

Modification of SO 518-012, Increased Support for the Democratic System

Background. Ecuador's crisis of democratic legitimacy is demonstrated by the alarmingly low levels of citizen confidence in democracy¹. These low levels of support signal the real possibility of a return to non-democratic government, which would have a profoundly destabilizing effect throughout the region. USAID is working to increase support for democracy, prevent democratic backsliding, encourage international investors, and bolster regional stability, by promoting greater accountability of democratic institutions, encouraging inclusiveness in democratic processes, and building consensus on policy issues critical to the deepening of democracy. The program's main focus is on strengthening the justice system, supporting anti-corruption efforts, and building democratic local governance. Additionally, the program supports fair and transparent elections as a means of enforcing the legitimacy of democracy. The Mission's work in democracy and governance supports various USG priorities, including counter-narcotics and regional security.

A democratic and secure Ecuador can play a key role in stabilizing the Northern Andes and curbing the spread of narco-terrorism and violence. Not surprisingly, strengthening and stabilizing democracy in Ecuador is the U.S. Mission's primary goal, as laid out in the Mission Performance Plan (MPP). USAID is the lead action agency for this goal under the MPP. USAID's strategic objective seeks to build from past investments and continue pursuing "*Increased Support for the Democratic System.*"

The democracy strategy was revised in 2001 to focus on key challenges to democracy while providing flexibility in seeking solutions under a rapidly changing social, political and economic environment. The SO places high priority on the justice sector and on working with local governments and with Ecuadorian civil society organizations, given their unique understanding of the country's current circumstances and their growing strength, importance and expertise. It also seeks to proactively support the results of other Mission SOs (Environment, Southern Border, Northern Border, and Poverty Reduction). The previous SO title, 518-003, "More Effective and Fair Criminal Justice System" was changed to 518-012, "Increased Support for the Democratic System" to reflect this broader focus.

Funding under the current Democracy Strategy was approved through FY 2004 and implementation of activities extended through FY 2005 in order to address local needs and key USG foreign policy objectives. The Mission requests a one-year extension in both funding through FY 2005 and implementation through FY 2006 in order to consolidate current and past gains, and to synchronize its end date with the Mission's other SOs. As the Mission plans to develop a new strategic plan during FY2004 for implementation in FY 2006, there is a clear need to bring the termination dates of all SOs into alignment.

¹ The Mission-funded Democratic Values Survey conducted by the University of Pittsburg and local associates, found that only 13% of Ecuadorians supported stable democracy in 2001.

Although planned activities fall directly within the current results framework, an extension of the DG strategy will support Mission efforts to strengthen judicial independence, oversight, and penal reform; provide support to the 2005 municipal and 2006 presidential elections; expand local government strengthening activities to a broader range of municipalities; and, implement a more focused anti-corruption program.

Past Performance/Accomplishments to Date: In late 2001, USAID/Ecuador funded the country's first comprehensive Democratic Values Survey (DVS), which not only validated the Mission's strategic direction, including its focus on improving criminal justice, strengthening local governance, and supporting anti-corruption efforts, but also highlighted the direct link between these three areas and the DG SO – Increased Support for the Democratic System. The text below describes primary accomplishments by sub-sector.

Justice Reform. The Mission has made progress in implementing the new Criminal Procedures Code to support a more transparent oral accusatory system of justice. It has played a leading role in evaluating bottlenecks to implementation, and feeding this information back to policymakers. A thorough evaluation of the Code was completed in January 2003, which provided recommendations to policymakers for a strategy to improve the system. With the support of USAID and civil society partners, the Government of Ecuador (GOE) has established an inter-institutional commission formed by the leading justice sector actors to coordinate and improve implementation of the new system. In 2001, 97% of Ecuador's penal court judges received basic USAID-supported training on their roles in implementing the Code. To complement this effort, specialized training will be provided in late FY2003 to all penal judges, as well as key prosecutors and public defenders. USAID also supported the first specialized and high-quality application manual for lawyers. In terms of civil society results, the USAID-supported Justice and Democracy Fund financed 25 projects presented by public-private partnerships contributing to justice reform and anti-corruption efforts. In addition, USAID supported a National Justice Coalition composed of various civil society organizations working to encourage justice reform, judicial independence, and impartiality.

