office (PMO) to create a Central Tender Committee (CTC)—headed by an advisor from the PMO and composed of four technical advisors of the same PMO—which acted much like a Central Tender Board for all public procurement above specified thresholds.

2. The Procurement Unit in the Emergency Recovery Project, which had well trained professionals, was transformed in 1995 into a semi-autonomous body named the Central Procurement Cell (CPC), under PMO supervision. The CPC acted as a procurement agent for ministries and other public entities, upon instructions from PMO. Currently the CPC is staffed with three professionals, its volume is declining, and its future role is unclear. One problem identified under Bank-financed projects is the delay in bid evaluation and approval by the CTC and/or other authorities. This has resulted in the decision to retender or cancel procurement, causing donors and bidders to perceive a lack of transparency in the process.

### **Decentralisation**

3. The political and administrative decentralisation, which occurred during the last two years, resulted in the creation of nine regions, each responsible for its procurement. Large volumes of public procurement are carried out by regional governments in the absence of a legal and regulatory framework. This has risks and it is hoped that the ongoing federal procurement reform will serve as a model for regional governments.

### **Proposed Public Procurement Reform**

4. The mission reviewed proposed reform documentation, including: (i) the Federal Government Financial Proclamation No 57/1996 (Part 11—Procurement and Contracts) which constitutes the Procurement Law, (ii) the Council of Ministers Financial Regulations No 17/1997 (Part 13—Procurement Contracts), (iii) the draft Ministry of Finance Directives on Procurement and Contracts (undated), and (iv) the draft Procurement Manual (revised 28/8/97). The latter two are being prepared by a committee of seven procurement specialists from the PMO and MOF, assisted by a UNDP-financed financial expert.

### **Assessment of the Government's Program**

5. The proposed reforms and the documents raise some issues which ought to be addressed. The procurement-related sections in the Financial Proclamation and Regulations are weak. These weaknesses cannot be addressed through the Directives and Manual. Government should consider basing its procurement reform on the UNCITRAL Model Law on Public Procurement, which embodies a modern and comprehensive set of provisions.



6. The legal set up should address the methods of procurement and their conditions of use, the tendering process, public access to information, and the review process in the case of complaints. The regulations and/or directives should address a procurement oversight body (a Tender Board), and a procurement policy-making body—critical elements to ensure transparency in public procurement.

7. The proposed Procurement Directives—on which the Bank provided detailed comments by letter dated December 29, 1997—contain essential ingredients for good public procurement practices, including a section on ethics. However, modifications or additions along the following lines may be necessary to increase clarity in the documents, and transparency in procurement procedures:

- Directives should distinguish between procurement of goods and equipment, works, and consultant services (of an intellectual nature), rather than treating them all the same.
- For procurement of goods, the use of a list of approved suppliers may lead to serious bureaucratic shortcomings. To function properly without restricting access to procurement opportunities, such a system must be well maintained, and applications for registrations must be processed promptly and fairly. The concerns that led to introducing the proposed system may be addressed more efficiently and transparently through a post-qualification process.
- The proposed directives appear to leave too much room for negotiations in tenders. Negotiations prior to contract award in tenders for goods and works should remain exceptional, and be restricted to specified situations.
- The use of a merit point system may be abused and result in subjective evaluation of bids. It should be limited to the selection of consultants, and, in some cases, to the procurement of equipment and not be used for procurement of common goods and works; for these, price should determine contract award.
- The Federal Procurement Laws, Regulations, and Directives would not cover procurement by Public Enterprises or Regional Governments. For the latter, a legal and regulatory system similar to the federal one should be enforced promptly.

### **Priorities for Action and Possible Areas of Bank Assistance**

8. The public procurement reform should be pursued actively, preferably on the basis of the UNCITRAL Model Law as recommended above. The problem of political and administrative decentralisation ought to be addressed, ensuring that the regions adopt a reliable procurement system as a condition for financial contributions from the Federal Government to their capital and recurrent budgets. Given the Bank's experience in assisting member countries in procurement reform and capacity building, the mission offered the Bank's assistance in these two areas—support which can be enhanced through a Bank operation or an IDF grant.

9. A World Bank Country Procurement Assessment Report (CPAR) was completed for Ethiopia in August 1998. Its detailed findings and recommendations are consistent with those of the anti-corruption team. The report was transmitted to the Minister of Finance on

August 12, 1998. The transmittal letter, which indicates the priority actions that Government should consider, is provided as an addendum to this annex. The full CPAR is available from the World Bank, attention Jean-Jacques Raoul, Procurement Adviser, Africa Region.

