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INTEGRITY PACTS
A TOOL FOR SEEKING PROBITY IN
PUBLIC-SECTOR CONTRACTING

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Presentation

Transparency International (TI) is a new and recognized nongovernmental organization dedicated worldwide to the fight against corruption associated with the administration of public-sector matters. Since its inception in 1993, TI has placed special emphasis on understanding and combating corruption in the contracting of public resources, one of the most critical and strongly felt aspects of the prospects for failure or success of development programs and projects. To this end, TI has been participating with various institutional agencies in strategic alliances directed toward the identification and condemnation of transnational bribery and toward the development of mechanisms, tools, or instruments that will help to contribute transparency, efficiency, and effectiveness to the specific processes of public-sector contracting in the countries.

In this connection, out of TI's possibilities and responsibilities as a nongovernmental organization there have emerged a number of initiatives, including most notably the following two: (1) active participation by TI in the groundwork and debates that led to the approval and subsequent implementation of two important international agreements detailing and condemning transnational bribery and graft—namely, the OECD agreement on the subject and the OAS Inter-American Anticorruption Agreement and (2) TI's designing and implementation of integrity pacts, defined as instruments for facilitating the summoning together of the various direct participants in specific public-resource contracting processes (national and foreign officials and contract tenderers) to commit themselves to abstaining from corrupting said public contracting processes. Active TI members have participated in this complex integrity pact endeavor worldwide, from the conceptual initiatives of Germany and the United States to the empirical efforts made in Panama, Ecuador, Argentina, Paraguay, and Colombia, by way of the adaptations made in Indonesia, Greece, Italy, and Papua, New Guinea.

In 1998, the year in which Transparency Colombia (TICOL) was formally recognized as a national chapter of TI and began to operate systematically in the country, there began a new presidential period in Colombia characterized by its explicit discourse against corruption and by a programmatic commitment to corruption's defeat. In this context, TICOL was invited, along with various other private-sector participants, to discuss and contribute to the construction of the new "presidential program of combating corruption," to be entrusted to the direction of the vice-president's office. As a result of this process, President Pastrana's national development plan, "Change toward the Building of Peace," included in its anticorruption strategy a guideline calling for the entire public-sector administration to use the integrity pact methodology developed by Transparency International, to be duly implemented in accordance with Transparency Colombia's capabilities, in order to give transparency, equity, and sustainability to the nation's principal public-resource contracting and investment operations.

For Transparency Colombia to decide formally to include among its work priorities the systematic implementation of integrity pacts, it proceeded in February, March, and April of 1999 to call together a small group of high-level advisors from both the public and private sector recognized both for their broad experience in national and international public contracting and for the impeccable exercise of their professional responsibilities. With these advisors, TICOL evaluated the conditions of the public-sector contracting environment in Colombia, the relevance and viability of mounting a systematic effort to implement integrity pacts, and the principal requirements for adaptation of the integrity pact mechanism to Colombian conditions. In May,

once the decision had been made to include the integrity pact strategy in TICOL's action plan* and therefore in the national development plan, the instrument was presented to the boards of directors of executive-branch and private-sector organizations involved in the principal public-investment processes, in accordance with the national development plan's guidelines, inviting them to include integrity pacts in their programs. Thus, by direct request from ministers of state, governors, and directors of institutions or departments, TICOL has become involved in more than forty bidding and contracting processes, with widely varying but always instructive results.

Following a year of systematic work in the implementation of integrity pacts in Colombia and at the invitation of the Inter-American Development Bank (IDB), Transparency Colombia has prepared the present analytical summary of its experience for presentation at the IDB conference on "Transparency and Development." The document is organized into four parts, as follows: (1) key aspects of the environment in which it was decided to implement integrity pacts; (2) adjustment of the integrity pact concept to Colombia's situation; (3) the Colombian experience in the promotion of integrity pacts; and (4) the major lessons learned thus far by TICOL in terms of the map of specific corruption risks during the different main stages of the overall public contracting process and in terms of the implementation of the integrity pacts themselves.

* TICOL's principal lines of strategy for its work include the following: (1) to join forces and build national and international alliances against corruption; (2) to produce and widely disseminate informational material on the corruption phenomenon; (3) to develop specific mechanisms for corruption prevention; (4) to foster a business ethic of zero tolerance for corruption; and (5) to generate a culture favoring the public rendering of accounts.

CHAPTER 1

NATIONAL ENVIRONMENT OF THE DECISION TO IMPLEMENT INTEGRITY PACTS IN COLOMBIA

Although integrity pacts have been designed generically by Transparency International and are being used by national TI chapters in many different areas of the world, any analysis of these pacts' characteristics, scope, and achievements should be approached from the standpoint of the nature of the specific institutional, social, political, and cultural conditions of the national environments in which they are being implemented. With respect to the present study, for instance, the local circumstances are clearly colored by the need of the Colombian State's various institutions to take anticorruption stances and actions in response to the huge scandal that erupted in the country after the disclosure of the participation of drug-trafficking money in the country's pre-1998 electoral campaigns. Yet if we go a little deeper into the other conditions prevailing in the country at century's end, we discover that alongside the strong political will to undertake the implementation of various anticorruption mechanisms, including TI's integrity pacts, there also exist many institutional conditions that would well support the systematic, generalized, and immediately productive implementation of such mechanisms.

The following four subsections present a summary of the determining conditions of Colombia's public-sector contracting environment as identified by TICOL's select group of advisors regarding the relevance and feasibility of implementing integrity pacts.

1.1 Strengths

- An adequate legal framework already exists in Colombia for instating efficient, equitable, and transparent public-resource contracting processes. Colombia's Contracting Law—namely, Law 80 of 1993, the central axis of all contracting-related legislation in the country—is sufficient, clear, flexible, and complete and is widely known by all the parties involved in public contracting. Furthermore, Colombia has already adopted the majority of the instruments defined in the OAS Agreement for countering corruption in the utilization of public resources (at present, work is being done on the description and classification of transnational bribery and graft).
- Colombia has a very broad range of government institutions whose functions and scope encompass the fight against corruption and the overseeing of the administration of public resources. There exist few if any initiatives in this regard that have not already been formally created in Colombia, as witnessed by the existence of the following: the office of the comptroller, the procurement office, the attorney-general's office, the office of the auditor, the accountancy office, the public defender's office, the district inspector's office, the interinstitutional commission against corruption, and various superintendencies, regulatory commissions (for the principal public services), and representatives' offices.
- Increasing amounts of power are being given to the country's anticorruption-oriented disciplinary, fiscal, and penal bodies.
- The 1991 Constitution contains broad guarantees safeguarding citizens' right to participation in the regulation of public-resource use. Mechanisms such as the citizens' inspectorates are beginning to find an echo in the general public overseeing of the official public-sector administration.
- Colombia's recent history features the definition and implementation of a great abundance of public-sector policies and programs seeking to create an understanding of corruption and to prevent, analyze, and combat it. The most recent four national administrations, including the present one, have carried into effect presidential programs that expressly address these issues.
- The central government has long-term access to well-qualified human resources that are more than able to conduct transparent and equitable public-sector contracting processes.
- Furthermore, the country has already had various contracting experiences recognized as successful from the point of view of their transparency, efficiency, and probity (some of them focusing more on ethical commitments than on actual functional arrangements).

