



# **Moldova Anti-Corruption Assessment Final Report**

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## **TABLE OF ABBREVIATIONS**

American Bar Association, Central European and Eurasian Law Initiative	ABA/CEELI
Association, Resources, Voice, Information, Negotiation	ARVIN
Center for Combating Economic Crime and Corruption	CCECC
Council of Europe	COE
Economic Growth and Poverty Reduction Strategy Program	EGPRSP
European Union	EU
Government of Moldova	GOM
International Financial Institution	IFI
International Republican Institute	IRI
Institute of Marketing and Polls	IMAS
Institute for Public Policy	IPP
Millennium Challenge Account	MCA
Millennium Challenge Corporation	MCC
National Democratic Institute	NDI
Non-Governmental Organization	NGO
Project to Support the National Anti-Corruption Strategy of Moldova	PACO
Regulatory Impact Assessment	RIA
Regulatory Impact Initiative	RII
Swedish International Development Assistance	SIDA
Scope of Work (for this Assessment Project)	SOW
Transparency, Accountability, Prevention, Enforcement, Education	TAPEE
Threshold Country Plan	TCP
United Nations Development Programme	UNDP
United States Agency for International Development	USAID

## EXECUTIVE SUMMARY

In April 2006, USAID/Moldova contracted with Democracy International to assemble a team, recruited by IFES and DPK, to analyze the nature and causes of corruption in Moldova and to help USAID formulate a comprehensive anti-corruption strategy. Given the strong possibility that the MCC, through a GOM-drafted Threshold Country Plan, would be undertaking a significant initiative to fund the GOM in its anti-corruption efforts, it seemed especially timely and appropriate for USAID/Moldova to develop a strategy to complement the TCP efforts.

The assessment team consisted of Team Leader Gary Kelly, Deputy Team Leader Daniel Schneider, and Public Administration and Legislative Reform Specialist John Davidson, together with local specialist Vitalie Iordachi. The Team as a unit functioned in Moldova from May 1-May 20. Thereafter, the Team continued intensive discussions via e-mail, by telephone and in a meeting in Washington with all subcontractors actively participating. The draft report went through several reviews and edits that included suggestions from IFES's senior rule of law and anti-corruption advisor, Keith Henderson, who has a noteworthy history of rule of law and anti-corruption programming in the region, and IFES's program manager Al Decie, who has significant regional experience in the anti-corruption and civil society sectors. Specifically, the Team was asked to (1) evaluate the causes, dynamics, forms and settings of corruption; (2) evaluate the status, results and impact of four USAID-funded programs; (3) analyze the assistance environment in Moldova vis-à-vis anti-corruption activities; (4) make recommendations for a comprehensive USAID anti-corruption strategy; and (5) provide technical support and assistance to the GOM in preparing their MCC Threshold Country Plan.

In making its recommendations, the Team was mindful of the TCP and aware of its provisions, at least in its most recent iteration, and the necessity for any USAID strategy to complement the TCP framework. Because TCP funding is directed at government agencies (a "top down" approach) the Team's recommendations for USAID largely, but not exclusively, emphasize coordinating with donors and working with and helping to develop the capacities of civil society (a "bottom up" approach).

The Team's basic strategy and key recommendations are demand driven and based upon the principles of governmental transparency, accountability, the institutionalization of a system of checks and balances and the important role of civil society in preventing and addressing corruption through effective monitoring and reporting. The success of this strategy and program is almost entirely dependent on the government and public having access to the essential information and the development of strategic monitoring and reporting mechanisms and policies that promote accountability within the reform process. They can be summarized as follows:

**Recommendation 1: The Team recommends that USAID work as closely as possible with bilateral and multilateral donors (e.g. DFID, SIDA, UNDP, UNICEF, the World Bank) to promote more systematic information sharing, more programmatic**

complementarity and more effective and efficient donor coordination in order to (1) formulate a common donor anti-corruption message, policy, agenda and overarching anti-corruption strategic framework and (2) to assist the GOM in developing and systematically implementing a coherent, coordinated, transparent and accountable reform process through an agreed upon monitoring and reporting framework.

**Recommendation 2:** The Team recommends that USAID collaborate with the GOM, the private sector and other donors to develop benchmarks to (1) identify, prevent and reduce corruption within government institutions; (2) assess the progress being made over the next 2-6 years, on an on-going basis, in efforts to combat corruption; and (3) test the political will and hold various government agencies and individuals accountable, on an on-going basis, for achieving key anti-corruption reforms. These benchmarks would include the existence and effectiveness of orderly government procedures in important areas (e.g. procurement, tax collection, customs, the administration of justice), internal “checks and balances,” and outside monitors of government activities and programs through public-private partnerships. USAID should make clear to the GOM that failure to meet such benchmarks may result in the contraction, suspension or termination of USAID anti-corruption assistance to the GOM as a whole or to selected public institutions receiving such assistance.

**Recommendation 3:** The Team recommends that USAID assist the GOM to develop discrete professional cadres in public institutions to broaden monitoring and reporting efforts in the area of anticorruption in order to increase internal GOM controls and encourage transparency and the free flow of and access to information.

**Recommendation 4:** The Team recommends that USAID take a prominent role in promoting the rule of law in Moldova, specifically by advancing the independence of the judiciary and the quality of judicial decision-making through working closely with the Moldovan Bar Association and other selected NGOs. Appallingly low pay results in high levels of judicial corruption and unprofessionalism, undermining the confidence Moldovans place in their legal system and discouraging them from relying on their legal system to resolve disputes and protect their rights. To more effectively promote an independent judiciary, and to test the political will of the GOM, USAID may want to consider implementing this recommendation on the condition that the GOM agree to implement the recent amendment to the Law on Salaries which raises the salaries and benefits of Moldovan trial judges so they are commensurate with those of other senior government officials.

**Recommendation 5:** The Team recommends that USAID put civil society more at the forefront of the GOM’s anti-corruption efforts. This can be accomplished in at least three ways. First, USAID should provide direct long-term grants (i.e. more than one year) to qualifying local NGOs already engaged in efforts to promote the transparency and accountability of GOM agencies and departments. Second, given the relatively small number of NGOs in Moldova, and the even smaller number able

to function effectively, USAID should undertake a program to promote the capacities of NGOs, emphasizing internal governance and transparency, fundraising, development of codes of ethics, advocacy training, and coalition building. Third, USAID should assist civil society in expanding their role to one that includes having meaningful input in government policy-making on matters concerning corruption.

**Recommendation 6: The Team recommends that USAID promote mutual “information ownership” by civil society and public institutions benefiting from the MCC TCP. This approach will promote systematic follow-up and implementation of the MCC TCP, through an on-going appraisal of the quality and use of the information produced through various MCC initiatives (with different public institutions receiving TCP assistance). Special emphasis should be placed on designing a process that focuses on how, when and what kind of information is distributed to the public and civil society -- with the overall goal of transparency and disseminating as much quality information as possible. Technology and the media can play an important role in this process.**

In conducting the assessment, the Team was informed by the opinions, suggestions and information provided by numerous individuals during either structured individual interviews or focus group discussions. These individuals, almost all Moldovans, came from government, civil society, the private sector, donor organizations, international financial institutions, the media, think tanks, and academia. A number of individuals and experts were also interviewed in Washington, D.C. (To preserve promised anonymity, a list of those interviewed has been provided under separate cover). To gather other useful information and data, the Team also used a strategically designed survey (see Appendix B for questions and results), conducted an exercise designed to test government compliance with the access to information law (see Appendix C) and undertook a thorough review of all accessible lessons-learned reports, and scholarly and applied anti-corruption research.

The Team observed several prominent factors attending corruption in Moldova:

- An absence of political will within the GOM to undertake genuine reforms to combat corruption;
- An absence of energy (but not concern) within civil society, and general lack of capacity; and
- A prevailing mentality regarding corruption that makes efforts to fight it more difficult; that is, a general acceptance about its existence and durability and cynicism about the possibility of reducing it.

Many donor initiatives addressing corruption in Moldova have been largely ineffective, and can be characterized as follows:

- Narrowness of approach and failure to understand that corruption is the product of a broad array of social and economic factors.
- Issue isolation, with many donor efforts focusing on a single sector or agency.
- Incomplete diagnosis.

In turn, these donor initiatives helped to elicit the following responses by the GOM:

- Emphasis on “paper reform” rather than substantive effort.
- Emphasis on the “quick fix.”
- A tendency to high visibility, low impact initiatives.

Until quite recently, the message we heard is that too many donors have responded to GOM enthusiasm for “paper reform” and the “quick fix” with “laundry lists” of things for the GOM to do. This back and forth between donors and the GOM has been an unproductive means of combating corruption, and leaves out of the equation the important role for civil society, which is under-resourced, viewed warily if not hostilely by the government, and generally lacks the confidence and means to assume a more prominent role in the anti-corruption effort.

Given these factors and this dynamic, it is difficult to see how internal factors alone can bring about significant reduction in corruption in Moldova. The external factor of donor assistance is therefore crucial. In addition to the assistance of USAID and other donors, the MCC TCP, which could result in over \$22 million of assistance provided directly to the GOM over a two year period, presents opportunities for (1) greater donor coordination, programmatic complementarity and information sharing; (2) improved dialogue between donors and civil society, and civil society and the GOM; (3) testing the political will of the GOM; (4) a focus on targeted, systematic implementation of reforms and programs; and (5) developing benchmarks to set goals and measure progress.

## **SECTION I: CORRUPTION IN MOLDOVA**

Corruption in the European countries behind the former “Iron Curtain” is pervasive and entrenched, nowhere more so than in Moldova. A seminal World Bank study in 2000 classified Moldova as second among 20 countries surveyed in the former Soviet Union in measures of both state capture and administrative corruption.<sup>1</sup> Moldova ranked so high in combined measures of corruption that it was characterized as having a “serious problem of administration corruption” that is, “nested in a state subject to capture.” (See World Bank, “Anticorruption in Transition,” at pp. xvi-xvii, 15, Figures 2-3, 2000.) Among the reasons for this state of affairs, both six years ago and today, are: the lack of a tradition of checks and balances in the overall governing structure and within individual government agencies, a monolithic and authoritarian system of government, the absence of a private sector to effectively challenge a system of favored state enterprises, the absence of a tradition (based on a well-grounded fear) of civic engagement, the lack of effective opposition parties and an independent mass media, and a paucity of independent and well-resourced civil society organizations.

The preponderance of local research on corruption in Moldova focuses on public perceptions, rather than “hard data.” (See e.g., PACO, “Perception and Attitudes Towards Corruption in the Republic of Moldova,” December, 2005.) The extensive sociological research conducted by Transparency International and various organizations such as the Institute for Public Policy (IPP) and the Institute of Marketing and Polls (IMAS) demonstrates conclusively that corruption is thought to be widespread, and that about half the population has no faith in the honesty of any official institution. This data also indicates that the public sees evidence of and experiences administrative corruption, that is, the petty everyday collection of bribes by police officers, teachers and doctors. The public also perceives evidence of what might have been termed corruption via state capture. (IMAS, “Perception of Corruption in Moldova,” October 2005, at pp. 50, 64, 89.)

