

Final Workshop report

Workshop 5.6 - Preventing Corruption in Construction Projects through increased Transparency and Accountability

Moderator

Christiaan Poortman, Transparency International

Rapporteur

Laura Granado, Public Contracting Programme, Transparency International

Panellists

1. Bethan Grillo, Manager, CoST International Secretariat
2. Michael Wiehen, Senior Advisor, Transparency International
3. Neill Stansbury, Director, GIACC / Advisor, Transparency International UK
4. Kong Xiang Ren, Deputy Director of Foreign Affairs Department, Supervision Ministry of China
5. Donal O'Leary, Senior Advisor, Transparency International

Summary (300 words)

The workshop has presented the following initiatives to prevent corruption in the construction sector and in construction projects:

- Construction Sector Transparency Initiative - CoST
- Integrity Pacts: Preventing corruption in the contracting of construction projects
- Project Anti-Corruption System: Making anti-corruption an integral part of project management
- Operation of Tangible Construction Market in China
- The Sustainability Assessment Protocol for Hydropower Projects: Introducing the Anticorruption Perspective

At the end of the scheduled presentations, there was a special intervention of Mr. HO KWON CHO, representative of KORAIL (main railway operator in South KOREA), who presented their anti-corruption work and experience working with Integrity Pacts.

Construction has been highlighted as one of the areas more prone to corruption, given the dimension of the projects and the massive budgets involved. Moreover it has been stated that the consequences of corruption in construction projects most usually have dramatic effects on the environment and on the livelihood of considerable groups of citizens, who not only depend on the services that construction projects should provide, but also because they are often subject to relocation or because their economic activities are affected by the intervention associated to construction projects.

A special emphasis has been given to multi-stakeholder approaches that have been considered to be a key element to prevent corruption. The workshop has pointed out as well the importance of considering the different stages of planning, contracting and implementation in construction projects, in order to identify risks of corruption in each of the stages. Last but not least, the workshop has given the participants alternatives to deal with corruption risks in different cases with important emphasis on access to information, commitments and integrity pledges by involved parties, involvement of independent expert monitoring of projects and combination of different management tools to be able to combat corruption effectively in such complex projects.



Summary of presentations (300 words per panellist)

1. Construction Sector Transparency Initiative - CoST, by Bethan Grillo

Mrs. Grillo presented CoST, an international multi-stakeholder initiative designed to increase corruption in the construction sector focusing specifically on public disclosure of information. It is a two year pilot across seven countries (Tanzania, Zambia, Philippines, Vietnam, United Kingdom, Ethiopia, and Malawi). It is supported by DFID and implemented in partnership with the World Bank. CoST main purpose is to increase transparency and accountability in publicly financed construction projects around the world. The ultimate aim is to enhance the accountability of procuring bodies and construction companies for the cost and quality of public-sector construction projects.

Mrs. Grillo stated that CoST is necessary because corruption occurs at all stages of the project cycle. Corruption can result in unnecessary, unsuitable, defective or dangerous projects, which are often subject to severe delays. By allowing the public to make the comparisons between what was planned and what was delivered as well as to raise questions the aim is to reduce wasted opportunities and expenditure.

Mrs. Grillo explained that the core concept of CoST is 'Get What You Pay For'. The 'You' in this context applies equally to national governments, affected stakeholders, and to the wider public. An essential feature of CoST is the engagement of a wide range of stakeholders in the initiative. She stated too that CoST is based on a set of key guiding principles and must be implemented following a set of agreed criteria. The CoST process consists of: Preparation (Commitment by government, appoint CoST champion, establish multi-stakeholder group – MSG, produce country work plan, establish thresholds, establish project information template, and, playing a very important role, appoint assurance team), disclosures, project selection and lastly assurance.

She listed the following potential benefits of CoST: Improving transparency and accountability on true price and quality, competitive firms better positioned to win contracts, reduces reputational risks for governments and companies, improved investment climate, greater role for civil society in governance of construction sector, fewer defective buildings

Mrs. Grillo answered some questions and stated that the assurance team must be independent and multidisciplinary in order to obtain a legitimate judgment. She explained also that the participation of a political champion is essential since it guarantees support and senior expertise.

2. Integrity Pacts: Preventing corruption in the contracting of construction projects, by Michael Wiehen

Mr. Wiehen presented the Integrity Pact (IP) by explaining that it is a mutual commitment/pledge by principal and bidders in a public contracting process to refrain from all acts of bribery (and by winning bidder, "throughout execution phase"). The IP contains:

- a commitment by bidders to disclose all payments to third parties
- provisions for sanctions for violators (bidders and staff of principal) such as: Loss of contract, loss of bid or performance bond, liability for damages (to principal and competitors), debarment, civil, criminal, administrative sanctions for staff
- provision for conflict resolution procedures: Arbitration
- provision for monitoring by civil society (external expert monitor)



Mr. Wiehen pointed out that one of the most effective sanctions is debarment of the process and explained that through monitoring, civil society plays a key role in holding government and bidders to task. Monitor must have full access to all documents and parties. He stated that one of the advantages of the IP is that bidders can refrain from paying bribes in the knowledge that their competitors are covered by the same pledge – a controlled environment.

