



USAID
FROM THE AMERICAN PEOPLE

CORRUPTION ASSESSMENT: UKRAINE

FINAL REPORT

FEBRUARY 10, 2006

This publication was produced for review by the United States Agency for International Development. It was prepared by Bertram I. Spector and Svetlana Winbourne of Management Systems International, and Jerry O'Brien and Eric Rudenshiold of USAID.

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UKRAINE

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Table of Contents

List of Acronyms.....	ii
Executive Summary.....	iv
1. Introduction	1
2. Overview of Corruption in Ukraine.....	3
3. Policy and Legal Framework to Fight Corruption.....	11
4. Anti-Corruption Stakeholders in Ukraine.....	16
5. Proposed Strategic Directions for Ukraine.....	21
6. Corruption in Government Sectors and Functions.....	25
6.1 Judicial Sector.....	25
6.2 Health Sector.....	29
6.3 Education Sector.....	33
6.4 Public Finance.....	35
6.5 Private Sector.....	42
7. Corruption in Institutions.....	48
7.1 Parliament.....	48
7.2 Political Parties.....	53
7.3 Subnational Government.....	56
8. Priority Recommendations for Anti-Corruption Programming.....	61
Bibliography.....	68
Appendix: List of Interviewees.....	72

List of Acronyms

ACN	Anti-Corruption Network for Transitioning Economies
ABA-CEELI	American Bar Association Central European and Eurasian Law Initiative
ACU	Accounting Chamber of Ukraine
BEEPS	Business Environment and Performance Survey
CAOCC	Parliamentary Committee Against Organized Crime and Corruption
CCAA	Chief Control and Auditing Administration
CIPE	Center for International Private Enterprise
COI	Conflict of Interest
CSO	Civil Society Organization
COE-GRECO	Council of Europe- Group of States Against Corruption
CURE	Center for Ukrainian Reform Education
DAI	Development Alternatives, Inc.
DOJ	Department of Justice
EBRD	European Bank for Reconstruction and Development
EMG	Emerging Markets Group
ERUM	Economic Development of Ukrainian Municipalities
EU	European Union
FBI	Federal Bureau of Investigation
FOIA	Freedom of Information Act
FSU	Former Soviet Union
GOU	Government of Ukraine
IFES	International Foundation for Election Systems
IFMS	Integrated Financial Management Systems
IMF	International Monetary Fund
INL	International Narcotics and Law Enforcement
ISC	Institute for Sustainable Communities
IRI	International Republican Institute
MCC	Millennium Challenge Corporation
MOH	Ministry of Health
MOJ	Ministry of Justice
NDI	National Democratic Institute
NGO	Non-Governmental Organization
NSDC	National Security and Defense Council
OECD	Organization for Economic and Co-Operative Development
OPDAT	Office of Overseas Prosecutorial Development Assistance and Training

PDP	Parliamentary Development Project
RTI	Research Triangle Institute
SBU	State Security Service
SCRPE	State Committee of Ukraine for Regulatory Policy and Entrepreneurship
SME	Small Medium Enterprise
STA	State Tax Administration
UCAN	Ukraine Citizen Action Network
USAID/DCHA	United States Agency for International Development/Democracy Conflict and Humanitarian Assistance
USG	United States Government
VAT	Value Added Tax
VR	Verkhovna Rada
WB	World Bank
WTO	World Trade Organization

Executive Summary

The fight against corruption in Ukraine received a welcome boost in November-December 2004 as a result of the Orange Revolution. A year after the change in administration, some positive rhetoric has been heard and some reform activities have been accomplished, but a strong and clear national policy and strategic direction against corruption, with accompanying programs to increase transparency, strengthen accountability and build integrity, are still absent. This report analyzes the status of corruption and the anti-corruption program in Ukraine, focuses on several principal sectors, functions and institutions in depth, and offers priority programming options for USAID to consider in support of enhanced anti-corruption initiatives in the coming years.

Corruption in Ukraine still remains one of the top problems threatening economic growth and democratic development. Administrative corruption is widespread and visible in the everyday lives of citizens and businesspeople, and grand corruption is also widespread, though not as visible, in the higher levels of government where large sums of money and political influence are at stake.

Ukraine can be categorized as a *closed insider economy*¹ -- a country strongly influenced by elite cartels. Top political and business figures collude behind a façade of political competition and colonize both the state apparatus and sections of the economy. Immediately after independence, these influential elite and their organizations grew into major financial-industrial structures that used their very close links with and influence over government, political parties, the mass media and the state bureaucracy to enlarge and fortify their control over the economy and sources of wealth. They used ownership ties, special privileges, relations with government and direct influence over the courts and law enforcement and regulatory organizations to circumvent weaknesses in governmental institutions to their own private advantage. Their tactics and their results can be viewed as a clear exercise of *state and regulatory capture*. At the same time, there is a high tolerance for corrupt practices throughout society, facilitating a trickle-down effect that allows petty, administrative corruption to flourish.

This corrupt environment is a clear obstacle to future sustainable economic growth and integration into the European Union and world economy. It hinders fair competition, encourages under-the-table deals and collusion between state officials and business, promotes rent-seeking behaviors, discourages foreign investment, and decreases adaptability over time.

In more recent years, several of these Ukrainian cartels/clans have grown and subdivided, increasing the number of clans that compete with one another for wealth and power. Sometimes, for convenience, these clans coalesce on political issues. After the Orange Revolution, the network of “bosses” within the government bureaucracy that could “make things happen” for the cartels/clans was partially dissembled, resulting in some

¹ World Bank, *Ukraine: Building Foundations for Sustainable Growth, A Country Economic Memorandum: Volume 1* (August 2004).

uncertainty and a slowdown for major businesses. It is to be seen if the Yushchenko government rebuilds with a responsive, accountable and professional bureaucracy.

While the current situation may appear to the Western eye as an incipient competitive market economy, the system still operates largely in a collusive and opaque fashion, subverting the rule of law, and with apparent disregard for the public good.

Why is there corruption in Ukraine?

There are many factors that contribute to and facilitate corruption in Ukraine, including:

- An incomplete and inadequate legal framework.
- Selective enforcement of existing laws and regulations and the exercise of excessive discretion by public and elected officials at all levels.
- Excessive regulation of the economy by the state.
- Excessive executive control and influence over the judicial branch and the civil service, while at the same time, inadequate oversight of the executive branch by the Verkhovna Rada.
- Collusive ties between the political and economic elite, where the former use the state to enhance their wealth and the latter use their wealth to enhance their power.
- Low capacity for advocacy in civil society.
- Weak accountability mechanisms within government and in civil society to control potential abuses.
- Uneven public access to information of government decisions and operations.
- Resistance to decentralizing authority and resources to the regional and local levels which could break corruptive networks.
- High tolerance for corrupt practices among the population and the general belief that corruptive abuses and misconduct for public officials are low risk events and can be conducted with impunity.

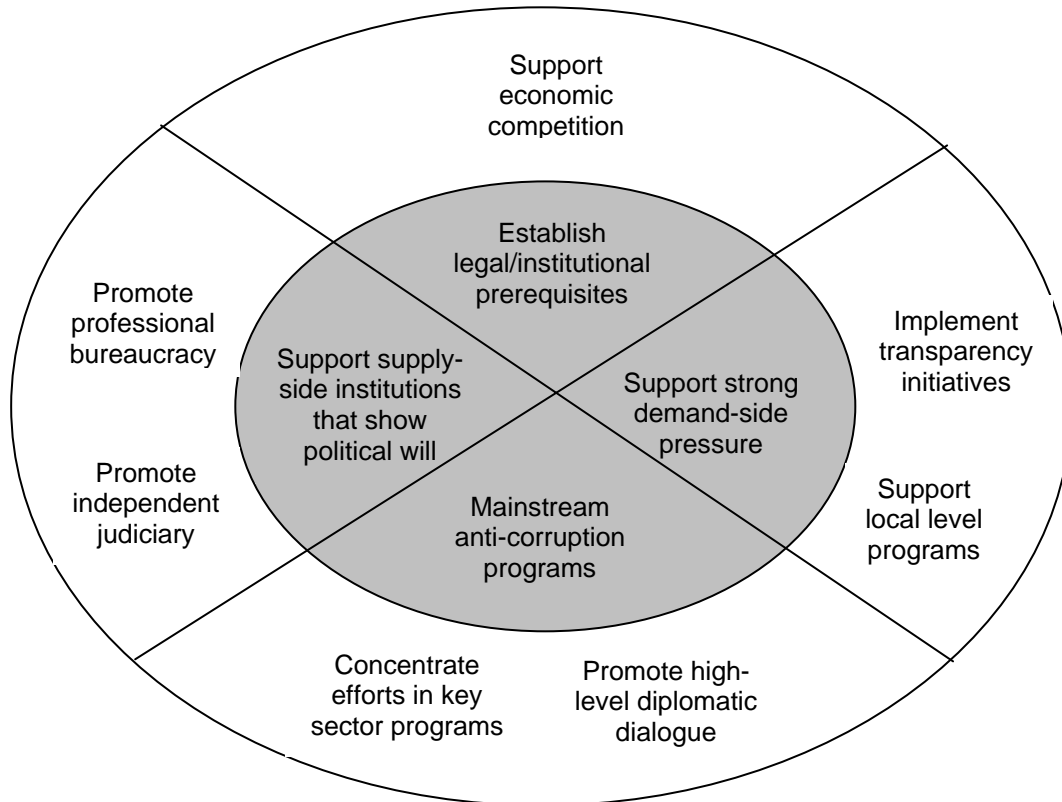
Despite this discouraging picture, there are many positive factors in Ukraine that have the potential to inhibit corrupt behaviors and facilitate the promotion of good governance, assuming the necessary commitment and sincere political will of leaders. These include:

- The Orange Revolution, which mobilized popular frustration about corruption, strengthened the voice of civil society, and brought the issue to the top of the political agenda.
- President Yushchenko, who has pledged to deal effectively with the problem. The President has directed several ministries and agencies to develop a National Anti-Corruption Strategy and to formulate a new interagency Anti-Corruption Commission.
- A range of anti-corruption reform activities in the State Customs Service, the State Tax Administration, and the Civil Service – departments typically identified as the most corrupted institutions in government.
- Important legislation that appears to be on the verge of approval and adoption by the Rada to reform the judiciary and enhance other anti-corruption laws.

- Civil society, business associations and the mass media that were energized by the revolution but require additional support to further develop their capacity to effectively use their resources and power.

What needs to be done?

While USAID/Ukraine has supported major anti-corruption programming in the past, increased attention to reinvigorate and expand these initiatives is now essential. The proposed strategic direction for future USAID anti-corruption programming includes several major themes – (a) establishing the legal, institutional and economic conditions within which anti-corruption programs will thrive, (b) promoting capacity building within key government institutions, the civil service, and the judiciary if they demonstrate a serious political commitment to change, (c) strengthening civil society and business to advocate for change and oversee government including activities at local levels and transparency initiatives, and (d) mainstreaming anti-corruption programs so that the problem is attacked at many levels, but concentrating efforts in major sectors and promoting high level diplomatic dialogue and multi-donor coordination.



Based on these strategic directions, the report recommends priority programs in various sectors and functional domains, as well as in several cross-sectoral areas, to fight and control corruption in Ukraine. These recommended programs are described more fully later in this report.

Cross-Sectoral and Prerequisite Conditions. Many activities need to be conducted that will establish the basic foundation upon which continued anti-corruption programs across

all sectors can be launched. These include: supporting the design and execution of a national and coordinated anti-corruption strategy, supporting the passage of missing anti-corruption legislation and the establishment and strengthening of anti-corruption institutions in government, and improvements in public procurement procedures and institutions. In addition, the demand-side of fighting corruption needs to be enhanced: advocacy skill of citizen, business and media groups must be strengthened, citizen oversight/watchdog groups must be formed, and civic education programs related to corruption must be supported. To facilitate these activities and encourage the inclusion of anti-corruption elements into existing programs, an anti-corruption mainstreaming workshop should be conducted for USAID program officers, as well as implementing partners.

Judicial Sector. Key activities must be supported to reform the judicial selection process and bring it into line with modern meritocracies. In addition, reforms in court administration and procedures need to be promoted to increase transparency.

Health Sector. Major remedies need to be promoted to make the procurement of pharmaceuticals more transparent and accountable. In addition, it is critical to develop tracking systems to monitor and oversee budgetary expenditures to stem leakages. Overall, organizational, management and institutional reforms are needed to improve the efficiency and effectiveness of healthcare delivery and reduce mismanagement which can encourage corrupt practices.

Education Sector. It is important to support CSO budget oversight initiatives to put external pressure on the educational system to be accountable for its use of public funds and to encourage greater transparency. Continued expansion of standardized testing procedures for higher school entrance exams is merited.

Public Finance. Support should be given to ensure effective implementation of new procurement laws and ongoing tax reform initiatives. In addition, the accounting chamber and the Chief Control and Auditing Administration should be strengthened, especially in the enforcement of their findings and recommendations. Finally, budget and expenditure oversight – internally and externally – should be promoted.

Private Sector. The business community needs to be mobilized to advocate for conflict of interest and transparency laws, and to support regulations that promote the business environment and eliminate administrative barriers. Expanded support should be given to private sector associations to conduct continuous monitoring of the implementation of business laws and regulations.

Parliament. Continued pressure and support needs to be applied to the Rada to promote adoption of an adequate anti-corruption legal framework. MPs need to be made more accountable to their constituents and various monitoring and transparency programs can be supported. Legislator skills training and resources need to be provided to improve legislative drafting, coalition building and negotiation/compromise skills.

Political Parties. Programs are needed to build more transparency into party financing.

Subnational Government. Local government institutions need to be strengthened so that they can deliver services in a transparent and accountable fashion. CSO advocacy and watchdog capacity building at the subnational level is also a major requirement to control corrupt tendencies.

Where to Start

Logically, it is important to begin a comprehensive anti-corruption program by ensuring an adequate foundation – an acceptable legal and institutional framework that is sensitive to corruption issues – on which other reforms can be built. Such activities should certainly be started immediately. However, it must be understood that these prerequisites often take time to establish and they should be considered as medium- to long-term efforts. At the same time, it is essential not to wait until these fundamentals are in place to begin other initiatives that could yield early and visible successes. In this regard, strengthening demand-side capacity is critical to sustain the pressure on government and for the public to believe that progress is being made. As well, an additional early step should involve conducting mainstreaming workshops and providing one-on-one technical assistance to current USAID implementers to help them incorporate targeted anti-corruption elements quickly into their projects.

Suggested Starting Points for a USAID/Ukraine Anti-Corruption Program

- 1. Mainstream anti-corruption goals in ongoing USAID projects**
- 2. Establish the Prerequisites**
 - Promote passage of key corruption-related legislation in the Rada
 - Promote better implementation of current corruption-related laws
 - Support design and implementation of a comprehensive national anti-corruption strategy
 - Begin activities to reform the judiciary
- 3. Support Demand-Side Capacity Building**
 - Establish civil society monitoring and watchdog groups in key areas, such as budgeting, procurement, the courts, and the legislature
 - Establish constructive civil society-government dialogues
 - Support a network of Citizen Advocate Offices that provide citizen victims of corruption with legal services to act on grievances
- 4. Target a Key Government Sector**
 - Select a major public service delivery sector, such as health, and initiate a comprehensive anti-corruption program there, to serve as a model for other future efforts

1. Introduction

The Orange Revolution and the election campaign leading up to it clearly highlighted the new leadership's interest in dealing with the longstanding problem of corruption in Ukraine. The rhetoric of the revolution raised expectations and provided an outlet for massive citizen frustration concerning official abuse and weak rule of law. The installation of the Yushchenko government elevated the hopes of many, both domestically and internationally, that the traditional systems of Ukrainian corruption would be drastically changed, quickly and decisively. However, a year later, only a little has been accomplished – and in a disorganized and not so visible fashion -- to actualize the anti-corruption promises of the campaign, and public disappointment and cynicism have grown.

In this report, we analyze the status of Ukraine's policy and legal framework to fight corruption, constituencies for and against reform, and several of the principal government sectors, functions and institutions that Ukrainians and country specialists believe to be highly vulnerable to corruption, but open to reform. These include the judicial, health, education, and private sectors; public finance functions; and Parliament, political parties and subnational governmental institutions. We offer recommendations and programmatic options in each of these areas to foster transparency, accountability and integrity reforms.

The most important findings of this study touch upon larger questions than the "who, what, where and how" of corrupt behavior in any given sector. The *why* of corruption is a far more critical question and the answer has to do with the evolving nature of democracy in Ukraine. Full democracy is still emerging in Ukraine and the problems that undermine democracy are in large part the same ones that facilitate corruption—lack of transparency, the reduced importance of serving the public in the political calculus of leaders, impunity, and minimal checks and balances on government officials.

The proposed program options presented later in this report have as much to do with improving the quality of Ukraine's democracy as with new prevention or control regimes targeted at corruption weaknesses. It is important to recognize, in this regard, that the fight against corruption in Ukraine will not occur overnight – as the Orange Revolution promised – but will take time and considerable effort. Thus, one of this study's most central recommendations involves the need to strengthen indigenous organizations and institutions that can serve to balance the power of the executive in Ukraine, producing greater oversight and improved accountability. These organizations and institutions include Parliament, the judiciary, civil society groups, the mass media, and private sector groups.

The question of true and demonstrated political will must be addressed as well. An axiom of corruption studies is that real change rarely happens in the absence of

committed and motivated political leadership. Without a sincere and demonstrated commitment from the very highest levels of government in Ukraine, current corruption trends are likely to persist. Serious and coordinated pressure for change from the diplomatic and donor communities can help; their leverage, in conjunction with indigenous demands for change, can be a critical voice determining the path for change.

Structure of this Report

The objectives of this assessment are twofold. First, this report provides a broad analysis of the state of corruption in Ukraine – taking into account the political-economic context that facilitates or inhibits corruption, the legal/regulatory/oversight framework that can control corrupt tendencies, the constituencies for and against reform, ongoing anti-corruption programs, and entry points for appropriate anti-corruption initiatives. In accordance with the new USAID Anticorruption Strategy,² this assessment examines multiple levels of corruption (petty, grand and state capture) and the key sectors and functions where corruption has impaired governance capacity and the achievement of development objectives.

Second, the assessment reaches certain conclusions and provides particular guidance to the USAID mission in Ukraine concerning programmatic options it might consider to deal with corruption vulnerabilities. The report offers suggested programs, sector-by-sector and function-by-function, that the mission can use to design its anti-corruption strategy and promote targeted anti-corruption activities in its existing programs as well as new initiatives. Cross-cutting recommendations that apply to several sectors are intentionally included in each relevant section of the report so that the sectoral discussions are complete unto themselves.

This assessment was conducted using a new Corruption Assessment Methodology which has been developed by Management Systems International for USAID/DCHA.³ The methodology is organized to minimize time and effort and to help the assessment team hone in on the real problems, whose solution are likely to make a difference. It starts by integrating existing studies, surveys and analyses about corruption in the country and drawing upon local experts to help pinpoint areas of greatest vulnerability to corruption. A corruption syndrome analysis follows that helps to frame the broad nature of the problem in the country by characterizing its particular proclivities to corruption. Together, these analyses help delimit the sectors and government functions that are most vulnerable to corruption, but that have the greatest opportunities for reform and are of the greatest interest to major domestic and international stakeholders. These areas are then diagnosed in depth and detailed recommendations are identified and formulated into an overall plan.

² Adopted in 2005, the USAID Anti-Corruption Strategy addresses four broad actions: (1) confront the dual challenges of grand and administrative corruption, (2) deploy Agency resources to fight corruption in strategic ways, (3) incorporate anti-corruption goals and activities across Agency work, and (4) build the Agency's anti-corruption knowledge.

³ Management Systems International (2006) *Handbook for Conducting a Corruption Assessment*. Washington, DC: MSI.

This study was conducted by a small assessment team composed of USAID/Washington and Management Systems International staff between November 2-18, 2005 during which they held meetings with governmental and nongovernmental stakeholders, gathered data, reviewed documents, and analyzed the results. The MSI team consisted of Drs. Bertram Spector, Svetlana Winbourne, Vladimir Dubrovskiy and Svetlana Gornaya; the USAID team consisted of Jerry O'Brien and Dr. Eric Rudenshiold.