However, public perception data do reveal rough levels of antipathy in society toward corruption. Interviewees participating in a study in 2002 expressed the view that

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<sup>1</sup> USAID has set forth a two step typology in identifying corruption. They are:

(1) administrative corruption, which refers to private gain, largely by state officials, resulting from the implementation of various laws, regulations and policies (e.g. bribery, nonofficial payments and the like). See USAID, “Anticorruption Strategy,” 2005; World Bank, “Anticorruption in Transition,” 2000, at p. xvii;

(2) grand corruption, which involves “the distortion and manipulation of entire systems to serve private interests” in which “state power becomes a tool for extracting financial benefit from whatever resources are available.” Grand corruption may be either state capture or state predation. The first involves the manipulation of state laws, policies and institutions by economic elites for private gain. The second involves the manipulation of state laws, policies and institutions by state officials for private gain. See USAID, “Anticorruption Strategy,” 2005, at pp. 8, 14.



accepting nonofficial payments was just a matter of job compensation for public officials. Transparency International concluded that this may evidence public acceptance of the phenomenon of administrative corruption. (Transparency International, “Corruption and Access to the Judiciary,” 2002.) In the environment of a small country such as Moldova with a protracted history of corruption, such perceptions die hard.

“Hard data or objective measurements of the extent of corruption, from official sources are of dubious quality. Official government data in the area, lodged at the Center for Combating Economic Crime and Corruption (CCECC), reports the number of “anticorruption actions” yielding a “total number of disclosed offenses” from a number of GOM sources and the categorization of the offense. (See e.g. CCECC Report, September, 2005, at pp. 10-11.) Such official data has little probative value either as a true measure of the extent of the problem or in the formulation of a strategy. First, the empirical data collected by the CCECC is limited to the occurrence of a single event, the “registration” of a criminal conviction. But the report of a crime, and even a subsequent investigation or prosecution of that crime, is never an accurate measure of the frequency of illegal behavior. Depending on the type of offense, the report or prosecution of an offense is only a fraction of its actual occurrence and it is difficult to extrapolate the true incidence of a type of crime from the number of complaints, investigations or prosecutions. Second, CCECC data not only fails to accurately measure corruption, it fails to point to the number of opportunities for corruption. It is therefore of limited value in framing strategies and approaches to combat it. Finally, the source must be considered. It was clear from interviews with people representing a wide range of organizations that the CCECC is poorly regarded, and although a showpiece in the government’s efforts to combat corruption, is seen as a political tool of the executive, as well as ineffective and itself corrupt.

Given the inadequacies of official “hard data” on corruption, one can rely on data that provides inferences on the extent and location of corruption. This data pertains to government performance and efficiency in effectively and readily discharging a number of functions in the areas of licensing, inspections and so forth. (See e.g., “Costs of Doing Business Survey,” World Bank, June, 2005.) While these measures certainly do not directly record instances of corruption, they do put the focus on the consequences of corruption and the economic motivations to undertake reform. The data from the World Bank study depict progress on corruption issues that is, at best, mixed.<sup>2</sup>

The lack of accurate hard data on the extent of corruption in Moldova should not be seen as a significant hindrance to efforts to develop a strategy to combat it. The lack of specific data on the precise location of corruption (i.e. which government agencies and departments are notably corrupt) may affect efforts to design programs targeting specific government offices, but because in Moldova there is ample reason to believe that corruption is broad-based, even the paucity of hard data is not especially troublesome.

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<sup>2</sup> Such a feature is of immense value to USAID which cites information building and strategic deployments as fundamentals of its anticorruption approach. See USAID Anticorruption Strategy, January, 2005, at pp. 15-18.

Moreover, it is the perception of corruption that is adversely affects a countries economic, political and social well-being. These perceptions, even if not based on accurate and objective data, reduce foreign direct investment, curb economic activity, and lead to high levels of public cynicism and loss of confidence in the government, thereby undermining efforts to promote democratization and civic engagement.

### **Factors and Causes of Corruption in Moldova**

The Team views three distinct factors attending corruption in Moldova:

1. Absence of political will. Until quite recently, there has been a general absence of political will to combat corruption at the top levels of government. Of course the GOM cannot be expected to endorse corruption. But neither has it endorsed every anticorruption donor or civil society effort with equal enthusiasm. The MCC initiative, however, coupled with general donor agreement on the importance of European integration, could bring about a change in political will. For example, the Team had candid meetings at the highest levels in the Ministry of Economy and Trade and the Ministry of Finance, meetings where non-institutional capture and its effects were acknowledged and some willingness to change was evident. As noted in the USAID analyses, “political will” is a critical aspect in securing anticorruption reform, one that cannot be “created” by donors, but surely can be influenced by them. (USAID, “Anticorruption Strategy,” 2005. )
2. Absence of energy within civil society. Energy is not to be confused with concern or dedication, of which there seems to be a great deal among many Moldovan NGOs. At the same time, Team interviews and Focus Group discussions with NGOs revealed that many individual NGOs do not have great confidence either in their sector or in a strategy of reform based on “grassroots” participation. (See Appendix B, Survey and responses to questions 3, 7, 12, 13 and 15). Nor are competence and confidence the only issues. Survey responses and Focus Group discussions indicate that the integrity of certain NGOs is a concern, and may be the subject of civil society scrutiny as well. It is thus not altogether surprising that the GOM does not respond favorably to civil society initiatives. Yet the government must assume its share of blame for the lack of fuller civil society engagement in the fight against corruption. Focus Group discussions and interviews indicate that state policy does not encourage political and social cohesion at the local and “grassroots” level. This has proven true as to a host of issues, ranging from GOM adherence to the right to access public information to the active harassment of reform-minded NGOs seeking to expose non-transparent government behavior. Of most serious concern, however is the government’s generally adversarial and often hostile stance towards civil society, best exemplified by the comment of one very high ranking government official that civil society should not involve itself with “any political causes” but should remain “impartial,” and confine itself to being a “partner” of the government.

3. **Mentality.** A prevailing mentality regarding corruption, by which we mean a general sense of acceptance and fatalism about its existence and durability and a cynicism and pessimism that anything can be done to reduce or eliminate it, is as likely to be an effect as a cause of corruption. Of the three factors listed, this one prompts the greatest spontaneous response from Moldovans, as confirmed in Team interviews, Focus Group discussions and the Team survey. See Appendix B, response to question 18. The public, however, is far less likely to attribute corruption to national character. (PACO, “Perception and Attitudes Towards Corruption in the Republic of Moldova,” 2005, at p. 17, Figure 8). On the other hand, mentality seems to be a residual effect of the current GOM-civil society standoff. Interviews and Focus Group discussions indicate that the factor may relate less to ingrained cultural views than to more objective factors such as the absence of responsible public discourse due to the “brain drain” and the absence of effective civic education.

No doubt other factors might be mentioned. However, the dynamic relationship among the above three factors, featuring especially the rupture in GOM-civil society dialogue, underlines the self-perpetuating phenomenon that is corruption in Moldova. The self-perpetuating cycle persists even as to the one institution, the judiciary, in which the Team found near unanimous agreement on the urgent need for reform.

Given this cycle of corruption, it is difficult to see how internal systemic factors alone can bring about significant reduction in corruption in Moldova. The external factor of donor assistance is therefore crucial. A donor initiative is therefore required that both:

- captures the attention of top level authorities and engages them in making more serious commitments to address corruption; and
- signals a renewed commitment on the part of the donor community to partner with representatives of civil society to effectively address corruption.

## **SECTION II: THE ANTI-CORRUPTION ASSISTANCE ENVIRONMENT**

To understand the causes and durability of corruption in Moldova it is necessary to understand the historical, political, and socio-economic context in which it occurs. Section I provided a summary of that context. But to formulate a practical, multi-sector anti-corruption strategy also requires an understanding of the environment in which donors have addressed—or failed to address, as the case may be—the problem. Specifically, it is important to consider the relationship between donors and the GOM, donors and civil society, and civil society and the GOM. This section will review the problems in the assistance environment that have created obstacles to formulating and implementing a comprehensive approach to reducing corruption, and will suggest ways to overcome those obstacles.

We start with some key assessment findings in this area:

1. The breadth and depth of Moldova’s corruption problem, coupled with the stalemate between the GOM and civil society in dealing with the issue, has been protracted by a number of donor responses that have been largely incremental, programmatic and not strategically based.
2. A robust, thoughtful and strategic anticorruption initiative, targeting public institutions and involving conspicuous GOM consent and participation, is essential to communicating to civil society the seriousness of the GOM in initiating and implementing broad based anticorruption reform.
3. Despite the rupture in dialogue between the GOM and civil society, both sides can agree on one thing: anticorruption reform initiatives suffer from lack of “implementation.” The development of mechanisms and policies that promote more transparency and accountability, more checks and balances and more public engagement, through access to information, is the key to more effective reform implementation.

### **Donor-GOM Interactions**

At the risk of excessive generalization, donor initiatives addressing some aspect of corruption have had the following characteristics:

- **Narrowness of approach.** At first instance, donor efforts seem to have diagnosed corruption as a deviation from proper institutional practice, rather than the product of a broad array of social and economic factors.
- **Issue isolation.** Many donor efforts have focused on a single sector or agency. This may be simply be due to a lack of funds to address the problem in a more comprehensive fashion, a reluctance to confront the GOM more directly about its lack of political will to confront the problem, or a failure to understand the deep seated roots of the problem. For example, as recently as 2005 a major donor document segregated enforcement and prevention issues, emphasizing the latter without

considering the meager record on the former. (See generally, Council of Europe, Group of States Against Corruption, “Report,” December, 2005.)

- Incomplete diagnosis. Too often, donors focused on institutional reforms that assumed the autonomy and accountability of existing institutions. Donors did not fully appreciate or understand that the institutions themselves were reacting to an environment of state executive control that combined the economy’s production and distribution functions into a political system that rewarded not responsiveness to consumers or buyers, but loyalty to the existing political order. (Compare, Crowley, “Moldova Program Summary,” USAID, 2005, at p. 3 with Kauffman and Siegelbaum, “Privatization and Corruption in the Transition,” at p. 15-16, World Bank.)

In turn, these donor initiatives helped to elicit the following responses by the GOM:

- Emphasis on “paper reform” rather than substantive effort. The Law “On Establishing a Center for Combating Corruption,” for example, places tremendous emphasis on issues of organization and administration. This came at the expense of the doing the truly difficult work of creating a truly effective and goal directed agency that could take the lead, and set an example, in fighting corruption and the mechanisms and policies necessary to make it accountable to both the government and the public.
- Emphasis on the “quick fix.” The much celebrated “Law on Streamlining the Regulatory Environment for Business Activity” (known as the Guillotine Law), for example, preceded, rather than followed, a law on the rights of entrepreneurs. Interviews suggest that a lack of attention to overarching legal rights may offer government bodies an opportunity to subvert the guillotine law, an otherwise important threshold piece of Moldovan commercial legislation. In many ways, the “quick fix” is related to the emphasis on “paper reform.” In fairness to the GOM, it is possible that both tendencies emanate from pressure from donors and IFIs to “do anything” to combat corruption, and to do it quickly.
- A tendency to high visibility, low impact initiatives. Such initiatives are undertaken at the expense of effective and sustainable implementation of anti-corruption programs and reforms. Interviews with NGOs and other monitors of state conduct indicate that despite the relatively high quality of laws affecting the civil service, public officials either claim not to know the legal requirements that bind them, or ignore them.