Anti-Corruption. Technical assistance and training provided to the Anti-Corruption Commission (CCCC) has helped the CCCC become an increasingly important player in the fight against corruption. The Commission continues to play a leading role in investigating and exposing cases of corruption, including banking scandals, a municipal budget transfer scandal, and the illicit enrichment of public officials. In an effort to understand the magnitude of corruption and its impact on democracy and to sharply focus its assistance, the Mission commissioned a corruption sector assessment, which validated the findings of the Democratic Values Survey regarding the pervasiveness of corruption and its adverse impact on citizen support for democracy. The assessment also noted that corruption obstructs the achievement of social and economic development progress in other parts of the Mission portfolio. USAID/Ecuador subsequently issued a new Mission policy which reflects the Mission's commitment to anti-corruption across its portfolio and includes a management framework intended to enhance USAID/Ecuador's anti-

corruption efforts across all programs. The anti-corruption assessment and the Mission policy laid the groundwork for upcoming investments in this sub-sector. The SOW for a \$6 million, thirty month anti-corruption activity to be funded through a Washington IQC will be distributed in FY 2003.

Decentralization and Local Governance. The Decentralization and Democratic Local Government Project (DDLGP) has worked with 15 municipalities to incorporate citizen participation and oversight into planning processes, while strengthening their capacity to provide key services. Mayors, councils, and communities have identified key needs and services using participatory processes, with technical assistance from USAID partners. Based on prioritization from these citizen participation processes, social infrastructure projects are underway in 15 municipalities. USAID/Ecuador has enhanced the debate on decentralization policy through its sponsorship of the Round Table on Governance (*Mesa de Gobernabilidad*) a donor coordination group, and outreach to the key GOE agencies working on decentralization policy. After a thorough assessment of Ecuador's national policy framework, USAID has been focusing efforts on strengthening fiscal decentralization. A focus on transparent and equitable fiscal decentralization in national policy complements USAID efforts and impact in local governance.

Elections and Political Processes. In 2002 USAID was the lead donor in supporting elections. USAID assistance was central to what has been widely hailed as the most successful elections in Ecuador's history. The elections were declared free and fair, and were characterized by their transparent and effective administration. USAID supported domestic and international observation efforts, purging of the voter rolls, results transmission, and voter education, all critical to these successes.

Need for Amendment: Political will and commitment to democratic reforms within the GOE signals a good opportunity for strengthening democracy. In just seven months, the new administration, with donor assistance, has made progress toward combating corruption and improving decentralization policy.² Moreover, while internal advances in democratization present new *opportunities* for USAID interventions, destabilizing external issues, such as the conflict and violence in Colombia, reinforce the *need* for a broader long-term approach to democracy with both country-level and regional impact.

Although democracy and governance have improved in recent years, citizen support and confidence in democracy remain low. To prevent a return to non-democratic government and continue building support for the democratic system and respond to new challenges and opportunities, USAID/Ecuador has determined that it is critical to extend its current Democracy Strategy through the end of FY2006. An extension will also align the Democracy SO end date with the Mission's other SOs and provide a consistent and integrated strategic planning horizon as the Mission prepares to develop its next strategy.

² Anti-corruption progress demonstrated by the signing of Executive Decree #122, which decrees greater transparency in government contracting, greater public sector disclosure and ethics, and the creation of a new anti-corruption system to promote coordination among the key institutions. Executive Decree #376 established a framework for decentralization policy.

It will ensure uninterrupted implementation of its democracy activities and enable the Mission to enhance its efforts in anti-corruption as it transitions to a new strategy.