This team would like to extend its thanks to the USAID/Ukraine cross-sectoral team that was established to advise our efforts and especially to Kathryn Stevens and Irina Bogomolova of the DG Office and Katherine Kuo, the USAID Desk Officer for Ukraine, Moldova and Belarus, for facilitating our access to people and information. We are grateful to all those who granted us their time and thoughts on these sensitive issues – from the community of USAID implementing partners, international donor organizations, government officials, and local NGOs, institutes, businesses and journalists.

The content and conclusions of this report are the authors and do not necessarily reflect the policies or opinions of the United States Agency for International Development (USAID).

2. Overview of Corruption in Ukraine

The Orange Revolution signaled the beginning of a new transformation in Ukrainian social, economic and political life. During this transformation process, many transparency, accountability and integrity issues have emerged as laws, rules, institutions, procedures and incentives change and Ukrainians at all levels - in and out of government - seek to develop truly democratic governance, a fair market economy, and equitable delivery of essential public services. During such times of major upheaval and change, corruption can be both tolerated and nurtured – to get necessary things accomplished in the short run under uncertain conditions. However, the distortions generated by corruption to the social, economic and political fabric of Ukraine need to be counteracted quickly to avert permanent damage and a deceleration of development objectives. Certainly, the pronouncements of the Yushchenko government to fight corruption and its pledge to work toward European Union accession are positive signals that need to be translated into implementable programs that yield visible results.

Much of the corruption that is discussed in this report deals with institutional and procedural weaknesses that contribute to pervasive corruption at the administrative level—the near-daily bribes required by citizens and businesspeople to obtain government services, permits, licenses, etc. However, grand corruption and state capture – where elites use their wealth to seek power or vice versa -- are also pervasive features of abuse of public office in Ukraine where accountability is weak and transparency in government operations is uneven. Without significant changes in the incentives faced by these elites and a significant strengthening in the capacity of civil society and the

business community to effectively demand accountability from public officials, little is likely to change in this corruption environment.

Ukraine's Corruption Syndrome

A country's political-economic dynamics strongly influence the degree and nature of corruption in that country. The way corruption manifests itself differs from country to country depending upon the ways that people seek and use wealth and power, the strengths or weaknesses of the state, and political and social institutions that sustain and restrain these processes. Differences in these factors give rise to several major syndromes of corruption.⁴ On the basis of Ukrainian expert evaluations that were supported by interviews with additional specialists in Ukraine, our analysis characterizes corruption in Ukraine as fitting into the *Elite Cartels* syndrome (described in the text box below). The implications of being in this syndrome play out later in this report in terms of the kinds of programmatic options likely to be effective in reducing corruption in Ukraine.

In Elite Cartel countries such as Ukraine, top political and business figures collude behind a façade of political competition and colonize both the state apparatus and sections of the economy. From the early 1990s, powerful officials in government and politics acquired and privatized key economic resources of the state. As well, shadowy businesses, allegedly close to organized crime, became powerful economic forces in several regions of the country.⁵ Over the course of the past decade, these business groupings – or *clans* – as they became called, grew into major financial-industrial structures that used their very close links with and influence over government, political parties, the mass media and the state bureaucracy to enlarge and fortify their control over the economy and sources of wealth. They used ownership ties, special privileges, relations with government and direct influence over the courts and law enforcement and regulatory organizations to circumvent weaknesses in governmental institutions. Their tactics and their results can be viewed as a clear exercise of *state and regulatory capture*.

A recent report by the World Bank⁶ refers to this clan-based Elite Cartel syndrome in Ukraine as a “closed insider economy” that can be an obstacle to future sustainable economic growth and integration into the EU and world economy. It hinders fair competition, encourages under-the-table deals and collusion between state officials and business, promotes rent-seeking behaviors, discourages foreign investment, and decreases adaptability over time.

⁴ Michael Johnston, *Syndromes of Corruption: Wealth, Power, and Democracy* (New York: Cambridge University Press, 2005)

⁵ Roman Kupchinsky, “Analysis: The Clan from Donetsk,” RFE/RL Poland, Belarus and Ukraine Report (January 12, 2003) <http://www.ukrweekly.com/Archive/2003/020304.shtml>

⁶ World Bank, *Ukraine: Building Foundations for Sustainable Growth, A Country Economic Memorandum: Volume I* (August 2004).

Elite Cartels Corruption Syndrome Defined

Elite Cartels are extended networks linking diverse elites who share a strong stake in the *status quo* and in resisting political and economic competitors. Such competition, in most cases, is intensifying at least gradually. Elites in the cartel may include politicians, party leaders, bureaucrats, media owners, military officers and business people—in both private and, often, parastatal sectors—in various combinations. Corruption will be moderate to extensive, but tightly controlled from above, with the spoils shared among (and binding together) members of the elite network. Leaders of nominally competing political parties may share corrupt benefits and power among themselves, again as a way of minimizing competition. Elite cartel systems are often marked by ineffective legislatures, extensive state power in the economy, politicization of development policy and banking, and a process of mutual “colonization” among business, political parties, and the bureaucracy.

Elite cartel corruption underwrites a kind of *de facto* political stability and policy predictability, partially compensating for moderately weak official institutions; as a result, international investors may find the situation tolerable or even attractive. Elite Cartels may be an attractive alternative to more disruptive kinds of corruption in the short to middle term, but it delays democratization and/or the growth of genuine political competition, while the shared interests of interlinked elites may make for inflexible policy and reduced adaptation over the longer term. Elite cartel corruption often features large and complex corrupt deals, frequently marked more by collusion than outright theft or violence, orchestrated from above, and closed to outsider elites.

-- Michael Johnston, *Syndromes of Corruption: Wealth, Power, and Democracy* (New York: Cambridge University Press, 2005)

In more recent years, several Ukrainian clans have grown and subdivided, increasing the number of clans that compete with one another for wealth and power, and establishing what appears to the Western eye as an incipient competitive market economy. Sometimes, for convenience, these clans coalesce on political issues.

After the Orange Revolution, the network of “bosses” within the government bureaucracy that could “make things happen” for the clans was partially destroyed by Prime Minister Tymoshenko, resulting in instability and uncertainty and a slowdown for major businesses. It lies in the hands of the Yushchenko government to take hold of this current opportunity to create new administrative procedures and institutions that are based on fair and equitable rules and a professional, meritocratic and disciplined bureaucracy. Ukraine appears to be at a crossroads -- from a clan-based Elite Cartel system to a more Western market economy based on transparency, the rule of law and fair competition. and patterns of good governance.

To move Elite Cartel countries, such as Ukraine, away from corruptive clan practices, state, political, and social institutions need to be strengthened, and existing trends toward increasingly open political and market competition must continue on a *gradual* path. The behind-the-scenes collusion, favoritism, and the colonization of bureaucracies and economic sectors that mark Elite Cartel corruption suggest that the “consensus package” of liberalization, improved public management, and enhanced transparency may be productive, as long as change is accompanied by institution-building in the state,

political, economic and social realms. The Yushchenko government professes these to be their goals. If directed action follows the words of this government, the political-economic habits of Elite Cartel societies may change quickly in Ukraine. Otherwise, it may take a series of genuinely competitive elections, and of alternations of power, to reduce their corruptive impact. But if citizens can reward effective government and punish the most corrupt over time – as evidenced by the thousands that staged demonstrations in Independence Square in 2004 - strong disincentives to collusion will have been created.

Factors that Contribute to the Spread of Corruption

What are the particular factors that facilitate the spread of corruption throughout a wide range of sectors and government functions in Ukraine? Many of the legal and institutional preconditions for dealing effectively with the problem of corruption have yet to be put in place. A year into the revolution, the existence of *demonstrated* political will among the new leadership to control corruption is still questionable and the government's capacity to actually manage such a considerable adjustment to Ukraine's widespread and pervasive corruption – even in the presence of strong *rhetorical* political will -- is debatable. Ukraine's major anti-corruption deficiencies include the following:

- **Inadequate Legal Framework.** The legal framework as it relates to corruption, transparency, accountability and integrity requires major revisions, amendments and additions. According to some counts, more than 28 laws need to be modified and/or adopted anew. Drafts of many of these legal changes have been on hold in the Parliament for years. Public discussion on these needed reforms has been uneven.
- **Selective Enforcement of Law.** Enforcement of existing laws and regulations is selective, subject to political and business influence and corrupt practices. Excessive discretion is exercised by public and elected officials at all levels.
- **Excessive Regulation of the Economy.** There is excessive regulation by the state of the economic sphere which yields many opportunities for corrupt behavior.
- **Excessive Executive Control.** The executive branch exercises control and influence over the judicial branch, reducing its independence and its capacity to provide equal and fair justice to all citizens. The legislative branch conducts minimal oversight of executive power.
- **Business-Government Ties.** There are strong ties between the political and economic elite in Ukraine. Many political leaders have extensive business interests. And business leaders seek to enhance their wealth through their close connections with the state. Despite the goals of the Orange Revolution, vested interests – both political and economic – do not want to see these relationships fade.

- **Manipulation of the Bureaucracy.** The activities of the civil service are subject to political manipulation. This situation is fostered by clan influence in hiring, low salaries, and the minimally adequate candidates for bureaucratic positions due to low salaries. The absence of a strong ethic of professionalism and enforced performance standards within the bureaucracy, along with unclear regulations and poor procedures, create opportunities for excessive discretion and abuses of office.
- **Low Capacity in Civil Society.** Civil society organizations are numerous, but lacking in the capacity and experience to oversee government operations effectively or in exercising firm pressure on government to reform itself.
- **Weak Accountability Mechanisms.** The government has few effective accountability mechanisms and external guarantors of accountability are very few. Internal and external audits and inspections are not conducted frequently enough and are insufficiently funded, and if abuses are identified, there is minimal follow up authority within the judicial or administrative systems. Supervision and management within the civil service is generally ineffective. Citizen watchdog groups that monitor and oversee government departments and their use of the public budget rarely exist. Investigative journalists, often natural watchdogs of government operations, have not been a major force for transparency and accountability.
- **Uneven Transparency.** Transparency in government decisions and activities is uneven. Public accessibility exists to some information, but not all. Even where there is public access, citizen awareness is low and the ability to use the information effectively is inadequate for advocacy activities.
- **Resistance to Decentralization.** Government operations and decisions in Ukraine are highly centralized, which helps to maintain collusive practices among political and economic elite. The movement toward devolving power and resources to regional and local levels, a goal of the current administration and a possible tool in breaking corruptive networks, has already been derailed, at least temporarily.
- **Impunity for Corrupt Behavior.** Abuse of power, rent-seeking behaviors, and other corruption actions are viewed as low risk events for public officials. Management and supervision, internal and external audits, and checks and balances are relatively weak in most sectors and functions of government. As a result, public officials believe that they can engage in corrupt activity with impunity. Moreover, the public has high tolerance for corrupt practices.

Even in this kind of environment, if political will existed at the top levels, some positive actions could be taken by executive decree at a minimum. However, many of the presidential decrees that have been put forth have primarily been rhetorical platforms and have not yielded real change. Moreover, recent Presidential directives to several

ministries and top level agencies have led to a confusing situation where there are multiple uncoordinated draft national anti-corruption strategies and proposed organizational structures to manage a yet-to-be-approved anti-corruption program.

Factors that Reduce the Spread of Corruption

Despite this discouraging picture, the team identified many factors in Ukraine that have the potential to inhibit corrupt behaviors and facilitate the promotion of good governance, assuming the necessary commitment on the part of leaders.

- **The New Government.** The Orange Revolution mobilized popular frustration about corruption and President Yushchenko has pledged to deal effectively with the problem. The recent sacking of the Cabinet, primarily over corruption problems, may be an indication of political will to follow up on these words. The President has also directed several ministries and agencies to develop a National Anti-Corruption Strategy and to formulate a new Anti-Corruption Commission.
- **Preventive Measures Taken.** A recent memorandum issued by the Presidential Secretariat outlines successful actions taken over the past year to deal with the problem of corruption.⁷ They include:
 - Reforms in the State Customs Service have resulted in large increases in revenues collected.
 - The State Tax Administration has conducted a large number of workshops for its officers on corruption issues.
 - The Central Department of the Civil Service has increased its activities to enhance the legal literacy of public officials.
 - There is more stringent adherence to recruitment procedures for applicants into the civil service.
 - Enhancements to the legal framework related to corruption issues have progressed, with several new draft laws under consideration.
 - There is an increasing trend in corruption cases submitted to and considered by the courts during 2004.

Corruption Indicators

These trends in corruption have been captured in several aggregate indicators measured by the World Bank and other organizations.

Aggregate Indicators

The state of corruption in Ukraine can be seen in broad perspective by reviewing aggregate governance indicators.

⁷ Presidential Secretariat, General Information on Measures on Combating Corruption in Ukraine in 2005.

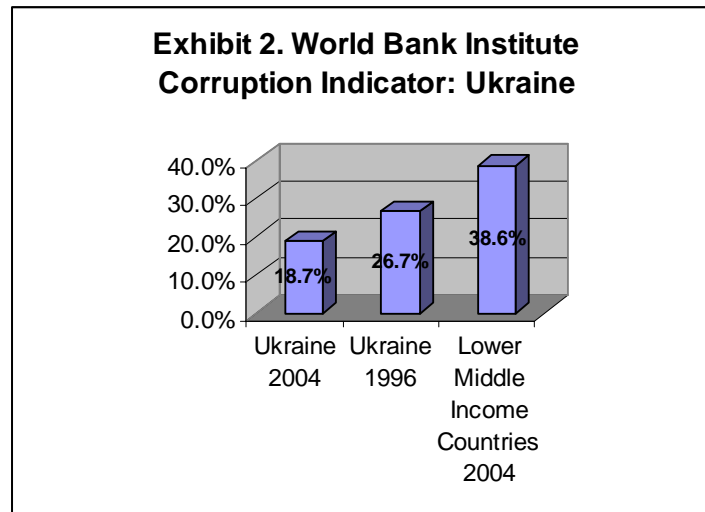
Transparency International issues an annual aggregate index for corruption in 159 countries. This index is based on a composite of survey results on the perception of corruption by experts and businesspeople. As portrayed in Exhibit 1, Ukraine’s score has fluctuated over the past six years, but has remained consistently in the category of countries that are scoring worst on corruption (10 is least corrupt and 0 is most corrupt).

Exhibit 1. Transparency International’s Corruption Perception Index for Ukraine

Year	Corruption Perception Index
2000	1.5
2001	2.2
2002	2.4
2003	2.3
2004	2.2
2005	2.6

The World Bank Institute regularly monitors key governance indicators over time for many countries.⁸ These governance indicators are one way of assessing change in corruption levels over time and comparing levels with other countries. One of the World Bank indicators is “Control of Corruption,” – which measures the extent of corruption in a country, defined as the *perceived* exercise of public power for private gain.

The Exhibit 2 identifies Ukraine’s results on the corruption indicator (a) between 1996 and 2004 and (b) in comparison with the average of lower middle income countries in 2004. (The ratings are indicated as percentages; the lower the percentage, the worse off the country on that indicator.)



Source: D. Kaufmann, A. Kraay, and M. Mastruzzi, *Governance Matters IV: Governance Indicators for 1996-2004* (www.worldbank.org/wbi/governance/pubs/govmatters4.html), 2005.

⁸ D. Kaufmann, A. Kraay, and M. Mastruzzi, *Governance Matters IV: Governance Indicators for 1996-2004* (www.worldbank.org/wbi/governance/pubs/govmatters4.html), 2005.

Ukraine's trend of backsliding on corruption during the Kuchma administration is starkly portrayed. From a 26.7 percent corruption index in 1996, Ukraine measured 18.7 percent in 2004, indicating a substantial increase in corruption. Comparing Ukrainian corruption levels with the average of the world's lower middle income countries in 2004, Ukraine scores worse on the corruption indicator – 18.7 percent -- in comparison to the other country average of 38.6 percent. Overall, these findings suggest a definite negative trend toward more embedded corruption in Ukraine.

While more recent measurement to account for the Yushchenko presidency has yet to be released, improvement in these scores is not likely to be evident in the near term. A public opinion survey conducted by the Razumkov Center between November 3-13, 2005 indicated that only 12.4 percent of voters backed Yushchenko's Our Ukraine Party for upcoming parliamentary elections (in March 2006), lagging behind Yanukovich's Regions Party (17.4 percent support) and Tymoshenko's bloc (12.8 percent support).⁹ Respondents indicated that public sector corruption is still rife, while the economy is faltering. In another survey by the same organization,¹⁰ 34.3 percent of respondents indicated disappointment with the lack of visible success in fighting corruption, while only 4.6 percent admitted a decrease in corruption as a visible achievement of the new government.

Public Perceptions of Corruption

Another approach to understanding the state of corruption in Ukraine is to review public opinion surveys on the subject. While public perceptions of corruption do not always tell an accurate story about the nature and spread of corruption in a country, they do provide useful insights on the "culture of corruption" by which citizens interact with their governments and how that culture changes over time. According to a survey taken in 2003 under the Partnership for a Transparent Society Program, 75 percent of respondents believed corruption to be very widespread in the central government, while 62 percent indicated they had actual personal encounters with corrupt officials over the previous five years.¹¹ The most corrupted institutions identified were health care (33 percent), small and medium sized businesses (19 percent), municipal services (15 percent), educational institutions (15 percent), and land privatization offices (13 percent). Forty-three percent of respondents indicated that bribery, by far the most common form of corruption identified by the respondents, was initiated by government officials, but 29 percent of respondents indicated that citizens also often initiate the transaction. Almost half of the respondents (49 percent) said that they have very low confidence in the government and 41 percent believed that it would be impossible to eradicate corruption in Ukraine. The basic direction of these survey findings are confirmed by other, more recent, polling

⁹ Daryna Krasnoslutska, Yushchenko's Party May Lose Ukraine Election as Economy Slows (November 28, 2005) <http://www.bloomberg.com/apps/news?pid=10000085&sid=a.pvAFQelR.g&refer=europe>

¹⁰ Razumkov Center, <http://www.zerkalo-nedeli.com/ie/show/573/51852>

¹¹ Image Control Research Center, Ukrainian Citizen's Attitudes towards Corruption and Transparency in Society (Kyiv: PTS, 2003)

results.¹² While these results are pre-Yushchenko, focus group discussions conducted by the assessment team suggest that popular perceptions now are at similar levels, if not worse. In fact, an IFES survey conducted in November 2005 found that only 21 percent of respondents believed that there was some improvement in the government's fight against corruption. Forty percent believed there was no change and 29 percent believed that there was a decline in government's commitment.¹³

3. Policy and Legal Framework to Fight Corruption

Fighting corruption was highlighted among the top three objectives of the current administration in the governmental program, *Towards the People*.¹⁴ However, after almost a year in office, no significant, consistent and visible actions have been accomplished. The legal framework remains incomplete, in particular in the corruption prevention area, though some laws and amendments have been drafted. Implementation of law remains a critical problem. There is no governmental institution empowered to lead anti-corruption efforts in the country. National policy and priorities are not defined. Rhetoric about fighting corruption on the highest level is not translated in a clear message and in deeds. Several agencies are drafting different versions of a national anti-corruption strategy with limited coordination. Few agencies have developed or are implementing internal anti-corruption programs. On the other hand, the government has signed or ratified several international conventions, committing itself to join the Council of Europe Group of States Against Corruption (GRECO) and implement its recommendations, and reactivating its cooperation under the OECD-sponsored Anti-Corruption Network for Transition Economies (ACN).

The Status of National Anti-Corruption Policy

Until the end of 2005, the *Concept on Fighting Corruption for 1998-2005* served as the principal policy document directing national efforts in fighting corruption. The Concept outlines major strategic directions, but did not provide benchmarks and specific terms. Year after year since 1997, the government drafted Plans of Action to Fight Organized Crime and Corruption and year after year, Parliamentary hearings on their implementation were concluding unsatisfactorily. Typically Soviet-style in their format and evaluation procedures, these Plans proved to be ineffective and often harmful. Since its adoption, the Concept has never been revised to align it with changing situations or international guidance. There have been a number of Presidential Decrees, Cabinet of Ministers Ordinances, and legislation issued over the past ten years to patch gaps in the deficient institutional and legal framework. The Presidential Coordinating Committee on

¹² Institute of Applied Humanitarian Studies, *Corruption in Ukraine: An analysis of its nature and causes* (CIDA, 2004).