Until quite recently, donors have responded in kind to GOM enthusiasm for “paper reform” and the “quick fix” with “laundry lists” of things for the GOM to do. Compare EU Action Plan with Council of Europe, GRECO Report, December, 2005. This back and forth, or action and reaction, between donors and the GOM has been largely unproductive as a way of combating corruption, and leaves out of the equation important

questions and approaches that would address government transparency and accountability and the role of civil society.

### **The NGO Factor**

Does the GOM react to pressures to reform from NGOs in the same way it reacts to donors? The answer is largely no. As noted elsewhere in this report, the GOM takes an adversarial, and even hostile, stance towards civil society and seems to take issue with NGOs who criticize the government. To many government officials, that is not a proper role for civil society organizations, which should instead partner with government.

Civil society then casts a wary eye on the government (and to a lesser extent on the private sector), demonstrated through the following characteristics:

- **Balkanization.** Businesses and NGOs rarely coalesce. There appear to be two reasons. First, much of civil society associates private business with corruption since blatant corruption and private business are seen as emerging simultaneously. Second, the current governing party appears skeptical of private business growth.
- **Innate distrust of the GOM generally.** Many NGOs see themselves as operating outside the government decision-making process. Many prefer to remain in this position, taking the role of monitor and critic of the government rather than working with government from the inside. To be fair, the government has not adopted as general procedure a way for civil society to participate in policymaking, and to the extent individual NGOs have been given a seat at the policymaking table, their role has been marginalized.

This “us versus them” attitude is unmistakable in discussing the corruption issue. Unfortunately, it both impedes real GOM accountability and genuine mobilization of the Moldovan citizenry.

Potentially, civil society can advance the cause of anticorruption:

- *explicitly* – through a commitment to expose lack of government transparency, and by public advocacy, party reform and helping develop neutral regulations; and
- *implicitly* - through providing a sense of public opinion to the government and testing government competence and responsiveness.

Any USAID anti-corruption strategy must not only help promote “grassroots” efforts by civil society, but must also elicit “top down” commitments to genuine reform from the GOM to reform.

## **Windows of Opportunity**

Are conditions ripe for executing a multi-sector anti-corruption strategy, one that ends and avoids this futile cycle of donor action and government response? Despite past “starts and stops,” and the fractured dialogue between the government and civil society, the Team believes that such conditions now exist. The reasons are:

- The current opportunity to engage the GOM at highest level on a more sustained basis. Interviews with high officials in the GOM suggest that there is a growing understanding of the need, and even urgency, to address corruption, as it is both a drain economically and a burden on effective public administration. The desire to look west and become part of the west is quite strong, and Romania’s joining the EU in January 2007 only furthers the view that Moldova’s future is with the west.
- The opportunity for a consistent donor message to be delivered to the highest levels of the GOM. USAID confirms that the EU Action Plan and the EGPRSP are essential building blocks in fighting corruption. This provides the basis for what has been sorely lacking: a common donor approach, at least at thematic (rather than programmatic) level.
- Near universal enthusiasm to focus on implementation. Concrete benchmarks might be laid down not only for the creation of USAID initiatives in the area, but for their continuation through careful monitoring.

## **The Millennium Challenge Corporation’s Threshold Country Plan**

The major reason, however, conditions now exist for the formulation of a comprehensive anti-corruption strategy is the Millennium Challenge Corporation’s Threshold Country Plan for Moldova which, if approved, probably represents the largest single donor effort addressing corruption since the county achieved independence. The TCP is unique not only in the amount of money that may be disbursed (perhaps as much as \$22 million over a two year period), but also because it has the potential to break the trend of incremental donor assistance regarding anticorruption reform.

Even though the MCC TCP will fund government anti-corruption efforts, the mere scale of the initiative is bound to affect the plans and programs of other donors as well as international and local NGOs engaged in the anti-corruption field. All those consulted during the field work—government and non-government—were aware of the TCP, although its final shape was not known. Because the program will create, in a sense, a large splash in a small pool, it has engendered among the various anti-corruption stakeholders probably some degree of concern, but also a sense of opportunity. In particular, the TCP creates the opportunity (and need) for:

- Greater donor coordination and information-sharing;

- Improved GOM-civil society dialogue;
- Improved donor-civil society dialogue;
- Testing of the GOM's commitment to genuine reform and accountability;
- Continued focus on effective implementation of programs and reforms; and
- Developing benchmarks to set goals and measure progress.



### **SECTION III: REVIEW OF USAID/MOLDOVA FUNDED PROGRAMS**

The Team was asked to review four current and varied projects funded by USAID. The purpose of these reviews was to uncover and learn from positive project experiences so they could assist in formulating a comprehensive anticorruption strategy for Moldova. As the Team emphasized in its visits and interviews, our task was not evaluation or performance review. Project management and interviewees responded with a degree of candor and self-criticism that the Team believes has enhanced the quality of its review.

USAID asked the Team to review the following four programs: (1) the BIZPRO/Moldova Regulatory Reform Initiative (RRI), implemented by Development Alternatives, Inc; (2) the Local Government Reform Project, implemented by the Urban Institute; (3) the American Bar Association's Central European and Eurasian Law Initiative's (ABA/CEELI) Rule of Law Program; and (4) the Strengthening Democratic Political Activism program, jointly implemented by the National Democratic Institute (NDI) and the International Republican Institute (IRI). While diverse, each of the four has a common characteristic: none is specifically designed to serve as an anticorruption initiative, yet as will be shown each has made a contribution to the design of a comprehensive plan for fighting corruption.

Before discussing particular findings, the Team notes the potentially beneficial role that USAID projects generally aimed at economic and political reform can play in the cause against corruption. Besides their direct benefits, such projects, if properly executed, can contribute immensely to an anticorruption initiative. Among the reasons are:

- communication of general economic and political reform messages promote critical thought by the public on the costs of corruption;
- communication of general economic and political reform messages can be a subtle, diplomatic means of treating the issue of corruption without offending officials of the GOM; and
- communication of general economic and political reform messages can raise the level of civil society dialogue so that public discourse provides a basis for less accusatory and more constructive dialogue with the Government centered on reforms that can be accomplished.

#### **Project Review and Results**

##### **1. Bizpro**

The Bizpro program has emphasized the regulatory barriers to the small business sector, and has focused on regulatory reform as well as financial services. The "Law on Streamlining the Regulatory Environment for Business Activity," (known as the "guillotine law") was a major accomplishment in the view of one of our interviewees. The recent "basic law," which is intended to emerge from the guillotine law, sets out

government regulation of enterprises, and mandates the use of regulatory impact analysis (RIA) in the process of drafting laws. The concept here is to set up a Secretariat, consisting of 8 attorneys and 4 economists, which will discuss each law in terms of its impact on the businessperson and make the necessary changes to remove unnecessary regulation. Before passage of the guillotine law, we were told, a Minister often made regulations in his area of jurisdiction without consulting business and other effected groups.

The impact of the Bizpro program has been the institutionalization of RIA as a procedure in the legislative process, and in the acceptance of a new approach to both discussion of business-related regulation and investigation of businesses by the authorities. This has been a significant step in the creation of a rational approach to the development of regulations regarding the legal environment of business.

The example set by the guillotine law could be adapted as an important element of an anti-corruption strategy dealing with the private sector, to the extent that officials of the Moldovan government agreed with USAID on how to approach the problem of barriers to business and then established an innovative and apparently transformational business-government partnership. Our interviewee believed the more careful approach to regulation evidenced by the guillotine law, and the subsequent removal of unnecessary and predatory regulations, reduced opportunities for government officials to harass businesspeople and demand bribes. By extension, a more comprehensive and thorough review of regulations in other areas impacting the private sector and state enterprises—for example customs and tax—could further reduce corrupt practices. Other benefits would include an increased tax base (as businesses come to trust and thus comply with the tax system) and increased commercial activity.

## **2. Local Government Reform Project**

The Local Government Reform project has focused on fiscal improvements of municipal governments and, in the process, has promoted greater citizen engagement in local government. Local partners made proposals to the project. The USAID contractor would evaluate the proposal and then decide whether to co-fund it. Projects covered a wide spectrum of municipal services, from kindergartens to trash removal. For partner municipalities, tax collection and budgeting operations were automated. In addition, citizens learned how to hold local public hearings.

As noted above, this project is not an explicit anticorruption initiative. However, the Team regards the project as a showcase for anti-corruption work because it shows local contractors how to engage in open bidding and how to be more transparent in contracting for services. The project implementers believe that although local government remains significantly under-funded in Moldova, citizens at least now have examples of how local democracy actually operates, improved local governance, and local procurement with lower levels of corruption.

The anti-corruption impact of this project is more implicit than explicit. Local public contracting is now handled more transparently, and greater transparency, all experts agree, is a vital component of anti-corruption efforts. Moreover, greater public involvement in local affairs means increased oversight, another important means to combat corruption.

### **3. ABA/CEELI**

ABA/CEELI's Rule of Law program has several major areas of focus. The first involves clinical legal education. CEELI runs four legal clinics for law students, all outside Chisinau. Given the theoretical orientation of legal training in Moldova, for the 15-20 students enrolled in each clinic, the training provides the only practical part of their legal education.<sup>3</sup> One particularly interesting aspect of the legal clinics is that students undertake mobile visits to villages to provide legal advice to people who have little or no access to the legal system. While the goal of the legal clinics is not to combat corruption, recently there has been an anti-corruption aspect to the clinical training. Two of the clinics conducted two one-day training sessions on corruption, and Colonel Anatolie Donciu, Chief of the General Department on Analysis, Prognosis and Prevention of the CCECC, and two of his colleagues lectured in both of these sessions on the legal basis for anti-corruption efforts in Moldova.

Another area of focus of the Rule of Law program is access to justice. One component of this focus is providing small grants to NGOs that deliver legal aid. The other is maintaining a network of seven lawyers in the regions who essentially "ride circuit" and provide pro bono legal advice and representation to clients, mostly rural villagers. Many of the issues of concern to the clients involve family issues, pensions and problems involving the leasing of small plots of land.

CEELI has also been managing several training efforts. Its criminal law program has been working closely with the Prosecutor's Office in a "train the trainers" effort. Twenty-four prosecutors and investigators from the CCECC and the Prosecutor's Office have been trained as experts, who will then help in the training of their fellow investigators and prosecutors. CEELI has also provided human rights-related training for defense attorneys, who represent clients alleging that the government has engaged practiced torture and improper detention, for instance.

