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Preface

As tariffs, quotas and other trade barriers at the border have declined in the APEC region, the focus of APEC has naturally shifted to the structural and regulatory obstacles that inhibit cross-border trade by creating “behind-the-border barriers” to improving business performance.

Structural reform consists of improvements made to institutional frameworks, regulations and government policies such that the economic environment supports the efficient functioning of markets, contributes to macroeconomic stability, productivity, economic growth, and ultimately enhances living standards in a sustainable way.

In 2004, Leaders gave the Economic Committee (EC) a mandate to promote the benefits of structural reform in APEC economies. The *Leaders Agenda to Implement Structural Reform towards 2010* (LAISR 2010) aims to facilitate cooperation and dialogue in five priority areas: public sector management and governance, regulatory reform, economic and legal infrastructure, competition policy and corporate governance.

The *APEC Economic Policy Report* is the main publication of the Economic Committee, and this year focuses on one of the five LAISR priority areas—*public sector governance*. The 2006 Report provided a high-level overview of the structural reform mandate given to the EC by Leaders in 2004 and as with this year’s report, future reports will continue to focus on more specific priority areas in structural reform.

The first chapter contributes to the work plan for LAISR 2010 by establishing a range of generalized high-level principles for good public sector governance and identifies key tensions in public sector governance and the processes that have evolved to overcome these challenges. This chapter captures the insights from the seminar on public sector

governance held in Viet Nam, September 2006.

The second chapter is drafted by the respective host economy. This year Australia, host of APEC 2007, drafted the chapter on the topic of “Using Institutions to Support Structural Reform.” This chapter focuses on how domestic institutions can contribute to the reform process, characteristics of effective institutions and how effective institutions can be developed. This chapter intersects with all five LAISR themes.

The third chapter reviews individual economies’ domestic public sector governance reform activities over the last 10 years and identifies key priorities and challenges in future years.

The *APEC Economic Policy Report* was produced through a collaborative effort of all member economies, the APEC Secretariat and the Economic Committee Chair’s Office. I would like to extend a special thanks to New Zealand for contributing the first chapter, Australia for drafting the second chapter, and member economies that submitted individual reports on public sector governance reform.



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Chapter One:
**General Principles of Good
Public Sector Governance**

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Chapter One

General Principles of Good Public Sector Governance

1. Introduction

The 2004 *Leaders' Agenda to Implement Structural Reform towards 2010* (LAISR 2010) aims to facilitate cooperation and dialogue on five structural reform priority areas: competition policy, regulatory policy, public sector management and governance, corporate governance, and strengthening economic and legal infrastructure.

As part of LAISR 2010, a seminar on public sector governance was held alongside the Economic Committee II meeting in 2006.¹ A wide range of speakers from developing and developed economies attended, contributing lessons and views from their home economies. This chapter summarises the key messages from the seminar, highlights the role that good governance plays in structural reform, and contributes to the work program on LAISR 2010 by establishing nine generalised and high-level principles for good public sector governance:

- Rule of law
- Transparency
- Accountability
- Managing the performance of public sector agencies
- Public sector ethics and probity
- Responsiveness to stakeholders
- Political and bureaucratic structures
- Good policy and institutions
- Risk management

Issues, implementation difficulties and unresolved tensions are also highlighted to illustrate why public sector governance reform may be better implemented in an incremental and considered fashion.

In the past, good public (and private) sector governance was considered mainly as a means of combating corruption.² The attention that the term has received over the last five years can partly be attributed to several high-profile cases of corporate corruption leading to firm closure.³ However, as research and analysis of governance in the public sector has progressed, a greater understanding of its benefits has developed. In particular, public sectors that are more transparent and accountable are likely to be more effective and efficient at:

- Implementing and developing policy
- Delivering services and producing goods
- Encouraging public participation in government

Research has established a so-called “public sector service value chain” linking satisfaction and commitment of public service employees, client satisfaction in the public service, and the trust and confidence of the general public in public institutions. An implication of this “value chain” is that if

¹ Held on September 10, 2006, in Da Nang, Viet Nam, as part of the APEC Senior Officials Meeting

² Campos (2006)

³ For example, the collapse of Enron and WorldCom. See Bartos and Stephen (2006).

public sector managers give greater attention to management and accountability, they will achieve both improved internal and external performance. This is because systems of accountability and strong leadership, managerial competence and ethical behaviour will achieve an improvement in the satisfaction and commitment of public sector employees, which will in turn result in increased service satisfaction and greater public trust and confidence in public institutions.⁴

Good governance practices in the public sector strengthen government systems. The public and businesses seek assurance that the resources they contribute through taxation are used effectively and appropriately. A public sector that both practices good governance and is *seen* to be practicing good governance has the potential to increase public trust and participation in government.

2. What is public sector governance?

2.1 Governance is the steering or guidance of groups

The term “governance” has been widely used since the late 1990s to describe the organisation and decision-making processes of groups and institutions.⁵ Governance can be applied to multiple arenas. The term “corporate governance” can be used in relation to the private sector, or the term “market governance” in relation to the policies and institutions that discipline actors within a market setting. Because governance is used in such a wide range of settings, it has been defined in different ways. Keohane and Nye define governance generally as:

“The processes and institutions, both formal and informal that guide the collective activities of a group.”⁶

2.2 Good public sector governance is distinct

Both the public and private sectors use governance to guide the activities of groups toward objectives. However, in practice, the absence of the disciplinary effects of markets, the need for inter-organisational cooperation, and an inability to value public goods raise unique governance challenges for the public sector. Public sector governance is also distinct because it involves a broader, more diverse group of stakeholders whose motives are not necessarily driven by market forces. Performance targets may be more difficult to set in the public sector due to the technical inability to value public goods. When governments provide private goods (such as health care), performance targets are often much easier to implement.

