



Economic Commission for Africa

# **Guidelines for Enhancing Good Economic and Corporate Governance in Africa**

**Final Draft**

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## Foreword

These guidelines have been prepared by the ECA in response to a request by the Heads of State and Government Implementation Committee (HSGIC) of the New Partnership for Africa's Development. The HSGIC, at its first meeting in October 2001, resolved to prioritize the enhancement of good governance and to seek the assistance of the ECA, to lend its expertise to develop guidelines for promoting good economic and corporate governance in Africa.

Good economic and good corporate governance are fundamental preconditions for the renewal of Africa. Current deficiencies in Africa's economic and corporate governance structures indicate the imperative to develop guidelines to assist the continent's countries to move toward improving their economic and corporate governance mechanisms. Good economic and good corporate governance matter to Africa because, among other things, they contribute to macroeconomic stability; they enhance a government's ability to implement development and poverty reduction policies with scarce resources; they enable public management functions to be executed in an accountable manner; they contribute to the creation of a credible policy environment in which domestic and international investors can have confidence and trade can be advanced; they lead to the strengthening of absorptive capacity to attract and mobilize development assistance flows; they enable the demonstration of transparent and participatory economic policy-making and execution as well as an open flow of information available to all stakeholders; they signal a government's adherence to standards of institutional functioning free of corruption or other such rent-seeking behaviour; they represent a source of competitive advantage; they attract private domestic and foreign investment; and they broaden and deepen local capital markets.

The guidelines are not intended to be of a one-size-fits-all variety. Although best practices are identified, for example, each African country would need to identify those components and mechanisms which provide a "good fit" with its circumstances and capabilities to enable it to reach the same broad end-goals of good economic and good corporate governance. In that regard also, these guidelines have suggested some of the relevant codes and standards that African countries should give priority to as minimum requirements to be complied with.

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## Acronyms and Abbreviations

AfDB	African Development Bank
AG	Auditor General
APR	African Peer Review
CACG	Commonwealth Association for Corporate Governance
CDF	Comprehensive Development Framework
CFAA	Country Financial Accountability Assessment
CSOs	Civil Society Organizations
DFID	Department for International Development
ECA	Economic Commission for Africa
FDI	Foreign Direct Investment
G8	Comprised of the seven industrialized countries of Canada, France, Germany, Great Britain, Italy, Japan, and the USA, plus Russia
GDP	Gross Domestic Product
GFS	Government Financial Statistics
HIPC	Heavily Indebted Poor Country
HSGIC	Heads of State and Government Implementation Committee
IASC	International Accounting Standards Committee
IDGs	International Development Goals
IMF	International Monetary Fund
INTOSAI	International Organization of Supreme Audit Institutions
MTEF	Medium-Term Expenditure Framework
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organization
OAU	Organization of African Unity
OECD	Organization for Economic Cooperation and Development
OFBM	Objective-Fact-Based Measures
PEM	Public Expenditure Management
PRSP	Poverty Reduction Strategy Paper
ROSCs	Reports on the Observance of Standards and Codes
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
WBI	Women Budget Initiative



# 1. Objectives of the Guidelines

1. These guidelines are intended to provide a framework of policies, processes, instruments, codes, standards, indicators, best practices, and enforcement mechanisms that can be adopted and/or adapted by African countries to demonstrate their commitment to good economic and corporate governance practices. Essentially, it offers African countries a general framework for thinking about how they can approach and attain reputable and beneficial systems of economic and corporate governance. It also provides guidance on the key elements of a well-performing economic and corporate governance system.

2. The guidelines are being situated in the context of: (1) the requirements of The New Partnership for Africa's Development (NEPAD) to enhance sound economic and public financial management, as well as corporate governance, as preconditions for economic recovery and the mobilization of increased resources for reducing poverty and achieving higher levels of growth; and (2) the need to further expand on one of the key strategic actions in the ECA's foundations for the "Compact for African Recovery" – a commitment by African governments to put their houses in order by moving toward, and embracing, good governance (including its economic and corporate aspects) as a necessary requirement for mitigating poverty and fostering growth.

## **2. Conceptual Framework**

3. Good economic outcomes are derived from good economic governance. Likewise, a healthy and competitive corporate sector is necessary for sustained growth. Economic governance is a broad concept encompassing a wide range of issues as discussed in these guidelines. However, corporate governance has only recently emerged as a discipline in its own right with many countries and international organizations now giving it a rightful place as a critical determinant of the level and quality of enterprise and, hence, of national economic performance.

### **2.1 Good Economic Governance**

4. Good economic governance exists in those economies where the institutions of government have the capacity to manage resources efficiently; formulate, implement, and enforce sound policies and regulations; can be monitored and be held accountable; in which there is respect for the rules and norms of economic interaction; and in which economic activity is unimpeded by corruption and other activities inconsistent with the public trust. The key elements contributing to an environment of good economic governance are transparency, accountability, an enabling environment for private sector development and growth, and institutional development and effectiveness.

5. Good economic governance is necessary in order to enhance the capacity of the state to deliver on its economic mandate. That mandate includes eradicating poverty and improving economic growth. However, the majority of African countries now lack the capacity to meet that mandate due to deficiencies in their economic governance structures. Those deficiencies include the lack of an appropriate institutional framework to guide economic policy-making and execution; a weak civil society unable to hold government accountable for its actions; a similarly weak or uninterested parliament; and the lack of consultative mechanisms for engaging the private commercial interests for inputs into sectoral planning or other national economic decision-making processes.

6. The existence of these deficiencies therefore create and lead to an environment of bad economic governance. That is to say, they contribute to an unstable macroeconomic framework; a lack of transparency and lack of efficiency in fiscal, monetary, and regulatory policy; frequently unsustainable budget deficits; wasteful expenditure and imbalances in sectoral allocations; and unpredictable decision-making processes that affect national economic activities and relationships with other economies and international bodies. The impact of bad economic governance is further deepened by globalization – which refers to a world in which national economies, producers, and investors increasingly behave as if the world economy is borderless and consists of a single market and production area with regional or national sub-sectors, rather than a set of national economies linked by trade, investment, and financial flows. The current wave of globalization promotes economic equality and reduces poverty. However, such benefits cannot be derived in a framework of bad economic governance.

7. Good economic governance would attempt to evolve well-defined structures; harmonious and complementary fiscal, monetary, and trade policies; and establishment of monitoring and regulatory authorities for promotion and coordination of different

economic activities. It consists of the entire institutional framework of a government engaged in the evolution and implementation of general economic policy affecting its internal and international economic relations. That institutional framework must be competent to undertake the implementation of economic policy and capable of making the necessary adjustments as necessitated by government policy. In fact, in the United Nations document on economic governance (ST/ESA/PAD/SER.E/9), sound economic governance is regarded as being primarily dependent on the strength of its institutional framework; the flexibility, manoeuvrability, and resilience to the changing political, economic, and social development; and the ability and competence of the personnel to take bold, practicable, and rational decisions.

8. Clearly, there is no unique institutional structure guaranteed to lead to economic growth and poverty reduction. However, institutions that support market transactions affect people's lives by influencing growth, determining people's access to markets, and enabling all people (poor and rich) to make the best use of their assets. On the other hand, weak market-supporting institutions can hurt the poor disproportionately. As demonstrated in the World Bank's *World Development Report 2002*, the poor bear the greatest burden of institutional failure. Corruption, for example, is a highly regressive tax which, when manifested in demands for bribes and unofficial fees for services, hit poor people the hardest.

9. Many of the institutions that support market transactions are publicly provided. The ability of the state to enable these institutions is an important determinant of good economic governance. Moreover, the state must have the power to also enable institutions that may be unpopular, among some of the population, as long as those institutions are considered necessary to the process of achieving and entrenching good economic governance. However, as also noted in the *World Development Report 2002*, there must be a balance between state power that allows public officials to deliver public goods within the framework of good economic governance, and ensuring that public officials are constrained from using that power in an arbitrary fashion to serve only the interests of the privileged few.

## **2.2 The Importance of Good Economic Governance to Africa**

10. The constraints and deficiencies applicable to economic governance in Africa do not constitute arguments for Africa to reject initiatives to move toward the achievement of good economic governance. Rather, they underscore the need for fundamental reforms to close loopholes and eliminate administrative procedures that facilitate corruption, fraud, and embezzlement; strengthen institutional capacity; and reduce government intervention and allow markets to operate efficiently to stimulate growth and reduce poverty. Recognizing that the responsibility for governance issues lies first and foremost with the national authorities, African states must commit to improving economic governance for, among others, the following reasons:

- To enhance their ability to implement development and poverty reduction policies with scarce resources;
- To execute public management functions in an accountable manner;
- To create a credible policy environment in which domestic and international investors can have confidence and trade can be enhanced;
- To strengthen absorptive capacity to attract and mobilize development assistance flows;

- To demonstrate transparent and participatory economic policy-making and execution as well as an open flow of information available to all stakeholders; and
- To signal an adherence to standards of institutional functioning free of corruption.

11. The foregoing reasons for achieving good economic governance in Africa give rise to a number of benefits. These include maximizing the gains from globalization; accelerating growth; reducing poverty; and creating a more stable, predictable macro-economic environment. Reaping the gains from globalization, for example, is the antithesis of economic marginalization. Much has been written about the economic marginalization of Africa. However, the research findings on the benefits of globalization are now beginning to emerge. Those findings are indicating that globalization is a powerful engine of world prosperity and, more importantly, it is here to stay. Most African countries have not been able to benefit from globalization, to the extent they could, due to bad economic governance, as manifested in their development policies in the 1970s and 1980s, which sought to achieve economic and social progress through government controls on prices, interest rates, and exchange rates, as well as restrictions on various aspects of production, distribution, and trade.

12. Consequently, the entire incentive structure was seriously damaged, investment choices were distorted, and essential social services were neglected, while corruption spread, competitiveness weakened, and the external debt became unsustainable. Apart from eroding investor confidence, by resisting the adoption of market-oriented policies and reforms to reap the benefits of globalization, African economies declined significantly and poverty increased. Africa remains the poorest region in the world. However, while the poverty indicator - the number of people living on less than US\$ 1 a day – is declining in most parts of the world, it is increasing in Africa and per capita income is lower than it was two decades ago.

13. In addition, trade performance - the most tangible indicator of globalization - has been weak, to say the least. During 1960-69, Africa's average share of total world exports was 5.3 percent, and of imports 5.0 percent. By 1990-98, however, these figures dropped to 2.3 percent and 2.2 percent, respectively. In the December 2001 issue of *Finance and Development*, on the theme of "Globalization and Africa", many of the authors attributed Africa's declining trade performance to such factors as the restrictiveness of the continent's trade regimes (bad economic governance). As a matter of fact, despite progress toward trade liberalization in the 1990s, Africa's trade policies remain more protectionist than those of most of its trading partners. This is further reflected in the value of the continent's non-oil exports which amounted to US\$69 billion in 2000. If the region's countries had merely retained their 1980 export market share, exports in 2000 would have been US\$191 billion, or US\$92 billion more than their actual level – more than double the actual amount. In contrast, those African countries noted for good economic governance (such as Botswana and Mauritius) have taken full advantage of integration into the global economy and have long since achieved significant macroeconomic stability, liberalized trade and exchange regimes, adopted market-determined exchange rates, and removed administrative controls to global competitiveness. It is therefore no surprise that these countries have consistently been achieving robust growth rates of 5 percent or more.

## 2.3 Good Corporate Governance

14. Corporate governance refers to the mechanisms through which corporations (whether private, publicly traded, or state-owned) and their management are governed. It involves a set of relationships between a company's management, its board, its shareholders, and its other stakeholders, and also provides the structure through which the objectives and the monitoring of performance are determined. By its very nature, corporate governance structures are therefore less complicated than economic governance as conceptualized above.

15. Good corporate governance entails the pursuit of objectives by the board and management that represent the interests of a company and its shareholders including effective monitoring and efficient use of resources. Good corporate governance is influenced by a number of factors, primary among which is the nature of the overall institutional and legal framework that has been established by governments to effect such good governance. In attempting to effect good corporate governance structures, African countries would therefore be primarily concerned with creating an enabling environment for all types of commercial entities to flourish within well-defined and predictable applications of rules. This again raises the question of the institutional framework.

16. As they are conceived here, institutions are the mechanisms of governance. In other words, and as stated in the *World Development Report 2002*, corporate governance institutions are the organizations and rules that affect expectations about the exercise of control of resources in firms. National institutions that contribute to good corporate governance will be those that allow entrepreneurs to invest resources and create value that is shared among the investors in a company, the managers, and employees. Such created value, or returns, will also have some influence on national economic performance. More specifically, a system of good corporate governance and its supporting institutions shape who makes investment decisions in corporations, what types of investments they make, and how returns from investments are distributed.

17. Given the importance of institutions in good corporate governance, then it should also be obvious that the state of corporate governance in an economy is likely to be connected in intricate ways with the state of economic and political governance in that economy. As pointed out in the World Bank Strategy Report, entitled *Reforming Public Institutions and Strengthening Governance*, shareholders – particularly minority shareholders, for example – will have great difficulty asserting their shareholder rights in those countries with weak legal systems, and the likely result is a corporate ownership structure characterized by highly concentrated ownership and few minority shareholders. Moreover, unaccountable and non-transparent economic and political governance can lead to a blurring of the lines between the public and private sectors and to dysfunctional (bad) corporate governance which may manifest itself through excessive government interference, corrupt capital market or utility regulation, or government capture by private interests reflected in “crony capitalism”, for example.

## 2.4 The Importance of Good Corporate Governance to Africa

18. Good corporate governance is a source of competitive advantage to the extent that it influences the start-up and/or relocation of corporations to a particular country.

Where the rules of the game, and the mechanisms and instruments contributing to those rules, enable all corporations (whether private, publicly traded, or state-owned) to understand their rights and obligations better, the greater the likelihood that corporations will consider doing business in those countries than in countries where the rules of the game are arbitrary. The rules of the game include all of the necessary laws and regulatory instruments applied in a consistent culture of enforcement and compliance that is also credible and well understood, both internally and across borders, so as to instill investor confidence.

19. Predictable rules of the game attract long-term private domestic and foreign investment. Private investment, in turn, is a necessary ingredient for employment generation, spurring economic growth, and the reduction of poverty. It also contributes to national treasuries through the payment of corporate taxes. Currently, in sub-Saharan Africa, gross domestic investment stands at about 17 percent of GDP and falls far short of investment in other parts of the world. In addition, sub-Saharan Africa accounts for a very small share of foreign direct investment (1 percent) in the world economy. By moving toward good corporate governance, African countries can greatly facilitate private domestic and foreign investment in their quest for renewal.

20. Good corporate governance also influences private investment through the globalization process. Africa's leaders recognize that globalization can facilitate much needed inflows of private investment and transfers of technology, in addition to increasing the access of their countries' exports to world markets. However, negative perceptions of the continent's economic and political activities (bad governance) has been the primary factor influencing the failure of the continent to attract capital flows. Fundamentally, the globalization process, as exhibited through the international financial architecture, necessitates that African countries move toward much more robust corporate governance.

21. Among the key elements of that international financial architecture is the requirement to broaden and deepen local capital markets to attract investors. Capital markets contribute to the strengthening of financial systems which, in turn, contributes significantly to domestic and international financial intermediation, helping to mobilize savings and channel them efficiently to productive investments. If African capital markets are to grow, corporate governance standards will need to improve to give investors the protection required to encourage them to provide capital.