Finally, CEELI has also been working with the Moldovan Bar Association to make it more transparent. The Bar Association has recently launched its website, which can be accessed at [www.avocatul.md](http://www.avocatul.md).

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<sup>3</sup> According to a CEELI assessment, Moldovan law faculties fail to provide satisfactory legal training, "memorization of theoretical knowledge is emphasized, at the expense of analytical and practical skills," and critical thinking is rarely taught. ABA/CEELI, "Legal Profession Reform Index for Moldova," April 2004, at pp. 14,16.

While the programs that ABA/CEELI has been conducting are not directly related to efforts to combat and prevent corruption, they are nonetheless significant to long-term efforts to address the problem. Many tools are needed to effectively address corruption, (e.g. well drafted laws, fair enforcement of the law, political will, public intolerance of corruption, an active NGO sector, an independent media) but overarching all these necessities is a society based on the rule of law. Although an elusive concept, there is general agreement among rule of law experts that its key components are a society in which the government is both accountable under the law and is also able, through skilled and dedicated investigators, prosecutors, judges, bailiffs, etc., to fairly administer the law--the supply side of the rule of law. But there is also a demand side to the equation. Citizens will only rely on the justice system when they believe they have access to justice, that skilled lawyers are available to competently represent them, that judges will impartially decide cases, and that the government will enforce court orders.

Yet even high officials of the Ministry of Justice noted that the state has made too little investment in physical and political resources to advance the expertise and discipline of the judiciary, including investment institutions to ensure effective selection and discipline of the judiciary. Here lies an important role for civil society, and particularly the Moldovan Bar Association. A professional and well-resourced bar association could contribute to efforts to combat corruption by assuming the following responsibilities: (1) screening all nominees for judgeships, ensuring that only well-trained, knowledgeable and honest individuals are nominated to the bench, (2) accrediting and evaluating law faculties and reviewing the curriculum and teaching methods of the country's law faculties, thereby improving the quality of legal education, (3) receiving citizen complaints concerning the quality of legal representation, investigating those complaints and when necessary disciplining or suspending lawyers, (4) informing citizens of their rights, and (5) commenting upon legislation and providing policy guidance on matters related to corruption.

Unfortunately, the Moldovan Bar is currently unable to effectively undertake these duties. An ABA/CEELI assessment reported that the Bar's limited financial resources prevent it from adequately promoting the interests of its members; the Bar has offered limited training on the requirements of the Code of Ethics for lawyers, and is either unwilling or unable due to inadequate resources to do more than issue warnings to lawyers, thereby hindering its efforts to impose discipline; the Bar does little to educate the public about its rights and abilities; the Bar has shown very little involvement in law reform efforts, due in part to a lack of interest by the Bar and Parliament's disinclination to consult specialists. ABA/CEELI, "Legal Profession Reform Index for Moldova," April 2004, at pp. 5, 35-38.

#### **4. Strengthening Democratic Political Activism**

NDI and IRI have supported an educational and technical training program whose goal is to promote citizen engagement. Under the program, special assistance has been provided before election days, as campaigning has been restricted. NDI and IRI have argued for open information flows during campaigns and have tried to modernize the Communist

Party as well as the opposition. NDI and IRI have also conducted preliminary work providing assistance and training to the Moldovan Parliament on comparative legislative practices, supporting a Director-General in articulating and implementing a parliamentary development strategy, and promoting public outreach on parliamentary practices in cooperation with local NGOs.

The Team was told the impact of these efforts has been favorable. The basics of political organization have been taught to young people, who have been the target of these educational efforts. However, party financing from either illegal or unknown sources remains a major problem.

### **Lessons Learned**

While none of the projects reviewed has been primarily or explicitly aimed at fighting corruption, two of them—Bizpro and the ABA/CEELI rule of law program—are focused on the broad spectrum of legal and economic issues that relate strongly to corruption. Nonetheless, collectively the projects reviewed can help inform the design of a multi-sector anti-corruption strategy. The following attributes of these projects are particularly important to bear in mind in formulating a strategy:

- **Transformational capability.** The Bizpro program focused on reducing and closing opportunities for corruption. The RIA process opens the door to a party largely left out of the corruption debate: private business. It thus activates a relatively dormant, yet vitally important, component to the fight against corruption.
- **Adaptability.** As noted at the outset of this Final Report, few if any sustained donor initiatives have explicitly targeted corruption. Nonetheless, a project with a process-oriented component can relay a subtle but powerful anticorruption message. The Local Governance Project has featured exactly this, engaging local officials and members of local civil society on the importance of compliance with procurement guidelines. The Local Governance Project is significant because it brings government and civil society together at the project level, focused on a concrete goal, thus bridging the gap in government-civil society dialogue and promoting tangible collaboration.
- **Responsiveness.** The ABA/CEELI rule of law program has succeeded in stimulating demand for competent counsel and access to the courts. At a minimum, it has contributed to keeping public pressure on the judiciary and judicial officers. This is critical, because measures of general public opinion suggest that the judiciary is perceived as highly corrupt, but as having less impact on society than other institutions. See PACO, “Perception and Attitudes Towards Corruption,” Table 3 and Table 4.

- Outreach. In a country with a splintered civil society unsure of its own capabilities, the NDI and IRI initiative has been important for its ability to maintain non-partisan and delivering the public good of participation. This is particularly important in the absence of supporting tools such as a truly free and independent media and the relative absence of effective and transparent NGOs.

Salutary though these initiatives are, but both tackle the issue of non-institutional capture and corresponding civil society response, but in a manner incidental to their main charge. Hence, even at operational level, none might be deemed to fight corruption based on a comprehensive strategy.

## SECTION IV: KEY RECOMMENDATIONS

**Recommendation 1: The Team recommends that USAID work as closely as possible with bilateral and multilateral donors (e.g. DFID, SIDA, UNDP, UNICEF, the World Bank) to promote more systematic information sharing, more programmatic complementarity and more effective and efficient donor coordination in order to (1) formulate a common donor anti-corruption message, policy, agenda and overarching anti-corruption strategic framework and (2) to assist the GOM in developing and systematically implementing a coherent, coordinated, transparent and accountable reform process through an agreed upon monitoring and reporting framework.**

Explanation: Team interviews with various donors revealed that donors would welcome and benefit from greater consultation with USAID. USAID would similarly benefit from greater coordination and information sharing. Donor anticipation of a significant infusion of anti-corruption resources via the MCC TCP has created among donors both anxiety and a sense of opportunity. Improved consultation among all donors will both alleviate some of the concern created by expected TCP funding and help ensure that USAID and TCP funds devoted to corruption will be harmonized with the efforts currently being undertaken by other donors.

Team interviews at the U.S. Embassy and with various donors confirm that the European Action Plan and the EGPRSP form the basis upon which to formulate the framework for a common donor anti-corruption agenda. Note that what is being recommended is not a common donor agenda – the institutional politics and priorities of different donors make a common agenda impossible to achieve – but the framework for an agenda, which donors can then use to develop and refine their own anti-corruption strategies and programs. Given the complexities of corruption, a common agenda may stifle innovative approaches and needed experimentation in addressing the problem. Nonetheless, formulating the framework of a common agenda has its advantages, perhaps foremost being to impress upon the GOM the importance the donor community attaches to fighting corruption, and their expectation that the GOM will address the issue with a seriousness of purpose that has sometimes been lacking. Second, a common framework will assist donor coordination and information sharing at the programmatic level. Finally, a common framework with a single reporting requirement benefits the GOM. The numerous requirements that the GOM respond to, report on and monitor the various anti-corruption plans and agendas has taxed the limited resources of the government, which is distracted by having to deal with several multi-sector strategies for fighting corruption, each advanced by different donors. A common framework would ease this burden.

**Recommendation 2: The Team recommends that USAID collaborate with the GOM, the private sector and other donors to develop benchmarks to (1) identify, prevent and reduce corruption within government institutions; (2) assess the progress being made over the next 2-6 years, on an on-going basis, in efforts to combat corruption; and (3) test the political will and hold various government agencies accountable, on**

**a sustained basis, to achieve certain anti-corruption reform objectives. These benchmarks would include the existence and effectiveness of orderly government procedures in important areas (e.g. procurement, tax collection, customs, the administration of justice), internal “checks and balances,” and outside monitors of government activities and programs through public-private partnerships. USAID should make clear to the GOM that failure to meet such benchmarks may result in the contraction, suspension or termination of USAID anti-corruption assistance to the GOM as a whole or to selected public institution receiving such assistance.**

Explanation: “Grassroots” efforts are important in anticorruption reform. However, interviews and Focus Group discussions suggest that even sophisticated members of the NGO community want a significant message from the GOM signaling willingness to reform. See Appendix B, Survey, responses to questions 11, 13, 16 and 17. Interviews also suggest that USAID should capitalize on the momentum of the TCP exercise of the MCC to press for such benchmarks.

**Recommendation 3: The Team recommends that USAID assist the GOM to develop discrete professional cadres in public institutions to broaden monitoring efforts in the area of anticorruption in order to increase internal GOM controls and encourage transparency and the free flow of information and access to information.**

Explanation: This recommendation is related to recommendation 2, in that developing benchmarks and monitoring levels of corruption and the effectiveness of efforts to reduce corruption in various ministries and agencies requires that officials within these public institutions possess the requisite expertise to perform these tasks. At present, there are an insufficient number of government officials with the necessary skills to perform these roles. Because the monitoring function recommended here is envisioned as part of a public-private partnership, this recommendation should also be read in conjunction with recommendation 5 which calls for USAID to undertake a program to promote the capacities of NGOs, including their ability to work collaboratively with other anti-corruption stakeholders.

**Recommendation 4: The Team recommends that USAID take a prominent role in promoting the rule of law in Moldova, specifically by advancing the independence of the judiciary and the quality of judicial decision-making through working closely with the Moldovan Bar Association and other selected NGOs. Appallingly low pay results in high levels of judicial corruption, undermining the confidence Moldovans place in their legal system and discouraging them from relying on their legal system to resolve disputes. To more effectively promote an independent judiciary, and to test the political will of the GOM, USAID may want to consider implementing this recommendation on the condition that the GOM agree to implement the recent amendment to the Law on Salaries which raises the salaries and benefits of Moldovan trial judges so they are commensurate with those of other senior government officials.**



Explanation: There is almost universal agreement in Moldova, among experts and non-experts alike, that the Moldovan judiciary is not only far from independent but also one of the most corrupt institutions in the country. As a result, many Moldovans avoid the legal system and disputes either remain unresolved. The Moldovan judiciary is beset by many other problems, prominent among them the low quality of judicial decision-making. There are many reasons for these problems, from shockingly low pay, grossly inadequate infrastructure, supplies and support staff, poor legal education, and a lack of continuing legal education. No comprehensive strategy to combat corruption in Moldova can ignore the judiciary.

