



UNITED NATIONS      NATIONS UNIES  
*OFFICE FOR DRUG CONTROL AND CRIME PREVENTION*  
VVV  
*CENTRE FOR INTERNATIONAL CRIME PREVENTION*

**PROJECT DOCUMENT**  
**Project of the Government of South Africa**

**Project Number:** SAF/99/004  
**Title:** Support to the national anti-corruption programme  
**Crime Prevention Sector:** Global Programme against Corruption  
**Duration:** 24 months  
**Project site:** South Africa  
**Executing Agency:** Centre for International Crime Prevention (CICP)/Office for Drug Control and Crime Prevention (ODCCP)  
**Associate Executing Agency:** United Nations Office for Project Services (UNOPS)  
**Cooperating Agency:** United Nations Interregional Crime and Justice Research Institute (UNICRI)  
**Govt. Counterpart:** Department of Public Service and Administration  
**Estimated start date:** February 2001  
**Total Project Budget:** US\$ 359,340 Incl. 13 % Support Costs  
**Government Contribution:** In kind

**Brief description:** Within the framework of the CICP/UNICRI Global Programme against Corruption, the project will assist the Government of South Africa in its efforts to prevent, detect and fight corruption and promote integrity, transparency, accountability and the rule of law within the country.

This project is intended to provide institution building and direct support to the Government of South Africa, including: a) carry out a country assessment of the corruption situation and anti-corruption measures; b) support in the preparation of a national anti-corruption strategy and action plan to be followed by a donor meeting to seek coordinated international assistance; c) support in drafting anti-corruption legislation; d) enhance capacity for the prevention, investigation and prosecution of corruption in selected departments of public sector; e) assist specialized investigating and prosecutorial anti-corruption structure of the criminal justice system; and f) assist in the development and implementation of anti-corruption initiatives in two selected provinces in South Africa.

On behalf of:  
The Government  
of South Africa

Signature

Name/Title

Date

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ODCCP



## A. CONTEXT

### 1. The International Context

Concerns around corruption have intensified in recent years all over the world. Whilst corruption is a universal problem, it is particularly harmful in developing countries where there may be more opportunities and less resources for controlling it. Furthermore, it tends to have a much more debilitating effect in emerging democracies in the developing world. Corruption adversely affects all sectors in society and corrodes the national culture and ethos of democracy and good governance. It endangers the stability and security of societies and threatens social, economic and political development. It drains the government of resources and hinders international investments.

In 1997 an African Regional Ministerial Workshop, organized by the Centre for International Crime Prevention (CICP), United Nations Office for Drug Control and Crime Prevention, was held in Dakar. The workshop unanimously adopted the Dakar Declaration in which Ministers expressed their concern about the increase and expansion of organized criminal activities, corrupt practices and bribery in international commercial transactions. Recognizing the importance of the contribution that CICP can make to the implementation of the United Nations new agenda for the development of Africa, in particular regarding the intensification of the democratic process and the strengthening of the protection of the civil society, they urged African states to combat corruption and organized crime.

In 1998, the African Ministers of Civil Service Meeting held in Rabat, Morocco, adopted the Rabat Declaration which called for a number of measures to be undertaken on the national level to regenerate professionalism and ethics in public administration, as well as for an increased international assistance for the development and modernization of public administration.

Further, South Africa was one of ten countries in the African continent which was chosen by the United Nations Department of Social and Economic Affairs (UNDESA), to participate in a study on ethics in the public service. This study is in the final stages of completion at present.

In early 1999, the Centre for International Crime Prevention together with the United Nations Interregional Crime and Justice Research Institute (UNICRI) introduced the Global Programme against Corruption (GPAC). The objective of the Programme is to increase the risks of involvement by raising the probability of detection and the cost of participation in corruption activities. This objective will be achieved by providing reliable and current information on corruption trends and policy strategies to reduce and control corruption, and by providing technical co-operation to Member States to prevent, detect and fight corruption.

At the outset, it is important to understand the existing national context, that is, the effectiveness of current legislation, institutions, policies and procedures relating to the country's integrity and corruption. Therefore, a comprehensive standardized assessment has been designed in the framework of the GPAC and will be conducted in the pilot countries to document: (i) public administration and "street" level corruption (where citizens interact with civil servants); (ii) business level corruption

(particularly where medium-sized companies interact with government administration); and (iii) high level financial and political corruption.

The data is being collected through an examination of legislation, the institutional framework, and the extent of media and public participation, as well as through surveys, focus group discussions and case studies.

In order to examine the progress and effectiveness of national anti-corruption initiatives, it is important that these Country Assessments are conducted regularly. The results, combined with objective indicators of corruption levels, types, costs, causes, effects and remedies applied world-wide, will serve as a basis for a analysis of global corruption trends being conducted by CICP and UNICRI. The analysis of Global Trends in Corruption will provide valuable information to countries as they design strategies and monitor action plans. It will also serve as the basis of discussion for the UN Member States in the elaboration of an international instrument against corruption. Finally, it will facilitate the identification of best practices in pilot countries and elsewhere around the world.