1.2 Opportunities

- There exists growing awareness in broad sectors of Colombian society concerning the complexity, seriousness, and pervasiveness of the so-called phenomenon of corruption. The corruption issue has become a central topic of national discussion, as evidenced by the current debate regarding a constitutional referendum on the matter.
- Beyond the corruption scandals, which simply reflect a longstanding reality in much of the country's past leadership, increasingly effective public and private efforts are being made toward reporting, researching, and studying corruption in the management of public-resource investment, leading to public statements such as the following two made recently by participants in the presidential program against corruption: The costs of corruption are calculated by the national government to be at a level of at least 1 percentage point of the gross domestic product – that is, more than 1.32 billion pesos for the year 1999. During the past year, four out of every ten pesos earmarked for investment in health care were diverted from their legitimate constitutional objective. This increased awareness is fueling the search for effective outlets involving the active participation of private-sector organizations – outlets such as the implementation of the integrity pact proposal.
- The presidential program against corruption, under the leadership of Vice-President Gustavo Bell, is committed to developing precise and effective official methodologies and mechanisms for preventing corruption in public-sector contracting. Article 4, chapter 2 of the national development plan for the 1998-2000 period, "Change toward the Building of Peace," includes a provision stating the following:

For the purpose of rallying civil society against corruption, the administration will promote participation in the worldwide program known as "Transparency International: Islands of Integrity," so that bidders in international and national public contract tenders in Colombia will be bound by anticorruption agreements to fulfill certain contract-related personal and economic responsibilities.

- The positioning of anticorruption efforts on the wider international agenda generates necessary and welcome pressures on Colombia's own national agenda.
- Furthermore, the private sector is exerting greater demand for the creation of a dependable and scrupulous business environment. In the face of the recent corruption scandals and the increasing insecurity about investing in Colombia, different sectors of Colombian society involved in the processes of public-resource contracting have taken a clear stand against corruption and have called for the development of more-effective instruments, based on ethical commitments.

1.3 Weaknesses

- In general, Colombia is characterized by a lax system of societal regulation, weak societal acceptance of the formal juridical regulatory system, and a culture that rewards those who

show that they are the “most crafty” or the “cleverest.” In public-sector contracting particularly, there exists little inclination on the part of any of the actors involved to observe the legal provisions of the national law on the subject. Public-sector officials as well as the potential bidders in each public contract tender and bidding process know the law and know its requirements, but many of them are perennially disposed toward ignoring it, finding “socially acceptable” ways of getting around it based on culturally widespread practices that, in addition to rewarding the “cleverest,” circularly argue that the fact that these practices are indeed widespread is justification enough for perpetuating them. (“Everybody else is doing it. Why shouldn’t I?”).

- The impunity with which the norms are violated facilitates the misappropriation of public resources and generates a systematic loss of legitimacy for the government.
- Exactly who the future recipients and executors of given public-resource investments in Colombia will be has in many instances already been decided upon even before the contracting and bidding process begins, based on preexisting politics-related commitments from campaign promises and from the exigencies of the relationship between the executive branch and other branches of government--most times without even a nod to the principles articulated in the relevant laws and without any thought of placing the collective good over the individual or private good.
- There also usually exists a large power imbalance between the public-sector employee entrusted with a given contracting matter (who normally is low on the totem pole within the public administration and is transitory as well) and the private-sector business executive who wins the large investment projects (who has contacts at high levels of the public administration and who is always very well informed, even in the face of changes in the administration). This power imbalance that exists between public and private interests even in the largest contract negotiations promotes the subsequent insertion of clauses favoring the bidder, to the detriment of the public well-being.
- Oftentimes the in-house teams of ministries and other central-government level organizations as well as those of state and municipal administrations are not fully qualified to prepare the projects and rules pertaining to contract competitions and bidding processes, yet they exercise a near-obsessive opposition to bringing on board the needed experts who should be contracted for the process.
- Furthermore, there exists in Colombia a widespread but erroneous belief that strict confidentiality must surround the entire public-sector contracting process. For whatever reason, precedence is usually given to guarding a supposedly “necessary” confidentiality of information about a bidding process over ensuring the proper and wholesome transparency that instead should characterize such activities.

1.4 Risks

- An uneasy truce exists between, on the one hand, the desire to produce immediate results (characteristic of any public administration elected to a short term in office, and especially so

in Colombia, where the president may serve only four years and governors and mayors only three, all without eligibility for reelection) and, on the other hand, the need to provide sufficient time to ensure the adequate structuring of bid processes and to permit full discussion by experts and interested parties. Generally, through deficiencies of planning, only short time spans are provided for most contracting efforts, a restriction that constitutes the principal threat to the transparency and quality of any bidding process.

- In addition, there exists a very Colombian tendency to believe that all problems can be resolved at the legal level, through the adoption of new laws or regulations, even though the statutes that are already on the books are not properly obeyed. This legal busywork diverts attention away from the true causes of corruption and from the personal and institutional responsibility for its perpetuation and increase.
- There exist inherent difficulties in trying to promote voluntary ethical commitments and deep cultural changes such as those envisioned by the integrity pacts.
- Furthermore, the widespread war in the country often implies direct interference by armed parties in public investment processes.

CHAPTER 2

ADAPTATION OF THE INTEGRITY PACT TO THE COLOMBIAN SITUATION

When Transparency International decided to formulate integrity pacts, it conceived of them generically as “a contract by means of which the proposers of a given international contract bid explicitly commit among themselves and with the respective government to refrain from offering or paying bribes and to pay certain fines in case they should break this commitment.” Different national chapters of TI, particularly in Latin America, have been modifying the basic model in order to implement integrity pacts in accordance with the specific public contracting conditions of their own country. The present chapter describes how Transparencia Colombia (TICOL) and its advisory group have adapted the definition of an integrity pact as well as the methodology for implementing such a pact (it should be made clear that this is a continuous learning process that requires constant revisiting of the integrity pact concept and application method).