Since the Council of Europe has embarked on an ambitious effort to improve the training of judges, USAID should direct its efforts to address these problems elsewhere, namely by increasing the capacities of the Moldovan Bar Association and other NGOs involved in legal and judicial reform efforts. A genuinely independent and committed bar association, along with selected NGOs, can have a significant role in the nomination and appointment and, after five years, re-appointment of judges, and in the overall quality of legal education. An effective bar association would also improve the quality of legal representation in Moldova, positioning lawyers not only to be effective advocates for their clients but also to become monitors of judges, thereby promoting their independence, quality and accountability. The bar association is at present far from capable of addressing any of these problems, even at the most basic level, and there do not appear to be other NGOs which can assume these tasks. Improving the quality of judicial training is critical, and the Council of Europe's efforts in this regard should be enthusiastically supported. It is, however, only a necessary but not sufficient condition to establishing the rule of law. An independent and effective bar association, working alongside other committed NGOs, can complement other efforts to promote judicial quality and independence.

USAID may want to condition implementation of this recommendation on a commitment by the GOM to increase the salaries and package of benefits Moldovan trial judges receive so they are commensurate with those of other senior government officials. To put this in financial perspective, there are approximately 400 first instance, that is trial, judges in Moldova, so the cost of increasing their salaries and benefits by \$200 per month would be \$960,000 per year. The recent amendment to the Law on Salaries significantly raises the base salaries of all judges, with a number of supplements tied to length service, languages spoken, etc. Other benefits are included in the current and amended law, including housing, pensions and free medical care; although in practice many judges have not received the promised housing because of lack of available facilities.

**Recommendation 5: The Team recommends that USAID put civil society more at the forefront of anti-corruption efforts. This can be accomplished in at least three ways. First, USAID should provide direct long-term grants (i.e. more than one year) to qualifying local NGOs already engaged in efforts to promote the transparency and accountability of GOM agencies and departments. Second, given the relatively small number of NGOs in Moldova, and the even smaller number able**

**to function effectively, USAID should undertake a program to promote the capacities of NGOs, emphasizing internal governance and transparency, fundraising, development of codes of ethics, advocacy training, and coalition building. Third, USAID should assist civil society in expanding their role to one that includes having meaningful input in government policy-making on matters concerning corruption.**

Explanation: In many countries that have effectively combated corruption, the role of civil society was central to the success of those efforts. Civil society has played numerous roles, from monitoring and reporting on government performance, overseeing the implementation of laws and government programs, providing services when government services are inaccessible or unaffordable because they are rife with corruption, to working with and lobbying government for needed legal and policy reforms. Beyond the immediate benefits of successful civil society programs, a vibrant and effective civil society tends to galvanize other stakeholders involved in fighting corruption and helps erode public cynicism about society's ability to reduce levels of corruption. The anti-corruption activities of local NGOs also tend to be highly cost effective, especially when compared to the efforts of bi-lateral and multi-lateral donors, large international NGOs, and IFIs. And because they are "home grown," the efforts of local NGOs often have a great deal of "buy-in" and credibility with the wider public.

In countries such as Moldova where the political will to combat corruption is either absent or lacking in key government ministries, the role of civil society assumes even greater importance. How then to realize the enormous potential of civil society in combating corruption? Helping this sector realize its potential does not mean setting its agenda. It means giving it the tools – financial and other – so that civil society organizations themselves can decide how to most effectively participate in and strengthen anti-corruption efforts. For some, this will mean working with the government, seeking change from the inside. For others, it means remaining independent of government, preferring not to become, as they view it, compromised.

As noted in the body of this report, there are somewhere between 3,000 and 4,000 registered NGOs in Moldova, only half of which may be active. Nonetheless, from this small pool there are a fair number of local NGOs doing first-rate work in the area of anti-corruption. These NGOs are largely dependent on outside, that is, non-Moldovan, financing for their activities and one of the serious obstacles they face in undertaking additional substantive work is the amount of time and effort they must devote to secure funding, which is often awarded on a short-term, or project by project, basis. USAID should therefore institute a program awarding liberal and long-term grants (that is, at least one year and usually longer) to qualifying NGOs so they could direct more of their time and energy on anti-corruption programs and activities. The process in awarding these grants would need to be competitive yet not so bureaucratically burdensome as to dissuade quality NGOs from applying. Some of the criteria that could be used in the selection process would include: the track record of the NGO in designing and implementing programs that, either explicitly or implicitly, have been effective in the

fight against corruption; the capabilities and reputation of the organization's leadership; the degree of transparency in the operations of the NGO; and an evaluation of the organization's proposal, giving special consideration to how the grant money would be spent.

The vast majority of Moldovan NGOs, however, lack many of the basic skills that are essential to enable them to play a central role in the anti-corruption effort. These skills and needs include advocacy training, coalition building, and fundraising, improving internal governance mechanisms and transparency, and developing codes of ethics. Nonetheless, because they constitute a potential pool of talent and commitment to be harnessed to promote greater government transparency and accountability, USAID should undertake a continuing program to improve the capacities of Moldovan NGOs. Although the particular needs of individual NGOs vary, the central goal of this proposal is the same for all: greater empowerment and effectiveness through the acquisition of greater skills.

Finally, team interviews and Focus Groups indicate that the NGO sector is reluctant to work with the GOM directly in reform efforts, and largely confines its activities in the anti-corruption area to monitoring the extent of corruption in public institutions. See Appendix B, Survey, responses to questions 3, 12 and 13. In addition, the GOM is often unwilling to include civil society in the formulation of policy. The Team survey also suggests that NGOs do not view themselves as particularly equipped to fill a policy making role. The governmental policy-making process needs to be opened up, and permit meaningful input by civil society.

**Recommendation 6: The Team recommends that USAID promote mutual “information ownership” by civil society and public institutions benefiting from the MCC TCP. This approach will promote more systemic follow-up and more effective implementation of the MCC TCP, through an on-going appraisal of the quality and use of information produced through MCC initiatives (from the various public institutions receiving TCP assistance). Special emphasis should be placed on designing a process that focuses on how, when and what kind of information is distributed to various government agencies, the public and civil society groups – with the overall goal of promoting transparency and the wide dissemination of information essential to rooting out and preventing corruption.**

Explanation: The MCC program and the TCP are directed at government institutions, not civil society. Nonetheless, to build on the TCP it is critical to ensure that civil society benefit from what will be one of its main outcomes: increased information from public institutions resulting from improved technologies provided through the MCC TCP. Team observation of and participation in the TCP exercise the weeks of May 8 and 15 indicates that effective benchmarks evidencing commitment by the GOM to mutual “information ownership” are likely to relate to increased appeals from trial, greater availability of court transcripts and files, and a neutral GOM body entrusted with protecting journalists and other civil society constituencies critical of the GOM.

## **SECTION V: THE MILLENNIUM CHALLENGE CORPORATION THRESHOLD COUNTRY PLAN**

### **A. Summary of Threshold Country Plan**

With support from the MCC, the GOM has submitted a Threshold Country Plan (TCP) which aims to reduce corruption through proactive policy, procedure and system reforms. The GOM has selected five components that are designed to achieve the goal of reduced corruption over a two-year period. They are:

- (1) Strengthening the capacity of the judiciary in preventing and combating corruption, budgeted to receive \$8,780,000;
- (2) Prevention and curbing corruption in the health protection system, budgeted to receive \$3,690,000;
- (3) Strengthening the monitoring capacity of civil society and the mass media, budgeted to receive \$ 4,400,000;
- (4) Prevention and control of corruption in tax, customs administration and police bodies, budgeted to receive \$ 6,275,000; and
- (5) Reform of the activity of the Center for Combating Economic Crimes and Corruption, budgeted to receive \$2,730,000.

Reform of the judiciary is seen as a critical first step in ensuring sustainable development in Moldova and finalizing the transition toward a market economy. To improve the quality of justice, the computerized random distribution of cases will be introduced, and enhancing access to court decisions will be furthered through the introduction of a comprehensive case recording system. To ensure the overall institutional consolidation of the judiciary, also planned is to increase control over the work of court administration, along with the adoption and enforcement of new ethical standards for judges.

To strengthen the capacity of Moldovan NGOs and mass media, a grants program will be managed by a competitively selected U.S. implementing partner. For example, grant support will be provided to a consortium of media NGOs to monitor editorial freedom and the capacity of a broad cross-section of print and electronic media in Moldova (with an emphasis on its ability to fairly, impartially, and accurately cover corruption as a public issue), and the performance of the Government in combating corruption.

Measures concerning the tax system are intended to improve the mechanism of tax collection, ensure the transparency of financial flows, and decrease the share of the shadow economy. It is planned that a single informational center for assistance to beneficiaries within the Principal State Fiscal Inspectorate will be created, so as to optimize capacities for the efficient prevention of corruption. In the customs field, the TCP will introduce a series of computer software modules intended to monitor the flow of all goods through customs checkpoints with great detail and sophistication. Extensive training of the police in ethics and anti-corruption activities is planned, along with the consolidation of capacities for investigation.

## **B. Analysis of the TCP**

The TCP will provide a needed “jump start” to future donor anti-corruption initiatives. The Team believes TCP to be the “right message at the right time” in large part because it addresses many of the particulars of non-institutional capture and its effects. The reasons are:

- The TCP targets GOM and public institutions most suspected of corruption, and thus offers the potential to energize civil society by exacting “top down” commitments to reform;
- TCP programs will emphasize the production of a public good – information from the GOM and public institutions (e.g., the judiciary, tax authorities, customs) that can legally and politically empower civil society;
- TCP programs, by furthering the development and dissemination of public information, will promote GOM-civil society dialogue which to date has been either largely absent or unproductive, and characterized by mutual suspicion;
- TCP programs offer a contrast to the incrementalism of past donor initiatives, because the programs focus on the broad issue of information development and use and how that information can be beneficially deployed across the board in public institutions;
- TCP programs, viewed as a process-oriented initiative aimed at improving governance by working with the government, can broadly support European integration and the EGPRSP, thus facilitating the needed common donor agenda necessary to move the GOM further in the area of anti-corruption reform.

The TCP approach has the advantage of working inside the government and of breadth of scope, covering different areas, as described below. By contrast, USAID anti-corruption work will be more precisely targeted, as it will be designed to focus on specific problems as they now exist and as they arise. The key question for USAID is how it can build upon the MCC TCP initiative in combating entrenched corruption.

### **(a) Judiciary**

Interviewees put forth many reasons for the high degree of judicial corruption: poor training and low pay, abysmal infrastructure, lack of independence from the executive, and a judicial appointment process that lacks transparency and encourages favoritism. One knowledgeable observer even said that senior government officials purposely keep judicial salaries low knowing that many judges will have to resort to bribe taking to support their families. With this information, these government officials can then blackmail judges to issue favorable rulings. In short, the judiciary bears all the hallmarks of non-institutional capture.