2.3 Good governance in the public sector operates at two levels

Good public sector governance can be said to operate on two levels:

- At the general level, governance is the constitutional, legal and administrative arrangements through which governments exercise authority and are held to account. Governance at this level is concerned with the effectiveness of the whole of government, and how officials are held to account for the power they hold and resources they use.
- At the organisational level, governance is the system of rules and processes through which an organisation is directed, controlled and monitored so that it achieves the purposes for which it has been established.⁷

⁴ Heintzman and Marson (2005)

⁵ Pollitt and Bouckaert (2004)

⁶ Keohane and Nye (eds.) (2000)

2.4 Approaches to good public sector governance

There are two main approaches to good governance. These two approaches can be used simultaneously and are not mutually exclusive. Good governance can be pursued through:

- Designing and implementing rules and processes. This approach tends to be used in the United States. For example, requiring all public agencies to publish annual reports on their activities, achievements and financial accounts.⁸
- Establishing principles that the public sector must follow. This approach tends to be used in Australia and New Zealand. The Australian Public Service Code of Conduct, which emphasises lawful, dutiful and respectable behaviour from officials is an example of such an approach.⁹
- Principles are less prescriptive than rules and processes. They can represent higher-order standards of appropriate behaviour. Principles are useful where the specification and monitoring of desirable behaviour is difficult or impossible.

Over the past few decades, the focus of public sector governance has shifted back and forth between compliance with rules to an emphasis on performance and achieving results.

- *A compliance-based approach* involves ensuring specific rules are followed. For example, an official can be reproached, demoted or dismissed for not complying with such rules. Organisational rules may prohibit the release of commercially or politically sensitive information to the public prior to a government decision being made.
- *A performance-based approach* entails setting organisational goals and rewarding personnel for achieving them. For example, the Korean civil service operates a pay system that is designed to enhance output through competition for bonuses.¹⁰

The two approaches are best used in a balanced way. An overemphasis on performance may encourage officials to act improperly, whereas too many rules (and too harsh penalties) may make officials more risk averse and performance harder to achieve. As an example of a balanced approach incorporating both rules and principles, Canada¹¹ is currently developing a principles-based Compliance Framework, along with the tools for compliance including performance, training and certification, to ensure the:

- values and rules are known and accepted;
- ability to respect values and comply with rules is facilitated; and
- willingness to comply, both individual and institutional, is supported through clear consequences.

⁷ Laking (2001)

⁸ Laking (2001)

⁹ Bartos (2006) The Australian Public Service Code of Conduct is available at: <http://www.apsc.gov.au/conduct/>

¹⁰ Previously, remuneration and promotion were based on seniority. It was thought that the seniority system did not provide enough incentives for individuals to strive for good results (see Namkoong (2006).

¹¹ The Government of Canada's 2006 Federal Accountability Action Plan is available at http://www.faa-lfi.gc.ca/docs/ap-pa/ap-pa13_e.asp.

Box 1: Promoting Good Corporate Governance and Transparency in APEC Financial Institutions: ABAC, ABA and PECC Symposium, 2005¹²

A symposium was held in 2005 on promoting good corporate governance and transparency in APEC financial institutions.¹³ The symposium sought to promote discussion and understanding of corporate governance principles and practices. Some of the key conclusions of the symposium were:

The importance of good governance in APEC financial institutions: Good governance in financial intermediaries in both the public and private sectors is important to support economic growth and development.

Philosophy and principles of good governance: There is a tendency for governments to over-prescribe how business relationships should be conducted. How far good governance should be reflected in “black-letter law” or developed on a principles basis is a relevant issue for further consideration.¹⁴

Regional integration: Good governance in an economy (at both the micro and macro levels) will help support regional integration.

Promoting good governance through benchmarking: Measures to improve governance, through benchmarking at the macro and micro levels, are very important in supporting economic growth and regional economic integration, and should be an APEC priority.

3. General principles of good public sector governance

Public sector governance structures evolve in response to the perceived needs of government and society. Their evolution may also be shaped by pre-existing social practices and organisational structures.¹⁵ A balance of law, regulation, policy guidance and training are needed to achieve desired standards of behaviour in the public sector. The most efficient combination of these will differ across economies. A major determinant of governance requirements is an economy’s stage of development, in particular the relative size of the informal economy.¹⁶ While the goals and principles of good governance remain similar across economies, the characteristics of large informal economies (such as undeveloped management and information systems and corruption) drive many of the local adaptations in public sector governance structures.

This section discusses nine generalised, high-level principles of good public sector governance. These principles are general in nature and represent the collective lessons of good public sector governance from a diverse range of economies.

¹² APEC Business Advisory Council (ABAC), Asian Bankers Association (ABA) and Pacific Economic Cooperation Council (PECC) Symposium, 2005.

¹³ For a full summary of the symposium proceedings, refer to: <http://www.aba.org.tw/Journal/2006%20vol%201/GoodCorporateKenWaller.pdf>

¹⁴ “Black-letter law” refers to basic standard elements for a particular field of law, which are generally known and free from doubt or dispute.

¹⁵ This effect is called path dependency. For an introduction to the field of “new institutionalism” see: Powell, Walter and Dimaggio (1991) (eds.).

¹⁶ Schick (1998)

3.1 Rule of law

Laws are critical to good governance. They help guide the activities of individuals and groups by determining what behaviour is acceptable within a society. The legal system—laws, the judiciary and enforcement agencies—acts as a check on the power of government. It gives members of the public the opportunity to hold officials to account for illegal behaviour.

A well-functioning legal system that includes comprehensive contractual law can also reduce the costs of doing business (i.e., transaction costs) in the private and public sectors. It is an important precondition for establishing governance systems that use contestable markets to coordinate, and contracts to control, the activities of public sector organisations. Economies may also need to develop mechanisms to review and revise or eliminate past legislation that has not accomplished its objectives, and may constitute an obstacle to the efficient functioning of markets.