The activities under the technical cooperation component of the Global Programme against Corruption are intended to assist developing countries and countries in transition to build and/or strengthen their institutional capacity to prevent, detect and fight corruption. Since corruption has economic, political, social, legal, administrative and cultural dimensions, the most appropriate and effective approach to deal with it is necessarily a multi-disciplinary one. An effective approach must also be multi-dimensional, because corruption needs to be tackled at the national, regional and international levels.

The Global Programme against Corruption is currently implemented in Benin, Hungary, Lebanon and Romania. Project proposals are under preparation for Colombia, Indonesia, Nigeria and Uganda.

## **2. Corruption situation in South Africa, the legal framework and Government's policies and strategies**

Robert Klitgaard, a former professor at the University of Natal, South Africa, and a widely respected expert on anti-corruption measures, uses a succinct illustration to capture the encircling climate of corruption and its pervasive influence:

When in a society the shameless triumph, when the abuser is admired, when principles end and only opportunism prevails, when the insolent rule and the people tolerate it, when everything becomes corrupt but the majority is quiet because their slice is waiting ... When so much "whens" unite, perhaps it is time to hide oneself, time to suspend the battle, time to stop being Quixote; it is time to review our activities, re-evaluate those around us, and return to ourselves.

The above quote was used by the South African President Thabo Mbeki in his opening statement to the first national anti-corruption conference held in November 1998 in Parliament. Mr. Mbeki further

highlights that, in the South African context generally and in the public sector in particular, few will deny that this time has now arrived. The threatening state of moral degradation in our society is reflected in the high levels of crime, disrespect for authority and the rule of law, and the erosion of key institutions such as the family.

In his first state of the nation address, President Mbeki spoke about the issue of corruption extensively and reiterated the commitment of the South African Government to honest, transparent and accountable Government and the Government's determination to act against anybody who transgresses these norms. He highlighted the importance of enacting the Open Democracy Bill which will provide for the protection of whistleblowers and the coming into force of the Public Finance Management Act to ensure proper control and accountability with regard to public finances. New steps will also be taken to ensure the enforcement of the Code of Conduct for Public Servants as well as the proposals that emerged from the government and national anti-corruption conferences held during 1998 and 1999. At the 9<sup>th</sup> International Anti-Corruption Conference, the South African Deputy President announced that South Africa will examine the possibility of adhering to the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions that came into effect in February 1999.

Corruption has for long been a characteristic of the South African public service. Since 1994, achieving good governance and fighting corruption have become two of the most important challenges for the country in the post apartheid era. However, there is a widespread perception that corruption has in fact increased during the period of political and economical transition.

The fight against corruption is a top priority for the South African Government. Since 1994 numerous anti-corruption programmes and projects have been put in place by the new government. Recent initiatives on corruption focused on promoting accountability, transparency and the rule of law; the practice of good governance; free press to forcefully report to the public on corrupt practices; and the establishment of government watchdog agencies to identify corrupt practices and bring them to the public attention.

The Government of South Africa hosted the Ninth International Anti-Corruption Conference in October 1999. The determination of the Conference participants to continue to combat corruption was expressed in the Durban Commitment, a statement agreed on by the Conference participants at the conclusion of the gathering. They further expressed their conviction that South Africa and Nigeria have major leadership roles to play in the continent's struggle.

All these initiatives show the Government's commitment to counter corruption and justify for the CICP to support the Government's efforts towards that end.

### **3. Prior and ongoing cooperation**

During his missions to South Africa in April and October 1999, the Executive Director of the Office for Drug Control and Crime Prevention, Mr. Pino Arlacchi, identified the fight against corruption as one of the areas in which the CICP would provide international assistance. The call for international

assistance was highlighted at the Ninth International Anti-Corruption Conference. Indeed as early as 1997, the Ministry of Justice of South Africa, requested through the United Nations Resident Coordinator in South Africa technical advice in the design and implementation of a comprehensive programme for corruption control.

On 23 February 2000 the President of the Republic of South Africa established the Investigating Directorate: Corruption (IDCOR) as a new unit within the Directorate of Special Operations of the National Directorate of Public Prosecutions with a broad mandate to deal with “offences related to corruption”. Upon the request of the National Director of Public Prosecutions the UNODCCP-Southern Africa organized and held the International Anti-Corruption Expert Round Table from 31 May to 2 June 2000 to assist in the operational and jurisdictional development of the IDCOR. The Round Table was attended by some 50 participants, including heads/representatives of all national anti-corruption agencies and major NGOs as well as international experts from Botswana, Hong Kong (China), Italy, USA and UNODCCP. The Round Table adopted a set of recommendations.

Both the NGOs and the private sector are very active in research, prevention and co-ordination of activities targeted towards curbing of corruption in South Africa. Within 1999 and 2000 several meetings involving the research community, NGOs, private and governmental sectors as well as the UNODCCP-Southern Africa were held to promote synergy among the main players.

