

**STRENGTHENING WORLD BANK GROUP
ENGAGEMENT ON GOVERNANCE AND ANTICORRUPTION
CONSULTATION FEEDBACK**



GEORGIA

(JANUARY 11, 16 & 17, 2007)

Participants: See attached list

How did the process fit into ongoing country dialogue?

The process fits in perfectly well into the World Bank's ongoing dialogue with its partners. However, it has been recommended that the Bank engages more consistently in a dialogue with civil society and private sector representatives, in addition to on-going discussions with the government and this would only complement the whole consultation process.

What were the key issues/themes raised by participants?

During the GAC consultation process almost all participants acknowledged significant positive achievements by the current Government in terms of addressing corruption as well as its efforts to improve governance. Still, several main issues arose that in view of participants, pose problems in further solving governance concerns and need to be addressed urgently. In particular:

The rule of law and weakness of the judicial system are undoubtedly the issue that were addressed during all sessions. In view of private sector representatives, rule of law, property rights and court system are the main three issues that require immediate attention, since there is no use in solving all other issues while tackling corruption without addressing these three problems properly. Civil society and private sector representatives were very outspoken in asking for the restoration of the independent arbitration court as an alternative dispute resolution system. While the legal framework provides for such a body, the arbitration court only existed for a short period of time before being abolished. According to private sector representatives participating in the GAC session, the abolishment was caused by the fact that this court was the only body which managed to rule in favor of private sector and against the position of the government in a number of cases. The need for restoration of the arbitration court is shared by the government officials, although, in their view, this should happen taking into consideration past mistakes and lessons learnt.

All the participants were unanimous in their views towards the **necessity of improving the professional skills and introducing new recruitment procedures of public sector employees**. This is the question that is directly linked to the effective functioning of the system established as a result of implemented reforms. They believe that no solid system exists for retraining or recruitment of staff, although according to some officials, this issue is already on the Government's agenda owing to its high importance. Lack of competent bureaucracy and its high politization were cited as issues requiring sufficient attention as they often contribute to spontaneous decision making without due processes involved.

Limited Government's patience for systemic and strategic **public information and consultation process** on the planned and ongoing reforms emerged as third cross-cutting theme in the GAC consultations. Lack of adequate mechanisms for dialogue with the stakeholders and hence missing feedback loop were cited as potentially undermining the commitment to and ownership of the positive reform initiatives as well as proper implementation of these reforms.

In view of civil society and private sector representatives, there is a declared, formal will of the government with regard to reforms, but in practice implementation of reforms is problematic. However, the government officials think, that serious and already tangible measures have been undertaken in the country, and the government is working in all directions while addressing the governance issues facing Georgia. Both civil society and private sector partners think the government is overly politicized and that other stakeholders participate in decision-making process in a lesser degree.

During almost all sessions, the participants expressed the view that the World Bank should pay more attention to country realities while working on a strategy, a study or a project.

Private sector representatives believe that the Bank needs to find new ways of interaction with both the government and civil society based on public disclosure of its realistic evaluations of situation, and on a more flexible and prompt reaction to solving the existing problems.

In the consultations with donors it was suggested that while being a useful tool, BEEPS and Doing Business does not appear sufficient to tell the full story. Therefore, it is considered useful to develop additional in-depth indicators closer linked to the country realities to better measure corruption levels in the specific areas, thus complementing the work done with the above instruments.

Part of the development partners believe that the trend of tackling corruption and governance issues in Georgia is positive and not a critical issue to deal with. Another part thinks that although the trend is positive, it still needs to be refined, but that there is certainly a strong political will to address both issues. A need for better donor coordination and information-sharing to ensure broader transparency was stressed.

Participants of all sessions demonstrated a mutual interest for deepening the dialogue with the World Bank.