The following is a justification by subsector for an extended strategy:

Justice Reform. The application of the new Criminal Procedures Code, promulgated in January 2001, is a medium- to long-term process that requires addressing a series of legal, institutional, and organizational bottlenecks to pave the way for effective implementation. The thorough evaluations undertaken with USAID support, as well as local evaluations developed by the Narcotics Affairs Section (NAS) in collaboration with USAID (especially in the Northern Border provinces), confirm the need to intensify USG criminal justice reform in Ecuador and adapt the program to tackle these bottlenecks.

Important advances have been made with a reform-minded Supreme Court President, elected in January 2002, creating momentum for more reform efforts. Prior to these advances, there was a lack of leadership for justice reform within the weak executive branch and disinterested Supreme Court, as well as a lack of clear political direction and inter-institutional coordination in implementing the new system. This situation adversely affected USAID's prior efforts. Given current opportunities in the sector, and the latest results achieved, USAID expects future efforts will have a much greater impact.

Anti-Corruption. The level of corruption in Ecuador ranks among the most extreme in the world and second in Latin America³. According to the results of the DVS, there is a clear linkage between citizen perceptions of corruption and low support for democracy. Given this close empirical relationship, as well as the recommendations of a recent corruption sector evaluation, the Democracy and Governance team decided to significantly strengthen its approach to supporting Ecuadorian anti-corruption efforts through a \$6 million new anti-corruption activity. Local demand for such an activity has been fueled by many positive developments that have occurred since President Gutierrez was sworn-in, the most visible of these being the signing of Executive Decree No. 122, which decrees greater transparency in government contracting, greater public sector disclosure and ethics, and the creation of a new anti-corruption system ("SAE") to promote improved coordination and collaboration among the key control institutions. Cultivating political openings and helping the GOE and civil society address the pervasive problem of corruption with a long-term program is a Mission priority.

Decentralization and Local Governance. Soon after taking office, President Gutiérrez established a Secretariat for Dialogue and Planning to incorporate citizen participation processes into Government planning and priorities. On May 16, 2003, he also signed Executive Decree No. 376, establishing a framework for decentralization policy. Although progress has been slow, it appears likely that the GOE will sign a credit of \$4.2 million with the Inter-American Development Bank to help implement the decentralization process through the GOE Commission for Modernization of the State

³ Transparency International in its Annual Report for 2002 rates Ecuador as 91st of 102 countries in the world and next to last in Latin America as evaluated for effectiveness in terms of control of corrupt practices in government.

(CONAM). Future efforts in local government strengthening, including DG support to municipalities along the southern border and those of the Northern Border project would increase the number of local governments strengthened from 15 to 40. Similarly, the current 15 USAID-supported municipalities demonstrating improved provision of basic services can be increased to at least 25 by FY2006. Reaching a greater critical mass will lead to increased confidence in local governments, which can translate into broader support for the democratic system. Under the extended SO, implementation of the decentralization process will continue to be coordinated with the appropriate GOE ministries, decentralization agencies, and other donors.

Elections. A proposal from the Elections Court to postpone sub-national elections from May to November 2004 is being analyzed by Congress. If approved, elected officials will take office in January 2005. Presidential elections will be held in October and November 2006. The Mission has been asked by the Supreme Electoral Tribunal (TSE) and Participacion Ciudadana, the most respected Ecuadorian NGO working on domestic observation and promotion of democratic values, to provide the same kind of targeted assistance that characterized USAID's support in the 2002 elections. Extending the SO will allow the Mission to provide needed assistance to ensure the success of these major democratic processes.