2.1 Definition

Integrity pacts are voluntary agreements signed by all of the direct participants in a public-resource-contracting process in order to ensure the transparency, equitability, and sustainability of the chosen contractual modality.

Within the implementation process of each integrity pact there is an invitation to a voluntary cultural change. Each pact seeks to bring together different groups of citizens to accept shared

regulatory systems linked with a regimen of rewards and punishments above and beyond those already provided for in the legal framework, thereby giving value-added to that framework.

2.2 General Purpose

Together with the other tools designed for the same purpose, integrity pacts seek to contribute to a transformation of the structural conditions of public-resource contracting. To this end, such elements as the following need to be monitored: (1) adequate structuring of the project; (2) public discussion of the bid specifications; (3) in bid evaluation, the giving of priority to fulfillment of the spirit of the law versus punctilious compliance with the law's purely form-related aspects; (4) commitment by policy executors to the presentation of accounts; (5) acceptance of the precedence of the collective interest over the private; (6) acceptance of the principle of monitoring by the public sector; and (7) participants' acceptance of the results.

2.3 Specific Objectives

- The following are the specific objectives of the integrity pact mechanism: -to increase transparency in public bidding and contracting processes, generating confidence and credibility on the part of public officials, bidders, and public opinion in general with respect to the honesty and transparency with which these processes are carried out.
- To generate a voluntary cultural change on the part of those involved to align their behavior in accord with the ethical principles and legal framework governing Colombian society. (It is hoped that the methodology associated with the application of this tool will reinforce within the participating public institutions the consolidation of an environment favorable to honesty in the development of public contracting and that it will reinforce within the bidders and contractors themselves confidence in the possibility of participating in said contracting within a framework of equitability and the desire to carry out their part of the process in that same spirit.)
- To agree upon rules of play that would contribute to achieving a better balance of power between the winning company and the public officials handling the contract, particularly in the cases of the largest privatizations and concessions
- To produce empirical data for a map of corruption risks detailing the environment within which public-resource investment is carried out, by analyzing the shared elements and the peculiarities of the different bidding and contracting processes in terms of the vulnerabilities identified

2.4 Metodology for the Implementation of Integrity Pacts

The following subsections present the principal stages associated with the implementation of an integrity pact. These stages do not necessarily appear in linear fashion.

2.4.1. Identification of Resources

In order to initialize and guide the signing of an integrity pact, it is essential to identify and secure in a timely manner the resources of all types (technical, human, financial, administrative, and cooperative) needed in order to move ahead responsibly with the task. In TICOL's case, resources have been made available from various sources, including experts' voluntary contribution of their work, international technical cooperation, and contributions by private organizations and by the contract participants interested in promoting the transparency of the process.

2.4.2. Consolidation of Political Will

The successful implantation of integrity pacts demands the corresponding unambiguous and effective political will on the part of those entrusted with making public-sector expenditures. This political will should be translatable into at least the following three results: (1) the directorship team of the public institution entrusted with conducting the bidding or contracting process shares information on the relevance and feasibility of applying the integrity pact as an ideal mechanism for strengthening the transparency of that process; (2) the highest authority governing the public bidding or contracting process expresses to all participants his or her ethical commitment to protecting the probity of that process and invites all of them to proceed in accordance with the same spirit; and (3) the participating public-sector entity signs an agreement with Transparency Colombia to formalize the former's commitment to the implementation of an integrity pact with all the consequences such a pact entails.

2.4.3. Construction of a Proclamation of Ethical Commitment by Public Officials

Because they will be attempting to stimulate a voluntary cultural change that commits participants personally to the observance of ethical principles and respect for the public good, the public officials who have any level of responsibility in conducting the bidding or contracting and who can therefore impact on the objectivity and transparency of the decisions made during that process should participate in workshops or discussions in order to draw up the map of corruption risks covering the various stages of the process and in order to define beforehand the specific action commitments that will allow them to protect themselves and the bidding process itself from these corruption risks. In addition, agreement should be reached as to the exact rewards and punishments that will be applicable in cases of fulfillment and nonfulfillment of the commitments so acquired.

The proclamation of ethical commitment resulting from this exercise describes the obligations acquired by participating officials and constitutes the starting point from which the institution's highest authority can then formally call upon all of the bidders together to sign the integrity pact based upon the commitment to probity already affirmed by the institution's officials.

2.4.4. Public Discussion of Bid Specifications for Contracts

The most important moment for the success of the integrity pacts is one that, of course, could be handled separately but which, because of the value-added it gives to the process, should always be programmed as part of the implementation methodology of every integrity pact. The important moment to which we refer is the public discussion of the bid specifications with participants and with experts on the topic in question, in order to ensure that these specifications are clear, equitable, feasible, and transparent. Various mechanisms can be used for this public discussion, such as qualified public hearings, meetings called with specific interest sectors, the posting of the specifications on the Internet in order to receive and respond to all the pertinent communications, and/or discussion of the specifications with the bidders themselves (as is in fact stipulated by Colombian law). Furthermore, TI commits to consulting about the bid specifications with independent experts who, under protection of a confidentiality agreement, will give their opinion as to the specifications' clarity, transparency, and equitability.

2.4.5. Working with Bidders Themselves

Based on the general elements of the integrity pact and on the items covered in the proclamation of the participating public-sector officials, any parties interested in taking part in the process as bidders should draw up their own map of corruption risks in order to identify the vulnerabilities that are present and the countervailing measures that they must take—totally in keeping with Colombian laws and related amendments—in order to build confidence in the transparency of the contracting process.

It is important that each bidding firm's management go over the corruption risk analysis and the firm's necessary countervailing anticorruption commitments during special meetings with the personnel inside the respective enterprise who will be involved in the preparation of the proposal. This will ensure that the head of the company, who is the person who will ultimately be signing the integrity pact, is supported by the strength of the ethical commitments therein assumed by the company's employees.

A pivotal aspect of this exercise is bidders' definition of and agreement to the sanctions (and as will be seen later in the present study, the sanctions are not necessarily fines) to which they have agreed to become subject if they fail to observe the provisions of the integrity pact, and bidders' identification of and agreement on the deliberative body that will serve as arbiter for such cases of possible nonobservance and will hand down decisions in a more expeditious and transparent manner than might the country's regular juridical system.