Respondent Type	Consultation Reply
1. Top governance challenges in Georgia	
[Government]	According to the participating government representatives work is underway with regard to all the problems that might be related to governance. The fields that require governance reforms are more specifically discussed under Q.3 below. (What are the main entry points and obstacles to governance reforms in your country?)
[Representatives from Civil Society, Media]	<p>The participants gave due credit to the Government’s endeavors in the area of governance, however the following viewsemerged:</p> <ul style="list-style-type: none"> → Weak judiciary and absence of arbitration courts - their existance would support formation of a law-abiding society. → Excessively politicized government and low level of civil society participation in the governance system. The country is managed like a private company, giving serious grounds for suspicion about corruption. Interests of the civil society are not taken into account during the decision-making process on any issue. No efforts made to involve stakeholders in any consultations, and any different views are often ignored thus leaving no space for constructive exchange and deliberations. → The government proclaims its political will to carry out the reforms, but actual implementation of these statements remains problematic. This situation is reflected in the implementation of the National Anti-Corruption Strategy and respective Action Plan. UN Anticorruption Convention not ratified. → While statistical data indicates economic growth in the country, there is a perception that this economic growth has not translated into the employment rate, and improved social/economic conditions of the citizens. → The new Labor Code, was just mechanically copied from some international model is not adapted to the local environment, therefore is irrelevant and poses serious risks to employment relations. → Lack of qualification among leading officials - while the involvement of the government officials in corrupt activities has no doubt dramatically declined senior officials are often not qualified enough to control their subordinated structures which hinders establishment of healthy governance practices in the country. → Frequent changes of legislation, regulations and related instructions are misleading and lead to inconsistent implementation of policies. → Lack of consistency in decision-making – decisions are made on an ad hoc basis, without systemic sector

Respondent Type	Consultation Reply
	<p>analysis.</p> <p>→ The competence level of the regional self governments is rather low and shall be addresses in the context of the ongoing decentralization.</p>
[Private sector]	<p>Private sector representatives noted general positive trends in decreasing corrupt practices, although some questioned the sustainability of the course unless the key issues below are properly addressed:</p> <p>→ The Georgian Government is excessively politicized. The Administration’s capacity to manage is rather week. “We do not have managers in the country’s governance system - all we have are persons expressing the political will”. Corruption will continue to exist until adequate public administration system is put in place.</p> <p>→ Informal pressure by the State on the private bank sector and excessive control could potentially become a source of corruption. The banks are often asked to provide detailed information about largest deposit holders, both physical persons and legal entities – a practice that undermines basic principles of privacy. The tax inspection frequently requests information regarding the owners of largest credit accounts with an intention to use this information to pressure these individuals which eventually leads to possible corruption.</p> <p>→ Although important legislations (e.g. Customs Code, Tax Code) were significantly improved, their implementation remains a problem and is undermined by contradictory regulations issued by executive bodies. Examples include customs clearance procedures introduced by the MoF against the general spirit of the Code, free interpretation of plea-bargaining mechanism, and tax related ambiguities.</p> <p>→ Independence and competence of the Court system remains a problem. The level of trust towards the system is low and businesses are hesitant to appeal to the courts. The independent arbitration system was abolished after the Government lost the first three cases. It is widely believed that ever since there has not been a single case ruled in favor of a private sector company.</p>
[Donors]	<p>Views expressed in the donors’ session varied from rather positive evaluation to a more critical stance.</p> <p>→ The general trend towards tackling these issues in Georgia is positive and not a critical issue to deal with. What the government needs to do is to refine its strategy and vision.</p> <p>→ Governance problems should be addressed separately, not always in combination with anticorruption efforts. There is a need to identify challenges of the governance solely.</p> <p>→ The will to address and solve these issues is there, but the thing is how this process is going on. The Government is still searching for the new ways. An anti-corruption mechanisms based largely on a fear of being punished without efforts to improve institutions is eventually non-effective.</p>
<p>2. Promising areas of governance and anticorruption reform</p>	

Respondent Type	Consultation Reply
[Government]	<p>The Anti-Corruption Strategy Action Plan for one year was finalized in May 2006, but new problems will be identified and actions will be planned for another year. The Government is putting efforts to reduce corruption in all the sectors.</p> <p>Not only the governance system, but also an idea and conceptual understanding of governance have changed – Georgia is among the countries that have developed an anti-corruption strategy and two-thirds of reforms listed in this strategy have already been implemented.</p> <p>The issue of the responsibility of legal entities was clarified after the ratification of the Convention on Criminal Legislation. This Convention was very effectively and accurately reflected in the Georgian system.</p> <p>Reform in the field of technical regulation – the reform has been implemented, functions differentiated – the issue of standards has been separated and compliance with standards has become voluntary. In a nutshell, a complete reorganization has been carried out.</p> <p>Abolition of licenses and permits – the licensing system has been simplified, bureaucratic mechanisms - reduced thus supporting the development of the private sector.</p>
[Donors]	<p>Doing Business 2007 is a reflection of ambitious reforms initiated and a demonstration of the Government's willingness to persevere. It is a tremendous tool used by some international organizations in their assistance programs.</p>
<p>3. What are the main entry points and obstacles to governance reforms in Georgia?</p>	
[Government]-	<p>Public sector optimization and salary increase – this is necessary to improve quality and delivery of services. In order to reduce corruption further, an administrative reform must be implemented and the public system must be improved.</p> <p>Optimization of the number of public officials is necessary – this is partially being implemented. Bureaucracy needs to be reduced to the maximum possible extent; public officials must have clear goals, implementation of which must be mandatory and be closely monitored. Care must be taken with regard to their qualification and career development – largely by means of training.</p> <p>Professional skills of the personnel and implementation of a new recruitment system is essential.</p> <p>Inter-government and inter-agency coordination – joint decision-making, common vision, joint development of professional skills of the parties involved.</p> <p>Restoration of “settlement of disputes” body, i.e. independent arbitration – but in a new, more realistic form and different from the previous one. Court of Arbitration is one more guarantee for independence of businesses.</p> <p>Need for e-government as a tool to streamline communications among government agencies and accelerate</p>