A considered and pragmatic approach to developing legal systems can be a low-cost method of increasing both public and private sector compliance with the law. Campos and Lateef identify four key lessons from previous reforms:¹⁷

- **New legislation should reflect the realities of the institutional environment** within which it is inserted. “Institutional environment” refers to the organisation of particular groups of public agencies. In particular, consideration should be given to the capacity of institutions that are intended to enforce it.¹⁸
- **Simplification of legal procedures**, whilst maintaining the practices of procedural fairness, can improve the efficiency of applying laws and reduce the risk of corruption.
- Where possible, **incorporating customary law** (social norms and cultural practices) into new law eases implementation by reducing the burden of adjustment faced by society.
- A **transparent and inclusive reform process** reduces opposition to new law and enhances compliance.

¹⁷ Campos and Lateef (2006)

¹⁸ For example, where monitoring and enforcement capacity is an issue, standards of behaviour can be substituted with “bright line” rules, which specify exactly what behaviour is expected. Bright line rules are easier to monitor and enforce (a matter of “Yes, the law was broken,” or “No, it was not.”). Enforcers are granted less discretion in applying the law, reducing the opportunities for bribery.

Box 2: Case Study: *Doi Moi* and the Reform of Legal Institutions in Viet Nam

Viet Nam is moving toward closer integration with the global economy through a process called “*doi moi*” (renovation). One of the main goals of *doi moi* is to establish and improve a legal environment suitable for the new social and economic developments of the economy.¹⁹

The quality of legal and regulatory documents is gradually improving as stakeholders are given more opportunities to comment on drafts. With the help of international donors, enforcement institutions are being strengthened through larger budgets, more authority and better trained staff. State regulation of civil, economic and trade relations is being incrementally replaced by civil law based on traditional customs that protect property rights. The reduced role of the state in governing social relations also means that there are fewer points at which corruption can occur.

Areas for future legal reform include the establishment of an independent administrative agency to handle complaints against public entities, which is currently under consideration by the National Assembly. The investigative and oversight capacity of the National Assembly will also be developed.

3.2 Transparency

Transparency is a central feature of good public sector governance. Cost-effective and easy access to information enables the public to make more accurate evaluations of the performance of public entities and the effectiveness of government policy. Such evaluations enhance the ability of members of the public to exercise their “voice,” encouraging governments to account for and resolve policy failures and delivery-cost inefficiencies. Two channels for encouraging transparency in the public sector include the public sector providing information to the public (for example, through public sector publications) and through public consultation processes.

The terms “voice” and “exit” are useful economic analogies.²⁰ “Exit” refers to the ability of customers to sever a relationship with a supplier. In an economy, where the state has a monopoly over the provision of services, the public has no practical “exit” option. In some economies voucher systems have been trialled that give users a practical “exit” option that lets users choose between alternative state providers (used in the education sector in parts of the United States).

“Voice” refers to the ability of purchasers to influence the quality of supplied goods or services. In many economies the public express their “voice” through the ballot box. Other more direct mechanisms are also used, such as citizen surveys (trialled in India, the Philippines and Peru²¹).

Information on government activity enhances the ability of the general public to “voice” its preferences. Such information has many characteristics of a public good.²² Individuals will typically not have an incentive to obtain such information on their own because the costs are high and the ability to influence government activity (i.e., marginal benefit) low. Yet at the group level, the

¹⁹ Hung (2006)

²⁰ For an overview of transparency from an economic perspective, see Tsuru (2006a).

²¹ Campos (2006)

²² Publicly available information is non-rivalrous and non-excludable in consumption. This can be contrasted with information obtained for private use by specific interest groups that then attempt to “provide governance to the government” in a way that furthers their own interests (Tsuru, 2006a).

benefits of obtaining information outweigh the costs. This results in a collective action problem. A collective action problem occurs when a rational action at the level of the individual results in irrational action at the group level (i.e., not bearing the costs of obtaining information). Because of this collective action problem, information on government activity is therefore best provided by the state as a public good.

Sometimes there may be few incentives for governments and officials to provide the public with performance-related information. For example, there may be little incentive in cases where information uncovers that a government program has not produced its intended results, or public money has been misappropriated. To prevent governments from withholding information in such circumstances (i.e., acting opportunistically) transparency mechanisms may be better specified in legislation as rules and procedures rather than as general principles.

The long-term benefits of transparency and public scrutiny include more effective policy, more efficient administration, less corruption and governments that are more responsive to the needs of the public.²³ Some general lessons related to transparency are:

- **Providing adequate information.** The public need information on the expenditure, activities and achievements of public sector entities in order to evaluate performance.²⁴ Individuals' tax contributions give them a stake in the governance of their government. It is useful for the public sector to provide sufficient information for the public to determine the value added by government on such contributions.
- **Promoting an independent and capable mass media system.** The media help disseminate information and encourage debate over the value of the contribution that the public sector makes to society. A capable media system can enhance the effect that transparency has on public sector performance.
- **Pursuing innovative and simple methods of communication.** Transparency requires a commitment to simplify and reduce the costs faced by individuals seeking information. This means using preferred mediums where possible and avoiding the use of complicated language.

²³ Entrenched financial inefficiencies and evidence of program failures may embarrass the government that reveals them (Tsuru, 2006a).

²⁴ Tsuru (2006a)

Box 3: Case Study: Transparency in Mexico's Reform Agenda²⁵

Since 2001, Mexico has developed and deployed a very ambitious strategy to reform its public sector. At first, the strategy was mainly based upon "the creation of an honest and transparent government, committed to satisfy the needs of society and to fight against corruption." Later on, additions were included to foster participation of citizens in governmental activities, as well as to support the professionalisation of the Civil Service, the adoption of information technology and the improvement of regulation. Achievements to date include passing the Freedom of Information Act (Federal Law on Transparency and Access to Government Information), the creation of the Institute for the Access to Public Information and the publication of 263 "citizen charters." By providing standards of expected service quality and legislative protection for the public's right to information, Mexican citizens have had the opportunity to scrutinise the performance of their government. Regarding current actions, President Felipe Calderon's administration has promised to promote a culture of transparency, access to information, accountability and reform of public administration, as means to improve Mexico's democratic institutions. In this regard, the presidential mandate is to advance toward a new democratic regime that will favour citizens' rights with a broad, participatory and inclusive perspective.