Concerning the demand of IPs, Mr. Wiehen pointed out that normally government departments impose the IP; but companies, about to bid for a major government contract, can also approach the principal and demand the use of an Integrity Pact.

Mr. Wiehen mentioned some of the benefits of the use of IP:

- Feedback generally very positive
- High compliance rate
- Significant savings in numerous cases (10-60%)
- Sanctions applied (debarment – Italy)
- Bidders usually quickly convinced of benefits
- Critical importance of Monitor (prevention and repression aspects)

He also pointed out some highlights regarding the proven impact of IP: reduced investment costs, better quality construction, longer lasting infrastructure, encouraging competitive bids, increased confidence of bidders, and increased trust of citizens in public administration and in NGOs.

Mr. Wiehen presented some examples of IPs and attendants posed several questions related to the effectiveness of the tool, when the signing of IP is required and the problem of using non-trustable national judicial systems. Mr. Wiehen answered the questions mentioning that in some countries the mandatory signing of the IP for all public contracts in a region or government agency has made it more difficult for the civil society to deal with the monitoring of so many public contracting processes. He explained as well that the signing of the IP has to be done as a first step in the bidding process, therefore at the beginning of the pre-qualification or bidding phase. Regarding the second question, arbitration is the solution for conflict resolution in order to avoid the judiciary.

3. Project Anti-Corruption System: Making anti-corruption an integral part of project management, by Neill Stansbury

Mr. Stansbury presented the Global Infrastructure Anti Corruption Centre (GIACC) as an independent not for profit organisation which provides resources and services for the purpose of preventing corruption in the infrastructure, construction and engineering sectors. He pointed out that corruption in the construction sector is extremely complicated and corruption can occur in many forms and at any level of the contractual structure and take place as well during any phase of the project: planning, design, contract execution, etc.

Mr. Stansbury presented as well the Project Anti-Corruption System (PACS) that GIACC has developed. It is an integrated and comprehensive system designed to assist in the prevention and detection of corruption on construction projects. The tool needs a top-down implementation and uses a variety of anti-corruption measures, which can be integrated into project management. These measures impact on all project phases, on all major participants, and at a number of contractual levels. He explained the system comprises a series of Templates and 12 Standards which recommend and describe anti-corruption measures which should be integrated into the management of construction projects: Independent Assessment, Transparency, Procurement, Pre-contract disclosure, Project anti-corruption commitments,



Funder anti-corruption commitments, Government anti-corruption commitments, Raising awareness, Compliance, Audit, Reporting, and Enforcement.

He highlighted the importance of investing time and money for a good project management against corruption.

Mr. Stansbury ended up his intervention answering some questions by stating that compulsory disclosure of information and availability of independent monitors is essential to fight against corruption and that there is a huge demand for companies for transparency since often companies withdraw for processes where there are corrupt companies bidding.

4. Operation of Tangible Construction Market in China, by Kong Xiang Ren

Mr. Xiang Ren started his intervention by explaining the increasing number of problems posed by corruption in the construction field in China due to the high development rate in the last year and presented the current situation in the city of Suzhou. He presented the “Tangible Construction Market” in China that is an institutional process to curb corruption in public contracting by offering an electronic management system for construction projects. It includes the following activities:

1. Registration of projects to be constructed
2. Publishing bidding notice
3. Invitation for bidding
4. Pre-assessment of the qualifications of the bidders
5. Releasing of bidding documents
6. Selecting experts to form assessment team
7. Tender opening
8. Assessment of tender documents
9. Declaring the winner
10. Signing the contract

Mr. Xiang Ren pointed out the importance of the selected experts for the assessment team. The experts don't know each other and therefore they cannot interfere with the assessment.

Mr. Xiang Ren also presented an on-line monitoring system that is being used making available information on the public contracting processes in the internet. The system intends to supervise the whole process from project registration, contracting, construction till completion. It targets at competent government departments and their employees and also at the clients of construction projects (mostly government agencies, institutions and state-owned enterprises).

Answering to attendants' questions Mr. Xiang Ren stated that the Supervision Ministry of China doesn't control the constructing activities of its private sector abroad but expressed his concern and the interest of the Chinese government in the development of regulations to deal with the risk derived of the participation of Chinese state companies in construction projects overseas. He also pointed out that the need of every country to standardise its entrepreneurial behaviour overseas is a must. At the end of his intervention he offered his contact to receive any information or complaints about behaviour of Chinese construction companies working overseas.

5. The Sustainability Assessment Protocol for Hydropower Projects: Introducing the Anticorruption Perspective, by Donal O'Leary

Mr. O'Leary presented the Hydro Sustainability Assessment Forum (HSAF) and explained



that its main goal as to establish a broadly endorsed sustainability assessment tool to measure and guide performance in the hydropower sector, based on the existing Sustainability Assessment Protocol of the International Hydropower Association (an industry-led initiative). He pointed out that the Forum seeks to operate with goodwill, transparency and by consensus. The process consists of 3 phases:

1. Define the relevant sustainability issues to be included in the Protocol
2. Refine the measurement instructions for each issue
3. Examine the spectrum of Protocol applications including the potential for a certification scheme.