¹³ IFES, *Preliminary Findings: IFES November 2005 Survey in Ukraine*.
http://www.ifes.org/publication/cbbe1bf1d5fcafe778b3785f3642b8d9/Ukraine_Public_Opinion_Key_Findings_2005.pdf

¹⁴ http://www.kmu.gov.ua/control/en/publish/article?art_id=15998559&cat_id=15998458

Combating Corruption and Organized Crime, an institution that was supposed to assume responsibility for coordinating and monitoring implementation of the national policy, was not effective either.

Failure to achieve meaningful results in implementing the Concept or the annual plans can be explained: the government never spelled out clear objectives, did not establish benchmarks, never revisited its policy, did not identify result indicators, and did not establish a credible monitoring system. According to the Ministry of Justice, the Plan of Anti-Corruption Actions for 2004 approved by Cabinet of Ministers Decree 383 of 17 June 2004 (the Decree is not a public document) produced a review of the national legal framework and developed a concept for a corruption monitoring system. Since documents describing the results of these efforts are not publicly available, it is impossible to determine their effectiveness or utility for the future.

A recent Decree of President Yushchenko, *On urgent measures to deshadow the economy and counteract corruption (No 1615/2005)*, was the first policy document by the new Administration calling for strengthened measures in several corruption areas: defining corruption and the subjects of corruption, public monitoring of corruption, conflicts of interest and financial disclosure, separation of business and public duties, securing privatization, and defining political appointees versus civil servants, among other items. While the Decree touched upon a number of important issues, the measures appear rather random and disconnected. Some of the measures are being developed already in the form of draft laws or amendments, and the decree can be viewed as a demonstration of the President's commitment to address the corruption problem.

At the current time, there are at least three new draft national anti-corruption strategies and concepts that employ a cross-sectoral approach developed by three separate agencies: the Parliamentary Committee against Organized Crime and Corruption (CAOCC), the State Security Service (SBU), and the Ministry of Justice (MOJ). Although the government seems to be aware of these dispersed efforts, little has been done to reconcile and consolidate these drafts into one document, though each party appeared to be in favor of joining forces and were ready to start a dialogue. Recently, with assistance from USAID/Kyiv and the US Embassy, these parties agreed that the National Security and Defense Council will serve as the coordinator of anti-corruption reforms within the GOU.

Recommendations

The Government needs to define its priorities for preventing and fighting corruption and to formulate them in a systematic single national strategy (or program) supplemented with plans of action. In view of Ukraine's intention toward joining the European Union, the priorities should be harmonized with EU standards. Adopting and implementing GRECO principles, EU Conventions, and other EU legal instruments should be major benchmarks in the strategy. OECD's ACN recommendations and the UN Convention can serve as additional sources to help define the strategy.

The Strategy should establish benchmarks and milestones. Indicators of results and a system of monitoring and evaluation should be developed. This is very important to assess progress. The Strategy should be a dynamic document and subject to review on an annual basis along with the action plans.

The Strategy should have short- and long-term priorities. The short-term priorities should be highly visible and have an impact on the broad public and its most insecure sectors. Activities and results should be broadly publicized.

New opportunities for Ukraine came about in November 2005 when the Millennium Challenge Corporation approved Ukraine for participation in the Threshold Country Program, making it eligible for intensive technical support in implementing anti-corruption efforts. Some of this assistance can be focused on designing, gaining consensus for and implementing a national anti-corruption strategy.

The Status of Anti-Corruption Enforcement Legislation

Ukraine's anti-corruption legislation remains incomplete and inconsistent. The principal legal enforcement documents that directly address corruption are the Law of Ukraine on Fighting Corruption and the Criminal Code (Part 17, in particular). The Law of Ukraine on Fighting Corruption was passed in 1995 and went through nine insignificant amendments since then. Most experts and practitioners agree that this law needs further modification or replacement with a new law to harmonize it with today's international legal standards and requirements.

There are several recent draft amendments in the Rada. The latest one was submitted on 15 April 2004 by the Parliamentary Committee on Fighting against Organized Crime and Corruption to extend applicability of the law to high level officials in the executive branch, including the Prime Minister, Vice Prime Ministers, and Ministers. This draft is currently being prepared for its second reading. On 14 July 2004, a draft Law on the Basis for Preventing and Fighting Corruption (Про засади запобігання та протидії корупції) was submitted to the Parliament (registration number 5776). The Main Scientific-Expert Department (Головне науково-експертне управління) reviewed the draft and recommended some changes prior to submitting it to the first reading. This draft law is supposed to replace the current Law of Ukraine on Fighting Corruption. Although it is not clear if it is still under consideration, the government has referred to it at several recent international forums and in official reports and statements. There are several other draft laws at different stages of development.

Implementation of this anti-corruption enforcement legislation is generally problematic. Until recently, it has been used against low-level public officials and bureaucrats for small and often questionable offenses; higher level officials generally are untouched. Sometimes the law is used as political retribution or as an instrument of suppression. After the Yushchenko administration came to power, many investigations into high profile corruption allegations were initiated, but there have been few court hearings to date.

Recommendations

Rapid adoption and implementation of new law enforcement legislation can be a useful addition to the government's overall anti-corruption program.

Donor pressure can be placed on the administration to bring some high profile cases to court. While "frying big fish" is not effective as a sustainable anti-corruption program by itself, it can be a useful and dramatic demonstration of the Yushchenko government's determination to crack down on high level abuse of office.

The Status of Corruption Prevention Legislation

Several pieces of important corruption prevention legislation are currently under consideration as described below.

Conflict of Interest and Code of Conduct. There is no particular law on conflict of interest (COI), though COI provisions can be found in the Civil Service Law and the Main Rules of Civil Servant Conduct (both are applicable to career civil servants and local public officials, but not to officials at the ministerial level), the Ukrainian Constitution, the Law on Public Deputies of Ukraine, and some other pieces of legislation. These provisions generally interpret conflicts of interest in a very limited fashion. They prohibit public officials and civil servants from being involved in any business activities or holding any other office and restrict them from supervising or being supervised by a family member. There are no policies or procedures for resolving conflicts of interest once detected. Rather, current provisions stipulate that these conflicts should be dealt with prior to taking public office otherwise the official will be subject to the Law of Ukraine on Fighting Corruption or other enforcement laws.

As for high-level public officials in the executive branch, the only law that regulates them is the Constitution. The Law on Public Deputies of Ukraine has a very brief article on Deputies' ethics. All existing legislative documents are very sketchy about COI provisions and not very practical. A Draft Code of Conduct of Public Officials [Кодекс добросовісної поведінки осіб, уповноважених на виконання функцій держави] was developed by the Ministry of Justice and is posted on their website for public comments. This draft discusses, with some specificity, the conduct of public officials, conflicts of interest, employment upon retirement, and other issues. In addition, the Draft Law on Administrative Procedures is being developed by the MOJ and is supposed to define the administrative procedures and responsibilities of public officials and civil servants clearly.

Public Hiring and Appointments. Hiring is regulated by the Civil Service Law and regulations developed by the Main Department of the Civil Service of Ukraine. The Department has issued guidance on hiring procedures, but nepotism and favoritism remain a common practice to fill open positions. A new Draft Civil Service Law was

drafted and discussed with the international community at a June 2005 conference and with the public via discussions at the administration's Public Collegia. The principal objective of this new law is to bring Ukraine in harmony with EU standards. However, the problem lies not so much in the law but in the way it is implemented.

Assets Disclosure. Several laws require financial disclosure for candidates and holders of public office and for civil servants and their immediate families. Only information on candidates running for elected office is available to the public. Financial disclosure information for public officials and civil servants is not publicly available due to privacy and personal safety restrictions. However, there is much skepticism about how these requirements are implemented in practice and how they can be used to control corruption.

Access to Information. There are several laws, presidential decrees and other legislative acts that regulate information availability to the public, among them: the Law on Information, the Law on Providing Information about the Government to the Media, the Law on Television and Radio, the Law on the Press, the Presidential Decree on Further Measures to Ensure Openness in Government, the Cabinet of Ministers Order On Measures to Develop a System of "Electronic Government", etc. Although all of these pieces of legislation discuss different aspects of how information is provided to the public, implementation of these laws by different governmental institutions is very uneven and the level of detail and the format in which information is provided are generally not adequate for meaningful use by citizens or organizations.

For example, the annual budget that is published on the government's website is 50 pages long and provides information at only the highest levels of generality. Governmental institutions, even those that have the most informative websites, publish press releases and information on legislation, but do not post reports and analysis of their performance. Studies conducted by several NGOs on governmental transparency at the central and local levels have revealed frequent abuses of citizen rights related to information access. On the other hand, civil society rarely demands better and more detailed information.

Citizen Complaint Mechanisms and Whistleblower Protection. There is a law that regulates citizen inquiries and complaints submission and handling procedures by governmental agencies. Every governmental institution is obligated to have mechanisms to collect and respond to citizen complaints. In addition, almost every governmental agency recently has introduced telephone and web-based hotlines. But most studies of the effectiveness of these mechanisms identify the public's general frustration and skepticism. To strengthen these options or provide an alternative, Presidential Public Reception offices were opened recently in all oblasts and report a mounting number of complaints. It is too early to say if this new initiative is helping to improve the situation.¹⁵

On the other side of the coin, there is no particular law that provides protection for public officials or civil servants who report on corruption or misconduct in their offices. Some general provisions are included in existing laws that ostensibly protect *any* citizen. For

¹⁵ ABA-CEELI is currently conducting a study of these offices for USAID.

example, the Law on Citizen Inquiries prohibits retribution against citizens and their family members who submit complaints or criticize any governmental or private institution or officials. In the Criminal Code, persons who report paying extorted bribes are not liable for the crime if at the time they report it there was no open case against them.

Sunshine Law (laws requiring that meetings of boards or commissions must be open to the public) *and Citizen Participation*. Sunshine laws do not exist in Ukraine. However, parliamentary sessions are broadcast on TV in full and there are no particular restrictions for civil society groups to attend Parliamentary Committees (if they know when they are convened). As for the executive branch, there are no regulations and there is no practice to allow citizens to attend its meetings. On the other hand, a recent Presidential Decree obligated all governmental institutions at the central and local levels to establish public councils or collegiums to involve civil society in policy development and decision making processes. A new Draft Law on Openness and Transparency of the Government was drafted by the Ministry of Justice and posted on the Ministry website for public comment.

Recommendations

Technical assistance can be provided to develop meaningful legislation in these areas in harmonization with EU and international standards. Support should include not only comparative analysis of laws and legal drafting but assistance in implementation of the laws once adopted. This could take the form of establishing an Office of Governmental Ethics, development of web technology for information access, and expansion of the role of the Ombudsman office, for example.

4. Anti-Corruption Stakeholders in Ukraine

The enactment of anti-corruption reforms requires active promotion and mobilization by multiple constituencies and stakeholders that want to see greater transparency, accountability and integrity. Government and nongovernment actors need to be activated. The principal institutions and groups that are likely to be involved and may need support from donors are described below. Among these actors are the current and future champions of Ukraine's anti-corruption programs.

Governmental Institutions

Cross-Sectoral Institutions

Until recently, there was no single institution in the executive branch or any interagency institution that was responsible for fighting corruption in a comprehensive cross-sectoral fashion in Ukraine. Although the functions of the former Coordination Committee on Combating Corruption and Organized Crime that existed under the Presidential Administration since 1993 were transferred to the National Security and Defense Council

(NSDC) by one of the very first decrees of the new President in January 2005, NSDC did not take any significant step to assume this responsibility.

According to the Secretary of the NSDC in an official statement on 25 November 2005, an Interregional Commission against Corruption is supposed to be established soon to coordinate the anti-corruption-related activities of the Security Service of Ukraine, Ministry of Internal Affairs, Prosecutor General, and representatives of the court system. It is planned that the Commission will also include representatives from the legislature and civil society organizations, but it is unclear if it will represent other agencies from all branches of government.

The other institution that may play a very substantial role in anti-corruption efforts is the recently established Presidential Commission on Democracy and the Rule of Law chaired by the Minister of Justice. The major objective of the Commission is to align Ukrainian policy with the Copenhagen criteria toward joining the EU and to implement an EU-Ukraine Action Plan. Under the Action Plan, there are a number of activities that directly or indirectly relate to fighting and preventing corruption.

The recent agreement establishing the NSDC as anti-corruption coordinator within the GOU is the starting point for real dialogue among governmental agencies on how an interagency anti-corruption institution should be organized, under whose auspices, with what membership, and with what responsibility and authority.

Oversight Institutions

There are several governmental institutions whose mission it is to oversee the executive branch and some of them are directly involved in overseeing corruption abuses. They include the following:

The Parliament has conducted oversight over issues of corruption since 1992 when the first Temporary Parliamentary Commission was established. Since 1994, the Parliament has a permanent *Parliamentary Committee against Organized Crime and Corruption*. The Committee is very active in promoting anti-corruption policies and initiating new legislation. Among other functions, it reviews governmental and other annual reports on corruption. Recently, the Committee drafted an Anti-Corruption Strategy on its own initiative. According to the Committee head, they wanted to set an example and push the executive branch to develop and implement a national anti-corruption policy.

The *Ombudsman* does not play a significant role in fighting or preventing corruption. While it collects thousands of citizen complaints, it does not analyze this information to identify problem trends but rather acts on a case-by-case basis and rarely passes this information to the offending governmental institutions to bring their attention to abuses and violations. The Ombudsman's Annual Report to Parliament primarily contains statistics on complaints and complainers but no systematic analysis or recommendations for reform.

The *Accounts Chamber* is an independent governmental oversight institution that is empowered to conduct performance and financial control and analysis of all governmental programs and institutions, as well as review of how legislation is implemented. In 2004, the Chamber uncovered the misuse or ineffective use of budget and extra-budget funds totaling over USD1.5 billion. The Chamber is proactive in its efforts to reach out to governmental institutions to improve legislation and practices. It cooperates with the Prosecutor's office and monitors the further development of cases it passed to them for investigation.

The *Main Control and Revision Office of Ukraine* under the Ministry of Finance conducts financial audits of budget expenditures. It conducts such audits for over 15,000 organizations and agencies funded from the public budget throughout the country on an annual basis. During the first 9 months of 2005, it audited over 11,000 organizations and uncovered the unlawful use or misappropriation of public funds in the amount of about USD 200,000 and recovered about USD 71,000.

Law Enforcement Institutions

Most of Ukraine's law enforcement agencies (police, tax police, prosecutor's office) that have the responsibility to fight corruption are typically rated in public opinion surveys as being the most corrupted governmental institutions. Law enforcement reform is currently under development, but it is too early to tell how it will affect internal controls and law enforcement effectiveness in fighting corruption.

In March 2005, the President issued an order to establish a working group to draft a concept to establish a National Bureau of Investigation with responsibilities to investigate high profile crime and corruption. Such an institution is not a new idea in Ukraine. An attempt to establish such a bureau in 1997 failed, in part, because of a disagreement among law enforcement agencies about the role of the bureau and the division of responsibilities. Since then, there have been at least seven drafts to establish a new bureau. The current idea is being forcefully debated and many experts believe that strengthening and reforming existing agencies would be more effective.

Other Governmental Institutions

Many governmental institutions could be instrumental in preventing corruption, but are not currently involved. Some would rather maintain the *status quo*. A brief overview of some of these institutions follows.

The *Main Department of Civil Service of Ukraine* became very active in 2005 in issuing guidance to prevent and detect corrupt behavior, for example, guidance for state and local self-governance institutions on setting up corruption prevention frameworks, guidance on drafting professional responsibilities for public servants to prevent abuses, and guidance on monthly compliance reporting with anti-corruption regulations. All these documents attempt to establish better control

over corrupt practices in the civil service system at all levels and jurisdictions. However, there is no evident attempt to establish indicators to measure the effectiveness of these measures and to monitor implementation.

The *Tax Administration* adopted an Anti-Corruption Action Plan for 2004-2008. According to this plan, a Code of Ethics was adopted, a special Anti-Corruption Department was established in addition to the Internal Control Department, and regulations on job responsibilities are being drafted. The Anti-Corruption Department issues monthly reports on internal investigations and results. These reports are posted on its website. According to the latest summary report for the first eight months of 2005, regional branches conducted 2,259 internal investigations, among which about 30 percent were triggered by citizen complaints, resulting in administrative sanctions against 1,078 employees including 142 that were fired. The Department also conducts preventive measures through training of Administration staff and public outreach programs.

The *Customs Administration* aggressively pursues a campaign against corruption and abuses of power in its operations. Over the past year, it removed or rotated executive staff members, conducted about 100 internal investigations resulting in over 200 dismissals and administrative sanctions, opened a hotline for citizens, imposed a set of rules and restrictions for its personnel, and limits for cash that officers are allowed to have while on duty. The Customs Administration introduced a One-Stop Shop for processing freight customs clearance to reduce business-government interactions and opportunities for bribe-taking. The Customs Administration also issued a “Stop-Card” that businesses can use against customs officers who create unjustified delays or other barriers during customs procedures. Officers that receive these cards will be investigated by internal control units.

Civil Society Organizations

Civil society organizations and business associations are potential sources of important demand pressure on government to reform. The number of NGOs in Ukraine has been increasing, from 25,500 in 2000 to approximately 40,000 in 2004, of which about 10 percent are active.¹⁶ Many of these operate on the demand side: helping their constituencies voice their concerns and interests and advocating for change with official bodies that will help their constituents. According to a 2003 report, the largest percent of Ukrainian NGOs are involved in advocacy and lobbying, training and information dissemination.¹⁷ However, despite the incredible force they exerted during the Orange Revolution, Ukraine’s civil society and business do not present a cohesive and mature front for change *vis à vis* the government. In general, there are few strong advocacy groups, few strong watchdog groups, uneven access to information about government

¹⁶ Vera Nanivska, *NGO Development in Ukraine*. Kyiv: International Center for Policy Studies, 2001; 2004 *NGO Sustainability Index for Central and Eastern Europe and Eurasia*, 8th edition, USAID, 2005.

¹⁷ Counterpart Creative Center, *Civil Society Organizations in Ukraine: The State and Dynamics (2002-2003)*. Kyiv, 2004.

operations and decisions, and limited experience in using information as a valuable tool in forcing government action. Their deficiencies are attributed to the fact that many have stayed away from highly political policy debates, they have minimal management capacity, and they are overly dependent on foreign donors. The business community is also poorly organized into associations (only about 25 percent of businesses belong to associations). Most businesses are very skeptical about their associations' willingness and capacity to provide services to members and represent member interests.

That said, there are many local and national NGOs and business groups that conduct very effective advocacy and watchdog functions related to anti-corruption reforms. For example, the All-Ukraine Network for People Living with AIDS gathered difficult-to-access cost data on pharmaceutical procurements conducted by the Ministry of Health (MOH) and compared them with similar procurements conducted in Ukraine by the Global Fund. They uncovered extremely wide cost differentials – procurements by the MOH as high as 27 times the cost of Global Fund procurements for the same medications. Apparently, collusion and special deals between the MOH procurement commission and the vendors were producing extremely unfavorable results and greatly endangering the public at large which is being deprived of necessary drugs. The Network presented their results to the MOH, the Ombudsman, the Prosecutor's Office, and international donors. Further investigations are now under way to validate their findings.

Other groups, such as the Laboratory for Legislative Initiatives, conduct very professional watchdog monitoring activities of Rada deputies. They maintain a website that contains deputy campaign promises, complete voting records of deputies that reveal if campaign promises were kept, and deputy linkages to business interests.

Among business associations, the Coordinating Expert Center of the Entrepreneurs' Union of Ukraine that currently unites over 60 business associations has been successful in promoting business-friendly legislation. Another strong voice for business interests is the Council of Entrepreneurs, the advisory body to the Cabinet of Ministers. Although it is established under government decree, it has recently become very active and vocal in monitoring regulatory reform implementation and serving as a channel for direct dialogue between government and the business community.