## **B. PROJECT JUSTIFICATION**

### **1. Problem to be addressed**

The South African Government has developed, in accordance with a 1997 decision of Cabinet, a comprehensive programme against corruption. The programme includes the improvement of investigation and prosecution of corruption, the need for rationalization of agencies combating corruption, a review of the relevant legislation, steps to improve management systems and discipline at all levels of government, protection of whistle-blowers and witnesses, and strategic actions based on concrete issues. Of the 11 units currently in existence, only three have an exclusive mandate to deal with corruption; all other units deal with corruption if it comes up in the conduct of their ordinary duties<sup>1</sup>. These are the Heath Special Investigating Unit (the civil litigation approach), the Investigating Directorate of Corruption of the Directorate of Special Operations as the part of the Office of the National Director of Public Prosecutions and the National Anti-Corruption Unit within the South African Police Service.

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<sup>1</sup> Among the 11 agencies dealing with corruption are the Auditor-General (a constitutional body investigating the adherence of financial transactions, treasury rules and legislation); the National Directorate of Public Prosecutions and the Investigating Directorate Corruption of the Directorate of Special Operations; the Special Investigating Unit (Department of Justice unit which investigates public sector corruption); the Public Protector (a constitutional body which investigates any misconduct in state affairs or public administration); the Public Service Commission and the National Forum against Corruption; the South African Police Service and its National Anti-Corruption Unit as well as the Independent Complaints Directorate; the Department of Public Services and Administration.

Two anti-corruption conferences were subsequently held in Parliament in Cape Town, a Public Sector Conference in November 1998 and the National Anti-Corruption Summit in April 1999. The April Summit adopted a resolution, calling for the rapid establishment of a national coordinating structure with the authority to effectively lead, coordinate, monitor and manage the national anti-corruption programme. The Public Service Commission was given the responsibility for establishing a cross-sectoral task team charged with the implementation of the resolution and as recently as November 2000 the National Forum Against Corruption (representatives of the governmental sector, civil society and private sector) was established.

Lead governmental agencies in the area of the prevention of and fight against corruption such as the Department of Public Services and Administration, the Department of Justice and the Department of Safety and Security have undertaken measures to increase inter-departmental co-ordination and co-operation.

## **2. Expected end of project situation**

To achieve the project objectives, the country should establish a national anti-corruption strategy tailored to its specific needs. Specifically, the following objectives are expected to be achieved by the completion of the project:

- the knowledge of the corruption situation within the country as well as the capacity of the existing anti-corruption measures will be strengthened and deepened, allowing the elaboration of a sound and effective national anti-corruption strategy and legislation;
- the capacity of the departments of the South African public administration will be strengthened allowing improvements in the timeliness, quality, cost and coverage of the services delivered to the public;
- the knowledge of the situation of corruption in two selected provinces will be strengthened and enlarged through the undertaking of a comprehensive data collection and analysis of levels, type and trends in corruption as well as the efficiency and effectiveness of anti-corruption measures, allowing the design and elaboration of tailored anti-corruption strategies.

## **3. Target Beneficiaries**

The immediate beneficiary of the project will be the Government of the Republic of South Africa, through improved planning, legislation, monitoring, preventive and management capacities and its citizens, through the improved delivery of services by the relevant government agencies. The secondary beneficiaries will be the major players in the implementation of the national anti-corruption strategy, including public administration, criminal justice system, civil society and private sector. The tertiary beneficiary will be the international community through inputs of the South African experience to international strategy in the prevention and combating of corruption.

## **4. Project strategy, execution and implementation arrangements**

Based on analysis and exchange of views with governmental agencies, civil society and private sector several areas of priority were identified and reflected in the proposed project. It will focus on

providing analytical instruments to collect, analyze and monitor trends in types of corruption and the efficacy of adequate anti-corruption measures. Furthermore, it will assist in the preparation of the National Anti-Corruption Strategy and the promotion of an efficient legislative framework. It will also focus on the prevention and management of corruption in public administration at the national and provincial levels.

The Centre for International Crime Prevention will work in close cooperation with the South African Government, the National Forum against Corruption, the civil society and private sector in supporting initiatives in line with the Global Programme against Corruption.

The present project shall establish South Africa as a pilot country in Africa for undertaking, within the framework of the Global Programme against Corruption, anti-corruption measures that can be subsequently replicated in other countries and regions.

The duration of the project is 24 months. In-kind contributions will be made by the government of South Africa. The project will be executed by ODCCP/CICP, which will provide adequate financial contributions as indicated in the attached budget table and provide expertise, advisory and technical services as required for the execution of the project.

UNICRI will cooperate in research/assessment related project activities. UNICRI was chosen in view of its specific expertise, its mandate and its role as general research coordinator of the Global Programme.

UNOPS will be responsible for providing administrative support for the execution of the project while UNDP will be responsible for processing financial matters locally.

#### **4. Reasons for assistance by CICP**

The principle of providing technical assistance to requesting States to improve, in particular, their ability to combat corruption has been supported and stressed at the various sessions of the competent decision-making bodies of the United Nations (the Commission on Crime Prevention and Criminal Justice, the Economic and Social Council and the General Assembly).