The Members of the HSAF come from different backgrounds: developing and developed countries, environmental agencies, social institutions, financial organisations, hydro sector.

Mr. O'Leary mentioned that there are some problems with the existing protocol, such as limited application to date, subjectivity, inability to scale to different size projects, disconnect with Sustainability Guidelines, lack of clarity on thresholds and scoring.

Mr. O'Leary explained the Transparency International added value to the initiative that will consist in facilitating in each section the inclusion of aspects that deals with corruption for the first time in the hydropower sector, focusing mainly on contracting.

He also pointed out that HSAF can add value to other work in the construction sector by transferring the process and the examples being used to promote and provide incentives best practice in the hydro sector and by using a holistic approach in project design (e.g. not only address construction issues per se, but also social aspects, such as resettlement).

Mr. O'Leary mentioned that the next steps will be to finalize and document the review of the Existing Protocol (including Aspects and Attributes) and IHA Sustainability Guidelines as well as the modifications to be included in the New Protocol. Also each HSAF partner will organize a consultation process on the document.

6. Special intervention of Mr. HO KWON CHO, representative of KORAIL (main railway operator in South Korea), presenting their anti-corruption work and experience working with Integrity Pacts.

Mr. HO KWON CHO shared the Integrity Pact experience of KORAIL in the railway sector. He pointed out the importance of sharing best practices and expanding the knowledge. He presented some initiatives and tools which KORAIL has introduced since 2006 for improving the level of anti-corruption and their effects on staffs' attitudes towards anti-corruption. One of them is the "Integrity Ombudsman" or "Anti-Corruption Ombudsman", defined by KORAIL as a preventive anti-corruption system with public monitoring and feedbacks on all processes of major projects of KORAIL for enhancing fair transaction and relationship with business partners. The Ombudsman can monitor 3 main processes of projects, announcement stage, contract stage, and lastly implementation stage. They can examine the all documents, inspect the sites where the real projects are implemented and provide recommendations where the improvements are necessary. He pointed out that in 2007, 3 Ombudsman had improved 18 project processes, and this year 8 processes of major projects of KORAIL.



Main Outputs (200 words, narrative form)

The workshop has raised awareness on the importance of disclosure and availability of proper information, increased transparency accountability on construction projects in order to contribute to sustainable development. Experience on best practices to prevent corruption in construction projects has been shared and possible links between the different initiatives have been promoted. The involvement of increasing numbers of governments, development agencies, private sector, civil society and other stakeholders in order to promote transparency and accountability in construction projects has been encouraged. Other results of the workshop have been the identification of possible constraints on existing approaches and ways to overcome them and the exploration of possibilities of broader stakeholder involvement in the initiatives or with the application of the available tools, being the multi-stakeholder approach a key element to be considered.

The main outputs achieved with the workshop are the following:

- A report on the Workshop's discussion that document the experiences and lessons learnt in terms of best practices, and areas for improvement
- The identification of possibilities of networking or coalition building to engage on existing initiatives and to promote the use of tools to prevent corruption in construction projects in the future
- The presentation of several case studies to illustrate the opportunities and threats of specific construction projects to prevent corruption in the construction sector in different areas.

Recommendations, Follow-up Actions (200 words narrative form)

The workshop has brought out several recommendations to prevent corruption in construction projects as well as diverse lessons learnt from the presentations and discussions held during the workshop. They can be summarized as follows:

- A multi-stakeholder approach is recommendable to prevent and fight corruption
- Several factors such as transparency, disclosure of proper and timely information and a wide public access to information have been proven successful to prevent corruption
- The availability of independent and professionally qualified monitors to supervise the construction projects during all the phases of the project is a key element
- It is essential to share best practices in anti-corruption initiatives to generate knowledge
- The political will to promote transparency is a key element.

Sharing ideas and experiences has been identified as very useful to develop new anti-corruption policies and tools, so any comment on the guiding questions of the workshop or new issues will be welcome:

- What are the conditions to ensure effectiveness on anticorruption efforts in the design, contracting and implementation of construction projects?
- What synergies are there between the initiatives that could be built-upon?
- How could the participation and interaction of different actors (public sector, private sector, civil society) in the different initiatives be strengthened to make a better contribution to sustainability?
- Where are further efforts needed? What could be done to promote the development of other innovative approaches for integrity and sustainability in the construction sector?

Let's keep the discussion going!



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Highlights (200 words please include interesting quotes)

The key points of the workshop can be summarized in the following:

- It is fundamental to tackle corruption in early stages of the construction projects (planning, needs assessments, etc.) in order to ensure that decision making is not distorted and the projects effectively contribute to sustainable development and not to private gains
- Every construction project is different and need a customized anti-corruption approach
- There is a huge motivation within the private sector to demand transparency in the construction sector
- “The external independent monitor is the most important single element to guarantee transparency in construction projects”.
- “Dealing with corruption in the construction sector is an extremely complicated issue and one has bear in mind that it is going to be a long process. It is necessary to invest a proper amount of time and money for a good anti-corruption project management”.

Signed

Laura Granado, Transparency International