22. Moreover, some of the recent financial crises in emerging market economies have demonstrated that all developing countries need to put in place good corporate governance mechanisms which inhibit speculative transactions and flows of short-term capital while, at the same time, encouraging long-term capital inflows, especially foreign direct investment. By bringing their financial sectors up to the standards of the new international financial architecture, African countries can improve decision-making and create an environment that encourages investment and savings in their interests. A stable and transparent environment for commercial transactions is essential for the mobilization of investment, finance, technology, skills, and other important resources across borders, in order to promote growth and development.

23. Finally, and by way of summary, corporations exist because states recognize that they are an efficient form of enterprise organization that benefits both society and the corporations themselves. Thus, the importance of good corporate governance goes

beyond the interests of the owners and/or shareholders of individual companies. Good corporate governance contributes to the efficient mobilization and allocation of capital, the efficient monitoring of corporate assets, the effectiveness of overall corporate performance, and improved national economic performance. Bad corporate governance, on the other hand, reduces a country's competitiveness and constrains its economic growth potential.

### 3. Political Factors and Economic and Corporate Governance

24. The mechanisms of good economic and corporate governance in Africa are heavily influenced by a considerable number of political factors. However, the degree of influence that can be attributed to these political factors varies across countries both in magnitude and direction. In a country such as Botswana, for example, which has an international reputation for good governance and sound economic management, political factors contribute positively to that international reputation. In other countries, it is sometimes difficult to separate governance issues from weaknesses in institutional and administrative capacity. Poor governance may not always reflect a lack of government commitment. Even where there may be strong and honest political leadership, eliminating corruption from within the bureaucratic machinery, for example, will take time.

25. Nonetheless, where there exists bad economic and corporate governance, there will also be bad political governance. In other words, good political governance is a prerequisite for good economic and corporate governance. Indeed, it is good political governance that will influence all other facets of governance in any society. We define good political governance as a societal state epitomized by, among others, the following characteristics: predictable, open, and enlightened policy-making; a bureaucracy imbued with a professional ethos; a strong civil society participating in public affairs; adherence to the rule of law, respect for basic human rights and freedoms, and judicial independence; consistent traditions and predictable institutions that determine how authority is exercised in a given nation-state including (1) the process by which governments are selected, held accountable, monitored, and replaced; (2) the capacity of governments to manage resources efficiently and formulate, implement, and enforce sound policies and regulations; and (3) the respect of citizens and the state for the institutions that govern economic and social interactions among them; and the establishment and protection of a political order and systems that are (1) legitimate and enjoy the support and loyalty of the people; (2) strong enough to defend and advance the sovereign interests of the people; (3) able to address the fundamental development interests of the people; (4) able to engage effectively with the various global processes that characterize the world economy; and (5) respectful of the need to prevent, minimize, and mitigate internal and cross-border conflicts.

26. In Africa, bad political governance and the subversion of basic human rights and freedoms have eroded the capacity of a number of states to sustain economic growth and address poverty. African governments, as do all governments, have a duty to ensure that there exists a relationship of trust between themselves and their people, and to empower those who are most affected by bad governance and poverty. Competition and a plurality of ideas; equal opportunities to access resources and to participate in political processes; and respect for human rights, freedoms, and the rule of law are not ends in themselves, but means through which economic and corporate governance can be brought to function to ensure stability and broad-based, equitable, and sustainable development.

27. Fundamental to the interaction between political governance, on the one hand, and economic and corporate governance on the other, is the ability of the state to provide the requisite institutional framework to support good governance outcomes. Public institutions help determine limits on the arbitrary exercise of power by politicians and bureaucrats. Institutions emerge from formal laws, informal norms and practices, and organizational structures in a given setting. The incentives they create shape the actions of public officials. They do so, for example, by delineating property rights between the state and the private sector and providing for their enforcement.

28. Public institutions function at three levels to enhance state capability to achieve good governance in all its facets. The first pertains to rules and restraints within the public sector. These include the constitutional separation of powers; decentralization – divisions of responsibility among various levels of government; budgeting rules across public organizations; and formal rules and oversight arrangements within public organizations. The second relates to mechanisms that provide citizen voice and participation. These include various forms of representative decision-making and political oversight; direct involvement by users, non-governmental organizations and other groups of citizens in the design, implementation, and monitoring of public policies; and the transparent production and dissemination of information. The third level is what can be referred to as mechanisms that promote competition. These include political competition; market competition among public agencies, or between public and private providers of information, goods, and services; and internal competition within public bureaucracies.

29. For African public institutions to function effectively at the three levels discussed above, considerable reform and capacity-building will be required. As recognized and indicated in the NEPAD framework document, those institutional reforms will need to focus on:

- Administrative and civil services;
- Strengthening of parliamentary oversight;
- Promoting participatory decision-making;
- Adopting effective measures to combat corruption and embezzlement; and
- Undertaking of judicial reforms

### **3.1 Administrative and Civil Services**

30. Several African countries have undertaken reform of their administrative and civil service structures during the 1980s as part of structural adjustment. However, much more needs to be done now to streamline most African civil services and attempt to get them to perform their duties in a more effective and efficient manner in the national interest. Part of this reform will entail reducing the size of the civil service and improving pay and benefits. Most civil services in Africa are much larger than those countries require, much more costly than they can absorb, and significantly less effective and productive than they should be. In many of the countries, a combination of factors have contributed to a civil service that contains many who are superfluous and none who are paid well. In addition, the ministries and agencies in which they work tend to be ill-equipped and poorly structured.

31. These characteristics of African civil services have also been frequently cited as factors contributing to the cancer of bureaucratic corruption on the continent. As a

matter of fact, in some countries, it is not simply that officials are corrupt, but rather that corruption is official. That makes it pervasive and an intrusion of everyday life. To access government services that the public is entitled to may require a bribe. At Kenya's University of Nairobi, one Professor was even required to offer a percentage of his salary in order to receive the said salary. In addition to such widespread bribery activity, there also exists massive fraud, embezzlement, and general unlawful enrichment at the expense of the public fisc. Consequently, reform in this area must also be guided by the desire to inculcate the public service values of honesty and integrity, impartiality, transparency and discretion, and responsibility and accountability.

32. There is strong evidence from all regions of the world that a skilled, motivated, efficient civil service with a professional ethos is one of the key requirements of good governance. A good civil service is not, of course, sufficient in itself to produce good governance; other mechanisms must be in place. However, experience and empirical evidence shows that a very bad civil service is sufficient to produce bad governance, even if the right accountability and other mechanisms are in place.

### **3.2 Parliamentary Oversight**

33. Parliament represents one of those institutions with a mandate to act as a counterbalance to executive power and to hold the executive branch of government accountable. One of the important functions of a modern parliament is that of oversight of government and other authorities. However, one of the clear trends that has been observed worldwide in parliamentary systems of government, during the twentieth century, is a steady decline in the power of most legislative assemblies. Rarely do parliaments have an independent impact on the affairs of the state, on the making of laws, or the unmaking of governments. Even in those situations where the opposition may have a strong showing in parliament, in terms of number of seats held, an overall assessment of the relationship between the executive and the legislative branch must acknowledge the dominance of the executive.

34. In Africa, the executive branch dominates for many number of reasons including its control of resources, cabinet appointments, diplomatic posts, and the flow and quality of information; and, more often than not, the lack of capability and ineptness of the opposition members of parliament. In some countries also, the loyalties of members of parliament to political parties or leaders far outweigh concerns for the legislature as an institution. Under such circumstances, for the most part, African parliaments act as "rubber stamp" legislatures of cabinet decisions and, thereby, negate their role with respect to scrutiny and oversight. Nonetheless, parliamentary oversight remains important because it contributes to, among other things, the development of effective legislatures. Effective legislatures contribute to good governance by performing important functions necessary to sustain democracy.

35. Parliamentary oversight entails the monitoring of executive activities for efficiency, probity, and fidelity. Oversight, even more than lawmaking, puts the legislature into an adversarial relationship with at least some portion of the executive branch. Consequently, and as indicated before, in parliamentary systems, especially when there is a dominant majority government, oversight tends to be less developed

than in presidential systems where it is possible to have different political parties controlling different branches of government.

36. To enhance parliamentary oversight and performance in Africa is an ideal that would require considerable external assistance as part of the governance programs of donors. Not many African governments are likely to be predisposed to give priority to the building of parliamentary expertise in their budget decisions. This is unfortunate since institutions, such as parliaments, are part of the mechanisms which give legitimacy and credibility to the existence of states. Nonetheless, however funded, legislative development programs would need to be put in place, or intensified where they already exist, to attempt to improve the process of parliamentary oversight in Africa.

37. Legislative development programs are sets of activities designed to help legislatures become more open, responsive, and effective institutions. Those activities, in turn, are best derived from plans or comprehensive statements of a legislature's physical, organizational, and member needs. These plans or comprehensive statements help legislatures define their development goals, help legislators set priorities in spending their own resources, and can be used by legislative leaders to solicit donor assistance. In Uganda, for example, there exists a Parliamentary Commission (a joint parliamentary-executive board) which oversees the management and development of the Ugandan Parliament. The board was established by law in 1997. Members of Parliament recognize the Parliamentary Commission as the unit responsible for institutional development, and which negotiates with and oversees the work of outside donors.

38. Among the various activities to be included in any plan to boost parliamentary oversight in Africa, two require special attention. The first relates to the building of political will to combat corruption. Political will is one of the most crucial elements to be ascertained in the development of national integrity systems. Parliaments and parliamentarians have an important role to play in setting an example of integrity and in striving to hold governments accountable for their actions. Parliaments can, for example, pass anti-corruption laws, but such laws will be largely useless if the political will to use them does not exist. Consequently, parliamentarians should first demonstrate their own commitment to combat corruption by ensuring their own personal integrity and that of parliament. It cannot be helpful to have a senior government parliamentarian being arrested on charges of corruption, fraud, and perjury as occurred in South Africa in October 2001.

39. To the extent possible, parliamentarians need to act together across party lines on the integrity agenda. Understandably, this will be difficult given the current nature of politics and the emotions surrounding party loyalty in Africa. Nonetheless, enlightened parliamentarians across Africa must be willing to take the virtuous risk of entrenching measures that would enable their parliaments to be taken seriously by all segments of society and, ultimately, lead to more effective parliamentary oversight. Those measures ought to include codes of conduct, wealth and asset declarations in a register that is open to the public, transparent pay levels and perk entitlements, enforceable conflict of interest guidelines, the building of alliances with civil society to create a formidable force against executive branch excesses and abuses, and support for legislative actions such as freedom of information and whistle blower statutes.

40. The second activity is concerned with ensuring accountability. The basic aim of accountability is to be transparent and inform citizens about what is being done on their behalf so that they are able to judge and respond in the manner they see fit. One of the potential strengths of parliamentary government is that it locates national responsibility in a small but identifiable group – the Cabinet – that is held accountable by parliament. It is through this accountability function that parliament gets to exercise its own oversight function. To ensure proper accountability, a parliament must see to it that it has the necessary tools at its disposal. Those tools should be entrenched in law where warranted and must include strong and active committees, such as Finance and Public Accounts Committees, that oversee accountability for the expenditure of public funds and scrutinize and monitor agreements with domestic and international financial institutions, for example. Other complementary tools would include strong collaborative relationships with the independent watchdog agencies – Office of the Auditor General, the Office of the Ombudsman, and anti-corruption directorates, for example – that report to parliament. These agencies, if truly independent, can be used to good effect to investigate and collect information that may be otherwise concealed from parliament. Similar collaborative relationships should be established with civil society organizations including the media.

### **3.3 Participatory Decision-Making**

41. Participatory decision-making is a major element of good governance. Through their participation in decision-making processes, citizens and other stakeholders are empowered to hold governments accountable and enforce compliance with the rule of law and greater transparency; and governments are enabled to respond to the voices of the people. This is a mutually beneficial process that generates the benefit of stakeholder ownership of decisions. Moreover, participatory decision-making leads to a much more inclusive democracy which either delivers or maintains an environment of peace and stability.

42. Across the African continent, democracy is spreading and more and more people are seizing opportunities to participate in decision-making processes. Those processes have included national and local elections and memberships on boards and agencies that have been created through decentralization, for example. However, in the context of good governance, and the building of a more effective state that is closer to the people, many African countries still need to do a great deal more to promote better participatory decision-making. In several states, the smooth running of elections, for instance, is still problematic with scores of people, invariably, being disenfranchised. Electoral reform therefore still looms large in Africa and should be seen in the context of political pluralism.

43. Fundamentally, participation should be intrinsic to all public programs so that governments do not run the risk of generating programs that are divorced from the interests of the people, and because even good programs tend to be more costly and less effective if not designed and implemented with appropriate participation. The need for participation by the citizenry in Africa has been propelled by a number of factors including: (1) the earlier expansion of the role of the public sector without a commensurate improvement in the mechanisms for the involvement of the people or of users; (2) the growth of foreign aid, which has increased the scope and number of central government programs but also widened the distance between the center and the

periphery; and (3) evidence of recurring failure in some public programs on account of their alienation from the intended beneficiaries. Due to these factors, which were shortcomings of development efforts, participation has now come to be recognized as an absolute imperative for development and poverty reduction efforts. Indeed, even the multilateral institutions, such as the World Bank, have signed on to this imperative as witnessed by their insistence on involving broad-based participation by civil society and the private sector in all operational steps, as one of the core principles to be met by countries in developing a comprehensive development framework (CDF) or a Poverty Reduction Strategy Paper (PRSP).

44. Participation, however defined, does emphasize the decision-making role of the citizenry or a community, including the private sector and civil society groups. It expands the political space available for meaningful interaction between various levels of governments and stakeholders. It also helps to build social capital which is taken here to mean “those features of social organization, such as norms and networks, that facilitate the flow of reliable information and coordinated actions in the interests of all members of the group”. Social capital is trust capital. In societies where there is a high stock of social capital, there tends to be a smoother relationship between the government and the governed and a higher order of governance. Consequently, it must be for the state both to encourage social capital formation and to build bridges and linkages between groups and regions. In countries with high social capital and, hence, good governance, participation in decision-making tends to be institutionalized. In Botswana, for example, amendments to the Constitution cannot be done by parliament alone. A referendum is required with a simple and specific question, pertaining to the proposed amendment, being put to the people for a vote of “yes” or “no”. In that same country, the government utilizes the traditional village *kgotla* to consult with citizens on important policy issues including district and national development plans.

45. Improving participation in decision-making in Africa requires the support of the state. In many of the countries can be found national citizens’ groups. However, these tend to be more representative than participatory. Participation is much more effective and succeeds best in a framework of vibrant and responsive representative structures covering both rural and urban areas and including traditionally excluded groups such as women. The evidence about participation reveals that poverty mitigation projects, as well as social development programs, for example, that take a participatory approach, are more successful than those based on hierarchical structures. However, African leaders must see participation as an end in itself. That is to say, as an essential component of a democratic society. On the other hand, care must also be taken to prevent participation from undercutting the responsibility of representative government and weakening its accountability. Moreover, the participatory groups themselves should function in a transparent manner and not be allowed to be captured by powerful elites who may use them to further interests which may not be compatible with those of the majority membership of their given group.

