U4 Expert Answer

Corruption risks in environmental cooperation programmes

Query:

"I have a draft programme document and would like your input for questions of dialogue with the partners regarding corruption risk in an environmental cooperation programme."

Purpose:

"Support is needed for the dialogue regarding corruption risks with the partners before decision of contribution and possible issues for dialogue during implementation. "

Content:

- **Part I** sets out potential corruption risks in environmental cooperation programmes
- **Part II** provides further literature and contact information

Please also see:

Related U4 Responses on "Corruption Risk Assessment Tools for Use in Development Projects", "Preventing, Identifying and Curbing Corruption and Mismanagement in Donor Supported Projects and Programmes" and "Consequences and Tracking of Corruption in Development Aid".

www.U4.no
www.transparency.org
www.cmi.no

Authored by:
Aled Williams
U4 Helpdesk
Transparency International
awilliams@transparency.org
Reviewed by:
Robin Hodess, PhD
Transparency International
rhodess@transparency.org

Date:
8 February, 2007

Definition of Query

Corruption risks are present in all forms of development cooperation and previous U4 queries have addressed various aspects of corruption risk in development projects and programmes. We recommend the above U4 responses for a general overview of these risks and possible strategies for their mitigation. The focus of this response will be on the particular corruption risks potentially involved in the specific environmental cooperation programme in question.

Part I of the response will focus on five areas of cooperation (as identified from the draft programme document shared with the U4 Helpdesk) where corruption risks are likely to be present, posing salient questions for dialogue between the donor and national authorities. These areas are: environmental assessments, environmental policy formulation, implementation of environmental programmes, environmental programme monitoring, and enforcement measures relating to environmental protection. Part II of the response will provide selected further literature and contacts for follow-up.

That corruption can impede environmental protection is widely accepted, though there are differing notions as to why this is the case. On the one hand, it is maintained that lax regulation due to corruption can make natural resources too accessible to legitimate users, thereby encouraging overuse. On the other, it is argued that corruption makes it impossible to effectively control elite groups intent on exploiting natural resource wealth. Whichever view one takes, however, the form of institutions tasked with ensuring environmental protection can lend them to either reinforce unsustainable environmental practices or to provide a solid base for building environmental sustainability. According to Robbins, "[…] sustainable resource use will be facilitated by institutional configurations that respond to changes in the state of the resource, that are flexible, and that are built from diverse practices and capable of self-renewal, mimicking the conditions of ecosystem resilience". Conversely, unsustainable environmental management will be characterised by institutions where social elites

have inordinate influence over resource use to the exclusion of other user groups, where information-flows are fractured, and where the structure of rules governing resource use is inflexible.[1]

Part I – Corruption Risks in Environmental Cooperation Programmes

Environmental assessments[2]

Environmental assessments are an important component of sound environmental governance, helping to clarify options for the management of natural resources and paving the way for sustainable development of resource use. The term 'environmental assessment' (EA) can be used to describe a range of tools applied at different levels of environmental management: i) during the preparation of national and regional policies, new legislation and sectoral plans and programmes (known as Strategic Environmental Assessments or SEA); ii) during project design to recommend preferences among various options (known as Environmental Impact Assessments or EIAs); iii) after the project has been agreed (impact-management planning); and, iv), during the project and after it is completed (post-development audits).

Though an essential component of environmental management, the effectiveness of EAs is often undermined by low capacity and expertise among those involved in such assessments – including among environmental agencies, sector ministries, the private sector, NGOs, researchers, academics and the public. The cost of conducting EAs is also often omitted from policy, programme and project budgets, further reducing the scope for their effectiveness. Compounding these problems, there may be a lack of political or institutional will for seeing assessments through to their conclusion and, importantly, acting on the basis of their findings. These factors mean that EAs are often open to abuses that may threaten environmental sustainability, particularly in contexts where the pressure for rapid economic growth is great. There may, for example, be corruption involved in the selection of projects for assessment, in determining the overall scope of a particular assessment, or in the communication and implementation of an assessment's findings.

EAs appear to be most effective if they are embedded in a well-designed, nationally-driven process, with strong government ownership and civil society involvement. Key questions for dialogue in this area could include:

- Do clear laws and procedures on EA exist? Do they define responsibilities and time frames? Do the authorities have the capacity and resources to enforce and implement EAs?
- Are sector and planning ministries aware of EA requirements and their responsibilities? Do they have the capacity to fulfil these? Do they cooperate with those responsible for enforcement?
- What is the status of the authority responsible for EAs?
- What is the quality benchmark for EAs and how transparent is the process? How much influence does civil society have? Are the poor able to articulate their views in decision-making processes?