2.4.6. Signing the Integrity Pact

The results of the corruption risk analysis are integrated into the text of the integrity pact itself, which will be signed by the highest authority of the contract-tendering organization together with the highest-level representative of each of the bidding enterprises or companies.

The text of the integrity pact fleshes out the commitment negotiated and signed between the public-sector authorities and the bidding firms, in providing for a given accepted regulatory

system with its possible rewards and punishments, thereby generating the trust and confidence necessary so that all parties can acknowledge, value, and protect the probity of that contracting process.

2.4.7. Regular Issuance of Public Statements

It is important to promote the fairly regular issuance of public statements by the signers of the integrity pact so that participants, in advancing from stage to stage in the contract process, may publicly confirm their satisfaction with the probity of the process up to that point, based on the information available to them. Providing for such statements at every stage of the process makes it easier along the way to ascertain the exact moment at which any possible doubt may have begun to arise as to the cleanness of the process.

It also allows contract participants to keep the public updated on the progress of the process and to improve the general perception of the characteristics and quality of that process—an important step toward increased project legitimacy from the standpoint of public opinion.

2.4.8. Appointment of an Arbiter

As mentioned earlier, another pivotal moment in integrity pact implementation is the signatory parties' naming of a "third" party or "outside" party uninvolved in process decision making, able to serve as arbiter in case of a complaint about the behavior of any of said signatory parties during the contract process, and able to assume responsibility for deciding upon the applicability of the predetermined sanctions in each case.

It is essential that the organization selected for this purpose have arbiting procedures well established and that it have adequate operational capacity to proceed with the arbitration through examination of the evidential elements, in order to arrive at an equitable decision. It should be an institution not only of great credibility for the signatory parties themselves but also of the highest level of respectability in the eyes of the general public.

CHAPTER 3

COLOMBIA'S EXPERIENCE IN THE PROMOTION OF INTEGRITY PACTS

In May 1999, Transparency Colombia (TICOL) launched its strategy of promoting the integrity pact as a tool for fortifying the country's commitment to probity in public-sector contracting. From the very outset of this initiative, the Colombian chapter of TI has been a focus of interest from and support by the Colombian president's anticorruption program, in cooperation with which it summoned together the highest authorities of the executive branch, of enforcement bodies, of multilateral credit agencies, and of technical-cooperation organizations as well as different public-sector and civil-society organizations, for the dual purpose of acquainting them with the integrity pact methodology and of seeking allies for itself in the implementation of this probity mechanism in Colombia.

The general strategy that has been employed thus far has been that of trying out the integrity pact methodology in various sectors; with different levels of contracts, actors, and allies; at various levels of the public administration; and under different modalities of public-sector resource investment, seeking in this way to evaluate the integrity pact's pertinence and effectiveness in different scenarios. Up to this point TICOL has worked in public-resource-contracting processes that (1) represent diverse sectors (health, education, energy, infrastructure, and communications, to name a few); (2) relate to projects of varying complexity and magnitude (the total values of each of which range from US\$ 1 million to US\$ 1.4 million); (3) contribute to the establishment of alliances between TICOL and key economic-sector actors (such as the chambers of commerce of Bogota and Barranquilla, the National Territorial Development Fund, the UNDP, the German GTZ, the World Bank, and the Inter-American Development Bank); (4) involve different levels of the Colombian public administration (the national government and also smaller governance districts such as Risaralda, Atlántico, and the Capital District of Santa Fe de Bogotá); and (5) represent the three different modalities of public-resource investment (direct contracting of goods and services; concessions; and privatizations).

During the course of the barely one year of work since the initiation of its integrity pact promotion strategy, Transparency Colombia has accepted invitations from 51 different public-resource investment projects to accompany them with the integrity pact methodology. The majority of these projects (31) are still in execution with no major problems; others of them (11) have presented difficulties that have obliged TICOL to withdraw; and the remainder have concluded successfully (8 with signed integrity pacts and 1 without). The following table presents this information in slightly greater detail:

TICOL: Number of Public-Resource Contracting Processes Accompanied by Integrity Pacts
(by current status of the process and by process modality)

Current status of the process	Number	Percentage
In execution, without problems	31	61%
Process concluded, with a signed integrity pact	8	16%
In execution, but no longer with TICOL's accompaniment	11	21%
Process concluded, without a signed pact	1	2%
TOTAL	51	100%

Process modality	Number	Percentage
Direct contracting of goods and services	39	76%
Concessions	10	20%
Privatizations	2	4%
TOTAL	51	100%

Before presenting some reflections on the major lessons learned thus far by TICOL, let us examine the following three tables in order to get a clearer idea of the overall dimensions of the Colombian effort. The tables provide more-detailed information about the 51 contract processes in which TICOL has sought to implement the integrity pact mechanism during the course of the past year, up through April 15, 2000, as organized by specific contract modality—namely, (1) direct contracting of goods and services; (2) concessions; and (3) privatizations.

3.1 Direct Contracting of Goods and Services

SECTOR (Number of processes)	ENTITIES AND ALLIES	NAME OF THE PROJECT OR PROCESS	COSTO (US\$ millions)	PRESENT STATUS OF THE PROCESS
Communications (1)	Ministry of Communications/ National Development Fund (FONADE) / INVERLINK	COMPARTEL I program: Selection of operators entrusted with equipment and operation of 6,500 low-cost rural telephone installations	\$70.0	Contract awarded. Integrity pact signed, following absolutely all of the stages provided for. <i>Successful process.</i>
Communications (1)	Ministry of Communications/ National Development Fund (FONADE) / INVERLINK	Selection of the inspectorate of the COMPARTEL I program.	\$1.7	Contract awarded. Integrity pact signed. <i>Successful process.</i>
Communications (1)	Ministry of Communications/ National Development Fund (FONADE) / INVERLINK	COMPARTEL II program: home telephone installation, community telephone, and low- cost Internet centers	\$100	Project in structuring stage. Preliminary version of bids on Internet for public discussion.
Public works (10)	Departament of Risaralda / German GTZ	Inter-city road infrastructure projects (5) with resources from the National Oil Rights Fund (5 works bidding processes and 5 competitions for inspectorates)	\$2.5	Specifications revised through public discussion on the Internet and with a TICOL expert. Proclamation signed by public- sector officials. Six integrity pacts signed (3 bidding processes and 3 inspectorate contests). Successful processes. Four integrity pacts currently under discussion with bidders.