### **3.4 Combating Corruption**

46. We have previously touched briefly on corruption with respect to the civil service and also parliament’s role in helping to combat it. However, corruption in Africa is legendary and has reached cancerous proportions. It has permeated entire societies and become an acceptable way of life in some. One bit of analysis on Nigeria, for example,

states that “corruption is not just endemic but an integral part of the social fabric of life”. As a matter of fact, worried by high levels of corruption, the federal government of Nigeria approved, in the latter part of 2001, the establishment of anti-corruption units in all ministries and parastatals in the federal public service. The units will report to the Anti-Corruption Commission and their staffs will be nominated by the Commission. More generally, the costs of corruption and the resultant misgovernance are enormous. Its effective deterrence and prevention have therefore become matters of global concern and that, in turn, has given rise to a voluminous literature on the subject.

47. It is fair to indicate, however, that some African leaders have taken note of the corruption eruption in their countries and many of them have initiated programs to combat it. Some of those programs have been implemented with technical expertise and financial support from the international community. Consequently, the problem that exists today is not one of lack of effort to combat corruption. Instead, corruption remains rampant in most of Africa primarily because of lack of financial resources, personnel, and top political support for the enforcement institutions to get on with their tasks. In particular, many programs to combat corruption have been tightly controlled within an agency of the government despite the fact that they are to be independent watchdogs as per the statute that created them. Thus, these anti-corruption agencies have lacked broad-based support and have not been able to contribute to a systemic and preventative strategy, with involvement of civil society; the media; private sector; and parliaments, to combat corruption and improve governance generally.

48. On the assumption that African leaders are aware that the economic, social, and political costs of corruption are formidable; that corruption, ultimately, is a symptom of weak institutions and poor policies; that addressing corruption effectively means addressing underlying economic, political, and institutional causes; and that reform and capacity-building programs have been put in place to deal with the scourge of corruption; then the issue at hand is really about generating tools to mobilize and sustain political will and, as well, the policy options available when political commitment is lacking. In fact, this issue has been the refrain of the high-level African participants in a 1999 World Bank Institute course on “Controlling Corruption” as reported in *Towards Collective Action to Improve Governance and Control Corruption in Seven African Countries*.

49. Therefore, despite some reform efforts and some institutional development, in many African countries many cases of identifiable corruption have not been investigated. This has contributed to a demobilization of some anti-corruption efforts and has actually favored the development of corruption in some countries. Political will is therefore a *sine qua non* for mitigating corruption in Africa. In fact, the most necessary of all conditions to control corruption is a strongly motivated political leadership supported by others of insight and integrity. African leaders who are concerned with the entrenchment of good governance will be quite successful in the fight against corruption and embezzlement. Good governance (economic, corporate, and political) has the potential to remove the pervasive stench of corruption because it allows for the functioning of and respect for institutions, laws, conventions, and practices that would effectively discourage corruption and punish those still intent on perpetrating it. Good governance will make corruption a high-risk activity – a high risk that perpetrators will be caught and severely punished since good governance requires the highest standards of integrity, openness, transparency, and respect for the rule of law.

50. To be sure, and according to the UNDP and OECD publication entitled *Corruption and Integrity Improvement Initiatives in Developing Countries*, political will refers to “the demonstrated credible intent of political actors (elected or appointed leaders, civil society watchdogs, stakeholder groups, etc.) to attack perceived causes or effects of corruption at a systemic level”. It is a critical starting point for sustainable and effective strategies to combat corruption, without which the pronouncements of governments, in particular, will be simply regarded as ritualistic. These guidelines take the view that political will cannot be coerced nor bought in the fight against corruption. Some assessments have expressed the view that there are potential incentives that can be offered to garner political will. However, the offer and/or acceptance of incentives would not suggest demonstrated credible intent on the part of political actors.

51. The counterfactual here is that in the absence of incentives, however defined, political will can only emerge from enlightened and ethical leadership. That type of leadership, by definition, would understand that preventing corruption is far more effective, and cheaper, than punishing corruption after it occurs. In the mid-1990s, for example, it was estimated that as much as US\$30 billion in aid for Africa had ended up in illicit foreign bank accounts. That amount was twice the annual GDP of Ghana, Kenya, and Uganda combined. More recently, in October 2001, as reported by Reuters, President Obasanjo of Nigeria was moved to observe that: “The reckless indulgence of our public officers in bribery and extortion has not only robbed Africa of the much-needed local and foreign investments, but has also attracted a negative reputation around the world”. Although prevention is automatically weakened if enforcement is known to be lax, restricting the opportunities for corruption is not only more effective, but also reduces the risk of creating a “witch-hunt” climate.

### **3.5 Judicial Reform**

52. Judicial reform in Africa, in the context of achieving good governance, is necessary primarily to create and maintain judicial independence. Judicial independence is widely considered to be a foundation for the rule of law. An independent judiciary has three characteristics. First, it is impartial. Judicial decisions are not influenced by a judge’s personal interest in the outcome of the case at hand. Second, judicial decisions, once rendered, are respected. Either the parties to the case must comply voluntarily with the decision, or those with the power to coerce compliance must be willing to use such power if compliance is not forthcoming. The third characteristic of judicial independence is that the judiciary is free from interference. Parties to a case, or others with an interest in its outcome, cannot influence the judge’s decision. This protection from interference also allows for the prevention of judicial corruption and coercion.

53. Based on the foregoing characteristics, we can formulate a simple definition of judicial independence as: the insulation of judges and the judicial process from any partisan pressure to influence the outcomes of individual cases. Insulating judges from undue pressure from officials of other branches of government is generally regarded as the most important aspect of the concept of judicial independence in Africa. Although other socially or financially powerful elites may seek to influence the judicial process as well, governments pose perhaps the most serious threat to judicial independence in Africa.

54. The power of African judiciaries resides primarily in the degree to which political elites and members of the public consider impartial resolution of disputes important to the conduct of their lives. In those countries with bad governance, “impartiality” will not be operative since control takes precedence. In Zimbabwe, for example, some judicial decisions that did not favor the government have been ignored by the said government and some judges rendering such decisions have been terminated. Other documented attempts by governments to influence judicial decisions in Africa have included bribery, harassment, control over the assignment of cases to individual judges, promotions, transfers, dismissals, and the removal of cases from the jurisdiction of the courts and their placement in parallel tribunals that do not safeguard due process. However, and as most fundamentally stated by Chief Justice Nyalali of Tanzania, the best way to ensure judicial independence is through: “The people [who] have to value an independent judiciary and be willing to defend it. And to win public affection, we the judges, must do our jobs well. The courts must work. People must feel they can resolve disputes satisfactorily and in a reasonable amount of time. If they do, then the people will support us. You see, it is really the quality of justice that determines whether we remain independent”.

55. Judicial independence, in turn, brings a number of benefits to a society or state. They include the impetus to demonstrate judicial integrity on the part of members of the judiciary; the vesting of legal rights that are enforceable and protected, especially for the poor and others vulnerable to neglect and discrimination; greater attention to the rule of law; more transparent enforcement of contracts; an improvement in the quality of handling of commercial disputes; increased efficiency in the enforcement of judgments; enhanced public affection; and a deepening of the means to facilitate and leverage the achievement of other development objectives such as good governance.

56. Good governance requires impartial and fair legal institutions. A judiciary independent from both government intervention and influence by the parties in a dispute provides the best institutional support for the rule of law. The fair enforcement of the rule of law and order promote the development of markets, economic growth, and poverty reduction. In particular, economic growth generates greater demand for a consistent legal framework and reliable legal tools.

57. For Africa, among other measures available to reform the judiciary to enhance its independence, two must be given priority. The first is the terms of appointment and removal. This would include the method of appointment, tenure of appointment, salary and benefits, disciplinary procedures, and the like. Among these elements, the most important is likely to be tenure of appointment. Judges in the higher courts, such as appellate or supreme courts, should be granted life-long tenure. That would make them both less susceptible to direct political pressure and less likely to have been appointed by the politicians currently in office. That would put them at even greater distance from the politicians. The other priority measure is that of administrative review. This would require even greater political will. Citizens should be able to challenge administrative acts through the courts all the way through to the highest court of the land. Arbitrary government actions, including those intended to compromise judicial independence and integrity, are less likely when the judiciary can review administrative acts.

58. Finally, looking at judicial independence from a self-centered approach, given the importance of political will for enabling such independence, African leaders might do well to consider the fact that although judicial independence reduces the benefits a

ruling political party or government can accrue while in power, it also reduces the costs of being out of power, since the opponents are also constrained and will be similarly constrained if they come to power.

## 4. Components of Economic Governance

59. The components of economic governance revolve around a number of core elements that can be grouped in a related fashion as: (1) Public Financial Management and Accountability; (2) Integrity of the Monetary and Financial System; and (3) Regulatory Framework.

### 4.1 Public Financial Management and Accountability

60. A good starting point here, to set the stage for the rest of the discussions to follow, is to briefly describe and assess the situation with respect to public expenditure management in Africa. In that regard, we rely heavily on the IMF's *Working Paper WP/01/121* entitled "Systematic Weaknesses of Budget Management in Anglophone Africa". We believe that this document has accurately captured the deficiencies and other problems associated with budgetary performance and financial management in sub-Saharan Africa.

61. The public expenditure management (PEM) systems of most African countries have a number of weaknesses associated with both budget preparation and budget execution. It has been observed in many analyses that several countries undertake spending without budget authority, commitments have been made but funds have not been available for payment, accounting ledgers and reports have not been maintained, and there have been rather long delays in the auditing and preparation of the annual accounts of government. These weaknesses, in turn, have led to poor budget performance, and even planned deficits have been significantly exceeded during the past two decades. There are four factors that have been identified as contributing to such a state of affairs: (1) budgeted expenditures have been based on optimistic projections of revenues that did not materialize; (2) a number of items in the budget had expenditures that were underestimated such as the costs of utilities, for example; (3) poor expenditure controls; and (4) a general lack of budget discipline.

62. If African countries are to effect good economic governance and derive the benefits therefrom, then their PEM systems and institutions must be reformed to ensure greater efficiency, management, and accountability of their public finances. According to the IMF, the fundamental objectives of sound PEM systems would include: (1) securing aggregate fiscal discipline, particularly ensuring that budget deficits and aggregate expenditures are fairly close to the budget projections; (2) allocating resources to sectoral programs; and (3) efficiency in the use of resources in attaining the objectives of expenditure programs.

63. A sound PEM system would be characterized by satisfactory institutional arrangements and should comprise: (1) a clear legislative basis for budgeting with rules that can be adhered to; (2) a sustainable macroeconomic and budget framework; (3) a comprehensive budget that excludes extra-budgetary activity; (4) a powerful ministry of finance, or some other ministry, to ensure budget discipline, including appropriate costing of expenditure items; (5) formal constraints on budget deficits and expenditures; (6) adequate technical capacity and conscientiousness in responsible parliamentary committees, ministries, and other government agencies; (7) an effective accounting

system that produces timely and quality fiscal reports; (8) functioning audit arrangements to ensure compliance with financial regulations and effective accountability by ministries and agencies; (9) mechanisms for handling uncertainty and shocks such as revenue shortfalls or pressures for spending increases; (10) adequate civil service pay and benefits to attract and retain skilled staff (economists, accountants, budget analysts, and so on); and (11) appropriate mechanisms to demonstrate full PEM system transparency and accountability, particularly with respect to availability of budget information, participation in the budget preparation process by interested stakeholders, and open methods of execution and reporting to allow for independent assessments of process integrity.

64. Most African countries fall far short of achieving the type of sound PEM system described above. On average, the government deficit in sub-Saharan Africa from the 1980s to present has exceeded 4 percent of GDP when grants are included and exceeds 5 percent of GDP when grants are excluded. In addition, there is a considerable litany of other contributory factors, as previously discussed, that result in such fiscal imbalances and therefore seriously underscore the need to secure durable improvements in fiscal performance to contribute to the achievement of good economic governance on the continent. To improve public financial management and accountability, African countries would need to engage in fiscal reforms that contribute to, among other things: (1) The maintenance of budgetary discipline; (2) Equity of public resource use; (3) Efficiency of revenue mobilization; and (4) General fiscal transparency.

#### **4.1.1 The Maintenance of Budgetary Discipline**

65. According to the World Bank, a well performing budget system has an impact on three levels of public sector outcomes. These are:

- aggregate fiscal discipline;
- resource allocation and use based on strategic priorities; and
- efficiency and effectiveness of programs and service delivery.

66. To be fully effective, public expenditure management systems require four forms of fiscal and financial discipline:

- control of aggregate expenditure to ensure affordability, that is consistency with the macroeconomic constraints;
- effective means for achieving a resource allocation that reflects expenditure policy priorities;
- efficient delivery of public services (productive efficiency); and
- minimization of the financial costs of budgetary management (i.e., efficient budget execution and cash and debt management practices).

67. Based on the objective macroeconomic assessment of available revenues and financing, ideally, the budget should aim to be comprehensive, transparent, realistic, policy-oriented, and allow for clear accountability in its execution. These ideas form a standard by which the budget systems can be judged.

## Box 1. Assessing the Soundness of the Budget

The soundness of budget systems can be judged by the following:

### Comprehensiveness:

- Is the coverage of government operations complete?
- Are estimates gross or does netting take place?

### Transparency:

- How useful is the budget classification? Are there separate economic and functional classifications that meet international standards?
- Is it easy to connect policies and expenditures through a program structure?

### Realism:

- Is the budget based on a realistic macroeconomic framework?
- Are estimates based on reasonable revenue projections? How are these made, and by whom?
- Are the financing provisions realistic?

### Box 1 Cont'd

- Is there a realistic costing of policies and programs and hence expenditures (e.g., assumptions about inflation, exchange rates, etc.)
- How are future cost implications taken into accounts?
- Is there a clear separation between present and new policies?
- How far are spending priorities determined and agreed under the budget process?

Source: *Guidelines for Public Expenditure Management*, IMF 1999.

68. According to the IMF, the transparency and comprehensiveness of a budget system are achieved by designing a system that meets the required characteristics of annuality, unity and universality. These characteristics are critical to ensure that, all policy proposals for undertaking government expenditure will be required to compete for resources and priorities are established across the whole range of government operations.

69. A fundamental role in the maintenance of budgetary discipline is to adopt and support public sector reforms and policies that promote the efficient use of resources and sustainable economic growth. In recent years, across the continent a greater awareness of governance issues has focused attention on fostering public sector efficiency, transparency, and accountability. A well-functioning budgetary system ensures accountability, in the sense that:

- Every action is transparent;
- Every participant is held accountable;
- Every action is properly documented and reported; and
- Every action can be subjected to independent, professional, and unbiased audit and review.

70. Since the budget system plays such a crucial role in achieving good governance, awareness should be developed of the weaknesses within the system and to consider how the system might be improved by pursuing more transparent practices, promoting accountability, and delivering public goods more efficiently. In this context, the following points are important, as a means to foster or maintain sound governing practices in fiscal discipline as demonstrated by the IMF in their *Guidelines for Public Expenditure Management*.

71. **Define the government sector clearly and comprehensively:** This means not only that central government, state/local governments, and government financial and non-financial operations should be separately identifiable, but also that the respective roles of the executive, legislative, and judiciary should be clearly defined and widely understood. Also, the true extent of government quasi-fiscal activities and the contingent liabilities of government should be identified and monitored by governments.

72. **View the budget as a complete process:** Interference in any one element of the budget process may have repercussions on the system as a whole. Too often, when formulating fiscal adjustment strategies, attention on the expenditure side is focused on the last stage – actual cash payments – where the impact of government spending is manifested in the monetary sector accounts. Expenditure control needs to take place at a much earlier stage, long before payment orders are prepared and processed.

73. **Adjust spending at the earliest stage possible:** Indeed, the aim should be to have an input at the policymaking stage of budget preparation, when existing expenditure policies are confirmed or new policies adopted.