Mass Media

While there are certainly many exceptions, the mass media in Ukraine is generally deficient in investigative reporting, a major channel by which journalists can serve as effective public watchdogs. The media suffers from the lack of public access to government information and from a poor understanding of the linkages among the law, the judicial system and corruption. Since the revolution, the strong control of media outlets by clans/cartels has lessened and repressive actions against them have been relaxed.¹⁸

¹⁸ Nations in Transit 2005, Freedom House.

Recommendations

Government Institutions: Several key anti-corruption institutions are in transition or under development. If they are established and visibly demonstrate early commitments, donor support and technical assistance can be offered for implementation of programs. Encouragement should be given to government agencies to coordinate their efforts and develop partnerships with civil society groups. Monitoring and evaluation programs should be developed to measure and track progress of these government institutions toward achieving their anti-corruption objectives; those institutions that achieve their results can be rewarded through additional technical assistance programs.

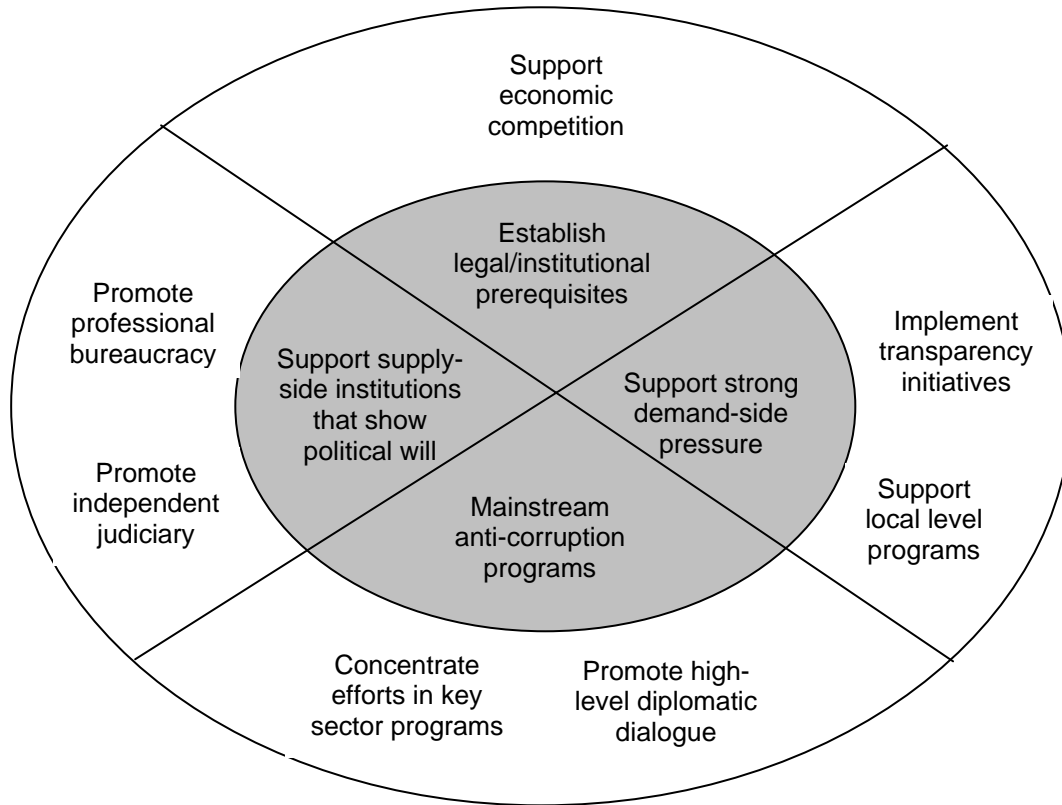
Civil Society, Business Associations and Media Organizations: Capacity building programs should be supported to upgrade civil society organizations and business associations as effective advocacy and watchdog groups. Investigative reporting training and competitions can be supported for journalists. Freedom of information and public access to information law reforms can be supported as well. Additional assistance can be provided to support the establishment of anti-corruption coalitions across NGOs and business associations, and among journalists to bolster their activities, facilitate sharing of experiences, and promote a single voice demanding reform.

5. Proposed Strategic Directions for USAID

The preceding analysis of corruption and anti-corruption trends, policies, legislation, and institutions in Ukraine suggests several strategic directions for future USAID and donor support to promote anti-corruption programs. These directions address the problems associated with Ukraine's corruption syndrome – as a closed insider economy/elite cartel grouping. The core and intermediate strategies are depicted below. Specific anti-corruption program options that operationalize these strategic directions are identified in subsequent sections of the report. The table in Section 8 links the proposed initiatives to these strategic directions.

We propose several major strategic themes – (a) establishing the legal, institutional and economic conditions within which anti-corruption programs will thrive, (b) promoting capacity building within key government institutions, the civil service, and the judiciary if they demonstrate a serious political commitment to change, (c) strengthening civil society and business to advocate for change and oversee government including activities at local levels and transparency initiatives, and (d) mainstreaming anti-corruption programs so that the problem is attacked at many levels, but concentrating efforts in major sectors and promoting high level diplomatic dialogue and multi-donor coordination.

Proposed Strategic Directions for USAID/Ukraine Anti-Corruption Programs



Core Strategies

- **Support establishment of the prerequisite conditions for effective anti-corruption programs.** The legal, policy and institutional frameworks for the government and civil society to pursue major and comprehensive anti-corruption programs are not fully established. Since the Orange Revolution, it appears as if the political will and trajectories exist to upgrade or revise these frameworks to establish a strong foundation for future activity. USAID and donor support is warranted to bring these frameworks to the required levels of competence. The MCC Country Threshold Program can serve as a major resource to bolster the prerequisite conditions for effective anti-corruption programs.
- **Support the development of strong demand-side pressure for anti-corruption reforms.** The revolution clearly demonstrated the power and inclination of Ukrainian civil society and media to make their voices heard and demand for reform. More capacity building is needed, as well as organizational coordination across civil society organizations, to establish them as a permanent and forceful source of external demand on government. Support for watchdog and advocacy activities should be provided.
- **Support supply-side institutions contingent upon visible demonstration of their political will.** There is much rhetoric by government leaders about their

desire to reduce and control corruption, but little demonstrated action or progress. The recent selection of Ukraine to participate in the Millennium Challenge Account Threshold Program provides Ukraine with a major incentive to turn its words into deeds. In addition, USAID and major donors can be encouraged to enhance their dialogue, coordination and messages to the government. Moreover, they can develop a set of clear benchmarks and initiate a monitoring and evaluation program by which positive actions and results demonstrating the government's sincere commitment to anti-corruption goals can be measured and tracked. If demonstrated progress can be presented, then the government should be rewarded with appropriate technical assistance and resources.

- **Mainstream anti-corruption activities throughout the portfolio of donor programs.** USAID and other donors should seek ways to inject anti-corruption objectives and activities into all their programs in Ukraine – across all sectors and functions. This mainstreaming approach will yield a more comprehensive and visible assault against corruption. Moreover, USAID and other donors should encourage the Ukrainian government and civil society groups to do the same. Technical assistance to USAID implementing partners to incorporate anti-corruption elements in their projects can be helpful. Mo

Intermediate Strategies

- **Support implementation of transparency initiatives.** Many Ukrainian laws and regulations mandate transparency, publication of government information, and openness in government operations. However, implementation of these requirements does not always meet the necessary standards. USAID and other donors should apply pressure to government agencies to achieve their transparency objectives quickly. Where technical assistance is reasonably required to meet these goals, it can be offered. Demand from civil society for improved government transparency should be generated and supported.
- **Support programs at the central and local levels.** While the drama of the Orange Revolution and political pronouncements against corruption occurred in Kyiv, much can be done to deal with the problem at the regional and local levels, where the effects of corruption are felt most personally. As a result, USAID and other donor programs should be targeted at both central and subnational levels to allow for trickle down and trickle up effects.
- **Promote an independent judiciary and improve access to information:** Support programs for court reform that ensure a separation of powers that will reduce executive interference in judicial decision making. A major objective of donor support should be not only to strengthen public and media access to information, but to build the capacity of civil society, business and the media to *use* the information that they gain access to effectively monitor and oversee government functions.

- **Promote a professional bureaucracy:** Emphasize efforts to shore up administrative quality, autonomy and professionalism in the civil service, and sustain them over the long run.
- **Support economic competition:** Strengthening and expanding ongoing programs to enhance economic competition will reduce opportunities for state capture by monopolistic forces. The subdivision of business-administrative groups into competing units is a positive sign that will dilute the influence of each particular elite group. Promoting economic and political competition at all levels will reduce the extent of state capture by economic elite over time.
- **Promote anti-corruption programs in key sectors and functional areas.** This and other assessments have shown that corruption in Ukraine is widespread and affects almost all government sectors and functions. However, it is not reasonable to expect USAID and other donors to direct their anti-corruption efforts against *all* sectors and functions. As a result, this assessment identifies key areas where corruption weaknesses are high, but opportunities to deal with the corruption problems are available and strong. These areas include the judicial, health, education and private sectors; the public finance function; and the institutions of the parliament, political parties, and municipalities.¹⁹
- **Promote high-level diplomatic dialogue and multi-donor pressure:** Since the revolution, anti-corruption has risen on the Ukrainian political agenda to the highest level. To capitalize on this status, high level diplomatic dialogue and multi-donor pressure is needed, along with anti-corruption donor programming, to mobilize Ukrainian counterparts and ensure that there continues to be strong movement forward.
 - It is important to maintain diplomatic and donor pressure on the top leadership so they stay the anti-corruption course and that they maintain pressure, in turn, on their mid-level managers
 - There is a need to maintain pressure to mobilize Parliamentary leaders as well, so that they adopt major pieces of legislation that have been languishing in committee.
 - NGOs need to know that donors are strongly behind their activities – both in terms of financial and moral support. This is especially important due to the sensitive and dangerous nature of corruption issues they deal with.

¹⁹ The sectoral and functional priorities referred to and elaborated on in subsequent sections were established based on a systematic questionnaire completed by six Ukrainian experts who rated a large number of government sectors and functions in terms of the extent of corruption, the existence of a legal/regulatory framework in each sector/function to deal with corruption problems, and the adequacy of the implementation mechanisms to handle corruption in a practical and operational fashion. Sectors and functions were prioritized for future support when the corruption problems were rated high *and* the framework and implementation were also strong. The results of this questionnaire were validated against open-ended interviews conducted with additional Ukrainian specialists. Detailed assessments of these sectors, functions and institutions are presented in the following sections.

- The MCC threshold program can be used as a carrot to push leadership to strongly initiate anti-corruption actions. Ukrainian leadership needs to demonstrate their political will and achieve solid progress within a two-year time frame to be eligible for larger MCC compact funding.

6. Corruption in Government Sectors and Functions

6.1 Judicial Sector

Overview

The judicial system usually scores as one of the most highly corrupted institutions in public opinion surveys in Ukraine. It is supposed to offer citizens access to fair and equal justice, but as currently configured its operation falls short of necessary independence from the Executive branch of government, it suffers from excessive discretion on the part of judges and court administrators, it lacks sufficient internal controls to effectively reduce abuse of power, and it is not as transparent in its procedures and decisions as it ought to be. While many of these problems stem from inadequate legal, regulatory and institutional frameworks, the chronic underfunding of the judicial budget certainly does not help. Several draft laws are under consideration in the Verkhovna Rada that would fix some of these problems. Adoption of these laws, followed by meaningful and rapid implementation, will demonstrate the government's political will to reduce corruption in the judicial sector in a visible way. (A recent positive step is the enactment by the Rada of a new law establishing a registry of judicial decisions.) Based on passage of these prospective reforms, additional donor support programs to fully implement change activities will be warranted.²⁰

There are planned and ongoing USAID/USG programs to strengthen commercial law, administrative courts, and criminal judicial reform, through both implementing partner programs and the work of the Regional Legal Advisor. Other USG providers also offer support to reform initiatives in the judicial area, including INL, OPDAT, FBI and others. The OSCE has been providing assistance to help establish the new Administrative Court. The World Bank is just starting to plan a judicial reform program that is likely to focus heavily on court facility rehabilitation. EC/TACIS in conjunction with the Council of Europe are supporting judicial training, court administration, and procuracy reform to bring the Ukrainian practice into harmony with European approaches.

Corruption Vulnerabilities

The principal components of the judicial sector are each severely vulnerable to corruption:

²⁰ See the recent assessments of the judicial system by J.T. Asscher and S.V. Konnov, *Ukraine Justice System Assessment Report (TACIS, June 2005)* and David Black and Richard Blue, *Rule of Law Strengthening and Anti-Corruption in Ukraine: Recommendations for USAID Assistance* (USAID, May 2005) for more detailed reviews of the judicial sector and potential reform options.

- **Judicial Selection.** Despite a thin veil of merit-based competition for judicial recruitment and appointments, there are extensive corruption-prone problems in the selection process. Patronage from the Heads of Court (who are appointed themselves by the President) is essential to get appointed to a court seat. In larger cities, where competition is greatest, seats allegedly can be bought from the Head of Court for USD 2000 for the general jurisdiction courts. The process of testing in the Qualification Commissions is not transparent. The Presidential Secretariat, which has no role in the appointment process by law, has inserted itself into the process and can pull or insert judicial candidates. The result of these problems is a judiciary that is plagued by favoritism, nepotism, and political influence.
- **Judicial Discipline.** There is minimal monitoring and oversight of judicial conduct. Disciplinary investigations, hearings, and punishment are very infrequent. In this atmosphere, judges are likely to believe that they can act with impunity.
- **Court Procedures and Administration.** Interference in judicial decision-making by the executive and parliamentary branches, higher level judges, and businesspeople is common. As a result, the law is not applied equally or without excessive discretion. The Heads of Court are responsible for case allocation, vacation vouchers, bonuses, and equipment and facility budgets; there is little control over their discretion on these matters. Open trials are not common in Criminal Court and oral hearings are not common in Commercial Court; as a result, there is little transparency in these proceedings. Moreover, court decisions are not published. Oversight of court clerks is minimal. The State Judicial Administration, whose Head and Deputy are appointed by the President, is responsible for the court system's budget, facilities and logistics; this arrangement places the judicial system into an overly dependent position relative to the executive branch. As a result of these factors, the incentives for corruption in the judicial process are increased.
- **Enforcement of Judicial Decisions.** Enforcement of judicial decisions is in the hands of the Ministry of Justice's State Enforcement Department, which is not extremely effective and allegedly subject to corrupt practices.

Opportunities and Obstacles

Some recent actions bode well for meaningful judicial reforms:

- A major salary increase for all judges will go into effect on 1 January 2006. The intention of this raise is to eliminate the excuse of low wages for taking bribes.
- The Rada Committee on Legal Policy is a key actor that appears to be ready to support judicial reform. A working group of this committee is synthesizing 15 draft laws into a single draft that will be proposed to amend the existing 2002 Code on the Judicial System. It is hoped that this integrated draft will be discussed and adopted by the Rada immediately after the legislative elections in 2006.
- The Rada has just approved a new law to establish a registry of judicial decisions.
- The establishment of the new Administrative Court offers a new venue to deal with citizen-government problems. However, the court is operating without an

Administrative Procedures Code, its planned regional and appellate division expansion is not sufficiently funded, and its judicial selection procedures suffer from the same problems as the other jurisdictional courts.

- The current Minister of Justice is seen as a genuine reformer and now leads a national commission to develop a strategy to tackle rule of law and judicial reform issues.
- The Council of Judges, a self-governing body of judges, is an entity that can be called upon to handle several of the executive independence issues that currently plague the judiciary.

There are certainly many obstacles confronting effective judicial reform, among them::

- The continuing problem of extreme case overload, which is in large part due to the fact that over 1500 judicial positions are currently vacant.
- The budget for the court system is wholly inadequate. It barely covers salary costs and there is extensive leakage of funds in the distribution of the budget to the courts.
- Many judges are inadequately trained for their jobs.
- The Criminal Procedure Code is an outmoded holdover from Soviet times and needs to be modernized.
- Excessive political and economic influence over judges is difficult to control.

Recommendations

Contingent upon the adoption by parliament of effective judicial reform laws, the following programming options would be useful in support of Ukrainian implementation of those reforms. USAID programs should be carefully integrated with the activities of other donor organizations already working in this sector in judicial and procuracy reform, including the World Bank, OSCE, and EC/TACIS-Council of Europe. Specific initiatives are identified within each component area.

To address problems in the judicial selection process,

- Technical assistance for the Qualification Commissions to design criteria, improve testing procedures, develop merit-based assignment procedures, and conduct training programs at the Academy of Judges. Develop control mechanisms to reduce the influence of the Heads of Court in the selection process.
- Support development and training for an electronic registry to track judicial candidate processing and support assignment and placement of judges.

To address problems in the judicial discipline process,

- Provide support that emphasizes prevention, including randomization of case allocation and strengthening of the Code of Judicial Conduct with associated monitoring and enforcement of the Code by the self-governing body of judges (the Council of Judges).

To address problems in court administration procedures,

- Provide technical assistance to transfer the State Judicial Administration under the authority of the Supreme Court, supporting design of its internal regulatory framework, and providing organizational and budgetary training.
- Support the systematic publication of court decisions on the web. This will make judges more accountable for their decisions.
- Support further development and adoption of Alternative Dispute Resolution mechanisms to reduce case overload.
- Provide support to clarify and strengthen court administration procedures and make them more transparent. Support training of court management staff.
- Support development and adoption of civic education programs for high schools that includes, among other topics, the workings of the judicial system.

To address problems in the execution of judicial decisions,

- Provide technical assistance to reinforce the bailiff function and develop stronger control and oversight mechanisms.

Summary of Anti-Corruption Program Options²¹

Anti-Corruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term success	Impact Timing
Support reform in judicial selection process (Qualifications Committee, Academy of Judges, electronic registry, etc.)	Academy of Judges, Qualifications Committee, Council of Judges	Heads of Court and Presidential Administration that will lose clout	High impact – more professional and qualified judges recruited and placed	Some early success are feasible if judiciary embraces these reforms wholeheartedly	Mid-term – organizational and IT changes to the process will take some time to put in place
Support reform in judicial discipline process (strengthen and enforce code of conduct, prevention measures, etc.)	Council of Judges	Sitting judges and existing judicial system	Moderate impact – continuous oversight of judges and actual disciplinary action taken against corrupt judges	Not likely except if examples are made of a few highly corrupt judges	Mid-term – requires many organizational and procedural changes, as well as changes to existing “culture of impunity”

²¹ Many of these recommended options are or will be supported by ongoing or planned USAID programs.

Anti-Corruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term success	Impact Timing
Support reform in court administration and procedures (SJA transfer, publish court decisions, ADR, transparent court procedures, civic education)	SJA, Council of Judges, NGOs	Business and political interests that seek to circumvent judicial system; Heads of Court	High impact - reforms will be visible to public; more professional administration	Early successes are possible – especially in increased transparency	Mid-term – Requires many changes to current procedures
Support reform in execution of court decisions (controls and oversight of bailiff function)	MoJ, State Enforcement Agency	Business and political interests that seek to circumvent judicial system	Moderate impact – reforms will yield judicial results that will be visible to the public; more professionalized bailiff service	Early successes are possible – especially if examples are publicized of judicial decisions carried out	Mid-term – Requires changes to current procedures and organizational culture

6.2 Health Sector

While Ukraine faces fast growing HIV and tuberculosis epidemics, government health expenditures are low (ranging between three and five percent of gross domestic product as compared to a European Union average of 8.5 percent) and equity and access to health care services are problematic.²² The ratio of doctors to population is very high – 4.5 doctors per 1000 population in Ukraine versus 2.9 doctors per 1000 in Germany, for example – but these medical staff are disproportionately concentrated in urban areas.²³ Moreover, expert teams have called for a major reorganization of the Ukrainian health system, indicating that accountability by authorities to initiate changes required to meet these looming health crises is lacking, management capacity in the health system is weak, and governance practices in health care provision need to be improved.²⁴

Corruption Vulnerabilities

Many of the common healthcare corruption problems found in other countries exist in Ukraine: abuses in public procurement tenders, leakage in budget resources from the center to the facilities, small bribes to obtain services that are supposed to be provided for free, and lack of transparency in the provision of services. Other problems that are often

²² World Health Organization, World Health Report 2005, Geneva; Guy Hutton, Equity and access in the health sector in five countries of Eastern Europe and Central Asia: A brief review of the literature, Swiss Agency for Development and Cooperation, November 2002; World Health Organization, Summary Country Profile, July 2004.