Respondent Type	Consultation Reply
	<p>transactions. As an illustration, the MoF rigid mechanisms were brought up that need to be reformed. Transition to electronic governance system will save time and improve work efficiency. It was also acknowledged that “<i>Transition to the electronic system is good but very costly. Among other things big funds are needed to ensure existence of human resources capable to operate and protect the system electronically</i>”.</p>
<p>[Representatives from Civil Society, Media]</p>	<p>The court system reform is a precondition for the formation of a law-abiding society and economic growth.</p> <p>Inclusion of a variety of stakeholders, including minority groups in order to ensure their involvement in the political and social life. These groups must be given opportunities to express their opinions. International organizations could help with the process of their engagement.</p> <p>Changing of the governance system as a whole, not just replacing individuals is important to sustain the gains of the ongoing reforms.</p> <p>Existing tax system is an obstacle for proper business development; an appropriate legal framework must be created to address this issue.</p> <p>The level of the civil society’s engagement in the social life is very low. This is one of the major obstacles in addressing the governance problem and the World Bank can certainly play a key catalytic role here.</p>
<p>[Private sector]</p>	<p>Tax code and tax administration issue was brought up as one of the critical areas in need of improvement. In Georgia entrepreneurs “play the game not knowing its rules.” In participants’ opinion, the Tax Code does not give a direct answer to any direct question, is vague and subject to interpretation. The Tax Administration staff is viewed as not competent enough to provide reliable guidance and hence businesses have to spend extra time and effort in trying to abide by the rules. The lack of clear legislative framework also creates difficulties in making accurate risk assumptions when starting a business.</p>
<p>[Donors]</p>	<p>The will to address and solve the governance issues is there, but the appropriate mechanisms are still missing. The Government is in the process of searching for the new ways. A concern has been expressed that “a repressive mechanism” currently resorted to is not a solution without a consecutive policy.</p> <p>An existing stigma that Georgia is a corrupt country should be gradually overcome.</p>
<p>4. How can the Bank better assist Georgia on governance reforms?</p>	
<p>[Government]</p>	<p>Government control over and ownership of internationally funded projects should be widely supported</p> <p>Assist the Government in developing the system to mitigate risks associated with implementation of major reforms.</p> <p>The healthcare system reform was given as an example, indicating the importance of re-training system for the doctors</p>

Respondent Type	Consultation Reply
	who may lose their jobs as a result of upcoming reorganization.
[Representatives from Civil Society, Media]	<p>The World Bank together with other development partners is capable of exercising a certain pressure on the Government to prompt them to carry out proper reform of the court system.</p> <p>The Bank must participate in the formation of the state policy through a continuous dialogue with its government counterparts.</p> <p>The Bank could use its resources to support a broader dialogue between and engagement by various stakeholders at each stage of the project cycle as well as in the policy deliberations.</p> <p>The state approach to the anticorruption measures does not go beyond general statements, and is believed to lack consistency, plans or any concrete schemes. It would be good if the Bank participates in this area by recommending already proved to be effective mechanisms.</p> <p>Programs developed using the experience of developed countries should not be mechanically copied to the developing countries – donors often do not take into consideration specific features of a country. It would be good if the Bank helps to design programs taking into consideration specific features and realities of the country.</p> <p>Developing of criteria for measuring progress – the criteria must be set within the anti-corruption program and according to different sectors. Research must be carried out to measure the results.</p> <p>Supporting the development of civil institutions – mainly through increased financing.</p> <p>The Bank may contribute through more focused research of corrupt practices in particular sectors such as public procurements, Customs, etc.</p> <p>A closer monitoring of the Bank financed projects is required to minimize the risk of corruption.</p>
[Private sector]	<p>Revisiting the format of relations with the Government – where corruption is considered to be serious problem, the Bank may consider terminating/reducing its financing, more proactively utilize various sources of information sharing (such as through TV, radio, press etc.) and publish reports prepared by unbiased, independent groups on country performance.</p> <p>Facilitating the Government’s two-way communication with the public. The WB can share professional information and communication tools available. Of course, the Bank cannot force the state to change its approach, but it can widely publicize and very clearly state its position. If the assessments and comments are objective and correctly reflecting the existing situation, this will be helpful in the relations both with the government and civil society.</p> <p>Provision of support to the banking/financial system should be followed by the assistance to develop the capital market to promote democratic development and, therefore, good governance.</p> <p>Work with the shareholder unions and open joint-stock companies – this is a school of democratic development</p>