Box 4: Transparency and Sustainability in the Public Balance Sheet: Discussion at Senior Finance Officials' Meeting (SFOM) II, May 2007

The Finance Ministers' Process has been discussing how governments can minimise risks to fiscal sustainability from government off-balance sheet risks (i.e., liabilities that are not included in the public balance sheet but which can lead to claims on central government when such risks crystallise) by implementing improved practices and procedures. These risks are normally referred to as contingent liabilities. Strengthening an economy's ability to identify, measure and manage such risks to fiscal sustainability can improve its ability to meet wider economic and social goals. Some of the key lessons drawn from discussions to date are noted below.

Public Private Partnerships, state-owned enterprises, public pensions and liabilities of sub-national levels of government, government procurement and government guarantees are examples of potential contingent liabilities that may affect public balance sheets. The impact of these contingent liabilities on the public balance sheet depends on the outcome of one or more uncertain events and can generate destabilise the fiscal position if the risks crystallise

Through improved management of fiscal risks, governments can minimise the potential impact of key off-balance sheet liabilities on fiscal sustainability. Risk management can be improved through:

- listing and identification of potential off-balance sheet risks across the whole of government;
- including risks in government measures of fiscal performance to help governments understand the true nature of their fiscal position;

²⁵ APEC Economic Committee (2006)

- improving transparency through reporting off-balance sheet risks to the public;
- assessing the potential consequences of current and emerging fiscal risks to determine the best way to manage these risks;
- creating fiscal space or provisioning—even notionally—for expected future payments, especially for liabilities with a high probability of realisation in the near future, and
- fostering well-functioning markets through a structural reform agenda to reduce fiscal pressures and risks faced by the government.

An important underlying need is capacity building to help governments observe these six principles.

3.3 Accountability – oversight and control of the public sector

Good governance in the public sector depends heavily on structures and procedures that enhance accountability. Accountability is the formal requirement that officials and decision-makers (i.e., political executives) are answerable for the resources they use and authority they possess.²⁶ A chain of accountability exists whereby officials are primarily accountable to the political executives and the political executives are primarily accountable to the general public. When the possibility exists that rewards or penalties may follow from the appropriate or inappropriate use of authority and resources, accountability becomes an important method of guiding behaviour throughout the public sector.

Mechanisms of political accountability can work to reduce the dominating influence that unrepresentative interest groups have on policy.²⁷ It does this by encouraging the government to act in the interests of the general public rather than unrepresentative interest groups. Political accountability can be enhanced by:

- **Establishing in law appropriate checks and balances on the exercise of power.** The most prominent example is the separation of the government’s powers into independent institutions (i.e., the legislature, judiciary and executive) that can monitor and restrict the authority of one another. This can increase avenues through which citizens can appeal and question the actions of government.
- **Establishing mechanisms for decision making.** Creating formal decision-making mechanisms can reduce pressures from special interest groups, allowing for better policy intervention and accountability.
- **Establishing independent institutions to monitor the activities of government agencies.** Institutions may be created in certain circumstances to monitor the activities of government agencies. In New Zealand, an “ombudsman” is appointed by the New Zealand Parliament with the primary purpose of inquiring into complaints raised against New Zealand central, regional and local government organisations or agencies. For example the ombudsman deals with complaints about requests for official information, and complaints about administrative acts and decisions of central and local government agencies. The ombudsman is an independent review authority and is accountable to parliament, rather than the government of the day.

²⁶ For an intuitive and comprehensive overview of the term see Mulgan (2000).

²⁷ When a mutually beneficial relationship has become entrenched between governments and special minority interest groups in society, this is often referred to as “state capture.”

- **Strengthening the role the legislature plays in scrutinising and authorising state revenue and expenditure.**²⁸ Policies for achieving prudent levels of debt, balancing long-term expenditure with revenue, and the maintenance of a stable tax policy, can also reduce fiscal risk and increase the sustainability of public sector performance.

At the organisational level, accountability for performance and appropriate behaviour (propriety) can be enhanced by:

- **Avoiding multiple tasks with conflicting objectives.** Officials are most accountable when they have a small number of those delegating tasks and where performance in one task does not depend on (non-)performance in another.²⁹ One way is to split public organisations into two, by creating a “purchasing department” and “provisioning department.” Purchasers are given a set budget by the government with which to purchase services from providers. Providers are selected according to, among other things, the relative value for money of their services. Under such a split, there are increased incentives for purchasers to choose efficient providers that represent value for money. Similarly, providers are encouraged to economise in order to “win” the attention of purchasers.
- **Clarifying the allocation of decision-making rights between the political executives and top officials.** Achieving results requires a clear expression of what those results are and *whose job it is to produce them*.³⁰ Clarifying the rights and responsibilities of managers and their political overseers is a perennial governance issue. Typically, politicians choose policies while officials choose how best to implement them. Ideally, each is accountable for results in their respective domains of authority. However, in reality, accountability cannot be delegated in the public sector. Final accountability for all decisions ultimately and appropriately rests with the government.
- **Publishing organisational goals** so that affected and interested parties (stakeholders) know what is expected from agencies.³¹
- **Reducing the specificity of rules and external control of budgets, whilst implementing systems of performance management.** Too many rules can reduce both officials’ perception of their accountability to stakeholders, and the scope of activities for which they are accountable for producing results. In the absence of performance management systems, “principals” may be able to trust “agents” to perform when there is an established culture of providing excellent service, a well-defined mission, and clearly identifiable client groups.³²
- **Avoiding conflicts of personal interest.** At a senior level, conflicts involving personal interest can be managed through forced disclosure and not participating in decision-making where the outcome is likely to affect such interests.³³

²⁸ This is not an argument for the centralisation of public financing and decision-making. This form of scrutiny can also occur at the local level.