SECTOR (Number of processes)	ENTITIES AND ALLIES	NAME OF THE PROJECT OR PROCESS	COSTO (US\$ millions)	PRESENT STATUS OF THE PROCESS
Low-cost public housing (1)	Departament of Atlántico/Barranquilla Chamber of Commerce	Program of Urban Standardization in five townships of the department of Atlántico	\$13.5	<p>Specifications revised through public discussion on the Internet and with a TICOL expert.</p> <p>Proclamation signed by public-sector officials.</p> <p>TICOL withdrew from the process with a public communiqué citing the lack of clarity and the absence of guarantees in the program's financial and juridical structuring. As a result, the authorities suspended the bidding process and initiated a clarification effort.</p>
Transportation (1)	Urban Development Institute of la Alcaldía Mayor de Santa Fe de Bogotá, DC	Selection of the company to structure the ALO (western north-to-south avenue) project	\$1.5	TICOL accompanied the public discussion of the bid specifications. As a result, certain doubts were cleared up and participants' confidence in the process was increased, but there was insufficient time to work on an integrity pact.
Transportation (1)	Transmilenio's management/ Alcaldía Mayor de Santa Fe de Bogotá, DC	Acquisition of equipment for the central control of system operation	N/D	Bid specifications studied by TICOL experts. TICOL withdrew from the process because of the lack of institutional commitment to comply with the minimum conditions for implementation of the integrity pact.
Water supply (15)	Cartagena Water Supply Enterprise / World Bank	Fifteen major works and supply contracts for expanding the coverage of water supply and sewerage services	\$23.0	\$23 It was agreed that the bid specifications that are already ready would be posted on the Internet for public discussion. An agreement is being prepared by TICOL and the World Bank.

SECTOR (Number of processes)	ENTITIES AND ALLIES	NAME OF THE PROJECT OR PROCESS	COSTO (US\$ millions)	PRESENT STATUS OF THE PROCESS
Education (1)	Ministry of Education / Executive Secretariat of the Andrés Bello Agreement	Provision of computer and cable infrastructure with Internet connection for 650 new- technology classrooms	\$27.0	<p>Bid specifications now on Internet for public discussion.</p> <p>Bid specifications evaluated by TICOL experts.</p> <p>Ethical proclamation signed by public officials.</p> <p>Integrity pact text under discussion with bidders (under multinationals' objection to the obligation of reporting any knowledge of the crime of bribery).</p>
Infrastructure (1)	National Oil Rights Commission / UNDP	Contracting of administrative and financial auditing services that will be developed throughout large areas of the country, for hundreds of projects financed with resources from the granting of oil-drilling rights	\$ 6	<p>Bid specifications now on Internet for public discussion (with the time period extended several times already because of the heavy debate).</p> <p>Bid specifications evaluated by TICOL experts.</p> <p>Workshop with public officials planned.</p> <p>Discussion with bidders concerning the integrity pact has been initiated.</p>
Communications (1)	National Radio and Television Institute	Contracting of production, coproduction, execution, and acquisition of broadcasting rights for spaces on the "Señal Colombia" channel	N/A	TICOL accompanied the process only during the bid specifications review. It did not continue with the process, because of incompatibility of TICOL's board of directors, some of whose members have interests in the radio and television sector.
Communications (1)	National Radio and Television Institute	Acquisition and assembly of information system for administrative, financial, and commercial management and for office automation	N/A	TICOL experts' study of the bid specifications suggested that this contract project had serious budget problems. The Institute agreed and canceled the process.

SECTOR (Number of processes)	ENTITIES AND ALLIES	NAME OF THE PROJECT OR PROCESS	COSTO (US\$ millions)	PRESENT STATUS OF THE PROCESS
Treasury (1)	DIAN / GTZ	Scanning of income tax statements prepared by taxpayers themselves	N/A	Structuring of process is still in the earliest stages, causing TICOL to postpone its decision about participating.
Defense (1)	Ministry of Defense	Selection of an insurance brokerage	N/A	TICOL evaluated the institutional dynamics and decided that it would be difficult to find sufficient safeguards for developing an integrity pact, for which reason it abstained from entering.
Health (1)	Ministry of Health	Selecton of fiduciary firm to entrust with administration of FOSYGA resources	\$600	Bid specifications now on Internet for public discussion (modifications have been made and time limits have been extended because of heavy debate on the specifications). Bid specifications evaluated by TICOL experts. Workshop planned for officials. Discussion initiated with bidders concerning the integrity pact.

SECTOR (Number of processes)	ENTITIES AND ALLIES	NAME OF THE PROJECT OR PROCESS	COSTO (US\$ millions)	PRESENT STATUS OF THE PROCESS
Land preparation (1)	National Institute of Land Preparation (INAT) / IDB, through the initiative of TICOL's local ally in the department of Atlántico, ProTransparencia Atlántico	Construction of the Santo Tomás – El Uvito irrigation district in the department of Atlántico	\$20	<p>TICOL and its regional ally are considering withdrawing from the process because of the lack of safeguards for transparency.</p> <p>The process has much interference by local politicians, even though INAT has already been publicly singled out as a corruption-prone organization. The presence and participation of IDB and TICOL are supposedly seen as a way to remedy this loss of prestige.</p> <p>The contract project and the bid specifications are being prepared by a consulting firm directly selected by INAT, without INAT's having introduced additional mechanisms (above and beyond the legal regulations already in place) that would allow it to address successfully the lack of public trust in INAT's procedures.</p> <p>TICOL has doubts concerning the viability of the financing modality selected to collect the user contributions (approximately 30 percent of the total value of the project works), which calls for the contractor itself to finance these construction resources--meaning that the investment's sustainability and the return to investors are not duly safeguarded.</p>

SECTOR (Number of processes)	ENTITIES AND ALLIES	NAME OF THE PROJECT OR PROCESS	COSTO (US\$ millions)	PRESENT STATUS OF THE PROCESS
				<p>Because of the foregoing situation, only 5 national firms showed up for the prequalification stage, representing barely</p> <p>20 percent of the 25 firms that showed interest initially and that purchased the respective bid specifications. The remainder abstained from participating because of their doubts about the financing modality defined for the collection of user contributions.</p> <p>INAT has proven to be unwilling to accept suggestions about modifying existing conditions and about giving greater transparency to the process.</p> <p>Workshop with officials carried out, but without the signing of a proclamation.</p>