Results Framework/New Activities: The democracy strategy was revised in 2001 to help the Mission deal with quickly changing realities. The strategy addresses issues of both supply and demand by supporting improved institutional performance, wherever feasible, while promoting/enabling citizen involvement, access and oversight. In this context, the Mission identified three underlying challenges to Ecuador's political system. Addressing these issues in a comprehensive manner is key to re-establishing citizen support of democracy and laying the groundwork for regional stability:

- Improved transparency and accountability of key democratic institutions
- Greater inclusiveness of democratic processes
- Increased policy consensus in key democratic areas

Continuing to focus on these three Intermediate Results (IRs) is the best way to address the underlying issues and to measure progress toward the strategic objective. The results framework will not need to be modified as a result of additional funding or time extension for the SO. Activities in each sub-sector proposed for FY05 and FY06 fit within the parameters of current SO strategy and directly contribute to at least one and, in many cases, all of the above-mentioned IRs. A copy of the approved framework is attached.

Illustrative Activities:

Justice Reform. Activities may include expanding specialized techniques to train judges, prosecutors, and public defenders to improve their performance under an accusatory system; expanding and/or establishing monitoring and case tracking systems for the judiciary and prosecutorial functions; promoting legal reforms to the Code and

related laws; supporting the implementation of the National Public Defense System, once the Public Defense Law is approved; strengthening the institutional capacity of the National Justice Commission to ensure sustainability of reforms; and financing observational visits of justice sector officials to the U.S. and Latin American countries with hands-on experience on the application of an accusatory system. Support to consolidate the civil society National Justice Coalition and initiate private-public strategic alliances to promote justice reform and oversight of judicial independence will continue thru FY 06. Finally, the elimination of extensive “legal trash,” contradictory and obsolete legislation and secondary regulations that facilitate discrepancy in judicial decisions and a greater perception of corruption, is expected to improve citizen perceptions of corruption in government.

Anti-Corruption. In the area of anti-corruption, the Mission is currently in the process of procuring a \$6 million anti-corruption program to support Ecuadorian efforts to combat corruption by strengthening the capacity of the GOE and civil society to increase transparency and accountability of key democratic institutions and processes; to improve the investigative and sanction capacity of institutions legally empowered to carry out such functions; and to strengthen the ethical conduct and democratic values of public officials and citizens.

Decentralization and Local Governance. Ongoing activities will continue through FY2006 to consolidate and expand upon results already achieved in stimulating citizen participation and oversight efforts, as well as improvements in the provision of local government services. Follow-on support will be coordinated with the new local government strengthening agenda of the Mission’s Northern Border Strategic Objective (SO 518-013, Improved Quality of Life of the Population Living Along the Northern Border), allowing USAID and contractors to expand their base of support to local governments in the central highlands and other areas of Ecuador, including the Galápagos Islands. In complementary fashion, the DG Team plans to contribute to efforts to strengthen local government in four provinces along the southern border, in conjunction with the Mission’s Southern Border Special Objective (SpO 518-011, Improved Social and Economic Conditions of Inhabitants along the Peru-Ecuador Border, Thereby Promoting Border Integration), where funding to date has been more limited than originally anticipated.

Elections. Activities may include technical assistance, training, and commodities to strengthen the institutional capacity of the Supreme Electoral Tribunal, promote electoral reforms proposed by the Electoral Court and civil society, support domestic observation efforts including quick vote counts, mobilization of volunteers to observe elections, monitoring of campaign spending, and encourage inter-party dialogue. The Mission may consider undertaking TA and training activities to strengthen political parties.

Illustrative Results/New End of Program Targets

A. Justice Reform

- An improved application of the new criminal justice system. New evaluations will be undertaken in FY2004 and in FY2006;
- Greater access to justice by vulnerable groups of the population through an effective implementation start-up of a National Public Defense System. With this system in place, it is expected that the number of public defenders will be increased and also that the judiciary will be able to outsource defense services to civil society organizations. New public defenders and civil society lawyers need basic and specialized training to provide sound technical services to the poor.

B. Anti-corruption

- Stronger, more coherent and unified anti-corruption movement within civil society;
- Greater transparency in selected areas, such as government information and public contracting;
- Effective civil society oversight of up-coming 2004 sub-national and 2006 national elections processes, and other democratic processes;
- Increase in the number of corruption cases investigated, denounced and sanctioned.