²⁹ Tsuru (2006a). An illustrative example would be a lawyer whose task is to both defend and prosecute a criminal for breach of civil law. In this case the principals are the criminal and the state, respectively. The lawyer is in an intractable position whereby to succeed at one task he must fail in another.

³⁰ Scott (2001) *Public Sector Management in New Zealand: Lessons and Challenges*, Canberra; Australia National University Centre for Law and Economics.

³¹ There is some evidence that this can increase the level of *perceived* accountability a manager has toward the public and service users. Verschuere, Verhoest, Meyers and Peters (2006)

³² Pollitt (2006)

³³ Laking (2001)

A crucial factor in achieving an efficient, effective and ethical public sector is the existence of a *strong, independent and well resourced public sector auditor*. The auditor's mandate should extend not only to the audit of the financial statements of all government agencies, but the auditor should also have an unfettered discretion to conduct performance/efficiency audits of all government agencies and functions. The resulting audit reports should be made available publicly.

To achieve appropriate accountability it is important that the creation of expenditures and revenues by government is reported to and monitored by a central finance ministry. It is also important that there is *tight central control over the creation and proliferation of government agencies* and that there is a clear guidance on appropriate governance structures. Unnecessary proliferation can lead to a lack of accountability of government agencies and inconsistent decision-making and application of government policy.

Box 5: Case Study: Accountability for Results in the New Zealand State Sector

Since 2000, accountability for results in New Zealand's state sector has been managed through a negotiated purchase agreement between ministers and departmental chief executives called the *Statement of Intent*. The document clearly outlines the outcomes sought by the ministers on behalf of the government and the activities that public entities will undertake to contribute to them. Also included are appropriate performance measures and an assessment of the resources needed to achieve the organisation's targets.³⁴

3.4 Managing the performance of public sector agencies

In the public sector, performance is generally defined as the achievement of publicly declared objectives and standards of quality ("effective"), while minimising the cost of inputs ("economic") and the productivity of processes ("efficient").³⁵

Central to this view of performance is the setting of clear organisational targets and the monitoring of progress toward them using indicators. However, establishing targets and indicators that accurately capture an entity's intended function may be difficult or impossible.

Performance measures are not value-neutral. The choice of measures reflects assumptions about how planned activities will lead to desired outcomes. In a policy setting, these assumptions are often based on contestable theories of human behaviour. Therefore, the role of performance measurement in government, and the best measures of performance, are subject to debate.

Performance management can contribute to good public sector governance. Performance in the public sector can be improved by granting managers more decision-making authority over implementing government policies and programs, as long as mechanisms are in place to hold managers accountable for performance. Managers are assumed to have the knowledge, experience and oversight capability to make the best use of resources (such as staff and money). For example, block-budgets (e.g., budgets set as a fixed amount or as a percentage of GDP and reviewed periodically) give managers the freedom to determine the most efficient use of finance to produce the results sought by government. However granting managers more decision-making authority reduces the amount of control that the political executive has over the operations of an

³⁴ For an example of a Statement of Intent (SOI), refer to the New Zealand Treasury's SOI: <http://www.apsc.gov.au/conduct/>.

³⁵ Pollitt and Bouckaert (2004)

agency. Some of the lost control can be made up by making senior officials accountable for performance.

Performance management can contribute to good governance by:

- **Ensuring there is clarity over performance objectives and primary functions.** Focused organisational missions with clear measurable objectives that are relevant to the outcomes sought by decision-makers are critical for setting the right performance targets and incentives.³⁶ Once agencies have established targets, then managers can identify what dimensions of performance to measure.
- **Using intervention logic to ensure any interventions are those most likely to achieve the desired “outcomes”** for the resources available, by linking an agency’s ultimate “outcomes” to its “outputs” and “inputs.” For example, if the outcome that a road safety organisation was aiming to achieve was to reduce road fatalities, an assessment would be made of the intervention (output) most likely to achieve that outcome with the resources (inputs) available (e.g., the choice between an anti-drink driving campaign or increased drink-driving police check points).
- **Using indicators** is a recognised method of measuring progress toward a target. Quantitative indicators are numerical making them reliable, easily communicated and easily compared. These qualities make them generally more desirable than qualitative indicators which are descriptive observations. However, where quantitative indicators cannot be established, qualitative indicators are better than none at all. Qualitative indicators may usefully supplement quantitative indicators and provide an added richness of information.³⁷ Performance indicators are more relevant when all parties understand the assumptions underpinning the choice of measure.

Box 6: Using Indicators as Performance Targets

Indicators are useful guides to performance. However, if an indicator is adopted as a performance target by individual agencies and officials, it may lose the qualities that make it a good measure.³⁸ A key idea here is that an indicator cannot capture the whole substance of the performance goal that it is intended to represent. When individuals are assigned indicators as performance targets, their behaviour is likely to change away from achieving the goal that the indicator intends to measure and toward simply satisfying the requirements of positively affecting the indicator. One basic example is a hospital which has as its organisational goal “*to enhance the wellbeing of patients.*” One indicator, among many, may be whether or not patients are satisfied with the service they receive. Health workers that focus too narrowly on satisfying a patient’s demands for a drug prescription, instead of recommending a healthier lifestyle, may undermine their wellbeing. While the client satisfaction indicator may indicate performance, the actions of the health worker are undermining the overall goal of the hospital.