²³ US Foreign Commercial Service/US State Department, Ukrainian Market for Health Care Services, 2001.

²⁴ United Nations Country Team, Common Country Assessment for Ukraine, October 2004.

found elsewhere apparently are not major issues for Ukraine. These include the presence of ghost workers that draw salaries but do not provide services, and conflict of interest situations for healthcare providers who are both on the public payroll and operate private services at the same time (the private health care market is still very small).

Studies have found that in 66 percent of cases, the patient knows it is necessary to make an under-the-table payment to receive proper services, while in 25 percent of the cases, healthcare providers ask for payment outright.²⁵ In a cash-strapped health system, several schemes have been observed:²⁶

- Charity: State hospitals that cannot accept cash legally for medical care provided requests charitable contributions, which may accrue to the hospital or be pocketed by the staff.
- Local coverage: Local hospitals have been known to offer their own insurance policies to patients that provide holders with special privileges.
- Virtual clinics: Doctors or hospital administrators establish private clinics illegally within their hospitals and ask patients to pay.
- Special hospitals: Clinics or hospitals administered by government departments or ministries other than the Ministry of Health receive extra payments from private insurance companies.
- Barter: Private companies have been known to pay off the debts of public hospitals in return for free healthcare for their employees.

Opportunities and Obstacles

Healthcare providers and citizen groups at a local level are both motivated stakeholders for anti-corruption reform: an increase in transparency, a reduction in budget leakage, and a decline in procurement abuses would provide immediate and visible returns to both providers and consumers. The All-Ukrainian Network for People Living with AIDS, for example, is an excellent example of an NGO that has mobilized its resources to become an effective citizen watchdog of healthcare pharmaceutical procurement. Another example is a healthcare provider in Donetsk that is working under a USAID grant and found solutions to overstaffing in the hospital maternity ward; reorganization and reengineering of existing institutions and procedures are likely to reduce costs extensively and release funds that can be used to provide basic services.

On the positive side, the salaries of healthcare providers have recently been increased, diminishing wage levels as an excuse for extracting bribes from citizens seeking services. President Yushchenko has recently stressed his intention to establish a national health insurance fund soon, in part to help solve the problem of illegal payments in the healthcare system.²⁷

²⁵ Hutton, op cit.

²⁶ John Marone, "Ukraine's Health Care System: Finding the Right Cure," The Ukrainian Observer, Issue 208, 2005.

²⁷ V. A. Yushchenko, "Current State of Ukraine's Medical Sector One of the Most Disturbing Problems," Presidential radio address, November 12, 2005, www.president.gov.ua/en.

As to possible obstacles to anti-corruption action, it has been alleged that popularly considered reformers within the Ministry of Health have recently been dismissed. Obviously, the powerful stakeholders that benefit from procurement kickbacks are likely to oppose reforms.

Recommendations

The recommendations listed here are illustrative of anti-corruption initiatives that would promote greater accountability and transparency across several basic healthcare components. First, there are several program options available to strengthen the public procurement of pharmaceuticals and medical supplies/equipment, including:

- Support for strengthening the procedures and controls used by the Tender Commissions. This would include enhanced transparency measures in their procedures.
- Support for citizen and business watchdogs to monitor and oversee public procurements.
- Support for establishing a Procurement Audit Unit within the Ministry of Health to oversee tenders.

Leakage from already inadequate healthcare budgets reduces the quality and quantity of service delivery in this sector. Several program options can help detect and stem these leaks, for example:

- Support a study that tracks budget expenditures from the Ministry of Health budget plan to the oblast, rayon and city levels to detect leakage.
- Train health providers and managers at the local level (eg., hospital and clinic administrators) to how to monitor the flow of budgetary resources from the center to their facilities, and then how to track the expenditure of those funds. This effort can help to improve the transparency and accountability of the health budget.
- Support the establishment of Community Health Review Boards, involving the participation of citizens, NGOs, business groups, and health service providers at a community level, to monitor the expenditure of health resources and detect misuse.

Support can be provided to the Ministry of Health in formulating a national health insurance fund that will deal effectively with problems of corruption and control for informal payments, while providing for fair and equal access to healthcare services for all.

The healthcare system and healthcare facilities, in particular, are in need of organizational, management and institutional reform. There is some evidence from USAID programs (for example, the Maternal and Infant Health Program in Donetsk) that some healthcare facilities or departments may be overstaffed, while others are understaffed. There is a concentration of doctors in urban areas and sparse resources in rural areas. In addition, small bribes and informal payments for health services that are

supposed to be free have become customary in Ukraine, allegedly to compensate for low salaries. These imbalances can produce deteriorating effects on healthcare delivery, especially in situations where budget resources are inadequate. As a result, several program options are desirable:

- Support technical assistance in several pilot healthcare facilities to reassess, and reengineer staffing plans to bring them in line with the demand for services. Downsizing of staff, beds and hospitals; overall reorganization and redeployment of resources in relation to usage; and the introduction of “family doctors” to manage healthcare services at the local level are issues that can be addressed.
- Support several pilot tests introducing official “fee for services,” where the fees are openly posted and the revenues accrue to the healthcare facilities’ coffers.

Summary of Anti-Corruption Program Options

Anti-Corruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term success	Impact Timing
Strengthen the public procurement of pharmaceuticals and medical supplies/equipment (Tender Commissions, citizen watchdogs, Audit Units)	MoH procurement committees, healthcare NGOs	Vested business interests and corrupt tender committees	High impact – public funds will go further in purchasing needed drugs and supplies	Yes – more medications purchased at lower prices	Near-term – oversight and procedural changes can be implemented quickly
Support detection and monitoring of budget leakage (track budget expenditures, Community Health Review Boards, etc.)	Local NGOs, local healthcare providers	Intermediate actors that siphon off funds	High impact – more money available to provide healthcare services	Yes – oversight bodies can probably identify problems quickly and seek near-term remedies	Mid-term – long-lasting changes to budget allocation and expenditure may take some time
Support Ministry of Health in formulating a national health insurance fund that deals effectively with problems of corruption	MoH	Vested interests that benefit from under-the-table payments	Moderate impact – more rational and better funded approach to providing healthcare	Not likely	Long-term – establishment of fund will probably take some time
Support organizational and management reforms of healthcare system (reengineer staffing plans, pilot test “fee for service” programs, etc.)	MoH, particular healthcare facilities	Vested interests in existing system	High impact – rationalized structure and deployment of resources to provide best service	Yes – Pilot testing of reforms in sample facilities	Long-term – reengineering the entire healthcare system will take time

6.3 Education Sector

The Ukrainian educational system is still in need of major reform and overhaul. As with many Ukrainian state structures, the Education Ministry lacks transparency and accountability at many levels. There is little involvement of CSOs in the Ministry's work, but the education system touches most families in the country and civil society is involved to a degree at local levels. With corruption widely perceived as rampant from the classroom on up, education is one area that motivates many families to care and be concerned.

Widespread acknowledgement of low teacher salaries lends some credibility to the practice of students making payments under the table at schools. However, it is also quite prevalent for normal, graduation and entrance exams all to require the payment of special fees or bribes. The pervasiveness of corruption in this sector poses three serious development concerns—(1) a further financial strain on families with children in school, (2) an attendant increase in frustration with Government's inability to deliver promised services, and (3) the further institutionalization of bribe payment as an acceptable norm for young people attending schools.

Corruption Vulnerabilities

A number of issues plague the education sector in Ukraine which contributes to a serious problem of corruption at all levels in the school and higher education systems. From procurement to grading to entrance examinations, corruption is currently fused into Ukraine's education system. Centralized financing without transparency to show the allocation and spending of funds down to the local school level has resulted in what appears to be misappropriation and misallocation of monies and has frequently resulted in shortfalls at the local level. The lack of involvement and participation of CSOs in various school and Ministry processes also inhibits transparency and accountability. Some officials may seek to sell grades and passing scores for higher school placement.

Opportunities and Obstacles

The President has mandated that computerized higher school entrance exams be administered nationally to reduce corruption and to provide equal opportunities. The period prior to the elections has enabled parties, politicians and CSOs to address the need for higher wages and reform of testing standards nationally, while combating corruption as a cross-cutting issue. Education reform has powerful salience among voters and is not an extremely divisive issue among politicians. Current government officials see reform in this sector as achievable.

First and foremost, parents are constituents for reform; they seek better educational opportunities for their children and more responsiveness from the government on this matter. Most academics are opposed to and even shamed over the need to take bribes.

There also appears to be a willingness to reform in the Ministry itself, but this is at least partially tied to policy issues as well. Many government officials and parliamentarians are sensitive to the frustrations of families and feel this is a safe issue to tackle. Even corrupted politicians do not generally feel threatened by reform in this area.

Administrative practice and bureaucratic intransigence appear to be the major stumbling blocks to reform, outside of a few who may benefit from the status quo system.

Recommendations

- Meetings between CSOs and budget watchdog groups with teacher organizations should be promoted to work on common strategies to solve corruption issues in schools and the Ministry. They should target transparency in the expenditure of budget and extra-budget funds.
- Assistance on standardized testing remains a serious entry-point opportunity to have an immediate impact on families and show progress in the fight for reform. The US Embassy’s Public Affairs Section has piloted standardized testing at three sites.
- Programs that enhance legal literacy among students should be promoted, in order to build a broader, more educated constituency for anticorruption behavior and reform.

Summary of Anti-Corruption Program Options

Anti-Corruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term success	Impact Timing
Strengthen demand-side pressure and oversight of education budget; promote budget transparency	Ministry, CSOs	Medium. Capacity needs to be developed.	Medium to high.	Mid- to long-term	Mid- to long-term
Mainstream a/c provisions into school entrance testing procedures and all testing throughout schools/universities	Ministry, CSOs, Center for Testing Technology	Medium. Ministerial intransigence and capacity to reform.	Medium to high and perceived nationwide by almost every family.	High impact in short-term	Mid-term
Promote legal literacy through civic education programs	Ministry, CSOs, UCAN	Medium. Ministerial capacity to change.	Medium to high. Builds constituency for reform.	Medium.	Mid- to long-term.

6.4 Public Finance

The use of public funds stretches across a broad arena of government functions and departments. It is an area of critical concern both in terms of understanding corruption in Ukraine and designing approaches to combat it. It includes the entire cycle of the budget process (budget formulation, approval, execution and audit/oversight) and involves the executive and legislative branches at both national and sub-national levels. It also involves looking at IT capacity and financial management systems across ministries and government agencies. Procurement and government purchasing are central aspects of the budget execution phase. Both internal audit and controls, as well as external audit by the Verkhovna Rada's Chamber of Accounts are critical components. Intergovernmental finance includes policy and formulas for transfers as well as implementation. And finally, the important role of civil society participation and oversight must be examined.

Corruption Vulnerabilities

Public finance is a critical government function that affects all areas of public activity, and it encompasses the vast majority of corrupt behaviors in one way or another. Vulnerabilities in this area typically stem from three weaknesses: a poor legal/regulatory framework, weak capacity (technological, organizational, human and resource), and/or a lack of transparency/oversight. In Ukraine, the problems in the public finance area emanate clearly from a lack of transparency and oversight, both by the appropriate government bodies and civil society.

Specific technical problems, such as the fact that the GOU uses the cash basis²⁸ of accounting rather than the more appropriate accrual basis, certainly exist. Strengthening government capacity might have a positive impact. But no interviewees suggested that the GOU lacked the necessary capacity to perform well in this area.

Likewise, the legal/regulatory framework in Ukraine is far from ideal. For example, there is no comprehensive FOIA-type legislation. But a number of existing laws, decrees and regulations provide for obligatory transparency and accountability, notably in the budget and procurement areas. The GOU, however, fails to comply with these existing requirements in important ways. While the GOU claims to be transparent, and gets credit from the international community for being so, it falls far short of real transparency. It appears that the GOU is either unwilling or unable to create an environment of real transparency and accountability.

Civil society appears to have strong analytical capacity in this area, but we did not identify many NGOs working in the area of budget oversight and advocacy, procurement watch, or other watchdog roles. Neither the media nor the business community appears to be aggressively engaged in this area in a major way.

²⁸ *Diagnostic Report: Fiscal Transparency and Openness in Ukraine* by Institute for Economic Research and Policy Consulting, 2003, p. 17

It should be noted that transparency in the use of public funds does not attack corruption directly. However, it creates the environment in which it is much more difficult to divert these resources and in which the risk of discovery and punishment is dramatically higher. It is a necessary enabling precondition for the success of any other anti-corruption efforts.

Budget

The legal and technical aspects of the budget process in Ukraine generally comply with international standards (such as IMF and OECD requirements) and are consistent with EU requirements in many regards. There are, however, two concerns in this area. The GOU does not appear to offer extensive opportunities for citizen involvement in the process either at the national or local levels. While there may be public hearings or opportunities to present testimony or analysis to the VR, there is little evidence that such input has any impact on the budget. The GOU appears to be following the letter rather than the spirit of public participation in the budget process. More importantly, the transparency of the budget and its execution is quite low. A superficial analysis shows that the GOU does, indeed, provide extensive information to the public. The budget is posted on the Verkhovna Rada website. However, a more complete analysis shows that the VR website posts the government's *budget proposal*, but not necessarily the amendments to it or their discussions surrounding them. Many budget numbers are available only in summary form and additional detail is not available. Interbudgetary transfer calculations use complicated formulas that often have plugged-in numbers that do not have justification. The government does not typically report on variances from budget either on the expenditure or the revenue side, even when the variance is significant. Annual reports lack important information on certain assets and there are no longer-term budget forecasts. The numbers released by the social funds are particularly opaque.²⁹ Budget information not posted is typically difficult or impossible to obtain. Although accessibility to information has improved in recent years, this lack of transparency is a critical vulnerability for corruption.

Sub-national governments typically release even less information on their budgets and their execution. Generally, access to public information at these levels is usually restricted. Even information which is public by law is often not provided. "Officials use excuses like 'the information is not available temporarily,' 'the requested data has not been collected yet' and 'the data can not be disseminated because of technical difficulties.'"³⁰

²⁹ "Documents of [the] pension fund are not fully available to the public; only general figures on budget execution and the amount of arrears are published. [The p]lanned budget is not published...." *Diagnostic Report: Fiscal Transparency and Openness in Ukraine* by Institute for Economic Research and Policy Consulting, 2003.

³⁰ *Diagnostic Report: Fiscal Transparency and Openness in Ukraine* by Institute for Economic Research and Policy Consulting, 2003, p. 81.

Procurement

The practice of competitive tendering is relatively new to Ukraine. No interviewees suggested that the current legal/regulatory framework was inadequate. But the issue of corruption in procurement was regularly raised. Without doing a comprehensive analysis of this complex and highly technical area, it would be impossible to comment extensively on it. It appears that the percentage of public funds that are competitively bid grows steadily, however, a large portion is still spent through a multiple bid system which is far short of full and open competition and inherently more susceptible to political or corrupt manipulations.

The concerns about corruption are more likely to stem from policy weaknesses and lack of transparency and external oversight than from technical or legal/regulatory weaknesses. For example, very few government entities publish a comprehensive procurement plan for the upcoming year. Information of specific procurements can be difficult to locate, and tenders may not be announced publicly until shortly before the deadline. Arbitrary pre-qualification requirements can exclude otherwise qualified bidders from the running. There does not appear to be a procurement review board including non-government actors, the policies for contesting a decision are weak and there appears to be little citizen input into what is to be procured in the first place.

A new amendment to the Procurement Law was passed in 2005 to create a more competitive environment in the area of public procurement while ensuring transparent procedures. In particular, there are provisions on additional procedures of publication of procurement plans in the internet, electronic tendering, guarantees for nondiscrimination of participants and equal access to procurement information. New wording includes guarantees against unfair acts of bidders. The law also has provisions to control conflicts of interest: it prohibits participation in procurement committees of close relatives of bidder's representatives; officials of consolidated companies; and their representatives and close relatives of these persons. Violation of these restrictions will result in cancellation of the tender or its outcome. In addition, the Law has a section on "social control in the area of public procurement" and establishes a new independent controlling body – the Tender Chamber – a non-profit union of NGOs. The Law provides for procedure and guarantees of activities of this body: administration of complaints, conducting inspections, conducting public discussions of bidding procedures, etc.

Taxation

The State Tax Administration (STA) oversees all taxes in Ukraine. The main revenue sources are personal and business income taxes, VAT, and excise taxes on items such as alcohol, tobacco, and certain entrepreneurial activities. Tax laws and regulations are not always clear, change often, contain numerous loopholes and can conflict internally. Administrative procedures for tax collection and management are likewise unclear. This results in a high level of tax evasions, very large collections arrears and an extremely large shadow economy.³¹ In addition, citizens complain that taxpayers' rights are

³¹ Estimated by the Ministry of Economy and European Integration as 42.3% of GDP.

routinely violated. Tax exemptions or tax breaks are typically granted by the legislative branch as a result of lobbying, a clear manifestation of state capture by influential business. A tax reform designed to reduce tax rates, simplify legislation and eliminate many loopholes and exceptions was implemented in 2004. It lowered the profit tax for enterprises from 30 to 25 percent and introduced a flat 13 percent tax on personal incomes.

Large-scale corruption is suspected in the VAT refund scam that allegedly constituted about \$1 billion in 2004, involving kickbacks to tax officials of 30-50 percent of the amount refunded. Currently, the Tax Administration is considering a new reform to deal with this problem by developing a list of “low risk” firms that would be allowed to file electronic VAT tax returns.

To look at the tax system in a more systematic way, a working group at the Presidential Secretariat was established to draft a new Concept to Reform the Tax System in Ukraine. The Concept has been drafted and is being discussed broadly among stakeholders. This document suggests a further reduction in the tax burden but also stabilization of the tax system, making it more transparent and streamlined. In addition, a National Commission on Developing Main Directions for Tax Reform in Ukraine was established in 2005 with representatives from the business community and the government. The Commission has drafted a Charter on Tax Relations, which is now open for public discussion.

Audit

The GOU has appropriate internal and external audit agencies. The external audit (or Supreme Audit Institution, as it is generically called) is accomplished by the Accounting Chamber of Ukraine (ACU). It is independent, reports to the VR and appears free from political and operational interferences. The internal audit function is the Chief Control and Auditing Administration (CCAA), reporting to the Ministry of Finance. Both of the bodies appear to have significant technical capacity. They conduct not only financial audits, but also compliance audits of various types, as well as performance audits (value for money audits) of government programs.

The ACU reports findings to the VR and the agency under audit and makes recommendation for improvements. However, compliance with these recommendations by the audited entity is not high. The ACU publishes extensive data on its website, including the detailed findings of certain audits. However, critics of the ACU point out that the results of sensitive audits are not published or only summary results are released. Audits of the four Social Funds, thought to be particularly susceptible to corruption, are typically not released.

Opportunities and Obstacles

Existing legal instruments that require transparency are important tools in demanding greater compliance from government. The relatively free press and the growing business

community, together with the extant capacity of NGOs are important forces that could harness these instruments. The points of access for information which are already in place (VR website, etc.) indicate that organizational structures and capacity do not have to be created from scratch. Some governmental institutions, such as the Tax Administration and Chief Control and Auditing Administration, demonstrated recently under the new administration a willingness to improve their functions and implement reforms. All of these tools suggest that, with firmer political will and greater demand from civil society, the GOU could make real progress on public finance reform in the short term.

Virtually anyone interested in reducing corruption should recognize the importance of increasing transparency and accountability in the public finance area. Not only NGOs whose specific mission relates to budget, procurement, municipal finance and the like, but also sectoral NGOs should be more engaged in advocating and overseeing these functions. Business, whether large or small, domestic or international, also has a natural interest in how government spends public money. Finally, international donors, especially those who provide direct budget support, should be much more concerned about transparency of public funds.