The Centre will provide the services of its officials and international experts in cooperation with the other organizations working in the same field and other Member States wishing to take part in the project, within their respective fields of technical competence.

#### **5. Counterpart support capacity**

Government institutions cooperating on the project, particularly the Department of Public Service and Administration have the required technical capacity to provide necessary Government inputs to the respective project elements. Institutions involved also have the necessary ability to plan, monitor and coordinate activities in the context of the project. The establishment of the Steering Committee will



play a key role in this respect. The present Government policy orientation can be expected to ensure that the project's accomplishments can be sustained.

### **C. DEVELOPMENT OBJECTIVE**

Strengthening democracy and good governance in South Africa, including improvements in the timeliness, quality, cost and coverage of the services delivered to the public.

### **D. IMMEDIATE OBJECTIVES, OUTPUTS AND ACTIVITIES**

#### **1. Immediate objective 1**

*The understanding of corruption and capacity to monitor the effectiveness of anti-corruption measures in South Africa will be strengthened.*

#### **1.1 Output 1**

A Rapid Country Assessment (RCA) report, analyzing the current situation of corruption and anti-corruption measures in South Africa, is prepared

#### Activities

- 1.1.1 Initiate the Rapid Country Assessment taking into account ongoing national and international initiatives, such as governmental, parliamentary and independent (national and international) reports and surveys dealing with corruption (Department of Public Service and Administration, Department of Justice and the National Directorate of Public Prosecutions, South African Police Service, Public Service Commission, Public Protectorate, the Auditor-General Office, etc). (*ODCCP -Regional Office of South Africa, hereinafter ROSA in consultation with UNICRI*)
- 1.1.2 Organize a working meeting with the Governmental bodies, including Statistics SA and the Corruption Reference Group (network of independent research institutes and NGOs) to present the methodology and the division of labor. (*ROSA*)
- 1.1.3 Establish a Steering Committee composed of the main partners from governmental sector, the National Forum Against Corruption, donor and ROSA (*Government and ROSA*)
- 1.1.4 Collect additional information. (*ROSA*)
- 1.1.5 Prepare a draft Rapid Country Assessment report (*ROSA in consultation with UNIRI*)
- 1.1.6 Steering Committee to adopt the RCA Report (*Government and ROSA*)
- 1.1.7 Present the RCA Report to the Parliamentary Committees (*Government*)
- 1.1.8 Make the Rapid Country Assessment Report available to the public as appropriate (*Government and ROSA*)

## 1.2 Output 2

A “Corruption Country Assessment-SA” Report (see Annex I), based on a comprehensive data collection and analysis of levels, type and trends of corruption, as well as of the efficiency and effectiveness of anti-corruption measures in South Africa, is prepared.

### Activities

- 1.2.1 Prepare, on the basis of the results of the RCA and the model Corruption Country Assessment, as well as consultations with the Global Programme against Corruption at CICP/UNICRI detailed methodological guidelines for the carrying out of the Corruption Country Assessment- SA (CCA-SA) (*ROSA in consultation with UNICRI, Government, Public Service Commission and Corruption Reference Group*)
- 1.2.2 Steering Committee to adopt the methodology and format of the CCA-SA (*Government and ROSA*)
- 1.2.3 Identify and sub-contract expert organizations to undertake, under the supervision of the Steering Committee, data collection and analysis (*ROSA*)
- 1.2.4 Writing up of the draft CCA-SA Report (*ROSA with expert organization involved in data collection and analysis*)
- 1.2.5 Finalisation of the draft CCA-SA Report (*ROSA in consultation with UNICRI*)
- 1.2.6 Steering Committee to evaluate the draft CCA-SA Report and recommend its consideration to the Government (*Government and ROSA*)
- 1.2.7 Government to consider the draft CCA-SA Report (*Government*)
- 1.2.8 Presentation of the CCA-SA Report to the Parliamentary Committees (*Government*)
- 1.2.9 Public dissemination of the CCA-SA Report, including at international fora, as appropriate (*Government and ROSA*)
- 1.2.10 Facilitate the creation of institutional arrangements and funding for regular updating and dissemination of the CCA-SA Report (*Government and ROSA*)

## 2. Immediate Objective 2

*The national anti-corruption strategy and anti-corruption legislation will be designed.*

### 2.1 Output 1

The designing of the national anti-corruption strategy is supported.

### Activities

- 2.1.1 Organize an Expert Group (Government, Public Service Commission with assistance from ROSA) to prepare an outline of a National Anti-Corruption Strategy. (*Government, Public Service Commission and ROSA*)
- 2.1.2 Hold a Round Table to discuss the outline of the National Anti-Corruption Strategy (*National Forum against Corruption and ROSA*)

- 2.1.3 Expert Group to finalise a draft National Anti-Corruption Strategy (*Government, Public Service Commission and ROSA*)
- 2.1.4 Government to consider a draft National Anti-Corruption Strategy (*Government*)
- 2.1.5 National Anti-Corruption Strategy presented to Parliamentary Committees (*Government*)
- 2.1.6 Organize a donor meeting to present the Country Corruption Assessment and the National Anti-Corruption Strategy (*Government and ROSA*)
- 2.1.7 Follow up with interested donors and coordinate donor support. (*ROSA and Government*)

## **2.2 Output 2**

The drafting of the anti-corruption legislation is supported.