³⁶ Whitehead (2006) and Tsuru (2006a)

³⁷ USAID (1996)

³⁸ This is the essence of Goodhart’s Law, which states that “any observed statistical regularity will tend to collapse once pressure is placed on it for control purposes.” Originally formulated in relation to monetary policy, the Law has been adopted by management and organisation theorists in relation to performance measurement (Briys, 2004) www.cyberlibris.typepad.com/blog/2004/11/the_elusive_que.html

- **Ensuring that the right mix of *ex ante* (planning and target setting), *ex nunc* (monitoring and measuring) and *ex post* (evaluation and audit) controls are used.** Organisations engaged in different tasks need performance monitoring regimes of differing type and intensity.³⁹ Whereas processes in organisations that produce things can be standardised and outputs monitored closely, the nature of the work undertaken by agencies where outputs are difficult to measure, such as counselling services and police, mean that overly specific, output-oriented performance measurement is problematic. In such circumstances, compliance with rules and procedures may be a better measure of performance.⁴⁰

3.5 Public sector ethics and probity – the culture and values of public service

In the public sector, formal accountability and performance monitoring is never complete or perfect and can be very expensive—this is especially true where processes and outputs of an organisation are hard to observe or measure. Officials will always possess an amount of discretion in their work. One alternative to formal, external accountability is internal accountability, or personal responsibility. Responsibility refers to the obligation that a public official feels toward performing tasks and serving the public.⁴¹ Where an official feels obligated to do something, highly specific external controls such as rules and performance measurement may be unnecessary and possibly counter-productive.

Officials in different economies will have differing beliefs and values that shape their sense of obligation. Two stylised types of obligation can be identified.⁴² The “Rechtsstaat” model values respect for the law, attention to precedent and a concern with equality before the law. In contrast, the “public service” model defines professional ethical behaviour as upholding procedural fairness and political neutrality.

Ethical public servants result from a complex mix of personal attributes and organisational cultures. Managing the ethical characteristics of public sector organisations in a way that promotes other aspects of good governance (such as transparency, accountability and the appropriate use of public resources) is inherently difficult. However, one possible system could include:

- Hiring officials with a proven history of behaving ethically and responsibly, starting from the level of departmental manager and continued throughout the organisation.
- Ensuring that those new officials are fully aware of the ethical behaviour expected of them through published codes of conduct.
- Creating an induction environment that exposes new officials to ethical behaviour by more experienced officials.⁴³

Normalising ethical behaviour through the creation of organisational cultures is increasingly seen as a cost-effective means of guiding the behaviour of public servants. Overall national policy outcomes that are clearly and consistently communicated to the public sector can also help determine and unify organisational cultures across the public sector.

Codes on values and ethics for the public service can be a useful aid for establishing and reinforcing good principles for the public sector to follow. For example, Canada’s “Values and

³⁹ Pollitt (2006)

⁴⁰ Laking (2006)

⁴¹ deLeon (2003)

⁴² Pollitt and Bouckaert (2004)

⁴³ New recruits being assigned mentors who are trusted, respected and who exhibit commitment to ethical behaviour may be one method.

Ethics Code for the Public Service” sets forth the values and ethics of public service to guide and support public servants in all their professional activities. It also serves to maintain and enhance public confidence in the integrity of the public service.⁴⁴

3.6 Responsiveness to stakeholders – the public and clients

Transparency and responsiveness are strongly associated in modern governance arrangements. Both terms imply a public sector that is attuned to the demands of the public. However, responsiveness implies more focus on the needs of a narrowly defined group of “clients” or service users.⁴⁵ Technological change, economic growth and a diversifying population in many economies are increasing both the number and expectations of user groups.⁴⁶ Service delivery agencies are increasingly faced with demands for a greater number of services that are more customised and of a higher quality. Timeliness and accessibility are also important components of responsive government.

Some notable attempts at enhancing responsiveness are:

- **Contracting out:** ministries and agencies contract with the public or firms that are in closer proximity to service users and better able to provide customised service.
- **Privatisation:** services or assets previously paid for using public funds and owned by the state are sold or left to the private sector to supply where the law of supply and demand determines product range and quality.⁴⁷
- **Decentralisation:** responsibility for service delivery and financial planning is *devolved* to local government, or *decentralised* to local delivery units in closer proximity to users. For example, in Peru, responsibility for financial planning has been devolved to sub-national governments to enable greater public input into decisions over the provision of services.
- **One-Stop Shops:** single-contact points are established, where businesses and individuals have access to a range of government services (including requesting and contesting public administration decisions). “On-the-spot, one-stop shops” have been piloted in Viet Nam at the provincial, city and commune levels.⁴⁸

Advances in information and communications technology (ICT) are particularly instrumental in creating a responsive public sector. Firstly, as economies develop the public may increasingly demand electronic, internet-based access to government services. Singapore, for example, has more than 1,600 government services available online on a 24-hour basis.⁴⁹ Secondly, advances in ICT allow greater information sharing between agencies, allowing for more comprehensive case management and a reduction in the time it takes to respond to requests and grant applications. ICT innovation in New Zealand’s public sector significantly reduced the costs and time taken to register a company: from NZ\$200 to NZ\$70 and from two weeks to 30 minutes.⁵⁰

⁴⁴ Canada’s “Values and Ethics Code for the Public Service” is available at: http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_851/vec-cve_e.asp.

⁴⁵ A predefined section of the population identified as the target of government policy or assistance.

⁴⁶ For a broad exploration of diversity in public policy see: Boston, Callister and Wolf (2006)

⁴⁷ However, for those services that are true public goods (for example, defense) or where equity concerns predominate, the retention of state supply is desirable.

⁴⁸ <http://www.caicachanhchinh.gov.vn/English/MechanismInitiative/OneStop/>:

⁴⁹ APEC Economic Committee (2006)

⁵⁰ Whitehead (2006)

3.7 Political and bureaucratic structures

Many, if not all, governance decisions are inherently political and go beyond simply creating technical solutions to administrative problems. They often involve making choices between two or more competing values. For example, the decision to decentralise a function to local government or local administrative agencies to get benefits of increased decision-making at a local level (such as increased responsiveness to local conditions) may raise problems in ensuring consistency and fairness.

Political cultures can also influence whether, and to what level, appointments in public sector agencies are made by the political executive, how fast and wide ranging governance reforms are; and the ultimate goals of public sector reform (for example professionalisation of the public service, or maximising efficiency).

3.8 Good policy and institutions

Existing research has not established a clear link between political institutions and growth due to conceptual and measurement problems and the limitations of econometric techniques. See for example Glaeser, La Porta, Lopez-de-Silanes and Shleifer (2004) for a review of the literature in this area.