Those who benefit from the corrupt *status quo* will commit significant efforts to ensure that these government functions remain opaque and unaccountable. The oligarchs and senior government officials, current and prospective, who benefit from state capture and other corrupt practices are likely to be the strongest of these opponents.

Recommendations

As in other areas, we recommend that USAID/Kyiv design a top-down/bottom-up approach. The top-down aspect should concentrate on supporting political will of the GOU through concerted donor coordination and focused diplomatic dialogue on the need for increased transparency. It should also provide the GOU assistance in policy implementation in order to comply with its transparency obligations under current law.

The bottom-up aspect should focus on mobilizing the range of interested actors to increase their advocacy and demand from transparency by engaging directly with government actors and by collaborating in activist coalitions for reform.

To increase demand for transparency, a coalition of CSOs (for example, an “access to information” coalition) can be formed among existing civil society groups or existing coalitions can be strengthened around anti-corruption issues. Such a coalition might ultimately seek the passage of a FOIA-type law, but in the short term, it could mobilize actors across sectors and in the media to push for greater transparency on specific issues. USAID and others have supported access to information efforts in a number of countries using a variety of approaches.

USAID needs to clearly articulate its demand for transparency in the IFMS sector and embed this demand as a conditionality for future assistance whether in the form of training, technical assistance or equipment. It appears that the lack of transparency is not a capacity or resource problem, but rather one of political will.

Here are some specific recommendations in each sub-sector:

For budget:

- Promote implementation of the OECD Best Practices for Budget Transparency policies³² in budget planning, implementation, reporting, and monitoring. In particular, among other policies: limit possibilities for discretion in budget revenue planning and the interbudgetary transfer system by introducing clear formulas and by promoting performance-based budgeting.
- USAID/Kyiv should consider supporting a budget advocacy organization, such as those supported by the International Budget Project³³ in other countries, to lobby for greater participation and transparency in the budget. Such an NGO could also provide training and technical assistance to sectoral NGOs to assist them in advocating for such reforms in their sectors.

For procurement:

- Ensure the division and separation of functional responsibilities for implementing and monitoring; consider establishing a central internal supervisory body; provide support for documentation and communication systems and e-procurement.
- Monitor implementation of the recent amendment to the Procurement Law requiring better transparency, conflicts of interest management, and external oversight. Involve business associations in public procurement monitoring.

For taxation:

- Support ongoing efforts to reform the tax system in Ukraine to ensure that it reduces incentives for tax evasion and limits the discretionary power of tax officials.
- Reform regulations on VAT refunds to make it impossible to create bogus firms, to eliminate opportunities for extortion by tax inspectors evaluating tax return claims, and to streamline tax return procedure for reliable businesses.

For audit:

- Support efforts to improve enforcement of recommendations from the Accounting Chamber (ACU) and the Chief Control and Auditing Administration (CCAA).
- Promote greater transparency and detail in audit institutions' reports.
- Support CSOs and the media in conducting watchdog activities to monitor and investigate public abuses in public funds spending.

³² OECD Best Practices for Budget Transparency policies , <http://www.oecd.org/dataoecd/33/13/1905258.pdf>

³³ www.internationalbudget.org

Summary of Anti-Corruption Program Options

Anti-Corruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term success	Impact Timing
BUDGET AREA					
Promote implementation of the OECD Best Practices for Budget Transparency policies ³⁴ in budget planning, implementation, reporting, and monitoring. In particular: remove possibility for discretions in budget revenue planning and interbudgetary transfer system by introducing clear formulas and promote performance-based budget.	Parliamentary Budget Committee and Sub-Committee on Local Government USAID partners (RTI, EMG), WB, EU	Issues it very complex and influenced by vested interests of those who benefit from current system.	High impact.	Rather long-term success in a large scale but can be visible in specific localities	Mid- to long-term
Support CSOs to serve as Budgeting Watchdog Groups (similar to those that are supported by the “International Budgeting Project” in other countries)	CSOs (such as, for example: Institute for Economic Research and Policy Consulting) USAID partners (ISC, Internews, DAI)	Information is not completely available, lack of skill in local CSOs	Can have high impact if it is done by professionals and broad media campaign	Short-term success possible	Mid- to long-term
PUBLIC PROCUREMENT					
Ensure division and separation of functional responsibilities for implementation and monitoring; consider establishing a central internal supervisory body; support of documentation and communication systems and e-procurement	Department of Coordination of the Public Procurement (Ministry of Economy) USAID partners (RTI, EMG)	Vested interests	High impact	Mid-term successes	Mid- to long term
Monitor implementation of the recent amendment to the Procurement Law requiring better transparency, conflicts of interest management, and external oversight. Involve business associations in public procurement monitoring	CSOs (such as, for example: Institute for Economic Research and Policy Consulting) USAID partners (ISC, Internews, DAI)	Lack of experience of the CSOs, lack of information	High impact	Short-term successes	Mid- to long term

³⁴ OECD Best Practices for Budget Transparency policies , <http://www.oecd.org/dataoecd/33/13/1905258.pdf>

TAXATION					
Support ongoing effort in reforming tax system in Ukraine to ensure that it reduces incentives for tax evasions and limits the discretionary power of tax officials.	State Committee on Regulatory Reform and Entrepreneurship, Presidential Working Group on Tax Reform, Business Council, Tax Administration USAID partners (DAI)	No particular obstacles	High impact	Mid- term successes	Mid- to long term
Reform regulations on VAT refund to make it impossible to create bogus firms to scam VAT refund, to eliminate opportunities for extortion by tax inspectors evaluating tax return claims, and to streamline tax return procedure for reliable businesses	Tax Administration, the business community USAID partners (DAI, ISC, Internews)	Vested interests	Medium impact	Mid- term successes	Mid- to long term
AUDIT					
Support efforts to improve enforcement of the Accounting Chamber (ACU) and the Chief Control and Auditing Administration (CCAA) decisions.	Accounting Chamber (ACU), Chief Control and Auditing Administration (CCAA), Parliamentary Committees. USAID partners (EMG)	Long-term practices, lack of interagency coordination	High impact	Mid- term successes	Mid- to long term
Promote better transparency and details in the audit institutions' reports	ACU, CCAA, Parliamentary Committees. CSOs. USAID partners (ISC, Internews)	Long-term practices	Medium impact	Mid- term successes	Mid- to long term
Support CSOs and the media in conducting watchdog activities to monitor and investigate public abuses in public funds spending	USAID partners (ISC, Internews)	Lack of information, lack of CSOs experience	High visible impact	Short-term success	Mid- to long term

6.5 Private Sector

Overview

Corruption in the business sector is widespread due to flaws, loopholes, and inconsistencies in legislation, but even more so due to negative practices in interpreting and enforcing the law and intentional abuses and disregard for the law. Recent revisions

of all business-related legislation uncovered over 5,500 regulations that do not comply with state regulatory policy, or are outdated, contradictory or excessive. Such regulations and wide discretion have resulted in 82 percent of businesses making unofficial payments to deal with public officials, and 84 percent of businesses operating in the shadow economy and not paying their taxes in full.³⁵ Corruption occurs on a petty, grand and state capture level. While small businesses pay frequent rents to bureaucrats, millions of dollars are embezzled from larger firms through lucrative procurements, privatizations, or massive VAT tax scams.

The business community is very poorly organized. Only 25 percent of businesses are members of business associations. Generally, they are not prepared to provide their members with necessary services or advocacy support. Businesses, in particular small ones, lack legal knowledge of their rights or of constantly changing regulations.

In the late 1990s, the Government of Ukraine undertook some steps toward improving the business environment and simplifying business regulations, but soon these efforts slowed down and faded. The new Administration that came to power in 2005 revived and reinforced the course. Within a very short period of time, an effort to review all business regulations was initiated throughout the country with the participation of all interested parties. Mandatory streamlining of procedures for business registration and the issuing of permits in hundreds of municipalities was conducted, a new procurement law was passed, customs reform was begun, and a business advisory council was reactivated, among other reforms. It is too early to determine the impact of these efforts on reducing corruption, but the initiatives were started in the right direction. There are still many gaps and priorities that need to be addressed to prevent and reduce corruption in business-government transactions.

Corruption Vulnerabilities

A number of surveys show that corruption is ranked as one of the most significant problems that hinder business development in Ukraine. According to the IFC survey of 2004, 75 percent of businesses identified corruption as the second major barrier, after unstable legislation, for business operations.³⁶ Corruption has had an almost 25 percent increase in significance in comparison with the 2002 survey and almost a 30 percent increase since 2000.³⁷ The recently issued EBRD-World Bank Business Environment and Enterprise Performance Survey (BEEPS) report places corruption among the top four significant problems for Ukraine out of a list of 21 business development obstacles.

Petty corruption - extortion, bribery, speed money, influence peddling, and favoritism - is common practice in most business-government transactions starting from business registration, numerous government permits issuing, inspections, and leasing of public

³⁵ *IFC. Business Environment in Ukraine. - 2004*

³⁶ *IFC. Business Environment in Ukraine. 2004. page 6*

³⁷ *IFC. Business Environment in Ukraine, 2003. page 17*

property. These forms of corruption have the greatest impact on small and medium-sized businesses that feel insecure and helpless to confront authorities and bureaucrats.

Thousands of regulations issued by more than a dozen governmental agencies that regulate almost every aspect of business activity are often complicated, contradictory, outdated or difficult to comply with. Some of the regulations have not been reviewed or updated since the 1950s or earlier. Others are subject to broad interpretation. Rather than pursuing business compliance with regulations, governmental agencies often establish fiscal targets for inspection agencies, thus creating quotas for fines collection. Entrepreneurs often lack knowledge of existing and frequently changing legal and regulatory requirements. On the other hand, governmental agencies do not rush to educate businesses on the law, but rather take advantage of them to collect rents. Businesspeople often are aware of the major laws and newest amendments, but do not necessarily have knowledge of agency-specific regulations that are vital for day-to-day business operations. High legal fees and widespread corruption in the courts usually result in entrepreneurs paying the rents.

Corruption in tax administration is one of the most disturbing and it occurs as a result of extensive flaws in legislation and discretion in implementation practices. Businesses consider tax administration as one of the most overly burdensome, complicated, contradictory and severe transactions, but at the same time, one of the most flawed and unstable. For example, tax legislation creates numerous opportunities for abuses by providing a wide range of fines that can be imposed for the same violation, the right of granting postponements for tax payments, and some others.

Large-scale corruption is also suspected in the VAT refunds scam that allegedly totaled about \$1 billion in 2004 and caused long delays in legal VAT refunds to law-abiding exporters. Allegedly, VAT refunds are possible in exchange for a kickback of 30-50 percent of the amount refunded. At the same time, tax evasion in the amount of just US\$350 (about two average monthly salaries) can be subject to criminal investigation and prosecution. On such charges of tax evasion, the tax police have the right to occupy a firm's office, abuse its employees, arrest all of the firm's assets and documents, and basically destroy the business. Supposedly, this right has been widely abused both for suppressing political and economic competitors and mere harassment.

Grand corruption in the form of kickbacks, nepotism, and clientelism are frequent in public procurement, privatization, in granting tax privileges and subsidies, and in export-import operations. These types of corruption apply primarily to large and medium-sized businesses and often involve the collusion of both parties. When the auctions or procurements are conducted, the conditions, requirements and criteria can be influenced by the interested parties in exchange for kickbacks promised to officials. Poorly regulated and controlled subsidies are often provided for political reasons (in coal mining and agriculture, for instance). Tax privileges are granted to some companies and localities, allegedly in exchange for kickbacks. Tax evasion and VAT tax manipulation that involves public authorities are well known and well documented. Privatization of lucrative property and enterprises is accomplished behind closed doors and often involves

kickbacks and other illegal financial and non-fiscal transactions. Protectionism, at least within some markets (vehicles, sugar, vegetable oil), was allegedly lobbied with massive buying of votes in parliament. Business–administrative groups (or clans) emerged in the 1990s in control of vital industries and influence political leaders allegedly by buying votes or government and court decisions, financing election campaigns, and populating the legislature or civil service ranks. The absence of effective conflict of interest policies is a major problem resulting in business and political leaders easily crossing the line of propriety.

Governmental policies to improve the business environment, promote small businesses, and deregulate business operations had some positive results at the beginning but quickly slowed down and became highly bureaucratized. More recent efforts by the new Administration in mid-2005 to review regulations throughout all governmental agencies (9,866 regulations were reviewed as of September 1, 2005) have resulted in identifying over 5,500 regulations at all levels that need to be eliminated or modified. Unrealistically short deadlines set by the central government may jeopardize the quality of future reform legislation. The Customs Service, for example, has demonstrated its intentions to clean up its agency and introduce new policies and procedures to prevent corruption; this has resulted in a significant increase in customs revenue collected during the last quarter. It is too early to say if this initiative will bring results.

Constituencies for reform

Central level government. The current Administration has declared an aggressive course of action toward business deregulation using several Presidential decrees. The State Committee of Ukraine for Regulatory Policy and Entrepreneurship (SCRPE) which is at the vanguard of this effort has a long history of promoting regulatory reform and supporting business development. With support from the President and the Cabinet of Ministers and with clearly defined objectives, SCRPE has been successful in reaching out to governmental agencies at all levels and jurisdictions. The current “guillotine” reform towards improving the legal framework and removing major barriers and obstacles is expected to become a significant step forward to improve the overall business environment and ultimately reduce opportunities for corruption.

Government on a local level, represented by three different jurisdictional branches - local self-governmental bodies, regional administrations, and local branches of the central executive government agencies – often represent different interests and objectives. Dual subordination of some executive branch departments and resource dependency of local elected self-governmental bodies on regional administrations make it difficult to mobilize all parties along common goals, such as anti-corruption. There have been some successful examples of anti-corruption initiatives at the local government level, but these often depend on the personalities of local officials.

The business community remains poorly organized and very passive, especially among the smallest firms. However, being a frequent victim of corruption and abuse, small

businesses are looking for opportunities to deal with this problem and business associations might be very instrumental if further developed. The Council of Entrepreneurs, an advisory body to the Cabinet of Ministers, has recently been activated with a change in leadership and demonstrated focus on pursuing business interests. To date, the Council has proved to be an effective mechanism for public-private dialogue, but risks being captured by government interests, since it is not a self-organized group.

Another example of effective mobilization of the business community is the Coordinating-Expert Center of the Entrepreneurs' Union of Ukraine that currently unites over 60 business associations, two-thirds of which are regional associations. The major mission of the Center is to promote business interests by commenting on laws and draft laws.

Opportunities and points of entry

The current Administration has opened the door to positive improvements in the business environment. Several laws and Presidential Decrees issued over the past year demonstrate political will and an intention to make a difference. The central government was able to move forward deregulation reform quickly; this initiative creates a favorable path for further promotion of corruption prevention reforms.

The business community, small and medium-sized enterprises in particular, is by any means the very path to promote anti-corruption programs. The business community needs to be mobilized and organized into strong and vocal associations with the capabilities to advocate for their constituency interests.

The prospects for WTO and EU accession offer a good opportunity for building coalitions for increased transparency, trade liberalization, and limited special privileges. The need to increase social spending was used as an excuse for eliminating tax privileges. Similarly, the need to maintain price stability was successfully used for advocating for trade liberalization. Similar opportunities can be marshaled to fight corruption relative to the business community.

Recommendations

Support in drafting and implementing new legislation that separates public and private interests and improves transparency in government:

- Support drafting, approving, and implementing conflict of interest legislation to prevent biased decision making and collusion among public and private interests. The legislation should be applied to public officials at all levels, including members of Parliament.
- Support drafting, approving, and implementing legislation: (1) on regulating lobbying activities and reducing opportunities to buy votes of parliamentary members and other corrupt practices influencing legislation; and (2) on public

access to information to ensure that essential governmental information is available to the public in a timely and comprehensive fashion.

Support development and implementation of specific regulations to promote a better business environment:

- Support developing and implementing transparent and fair regulations and controls for further privatization of state-owned enterprises, land, and other kinds of state and municipal property.
- Support policies to change the incentives of controlling and inspecting agencies from collecting revenue through fines to promoting better business compliance with regulations.
- Improve the regulatory framework for taxation to reduce incentives for tax evasion and to limit the discretionary powers of tax officials. Reform regulations on VAT refunds to make it impossible to create bogus firms to scam VAT refunds, to eliminate opportunities for extortion by tax inspectors evaluating tax return claims, and to streamline tax return procedures for reliable businesses.

Support monitoring of legislation and reforms:

- Support regulatory reform policy that will improve the business environment and make laws and regulations consistent, straightforward, enforceable, and fair. Support should be provided to the central government (SCRPE in particular) as well as local governments and the business community.
- Support implementation of the Law on State Regulatory Policy that requires that all drafts laws should be broadly discussed by all interested parties prior to adoption, cost-benefit and social impact conducted, indicators of effectiveness are established, and monitoring mechanisms are developed. Consider including requirements to assess draft laws on their “corruption risk” and their likely impact on reducing corruption.
- Ensure proper implementation of the recently passed legislation to improve public procurement practices – the Law of Ukraine “On Introduction of Amendments to Some Legal Acts of Ukraine with Respect to Additional Guarantees of Protection of Financial Interests of the State” that amended the Law of Ukraine “On Procurement of Goods, Works and Services at Public Expense.”

Implement programs to support business association strengthening and promote corporate governance practices:

- Support development of business associations that advocate business interests, government transparency and accountability. Train and provide support to business associations in advocacy and lobbying, and in providing services and legal support to association members.
- Promote the drafting and implementation of a corporate governance law. Support introducing corporate governance practices in large businesses.

Summary of Anti-Corruption Program Options

Anti-Corruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term success	Impact Timing
Support in drafting and implementing new legislation that separates public and private interests and improves transparency in government	Parliamentary committees, Civil Service Administration, State Committee on Regulatory Reform, Business Council. USAID partners, CIPE, EU	Opposition to some laws can come from interests groups. Laws might not be practical or implementation mechanisms are not established.	High impact - If laws drafted and enacted they will have big impact	Visible success can be obtained within mid-term period	Impact should be in a mid-term
Support development and implementation of specific regulations that promote a better business environment (privatization, taxation, inspecting agency incentives)	Civil Service Administration, State Committee on Regulatory Reform, Business Council, sectoral governmental institutions. USAID partners, CIPE, EU	On privatization and taxation a strong opposition can come from interest groups. On inspections mindset “to catch” rather than “to prevent” can dominate to oppose reform	High impact- Impact should be very visible and significant	Success should be visible and can be achieved within short and mid-term period	Results can be achieved within mid-term time period
Support monitoring of enacted legislation and reforms (Law on the State Regulatory Policy, Procurement Law, ‘guillotine’ initiative)	Business community, State Committee on Regulatory Reform. USAID partners, WB	There is always a risk that newly enacted law will not be properly implemented and new initiatives will fade out. Regular monitoring and evaluation are essential	High impact - Impact should be very visible and significant	Success should be visible and can be achieved within short and mid-term period	Results can be achieved within mid-term time period
Implement programs to support business association strengthening and promote corporate governance practices	Business associations USAID partners, CIPE, EU	Poorly organized and skeptical business community. Lack of incentives for corporate governance.	Medium impact	Success will not be very visible. Can be achieved within mid-term period	Results can be achieved within mid- or long-term time period

7. Corruption in Institutions

7.1 Parliament

Whereas political will appears evident at the highest levels of Ukraine’s executive branch of government, the legislature’s record suggests the prevalence of only discrete pockets

of interest for anticorruption reform initiatives. Indeed it appears that many if not most legislators have amassed fortunes through business interests and other means while in office, with little transparency or accountability, due to parliamentary immunity provisions. Though the legislature currently displays a variety of political viewpoints and represents geographic, ethnic, business, oligarchic and other often competing interests, individual conflicts of interest along with the inability of parties and blocs to coalesce have slowed and even buried critical pieces of reform legislation.

Constitutional reforms, going into effect after January 2006, will have a significant impact upon the operational abilities of the subsequent parliament (to be elected in March), changing the style of government to a parliamentary-presidential system. Though most presidential systems in the FSU have suffered from abuse of power issues, the impact of implementing these systemic changes in Ukraine remains unclear. Relations between the executive and the legislature will be subject to changes and an evolutionary process. It is important to note that, though Parliament should begin to play a more substantive role in overall governing, this capacity will likely be held hostage to internal developments and dynamics.