### Activities

- 2.2.1 Analysis of selected foreign and international anti-corruption legislation (*CICP/Conventions & Legal Affairs Unit/Global Programme against Corruption*)
- 2.2.2 Expert Group composed of representatives of the Government, including the South African Law Commission, academia one international expert to prepare a draft Anti-Corruption Bill (*Government and ROSA*)
- 2.2.3 Public seminar to provide inputs into a draft Anti-Corruption Bill (*Government and ROSA*)
- 2.2.4 Finalisation of a draft Anti-Corruption Bill by the Expert Group (*Government and ROSA*)
- 2.2.5 Presentation of a draft Anti-Corruption Bill by the Cabinet (*Government*)
- 2.2.6 Submission of a draft Anti-Corruption Bill for the adoption through the Parliamentary procedure (*Government*)

## **3. Immediate Objective 3**

*At the end of the project, the capacity of the departments of the South African public administration will be strengthened for the prevention, management, investigation and prosecution of corruption thus allowing improvements in the timeliness, quality, cost and coverage of the services delivered to the public.*

### **3.1 Output 1**

A number of focused reports analyzing the causes, modus operandi and remedies for corruption within three selected departments of public administrations are prepared

### Activities

- 3.1.1 Selection of three departments in the public service. (*Government and Public Service Commission*)
- 3.1.2 Expert team to develop methodological guidelines (*Government, Public Service Commission and ROSA*)

- 3.1.3 Presentation of the methodology of focus assessment to the management of selected departments and adoption of organizational arrangements to facilitate the carrying out of the focus assessment (*Government, Public Service Commission and ROSA*)
- 3.1.4 The carrying out of the focus assessments (*Government, Public Service Commission and ROSA*)
- 3.1.5 Preparation of draft reports of the focus assessment (*Government, Public Service Commission and ROSA*)
- 3.1.6 Consideration and adoption of draft reports including the listing of immediate objectives and schedule of implementation and monitoring thereof (*Government and Public Service Commission with assistance from ROSA*)
- 3.1.7 Monitoring of the implementation of immediate objectives (*Government, Public Service Commission and ROSA*)
- 3.1.8 Consideration of the replication, with necessary adjustments, of the focus assessment in other selected departments at the provincial level (*Government and Public Service Commission*)

### **3.2 Output 2**

An effective and independent internal oversight complaints, prevention, investigation and management system in public service and administration is put in place

#### Activities

- 3.2.1 On the basis of the results of the focus assessments organize an expert meeting with management of selected departments (*ROSA, Government, Public Service Commission*)
- 3.2.2 Draft charters for independent internal oversight complaints, prevention and management system. (*ROSA, Government, Public Service Commission*)
- 3.2.3 Develop strategy and procedure for public knowledge of the **Batho Pele** principles and complaint mechanisms for the violation thereof (*Government, Public Service Commission and ROSA*)
- 3.2.4 Develop a system for monitoring incoming complaints and decisions and actions taken. (*ROSA, Government, Public Service Commission*)
- 3.2.5 Develop procedural manuals for management and on-the-line personnel (*ROSA, Government, Public Service Commission*)
- 3.2.6 Monitor and facilitate training and dissemination of knowledge (*Government and Public Service Commission*)

### **3.3 Output 3**

A set of measures to enhance the anti-corruption capacity of the Office of the Public Service Commission is developed

#### Activities

- 3.3.1 Facilitate exchange of knowledge and experience with foreign and local risk management structures, institutions and experts (*ROSA, Public Service Commission*)
- 3.3.2 Support the training of selected officials in system risk investigation and assessment (*ROSA, Government and Public Service Commission*)
- 3.3.3 Develop a monitoring system for the efficacy of departmental anti-corruption systems (*ROSA, Public Service Commission*)
- 3.3.4 Develop Risk Management and System Integrity training curricula and manuals for officials (*ROSA, Government and Public Service Commission*)

### **3.4 Output 4**

A set of measures to enhance the capacity of the Investigating Directorate Corruption, the Directorate of Special Operations-National Directorate of Public Prosecutions is developed

#### Activities

- 3.4.1 Advise and assistance to the Director of the Investigating Directorate Corruption in the implementation of the Management Plan based on the Recommendations of the International Expert Anti-Corruption Round Table (*ROSA, Government*)
- 3.4.2 Facilitating exchange of knowledge and experience with foreign and international anti-corruption structures and experts (*ROSA, Government*)
- 3.4.3 Select two (an investigator and one prosecutor) international experts – mentors - to provide assistance in management and training for 6 months (*ROSA, CICP/Global Programme against Corruption and Government*)
- 3.4.4 Participants in the exchange programme (international experts and recipient institution) to prepare training/ integrity curricula and manuals for the senior prosecutors and investigators with management responsibilities (*ROSA, CICP/Global Programme against Corruption/Government*)
- 3.4.5 Reproduce training/integrity manual (*Government*)
- 3.4.6 Monitor and facilitate dissemination of knowledge to on-the-line criminal justice personnel (*Government*)