3.2 Concessions

SECTOR (Number of processes)	ENTITIES AND ALLIES	NAME OF THE PROJECT OR PROCESS	COSTO (US\$ millions)	PRESENT STATUS OF THE PROCESS
Communications (1)	Ministry of Communications/ National Development Fund (FONADE)	Awarding of contract for airwave access for operation of personal communications system	\$200	Accompaniment by TICOL provided for in the law regulating the process. Program in preparation.
Water supply (5)	Ministry of Development / World Bank / UNDP / Capital Corporation	Water company modernization of 5 of the country's municipal water supply systems	N/A	Accompaniment by TICOL in the structuring of the respective bid specifications.
Public works (1)	Ministry of Transportation / National Highway Institute	Various bidding processes in the program for the Bogotá – Buenaventura highway corridor (500 kilometers)	\$ 1,000	Although TICOL experts have reviewed various proposals, after a year the decision was made to withdraw from the process because of the lack of political decision concerning the project's priority.
Public works (1)	Urban Development Institute of Santa Fe de Bogotá, DC	Western north-to-south avenue	\$ 250	Excessive election year political pressures and private interest surrounding the process hamper transparency, causing TICOL to abstain from participating.
Welfare (1)	Colombian Family Welfare Institute (ICBF) / Capital Corporation	Operation and maintenance of Bienestarina factories	\$ 150	Bid specifications on Internet for public discussion. Specifications studied by TICOL experts. Officials' proclamation signed. Discussion of integrity pact with bidders initiated.
Transportation (1)	Transmilenio's management / Alcaldía Mayor de Santa Fe de Bogotá, DC	Operation of medium-capacity trunkline transportation routes and toll collection system	N/A	Bid specifications studied by TICOL experts. TICOL withdrew from process because of participants' lack of institutional commitment to complying with the minimal conditions for integrity pact implementation.

3.3 Privatizations

SECTOR (Number of processes)	ENTITIES AND ALLIES	NAME OF THE PROJECT OR PROCESS	COSTO (US\$ millions)	PRESENT STATUS OF THE PROCESS
Energy (1)	Ministry of Mining and Energy / ISAGEN/ INVERLINK	Divestment of 72.9 percent of the the stock of the energy distribution company ISAGEN	\$ 500	<p>TICOL accompanied the entire process, reviewed the bid specifications with its experts, worked with officials on their ethical proclamation, and designed the mechanism for stimulating potential bidders' interest in an integrity pact (while protecting the confidentiality necessary for this sector).</p> <p>Nevertheless, TICOL decided to withdraw from the process because of the direct interference by armed parties who could affect process transparency.</p>
Energy (1)	Ministry of Mining and Energy	Privatization of 14 regional energy distributors	\$ 1,400	Because of public-order difficulties and the investment banking sector's hesitancy to participate in the integrity pact process, TICOL decided not to accompany the bidding process.

CHAPTER 4

MAIN LESSONS LEARNED BY TICOL

Most of the contract processes in which Transparency Colombia has been involved thus far through the implantation of integrity pact methodology will not actually conclude until the end of the present fiscal year (December 2000). So it is still too early for us to speak in terms of long-term evaluations or long-term results of the mechanism. For the moment, TICOL has signed an agreement with the Business Administration faculty at Bogota's Andes University so that this faculty, through a degree-oriented course of study, will undertake the designing of what might serve as a methodology for integrity pact follow-up and impact evaluation. The work would begin by addressing the lack of available data.

What would be interesting and pertinent would be to focus on the collection and organization of data on the elements in integrity pact implementation that turn up repeatedly and might therefore provide increased clarity about both the public contracting environment in Colombia and the actual dynamics of the integrity pacts themselves.

In this regard, the first important finding has been that since the integrity pact is simply a specific and time-sensitive tool that is applied only in certain given moments during the contracting process, its success depends upon the effective possibility of applying an additional set of mechanisms and instruments also conducive to the creation of transparency—and finally, of confidence—during the whole investment operation, from the making of the political decision, through the bidding and execution processes, to the maintenance of the results of the investment. Otherwise, those involved in the bidding and contract process will spend their time discussing the lack of transparency and will not be inclined to undertake the formal personal ethical commitment that the integrity pact entails.

The following sections present the principal lessons learned by TICOL during this first year, organized into two different levels—namely, (1) lessons related to the map of corruption risks during the process as a whole and (2) lessons related directly to the implementation of the integrity pacts themselves.

4.1 Map of Corruption Risks by Stage of Public Contracting

4.1.1 In the Making of the Political Decision

The circumstances that surround the making of political decisions on public-resource investment are of fundamental importance in terms of being able to generate confidence about the manner in which the subsequent contracting process itself will be conducted. The processes in which the most difficulties have arisen are those in which the decision to carry out the project is associated either with preexisting campaign-related commitments to other politicians or to particular economic groups or with pressure from groups that have great lobbying clout or other power that

they can bring to bear to try to make the political decision favor them directly and in priority fashion.

Therefore it is important to work more systematically on mechanisms that allow for, on the one hand, the independence of the governing officials and their teams at the moment of political decision making on public-resource investment while permitting, on the other hand, direct participation by the citizenry, in the broad sense, in overseeing those political decisions. By way of illustration, we might propose the following steps: (1) institutionalize participatory planning; (2) develop broad-based, pluralistic citizen forums for discussion of the major decisions that, because of their impact or size, should be presented to and accepted by the governed before implementation; and (3) promote the signing of ethics-related agreements (pacts) among candidates in order to free the handling of certain crucial issues from the effects of preexisting promises stemming from the conduct of political campaigns or from the exercise of a public office.

The foregoing notwithstanding, we must strongly emphasize that during the stage of political decision making the very greatest risk of corruption is the risk associated with the political decision to award certain contracts under the rubric of “direct contracting” (provided for in Colombia’s law on contracting, but only for use with contracts of supposedly relatively small size). “Direct contracting” allows the contract administrator to sidestep the utilization of the open, plural, equitable, and transparent bidding and contracting procedures that would otherwise apply. The most recent national direct-contracting scandal in Colombia was about the irregular-contracting instance of which the House of Representatives was accused during the first quarter of the present year.

4.1.2 During the Structuring of the Project

Bid specification discussions have turned out to be the most difficult in processes characterized by very weak institutional capacity of the originator to formulate such projects and an absence of project input by noninstitutional agents. Adequate definition of the project’s technical, financial, social, and juridical aspects helps to ensure adequate definition of the rules of the game in a public-sector contract bidding process. To pursue greater transparency in this structuring stage, it is a good idea for officials to seek out the help of independent consultants or firms qualified to contribute the greatest possible technical rigor to the preparation of the project and whose independence and fitness for the job can be bolstered by such mechanisms as the signing of an integrity pact during the course of their public selection process.