Party discipline may well be strengthened in the legislature through the closed-list party system of candidate selection, yet there will be no regional accountability to voters. The alignment of parties into ruling coalition and opposition blocs in the new Parliament will require negotiation and pragmatic dealing on a number of issues. It is estimated that 70% or more of currently seated MPs will return to office, resulting in a contradiction between old styles of conducting business and the new realities of the party-list system. However, with so many incumbents likely to be reelected, there is questionable impetus for the new parliament to engage in self-initiated reform.

Further complicating any assessment of post-electoral legislative capacity will be the need for parties to coalesce into blocs in order to reach a ruling majority. Alignments between the almost evenly divided major political parties are very uncertain and subject to negotiation. Given the uncertainty of parliamentary internal relations and balances between reformist and status quo forces, it is difficult to foresee the rapid establishment of working relationships in the newly elected body.

Corruption Vulnerabilities

The corruption syndrome model indicates that the state, political and social institutions are weak and highly open to manipulation by oligarchs in Ukraine. Nascent civil society is divided, intimidated, and impoverished, with political parties and political followings weak, personalized, and too narrow and numerous to produce broad-based mandates. Many MPs are heavily engaged in business activities which may well pose a challenge to their legislative objectivity. Political campaigns in Ukraine are very expensive and both parties and candidates are susceptible to bribery or taking payments to recover their expenditures. Parliamentary immunity can be a guarantor of legislative independence, but may also well obscure any ability to corruption investigations against MPs.

As privatization and other key financial issues continue to be discussed and decided in the legislature, the lack of conflict of interest provisions for MPs, a code of ethics or a high-profile legislative watchdog becomes more acute in the current post-Revolutionary climate. A pervasive “what is not forbidden is allowed” post-Soviet legacy among many old guard legislators is a hindrance to the passage of needed reforms. When combined with a lack of transparency on political finance and other related issues, the lack of a stronger civil society mechanism to lobby and oversee legislative function and performance is a serious weakness. Also lacking are mechanisms and practices for parliamentary oversight of the executive bodies and structures.

Constituents for/against reform

There are MPs both in favor of anticorruption reform, as well as those opposed to it. This mirrors the political party spectrum that will be represented in the new legislature and theoretically exert more influence on policy after the elections. The Parliament’s Anticorruption Committee serves as an important forum for discussion on the general issue of combating corruption and providing a venue for CSO involvement in the debate. Individual and collective business interests appear to be serious impediments to the passage of critically needed reform legislation.

Opportunities

In the period before the elections, diplomatic and donor pressure may be exerted upon key legislators to push for needed reforms, for the passage of key legislation and for further increasing transparency provisions in the legislature. MCC discussions will be occasions for further discussion on priorities and necessities, if further assistance is to be forthcoming in key areas. Existing coalitions and committee constellations in the Parliament may be more capable of addressing key legislation in the period up to the elections, using corruption as a campaign issue, than waiting until after the elections.

After the March elections, there will necessarily be a period of alignment and adjustment, committee assignments and coordination of party and bloc policies. Continued diplomatic and donor pressure will be needed to reinforce a unified message to disparate political elements as they formulate their post-electoral strategies. During this period, combating corruption can be again used as a unifying area of discussion and a legislative agenda focal point. Societal frustration over corruption, as embodied in the Orange Revolution, does exert some oversight and pressure on legislators, resulting in an opening for MPs to address anticorruption issues. Media enfranchisement after the Revolution also places greater scrutiny on legislative activity or inactivity in this area of needed reform.

Recommendations

Support the development of an anti-corruption legal framework, regulations, institutions and procedures:

- The backlog of critical reform legislation must be addressed (i.e. civil service reform, etc.), to create a legal framework for the foundation of how business, government, life in Ukraine is to be conducted.
- The impact of Constitutional and electoral law changes on the new parliament is unknown at this time. The *modus operandi* of the existing legislature is a known quantity and should be a target of programming and diplomatic efforts to pressure for the passage of reform legislation.
- A code of ethics for MPs and conflict of interest issues need to be addressed, probably through an amendment to the Law on the Status of Deputies.
- Parliamentary programming needs to supplement the legislative calendar so that legislation can be discussed and passed more rapidly.

Promote high-level diplomatic dialogue on anti-corruption issues:

- High-level diplomatic pressure needs to be applied to the Government and Legislature to pass critical reform-enabling laws *before and after the elections*. (Anticorruption can be used as a common-cause rallying point to build majority votes.)
- Diplomatic pressure needs to be placed on key faction leaders to process and pass essential legislation.

Promote legislative accountability by bringing CSOs and elected officials together:

- With corruption more openly discussed in Parliament, media and popular pressure are at least a distant threat to those in elected office. These are entry points for media, civil society, party and parliamentary programming to focus on anticorruption as a key area of concern to raise issues and try to hold elected politicians accountable.
- Critical pieces of legislation need to be lobbied by CSO's in parliamentary committee hearings, reinforcing the needed advocacy and watchdog roles that civil society needs to play. Media needs to be a tool of CSO strategies.
- Assistance should support citizen watchdog organizations to monitor MPs and party factions, voting records, conflicts of interest, campaign finances, etc.

Support training and resources to improve legislative drafting, coalition building, and negotiation/compromise skills

- Legislative drafting training appears necessary, as the current situation results in only selective implementation of impractical laws. Clarification of many pieces of legislation is needed to plug loopholes, but also to enhance transparency for civil society and enhance the accountability of officials.
- Training for MPs should also include negotiation and compromise skills to transform the current winner-take-all approach to a win-win approach.
- Parliament/legislators can be trained to promote general awareness on what the laws and rights of citizens are.
- New member orientation programs for after the elections need to focus on anticorruption as a priority for legislation.
- Coalition building among parties for bloc relations will be vital.

- Parliament needs access to external sources of comparative information (what is and is not acceptable elsewhere—comparative legislation and international standards).

Support strengthening of legislative oversight of executive:

- Parliamentary committees should be supported to assist them in exerting their executive oversight function.
- Assist legislative support for enhancing the transparency of committee operations, including skills training for MPs and their staffs.
- The parliamentary Committee on Corruption needs to pressure the Government for consolidation of the five draft working plans into a single national anticorruption strategy. CSO, legislative and party programming can support this legislative effort. This can begin a process of using this Committee as a check on the Executive.

Summary of Anti-Corruption Program Options

Anti-Corruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term success	Impact Timing
Support development of anti-corruption legal framework., regulations, institutions and procedures	Parliament, CSOs, IRI, NDI, UCAN, PDP	Medium. Some legislators will oppose passing a/c laws.	High. Laws will facilitate change, transparency, accountability.	High.	Short-to mid-term
Promote high-level diplomatic dialogue on anti-corruption issues	Parliament, parties, CSOs, Embassies, donors, NDI, IRI	Low	High. Raise awareness in Gov't on int'l concerns over a/c, conditionality	High	Short-to mid-term
Promote legislative accountability by bringing CSOs and elected officials together	CSOs, media, parliament, NDI, IRI, UCAN, PDP	Medium. Some legislators will balk; CSO capacity, interest.	Medium to high. Will raise CSO interest and empowerment	Medium	Mid- to long-term.
Support training and resources to improve legislative drafting, coalition building, and negotiation/compromise skills	Parliament, ABA-CEELI, PDP	Medium. Parliamentary capacity is limited, especially staff.	Medium. Will facilitate better legislation.	Medium.	Mid- to long-term.
Support development of legislative oversight of executive.	Parliament, Ministries, IRI, NDI, PDP	Medium to high. Many Gov't officials and bureaucrats will object.	Medium to High. Some areas of gov't will be held to high scrutiny	Mid- to long-term.	Mid- to long-term.

7.2 Political Parties

There is a comparatively small group of major political parties that will predominate in the new Ukrainian legislature, once Constitutional changes take effect. The forging of alliances and political coalitions between these organizations is not likely to take place before the election, as some parties are likely to gain more electoral support by remaining independent in the pre-election period. Nevertheless, there will be a serious battle for creating coalitions and blocs in the period after the elections. Parties are currently divided on pre- and post-election strategies.

Despite threshold provisions that should eventually reduce the number of political parties in Ukraine, the electoral campaign has already seen the creation of a number of new smaller parties that feature both oligarchs and familiar faces. These structures will also play a role in the pre-election period, seeking to become vehicles to project key personalities into the elections process and eventual coalition blocs.

Parties will need to play a more decisive role in articulating platforms and programs, enforcing party discipline during campaigns and after the elections, and in creating and lobbying for positions in legislative blocs. At the same time, parties will be subject to criticism for the selection of some MPs in the closed-list system and will have to bear the brunt of civic discord over the impact of Constitutional changes and the lack of direct accountability of elected officials.

The lack of accountability and transparency in the party system mirrors what is seen on the broader, national scale. There is a general skepticism over major party figures and politicians in general. The Yushchenko presidential victory has not been able to translate its stated goals and ambitions into a successful reform agenda. Political parties are using this issue as a major campaign issue. Whereas political competition is real in Ukraine, and citizens may choose from a discrete number of parties and well-known names, this competition has yet to provide for a truly effective check on corruption. With constitutional changes in effect, some parties may become an initial force for enhanced transparency, oversight and control.

However, high levels of poverty in Ukraine mean that budgets are not generated from party membership fees, but from elsewhere. To this end, some parties—and their leaderships--have become vehicles for business interests. Virtually all powerful and active Ukrainian political parties receive funding from business interests. To a degree, party finances are dependent upon these alternative sources of funding and, therefore, vulnerable to various forms of capture and corruption. Some of these susceptibilities may change, given the implementation of Constitutional and election law amendments. Although parties may oppose these reforms, persistent pressure from civil society can keep these issues high on the public agenda and result in positive change over time.

The tradition of a powerful Presidency in Ukraine will evolve in January, requiring more politicking and compromise in the political system. The requirement to create coalitions will be a further step in breaking Soviet, winner-take-all legacies. However, it is likely

that the former ruling forces will levy charges of corruption and undue influence on the electoral processes which have been subject to charges of corruption in the past. A lack of transparency and accountability in campaign finance processes may further exacerbate social frustration with politicians in general. State funding will be provided for campaigns after this election, according to electoral showing, heightening competition to pass the threshold bar and not lose out altogether.

Ukraine's political landscape has changed somewhat after the Revolution, but the topography still reflects a deep cleft between East and West and between party ideologies. President Yushchenko's ruling party is not widely seen as effective in translating its platform and promises into policies. The party itself has been rocked by the split in the ruling coalition and with the former Prime Minister. Efforts to govern by reaching out to opposing political forces has not helped solidify the ruling party's platform, message and commitment to reform for many citizens. Still Yushchenko's party maintains an organized base of support and has been successful in keeping volunteers mobilized and active. This style of organization comes as a sharp contrast to the cronyism and clientelism of the prior ruling forces.

Corruption Vulnerabilities

Individual business interests and the influence of oligarchs remain major challenges to combating corruption in political parties. Party structures in some regions of Ukraine are still tied to old-style patronage and clan networks in local administrations. Party finances are still murky, with a strong dependence upon business contributions, as opposed to membership dues and private contributions. Immunity provisions that extend all the way down to local-level positions provide powerful incentives to get elected at all costs and for the influence of illicit funding to enter party campaigning efforts. Closed party lists may result in some candidates seeking to buy their way into party graces.

Constituents for/against reform

Changes to the Constitution and election law will bring about a number of pivotal changes for political parties. State financing will promote greater transparency over campaign funding and expenditure, yet immunity provisions for more than 250,000 elected positions provides a powerful incentive for corruption. Parties will need to coalesce and stand by platforms and messages in the Parliament, meaning a greater opportunity to hold parties accountable. Legislators will be elected from closed party lists, eliminating single-mandate accountability. Social pressure and frustration with politics as usual in Ukraine, along with media more willing to address and discuss the issue of corruption, are credible sources of reform pressure on parties.

Opportunities

The period prior to the elections enables parties to address corruption as a cross-cutting coalition-building issue. Corruption is a powerful electoral issue with voters. Campaign promises and platform planks on combating corruption will provide a measure of

accountability after the elections and an opportunity for civil society to hold party officials at least somewhat accountable for the actions (or inactivity) of their representatives on this topic.

Recommendations

- Political party training should promote anti-corruption themes; hopefully, these themes will become more than party rhetoric. Technical assistance can help parties develop specific anti-corruption goals and practical and measurable approaches to achieve them and articulate them to the public.
- Technical assistance should be provided to MPs and parties for the adoption of codes of conduct that would highlight a no-tolerance policy for corruption.
- CSOs need to work closely with parties and advocate for specific anticorruption policies.
- CSOs and the media should be trained and assisted on how to demand passage of regulations party financing, including requirements for regular audits. They should also be trained how to take on the responsibility of monitoring these audit reports.
- Training for party leaders in faction leadership and negotiation skills should be strengthened. Training should also be provided to help party leaders work more productively with CSOs on critical civic issues such as corruption.

Summary of Anti-Corruption Program Options

Anti-Corruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term success	Impact Timing
Strengthen demand-side pressure on political parties to be accountable through common anticorruption platform	CSOs, NDI, IRI	No party will want to appear pro-corruption and will believe they can control any downside	Medium to high. This will empower CSOs to hold parties and elected officials accountable.	Medium to high. Can be very visible in near term.	Near term
Strengthen accountability provisions for MPs and political parties	ABA-CEELI, PDP, NDI, IRI	Some MPs will oppose, but popular pressure will be powerful weapon to promote this work.	Medium to high. Again, officials held accountable by set standard.		Near term

Anti-Corruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term success	Impact Timing
Build closer lobbying relationship between CSOs and parties	NDI, IRI, UCAN	Some parties may oppose	Medium to high. Parties will want to appear cutting edge and responsive in the new Parliament	High. As parties organize after elections, they will be approachable by CSOs and open to influence	Mid- to long-term
Increase youth involvement in combating corruption	NDI, UCAN	Few to no obstacles.	Medium to high. Depending upon how politicized they become, these groups can be very vocal.	High. This is a motivated population segment and corruption is a strong rallying cry	Mid- to long-term
Build transparency into party financing	NDI, IRI, UCAN, ABA-CEELI	Parties will oppose.	High. Party financing is very suspect and closed.	Medium. Popular pressure is strong threat to Gov't.	Mid- to long-term

7.3 Subnational Government

Overview

Ukraine's highly centralized government provides a perfect vehicle for retaining strong control throughout the country, transmitting instructions to the local level and manipulating decisions. As a result, corrupt practices at the central level often become adopted at the sub-national and local levels. Although greater responsibilities for service delivery were delegated to local officials over the last several years, financial dependency on the center was strengthened and the risk of corruption increased.

The levels of corruption and anti-corruption efforts are very uneven throughout the country. In most instances, the situation depends on the political will of local leaders. Civil society and the business community in the majority of municipalities remain weak and unsophisticated in terms of developing demand pressure and advocating for reforms. Several donor programs have been successful in developing the local capacity of communities and local groups to address these issues. USAID has championed this effort

among donors since the 1990s, but more needs to be done and existing experience should be rolled out.

The status of decentralization reform in Ukraine remains ambiguous. Ambitious reform is rather controversial and incomplete. After extensive discussion in 2005, it has been postponed awaiting further developments.

While decentralization in government can produce decentralization of corruption as well, it also offers another level on which to fight corruption and additional highly motivated constituencies for reform, closer to citizens.

Corruption Vulnerabilities

Strongly vertical executive power serves as a perfect structure to extend central policies and practices to subnational levels. Appointed from the center, oblast and raion heads often overshadow elected regional councils' authority and exercise complete control over their regions.

The subnational level mirrors national level corruption patterns: state capture, embezzlement, kickbacks in procurement and privatization, nepotism, patronage, etc. But in addition, corruption has arisen in specific sub-national level functions, such as service delivery, local business regulation, taxation, and healthcare.

Local branches of the central controlling and law enforcement agencies, such as tax administration, inspecting agencies, the police, the prosecutor, and the courts are viewed by the public and businesses as the most corrupt institutions on the local level. Quotas to collect fines established on the central level for most of the inspecting agencies establishes additional incentives to harass local businesses and extort bribes. Local courts, the prosecutor and the police can be very selective in their actions and judgments due to their financial dependency on the center *and* the local budget that can supplement deficient allocations. As a result, often only the lowest local officials and very small financial mismanagement cases (as small as US\$100) are prosecuted for corruption while large illegal activities remain untouched. On the other hand, local departments on fighting economic crime are also given a quota from the center to "find" corrupt officials and they often waste their time looking for those officials turning anti-corruption programs into witch hunts.

Municipalities have been given a range of responsibilities for the provision of services such as health, education and urban services. However, the planning and decision making processes, along with the financial decisions, are still controlled from the center. Financial dependence leads to political and administrative dependence. Distribution of the scarce budget is subject to shadow deals and favors between all levels. The formula for intergovernmental transfers is not completely transparent, therefore it is difficult if not impossible for cities to hold the central government accountable for the revenue they receive (or fail to receive). As a result, many municipalities and raion level governments are not provided sufficient funds for the vital services and responsibilities delegated to

them. Further allocation of budget funds at the local level is easily influenced by vested interests.

Elected local/municipal governments are freer to make their choices on policies and practices. However, lack of accountability, a passive civil society, and ineffective law enforcement breeds temptation among some mayors and councils to consolidate complete control over all aspects of financial and administrative matters. This can easily result in widespread abuse of power in property leasing, privatization, issuing of permits, granting tax benefits, etc. But this is not necessarily a widespread practice. Some mayors are increasingly recognizing the value of increased citizen participation and greater government transparency, both in terms of legitimizing their mandates and in terms of the improvements in decision making that result.

Low salaries, in particular at the raion and municipality levels, cause high-level professionals to find alternate employment. For example, town mayors sometimes have a salary that is lower than the official minimum monthly wage in Ukraine (about. USD 70). But even these positions are often bought or transferred through nepotism or clientelism. Low salaries and low professionalism result in low performance and widespread abuses.

Some reforms to improve transparency and accountability of local administrations have been implemented over the last two years: the local budget is published in the local media and in many cities discussed at public hearings, city council meetings are open to the public, public councils have been established as advisory bodies within administrations, and business registration has been simplified. However, many aspects of governmental functioning remain closed for citizens, reinforcing public perception of potential wrongdoing.

Civil society and the business community remain weak in most municipalities and do not generally mobilize demand for government openness and accountability. The media is often controlled by the local administration.

Opportunities and points of entry

It is reasonable to assume that Ukraine will continue down a path of greater decentralization. USAID should encourage this direction vigorously. Political leadership at the municipal level, in some localities, is keen to embrace more European approaches to local governance and sees in them a comparative electoral advantage. This, too, should be strongly encouraged. The inflated expectation that arose during the revolution, and the resultant disappointment, can be harnessed to convert dissatisfaction into demand for reform.

Local programs to promote transparency and accountability in government, build professionalism, implement best practices, improve legal literacy of the public and government staff, and strengthen civil society and business community advocacy and government monitoring skills will bear fruit in reducing corruption on a local level.

Local civil society and citizens' groups, along with the emerging SME community are the logical champions for reform. However, mayors and other city officials who recognize the political benefit they can derive from being seen as transparent, participative, accountable and honest are perhaps the most important allies. The possible role of the Association of Cities as an anti-corruption force should be further explored.