Political institutional arrangements are strongly influenced by history, and institutional outcomes tend to improve as societies become wealthier. Accordingly, institutions may only have a secondary effect on economic performance. The primary effect may come from human and social capital, which in turn shapes the institutional capacities of a society.

Researchers and policy-makers may therefore benefit from focusing on improving actual laws, rules and compliance procedures that could be controlled by a policy-maker to assess what will improve policy outcomes.⁵¹

⁵¹ Glaeser, La Porta, Lopez-de-Silanes, and Shleifer (2004)

Box 7: Case Study: Governance Arrangements for Australian Government Bodies

In August 2005, the Australian government published the *Governance Arrangements for Australian Government Bodies*.⁵² This governance policy document outlines the general principles to be followed in establishing Australian government bodies. It emphasises that when a new function, activity or power is contemplated, it should be conferred on an existing body unless there is a cogent case for establishing a new body for the purpose.

Where the case for a new body is established, the preference is for a non-legislative structure on the grounds that it is easier and simpler to establish such a body and, more importantly, it is easier and simpler to abolish it, or amend its functions, as priorities and circumstances change over time. The document also identifies a number of factors influencing the governance arrangements of new bodies, including:

- A clear and unambiguous purpose is fundamental to designing effective governance arrangements.
- Consideration should be given to the potential for the interaction of the new body with existing bodies. Synergies between bodies may suggest that they should have similar governance structures to assist their interaction.
- Consideration should be given as to whether there are processes and principles that will provide for the periodic review of the governance of the new body. These may include options for consolidation within another body or government department.

3.9 Risk management

Risk management is an important part of good public sector governance. Risk management can be defined as:

“The systematic application of management policies, procedures and practices to the task of identifying, analysing, assessing, treating and monitoring risk.”⁵³

Risk management is a tool for public sector organisations and regulators to identify, evaluate and manage both risk and opportunity. Risks should not necessarily be avoided; if managed effectively they allow opportunities to be seized for improving public services.

There is extensive risk reporting in the public sector in many economies (such as Australia, New Zealand and elsewhere). The reporting of risks is an element of effective risk management.⁵⁴ Under the Financial Management and Accountability Act in Australia more than 300 departments, authorities and public bodies are required to develop and implement a risk management strategy. Aspects of risk management are also incorporated into the reporting arrangements established between the Department of Finance and Administration and other departments as part of the quarterly monitoring process established under the Act.⁵⁵ In New Zealand the Fiscal Responsibility

⁵² The full document can be accessed at:

<http://www.finance.gov.au/finframework/docs/FMR2.pdf>.

⁵³ Management Advisory Board's Management Improvement Advisory Committee (MAB/MIAC) (1996)

⁵⁴ Bartos (2006)

⁵⁵ Bartos (2006)

Act requires disclosure of all government decisions and other circumstances that may have a material effect on the fiscal and economic outlook. Specific fiscal risks are disclosed as part of annual budget documentation.⁵⁶

4. Tensions and issues in public sector governance

4.1 Accountability or trust? – The principal-agent problem

One of the main issues in public sector management centres on the relationship between principal and agent.⁵⁷ Principals are the individuals or organisations (actors) in positions of authority that control the allocation of resources. Agents are actors chosen by principals to perform delegated tasks and use allocated resources. In the public sector there are three primary instances of the principal-agent relationship:

- The public (principal) pays taxes to the government (agent) to produce public goods and services, such as road construction and education.
- The government (principal) allocates resources and delegates tasks to top officials (agents) in public sector organisations to implement policies and produce public goods and services.
- Senior officials (principals) further delegate these tasks to other officials (agents).

The delegation of tasks generates some unique and challenging problems. Principals never have complete information about whether agents have efficiently and effectively performed their set tasks. The result is a situation called moral hazard, where the agents may have an incentive to exploit the information asymmetry by acting for the sake of their own interest (i.e., act opportunistically). They may do this by:

- convincing the principal they are performing when they are not (shirking); or
- convincing the principal that they can perform the task when they cannot (adverse selection).

Governance processes have evolved to overcome these problems. To enhance the accountability of agents to principals, environments are created where:

- incentives (rewards and the threat of penalty) are used to align agents' interests with that of their principals;
- performance management is focused on setting clear targets and closely monitoring progress toward them; and
- the objectives and performance of the public sector are communicated transparently to all stakeholders, including the general public.

Creating incentives and closely monitoring performance can be costly. Economies that are fiscally constrained may find that so long as there are avenues for the public to exercise their "voice" (e.g., through consultation), enhancing transparency in the public sector can be a low-cost method of increasing accountability and reducing opportunism.

Furthermore, recent empirical work has suggested that the prevalence of opportunism in the public sector may have been exaggerated. Where organisational cultures exist that emphasise excellence

⁵⁶ For more information on specific fiscal risk documentation, refer to <http://www.treasury.govt.nz/forecasts/befu/2004/4specificfiscalrisks.asp>.

⁵⁷ Campos and Lateef (2006) and Kotaro (2006)

in public service and the target population or client group is well defined, principals may be able to trust that agents will act responsibly instead of self interestedly.⁵⁸ This is particularly true for agencies built around a set of well-defined professional ethics.

Using financial rewards as incentives to improve control over agents can also be problematic. Where agents are strongly motivated by professional ethics to provide excellent service, financial incentives may work to destroy such motivation, reducing performance over the long term.⁵⁹ Financial incentives in such settings might represent unnecessary costs or might otherwise act as a disincentive to achieving higher performance.

4.2 Multiple and diverse objectives

Unlike firms in the private sector whose primary objective is to maximise profit, public sector organisations may have multiple and diverse objectives. Diverse objectives are a problem because they can weaken and create conflicting incentives for agents.⁶⁰ The problem becomes acute when there are multiple principals and the costs to the agent of completing each task are similar. A typical example of conflicting objectives is the duty of a public entity to serve the needs of the public while minimising fiscal costs to the government.