### **4. Immediate Objective 4**

*At the end of the project, the knowledge of the situation of corruption in two selected provinces will be strengthen and enlarged through the undertaking of a comprehensive data collection and analysis of levels, type and trends in corruption as well as the efficiency and effectiveness of anti-corruption measures, allowing the design and elaboration of tailored anti-corruption strategies.*

#### **4.1 Output 1**

A Comprehensive Assessment Report, based on a comprehensive data collection and analysis of levels, type and trends in corruption as well as of the efficiency and effectiveness of anti-corruption measures is undertaken in the two selected provinces, is prepared.

#### Activities

4.1.1 Organization and carrying out of the Provincial Corruption Assessment as in **Immediate Objective 1, output 2.**

### **4.2 Output 2**

A refined provincial anti-corruption strategy and anti-corruption action plan are prepared

#### Activities

4.2.1 Organize provincial anti-corruption meetings to tailor provincial anti-corruption strategy within the framework of the national strategy and taking into account the particularities of the province in question as identified through Activity 4.1.1 (*ROSA and provincial Government counterpart, National Forum Against Corruption*)

4.2.2 Adoption of the Provincial Anti-Corruption Strategy (*Provincial Government and Parliament*)

4.2.3 Expert Group to prepare an Anti-Corruption Action Plan (*Provincial Government, ROSA*)

### **4.3 Output 3**

A set of measures to increase awareness and mobilization of civil society, mass-media and public administration on provincial and local levels are developed.

#### Activities

4.3.1 Organize local integrity workshops to discuss specific problems of corruption and remedies. (*ROSA and provincial and local Government counterpart with inputs from civil society*)

4.3.2 Assist and encourage grass-roots NGOs, organized religion and other community groups to develop and implement integrity initiatives (*ROSA and provincial and local Government counterpart with inputs from civil society*)

4.3.3 Organise public awareness campaigns through the use of community broadcasters and the wide dissemination of pamphlets and other materials to the community with the assistance of local NGOs. (*Government and NGOs*)

4.3.4 Assist provincial and local public administration in enhancing prevention and management of corruption through setting up a prevention, management and complaints system drawing on the results of the **Immediate Objective 3, Output 2** (*ROSA and provincial and local Government counterpart with inputs from civil society*)

4.3.5 Assign one United Nations Volunteer to each of the two selected provinces to serve as a focal point for the activities listed above. (*ROSA and UNV*)

## **E. INPUTS**

The Government of South Africa will:

- (i) Provide advice in planning and implementation of the project.
- (ii) Contribute in kind to the implementation of the programme.
- (iii) Ensure cooperation and involvement of all relevant line Departments.
- (iv) Ensure continuity by committing itself to support the activities after the project comes to an end.

The CICP/ODCCP will provide management and coordination of the project as well as funding for a two-year period to cover the following:

- (i) A project coordinator/researcher.
- (ii) Provide for the use of an office for the project coordinator.
- (iii) Research tools and equipment.
- (iv) In-country and international travel.
- (v) International and national consultants.
- (vi) Advise to the consultants/institutes involved.
- (vii) International expertise.
- (viii) Project support staff.

## **F. PROJECT RISKS**

Both continuing policy and financial support are crucial to the success of the project. Continuous policy support in the area of anti-corruption is important because the project is based and dependent on Government policy in these areas.

Continued financial support is important because the success of the project depends on continued and complementary measures from national, provincial and local governments, including willingness to assume operating costs and implementation of additional projects that complement the supported activities.

Finally, there is a political risk, because the project requires the effective cooperation and coordination between various Government ministries and departments and the civil society which may lack the will to cooperate and coordinate.

## **G. PRIOR OBLIGATION AND PREREQUISITES**

The activity will only be undertaken if the Government signs the present project document, thus expressing the political will and commitment to collaborate with the United Nations and relevant

NGOs to fight corruption. The Government needs to further commit itself to contribute to the project in the above-mentioned way.

The Government shall nominate the Department of Public Service and Administration as Government counterpart agency to provide all required national counterpart services for the implementation of this project. The Government will facilitate all expert, technical and monitoring missions to be undertaken in the context of this project and will ensure the missions access to project sites, relevant crime control data, records, agencies and authorities. The terms and arrangements for such missions will be mutually agreed upon.

The Governments will provide all related inputs specified under item D of this project document.

## **H. PROJECT REVIEWS, REPORTING AND EVALUATION**

The project will be constantly monitored during its implementation by ODCCP/CICP and UNOPS. The Government will facilitate review missions by ODCCP/CICP, as requested. The terms of reference, duration and purpose of any mission will be agreed upon with the Government prior to fielding an evaluation team.