74. **Minimize disruptions to the expenditure process:** The budget system fulfills more functions than that of helping ensure macroeconomic stability. Its original function was to ensure compliance with the budget appropriation law, the basis of sound governance. The budget system should also promote other objectives, an efficient allocation of resources among programs, effectiveness of government operations, and efficient financial management of government resources. Care must be taken, therefore, that stabilization objectives are not pursued at the expense of these other objectives. This is often not easy to accomplish. Cash controls, though attractive for securing aggregate control and compliance with the monetary dimension of an adjustment program, tend to bear more heavily on easily controlled elements like operations and maintenance expenditures; they may distort, over time, the patterns of government expenditures and be damaging to longer-run government efficiency. Widespread arrears, often associated with over-reliance on cash controls, may lead to dislocations in the private sector.

75. **Respect the budget system's internal and external controls:** At each stage of the expenditure process there are controls in place. In periods of fiscal stress there is a tendency to bypass regular budgetary procedures and circumvent controls. Often the result is an increase in corruption. The extent of opportunistic corruption, whereby individuals take advantage of a poor control system, varies but is all too common. Systemic corruption, though perhaps more rare, involves using political power to subvert the control systems. This can have a macroeconomic impact and may be indicative of the authorities' limited commitment to reform. But it is not susceptible to any direct or quick solution; and only a strong political commitment will bring needed improvements.

76. **Limit exceptional procedures:** In some African countries, it is observed that the expenditure process has become so cumbersome that there are substantial incentives to bypass it, through "exceptional procedures". Procedures should be defined in laws and regulations; inspections and audits should be timely and comprehensive; infractions should be dealt with, and seen to be dealt with through appropriate disciplinary action.

77. **Poor governance can undermine fiscal adjustment:** Governance issues affect the ability to deliver fiscal objectives. Countries successful in fiscal reform, such as Botswana and Mauritius, either started with a sound public expenditure management system or began their effort by improving a deficient one. Weak governance should be addressed early in the reform effort.

#### **Box 2. OECD Best Practices for Budget Transparency**

The OECD issued the *OECD Best Practices for Budget Transparency* in September 2000. While there is a significant overlap between the OECD best practice guidelines and the fiscal transparency Code of the IMF, the former focuses solely on the central government, and on the budget rather than all fiscal and quasi-fiscal activities.

The OECD best practices guidelines are in three parts:

Part I lists the principal budget reports that governments should produce and their general content: the budget; a prebudget report; monthly reports on budget implementation; a mid-year report; a year-end report; a preelection report; and a long-term report.

Part II describes specific disclosures to be contained in the reports: economic assumptions; tax expenditure; financial liabilities and assets; nonfinancial assets; employee pension obligations; and contingent liabilities.

Part III highlights practices that ensure the integrity of reports: accounting policies; systems and responsibility; audit; and public and parliamentary scrutiny.

*Source: Transparency in Monetary and Financial Policies, IMF, 2000*

78. According to the World Bank, in Tanzania, there have been significant improvements in budgetary outcomes since the mid-1990s. Such improvements can be observed in the following:

- aggregate expenditures have been brought in line with resource availability;
- the variance between budget appropriations and final outcomes has been reduced;
- an increasing share of resources has been allocated to key poverty reduction sectors; and at
- the sectoral level, there are signs of a closer alignment between resource allocations and strategic priorities.

### Box 3. Government of Tanzania Financial Planning, Budgeting and Budget Execution

The above achievements have been made possible by a coherent program of reforms, the main pillars of which are:

- the Poverty Reduction Strategy, which provides guidance on policy priorities; routine annual Public Expenditure Reviews, providing a framework for expenditure monitoring and policy analysis;
- and a Performance Budgeting, which has sought to align Ministries, Departments, Agencies' (MDAs) internal resource allocations with priority activities and strategic objectives.

The challenge for the future is to institutionalize the reforms, address the remaining weaknesses in the planning, budgeting and aid management systems and, over the longer term, accommodate broader public sector reforms which aim to improve performance by gradually providing MDAs with greater managerial autonomy. High priority issues identified by the CFAA report are:

- *Planning and resource allocation.* The need for :
  - (i) strengthening of the linkages between poverty reduction strategies and operational instruments, by ensuring consistency between targets identified in budget/ MTEF submissions and the Poverty Reduction Strategy Paper (PRSP) targets and intermediate indicators and an assessment of the feasibility of PRSP targets;
  - (ii) Strengthening of the MTEF process at the sectoral level through a government wide capacity building program and technical improvements in critical areas such as the costing of agency proposals and definition of strategic performance indicators;
  - (iii) Continued prudence in setting resource projections and further improvement in the reliability of resource forecasts, particularly as regards external financing.
- *Budgeting and budget execution.* The need for :
  - (i) normalization of the budget process by continuing the transition from a situation when cash rationing played a key role in determining resource allocations to a situation where budget appropriations become a predictable guide to resource availability. The establishment of bridging finance mechanisms to smooth out the in-year flow of resources is essential for the achievement of this goal;
  - (ii) extension of the Government Financial Statistics (GFS) classification to the Development Budget, so as to provide for consolidated analysis of resource allocations, and restoration of routines for monitoring physical and financial implementation of projects and the Development Budget.

**Source: Country Financial Accountability Assessment, World Bank, 2001**

#### 4.1.2 Equity of Public Resource Use

79. Poverty reduction has become the central focus of many African government policies and budgets in response to recognition of real needs, not just to a "wave of fashion" in the international community. PRSPs are being built on existing national strategies and processes, with serious attention being given to broadening participatory processes and sharpening poverty diagnosis and monitoring, as well as to the need to prioritize and cost policies and programs for poverty reduction. The PRSP initiative nonetheless presents a range of challenges, from facilitating and managing effective participation, to the identification of policies for pro-poor growth and establishing adequate systems for public expenditure management, and to relations with the international community.

80. Pro-poor growth is necessary to make serious inroads on poverty over time. Pro-poor growth requires effective use of the economic policy tools in the hand of the government - monetary, fiscal, and structural policies - to encourage investment as well as gains in labor productivity by the poor. At the same time, key complementary

policies are needed to build productive assets of the poor - by providing services such as education and health, or by supporting the accumulation of assets such as land or livestock - and to increase their access to markets, both local and global. It is generally accepted that success in obtaining pro-poor growth hinges on adapting policies to local environments and constraints. There are some important lessons here that have emerged from recent experience in budget management and service delivery options, as highlighted below.

81. The government budget is the central tool of public policy, and countries have started to put much more effort into deriving realistic costs for various social targets (as in the case of education in Guinea, for example), and in putting in place systems that ensure better planning and execution. Effective action requires a systematic effort over time, and this is best done in a medium-term framework. Pro-poor expenditure allocations require not only an identification of the broad spending categories that are more important for the poor, but also an understanding of the impact and efficiency of these expenditures in reducing poverty. Uganda systematically applies a set of criteria to test whether sectoral budget proposals are sufficiently pro-poor. The institutional mechanisms to deliver pro-poor spending include decentralization to accountable local authorities, an active role for parliament (through budget committees, as in Ethiopia), and engaging civil society in tracking expenditure. Instruments are available that involve the user directly, such as "report cards" in Uganda. An important message that emerged, forcefully developed by Mozambique for example, is that while a predictable flow of donor resources is important, mobilization and accountability for domestic resources is equally critical.

82. It is quite necessary to reaffirm the importance of economic growth for social development and poverty reduction. Nearly all social indicators are correlated with income. Growing private incomes will support health and educational development and provide the revenue base for sustainable public services. But it is not enough to rely on growth alone: there are good economic and social arguments for investing in human capital. Social service reform must be undertaken in such way as to redress, rather than reinforce, the barriers to access the poor face, in part, by better targeting of resources on the poor.

83. User charges have been a central component of social service reform programs in many countries. Proponents argue that charges would improve both efficiency and equity, as the revenues collected allowed for better quality service with greater accessibility to the poor. However, these views have under-estimated the extent to which fees would exclude the poor and over-estimated likely revenues. In the case of health, charges have amounted to about five per cent of recurrent costs. Collection costs can also be high. In the case of water and sanitation, it has been claimed that the costs of metering and billing can exceed the revenue thus raised. There is also ample evidence that primary school fees have discouraged participation, particularly of girls, and that exemption schemes are poorly targeted. The introduction of primary charges in Malawi in the early 1980s led to a temporary drop in enrolments, followed by much slower growth than had been achieved before fees were introduced. When fees were abolished in 1994 enrolments more than doubled from 1.9 to 3.2 million. A similar increase was achieved in Uganda when primary education was made free for four children from each family. Attempts to target exemptions have had nowhere near the same effect. An exemption scheme in Zimbabwe only reached 12 per cent of the target population, for example.

84. Financial reform which charges those who can afford to pay - for example replacing the grants for board and lodging to university students with loans - to help subsidize those who cannot is one area in which reforms can be made. But there is also scope for improvements in efficiency and quality, including a role for the private sector in providing services not used by the poor. In the education sector, many countries have yet to undertake extensive administrative reform and decentralization, and measures to raise quality to reduce drop-outs and repeats. Efficiency can be raised with no loss of quality, as the experience of some countries show.

85. Addressing issues of gender equality is also another aspect that needs attention within the broader area of equity in public resource use. Perhaps the best known gender-sensitive budget exercise in the world is the Women Budget Initiative (WBI) in South Africa, which has been adapted and adopted in a number of countries, especially within southern Africa. A distinguishing characteristic of the South African case is that it contains an outside-government and an inside-government component (see Box 4).

#### **Box 4. Government and Civil Society in Cooperation: Women Budget Initiative (WBI) in South Africa**

Perhaps the best known gender-sensitive budget exercise in the world is the Women Budget Initiative (WBI) in South Africa, which has been adapted and adopted in a number of countries, especially within Southern Africa. A distinguishing characteristic of the South African case is that it contains an outside-government and an inside-government component. The former is the WBI which began in 1995 after the first democratic elections in South Africa as a joint venture between some newly elected parliamentarians and NGOs. In 1997, the government began a parallel initiative, the Pilot Project of the Commonwealth Gender Budget Initiative, by volunteering to participate in the Commonwealth Secretariat's efforts to promote gender-sensitive macroeconomic policies. The South African Department of Finance leads this component.

The WBI has published analyses of the sectoral budgets of the national government as well as some analyses of provincial budgets. There are four steps in the sectoral analyses (e.g. health and education). The first step is to examine the position of women and men and girls and boys in each sector. WBI usually disaggregates data not only by gender and age, but also by race, location and class. The second step focuses on whether government policies adequately address problems identified in the first step. The third step looks at whether adequate resources have been allocated to implement gender-sensitive policies. The fourth step investigates the effectiveness of the use of resources in reaching the intended targets and goals.

Even though WBI researchers belong to NGOs, they do not claim to represent the grass-roots population. In order to reach grass-roots activists and a wider spectrum of citizenry, WBI has also published simplified versions of the Women's Budget volume as a book called *Money Matters: Women and the Government Budget* (Hurt and Budlender, 1998). The book's target audience has at least ten years of education, which means it has the potential to reach about one-third of South Africa's adult population. More recently, the WBI has focussed on developing training modules on budgets, budget-related advocacy, and public participation.

One of the main achievements of the South Africa initiative is the way it has strengthened advocacy around gender equality issues. The main outcome of the government initiative has been the inclusion of studies on gender issues within the sectoral reports tabled on the Budget Day. The Minister of Finance's budget speeches have also addressed issues of gender and other type of inequalities. The initiative has also helped empower parliamentarians who wanted to address gender inequality, but whose limited powers with respect to budget decisions precluded them from doing so. Given this reality, the South African case illustrates the need to combine initiatives within the government, especially within the Ministry of Finance, and initiatives that allow the critical engagement of civil society with budgetary processes.

**Source: *Budgets As if People Mattered: Democratizing Macroeconomic Policies*, UNDP, 2000**

### 4.1.3 Efficiency of Revenue Mobilization

86. African countries face formidable challenges when they attempt to establish efficient revenue mobilization and tax systems. First, most workers are typically employed in agriculture or in small, informal enterprises. As they are seldom paid a regular, fixed wage, their earnings fluctuate, and many are paid in cash, "off the books". The base for an income tax is therefore hard to calculate. Nor do workers typically spend their earnings in large stores that keep accurate records of sales and inventories. As a result, modern means of raising revenue, such as income taxes and consumer taxes, play a diminished role in these economies, and the possibility that the government will achieve high tax levels is virtually excluded.

87. Second, it is difficult to create an efficient tax administration without a well-trained and educated work force staff, to pay good wages to tax officials, and to computerize the operation, and when taxpayers have limited ability to keep accounts. As a result, governments often take the path of least resistance, developing tax systems that allow them to exploit whatever options are available rather than establishing rational, modern, and efficient tax systems.

88. Third, because of the large size of the informal sector of the economy and because of financial limitations, statistical and tax offices have difficulty in generating reliable statistics. This lack of data prevents policymakers from assessing the potential impact of major changes to the tax system. As a result, marginal changes are often preferred over major structural changes, even when the latter are clearly preferable. This perpetuates inefficient tax structures.

89. Fourth, income tends to be unevenly distributed within African countries. Although raising high tax revenues in this situation ideally calls for the rich to be taxed more heavily than the poor, the economic and political power of rich taxpayers often allows them to prevent fiscal reforms that would increase their tax burdens. This, according to the IMF, explains in part why many countries have not fully exploited personal income and property taxes and why their tax systems rarely achieve satisfactory progressivity. To address these challenges, policymakers will have to get their tax policy right and have the political will to implement the necessary reforms and policies, together with the needed strengthening of the tax administration authorities.

90. Furthermore, to build an efficient revenue mobilization system, the national tax administration should be legally protected from political direction. Also, tax administration should be, and be seen to be, conducted in a fair and impartial manner, free of political intervention. For this reason, heads of tax administration should be appointed by law, and be given some statutory protection against removal from office and political direction in interpreting tax laws. The statutory appointment of tax commissioners with clearly specified powers over interpretation of tax laws is one approach that helps to provide assurance of integrity. The tax collection process should also be open, and to this end revenue collecting agencies should provide a timely annual report to the legislature on their activities during the year. These reports, as well as covering performance data such as actual collections relative to budget, should provide details of actions being taken to improve compliance with tax laws.

#### **4.1.4 General Fiscal Transparency**

91. Transparency refers to an environment in which the objectives of policy, its legal, institutional, and economic framework, policy decisions and their rationale, data and information related to monetary and financial policies, and the terms of agencies' accountability, are provided to the public on an understandable, accessible, and timely basis.

92. The case for transparency of monetary and financial policies is based on two main premises. First, the effectiveness of monetary and financial policies can be strengthened if the goals and instruments of policy are known to the public and if the authorities can make a credible commitment to meeting them. In making available more information about monetary and financial policies, good transparency practices promote the potential efficiency of markets. Second, good governance calls for central banks and financial agencies to be accountable, particularly where the monetary and financial authorities are granted a high degree of autonomy. In cases when conflicts might arise between or within government units, transparency in the mandate, and clear rules and procedures in the operations of the agencies, can help in their resolution, strengthen governance, and facilitate policy consistency.