4.1.3 In the Definition of the Rules of Play

In TICOL’s experience, the element that most strongly contributes to creating transparency in public investment and to generating peacefulness among the various participants is the careful and equitable formulation of the rules of the game and the wide publicizing of these rules before the opening of the public bidding or contracting process. Consensus exists among bidders and public officials alike that it is during this stage that elements are frequently included to bias the bidding process in favor of one particular bidder or another.

To protect against the occurrence of such acts, project authorities must expend every effort to ensure the greatest possible circulation of the terms of reference or bid specifications and of the first draft of the contract so that these documents, in preliminary form, may be viewed, commented upon, and critiqued by experts, beneficiaries, and those interested in presenting a bid. The observations by all these parties constitute the strongest possible safeguard for the equitability, efficiency, and transparency of the proposed process, in the sense that the debates and tensions that will necessarily arise among the various interested parties actually represent the only real route to increased trust in the project, through arrival at a satisfactory point of balance among all of them.

During this stage, different instruments can be employed, such as qualified public hearings, forums, or the Internet. The latter is the means that has proven to be the most useful for Colombia, even though it is regularly objected to by lawyers, who erroneously consider such Internet use as violating the supposed confidentiality of the process. This particular communications medium allows project authorities to provide information in a very public way and to receive and respond to people's observations and comments using the same medium, thereby keeping all interested parties updated about the issues being discussed. One of the advantages of having sufficient time before the bidding and contracting process to analyze and define the rules of the game is that a full and exhaustive discussion can take place, so that bidders can then turn more effectively to the discussion of the integrity pact because they already trust the general rules of the game. Otherwise, they would spend all their time together trying to clarify those rules.

TICOL's most often repeated suggestions during this stage refer to the following points:

- ensuring adequate evaluation and separation of the technical aspect and the economic aspect of the bids, so that once the technical (and financial and juridical) suitability of certain bids has been established, then the process moves ahead so that these bids that have satisfied the basic level of technical requirements can proceed to the economic phase of the competition
- clearly defining which requirements for participation are set in stone and absolutely must be satisfied in order for the bidder not to be disqualified and which requirements entail some degree of flexibility or leeway for bidders to work around them
- expressly avoiding the use of discretionality by a certain few public officials in their handling of information regarding the contracting process
- avoiding the inclusion of purely formal requirements in the bid specifications, since they add no valuable or pertinent evaluation-related information and can be the cause of certain otherwise qualified bidders' unnecessary disqualification
- avoiding the inclusion of subjective criteria in the evaluation (for instance, the grading of a bidder's proposed methodology), since such criteria imply subjectively orienting the results
- refraining from the inclusion of requisites or criteria that can be satisfied by only one given bidder

- totally eliminating the existence of privileged access to certain information and also plugging up all information leaks
- publicly discussing beforehand the first draft of the contract, in order to avoid any undue post-award negotiation of contract terms to arrange for additional elements benefiting the chosen supplier

In general terms, TICOL always recommends to participating public officials that they simplify as much as possible the bid specifications regulating the requisites and criteria for bidder participation and selection, so that the overall spirit of Colombia's contracting law (Law 80 of 1993) can more easily be honored. Public-sector officials tend to complicate the bid specifications unnecessarily by pursuing maximal objectivity through use of a sophisticated numerical grading system of decimal-level detail, when in many cases this detailed numerical approach really does not contribute much to the honoring of the true intent of the law.

4.1.4 During Proposal Evaluation and Contract Awarding

Traditionally it has been thought that corruption occurs largely during the process of proposal evaluation and bidder qualification, but experience with integrity pacts has shown that actually, in Colombia and based upon the provisions of Law 80 of 1993, although this proposal evaluation and bidder evaluation stage is the one in which any undue favoring of one particular bidder may indeed begin to become evident, it is also true that this unlawful partiality would not have surfaced here at all unless its seeds had been planted during the bid specification stage. In the proposal evaluation and contract award stage, the greatest corruption risk really is participation by one or several bid evaluators who use their discretionality to interpret subjective criteria in a slanted way, to allow issues of form to take precedence over the spirit of the law, or to manipulate bidders' right to work around certain nonessential requirements. Again, the most effective tool for avoiding such abuses is to ensure adequate publicizing of procedures and results, first among public-sector officials and then among bidders themselves.

4.1.5 During the Execution of the Contract

The scope of the integrity pact does not include the contract execution stage, but discussions with bidders and with public-sector officials have revealed their concern that corruption could enter the picture later on, once the contract has been awarded or once the winning firm has been selected that will be entrusted with a given concession or service provision arrangement. The map of corruption risks here would focus primarily on the possible emergence of undue modifications to the agreed-upon rules of the game and the arrangement of additional public resources to be given *ex post facto* to the selected contractor—a negative situation that can occur actually with the support of the auditing division.

In addition, cases of privatization and concession entail the risk of abuse of power by the firm that was awarded the contract, particularly so in view of the fact that public-sector officials entrusted with a contract's follow-through usually have very little real power or control *vis-à-vis* the economic might of the contracted company and its executives, leading the latter to conduct their relationship with the State through lobbying efforts designed to elicit favorable treatment at

the hands of the highest-level State officials. Such situations are made all the more serious by the absence of mechanisms of contract performance supervision by the public.

As protection against these risks, in the case of concessions and privatizations it is important to be able to turn to regulatory bodies with genuine autonomy in the face of political pressures and with a technical staff of the highest possible caliber. And in all cases, it is essential to have available the services of independent and strengthened auditing and control agencies.

In cases in which the services of an outside auditor are required, it is important that the same level of effort and technical rigor apply to the selection of that auditor as applied to the selection of the contractor or operator, even though the temptation often is to give relatively less care to the selection of auditors because the investment level is not as high as in the case of the hiring of the contractors themselves. In addition, it is very useful and effective to involve integrity pacts in the process of auditor selection.

In terms of the participation of the community in general and of the beneficiaries specifically, it is helpful to establish mechanisms for the presenting of accounts by contractors and operators and by the public-sector officials entrusted with the project. It is also a good idea to organize qualified inspectorates that can be of support for the work of the supervisors and auditors and can exercise an additional level of public-sector oversight of that work.

4.2. Main Lessons Learned about the Implementation of the Pacts Themselves

4.2.1 *Maintain the Voluntary Nature of the Integrity Pacts* In order for this exercise to have successful results in terms of its invocation to participants to abstain from seeking/accepting and offering/paying bribes, it is essential that the integrity pact remain voluntary in nature and that in its creation it require all of the competing signatory parties to reflect together upon the conditions under which the contracting process will be carried out, as well as upon the vulnerabilities that these conditions create. Were the exercise not to be carried out in this way and were the signing of the document to become no longer voluntary but obligatory, then the integrity pact would turn into just one additional formal requirement that must be signed on to along with all the other forms needing to be signed for a firm's eligibility to participate in the bidding or competition. Of course, it goes without saying that the voluntary nature of the integrity pact implies more work for all participants and requires increased flexibility of response in their addressing of the objective differences among sectors, among institutional dynamics, and among groups of bidders.