The key to reforming the judiciary is promoting transparency and accountability. As noted in this Report, the Moldovan Bar Association and other NGOs have an important “bottom up” role to play in the effort to improve judicial transparency and accountability, but it is essential that this be complemented by working with and within the government, a top-down approach, as contemplated by the TCP. This means working closely with those government agencies whose responsibilities directly affect the judiciary, specifically the Ministry of Justice and the Supreme Council of Magistrates, to do the following: (1) improve the physical infrastructure in which judges work and increase the number and quality of their support staff, such as clerks and bailiffs; (2) provide computers and other supplies so that legal opinions are written and circulated to other lawyers and the public; (3) provide continuing legal education programs for judges, so that judges are taught to think critically (a skill not taught at universities) and are continually informed of new laws and legal procedures; (4) ensure that political factors are eliminated from the judicial nomination process; (5) review all legislation affecting the judiciary, particularly by providing judges a forum so they can comment on pending legislation of concern to them; and (6) coordinating between judges and executive branch agencies to identify and reduce barriers to the prompt and effective implementation of judicial orders.

In addition to external initiatives, the internal checks that are part of the structure of the Moldovan judiciary provide an excellent basis to reduce corruption in the justice sector, and to make the judiciary and the entire legal system what it was designed to be: an effective means to investigate and prosecute corruption-related offenses. The internal checks include:

- checks from authority superior to trial courts, whether the Courts of Appeal, the Supreme Court of Justice, or the Supreme Council of Magistrates;
- internal controls and checks as defined by specialization of function at the trial court level; e.g. transcribers, court clerks and trial judges can audit each other’s performance;
- the constitutional right to a public trial creates opportunities for public civil society participation in the administration of justice. A trial should be among the most transparent of public proceedings and provides plenty of opportunity for critical civil society observation and comment.

These systemic internal checks, however, only work if: (1) the judiciary is composed of well-trained and dedicated individuals with the infrastructure and support staff they needed to carry out their critical role; and (2) a committed and effective civil society which is (a) willing to act as monitor of judicial performance; (b) able to publicize deficiencies in its performance, and (c) willing to serve as an advocate for an effective and honest judiciary.

Appropriately, by providing computers and other supplies to courts so that legal opinions are written and circulated to lawyers and the public, the TCP should make the legal process more transparent and accessible to the public, especially if the public is unable to attend a trial or other judicial proceeding. USAID can follow up in the battle to correct weak institutionalization in the judiciary by developing programs to promote both internal controls and civil society participation.

**(b) Tax, Customs and Police**

Corruption within the tax and customs authorities, unlike corruption in the judiciary, advances non-institutional capture because of the transactional character of their work. A Focus Group the week of May 8 suggested that the GOM organizes low level corruption prosecutions against small businesses that make non-official payments; i.e. administrative corruption. This tactic diverts attention from what USAID would style state capture.

MCC has developed an appropriate response: treat the transaction in question as the target of reform efforts. Concretely, this means increasing transactional transparency. For example, the introduction of technologies (computer software, etc.) will permit the tracing of tax collections or customs payments against amounts due.

## APPENDIX A: METHODOLOGY

The key objective of the methodology was to gather information that would be valuable in (1) designing a multi-sector anti-corruption initiative; (2) making recommendations to help develop the USAID Strategy in Moldova for 2007-2011; and (3) assisting in the preparation of the MCC Threshold Country Plan.

The assessment team, which has extensive experience in conducting a variety of country assessments, developed a methodology designed to ensure that the data collected was objective, accurate, reliable and relevant to the overall purposes of the assessment. Information was gathered through analysis of key background documents, structured interviews with individuals and groups, focus group discussions, a survey, and an exercise designed to test government compliance with the access to information law. (Survey questions and the responses to the survey can be found in Appendix B; a fuller explanation of the tester's exercise and the results obtained can be found in Appendix C).

Informants included government officials, businesspeople, representatives of NGOs and informal civil society organizations, USAID staff and stakeholders of USAID programs, members of think tanks, International Financial Institutions (IFIs) and bilateral and multilateral organizations, media representatives, independent journalists, and academics.

The assessment team employed the following basic methodological approach in conducting the assessment:

**Determining the exact scope and focus of the assessment.** In collaboration with USAID/Moldova staff, the assessment team carefully developed a work plan so that the information obtained would be relevant to the three overall objectives of the assessment.

**Stakeholder mapping.** Following agreement on the scope and focus of the assessment, the assessment team conducted a stakeholder mapping to identify the institutions and individuals concerned with and affected by corruption, and who have an interest in the team's recommendations. Given the extent of corruption in Moldova, the number of stakeholders is potentially limitless. The assessment team worked with USAID/Moldova staff and others to identify the stakeholders consulted, based on two criteria: (1) institutions and individuals who could provide objective, relevant and reliable information; and (2) stakeholders consulted had to represent a balanced cross section of those concerned with and affected by corruption, so that the information obtained reflected a diversity of perspectives and experiences.

**Formulation of assessment questions.** To ensure that the inquiry remains focused on obtaining data that was both accurate and usable to USAID/Moldova staff, and to making actionable recommendations, the assessment team developed a checklist of key "descriptors," or indicators. These descriptors constitute the focus areas of the assessment – the key issues to be pursued – and their purpose was to prevent the assessment from becoming a "fishing expedition" for information that might be of



general interest but had no specific relevance. The descriptors formed the basis for formulating a set of general questions. These questions were adapted depending on the person being interviewed, the type of information sought, and the interview method.

**USAID/Moldova review and validation of descriptors and general questions.** Once the descriptors, general questions and proposed method of gathering information had been drafted, they were circulated to USAID/Moldova staff for comment and suggestions.

**In-country research.** In addition to a detailed review and analysis of the literature and surveys concerning corruption in Moldova, the assessment team, working closely with USAID, employed several research methodologies as part of the in-country participatory data gathering process. The methodologies were designed to obtain both quantitative and qualitative data and included: (1) focus group discussions, using mostly open-ended questions; (2) structured interviews with individuals; (3) structured interviews with small groups, using a combination of open-ended and close-ended questions; and (4) a survey. Much of the logistical work in arranging the interviews and discussions was coordinated by ADEPT, a Moldovan NGO.<sup>4</sup>

Because the issue of access to official information is closely related to the problem of corruption, the assessment team used “testers” to evaluate how easy it is for average citizens to obtain relevant public information. Test cases were designed to test government compliance with freedom of information laws at a very basic level.

Finally, as noted above, the assessment team conducted a survey that was carefully targeted to fill gaps in the existing quantitative data and provided relevant information. Because of limited resources and time, the survey was integrated with focus group discussions and other structured interviews. To eliminate bias from the survey questions, the assessment team worked with IFES’ in-house survey expert to design the survey and to formulate questions that yielded relevant data.

**Data analysis.** Data from these various methodologies was collated and analyzed. The analysis examined information from both the literature and data reviews and the in-county participatory research, with a focus on the observations and recommendations of the informants which was relevant to developing an effective, multi-sector anti-corruption program, the USAID/Moldova Strategy for 2007-2011, and the MCC Threshold Country Plan.

**Final Report.** Once the data analysis was completed, the assessment team drafted a preliminary report. Prior to departure from Moldova the team debriefed USAID/Moldova staff and US Embassy/Chisinau representatives and submitted the

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<sup>4</sup> The Association for Participatory Democracy, “ADEPT,” is a not-for-profit, independent, non-partisan NGO based in Chisinau, Moldova. Registered in 2000, ADEPT is the local NGO successor of IFES’ work in Moldova during the 1990s. ADEPT is one of Moldova’s effective and reputable NGOs in the democracy and governance sector.

**Moldova Anti-Corruption Assessment**

Submitted to USAID

By Democracy International, IFES, and DPK Consulting

June 2006

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initial draft to USAID. The assessment team finalized and submitted this final report soon after receiving comments and suggestions from USAID/Moldova staff.

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## APPENDIX B: QUESTIONNAIRE AND SURVEY RESULTS

As part of the Team's effort to obtain useful information regarding corruption in Moldova, the Team drafted a survey. Before it was distributed, the survey was reviewed by a disinterested sociologist and public opinion polling specialist under the employ of subcontractor. His suggestions were incorporated into the final draft of the survey.

Survey responses were obtained from 35 individuals, most of whom were participants in focus group discussions, structured individual interviews or small group interviews. Of the 35 respondents, 26 were from NGOs, 6 from other entities, and 1 from the state. The remaining 2 did not note their affiliation. The nature of the questions was mixed, with most asking the respondent to select one choice. Four questions called for respondents to rank preferences. Finally, one question invited respondents to critique donor efforts in Moldova to date.

The wording of the survey, and the survey results, follow.

The survey below is an effort to update and refine the views of targeted audiences in Moldova on the issue of corruption. You are not required to identify yourself on this questionnaire. We will keep all responses confidential as to the respondent. Please circle your responses in cases where only response is desired and follow the instructions for other questions. Please indicate at the end of the survey if you live in the capitol or in the regions, and identify whether you work for an NGO or other entity. Thank you.

**1. How serious is the problem of corruption (that is, the abuse of official position for private gain) in Moldova?**

- A. Very Serious
- B. Somewhat Serious
- C. Not Very Serious
- D. Not Serious At All

**24 responses – A. Very Serious**

**2. Listed below are several factors that people use to explain corruption in Moldova. Please rank each of these factors in their order of importance. You should rank the most important factor as '1' and the least important factor as '5'. [Please write in rank in space provided]**

- A. \_\_\_\_\_ Longstanding cultural factors (tradition)
- B. \_\_\_\_\_ The opening of markets and liberalization
- C. \_\_\_\_\_ The absence of a private sector that can make people prosper in an honest and transparent manner
- D. \_\_\_\_\_ The absence of adequate salaries for officials in government

- E. \_\_\_\_\_ The absence of sufficient sanctions, especially in the form of effective and enforced criminal prosecution

**Responses as the most important factor (1):**

**C – 9 responses**

**E – 9 responses**

**A – 8 responses**

**D – 8 responses**

- 3. Please rank the following sources of information in terms of providing accurate and reliable information concerning corruption in Moldova? (“I” is most reliable)**

- A. \_\_\_\_\_ The Moldovan press and media  
B. \_\_\_\_\_ The experiences of friends, family and colleagues  
C. \_\_\_\_\_ Non-governmental organizations in Moldova  
D. \_\_\_\_\_ International sources (foreign TV broadcasts, books, the Internet, and information from donor organizations)  
E. \_\_\_\_\_ Other (*please list*) \_\_\_\_\_

**21 Responses – B**

- 4. As you know, corruption can have both a direct impact and an indirect impact on people. For example, a direct impact is when you yourself are asked for a bribe for a service. An indirect impact may be if a businessman has to pay a bribe to obtain goods, then he increases prices to regain the cost of the bribe and everyone is impacted by the price increase. Another example of an indirect impact may be inefficient government services because of nepotism in how people are hired for the government. Keeping these definitions in mind, would you say that you have had only a direct impact from corruption in Moldova, only an indirect impact, both, or none?**

- A. Direct impact only  
B. Indirect impact only  
C. Both  
D. None

**24 Responses - C**

- 5. And would you say that the impact of corruption on you, either direct or indirect, is present all the time, is quite frequent, is rare, or does not exist at all?**