August 12, 1998

H.E. Ato Sufian Ahmed  
Minister of Finance  
Ministry of Finance  
P.O. Box 1905  
Addis Ababa  
ETHIOPIA

Dear Mr. Minister,

In May-June, 1998 the Bank, in close coordination with officers of the Ministry of Finance, government departments and parastatal agencies, carried out an assessment of the key legal and procedural aspects of procurement in Ethiopia. The findings of the survey are detailed in the recently completed Country Procurement Assessment Report (CPAR) which is enclosed with this letter.

The CPAR is intended to assist the Government in improving its capacity to manage and monitor the procurement process to ensure value for money in public sector contracting for goods, works and services, and building up accountability, integrity and transparency across the full range of public sector procurement to minimize corruption risks. The CPAR serves as a useful tool for Bank staff working on projects in Ethiopia, since it provides information on applicable procurement laws and regulations; capability of Government institutions in charge of procurement, administration and supervision of contracts; the procedures for importation of goods; and any restrictive or inadequate practices in procurement and contract management.

The CPAR comes at a critical juncture, since the transparency and efficiency of Ethiopia's procedures and regulations concerning the use of international (ICB) and national competitive bidding (NCB) will be essential for the sound implementation of large-scale, mostly decentralized, programs such as the recently negotiated Education and Health Sector Development Programs and the preparation/appraisal of future Bank-financed operations.

The 1998 Ethiopia CPAR indicates that GOE has done much recently to clarify and update its regulations for the procurement of goods, works and services but in some important respects further improvements are necessary to bring them into line with

international good practice, guarantee transparency of the procurement system and reduce causes of delays in the implementation of projects. In addition, the institutional arrangements for monitoring the procurement process and ensuring that the regulations are systematically applied need to be strengthened.

The areas where, in our view, improvement is needed are described in bullet form in Volume I, section B, of the CPAR and, in more detail, in section F concerning public sector procurement. Anti-corruption measures, incorporating the findings of the Bank's December, 1997 anti-corruption mission are described in section E of Volume I. In addition, the six Annexes in Volume II furnish a full analysis of some of the issues concerning the present legal, financial and commercial framework and offer the background material for the key recommendations and action plan.

Based on section 1.22 of the CPAR on public procurement, the following actions have been identified as requiring priority:

- (i) Modification and/or deletion of procedures which may lead to corrupt or non-transparent procurement practices, and which are inconsistent with international best practice. In particular, these include clauses of the present Ministry of Finance Directives and Procurement Manual concerning the use of price negotiations, merit point system, use of two-envelopes system, procurement methods and the concept of "best evaluated bids". The implementation of the recommendations of the CPAR would constitute an important foundation to subsequent incorporation of specific anti-corruption clauses in future large international contracts.
- (ii) Collection of present dispersed, incomplete procurement rules and regulations into an efficient, modern procurement code based on internationally recognized laws such as the "UNCITRAL Model Law on Procurement of Goods, Construction and Services". In particular, the law should establish the role of government, central, decentralized and other public bodies; address the issues of procurement methods and their conditions of use; establish clear directives on the tendering, review and contractual disputes process; and make a clear distinction between the procurement of goods, works and services (presently not well-defined in the MOF directives).
- (iii) Establishment of an overall procurement monitoring and processing body which would make policies on procurement matters; oversee the procurement process; address integrity and transparency issues; and deal with contractors/suppliers' complaints under procedures established by the law. This, and the other priority actions described above, would considerably strengthen confidence in public institutions and processes in an area of primary importance such as procurement.

In conclusion, we take this opportunity to propose to you a working meeting between your representatives and Bank staff (both from the Resident Mission and Bank

Headquarters) to discuss the findings of the CPAR, and jointly prepare an action plan for the implementation of the recommendations.

The meeting might be carried out in Addis Ababa preferably in the week of October 5th-9th, 1998, in parallel to other activities scheduled by the Bank for that period. If there is interest, we can also advise you on technical assistance grants available through the Bank's International Development Funds (IDF) for strengthening procurement systems, to help undertake some of the actions described in the CPAR.