93. Transparency by financial agencies, particularly in clarifying their objectives, should also contribute to policy effectiveness by enabling financial market participants to better assess the context of financial policies, thereby reducing uncertainty in the decision-making of market participants. Moreover, by enabling market participants and the general public to understand and evaluate financial policies, transparency is likely to be conducive to good policy-making. This can help to promote financial as well as systemic stability. Transparent descriptions of the policy formulation process provide the public with an understanding of the rules of the game. The release of adequate information to the public on the activities of financial agencies provides an additional mechanism for enhancing the credibility of their actions. There may also be circumstances when public accountability of decisions by financial agencies can reduce the potential for moral hazard. The transparency best practices focus on:

- clarity of roles, responsibilities and objectives of central banks and financial agencies;
- open processes for formulating and reporting of monetary policy decisions by the central bank and of financial policies by financial agencies;
- public availability of information on monetary and financial policies; and
- accountability and assurances of integrity by the Central Bank and financial agencies.

## **4.2 Integrity of the Monetary and Financial Systems**

94. This section addresses issues related to the integrity of the monetary and financial systems as a central issue in promoting transparency and accountability. It covers the following areas:

- Monetary and Financial System Transparency;
- Independence of Central Banks; and
- Effectiveness of Regulatory and Supervisory Institutions in the Monetary and Financial Sector.

#### **4.2.1 Monetary and Financial System Transparency**

95. The attitude with respect to transparency by many African countries' central banks and financial agencies is evolving, reflecting changes in the international environment. There are several developments that are providing the impetus for central banks and financial agencies to practice greater transparency in the conduct of their affairs:

- First, the notion of transparency has gained greater public attention, thus eliciting an increasing number of calls on central banks and financial agencies by legislatures, the media, markets, and the public at large to become more open about their policies and activities;
- Second, policymakers have recognized that globalization in general, and international integration of financial markets and products in particular, require a greater degree of transparency of monetary and financial policies and of regulatory regimes and processes as a means of containing market volatility;
- Third, the adoption of the General Agreement on Trade and Services is placing greater attention on the conduct of financial services; and
- Fourth, an increasing number of central banks have adopted forms of inflation targeting as their ultimate policy objective. Public disclosure of how they are meeting these targets has become a critical element to establish credibility, shape expectations, and, thereby, strengthen the effectiveness of monetary policy.

96. Also, greater revolutionary advances in communication technology, and increasing public access to means of electronic communication, such as websites, have greatly reduced the difficulties, costs, and time delays of disseminating information to the public. An increasing number of central banks and financial agencies are availing themselves of these easier and efficient means of communicating with the public about their policies and activities. As a result of these changes in the international environment, a number of central banks and financial agencies in the African continent have become more transparent in their disclosure practices.

#### **4.2.2 Independence of Central Banks**

97. The primary responsibility of a central bank is to achieve stated monetary objectives. Increasingly, central bank responsibilities are being defined to give them as much autonomy as possible within a framework that ensures appropriate accountability. In many countries, central bank laws emphasize the operational independence of the central bank and prohibit or restrict its direct financing of the fiscal deficit (e.g. Botswana, Mozambique, and Tanzania among others).

98. In some countries, however, a number of activities carried out by central banks are quasi-fiscal in nature. Quasi-fiscal activities may involve operations related to the management of the financial system (e.g., subsidized lending and directed credit) or the exchange system (e.g., multiple exchange rates and import deposits). Such operations may be used by governments as a substitute for direct fiscal action, and will have similar economic effects in whichever part of the public sector they are conducted. They clearly need to be taken into account in assessing the overall fiscal position. It is also a basic requirement of fiscal transparency that links between fiscal and monetary

operations of the central bank should meet the requirements of the monetary and financial transparency code. The code states that, the institutional relationship between monetary and fiscal operations and agency roles performed by the central bank on behalf of the government should be clearly defined.

99. Although, in recent years, privatization of state-owned banks has been increasing, they still account for a dominant share of the banking sector in many African economies. Public financial institutions have often been set up to provide assistance of a quasi-fiscal nature, such as a development bank providing loans to specific sectors at below-market rates. Governments also use public financial institutions on a more ad hoc basis to provide quasi-fiscal assistance, for example, through policy directions on lending. A basic requirement of fiscal transparency is that the annual reports of public financial institutions should indicate the non-commercial services that the government requires them to provide.

### **Box 5. Good Practices on Transparency for Central Banks and Financial Agencies**

#### **Central Banks**

There is a need to state clearly the role, responsibility and objectives of the central bank. Therefore, the objectives of the central bank should be clearly defined, publicly disclosed and written into law. Institutional responsibility for foreign exchange policy should be disclosed. While the objectives of the central bank are best decided by society at large, the law should give the central bank the authority to select the instruments best suited to meeting those objectives. The law should specify the manner in which central bankers will be held accountable for their actions, but should also protect them from arbitrary dismissal and over-turning of their decisions. The institutional relationship between monetary and fiscal operations should be clearly defined, as should any agency roles performed by the central bank on behalf of the government.

The decisions of the central bank should be communicated to the public in an open manner. The central bank should explain the framework, instruments and targets, if any, which are used to achieve its objectives. The structure of the central bank's decision-making body should be publicly disclosed and its decisions communicated in a timely manner. Information on monetary policy should be publicly available, and the central bank's data releases should at a minimum conform to the IMF's standards for data dissemination. The central bank should establish and maintain public information services.

The practices to hold central bankers accountable for their actions should be promoted. Central bank officials should periodically appear before a designated public authority to explain the conduct and performance of monetary policy and exchange views on the state of the economy and financial system. The central bank should also provide assurances of the integrity of its operations and its officials through release of audited financial statements of its operations, information on expenses and revenues in operating the central bank, and establishment of standards of conduct to avoid conflict of interest. At the same time, the extent to which central bankers are protected from being sued for actions taken in the conduct of their duties should be disclosed.

#### **Financial Agencies**

The objectives and institutional framework of financial agencies should be clearly defined, preferably in relevant legislation or regulation. The role of oversight agencies with regard to payment systems should be publicly disclosed. Financial policies should be communicated to the public in an open manner, compatible with confidentiality considerations and the need to preserve effectiveness of actions. Financial agencies should issue periodic public reports on major developments in the financial system, report aggregate data on a timely and regular basis, make texts of regulations and directives readily available to the public, and publicly disclose special protections such as deposit insurance schemes and consumer protection arrangements. Practices to hold officials of financial agencies accountable for their actions are to be promoted, and should be quite similar to the practices recommended for central bankers.

**Source: *Transparency in Monetary and Financial Policies, IMF, 2000***

100. Government regulation of the banking sector—and the financial sector more generally—should also be based on clear policy goals. Heavy government involvement in the banking sector is often associated with a failure to impose adequate accounting and disclosure practices, and to ensure that there are appropriate incentives for bank owners, managers, and regulators to manage risks prudently. An appropriate framework for bank regulation, and greater transparency in reporting government involvement in the banking system, including a rationale for each type of intervention, are essential components of a framework that promotes financial sector stability. The monetary and financial transparency code of the IMF contains detailed good practices for government financial agencies responsible for regulation, supervision, and oversight of the financial and payment systems.

#### **4.2.3 Effectiveness of Regulatory and Supervisory Institutions in the Monetary and Financial Sector (This section is adapted from the *Core Principles for Effective Banking Supervision* by the Basle Committee on Banking Supervision)**

101. **Preconditions for Effective Banking Supervision:** An effective system of banking supervision will have clear responsibilities and objectives for each agency involved in the supervision of banking organizations. Each such agency should possess operational independence and adequate resources. A suitable legal framework for banking supervision is also necessary, including provisions relating to authorization of banking organizations and their ongoing supervision; powers to address compliance with laws as well as safety and soundness concerns; and legal protection for supervisors. Arrangements for sharing information between supervisors and protecting the confidentiality of such information should be in place.

102. **Licensing and Structure:** The permissible activities of institutions that are licensed and subject to supervision as banks must be clearly defined, and the use of the word "bank" in names should be controlled as far as possible. The licensing authority must have the right to set criteria and reject applications for establishments that do not meet the standards set. The licensing process, at a minimum, should consist of an assessment of the banking organization's ownership structure, directors and senior management, its operating plan and internal controls, and its projected financial condition, including its capital base; where the proposed owner or parent organization is a foreign bank, the prior consent of its home country supervisor should be obtained. Banking supervisors must have the authority to review and reject any proposals to transfer significant ownership or controlling interests in existing banks to other parties. Banking supervisors must have the authority to establish criteria for reviewing major acquisitions or investments by a bank and ensuring that corporate affiliations or structures do not expose the bank to undue risks or hinder effective supervision.

103. **Prudential Regulations and Requirements:** Banking supervisors must set prudent and appropriate minimum capital adequacy requirements for all banks. Such requirements should reflect the risks that the banks undertake, and must define the components of capital, bearing in mind their ability to absorb losses. At least for internationally active banks, these requirements must not be less than those established in the Basle Capital Accord and its amendments. An essential part of any supervisory system is the evaluation of a bank's policies, practices and procedures related to the granting of loans and making of investments and the ongoing management of the loan and investment portfolios. It must be satisfactory that, banks establish and adhere to adequate policies, practices and procedures for evaluating the quality of assets and the adequacy of loan loss provisions and loan loss reserves. Also banks must have management information systems that enable management to identify concentrations

within the portfolio and supervisors must set prudential limits to restrict bank exposures to single borrowers or groups of related borrowers.

104. In order to prevent abuses arising from connected lending, supervision must have in place requirements that banks lend to related companies and individuals on an arm's-length basis, that such extensions of credit are effectively monitored, and that other appropriate steps are taken to control or mitigate the risks. Also banks must have adequate policies and procedures for identifying, monitoring and controlling country risk and transfer risk in their international lending and investment activities, and for maintaining appropriate reserves against such risks.

105. It should also be satisfactory that, banks have in place systems that accurately measure, monitor and adequately control market risks; and have powers to impose specific limits and/or a specific capital charge on market risk exposures, if warranted. Banks must have in place a comprehensive risk management process (including appropriate board and senior management oversight) to identify, measure, monitor and control all other material risks and, where appropriate, to hold capital against these risks. It should also be determined that banks have in place internal controls that are adequate for the nature and scale of their business. These should include clear arrangements for delegating authority and responsibility; separation of the functions that involve committing the bank, paying away its funds, and accounting for its assets and liabilities; reconciliation of these processes; safeguarding its assets; and appropriate independent internal or external audit and compliance functions to test adherence to these controls as well as applicable laws and regulations. Also banks must have adequate policies, practices and procedures in place, including strict "know-your-customer" rules, that promote high ethical and professional standards in the financial sector and prevent the bank being used, intentionally or unintentionally, by criminal elements.

106. **Methods of Ongoing Banking Supervision:** An effective banking supervisory system should consist of some form of both on-site and off-site supervision, regular contact with bank management and thorough understanding of the institution's operations. Banking supervisors must have a means of collecting, reviewing, and analyzing prudential reports and statistical returns from banks on a solo and consolidated basis. Also they must have a means of independent validation of supervisory information either through on-site examinations or use of external auditors. An essential element of banking supervision is the ability of the supervisors to supervise the banking group on a consolidated basis.

107. **Information Requirements:** Banking supervisors must be satisfied that each bank maintains adequate records drawn up in accordance with consistent accounting policies and practices that enable the supervisor to obtain a true and fair view of the financial condition of the bank and the profitability of its business, and that the bank publishes on a regular basis financial statements that fairly reflect its condition.

108. **Formal Powers of Supervisors:** Banking supervisors must have at their disposal adequate supervisory measures to bring about timely corrective action when banks fail to meet prudential requirements (such as minimum capital adequacy ratios), when there are regulatory violations, or where depositors are threatened in any other way. In extreme circumstances, this should include the ability to revoke the banking license or recommend its revocation.

109. **Cross-border Banking:** Banking supervisors must practice global consolidated supervision over their internationally-active banking organizations, adequately monitoring and applying appropriate prudential norms to all aspects of the business conducted by these banking organizations worldwide, primarily at their foreign branches, joint ventures and subsidiaries. A key component of consolidated supervision is establishing contact and information exchange with the various other supervisors involved, primarily host country supervisory authorities. Supervision requires the local operations of foreign banks to be conducted to the same high standards as are required of domestic institutions and must have powers to share information needed by the home country supervisors of those banks for the purpose of carrying out consolidated supervision.

### 4.3 Regulatory Framework

110. Among the most essential foundations of good economic and corporate governance is the regulatory framework. In most economic sectors, some form of ongoing government control is required to deal with potential market failures, including the misuse of market power in activities that have a high degree of monopoly power, as well as with environmental, safety, and other concerns. Prior to the 1980s, most African countries sought to achieve these goals through a model under which the government performed the roles of owner, policymaker, and regulator. The inherent conflicts involved resulted in poor performance in each role. African governments often misused the control of prices to achieve goals that were unrelated to the efficient control of monopolies, and they also often ignored performance, quality, and other matters of regulation.

111. An arm's length relationship between the operator, on the one hand, and both policymakers and regulators, on the other, helps to avoid conflicts of interest, assists governments in making credible commitments to cost-recovering tariffs, and increases the likelihood that quality and other regulations will be enforced. Separating the government's policymaking and regulatory roles by establishing independent regulatory mechanisms helps to assure stability in the regulatory environment, including the reducing of the risk that regulation may be misused to achieve short-term political ends and by fostering the development of regulatory expertise.

112. Recent experiences of the developed countries and the emerging market economies show that the three major areas that have benefited a great deal from a sound regulatory framework are: (1) securities (capital market); (2) insurance and banking; and (3) monopolistic markets such as utilities. African countries must therefore move vigorously to improve their regulatory frameworks in these areas. In particular, the critical issues at the center of the debate for financial sector development in Africa include how to build effective capacity for prudential regulation of the financial system. It is a well-established fact that the existence of capital markets is an essential requirement for building a viable and growing economy. The presence of a functioning stock market, for example, would contribute to the growth and development of African economies by allowing them to:

- tap into readily available supplies of international capital;
- help meet the needs for the long-term and equity financing that is often critical for establishing new enterprises; and
- provide a mechanism for small domestic savers to reap the benefits of national development.

## 5. Components of Corporate Governance

113. As governments dismantle their command economies and move towards market-oriented structures, they are recognizing the private sector as the engine of growth. As a result, with the prominence given to the private sector, the issue of corporate governance is becoming one of concern. The financial crisis that hit the emerging markets a few years back, and the long transition process from planned to market economies in many developing countries, have made clear the relevance of good corporate governance as a key structural and institutional feature of a functioning market economy. Many developing and transitional economies now recognize that a healthy and competitive corporate sector is necessary for their sustainable and shared growth and that corporate governance is fundamental for the private sector as is overall good governance for the public sector.

114. As Africa struggles to attract a fair share of the world's foreign direct investment (FDI), it has to assure investors that their investments will be secure and efficiently managed on the basis of a transparent and accountable process. Such a situation can be assured through good corporate governance. Given the long neglect of the private sector, the challenges of corporate governance in Africa may prove daunting. The private sector recognizes, for example, that there is a lack of supporting institutions and human resources critical for the effective functioning of good corporate governance in Africa.

115. Because of the transitional state of African economies and political systems, many African countries are ill equipped to implement the corporate governance systems that have evolved over centuries in developed market economies. Among the major constraints in this respect are: the ownership structure of the corporate sector, interlocking relationships with government and the financial sector, weak legal and judiciary systems, lack of or undeveloped institutions, and limited human resource capabilities.