- A. All the time  
B. Frequent  
C. Rare

D. No impact

**19 Responses – B**

**6. In your opinion, is the person giving a bribe as responsible for corruption as the official taking it?**

- A. Yes
- B. No
- C. Depends on the situation

**20 Responses - A**

**7. Listed below are several factors that have historically been considered important for the decrease of corruption in a country. In your opinion, which of these factors would be most important for the reduction of corruption in Moldova Please circle the appropriate response.**

- A. “Grassroots” popular demand for an end to corruption
- B. The influence of international organizations in instituting a reform effort in Moldova
- C. General democratic reforms in Moldova
- D. The growth of a market economy in Moldova
- E. There is little or no hope for a decrease in corruption

**9 Responses – C**

**8 Responses – B**

**(14 responses circled more than one factor, e.g. BC, ABCD, AE, AB)**

**8. How would you characterize the effectiveness of international donor efforts (international financial organizations such as the World Bank, and development assistance provided from various countries and regions outside Moldova) in reducing or controlling corruption in Moldova to date?**

- A. Very effective
- B. Somewhat effective
- C. Somewhat ineffective
- D. Very ineffective

**15 Responses – C**

**14 Responses – B**

- 9. Why do you think that international donor efforts have been effective or ineffective (RESPONSE in Q8) in reducing or controlling corruption in Moldova? Please write in your answer in the space provided.**

See responses attached on page [--]

- 10. How would you characterize the effectiveness of NGOs in reducing or controlling corruption in Moldova?**

- A. Very effective
- B. Somewhat effective
- C. Somewhat ineffective
- D. Very ineffective
- E. No efforts made by NGOs

**16 Responses – B**

**10 Responses – C**

- 11. And how would you characterize the effectiveness of the Moldovan government to date in reducing or controlling corruption in Moldova?**

- A. Very effective
- B. Somewhat effective
- C. Somewhat ineffective
- D. Very ineffective
- E. No efforts made by government

**15 Responses – D**

**10 Responses - C**

- 12. Rank each choice below in importance (“1” being most important, “5” being least important) as to ways in which an international donor effort could be most effective in combating corruption in Moldova. Please rank each in the space provided.**

- A. \_\_\_ By strict enforcement of international anticorruption standards in dealings with the government and running the business environment.
- B. \_\_\_ By educating the Moldovan people on the nature, extent and costs of corruption
- C. \_\_\_ By providing funds to non-governmental organizations and “civil society” in Moldova to address the problem
- D. \_\_\_ By providing funds to the Moldovan Government to address the problem
- E. \_\_\_ By continuing to encourage general political and economic reform

**15 Responses – B- as most important**

**13. Listed below are several strategies that have been used to combat corruption. Please rank each of these strategies in importance for an anti-corruption effort in Moldova. A ranking of '1' is the most important strategy and a ranking of '5' is the least important strategy.**

- A. \_\_\_ Have specific programs targeted at developing explicit anticorruption policies in the government
- B. \_\_\_ Incorporate anticorruption concerns into donor projects aimed at general political and economic reform
- C. \_\_\_ Provide financial support to local Moldovan non-governmental organizations and let them develop their own strategy
- D. \_\_\_ Generally emphasize anticorruption as part of a strong law enforcement program by police, customs and other law enforcement authorities
- E. \_\_\_ Other (please explain) \_\_\_\_\_

**Responses as the most important strategy (ranking 1):**

**14 Responses – D**

**10 Responses – A**

**14. Of the various measures listed below, please select the one measure you believe would be the best way to measure the effectiveness of an anti-corruption program in Moldova?**

- A. A decline in estimated bribes and unofficial payments made to authorities
- B. An increase in the number of regulatory and law enforcement authorities advancing transparency.
- C. "Across the board" reductions in the amount of time taken to register and license businesses
- D. A decrease in the number of regulators involved in the supervision of a typical business
- E. Other (please write your own description of an effective measure of an anti-corruption program) \_\_\_\_\_

**7 Responses – D**

**6 Responses – A**

**6 Responses – B**

**(9 responses chose more than one measure, e.g. CD, AC, ABC, etc.)**

**15. Listed below are several actions which may be corrupt. In your opinion, which of the following does the greatest harm to the general public welfare?**

- A. A school teacher who asks for a bribe, in return for which he gives students higher grades.

- B. A judge who decides a commercial case in return for a bribe.
- C. A bribe to a policeman who stops your car on the street
- D. A bribe to a doctor to issue a prescription

**18 Responses - B**

**16. Of the following tactics to reduce corruption, which do you think would be the most effective approach?**

- A. To promote discussion between representatives of international donor agencies and the highest level of the government of Moldova
- B. To promote discussion at the “grassroots” level, Moldovan to Moldovan
- C. To give senior level Moldovans in government and civil society greater access to international conferences, discussions
- D. To enforce existing laws and regulations fully
- E. To reform existing laws and regulations for compliance with international norms

**21 Responses – D**

**17. How would you characterize the will of the Moldovan government to combat official corruption in Moldova?**

- A. The government is fully committed to combating corruption
- B. The government is mostly committed to combating corruption
- C. Government officials are divided in their willingness to combat corruption
- D. The government has little or no desire to combat corruption

**24 Responses – D**

**18. Which of the following do you think is the biggest obstacle to combating corruption in Moldova?**

- A. The government is not fully committed to combating corruption
- B. Entrenched political elites see little benefit in combating corruption
- C. Entrenched business elites see little benefit in combating corruption
- D. The Moldovan public accepts corruption as a fact of life
- E. Other \_\_\_\_\_

**10 Responses – D**

**8 Responses – B**

**(9 responses chose more than one obstacle e.g. AD, BD, AC, AB)**

Please indicate whether you live in the capitol city or in the regions.



Please indicate whether you work for an NGO, for the government, or for some other entity.

**Residents of the capital city Chisinau – 28; Residents of regions--6**

**Work for NGO – 26; Other entity– 6; Work for state - 1**

### **Attachment – Answers to Question 9**

- because investments will increase responsibility and effectiveness of anti-corruption bodies and reduce the deficit of remuneration for anti-corruption work
- corruption is present in all sectors including politics, road police, other bodies
- there is no possibility to supervise
- usually financial aid from donors is managed by the state, and the state is an inefficient manager
- foreign efforts are small compared to the scale and intensity of corruption
- because there is no permanent and effective control of how money is spent, which is often wasted
- because these efforts do not change the salaries and the mentality of the people
- relatively insignificant because in fighting corruption money is not as important as training and awareness that corruption is a negative phenomenon. It all starts from mentality
- most of the aid has not been managed effectively
- because the money for fighting corruption is managed by corrupt officials
- the donor aid is not targeted to key areas
- to donors this is a foreign country and the situation here cannot be studied
- the efforts are not well oriented, those who manage the aid have their interests, the selected personnel is poorly trained
- in order to effectively fight corruption the government and the citizens have to really want this too, not just the international organizations
- the international projects are dealing just with methods of fighting corruption and do not have a complex approach
- there is no true will to really fight corruption in Parliament, Presidency, Law Enforcement
- using donor aid the civil society (NGOs) can compel the Government to take measures to fight corruption

- the management of foreign aid is not transparent; the assistance must be concrete; the government must be accountable for the use of aid
- were wrongly oriented
- there have been no systemic efforts to take account of all factors in all areas, e.g. overlapping strategies- zero impact,
- poor media coverage of anti-corruption campaigns; poor funding by donors,
- the efforts of the donor organizations have just slightly succeeded to raise awareness on this issue, which is insufficient to solve the problem and reduce corruption
- there wasn't much effort to really reduce corruption in Moldova. There were no big projects up till now, except for the CoE project,
- because these efforts often were not well focused, acting in a "firefighting" manner
- there is a feeling in the society that employees of these organizations have also become corrupt. Not all non-governmental organizations have equal access to financing in Moldova
- because international organizations are also affected by corruption
- because the Government is not really willing to minimize corruption, and the donors are not "pushing" it enough to conduct the reforms
- there was no insistence on adopting legislation; the creative ways of those corrupt was not taken into account

## APPENDIX C: GOVERNMENT RESPONSIVENESS TO THE ACCESS TO INFORMATION LAW (“TESTER’S EXERCISE”)

### A Note on Access to Information

Under Moldova’s Access to Information Law, any citizen of Moldova or foreign person residing in Moldova “has the right to seek, obtain and disseminate official information.” Restrictions apply to the right to obtain certain categories of information, such as information that is deemed to protect national security or the public order, and public health or morals. The person requesting access to information is under no obligation to justify his interest in the information sought. Requests may be made in writing or verbally when the information “can be provided instantly.” No fees are to be levied if the information is presented verbally, is examined at the institution’s premises, or “contributes to the transparency of the public institution and is in the interest of society.” Information may be provided either verbally, by examining the document, or releasing a copy of the document or information. Refusal to provide official information is to be explained in writing.

### Tester Exercise

As part of the information gathering component of the assessment, the Team used “testers” to evaluate the government’s compliance with the basic provisions of the access to information law. The testers were average citizens who presented verbal requests for official documents or information to government offices, and then reported their findings. Our testers only asked for information that was easy for GOM officials to locate and presented no difficult issues of interpretation, for example information that arguably affects national security or public health. Our testers, then, sought to assess the GOM compliance with the law at a very basic level.

Over a roughly two week period, our testers sought information from 10 GOM offices in Chisinau. All the requests were made at national government offices, with the exception for a request made at the Chisinau City Hall. The offices visited, the information sought, and the results obtained are summarized below.

<u>Office visited</u>	<u>Information/document requested</u>	<u>Result</u>
Ministry of Information Development, Passport Office	Documents needed to obtain passport	Fully complied
Ministry of Education	Availability of grants and scholarships to study abroad	Fully complied
Ministry of Transport	Amount of money spent on	Partly complied

<u>Office visited</u>	<u>Information/document requested</u>	<u>Result</u>
	road maintenance in 2005	
State Registry Chamber	Procedure for registering a business	Fully complied
National Social Insurance House	Documents needed to submit for calculation of future pension	Fully complied
Chisinau City Hall	Most recent municipal budget	Fully complied
Ministry of Internal Affairs	Most recent crime statistics	Non-compliance
Ministry of Finance	GOM loans from World Bank	Non-compliance
Prosecutor-General's Office	Number of bribery investigations opened	Non-compliance
Ministry of Justice	Requirements to register an NGO	Fully complied

## APPENDIX D: SCOPE OF WORK

The assessment team's proposed approach to each of the five tasks set forth in the scope of work is described below. The approach is designed to yield timely, relevant and practical information and recommendations concerning the specific tasks set forth and questions raised by USAID/Moldova staff in the RFP.

### 1. Evaluate the causes, dynamics, forms and settings of corruption

The assessment is to summarize the existing data on corruption in Moldova, assess the extent and environment in which corruption occurs, and address the political, economic and social context that helps explain the extent and persistence of the problem.