Environmental policy formulation

Environmental policy formulation is generally representative of many other forms of government decision-making and will be subject to many of the same pressures. Different configurations of laws, legislatures, political party structures, special interest groups and traditional authorities in each country will shape the policy formulation process, many of which will not be consonant with environmental protection. A particular issue for environmental policy in many developing and transition countries has traditionally been its low position in relation to other national policy priorities, with political leaders sacrificing clean air and water, biodiversity and forest resources if it is profitable – politically and/or economically – to do so. Corruption can play an important

[1] For more on this argumentation, see: Robbins, P. *The rotten institution: corruption in natural resource management*, Political Geography 19 (2000) 423-443, www.elsevier.com/locate/polgeo

[2] This section is based on information from the following document: UK Department for International Development and Netherlands Ministry of Foreign Affairs, *Key Sheet 15: Environmental Assessment*, October 2002, www.keysheets.org

role in promoting such environmental degradation where, for example, a producer lobby attempts to influence government agencies or political leaders, offering prospective bribes for particular policy outcomes.

- A key question for dialogue in this regard is to what extent the specific cooperation efforts will be part of a wider, cross-sector approach to ensure government policy is consistent with environmental sustainability. Some form of policy coherence mechanism, where environmental protection aims will not be overruled by other interest groups (via corruption or otherwise), would appear to be essential.

Implementation of environmental programmes

Even where appropriate policies are in place to promote environmental sustainability, corruption may impede their effectiveness at the stage of implementation. A key issue here appears to be discretionary power: if relatively few officials control a bulk of forest land or have exclusive rights to issue waste dumping permits, we can predict preferential licensing and bribe demands. Robust monitoring arrangements for environmental programmes, as discussed in the following section, are important mechanisms for keeping corruption in implementation at bay. Monitoring, or the threat of monitoring, however, is only part of the answer as substantial corruption may still occur before monitoring mechanisms become active, or in spite of the threat of detection. Salient questions for dialogue with regard to corruption in the implementation of environmental programmes are:

- Has the programme partner identified other institutions/organisations/groups to which it relates or might be expected to relate in implementing environmental programmes? Are its objectives complementary to these other organisations? Are there useful conflict resolution systems in place?
- Is the legal and regulatory framework conducive to effective implementation of the programme partner's environmental protection mandate?
- Is the budget allocation sufficient to support effective implementation of its mandate?

Environmental programme monitoring

Monitoring compliance with environmental regulations provides an important check on activities that may undermine environmental sustainability. But monitoring mechanisms are themselves often open to abuse, opening significant loopholes whereby environmental abuse may go undetected or unpunished. Key methods for preventing such abuses are to ensure the clarity of monitoring procedures, good access to information surrounding these procedures and their findings, as well as the involvement of a range of actors (both governmental and non-governmental) in their implementation.

An important potential risk is that the sudden introduction of more stringent environmental monitoring may force corrupt practices in relation to the environment underground. A gradual approach to monitoring, where a range of actors – including environmental protection officers, but also police inspectors, district authorities and customs officials – are trained to report breaches in environmental regulations may be more effective. This would have the added benefit of avoiding monopoly authority over environmental monitoring activities, in theory reducing the potential for corruption. Given the large range of facilities likely to be subject to monitoring inspections, a differentiated approach may also prove useful, whereby categories of facilities are identified according to, for example, levels of emissions. This could reduce the potential for corruption by ensuring sufficient resources are available to compensate monitoring inspectors.

Particular questions for dialogue in relation to monitoring could include:

- Who is involved in monitoring activities? What is their mandate? Do they enjoy a monitoring monopoly, or are they part of a network of monitors?
- What is the role of non-governemental actors in monitoring activities?
- Are there clear procedures that prescribe how monitoring is to be conducted? Are these procedures well-known and is appropriate training conducted to ensure they are used?
- How are the findings of monitoring activities communicated and, in general, what is the level of access to information around monitoring activities?
- What resources are available to support monitoring activities? Could a gradual, differentiated approach to monitoring be introduced to optimise the use of these resources?

Enforcement of environmental protection

Enforcement of environmental protection regulations is crucial if policies designed to promote environmental sustainability are to bear fruit. In some cases, national regulations lack local legitimacy, where local actors do not share the environmental concerns of national bodies and do not enforce prescribed rules as a result. In addition, the protection of tax income or local employment opportunities provide officials at local township and district government levels with an incentive not to enforce environmental regulations. Local residents may also not report environmental abuses if they perceive their livelihoods to be connected to the source of such abuse e.g. a nearby chemical factory.

Dialogue with regard to corruption in the enforcement of environmental protection could focus on:

- Are environmental inspection regulations sufficiently precise to avoid broad interpretation that could be open to abuse? Are there clear guidelines or codes of conduct in place for environmental inspectors?
- To whom are environmental inspectors accountable? What are the oversight mechanisms in place?
- Are the environmental standards prescribed on paper realistically attainable for businesses and government bodies? Are appropriate technologies available to help meet these standards?

Part II – Further Resources

Winbourne, S. (2002) Corruption and the Environment, Sectoral Perspectives on Corruption, Management Systems International (MSI).
Available at: http://pdf.dec.org/pdf_docs/PNACT876.pdf.
Covers different types of public sector corruption in the environment and natural resources sector and suggests possible responses based on best practice.

Williams, A. (forthcoming) TI Working Paper on Corruption and Renewable Natural Resources.
For more details, please contact Aled Williams at awilliams@transparency.org