4.2.2 *Separate the Political Discussions from the Discussions about Transparency.* Especially in cases in which the public-resource investment occurs through the modalities of concession or privatization, the process of selection of the winning contractor is often interrupted by public debates that are actually political in nature (about the political decision's pertinence and its future social effects on employment, on income distribution, on national sovereignty, and so forth). These political issues are brought up by one participating group or another as arguments that the contracting process is not transparent. In such an environment it is essential that organizers make it very clear to participants that the scope of the integrity pact extends only to protecting the

bidding process itself from corruption attempts, whether or not all participants happen to agree with the underlying political decision that engendered that bidding process.

4.2.3 Create Public Confidence in the Process. One of the major challenges continues to be the search for an effective way to foster public trust that probity can be made possible in public-sector contracting processes through the use of the integrity pact mechanism. The country's news media seem to consider it news only when something bad happens, some scandal—which actually is, of course, of great interest to those involved in that scandal—and the media therefore give no regular coverage to the things in the country that are going well. Yet the alternative—which would be for the participating contractors to use their own resources to publicize their signing of the anticorruption agreement—could turn out to be very expensive and could also lend itself to improper use by the respective firm. Thus, the big question remains that of how to transmit the message without diminishing its impact and without allowing the participating contractors to use that message simply as a way to bolster their own corporate image.

4.2.4 Maintain the Independence of Third Parties that Promote the Pacts Thus far it has been clear that one success factor for the integrity pacts has been that participants perceive Transparency International in general and TICOL, within Colombia, as being truly independent politically and therefore able to hear without preconceived ideas the concerns of all of the participating entities, as being able to read from current signals the public's perception of the contract process, and as being endowed with a high level of technical capacity to respond—in a timely manner, from a basis of serious and well-structured concepts—in cases of the emergence of elements during the bidding process that require clarification.

4.2.5 Transcend the Discussion on Issues of Legality and Emphasize More the Ethical Legitimacy of the Process. It is important for organizers to stress quite strongly to participants the ethical nature of the integrity pact and of the commitments the pact comprises, in order to help them understand that contract processes in countries like Colombia have in general a logic that goes beyond the simple elements of the formal judiciary regulatory system. One must be prepared to face the difficulty of debating with lawyers, who usually do not venture beyond the narrow limits of the legal and judicial elements involved in the processes and who often do not give due consideration to discussion of the purely ethical aspects, which are, in fact, what gives legitimacy to the legal and juridical elements in the first place. There even exist differences of approach to the integrity pact by, on the one hand, those who participate in it from a basis of Anglo-Saxon law text and, on the other hand, by those who participate in it from the basis of a Rome-based legal framework. For the first group it is easier to understand and accept the spirit of the pact and its true scope, while for the second group the debate hardly ever goes beyond the formal level of the pertinent laws, since for them, these laws supposedly already “contain everything” necessary in order for corruption not to exist.

4.2.6 Limit Intervention to Those Aspects Strictly Related to Transparency, Thereby Avoiding Coadministration of the Processes Care should be taken every day by the integrity pact team not to fall into project coadministration. In regard to this issue, the participating bidding firms or public-sector entities seem to be concentrated at either one end or other of the TICOL participation spectrum. A few of them clearly try to keep TICOL from playing any role at all in the process, and usually those are the ones with which serious difficulties have arisen. At the other end of the spectrum, many others try to have TICOL present in absolutely every

discussion, decision, and action, and those are the ones that have had the most successful experiences. Even so, we must remember that although it certainly is a matter of TICOL's trying to provide an opinion on a regular basis regarding the transparency and equitability of the overall process, it is important for TICOL to take care not to fall into project coadministration.

4.2.7 As a Key to Effective Follow-Through on the Pacts, Include the Signatory Parties' Obligation to Report Any Instances of Noncompliance Because of the integrity pact's ethics-related and voluntary nature, the key to following through on it is to stipulate in the text of the pact all signatories' obligation to report any irregular process-related act of which they become aware. To the degree that signatories comply with this obligation, the intervention mechanism provided for in the pact can come into play, which it does the moment of the occurrence of any accusation of non-observance of pact commitments—that is, the moment of the reporting of any suspicion of acts of corruption. As noted earlier, one of the expected results of the integrity pact is that it generate relatively speedy mechanisms for processing accusations and other concerns, thereby allowing bidders to receive faster results than what would otherwise be obtained from applying the standard juridical procedures. In this respect, it has been very interesting to discover the corruption tolerance of the multinational firms that supply computer equipment (some of them U.S. companies), whose averred approach is to refrain from giving any bribes but on the other hand, also to honor the tacit agreement among themselves not to report it if their competition does give bribes.

4.2.8 Work More Systematically with the Multilateral Bodies that Participate in the Contracting Processes, Inviting Them to Override Their Accustomed Bureaucratic Stance so as to Contribute More Effectively to Transparency In general, public opinion perceives a lesser tendency toward corruption in public-resource-contracting processes involving participation by international bodies (perhaps because of the presence of higher levels of review), but the fact is that in TICOL's experience thus far, these particular processes have not really demonstrated any effective efforts to avoid and combat corruption. The reverse is actually true. Corruption in these cases usually presents itself in ways that are more subtle and more elaborate and in ways that involve the highest levels of the public administration, all the while carefully observing the "legal" requirements of the processes—for which purpose the international entities make much use of the unconvincing term "non-objection." It is essential that the international bodies work on creating innovative mechanisms and procedures that cover participants' ethical behaviors in a manner that is much more open and transparent than at present and that these same international bodies not be satisfied with mere bureaucratic compliance with the pertinent established legal standards and procedures.

Experience continues to show us that the responsibility of all the international bodies in regard to the fight against corruption is more than a matter of formal legal compliance, meaning that they should assume anticorruption stances that are much more rigorous and forceful, in the interest of the proper utilization and destination of public resources. No one could be unaware of the enormous cost, in terms of economic development, that the scourge of corruption inflicts upon our nations. To ignore that reality or to be complacent about it is to contribute to underdevelopment, to the concentration of power, to the perpetuation of poverty, and most of all, to the delegitimation of the State.