116. However, in spite of the challenges faced in Africa, many encouraging initiatives aimed at building a system of good corporate governance and improving the corporate governance framework are already underway. They include the establishment of institutions aimed at promoting good corporate governance; conferences being organized to popularize good corporate governance such as the one on the status of corporate governance organized jointly by the Private Sector Corporate Governance Trust of Kenya and the Commonwealth Association of Corporate Governance in 2000 in Nairobi, Kenya; the Africa Corporate Governance Forum held in Johannesburg in July 2001; a study on African corporate governance undertaken by the Africa Capital Markets forum; the King Committee Report and Code of Practice for Corporate Governance in South Africa published in 1994; the setting up of national institutional mechanisms to promote good corporate governance in Ghana, Uganda, Zimbabwe and South Africa; and the various training programs undertaken by the World Bank and the Commonwealth Association of Corporate Governance, in many African countries, aimed at creating awareness and helping to set up institutional mechanisms. All of these attest to the growing interest in corporate governance in Africa.

## Box 6. Pan African Consultative Forum on Corporate Governance

The first Pan African Consultative Forum on Corporate Governance was held in Johannesburg, South Africa, 16-18<sup>th</sup> July 2001. The Forum was exceptional in the breadth of its participation, drawing delegates from across all parts of Africa and from all sectors - the private sector, government, academia, and civil society, including trade unions, NGOs and other groups. The Consultative Forum succeeded in providing a major impetus for further corporate governance reforms across Africa. The delegates agreed on a set of Action Steps to be taken at the national, continental, and international levels, including:

- The Pan-African steering committee, which organized the Consultative Forum, will become the Coordinating Unit for the next phase of action, and will seek accreditation at the Africa Union;
- a second Pan African meeting on corporate governance will be held in approximately two years, and will concentrate on reporting back on the implementation of national programs during the intervening period;
- a major web-site will be established, which will form the basis for networking on corporate governance across Africa. It is expected that each delegate will contribute to this network, including a database of corporate governance initiatives from each country;
- national Task Forces on corporate governance will be established, will be private sector led, and will work to develop national or regional guidelines as seen appropriate, utilizing recognized international principles;
- multilateral development partners were asked to work together to continue their support for the African corporate governance reforms;
- the forthcoming report of this Forum would be made available at several forthcoming international meetings with an interest in corporate governance, including the IMF-World Bank governors meeting, and ministerial meetings of the Commonwealth and Francophone countries; and
- specific initiatives suggested include director training, institution building, national corporate governance codes, and it was noted that a number of countries were about to commence activities in these areas, such as Kenya, Mauritius and Zambia, involving their neighboring countries.

*Source: Steering Committee Pan African Consultative Forum on Corporate Governance, 2001*

117. The Kenya Private Sector Initiative for Corporate Governance has defined corporate governance as “ the manner in which the power of a corporation is exercised in the stewardship of the corporation’s total portfolio of assets and resources with the objective of maintaining and increasing shareholder value with the satisfaction of other stakeholders in the context of its corporate mission.”

118. That initiative regards the key components of good corporate governance to be:

- Accountability;
- Efficiency and effectiveness;
- Integrity and fairness;
- Responsibility; and
- Transparency.

119. Promoting good corporate governance requires taking measures that foster the foregoing components of corporate governance. Based on best practices, the development of good corporate governance would entail:

- An effective legal framework with specified rights and obligations of a company, its directors, shareholders and other stakeholders. It should also specify disclosure requirements and provide for effective enforcement of the law.
- Efforts being made to develop a corporate governance culture. The services of professional and industry associations could be solicited to develop good corporate governance principles.

- An environment conducive for effective corporate governance being created. This can be done, among other things, through promoting high quality financial disclosure requirements and proper ownership structures.
- Ensuring appropriate and effective supervisory arrangements that encourage the adoption of sound corporate governance practices.
- The building of capacity in corporate governance through well designed training and educational programs at all levels, including for directors, senior management, financial regulators, and for improving the performance and management of small enterprises as well.

120. However, while it is gratifying to see an increasing number of African countries instituting mechanisms for good corporate governance and adopting some of the principles of good corporate governance, it should, at the same time, be recognized that a lack of familiarity with the new concepts and practices could slow down progress in implementation.

121. The introduction of good corporate governance practices will have to be preceded by a number of reform measures. Experience from countries that embarked upon reform measures with some success show that the reforms are likely to succeed when comprehensive strengthening of external sources of discipline and internal incentives are provided to improve corporate governance. Making corporate boards more effective and competent in the discharge of their oversight duties and control over management, for example, have proven especially effective. The reforms typically involved the following elements:

- Establishing competitive markets;
- Requiring transparency;
- Enforcing financial discipline;
- Fostering growth of well regulated and liquid securities markets;
- Updating and strengthening the legal, judicial, and tax systems; and
- Building required capacity.

122. Even though the focus on corporate governance is on the private sector, it is also important to give the same attention to the public sector. Although there have been encouraging developments in privatizing state-owned enterprises, the task is far from completed. There are still many African countries with a substantial portfolio of government owned enterprises. Whether governments decide to keep them or eventually dispose of them, concern with the corporate governance of these enterprises could prove useful, whatever the eventual ownership structure.

123. A recent study by the World Bank recommends the following measures as a way of ensuring corporatization of state-owned enterprises:

- Submit the enterprise to commercial law functioning;
- Establish one corporate form and;
- Ensure open communication and credibility.

124. There must be an all-inclusive approach to governance that recognizes and protects the rights of all stakeholders. A corporation must be governed and managed in accordance with the mandate granted to it by the founders and the society, and take seriously its wider responsibilities to enhance sustainable prosperity. The corporate governance framework should provide an enabling environment within which its human resources can contribute, and bring to bear, their full creative powers towards finding innovative solutions to shared problems.

## 6. Adopting Good Accounting and Auditing Systems

125. This section outlines the need for the adoption of internationally accepted accounting and auditing practices in the public sector as an important aspect of the quest for good governance. Specifically, this section addresses issues related to:

- The Accounting System; and
- The Auditing System.

### 6.1 The Accounting System

126. There should be a comprehensive, integrated accounting system that provides a reliable basis for assessing the operations of the public sector. This is a basic requirement of fiscal transparency. Accounting systems should be based on well-established internal control mechanisms, allow for the capture and recording of information at the commitment stage, generate reports on payment arrears, cover all externally financed transactions in a timely way, and maintain records on public transactions and activities. Best practices suggest that the accounting system should have the capacity for accounting and reporting on an accrual basis, as well as for generating cash reports.

127. Internal control systems are also very important and are intended to provide assurance that management's objectives are being achieved. Responsibility for internal control therefore rests with the head of each individual government agency. However, a central government agency might be assigned responsibility for developing a government-wide standard approach to internal control.

#### Box 7. INTOSAI Guidelines for Internal Control Standards

INTOSAI has issued a set of general and detailed standards defining a minimum level of acceptability for a system of internal control.

##### General standards

- Specific control objectives are to be set for each activity of the organization, and are to be appropriate, comprehensive, reasonable, and integrated into the organization's overall objectives.
- Managers and employees are to maintain a supportive attitude to the standards at all times, and are to have the integrity and sufficient competence to meet the standards.
- The system is to provide reasonable assurance that the objectives of an internal control system will be met.
- Managers are to continually monitor their operations and to take prompt remedial action where necessary.

##### Detailed standards

- Full documentation of all transactions and of the control system itself are to be provided.
- Transactions and events should be promptly and properly recorded.
- Execution of transactions and events should be properly authorized.
- Key responsibilities at different stages of a transaction should be separated among individuals.
- Competent supervision is to be provided to ensure control objectives are being achieved.
- Access to resources and records is to be limited to authorized individuals who are accountable for their custody or use.

*Source: Revised Manual on Fiscal Transparency, IMF, 2001*

128. Assessments of the performance of public sector accounting systems across the African continent provide a bleak picture. Generally, the accounts produced by treasuries tend to be incomplete and the current bookkeeping procedures in these treasuries are inadequate. The staffs working on budget execution and accounting tasks tend to lack the necessary skills to make the systems work effectively. There is also insufficient co-ordination between different ministries to ensure that the essential linkages between budget execution and accounting functions work and operate effectively. Therefore, the introduction of major budget and accounting reforms will require a serious prior assessment of the capacity needed to ensure that these reforms are successfully implemented. The introduction of computerization, and the integrating of budget execution and accounting, for example, will require technical skills, which in most cases are not currently available either quantitatively or qualitatively in government ministries.

129. To generalize from a recent CFAA experience in Benin, actions required to advance and improve the performance of the accounting systems in Africa include:

- Training of staff currently involved in generating data for the public accounts;
- Analysis of unexplained balances carried forward and appropriate resolutions found for unresolved issues;
- Current operations to be accounted for on a daily basis whether relating to budget execution or accounting;
- Derogatory operations to be reduced to an absolute minimum and limited to very few operations; regular follow-up of such operations is essential to ensure full accountability. Current procedures for reporting accounting data generated by secondary accounts should be improved, and ways found to increase data reliability and general compliance with current rules and regulations; and
- Production of the government accounts on time for transmission to the Auditor General (*Chambre des Comptes*).

## 6.2 The Auditing System

130. This section draws heavily on the 2001 World Bank publication on *Features and Functions of Supreme Audit Institutions*. Supreme audit institutions can curb corruption by legal, financial, and institutional frameworks and by reducing the arbitrary application of rules and laws. Supreme audit institutions are national agencies responsible for auditing government revenue and spending. Their legal mandates, reporting relationships, and effectiveness tend to vary, reflecting different governance systems and government policies. But their primary purpose is to oversee the management of public funds and the quality and credibility of governments' reported financial data.

131. There are three basic types of audit: financial (or attest), compliance, and performance (or value-for-money). Together these three types form a comprehensive audit framework that, over time, provides a complete view of an organization or function. In financial auditing, the auditor assesses the accuracy and fairness of an organization's financial statements. In compliance auditing the auditor checks whether

government revenue and spending have been authorized and used for approved purposes. Transactions are reviewed to determine if government departments and agencies have conformed to all pertinent laws and regulations. This process includes checking the spending authority in the annual budget and any relevant legislation.

132. Performance or value-for-money auditing determines whether taxpayers have received value for their taxes. Auditors work closely with subject matter experts who offer advice and review audit results. The mandate for performance auditing varies among supreme audit institutions. Sometimes it is confined to reviewing operational efficiency. In other cases it extends to reviewing the effectiveness of government programs in achieving their objectives.

### **6.2.1 Conditions for Successful Supreme Audit Institutions**

133. Several features are crucial to the success of a supreme audit institution, these include:

134. **A Supportive environment:** Supreme audit institutions function within a wider institutional setting. Thus, they are effective only to the extent that they are permitted to conduct their work and their reports are used to promote accountability. In many African countries, public accounts are poorly maintained and parliaments may not ensure that audit issues are addressed. Flagrant abuses identified by supreme audit institutions may not be prosecuted and, in some cases, their work may be sabotaged.

135. **Clear mandates:** Auditing mandates should be anchored in rules set by parliament. Before drafting such legislation, supreme audit institutions and governments must determine the auditors' independence and reporting responsibilities, the scope of audits, and the entities to be audited - elements shaped by national legislation and domestic conditions. In Westminster parliamentary systems an audit also ensures that the supreme audit institution addresses all of the issues parliament wants scrutinized by an independent body.

136. **Independence:** Independence is a necessary feature of supreme audit institutions. Autonomy is essential for an Auditor General given the need to report directly to parliament without interference from other branches of government. The leader of a supreme audit institution needs both a legal and a traditional status to ensure that senior bureaucrats make information available and respond appropriately to recommendations. Independence can be strengthened by setting out the Auditor General's role in the country's constitution, as in Uganda and Zambia, for example.

137. **Adequate funding, facilities, and staff:** Supreme audit institutions require adequate funding, equipment, and facilities. In the developing world, where such elements are often inadequate, there is greater potential for supreme audit institutions to operate more efficiently. But it is unlikely that increased efficiency alone would generate enough savings to provide competitive salaries and modern technology. Governments need to recognize the costs as well as the high returns of audits, and provide commensurate funding. To ensure high-quality work, supreme audit institutions need well-qualified, adequately remunerated staffs who are encouraged to continuously improve, especially in their areas of expertise. For example, auditors can enhance their skills in fraud detection and information technology through a combination of training, education, and experience. The number of authorized personnel should be determined

independently of government control. To maintain their credibility, supreme audit institutions should be managed such that a performance audit of their operations would result in a favorable report.

138. **Sharing of knowledge and experience:** International exchanges of ideas, knowledge, and experience improve audits, harmonize standards, promote best practices, and generally help supreme audit institutions fulfil their mandates. International congresses and training seminars, regional and interregional conferences, and international publications have promoted the development of auditing. Moreover, supreme audit institutions should work closely with enforcement officials in government agencies to share skills and insights and to become more adept at uncovering corruption.

139. **Adherence to international auditing standards:** Audits are more effective when supreme audit institutions adhere to professional auditing standards, such as those promulgated by the International Organization of Supreme Audit Institutions (INTOSAI) or other international professional accountancy bodies.

## 7. Codes and Standards of Good Economic and Corporate Governance

140. The adoption and or adaptation of these codes and standards have come to be recognized as an essential element in promoting good economic and corporate governance. NEPAD should therefore seek to promote the adoption and/or the adaptation of these codes and in African countries. In this context it must be emphasized that the adoption of internationally accepted standards and codes is likely to be viewed more favorably by international investors than an attempt by African countries to develop standards and codes that differ from those adopted by other countries. Moreover, the basic pillars and the rationale giving rise to these codes and standards will be the same throughout the world. There are currently some 70 codes and standards pertaining to economic and corporate governance. Below, we describe what, by consensus of the development community, are the key ones. Following that, we also discuss the key diagnostic tools used for determining the extent and nature of a given country's compliance with these codes and standards.

### 7.1 Key Codes and Standards

141. The *Code of Good Practices on Fiscal Transparency*: The main provisions of this code relate to: clarity of roles and responsibilities; public availability of information; open budget preparation, execution, and reporting; and independent assurances of integrity. This code was developed by the IMF and endorsed by the Interim Committee in April 1998. It was updated and approved by the Executive Board in March 2001. Below is a summary of its main provisions:

- Clarity of Roles and Responsibilities:
  - The government sector should be clearly distinguished from the rest of the economy, and policy and management roles within government should be well defined.
  - There should be a clear legal and administrative framework for fiscal management.
- Public Availability of Information:
  - The public should be provided with full information on the past, current, and projected fiscal activities of government.
  - Governments should commit themselves publicly to the timely publication of fiscal information.
- Open Budget Preparation, Execution, and Reporting:
  - Budget documentation should specify fiscal policy objectives, the macroeconomic framework, the policy basis for the budget, and identifiable major fiscal risks.
  - Budget data should be classified and presented in a way that facilitates policy analysis and promotes accountability.
  - Procedures for the execution and monitoring of approved expenditures should be clearly specified.

- Fiscal reporting should be timely, comprehensive, and reliable, and should identify deviations from the budget.
- Independent Assurances of Integrity:
  - The integrity of fiscal information should be subject to public and independent scrutiny.