Respondent Type	Consultation Reply
	<p>and governance. It is important to stimulate development of the business sector and not just the development of financial system through providing support to the banking sector.</p> <p>Support corporate management in companies – corporate management would not exist without normal public companies. Of course, there is no point in introducing these principles in companies that actually are not companies – first of all real public companies must be created and only after that the corporate governance principles must be introduced. It is necessary to work in both directions — capital market & corporative governance.</p> <p>Publicity and transparency of information is very important, but only in combination with other variables, such as promptness of its disclosure. The belated reactions by the Bank coupled with non-flexible indicators create wrong perception of the real situation.</p>
[Donors]	<p>The assessments such as Doing Business 2007 are a tremendous tool, but should be linked more to country realities, and the Bank needs to be more precise with indexes in similar reports.</p> <p>Peer pressure on government decision-makers to catch up with reformers throughout the world in combating corruption.</p> <p>Ask the government to present a policy paper on how it sees the ways of tackling corruption.</p> <p>NOTE: Council of Europe's GRECO (Group of States Against Corruption) report on Georgia http://www.greco.coe.int provides 15 recommendations that CoE would like to share with other donors and seek their views.</p>
5. What should the Bank do in countries with weak governance and severe corruption, where government leadership is not consistent in tackling these problems?	
[Government]	<p>The World Bank must work with the civil society, private sector structures and the state more on the infrastructure projects (if the WB builds a school it will be beneficial to the country in any case).</p> <p>Level of transparency can be raised if the media, public, society and NGO's cooperate and are all actively involved in the reform processes.</p>
6. How can the Bank ensure that its grant and loan proceeds are used for their intended purposes, while helping countries build their own systems and capacity?	
[Government]	<p>The Bank must participate in the project implementation process at every level. Tenders need to be transparent and information about them should become publicly available.</p>
[Representatives]	<p>Similar ideas expressed by participants of other sessions.</p>

Respondent Type	Consultation Reply
from Civil Society, Media]	
[Private sector]	No views.
[Donors]	No views.
7. The Bank’s role vis-à-vis other donors in supporting governance reform	
[Government]	<p>There is frequent overlapping of projects supported by various donors – donors often finance the same sectors without knowing each other’s program in a given country. It is often impossible to change and replace programs, as in majority of cases an action plan and strategy are defined well in advance.</p> <p>Donors lack the ability to adapt to changed circumstances.</p>
[Representatives from Civil Society, Media]	<p>Coordination between donors is very important, as well as transparency and publicity of their activities. The information regarding donors’ assistance strategies and programs is not always easily available. Civil society should know the purpose of a research or a project before they are being implemented. Answers to the questions like “why this project is supported?” and “how the results can be used?” should be provided. .</p>
[Donors]	<p>A duplication of efforts by various development partners should be avoided. There is a definite need for a better coordination among donors and sharing of information on a broader range of issues.</p>
8. How should progress be monitored?	

Respondent Type	Consultation Reply
[Representatives from Civil Society, Media]	<p>Monitoring should be carried out at the level of each particular project – setting up special units at the country offices, that would assess not only the relations with the Government, but also carry out a research on the project’s impact on the society. If the Bank has identified the anti-corruption efforts as a priority, it should also strengthen monitoring at every level.</p> <p>Monitoring should be carried out at several stages. Based on the developed criteria, one must assess in which direction the country is heading and whether the development objective is achieved. It is extremely important to define the correct mechanisms and criteria for monitoring.</p> <p>Monitoring must be public and transparent – it is desirable that together with the Government, civil society is also involved in the monitoring process.</p> <p>Monitoring is effective if it is transparent - to what extent the society is informed; who participates in a program monitoring; when it is implemented etc. This should not be a product that will be sitting on a shelf and remain there; the situation must be permanently analyzed and checked. The Bank could definitely contribute to the formation of this culture.</p> <p>Monitoring process must include both self -assessment and external assessment of programs and projects.</p>