C. Decentralization and Local Governance

- At least 30 USAID-supported local governments have consolidated citizen participation and oversight procedures;
- Community oversight commissions functioning in at least 30 USAID-supported local governments;
- At least 25 USAID-supported local governments demonstrating improved provision of basic services.
- Passage and implementation of at least three democratic decentralization reforms and regulations.

D. Elections and Political Processes

- Contribute to the development of fair and transparent elections in Ecuador for the 2004 municipal and 2006 presidential elections.

With the increase in one additional year of life of SO funding for this extended SO, select targets will be revised as follows:

Indicator	Old Target	New Target
SO Level: Increased Support for the Democratic System		
IR1: Improved Transparency and Accountability of Key Democratic Institutions		
Formal Judgment Issued Concerning Transparency and Fairness of Elections	2002 Presidential Elections Declared Free and Fair	2004 Municipal Elections; 2006 Presidential Elections

		Declared Free and Fair
Establishment of a Network of NGOs Working on Quality Anti-Corruption Efforts	n/a	1
Indicator	Old Target	New Target
IR2: Greater Inclusiveness of Democratic Processes		
USAID-supported local governments have consolidated citizen participation and oversight procedures	15	30
Number of Legal Service Providers Strengthened	7	10
IR3: Increased Policy Consensus in Key Democratic Areas		
Development of National Plan for the Implementation of Public Defense System	Key Legislation Passed	National Plan Formulated and Implementation Initiated
Reforms to the new Criminal Procedure Code to Improve its Application	Implementation of Code Initiated and Reforms Identified	Key Reform Legislation Passed

Resource Requirements

To cover the implementation period under the base funding level from FY2004 through the end of FY2006, the life of strategic objective funding level of the Democracy SO will be increased from the authorized level of \$23,600,000 to \$38,901,000.⁴ The proposed funding level complements historical trends and coincides directly with control levels approved in FY 2004 and the amount proposed for FY 2005 in the most recent Annual Report.

Current Authorized Life of Strategic Objective Funding Level (FY 2001 through FY 2004): **\$23.6 million**

Requested Authorized LOSO Level: **\$38.9 million**

Obligated FY 01	Obligated FY 02	Planned FY 03	Subtotal FY01 – FY03	CBJ Request for FY 04	Mission Request FY 05	Total (FY01-FY05)
\$5.35 M (Does not include obligations under previous strategy)	\$7.6 M (Does not include obligations under previous strategy)	\$8.651 M	\$21.601 M	\$8.1 M (\$6.101 M additional funding beyond the currently authorized SO level of \$23.6 M)	\$9.2 M	\$38.901 M

⁴ FY 04 \$2,000,000 (+\$6,101,000) FY 05 (+\$9,200,000) = Total new authorized funding of \$15,301,000 through FY2005 and no new funding under this SO for FY2006.

The base funding level of the DG Strategy was approved at \$23.6 million. However, the DG strategy approved in June 2001 presented two funding level scenarios: One lower level scenario with obligations ranging from \$5- \$6 million per year, and a higher level scenario ranging from \$8 - \$10 million per year. Increased level of OYB assigned to USAID/Ecuador has allowed the DG Team to absorb higher amounts of resources and to plan and operate under the proposed higher level funding scenario.

Also, this higher level funding allowed the Mission to respond to specific program needs that emerged after Strategy approval: (a) the Embassy Country Team deemed it necessary to increase the level of support for the electoral process. The Mission implemented a \$1.4 million dollar program as opposed to the originally planned \$100,000 for this activity; and (b) the Mission funded a new Rule of Law project on Eliminating Legal Trash implemented by the local NGO, *Hacia la Seguridad* (HLS).