142. The *Code of Good Practices on Transparency in Monetary and Financial Policies*: In the context of strengthening the international monetary and financial system, the IMF, in cooperation with the Bank for International Settlements, and in consultation with a representative group of central banks, financial agencies, other relevant international and regional organizations, and selected academic experts, developed a code of transparency practices for monetary and financial policies. On September 26, 1999, the Interim Committee adopted the code as a guide for members to increase transparency in the conduct of these policies. The code relies on two basic principles: (1) Monetary and financial policies can be made more effective if the public knows and understands the goals and instruments of policy and if central banks and financial agencies make a credible commitment to meeting them; and (2) Good governance calls for central banks and financial agencies to be accountable, particularly where these agencies are granted a high degree of autonomy. The main provisions of the code relate to:

- The need to state clearly the role, responsibilities and objectives of the central bank. Therefore, the objectives of the central bank should be clearly defined, publicly disclosed and written into law. Institutional responsibility for foreign exchange policy should be disclosed. While the objectives of the central bank are best decided by society at large, the law should give the central bank the authority to select the instruments best suited to meeting those objectives.
- The law should specify the manner in which central bankers will be held accountable for their actions, but should also protect them from arbitrary dismissal and over-turning of their decisions. The institutional relationship between monetary and fiscal operations should be clearly defined, as should any agency roles performed by the central bank on behalf of the government.
- The decisions of the central bank should be communicated to the public in an open manner. The central bank should explain the framework, instruments, and targets, if any, which are used to achieve its objectives. The structure of the central bank's decision-making body should be publicly disclosed and its decisions communicated in a timely manner.
- Information on monetary policy should be publicly available, and the central bank's data releases should at a minimum conform to the IMF's standards for data dissemination. The central bank should establish and maintain public information services.
- The practices to hold central bankers accountable for their actions should be promoted. Central bank officials should periodically appear before a designated public authority to explain the conduct and performance of monetary policy and exchange views on the state of the economy and financial system. The central bank should also provide assurances of the integrity of its operations and its officials through release of audited financial statements of its operations, information on expenses and revenues in operating the bank, and establishment of standards of conduct to avoid conflicts of interest. At the same time, the extent to which central bankers are

protected from being sued for actions taken in the conduct of their duties should be disclosed.

- The objectives and institutional framework of financial agencies should be clearly defined, preferably in relevant legislation or regulation. The role of oversight agencies with regard to payment systems should be publicly disclosed. Financial policies should be communicated to the public in an open manner, compatible with confidentiality considerations and the need to preserve effectiveness of actions. Financial agencies should issue periodic public reports on major developments in the financial system, report aggregate data on a timely and regular basis, make texts of regulations and directives readily available to the public, and publicly disclose special protections such as deposit insurance schemes and consumer protection arrangements. Practices to hold officials of financial agencies accountable for their actions are to be promoted and should be quite similar to the practices recommended for central bankers.

143. *Guidelines for Public Expenditure Management*: These guidelines were developed by the IMF in 1999, and are intended to provide guidance on the requirement of an effective public expenditure management system. Such a system should be based on an objective macroeconomic assessment of available revenues and financing, ideally, the expenditure budget should aim to be comprehensive, transparent, realistic, policy-oriented, and allow for clear accountability in budget execution also. To be fully effective, public expenditure management systems require four forms of fiscal and financial discipline:

- Control of aggregate expenditure to ensure affordability. That is, consistency with the macroeconomic constraints;
- Effective means for achieving resource allocations that reflect expenditure policy priorities;
- Efficient delivery of public services (productive efficiency); and
- Minimization of the financial costs of budgetary management (i.e., efficient budget execution and cash and debt management practices).

144. *The OECD Best Practices for Budget Transparency*: These best practices were developed by the OECD and released in May 2001. They are designed as a reference tool for use by countries in order to increase the degree of budget transparency. They are in three parts:

- Part I lists the principal budget reports that governments should produce and their general content: the budget; a pre-budget report; monthly reports on budget implementation; a mid-year report; a year-end report; a pre-election report; and a long-term report.
- Part II describes specific disclosures to be contained in the reports: economic assumptions; tax expenditure; financial liabilities and assets; non-financial assets; employee pension obligations; and contingent liabilities.
- Part III highlights practices that ensure the integrity of reports: accounting policies; systems and responsibility; audit; and public and parliamentary scrutiny.

145. *The General Data Dissemination System (GDDS)*: The GDDS was developed by the IMF and approved by its Executive Board in December 1997. Its primary focus is on improving data quality, while providing a framework for evaluating the need for data improvements and offering guidance on data dissemination. The focus on data quality is

a recognition that, for many countries, improvements in data quality are a necessary precursor to enhanced dissemination of data to the public. Several African countries (including Cameroon, Côte d'Ivoire, The Gambia, Mauritius, and Uganda) have voluntarily signed up to comply with the GDDS.

146. *The Special Data Dissemination Standard (SDDS)*: The SDDS was also developed by the IMF. It was approved by the Executive Board in March 1996 and was established to guide countries that have, or that might seek, access to international capital markets in the dissemination of their economic and financial data to the public. So far, only South Africa, among African countries, has subscribed to the SDDS. The SDDS is expected to contribute to the improved functioning of financial markets, among other things.

147. *The Core Principles for Effective Banking Supervision*: The Principles were formulated by the Basle Committee on Banking Supervision and issued in September 1997. They represent the minimum requirements for an effective banking supervisory system. The Principles are intended to serve as a basic reference for supervisory and other public authorities in all countries and internationally. They are comprehensive in their coverage and address:

- The preconditions for effective banking supervision.
- Licensing and structure.
- Prudential regulations and requirements.
- Methods of ongoing banking supervision.
- Information requirements.
- Formal powers of supervisors.
- Cross-border banking.

148. *The Objectives and Principles of Securities Regulation*: These principles were developed by the International Organization of Securities Commissions (IOSCO) and released in September 1998. The main objectives are: the protection of the investor; ensuring that markets are fair, efficient and transparent; and the reduction of systemic risk. The principles are summarized below:

- Principles relating to the regulator, require clarity and objectivity of the regulator which should be operationally independent in, and accountable for, what it does; it should have the authority, resources and capacity to carry out its functions effectively; it should adopt clear and consistent processes; and its staff should be of the highest professional calibre.
- Principles relating to self-regulation which encourage use of Self-Regulatory Organizations (SROs) with direct oversight responsibility for their areas of competence and in relation to the size and complexity of the markets; SROs should also be subject to oversight of the regulator to ensure fairness and confidentiality.
- Principles for the enforcement of securities regulations which, provide that the regulator should have inspection, investigative, surveillance, and enforcement powers which should be used in a manner that is effective and credible to ensure effective compliance.
- Principles for co-operation in regulation requiring that the regulator should have authority to share public and non-public information with domestic and international counterparts in a manner that is formalized for mutual assistance in investigation matters.

- Principles of issuers which, require that there be timely and accurate disclosure of financial and other matters that is essential to investors; that investors in a company be treated fairly and equitably; and that accounting and audit standards adopted be of the highest international standards.
- Principles for collective investment schemes which require the setting up of standards for participant eligibility with regulations for collective marketing or operation of group schemes; the legal forms and structures of collective investment schemes and segregation and protection of client assets; investor disclosure requirements; and a proper and disclosed valuation, pricing and redemption of units in collective schemes.
- Principles for market intermediaries providing for minimum entry standards, initial and periodic capital and other prudential requirements to reflect the extent of risk that intermediaries take;
- Principles for the secondary markets that set up trading systems, including securities exchanges authorized and under continuing oversight to ensure their trading integrity, setting up rules for observance of fairness and equity with appropriate balances between the demands of different market participants; regulatory promotion of trading transparency; regulations designed to detect and prevent manipulation and/or other trading malpractice; proper management of large exposures, default risk and market disruptions; and regulations to oversee the clearing and settlement of securities transactions and for the promotion of fair, effective, efficient dealings and the reduction of systemic risk.

149. *Insurance Core Principles*: These principles were developed by the International Association of Insurance Supervisors (IAIS) and released in October 2000. They provide a means to foster prudent insurance supervisory practices globally. The latest standards set for insurance supervisors are:

- Supervisory standards on licensing which sets out the conditions that must be met for the licensing of any insurance company as these help in the promotion of efficiency and stability.
- Standards on on-site inspections – procedures and organization of the collection of reliable data and information for the assessment of a company's current and prospective solvency.
- The supervisory standard on derivatives and how insurers can control risks on derivatives.

150. *The Core Principles for Systemically Important Payments Systems*: These Principles were prepared by an international Task Force appointed by the Committee on Payments and Settlements Systems (CPSS) and were released in January 2001. They are expressed in a general way to facilitate application in countries. They aim to enhance safety and efficiency in payment systems.

151. *The OECD Principles of Corporate Governance*: These Principles were prepared by the OECD and released in 1999. They are intended to serve as a reference point for countries' efforts to evaluate and improve the legal, institutional and regulatory framework. These principles recognize that a good corporate governance regime is central to the efficient use of corporate capital. Good corporate governance also helps to ensure that corporations take into account the interests of a wide range of constituencies, as well as of the communities within which they operate, and that their boards are

accountable to the company and the shareholders. This, in turn, helps to assure that corporations operate for the benefit of society as a whole. It helps to maintain the confidence of investors - both foreign and domestic - and to attract more long-term capital. The principles cover five areas:

- The rights of shareholders.
- The equitable treatment of shareholders.
- The role of stakeholders.
- Disclosure and transparency.
- The responsibility of the board.

152. *Principles for Corporate Governance in the Commonwealth*: These guidelines were issued by the Commonwealth Association for Corporate Governance (CACG) in 1999, and are intended to facilitate best business practices and behavior by the private sector and state-owned enterprises. The main highlight of the guidelines include the following:

- The Commonwealth, through its participation in the Global Corporate Governance Forum with the World Bank and OECD, is committed to a uniform approach on corporate governance in the global economy. Consequently, the CACG guidelines have been structured on a basis complementary to the *OECD* Principles of Corporate Governance, with particular focus on the emerging and transition economies in the global market which comprise a substantial number of Commonwealth countries.
- The CACG, in conjunction with the Commonwealth Secretariat, has over the past two years undertaken a series of national policy workshops designed to raise and debate issues of corporate governance relevant to a country and /or region. Such workshops have already taken place in Mauritius, Uganda (also involving Kenya, Tanzania and Rwanda), Fiji, Ghana, Mozambique, Sierra Leone, The Gambia, Trinidad & Tobago (incorporating other interested territories in the Caribbean), Zambia and Botswana.
- CACG Guidelines have placed particular emphasis on boards of directors of all business enterprises - whether private, public, family-owned or state-owned.
- Other issues of corporate governance are highlighted namely: corporate governance and state enterprises in the Commonwealth, business ethics and corruption, the role of professions in the Commonwealth as well as a plethora of other evolving issues.
- The guidelines set out 15 principles of corporate governance aimed primarily at boards of directors of corporations with a unitary board structure, as is most often found in the Commonwealth. The Principles apply equally to boards of directors of all business enterprises - public, private, family-owned or state-owned. The principles are applicable to both executive and non-executive directors.
- The CACG Guidelines are seen as a "continuum", remaining flexible and responsive to further developments in corporate governance in the global economy.

153. *The Code of Ethics and Auditing Standards*: This code was developed by the International Organization of Supreme Audit Institutions (INTOSAI) in 1998. It takes the concept and establishment of audits as inherent in public financial administration, and above all, that the management of public funds represents a trust. Audit is not an end in itself but an indispensable part of a regulatory system whose aim is to reveal

deviations from accepted standards and violations of the principles of legality, efficiency, effectiveness and economy of financial management early enough to make it possible to take corrective action in individual cases; to make those accountable accept responsibility; to obtain compensation; or to take steps to prevent or at least render more difficult such breaches. The code takes the following as basic principles that should govern audit practices:

- The orderly and efficient use of public funds constitute one of the essential prerequisites for the proper handling of public finances and the effectiveness of the decisions of the responsible authorities.
- It is indispensable that each country has a Supreme Audit Institution whose independence is guaranteed by law. Such institutions become even more necessary because the state has expanded its activities into the social and economic sectors and thus operates beyond the limits of the traditional financial framework.
- The specific objectives of auditing, include: the proper and effective use of public funds; the development of sound financial management; the proper execution of administrative activities; and the communication of information to public authorities and the general public through the publication of objective reports.

154. The *International Accounting Standards*: These standards are developed by the International Accounting Standards Board. They are issued annually and state that accounting systems should be based on well-established internal control systems, allow for the capture and recording of information at the commitment stage, generate reports on payment arrears, cover all externally financed transactions in a timely way, and maintain records on *aid-in-kind*. Best practice is that the accounting system should have the capacity for accounting and reporting on an accrual basis, as well as for generating cash reports.

155. The *International Standards on Auditing* are developed by the International Federation of Accountants. These standards are to be applied in the audit of financial statements and they are accompanied by auditing practice statements to provide practical assistance to auditors in implementing the Standards as well as to promote good practice. The Standards cover responsibilities, planning, internal control, audit evidence, audit conclusions and reporting, and external auditors, among other areas.

156. The *Guidelines for Public Debt Management* were prepared by the IMF and World Bank in March 2001. They are designed to assist policy-makers in reforms to strengthen the quality of their public debt management and reduce their country's vulnerability to international financial shocks. The guidelines cover both domestic and external debt and encompass a broad range of financial claims on the government. They seek to identify areas in which there is broad agreement on what generally constitutes sound practices in public debt management, and they endeavour to focus on principles applicable to a broad range of countries at different stages of development and with various institutional structures of national debt management.

## 7.2 The Diagnostic Tools

157. **The Country Financial Accountability Assessment (CFAA) of the World Bank:** The CFAA is a diagnostic tool designed to assess the financial accountability arrangements in the public and private sectors at the country level. CFAAs are intended to identify the strengths and weaknesses of accountability arrangements and thus facilitate the design and implementation of capacity building programs.

158. **Reports on the Observance of Standards and Codes (ROSCs) of the IMF and the World Bank:** The IMF and the World Bank have begun preparing a series of ROSCs. These reports summarize the extent to which countries observe certain internationally recognized standards. The IMF has recognized eleven (11) areas and associated standards as useful for the operational work of the Fund and the World Bank. These include data dissemination; monetary and financial policy transparency; fiscal transparency; banking supervision; securities; insurance; payments systems; corporate governance; accounting; auditing; and insolvency and creditor rights.

159. **Country Assessment in Accountability and Transparency (CONTACT) of UNDP:** The objective of CONTACT is to assist governments in conducting self-assessment of their financial management and integrity systems; function as a tool for quality control, performance and task measurement; and provides an international, uniform and comprehensive set of guidelines to financial accountability stakeholders.

160. **Country Procurement Assessment Review (CPAR):** This is a World Bank diagnostic tool and is intended to be a useful in describing and diagnosing the health of the existing procurement system in a country and, in the process, generate a dialogue with the government focused on needed reforms. The main purpose of the CPAR is to establish the need for and guide the development of an action plan to improve a country's system for procuring goods, works, and services.

161. **Institutional and Governance Reviews (IGRs):** These are World Bank instruments that are designed to bring a greater focus on and understanding of governance arrangements in the public sector and their link to public sector performance. The IGRs focus on major problems of government performance in one or more of the following areas: the reform of policymaking institutions, service delivery, and accountability.

162. **Public Expenditure Reviews (PERs):** The PERs are World Bank tools intended to review a country's public expenditure policy and management. They also review macro issues such as the country's fiscal stance and sustainability, and may also include significant coverage of revenue issues.

163. **Country Performance and Institutional Assessments of the World Bank:** Country performance is assessed under five major clusters of criteria, namely: sound macroeconomic management; growth with equity and poverty reduction; development sustainability; sound country portfolio performance and good governance based on accountability, transparency, and respect for human and political rights, rule of law, freedom of information and association; and participation in government. Each cluster is rated, and when aggregated, a composite rating is obtained for the country.