We would be pleased to receive your comments on the CPAR and look forward to your reply to our proposal for an October meeting so that we may prepare for the mission.

Best regards.

Sincerely,

Oey Astra Meesook  
Country Director for Ethiopia  
Africa Region

Attachment

cc: Messrs. H.E. Ato Kebede Tadesse, Office of the Prime Minister  
H.E. Ato Girma Birru, Ministry of Economic Development and  
Cooperation

***Annex 6: Dialogue among Parliament, Civil Service, Civil Society, the Private Sector, and the Media***

1. Government has embarked on a multi-faceted program to curb corruption in the CSRP. Related initiatives include plans to enhance public sector integrity through: *gemgema*, a process of peer evaluation, which has been used to expose and punish corrupt officials; the strengthening of Parliamentary oversight by establishing a Public Accounts sub-committee of the Finance Committee, and by strengthening constituency offices; and through proposals to establish an anti-corruption bureau and an Ombuds office.

### **The Private Sector and Civil Society (including the Media)**

2. The mission's meeting with NGOs and the media supported the picture of systemic petty corruption arising from the need to circumvent bureaucratic obstruction, inconsistent application of rules, and delays. Foreign NGOs, in particular, would appear to be distrusted by the government, which was reported to favour domestic "GOs", that is, non-business 'government organisations' which are linked politically to the EPRDF.

3. The situation regarding the media in Ethiopia is mixed. In theory, journalists have a constitutional right-of-access to information; in reality, such access is not enforced so journalists, like business people and NGO managers, suffer at the discretion of bureaucrats. Moreover, while there are independent media in Ethiopia, some elements are accused of inciting ethnic rivalry and tension and thereby "abusing the right of freedom of expression." In short, the media are currently unable to exercise their "watchdog" function over the bureaucracy.

4. The private sector, civil society and media representatives were, without exception, unaware of current or planned government efforts to curb corruption. At the same time, however, they generally expressed a desire to participate with the government in its efforts to curb corruption.

### **Parliament**

5. The Speaker and the Deputy Speaker of the House of People's Representatives were participants in the global workshop "Strategies to Improve Parliamentary Effectiveness," conducted by the Economic Development Institute of the World Bank (EDI) in July 1997. They have since secured UNDP funding to replicate the workshop for key members of the Ethiopian Parliament; this workshop took place in March 1998.

6. The Ethiopian Parliament has traditionally been weak—the current Parliament is the first to be elected. A donor-assisted program to strengthen Parliament, including its legislation/policy-making and oversight functions is planned; in particular, a Public Accounts sub-committee of the Finance Committee, which should have resources to collaborate with and adequately scrutinise reports of the Auditor General.

### **Conclusions and Recommendations**

7. The mission believes strongly that Government should establish a structured, transparent and sustained relationship with parliament, Ethiopian civil society and the donor community to develop, implement, and monitor its anti-corruption program. The World Bank could support such a relationship and the anti-corruption program by:

- associating Ethiopian officials with examples of “international good practice” by inviting them to EDI’s global and regional workshops and/or by conducting specialised workshops in Ethiopia (for Parliament, the Office of the Auditor General, the media) and using international experts as resource persons;
- facilitating a dialogue among the government, members of the business community and civil society on how best to implement the anti-corruption program and to develop complementary activities (National Integrity Workshop).

8. EDI’s workshops complement and reinforce the anti-corruption program and the Bank’s assistance. For instance, Ethiopia participated in the “Curbing Corruption” workshop (Benin, January 1998), and could participate in the “Regional/Advanced Investigative Journalism” workshop, and the “Regional Workshop for Investigative Broadcast Journalists.” Long-term EDI assistance could include:

National Integrity Workshop  
Corruption Survey (possibly FY99)  
Investigative Journalism/The Role of the Media in Curbing Corruption \*  
Public Awareness Raising : Social Marketing to Curb Corruption  
Parliamentary Oversight: Strengthening Public Accounts sub-Committee (PAC)\* \*\*  
PAC-OAG Workshop(s), to Strengthen Oversight \* \*\*  
Auditing for Enhanced Accountability  
Strengthening the OAG and Audit Function \*\*

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\* Possible multi-year programs.

\*\* To be developed as part of possible Bank assistance to the Auditor General.

The assistance could be further developed into a proposal submitted to Government and subject to its approval. This proposal and other subjects-to-be-identified could be used to support Government’s anti-corruption program.