At the start of the project performance and monitoring indicators will be further elaborated and linked to specific targets. Because the proposed project is dependent on activities by the Government, monitoring targets will also take these activities into account.

In order to evaluate the impact of the measures undertaken under this project, the South African Government counterpart will include in its regular reports an assessment of the impact of the implemented strategies and measures. Subject to the availability of funds, a committee of international experts may also be requested to evaluate the impact of those measures.

The Project Coordinator will provide the Government of South Africa and CICP/ODCCP with a Project Performance Evaluation Report (PPER) at the end of twelve and twenty-four months and a Final Report at thirty-six months after the commencement of the project. This will be discussed at the yearly joint Tri-partite meeting between the Government of South Africa, CICP/ODCCP and other parties directly engaged in the execution/implementation of the project.

The Project Coordinator will also be required to submit semi-annually monitoring (narrative and financial) reports.

## **I. LEGAL CONTEXT**

### **I.1 General legal framework**

This description of the project shall be the legal instrument contemplated in article 1 of the Basic Assistance Agreement concluded between the Government of the Republic of South Africa and the United Nations Development Programme. All the articles shall apply *mutatis mutandis* to this agreement.

The project shall be signed by the parties indicated on the cover page in the presence of each other. The assistance envisaged by the project shall only be provided if this condition has been satisfied.



The implementation of the activities by CICIP/ODCCP under this project is, each year, subject to the availability of adequate funding. Available funds will be committed through an annual budget allocation based on annually costed work-plan. Should required funding not be available, CICIP/ODCCP reserves the right to unilaterally terminate its assistance under the project.

The project document may be modified by written agreement between the parties concerned. Any relevant matter for which no provision is made in the project document shall be settled by the parties concerned in accordance with relevant resolutions and decisions of the appropriate bodies of the United Nations.

## **I.2 Compensation clause**

In the absence of gross negligence or wilful misconduct on the part of ODCCP/CICIP or its officials, no compensation is payable by ODCCP/CICIP to officials, consultants or other persons employed by a United Nations body, the Government of a State or a non-governmental organization participating in the project for the execution of the present project, funded by ODCCP/CICIP, in the event of death or disability as a result of an accident or an illness attributable to the exercise of their official functions. No application for reimbursement for compensation payable in such cases may be made to the Secretariat of the United Nations (ODCCP/CICIP), by a United Nations body, the Government or the non-governmental organization in question, who confirm, by signing the present document, that the necessary provisions have been adopted to cover such eventualities and that they will apply to all persons employed by the Secretariat of the United Nations (ODCCP/CICIP), the Government or the non-governmental organization in respect of the activities of the present project, funded by ODCCP/CICIP.

## **I.3 Arbitration**

All decisions regarding the implementation of the project should be undertaken in consensus with the Government, UNOPS and ODCCP/CICIP. Any dispute arising out of the project between the Government and ODCCP/CICIP shall, if not resolved, by negotiation, be submitted to arbitration in Vienna. A sole arbitrator, selected by mutual agreement of the Parties, shall preside over the proceedings. If within sixty days of the request for arbitration the Parties have not reached agreement on the sole arbitrator, either party may request the President of the International Court of Justice to appoint the arbitrator. The procedure of the arbitration shall be fixed by the arbitrator and the expenses of the arbitration shall be borne by the parties as assessed by the arbitrator. The selection of Vienna as the place of the arbitration is made solely for the convenience of the parties and should not be deemed by the tribunal as dispositive in determining the applicable law. The arbitral award shall contain a statement of the reasons on which it is based and shall be accepted by the Parties as the final adjudication of the dispute.

Any differences or disputes between CICIP and UNOPS shall be resolved by negotiation, with both parties giving full and sympathetic consideration to proposals advanced by the other party. Any difference or dispute not resolved may be referred to the Secretary-General for resolution.

#### **I.4 Consideration regarding equipment supplied**

The Government will defray any customs duties and other charges related to the import of equipment, its transportation, handling, storing and related expenses within the Republic of South Africa. It shall be responsible for the safe custody of equipment, the installation and maintenance, insurance in accordance with Government's practices and the replacement of equipment, if necessary, after delivery. Upon arrival of equipment in South Africa, which has been purchased by CICP/ODCCP or UNOPS under this project for Government authorities or national/local bodies, and upon certification of safe and complete delivery as necessary to enable payment to be made to suppliers, ownership of the equipment will be transferred to the Government.

Upon completion of the transfer of ownership, CICP/ODCCP or/and UNOPS will not bear any further legal responsibility for the equipment, its operation and maintenance. In the interest of project monitoring, however, the Government will maintain accurate inventory of the equipment provided the duration of the project. This information shall be made available to the ODCCP/CICP and UNOPS.

#### **I.5 General provisions**

Any revisions which may subsequently be made to the project with the consent of the UNOPS and ODCCP/CICP, and provided that they ensure that the other signatories to the project raise no objection, are as follows:

- i) Revisions or additions of annexes to the present project description;
- ii) Revisions which do not involve any significant change in the immediate objectives, expected results or activities of the project, because of readjustments of the inputs initially envisaged or by an increase in the costs due to inflation;
- iii) Mandatory annual revisions amending the inputs or responsibilities initially accepted, or taking into account an increase in the remuneration of experts, additional costs due to inflation, or changes in the agency expenses.