164. **Financial Sector Assessment Program (FSAP):** This is a joint program of the IMF and the World Bank. It helps to identify financial system strengths and vulnerabilities and to reduce the potential for crisis. The program, which fits within the context of the Fund's Article IV surveillance, is responsive to calls by the international community for closer cooperation to assist countries willing to work to reduce the likelihood and/or severity of financial sector crises. The emphasis of the FSAP program is on prevention and mitigation rather than crisis resolution. Countries benefit from broader coverage and more consistent and rigorous analysis of their financial systems. The FSAP helps alert national authorities to likely vulnerabilities within their financial sectors while assisting the Bank and the Fund, and the international community more broadly, in designing appropriate assistance. Because each FSAP report identifies follow-up measures for the authorities, it also provides a foundation for financial sector technical assistance programs.

## 8. Prioritizing the Codes and Standards of Good Governance Practices for Africa

165. Section 7 described the available codes and standards that African countries should strive to comply with in their quest for good economic and corporate governance. However, as was demonstrated in Section 3, compliance with good economic and corporate governance is also heavily influenced by factors related to political governance. Consequently, the measurement and observance mechanisms must also be concerned with those key elements of political governance that impact on the quality of economic and corporate governance in Africa. In that regard, any prioritizing of codes and standards for economic and corporate governance in Africa must also include some prioritizing of the political governance codes and standards that have an influence on the former.

166. However, although it may be a relatively simple matter to formulate a prioritized list of codes and standards for many countries, for Africa such an exercise will be much more complex given the diversity of the region's countries in terms of economic development, political development, and institutional development. For example, the levels of institutional and political development in South Africa (a country that has already subjected itself to a Report on Observance of Codes and Standards) are much higher than in Zimbabwe (a country where court decisions against the government have been ignored by the said government). So the question that will then arise in each scenario is "which institutions matter, when, and under what circumstances?" As a result, the undertaking of such an exercise will certainly be fraught with controversy. What would be a much more useful approach is to suggest those "fundamental" internationally, regionally, and domestically accepted codes and standards that all African countries should strive to observe as consistently as possible, within their capacity capabilities. In other words, the codes and standards that ought to be complied with as a minimum requirement.

167. The fundamental aspect being referred to here is the broad consensus that permanent observance of these codes and standards will be good for the poor. The logic is that, in many African countries, those who are better off can afford to pay for the deleterious effects of bad governance (through bribery, for instance), whereas the poor are the least capable of bearing such costs. By extension, therefore, priority must be given to codes and standards, or best practices, that lead more quickly to pro-poor development outcomes. African leaders must commit to these.

168. The eradication of poverty on the continent is the ultimate goal. However, it must also be acknowledged that bad policies have led to the entrenchment of a vicious cycle, in which economic decline, reduced capacity, and poor governance reinforced each other. Today, the weak state remains a major constraint on sustainable development in a number of African countries. Indeed, one of the major challenges for Africa is to strengthen the capacity to govern and to develop long-term policies that can improve the well-being of the people in a transparent and accountable manner. Keeping all of these factors in mind, the codes and standards are prioritized as shown below. They have the potential to promote market efficiency, control wasteful spending, consolidate

democracy, and encourage private financial flows – all of which are critical aspects of the quest to reduce poverty and enhance sustainable development.

169. Furthermore, and as described in the next section, we are also proposing an African Peer Review (APR) mechanism that will, among other things, assess the specific and particular capacity constraints that exist in a given African country. These are the capacity constraints which seriously hamper observance of, and/or compliance with, all of the applicable codes and standards related to all aspects of governance. Part of that APR process will be not only to determine the capacity constraints to good governance but also to make recommendations on the best way forward to remove those constraints in the shortest possible period of time.

170. With respect to political governance, we suggest that priority should be given by African countries to observing and complying with the following fundamental codes and standards, which as stated before, have a major influence on the quality of economic and corporate governance. However, these issues of political governance are being handled by a sub-committee chaired by South Africa:

- Codes of conduct for public officials (civil servants and politicians), including stipulations against accepting bribes directly or indirectly; the proscribing of abuse of powers; obligations to act and decide impartially, and to refrain from anything that could damage credibility in impartial decision-making, from accepting gifts or other benefits during the execution of official duties except for cases specified by law, and from acts that could cause any conflict of interest; controls regarding the unauthorized use of confidential information obtained in the course of performing official duties and, similarly, with respect to government property; procedures for financial transparency such as declarations of assets and property owned to prevent unlawful accumulations thereof;
- Political representation standards, including duration of terms of office for all elected officials and any limitations on re-election; laws and practices governing the free formation, registration, and growth of political parties; the independence and neutrality of electoral oversight bodies and election officials; free and fair elections; the transparency and fairness of procedures for demarcating electoral districts; tolerance for peaceful political protest; acceptance of minority groups (such as women) in key political posts; and
- Standards on institutional effectiveness and accountability, including respect for the constitutional protection of civil, human, and political rights; independence of legislative oversight committees; tolerance for the independence of the judiciary; respect for judicial rulings; respect for the powers and findings of other oversight agencies, such as the Ombudsman's Office and the Anti-Corruption Directorate, in securing societal redress; tolerance for a free and independent media; support for a meritocratic civil service; empowerment of citizens through procedures for regular consultation on issues of national importance; support for devolved responsibilities to local governments; and compliance with requests from civil society groups for information not deemed to be of a national security nature.

171. The priority codes and standards on economic and corporate governance, given the perspective described above, are suggested to be the following:

- Code of Good Practices on Transparency in Monetary and Financial Policies;
- Code of Good Practices in Fiscal Transparency;

- Best Practices for Budget Transparency;
- Guidelines for Public Debt Management;
- Principles of Corporate Governance;
- International Accounting Standards;
- International Standards on Auditing; and the
- Core Principles for Effective Banking Supervision.

## 9. The African Peer Review (APR) Mechanism

172. The APR mechanism that is proposed here builds on the concept of African ownership to allow for action on assessments of economic and corporate governance issues, in African countries, that have been conducted by fellow Africans in a credible manner. A credible APR process would have both an accountability and a broader development perspective. The accountability perspective is derived from the need to demonstrate, first and foremost, that the political commitment and will exists to engage in self-monitoring and to take corrective actions where required. The development perspective is derived from the need to effect systems of good economic and corporate governance to encourage private investment and a climate for enhanced donor flows to stimulate growth and reduce poverty. Ideally, the APR process would allow for the interests of donors and African countries to converge.

173. The APR mechanism is an idea whose time has come. It is therefore a diagnostic tool that is designed to provide an assessment of the differences in country performance and diversity with respect to economic and corporate governance. It would also validate, or qualify, any relevant assessments conducted by external partners. As a credible self-monitoring mechanism, it can also serve as a starting point for deliberations with donor agencies rather than relying entirely on assessments by the latter.

174. In addition, the implementation of the APR mechanism can give effect to the need for targeted capacity-building in priority areas. State capacity-building is a critical aspect of creating conditions for development. As stated in the NEPAD framework document (Para. 86), “the state has a major role to play in promoting economic growth and development, and in implementing poverty reduction programs. However, the reality is that many governments lack the capacity to fulfil this role. As a consequence, many countries lack the necessary policy and regulatory frameworks for private sector led growth. They also lack the capacity to implement programs, even when funding is available”.

### 9.1 Objectives of the APR Mechanism

175. The APR mechanism will focus on the key features of economic and corporate governance in the country being reviewed and, in that regard, its primary objectives will be the following:

- To enhance African ownership of the development agenda;
- To monitor and track progress towards agreed NEPAD goals, and codes and standards;
- To identify, evaluate, and disseminate good practices;
- To ensure that policies are based on the best current knowledge and/or the practical experience of peer countries;
- To assess how good practices can be effectively transferred to other African states;
- To use peer scrutiny and pressure to induce the adoption of good practices and adherence to agreed codes and standards; and
- To identify capacity gaps and recommend approaches to address those gaps.

## **9.2 Implementation Modality for the APR Mechanism**

### **9.2.1 The Process**

176. The process for the implementation of the APR mechanism will be in three stages. In Stage One, an analysis will be conducted of the development and governance environment in the country to be peer reviewed. Key issues will be identified for the country, as relevant, such as the role of the judiciary, parliamentary oversight functions, corruption, political representation problems, fiscal management, monetary and financial transparency, accounting and auditing systems, and so on.

177. Stage Two of the APR process will entail a mission team visiting the country under review. The mission's work here will be significantly informed by the Stage One analysis and will be focused on economic and corporate governance issues with particular emphasis on public financial management and accountability, including the legal and administrative framework for fiscal management, budget formulation and execution, financial reporting, and auditing practices, for example. Although, much of the information and data here will be obtained from government sources, other independent sources of information will also need to be consulted, given the data intensive nature of a peer review process.

178. In this stage Two APR process, mission members will interact with, and interview extensively, the relevant government officials; parliamentarians; opposition party members not in parliament; banking and financial sector representatives; private sector representatives; officials of resident missions of regional and international organizations; and representatives of civil society groups, including the media, NGOs, universities, and trade unions, for example.

179. The mission will prepare a report on its findings, a draft of which will be discussed with the government concerned. Those discussions will be designed to ensure the accuracy of information and to offer the government an opportunity to rebut the mission's findings as well as provide its own views on how the identified shortcomings may be addressed. These responses of the government will be appended to the mission's report.

180. Stage Three, the final stage of the APR process, will involve discussions of the outcomes of a mission and the recommendations regarding the next steps. These discussions will occur in a forum of a Committee of Ministers of Finance and Central Bank Governors. This forum will be convened periodically through the APR Secretariat for this purpose. The deliberations and decisions of this forum will be conveyed to the NEPAD Heads of State and Government Implementation Committee through the NEPAD Steering Committee.

### **9.2.2 Administrative Arrangements**

181. First, it is proposed that the APR mechanism should be managed by, and situated in, a Secretariat which has the technical capacity to undertake the analytical work that underpins the peer review process as described above. Such a Secretariat must necessarily be located in an independent and credible institution that is separate from the political process and NEPAD structures.

182. Second, countries would volunteer to be peer reviewed. The experience elsewhere has shown that pressure for change is generated by public exposure rather than through mandatory actions.

183. Third, the members of the peer review mission team, as well as their terms of reference, should be approved by the Heads of State and Government Implementation Committee. Such an approved team should be comprised of an eminent African personality and representatives from two other countries. Additional members of the team will be provided by the APR Secretariat to enhance technical expertise and ensure the robustness and credibility of the process and its outcomes. **All members of the team should not be citizens of the country to be peer reviewed.**

## 10. Conclusion

184. Good economic and corporate governance is good for Africa. Countries attract more investment and achieve higher rates of per capita growth when the state improves certain basic aspects of its performance. A state that applies rules and policies predictably and fairly, ensures order and the rule of law, and protects property will generate confidence and attract more domestic and foreign investment. That, in turn, generates trade and faster economic growth as well as provide the wherewithal for integration into the global economy.

185. Globalization gives added urgency to the task of strengthening government and creating a capable state in Africa. Effective governments and efficient markets are both essential if African countries are to reap the benefits of globalization and to make that process work for the poor. Private capital, for example, is highly mobile and will go where business can be carried out safely and where it can make the best return. Weak and ineffective African states, with problems of corruption, inadequate infrastructure, and cumbersome bureaucratic procedures, are not an attractive destination for those flows.

186. More effective government and greater benefits from markets require tougher action by African countries to deal with the cancer of corruption. The empirical evidence suggests that corruption undermines growth and development and that, in turn, has an enormous effect on poverty. Growth and development are affected by corruption through a number of channels that arise due to the uncertainty created, the cost of bribes, and time-consuming bureaucracy. Those channels weaken economic growth through lower levels of domestic and foreign investment; distorted enterprise development and growth; distorted public expenditures and investments and deteriorated physical infrastructure; lower public revenues and less provision of the rule of law as a public good; overly centralized government; and state capture by the corporate elite of the laws and policies of the state, thereby undermining growth of output and investment of the enterprise sector.

187. Where corruption is rampant, as in Africa, the impairment of growth deepens poverty and inequality through channels such as regressive taxes, less effective targeting of social programs, unequal access to education, policy biases favoring inequality in asset ownership, reduced social spending, and higher investment risks for the poor. In addition, when corruption is pervasive, the poor are also victimized by its petty aspects. For example, essential medicines get diverted or not procured at all; unofficial payments are commonly required for water and electricity connections; and the police and the judiciary often respond only to bribery. However, corruption in Africa tends to make greater headlines in its grand scale. Grand corruption tends to involve leaders, politicians, senior bureaucrats, and entrepreneurs. It can take many forms. Bribes, for example, may flow from international firms in order to win contracts or seek favors from politicians and officials as was seemingly the case with South Africa's defense contracting in 2001. Much more frequent, however, is outright embezzlement and the looting of public assets that are then deposited in foreign banks and put to non-productive use.

188. African governments, through the influence of enlightened leadership and political will, must come to grips with the need to coerce policy reforms to achieve good economic and corporate governance. Understandably, this is very much a political process as pointed out in these guidelines. The political system determines policy. Politics determine whether governments rule for the public good or for narrower interests. It also influences whether governments are honest or corrupt, effective, or inefficient. In addition, and perhaps more importantly, politics determines the allocation of scarce resources between competing interests including those of the poor. The challenge is to use the political space to influence the achievement of good economic and corporate governance as these guidelines have suggested. Essentially, the mandate is that of reforming state institutions – administrative and civil services, parliament, participatory decision-making processes, and the judiciary – so that they lead to, and entrench, honesty and integrity in government; internationally acceptable standards of public financial management and accountability; integrity of the monetary and financial system; a sound regulatory framework; a competitive environment for the private sector, including transparent and enforceable rules and laws on property rights, shareholder rights, directors’ duties and responsibilities, patents, and intellectual property; and internationally recognized standards and practices in accounting and auditing in both the public and private sectors.

189. As stated at the outset, these guidelines cannot be universally applied across the African continent. Although we have identified some codes and standards whose observance should be prioritized, African countries, in association with their partners, would need to focus their efforts in applying the various codes and standards for economic and corporate governance, outlined herein, to their own particular set of circumstances and capacities. This will be a serious challenge in the implementation of the NEPAD. It can be stated in the following way: how to shape the implementation of the codes and standards in ways that address the circumstances, needs, and capacities of African countries at different stages of financial systems and private sector development and different stages of political governance? Given the relevance of globalization, and Africa’s need to catch up with its benefits, the continent’s economic and financial architecture must be revamped.

190. The existence of weak institutions of governance, as a constraint on development in Africa, is clear and convincing. However, the prescription of institution and capacity building is not one that can be expected to demonstrate results over the short-term. Frankly, many African countries are likely to operate with public institutions that are weak, inefficient, and ineffective for a considerable period into the future. Such a state of affairs will continue to lead to policy failure. For example, the continued lack of capacity to regulate financial markets in a globalized world will increase the resulting “costs of incompetence” – capital flight, financial contagion, and so on. Moving toward the use of internationally acknowledged standards and codes to help guide policies and reforms should contribute to stronger and more resilient financial and economic systems and to higher financial flows, both domestic and foreign, and thus to better economic performance. Since the use of these codes and standards will benefit both the African countries and foreign investors, extensive technical assistance should be provided to the former by the developed countries. This will go a long way in helping qualifying African countries to improve the capacity of their institutions to adapt and apply the relevant codes and standards for their sound economic and corporate governance.

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