The first task of the assessment team will be to conduct a thorough review of quantitative and qualitative studies and literature concerning the extent, types, and causes of corruption in Moldova and the broader environment in which it occurs. This review will include an analysis of pertinent anti-corruption legislation and regulations, and Moldova's national strategies and international commitments to combat corruption. In recent years, multilateral organizations, NGOs, and the Government of Moldova (GOM) have conducted a number of studies and surveys focusing on different aspects of corruption in Moldova.<sup>5</sup> Nonetheless, significant gaps remain in our understanding of corruption in the country, and of which anti-corruption interventions work (and why they work) and which do not. Only three months ago the Council of Europe's Group of States against Corruption (GRECO), which monitors compliance with two conventions against corruption, one on criminal measures and one on civil measures, found that the GOM had only "partly implemented" GRECO's earlier recommendation that the government carry out studies "to gain a clearer insight into the scale of corruption ... so that anti-corruption initiatives and plans can be targeted more effectively."

The purpose of reviewing existing surveys and studies is twofold. First, it is important to determine their methodological soundness and reliability so that, to the extent the results are relevant and timely to the current assessment, time and resources are devoted to building upon valid information rather than duplicating previous efforts. Second, it is important to identify the gaps in our knowledge of the causes, extent and forms of corruption so that the information sought by the assessment team will fill gaps in the existing data. The gaps in our understanding of corruption in Moldova must be filled with *focused and relevant* data; that is, information that will be especially useful in developing a focused, multi-sector anti-corruption initiative, USAID/Moldova's Country Strategy for 2007-2011, and the Threshold Country Plan.

In addition to evaluating relevant quantitative and qualitative data concerning corruption, the assessment team will review literature that helps explain how social, political,

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<sup>5</sup> For example, in 2005 Transparency International-Moldova published its "Diagnosis of Bribery in Business," which was based on a survey of 1,484 respondents, both businesspeople and households, in both rural and urban areas. In the fall of 2005, the Council of Europe surveyed 3,000 Moldovans on their perception and attitudes towards corruption.

economic and cultural factors have permitted corruption to become endemic in Moldova. Corruption is often abetted by an “enabling environment” in which many components of a democratic society, such as a free and independent media and a robust civil society, have either failed to develop sufficiently or are rendered largely ineffective on account of government-imposed policies and even government harassment. The assessment must take account of these factors, and of the public and private institutions and stakeholders which affect the extent and durability of corruption, and whose strengthening or weakening can significantly reduce corruption’s impact on society.

## **2. Evaluate status, results and impact of the anti-corruption activities of USAID/Moldova projects**

The assessment will evaluate the status, results and impact of anti-corruption activities of USAID/Moldova funded projects, including the BIZPRO/Moldova Regulatory Reform Initiative (RRI), the ABA/CEELI Rule of Law Program, the Local Government Reform Program, and the Parliamentary Reform Activities of the Strengthening Democratic Political Activism Program. A number of core questions are to be addressed, notably whether these projects have made “substantial and measurable” progress in increasing transparency, accountability and economic and democratic reform, whether they yielded unexpected results and created opportunities in the fight against corruption, and what lessons may be learned from current anti-corruption activities that may be applied to the planned multi-sector anti-corruption initiative.

## **3. Analyze the assistance environment in Moldova vis-à-vis anti-corruption activities**

The assessment team is to identify the obstacles to the anti-corruption initiatives of international donors, civil society and the GOM. A number of key questions, focusing on the obstacles to previous anti-corruption efforts and future opportunities for innovative and successful anti-corruption programs, are to be answered; e.g. identify (1) new development assistance opportunities for USAID to reduce corruption, (2) trends in regulatory and institutional reform and their likely affect on future anti-corruption assistance, and (3) opportunities to leverage USAID resources through increased collaboration with other donors.

The RFP rightly points out that the role of civil society organizations (CSOs) is critical to efforts to successfully combat corruption, and many of the questions posed reflect the importance of the sector. The assessment team will devote considerable effort to evaluating CSOs’ effectiveness in combating corruption, and in identifying obstacles that prevent civil society from being fully engaged in designing and implementing anti-corruption programs.<sup>6</sup> To do so, the assessment team will adapt as a methodology what

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<sup>6</sup> According to the Moldovan Ministry of Justice, in 2004 there were 3,156 national and international NGOs registered in the country, only half of which were active. The effectiveness of civil society is limited by a number of factors: lack of financial viability, heavy dependence on international donors, government interference (e.g. unscheduled tax inspections) and even political harassment, lack of skills in advocacy and

is known as the “ARVIN framework.” The ARVIN framework is a multi-stakeholder, participatory diagnostic tool designed to analyze conditions in the institutional environment that affect civil society’s capacity to promote social and economic development, of which the fight against corruption is a core element.<sup>7</sup>

By engaging key stakeholders, the ARVIN methodology helps to diagnose impediments to meaningful civic engagement, and to translate the knowledge and experiences of stakeholders into actionable policy and legal reform proposals. ARVIN’s premise is that citizens and their organizations, which experience constraints on civic participation in their lives and in the operations of CSOs, are best positioned to identify and explain those constraints. The ARVIN methodology has been successfully employed in numerous assessments of civil society and civic engagement in transitional and developing countries, including assessments conducted by a member of the proposed assessment team. These assessments have been notably successful in generating practical recommendations for reform.

The discussion of the ARVIN framework and its usefulness in evaluating civil society’s role in combating corruption does not mean that the role of government and the international donor community are any less important. Both have vital roles in combating corruption; the lack of political will among ruling elites and institutions can thwart even the best designed and resourced anti-corruption programs. While usually used as a methodology to assess obstacles to civic engagement and CSOs, the ARVIN framework can also easily be adapted to assess the obstacles (legal, regulatory, social, economic, political and cultural) that prevent government agencies and international donors from successfully designing and implementing anti-corruption programs.

Finally, while there are efficiencies to be gained from considering separately the efforts of government, civil society and international donors, it is vital to assess the dynamics among them. In the real world, the three sectors interact constantly, and work either collaboratively and synergistically or competitively and ineffectually. Unfortunately, in Moldova and many other developing countries, government feels threatened by civil society and imposes legal, political and other obstacles in its way. The true nature of these complex relationships needs to be assessed so that obstacles to effective collaboration can be identified and addressed and opportunities for building alliances and coalitions realized.

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lobbying. Of particular relevance to the design of a cross-sector anti-corruption initiative is the “government’s lack of political will to cooperate or even trust the NGO sector.” See “The 2004 NGO Sustainability Index for Central and Eastern Europe and Eurasia,” 8<sup>th</sup> ed., May 2005, USAID, Bureau for Europe, and Eurasia, Office of Democracy, Governance and Social Transition, pp. 181-88.

<sup>7</sup> The ARVIN methodology looks at how the overall environment – whether legal and regulatory, political, economic or socio-cultural – directly influence five critical factors – or “enabling elements” – of civic engagement. These enabling elements are: the freedom of citizens to associate (A); to mobilize financial and other resources (R); to express voice, or opinion (V); to access public information (I); and the existence of venues and rules of engagement for negotiation and public debate (N).



**4. Make recommendations for USAID Strategy for Moldova for 2007-2011 and identify options and opportunities for a multi-sector anti-corruption initiative**

The assessment team is to identify strategic considerations regarding corruption in Moldova, identify opportunities for program assistance to combat corruption and offer recommendations concerning a series of questions.

Several of the questions concern the impact of gender issues on anti-corruption reform projects. It is interesting to note some preliminary findings concerning the relationship between gender and corruption in Moldova. The results of a survey conducted by Transparency International – Moldova showed that women in Moldova have a more negative attitude towards corruption than men, that more women than men would have negative feelings when offering a bribe, and that women appear to be less predisposed than men to accept a bribe.<sup>8</sup>

The importance and impact of gender issues to corruption is particularly relevant in Moldova because the country is a major point of origin and transit country for human trafficking, especially of women and children. Maximizing and protecting the profits that are realized by trafficking in persons provides powerful incentives for organized crime and others involved in the trade to infiltrate and corrupt customs officials, police, prosecutors and judges. Any study making claims to inform a prospective multi-sector anti-corruption initiative must therefore closely assess the relationship between human trafficking and corruption.

As to the other issues to be addressed by the assessment team, discussions with diverse stakeholders will enable us to identify indigenous partners and resources which have the capacity and will to support anti-corruption initiatives and, more broadly, other program opportunities to support Moldova's transition to a market democracy that have not been considered. Finally, the assessment team's analysis of the anti-corruption and democracy building programs of bilateral and multilateral donors will enable us to identify USAID's comparative advantages in these areas vis-à-vis other donors.

**5. Provide technical support and assistance to the GOM in preparing their MCC Threshold Country Plan**

Moldova is in the process of preparing its Threshold Country Plan. It is expected that the Plan will primarily address ways to improve the country's score on the Control of Corruption indicator, the MCA eligibility criteria where Moldova has fallen short. The assessment team will assist the GOM in describing and analyzing the anti-corruption environment, including the anti-corruption activities of the GOM and foreign donors.

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<sup>8</sup> See Corruption in Moldova: facts, analysis, proposals, Transparency International – Moldova, 2002, at pp. 21-23

The work involved in addressing the other tasks outlined in the scope of work will be of great benefit in providing the advice and technical support needed to assist the GOM in preparing their MCC Threshold Program Plan. Nonetheless, the results of this work will be oriented toward helping the GOM improve its Control of Corruption score, and thus qualify for MCA funding. This effort must therefore be targeted towards the specific factors that are evaluated in measuring the three indicators of a country's performance in controlling corruption: (1) the frequency of "additional payments to get things done;" (2) the effects of corruption on the business environment; and (3) "grand corruption" in the political arena and the tendency of elites to engage in state capture. Among the factors assessed are:

- Corruption among public officials
- Frequency of corruption
- The effect of corruption on the attractiveness of Moldova as a place to do business
- The percentage of bribes paid as a share of revenues from procurement contracts
- How well the government is dealing with corruption
- The existence of anti-corruption and accounting institutions
- Civil service transparency and accountability

During the latter part of the in-country research, the assessment team will brief GOM officials involved in preparing the Threshold Country Plan. As follow-up to the briefing, the Public Administration and Legislative Reform Specialist will provide technical assistance and advice to the GOM in the completion of the Plan, and will brief USAID staff on his activities regarding development of the Plan.

**6. Provide technical support and assistance to the GOM and USAID in the initial stages of the preparation of a Statement of Objectives for an eventual Request for Proposals to acquire activities to meet objectives of the Millennium Challenge Corporation (MCC) Threshold Program.**

MCC Threshold Programs assist countries that are committed to the reforms necessary to improve policy performance and eventually qualify for MCA funding. Threshold Program assistance will help countries address the specific policy weaknesses indicated by the country's scores on the MCA eligibility criteria. Moldova's Threshold Program will therefore deal largely with improving its scores on Control of Corruption.

Moldova has submitted a Concept Paper to the MCC outlining its Threshold Country Plan and will submit a more detailed and focused Threshold Country Plan by May 15, 2006. The Contractor shall provide technical support and assistance to the GOM and the USAID team in developing a procurable statement of objectives. This may include assistance to the GOM in further refining its Threshold Plan based upon expected response and comment from the MCC.

## **APPENDIX E: BIBLIOGRAPHY**

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