<b>ANNEX I</b>	<b>Country Assessment</b>
<b>ANNEX II</b>	<b>Terms of Reference: National Project Coordinator</b>
<b>ANNEX III</b>	<b>Budget</b>

## ANNEX I

### Comprehensive Country Assessment

#### *Field work*

- Surveys (citizens survey ; business survey ; public administration corruption survey );
- Focus groups and workshops: citizens integrity workshops; law enforcement (police; customs; revenue; home affairs) judiciary and prosecution; private practice lawyer's association; mass media; parliamentarians; business (main sectors: mining; banking; insurance; construction;) labor unions; education; health; public administration
- Key informants interviews: experts from academia; heads of anti-corruption units; ministers; heads of political parties; heads of relevant parliamentary commissions; outspoken journalists; heads of relevant NGOs

#### *Desk-top analysis*

- Normative and institutional framework: analysis of enabling legislation, procedure and position of anti-corruption bodies, including:
  - main legal provisions: criminal, civil, administrative
  - sources and type of legislation: year, general, special
  - offences/disposition
  - sanctions/measures: criminal, civil, administrative
  - specialized anti-corruption bodies: constitutional position, mandate, jurisdiction
  - provisions regarding access to records and documents of financial institutions
  - investigative / prosecutorial procedures: unlimited or specific permissions to initiate case and utilize specific investigative techniques
  - immunity clauses re parliamentarians; top-level government officials at national, provincial and local levels; judiciary
  - provisions regarding disclosure of assets, liabilities and income tax returns
  - money laundering and asset forfeiture, confiscation, seizure
  - witness/victim and whistle-blower protection provisions
  - referral procedure: administrative to criminal-civil to criminal and double track system
  - provisions regarding financing of political parties and electorate campaigns
  - model tendering procedure
  - Civil Servants' Code of Ethics (Conduct) per sectors
  - Code of Conduct in private sector (banking, insurance, etc.) and in professional sector (health, education, private practice lawyers, etc)
  - Mass-media content and coverage analysis
- Institutional case study: description and analysis of major anti-corruption bodies with emphasis on management plan, budget, performance results, staff integrity monitoring and internal oversight mechanisms, complaints mechanisms and related data management systems
- Co-ordination and data management flows: coordinating arrangements and compatibility of recording/management information systems
- Analysis of selected cases of medium/top-level corruption including different approaches such as civil law, criminal law, administrative law (sectors: public tenders; law enforcement-police, customs, home affairs, revenue); etc.

- ❑ Analysis of the main findings of governmental and research reports and studies
- ❑ Analysis of available statistics
- ❑ Description of major NGOs and their activities related to curbing corruption
- ❑ Description and analysis of anti-corruption awareness and training initiatives at national, provincial and local levels including instruments utilized and evaluation of the results thereof
- ❑ Analysis of the presence of corruption issue in political party's programmes and electorate campaigns

## ANNEX II

### Project Coordinator

The Coordinator must have the following qualifications: at least three years professional experience in the field of research, with specific reference to criminal justice; an ability to draft contracts; knowledge of the South African legal system, particularly of the work of the Office of the National Director of Public Prosecutions; knowledge of the relevant legislation pertaining to anti-corruption; knowledge of the relevant international standards; a sound understanding of the workings of government; good contacts in the non-governmental sector; an ability to work at the highest level of government; extensive project management experience; an ability to understand the process of funding; capacity for strategic thinking; ability to set own targets, manage time and meet deadlines; and an ability to write reports.

The Coordinator has the following duties and responsibilities under the supervision of CICP/ROSA: 1. Acting as the operational focal point for the project; 2. Ensuring that all inputs committed to the project are available to it; 3. Preparing and editing assessment and other project reports; 4. Assisting in the selection and recruitment or appointment of the sub-contractors; 5. Supervising of the work of the subcontractors; 6. Representing the project at meetings of the parties to the project agreement as required; 7. Providing assistance in the coordination of project activities that involve other agencies.

In addition to the above, the project coordinator will in close cooperation with CICP/ROSA to: 8. Ensure that all implementing agency letters of agreement and any contracts are prepared and successfully negotiated with any participating agency; ensuring that all special services agreements that are required are prepared with suitable terms of reference; 9. Mobilise and administer all project inputs not covered by implementing agency letters of agreement in accordance with relevant procedures; 10. Update and regularly revise the project work plan; 11. Organise and manage project activities according to the work plan in order to produce outputs; 12. Timely prepare and submit the Project Performance Evaluation Report (PPER) and any other required progress report.

Duration: 24 months.

Note: Provided the costs are met from the allocation in the budget, the project coordinator may retain the services of others to assist him or her in his functions and provide a reasonable fee and/or pay reasonable expenses to them.