The dependence on ESF resources to support this democracy strategy make it both vulnerable to future budget uncertainties as well as difficult to plan long range allocation of resources. The following is an illustrative description of the relationship between the requested budget and results:

Base Level:	Anti-corruption:	\$ 7,068,834
	Decentralization/Local Governance:	\$ 3,494,609
	Justice Sector Reform:	\$ 3,992,164
	Elections:	\$ 1,100,000
	Design, M&E, Other	\$ 648,873
	Management & Administrative	
	Costs (including program-funded staff)	<u>\$ 995,520</u>
	<ul style="list-style-type: none"> • Democracy Specialist USPSC • 3 FSNs (program office support, project assistant and a project manager) 	
	Total	\$17,300,000

Total: \$17.3 million (\$8.1 million for FY04 and \$9.2 million for FY05).

With the control levels approved in FY 2004 and the amount proposed for FY 2005 in the last Annual Report, the Mission will be able to continue providing critical support activities in each IR. The Mission will devote more resources to increase attention to citizen participation and oversight, and municipal strengthening. The Mission will also be able to provide assistance to help guarantee a fair and transparent process to upcoming municipal and presidential elections scheduled to take place within the proposed SO timeframe. Increased support to the Supreme Electoral Tribunal (TSE) to prepare for the sub-national and national elections and the promotion of important electoral reforms will be provided. The Mission plans to extend the justice reform program in order to provide timely support to the establishment of the National Public Defense System. Technical

assistance and training efforts for the implementation of the Enforcement of the New Criminal Justice System Plan⁵ will also be increased. The anti-corruption portfolio will be a major focus of this extended SO and will help the Mission to cultivate current GOE political will and mobilize innovative efforts by civil society actors to combat corruption in the public sector by FY 2006. The Mission also plans to fund a follow-on Democratic Values Survey, which will help to facilitate public dialogue and debate on key democratic issues. Further, results of this survey – as noted in the previous years – will help political parties and candidates to address key democratic issues identified by Ecuadorians. With the additional year of funding and two years of implementation, USAID/Ecuador will build from past investments and continue pursuing *“Increased Support for the Democratic System.”*

Andean Regional Strategy Context

Objectives of the USAID/Ecuador extended DG SO directly coincide with U.S. interests in the Andean region and will help the Mission position itself well for possible integration into a regional strategy. All programs and activities are geared toward achieving national level impact, while program successes potentially transcend national borders and contribute to regional stability.

Despite the specific range of hurdles that impede democratization efforts of each Andean country, there are many shared challenges and great potential for shared experiences and best practices. DG efforts in Colombia, Ecuador, Peru, and Bolivia include activities aimed at the reform of justice, combating corruption, and strengthening local governments. A more coordinated approach throughout the region would likely prove beneficial for all Missions. USAID/Ecuador hopes to gain significantly from the DG experiences in other Andean countries and to assist other Missions by imparting best practices and lessons learned from the expanded DG SO.

The following points highlight substantive and/or programmatic overlaps among Andean countries in area of democracy and governance:

- Each Andean country is in the same process of introducing new accusatorial justice systems. Justice sector reform efforts are needed in the Northern Border provinces of Ecuador, where the situation is even more chaotic than in the rest of the country due to the absence of official justice and the presence of Colombia’s guerillas and para-military forces.
- Fair and free elections are a major element to sustain the Andean countries’ fragile democracies. Participacion Ciudadana was created with the support and

⁵ The New Criminal Justice System Plan is scheduled to be designed in late 2003 by the National Commission for the Application of Criminal Justice in Ecuador.

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assistance from Transparencia Peru. These organizations have already begun to collaborate and work together toward common goals.

- The level of corruption in the Andean region, especially Ecuador, ranks among the most extreme in the region. Issues that contribute to the extent of corruption in each country may be more successfully addressed under a regional perspective.
- The Democratic Values Survey is a powerful analytical tool to advance discussions on democracy issues and to measure the pulse of Andean countries' weak democratic systems.

Democracy Results Framework