Recommendations

The most effective way to address corruption on a local level is to involve both the government and non-governmental sectors. Action requires political will and readiness on both sides which is not always there. If there is a political will on the side of government, a set of initiatives should be undertaken to align government efforts with the priorities of the local community by establishing an effective dialogue and coordinating activities. If there is little or no political will, the focus of the program should be on building local civil society capacity to effectively demand reforms from government. Here are several specific recommendations for programming options:

Local government:

- Assist local government in implementing professional administrative management practices: promote professionalism by establishing job requirements and offering training; develop and implement programs to eliminate conflicts of interest; introduce performance-based incentives, internal control, and reporting requirements; implement computerized reporting and decision record systems.
- Assist municipal governments in implementing reforms to standardize and simplify administrative procedures and provide better services to the public. Conduct public service report cards.
- Assist local government in developing and implementing effective and proactive transparency policies and involving citizens in decision making processes.
- Promote effective public-private dialogue mechanisms that involve all local stakeholder groups to coordinate efforts in addressing corruption

Civil society program options:

- Support civil society programs to build citizen activism to oversee service delivery and make demands for greater transparency. Promote establishment of citizen watchdog groups to conduct meaningful and professional monitoring of governmental institutions and functions (budgeting, procurement, service delivery, etc.)
- Support to improve citizen legal literacy of their rights and government's responsibilities.
- Support establishing independent legal support offices to provide legal services and legal education to victims of alleged corruption and excessive bureaucracy.

Decentralization:

- Assist government in decentralization reform to ensure that it will not breed “decentralized corruption” but rather establish a clear division of responsibilities and resources. Call for transparency. Introduce strict checks and balances. Ensure citizen participation in government decision making processes.

Summary of Anti-Corruption Program Options

Anti-Corruption Program Option	Major Counterparts	Potential Obstacles	Potential Impact on Corruption	Short-term success	Impact Timing
Local government anti-corruption initiatives: management, professionalism internal controls, openness, public-private dialog	Local governments primarily on the municipal level (also possible on the raion and oblast levels) that expressed political will for reforms. USAID partner current local government projects	Frequent directive from the center can either help or destruct. Possible upcoming decentralization reform may preclude from effective work on the raion level.	High impact- Citizen and businesses satisfaction with service delivery and improved trust in local government. Report cards on public services can serve as a useful tool to evaluate impact.	Short-term successes can be achieved.	Near and mid-term impact and results
Civil society advocacy and watchdog groups trained, established and active	Civil society groups. USAID partner current civil society, business, and media projects	Lack of professionalism of the CSOs. Opposition and obstacles by local government lacking political will in reforms. Tendency of the CSOs to either became adversary to the government instead of being constructive.	High impact- Society will be more informed and proactive in monitoring government and thus opportunities for corruption will be reduced.	Short and mid-term successes	Near and mid-term impact and results
Promote anti-corruption embedded in decentralization reform	Central and local (elected) governments and non-governmental sector. Think tank groups. USAID partner current projects in all sectors. Potentially EU and the WB and other donors.	Complexity and a cost of the reform. Domination currently of the proposed by the central government reform. Opposition from the central and local executive governments to implement comprehensive reform	Medium impact - Depends on how reform is designed it can have either positive or negative impact on corruption.	It is likely will have long-term impact	Long-term results.

8. Priority Recommendations for Anti-Corruption Programming

The recommendations for USAID programming options in this report are guided by the proposed strategic directions discussed earlier in Section 5. Those strategic directions take into account Ukraine's corruption syndrome as a closed insider economy/elite cartel grouping and the study team's assessment and insights.

In the following table, each recommended programming option from the sectoral discussions in this report has been ranked as either high (in bold) or medium priority for USAID based on its potential impact on corruption and its potential in achieving early and visible success. In addition, each option is linked to its core strategic target. For more detail on each option, refer to the earlier sectoral discussions.

Major existing USAID programs are also included in the table as they relate to each of the sectoral or functional areas.³⁸ Many of these programs already include anti-corruption components, but others can, with minor modifications of emphasis, incorporate anti-corruption tasks that could produce meaningful impacts.

Highlighted Recommendations

The following highlights summarize the recommended programs:

Cross-Sectoral and Prerequisite Conditions. Many activities need to be conducted that will establish the basic foundation upon which continued anti-corruption programs across all sectors can be launched. These include: supporting the design and execution of a national and coordinated anti-corruption strategy, supporting the passage of missing anti-corruption legislation and the establishment and strengthening of anti-corruption institutions in government, and improvements in public procurement procedures and institutions. In addition, the demand-side of fighting corruption needs to be enhanced: advocacy skill of citizen, business and media groups must be strengthened, citizen oversight/watchdog groups must be formed, and civic education programs related to corruption must be supported. To facilitate these activities and encourage the inclusion of anti-corruption elements into existing programs, an anti-corruption mainstreaming workshop should be conducted for USAID program officers, as well as implementing partners.

Judicial Sector. Key activities must be supported to reform the judicial selection process and bring it into line with modern meritocracies. In addition, reforms in court administration and procedures need to be promoted to increase transparency.

Health Sector. Major remedies need to be promoted to make the procurement of pharmaceuticals more transparent and accountable. In addition, it is critical to develop

³⁸ The discussion of USAID programs in the table is only illustrative of major ongoing activities and not meant to be comprehensive.

tracking systems to monitor and oversee budgetary expenditures to stem leakages. Overall, organizational, management and institutional reforms are needed to improve the efficiency and effectiveness of healthcare delivery and reduce mismanagement which can encourage corrupt practices.

Education Sector. It is important to support CSO budget oversight initiatives to put external pressure on the educational system to be accountable for its use of public funds and to encourage greater transparency. Continued expansion of standardized testing procedures for higher school entrance exams is merited.

Public Finance. Support should be given to ensure effective implementation of new procurement laws and ongoing tax reform initiatives. In addition, the accounting chamber and the Chief Control and Auditing Administration should be strengthened, especially in the enforcement of their findings and recommendations. Finally, budget and expenditure oversight – internally and externally – should be promoted.

Private Sector. The business community needs to be mobilized to advocate for conflict of interest and transparency laws, and to support regulations that promote the business environment and eliminate administrative barriers. Expanded support should be given to private sector associations to conduct continuous monitoring of the implementation of business laws and regulations.

Parliament. Continued pressure and support needs to be applied to the Rada to promote adoption of an adequate anti-corruption legal framework. MPs need to be made more accountable to their constituents and various monitoring and transparency programs can be supported. Legislator skills training and resources need to be provided to improve legislative drafting, coalition building and negotiation/compromise skills.

Political Parties. Programs are needed to build more transparency into party financing.

Subnational Government. Local government institutions need to be strengthened so that they can deliver services in a transparent and accountable fashion. CSO advocacy and watchdog capacity building at the subnational level is also a major requirement to control corrupt tendencies.

Where to Start

Logically, it is important to begin a comprehensive anti-corruption program by ensuring an adequate foundation – an acceptable legal and institutional framework that is sensitive to corruption issues – on which other reforms can be built. Such activities should certainly be started immediately. However, it must be understood that these prerequisites often take time to establish and they should be considered as medium- to long-term efforts.

At the same time, it is essential not to wait until these fundamentals are in place to begin other initiatives that could yield early and visible successes. In this regard, strengthening demand-side capacity is critical to sustain the pressure on government and for the public to believe that progress is being made. Thus, civil society, private sector and mass media initiatives should also be promoted early in USAID's anti-corruption program. In addition, we found great potential among many existing USAID projects in Ukraine for meaningful anti-corruption activities within their current domains; these areas for anti-corruption intervention need to be designed and implemented. So, an additional early step should involve conducting mainstreaming workshops and providing one-on-one technical assistance to current USAID implementers to help them incorporate targeted anti-corruption elements into their projects.

Suggested Starting Points for a USAID/Ukraine Anti-Corruption Program

1. Mainstream anti-corruption goals in ongoing USAID projects

2. Establish the Prerequisites

- Promote passage of key corruption-related legislation in the Rada
- Promote better implementation of current corruption-related laws
- Support design and implementation of a comprehensive national anti-corruption strategy
- Begin activities to reform the judiciary

3. Support Demand-Side Capacity Building

- Establish civil society monitoring and watchdog groups in key areas, such as budgeting, procurement, the courts, and the legislature
- Establish constructive civil society-government dialogues
- Support a network of Citizen Advocate Offices that provide citizen victims of corruption with legal services to act on grievances

4. Target a Key Government Sector

- Select a major public service delivery sector, such as health, and initiate a comprehensive anti-corruption program there, to serve as a model for other future efforts

Priority Recommendations for USAID/Ukraine Anti-Corruption Programming

Priority Program Options (H = High priority) (M = Medium priority)	Core Strategic Directions				Ongoing/Planned USAID Programs
	Establish prerequisites	Develop demand pressure	Conditional supply side support	Mainstream anti-corruption	
<u>Cross-Sectoral and Prerequisite Conditions</u> H Conduct mainstreaming and TA for USAID & partners H Support design/execution of anti-corruption strategy H Support passage of anti-corruption legislation H Support government’s anti-corruption institutions H Advocacy skills citizen, business & media groups H Strengthen public procurement procedures/institutions H Strengthen citizen oversight/watchdog groups H Support civic education related to corruption	●			●	The CURE project can be expanded to include corruption-specific awareness campaigns on particular topics. The Internews media project can be expanded to include more components specifically related to investigative reporting on corruption issues. The UNCAN project can expand and direct its advocacy programs toward rule of law and anti-corruption issues. It can also support citizen watchdog groups.
<u>Judicial Sector</u> H Support reforms in judicial selection process H Support reforms in court administration & procedures M Support reforms in judicial discipline process M Support reforms in execution of court decisions			●	●	ABA-CEELI’s Rule of Law Development and DoJ-sponsored programs can be expanded to enhance regional public complaint offices, donor coordination on anti-corruption legal initiatives, law enforcement reform, criminal justice initiatives, and work with the Council of Judges, the High Council of Justice and the State Judicial Administration. The Commercial Law Project activities related to judicial enforcement and case management can be expanded.
<u>Health Sector</u> H Strengthen procurement practices				●	Existing health programs – including Policy II, Families for Children, Policy Dialogue and Implementation – can incorporate enhanced

Priority Program Options (H = High priority) (M = Medium priority)	Core Strategic Directions				Ongoing/Planned USAID Programs
	Establish prerequisites	Develop demand pressure	Conditional supply side support	Mainstream anti-corruption	
H Support oversight of budget expenditures H Support management and organizational reforms M Support formulation of national health insurance fund		●	●		advocacy and oversight activities to promote greater transparency and accountability over budgeting, financial management, staffing, and procurement of pharmaceuticals purchases and healthcare delivery.
<u>Education Sector</u> H Support CSO budget oversight initiatives H Mainstream anti-corruption into testing procedures M Promote civic education on legal literacy		●		●	Eurasia's Promoting Democracy and Market Reforms project can mobilize CSOs to have a greater voice with regard to education budgets and programs.
<u>Public Finance</u> H Support budget and expenditure watchdogs H Monitor implementation of new procurement law H Support ongoing tax reform initiatives H Strengthen Accounting Chamber and CCAA M Promote budget transparency policies M Strengthen procurement institutions and procedures M Support streamlining of VAT refunds and tax returns M Promote transparency in audit reporting	●	●	●	●	The Municipal Budgeting Project can continue to make the budget process more transparent and reduce opportunities for corruption in the tax system. The FMI Capital Markets project needs to emphasize good corporate governance procedures and can be expanded to address transparency and accountability issues related to the pension fund and tax reform.
<u>Private Sector</u> H Support conflict of interest and transparency laws H Support regulations to promote business environment	●		●		BIZPRO activities that promote business regulatory reforms and one-stop shops can be expanded to include additional advocacy and dialogue by businesses. Business oversight groups could be established

	Core Strategic Directions				Ongoing/Planned USAID Programs
	Establish prerequisites	Develop demand pressure	Conditional supply side support	Mainstream anti-corruption	
<p align="center">Priority Program Options (H = High priority) (M = Medium priority)</p>					
<p>H Support monitoring of supportive business laws M Strengthen business associations & corporate governance</p>		•	•	•	at the regional level to ensure that tenders are conducted properly, for instance. The ULTI/NLAE land titling project can be continued and strengthened.
<p><u>Parliament</u> H Support adoption of anti-corruption legal framework H Promote legislative accountability H Support training and resources for legislator skills M Promote diplomatic pressure/dialogue with Parliament M Strengthen Parliamentary oversight of executive</p>	• •	•	• •		The Parliamentary Strengthening Program can be continued to build legislative capacity to conduct effective oversight of the executive branch.
<p><u>Political Parties</u> H Strengthen demand pressure on parties M Strengthen accountability for MPs and parties M Support party financing transparency M Build CSO-party lobbying relationships M Promote youth involvement in combating corruption</p>		• • •	• • •		The Political Party Building Program can expand its efforts to support transparency in party financing, citizen-party dialogue, and citizen monitoring of party activity.
<p><u>Subnational Government</u> H Support strengthening of local government institutions H Support CSO advocacy & watchdog capacity building M Promote decentralization policy as path to fight corruption</p>	•	•	•		The Municipal Budget Reform Project can be expanded to additional localities and specific anti-corruption elements, such as citizen budget watchdog groups can be added. The ERUM Project can be expanded to additional cities and particular anti-corruption components can be added, such as public ethics training for local officials and municipal

	Core Strategic Directions				
	Establish prerequisites	Develop demand pressure	Conditional supply side support	Mainstream anti-corruption	
<p>Priority Program Options (H = High priority) (M = Medium priority)</p>					<p>Ongoing/Planned USAID Programs</p>
					<p>complaint centers. The UCAN Project can be expanded to promote government transparency and citizen participation in a wider range of sectoral issues and municipalities.</p>

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Appendix: List of Interviewees

United States Agency for International Development

Earl Gast, Mission Director
Karen Hilliard, Deputy Mission Director
Cherkas, Oleksandr, Office of Health and Social Transition
Chomiak, Bohdan, Office of Economic Growth
Godfrey, Nancy, Office of Health and Social Transition
Kornilova, Tatiana N., Project Management Specialist- Energy
Koshukov, Petro, LED Advisor
Linden, Gary, Office of Economic Growth
Malikova, Evgenia, Private Enterprise Development
Parkhomenko, Volodymyr, LED Advisor
Piskun, Oleksander, Office of Democratic and Social Transition
Rachkevich, Victor, Project Management Specialist, Municipal Development
Ryabiko, Kateryna, Political Parties
Schlansker Bill, Municipal Government
Sharp, Kevin C., Office of Economic Growth
Shcherbyna, Iryna, Budget and Fiscal Policy Group
Stevens, Kathryn, Office of Democracy and Governance
Yatsenko, Volodymyr, Office of Economic Growth

United States Embassy

John E. Herbst, Ambassador
Sheila Gwaltney, Deputy Chief of Mission
Scanlon, Michael, Law Enforcement Section
Klymowych, Oksana, Law Enforcement Section

Donor Organizations

Syroyid, Oksana, Organization for Security and Co-operation in Europe (OSCE)
Neal, Craig R., The World Bank
Spivak, Andrei, Project Manager, EC Delegation in Ukraine
Romaniv, Roman, Renaissance Foundation

USAID Partners:

Dettman, David, NDI
Felitti, Barbara, UCAN
Greer, David A., EMG, Commercial Law Center Project
Gryshyn, Oleg, Democratizing Ukraine
Harding, Ray, ABA/CEELI,
Heuer, Robert C., American Bar Association Central European and Eurasian Law Initiative (ABA/CEELI)
Holzen, Chris, IRI
Khavanska, Tanya, American Bar Association Central European and Eurasian Law Initiative (ABA/CEELI)
Kolomayets, Marta, Community Partnerships Project

Kondratyuk, Oleksandr, DAI, BIZPRO
Kukharchyk, Vasili, American Bar Association Central European and Eurasian Law Initiative (ABA/CEELI)
Kvurt, Konstantin, Internews Ukraine
Oliynyk, Valeriy, UCAN
Radeiko, Bohdan, , Parliamentary Development project (PDP)
Rudyk, Artem, Tax Analyst, Local Budget Reform Project
Scherbina, Iryna, Fiscal and Budget Policy Group Director,
Sedova, Irina, Parkhomenko, Vladimir, Chemonics
Seroid, Oksana, Role of Law Project
Steffy, John R., American Bar Association Central European and Eurasian Law Initiative (ABA/CEELI)
Stevens, Nick, UCAN
Vasylchenko, Olena, PADCO, Ukraine Pension Reform Implementation Program
Vorobiov, Oleksandr, Strengthening of electoral administration project
Wallace, Ann, FMI

Ukraine Non-Governmental Organizations

Alperovitch, Michail, Consulting Firm “Intron”, Donetsk
Datsyuk, Serhei, “Guardaryka”
Drupp, Yuri, and Olha Ostapenko, Mother and Infant’s Health (Donetsk)
Dubrovskiy, Vladimir, Center for Social and Economic Research
Ghosh, Mridula , East European Development Institute
Grynevych, Lilia, Center of Independence Testing, Director
Gusyna, Lidia, Rule of Law Foundation
Kochuyev, Valeriy, CPP, Director of Eastern Regional training Center (Donetsk)
Kohut, Ihor, Agency for Legislative Initiatives
Kovryzhenko, Denis, Agency for Legislative Initiatives
Kuybida, Roman, Centre for Political and Legal Reforms
Latsyba, Maxym, Ukrainian center of Independent Political Studies
Leshenko, Natalia , Institute for Economic Research and Policy Consulting
Liapin, Dmitriyi, Institute for Competitive Society
Maidan, Oksana, Serhiy Kokeziuk, Ukrainian Center of Education Reform
Maksimova, Svetlana, "Justinian" Edition
Medvedev, Victor, Rotary Club, Lubny
Ovsepyan, Arthur, All-Ukrainian Network of PLWH
Proskuryakov, Alexey, National Center for State Courts
Shcherbakov, Ruslan, Foundation “Regional Center of Economic Studies and Business Support” (Lubny)
Shkotnikov, Volodymyr, Pensioners’ Organisation (Lubny)
Soskin, Oleg, Institute of Society Transformation
Spornykov, Oleg, Rule of Law Foundation
Velichko, Volodymyr, Coalition “Volunteer” (Lubny)
Yakota, Volodymyr, Poltava Branch of the Committee of VotersVoters
Zakalyuk, Anatoliy, Academy of Legal Sciences
Zanoza, Mylkola, Ukrainian Human Rights Committee (Globin Branch), Poltava oblast

Zhovtyak, Volodymyr, National Coordination Council on the Prevention of the Spread of HIV/AIDS

Ukraine Government Organizations

Bilak, Daniel A., Ministry of Justice

Denysenko, Larisa, Ministry of Justice

Hurzhiy, Serhiy, State Committee for Financial Monitoring of Ukraine

Kasian, Olexiy Petrovych, Appellate Court Judge, President of the Ukrainian Independent Judges Association

Khmelik, Volodymyr Borysovych, Senior Warrant Officer, Ministry of Internal Affairs

Kirsanov, Valerii, State Committee for Financial Monitoring of Ukraine

Kluchnikov, Danylo Victorovych, Deputy Head, Department to Combat Trafficking in Persons, Ministry of Internal Affairs

Klyuchnikov, Daniil, Ministry of Internal Affairs of Ukraine

Markeyevam Oksana, Head of International Department, Council of National Security and Defense of Ukraine

Moysyk, Volodymyr, Head, VR Committee on Legal Enforcement Provisions

Oleshchenko, Vyacheslav I., Secretariat of the President of Ukraine

Ostash, Ihor, Parliamentary Member

Palyanytsia, Andrii, Advisor to the Secretariat of the President of Ukraine

Parkhomenko, Andriy A., State Committee for Financial Monitoring of Ukraine

Pasenyukm Oleksandr, Head, High Administrative Court of Ukraine

Pylypets, Svitlana, High Administrative Court of Ukraine

Sheybut, Viktor, State Committee for Financial Monitoring of Ukraine

Skulishm Yevhen, Head of Anti-Corruption Department, Security Service of Ukraine

Stretovych, Volodymyr M., Verkhovna Rada of Ukraine

Teres, Valeriy Mykolayovych, Ombudsman's office

Tsap, Valeriy Volodymyrovych, Head of International Department, Ministry of Internal Affairs

Local Governments

Alekseenko, Victor, Head of the lubny Raion Administration

Grymchak, Yuriy, Deputy Governor of Donetsk Oblast

Pluzhnik, Vasyl, Deputy Mayor of the city of Lubny

Sobolev, Anatoliy, Mayor of the city of Lubny

Tereschenko, Grigoriy, Lubny Raion Administration

Yanovskiy, Deputy Head of the Lubny Raion Administration

Mayors from Khorol and Kremenchug