Additionally, public sector agencies can be risk averse, short term in focus and resistant to change.⁶¹ These problems are the result of being the only supplier of public services, low performance incentives and the difficult nature of measuring and monitoring organisational performance. The public sector does not respond well to dynamic objectives, for example, when government policy changes frequently.

4.3 Rules versus discretion – encouraging performance while managing risk

Enhancing performance by granting public managers more discretion and autonomy incurs a proportionate reduction in the level of control that the political executive has over the operations of an entity. There is a risk that managers may exploit this lack of oversight and act opportunistically or, more likely, that an organisation's operations become misaligned with the outcomes sought by government.

Thinking carefully about which entities can be granted higher levels of autonomy is one way to avoid the risk of opportunism and policy failure. Another solution is to implement strict performance management systems. Where this is not possible or practical, establishing procedural rules with which the organisation must comply reduces the risk of non-performance. This also enhances the "voice" of the public, who can now legally challenge organisations that do not follow procedure. However, too many rules can reduce the capacity of managers to manage for performance and may even reduce the amount of personal responsibility they feel they have for achieving results.⁶²

Encouraging performance while managing risk involves balancing managerial discretion over the use of (some) inputs with rules and procedures. The appropriate balance is usually the result of a process of learning through experimentation to find what works in which circumstance. However, two general principles which may apply are:

⁵⁸ Pollitt (2006)

⁵⁹ Le Grand (2003)

⁶⁰ Tsuru (2006)

⁶¹ Whitehead (2006)

⁶² Verschuere et al. (2006)

- Where managers are granted semi-autonomy from political control, alternative reporting mechanisms (e.g., legislative scrutiny and publishing annual reports and financial statements) can ensure they remain personally accountable for the use of public funds, without the need for performance-inhibiting rules.
- Designing and applying performance management and accountability systems for classes of organisations (e.g., ministerial departments, state-owned enterprises or regulatory bodies) results in a more orderly public sector that can be more easily managed by central agencies.

4.4 Managing toward outcomes

Outcomes are medium- to long-term impacts that the collective activity of public sector agencies has on the economy, society and the environment. Very often, the activities of the public sector combine unpredictably with non-governmental forces and shocks to produce such outcomes. Holding one agency responsible for achieving particular desired outcomes may, therefore, be unreasonable. Trends in globalisation are also creating more complex and interrelated policy challenges that demand coordinated and concerted action by public sectors as a whole.

Clearly communicated and defined outcomes that are relevant to the responsibilities of agencies can act as a unifying force. They orient the activities of individual agencies to the wider goals of government and may help create a culture of commitment to the political executive throughout the public sector.

Coordinating the activities of multiple agencies is an ongoing challenge for governments. This is especially the case where agencies have been designed to perform single, specific functions. Some ways to successfully manage toward higher-level outcomes are to:

- Clearly communicate the overall outcomes sought by government;
- Clearly specify the roles and responsibilities of agencies working in collaboration with one another;
- Identify intermediary outcomes for each government agency; and
- Emphasise and enhance the role that communication and technology play in successfully organising the activity of multiple and diverse agencies.

5. Conclusion

Governance constitutes an integral part of the world of public management as it can provide for systems and processes that efficiently organise activities of the public sector, which are fundamental to the pursuit of high-level and long-term outcomes that enhance national welfare. The general public has the right to participate in and contribute to the activities of the public sector, given that the public sector exists to serve the needs of society.

There are different approaches to good governance in the public sector. Establishing rules, measuring performance and using personal values to create cultures of excellence in service all play a part in the effective running of government. Transparency and accountability are instrumental in ensuring that the public sector is responsive, effective and working in the interests of the public. Wherever possible, governance mechanisms should be designed simply and easy to use. This will increase their take-up and reduce the risk that they may be exploited for personal gain.

Performance management is increasingly recognised as a core component of an effective public sector. While setting targets and measuring progress toward them features strongly in new public management models, there are limitations. Choosing indicators involves making contestable assumptions about how actions produce results. Setting performance indicators as organisational targets can result in unexpected and undesirable behaviour.

The professional ethics of public service are seen as increasingly important alongside performance measurement and accountability. Creating organisational cultures of excellence that value fairness and honesty is a cost-effective method of guiding behaviour in the public sector. Clearly communicated outcomes may also be useful.

The public sector exists to serve the needs of society. Good governance is increasingly associated with enhancing national welfare, economic development and public participation in the running of government. Therefore, good governance matters in the public sector.

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Chapter Two:
**Using Institutions to
Support Structural Reform**

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Chapter Two

Using Institutions to Support Structural Reform

Preface

This chapter analyses the characteristics and functions of institutions that can support the promotion and implementation of structural reform. Structural reform is not easy, because of both the complexity of the policy choices required, and the diversity of economic interests involved. Beneficial structural reforms may not be adopted because governments are not aware of the policy choices, or lack the capacity to implement them. Alternatively, governments may face resistance from vested interests. This chapter discusses how a systematic policy review process can help to overcome both these obstacles. It then examines the characteristics and functions of institutions that can effectively undertake policy reviews, not just to identify reform options, but to 'sell' them domestically. It gives examples of actual institutions from around the Asia-Pacific region that have these characteristics and perform at least some of these functions. Finally, it discusses how the APEC process can help to strengthen the operations of such institutions.

1. Introduction

The economic focus of structural reform (domestic or 'behind-the-border' reform) is on measures to improve market efficiency, such as improvements to regulatory systems, competition frameworks and governance structures. The objective is to establish rules of competition and to remove barriers to competition in instances where competitive markets can be expected to guarantee the most efficient allocation of resources. Where markets alone cannot deliver efficient outcomes, or where there are additional policy objectives besides efficiency, the task of structural reform is to find ways of regulating the markets, or pursuing the additional policy goals, that do the least damage to economic efficiency.

The APEC Leaders' Agenda to Implement Structural Reform (LAISR) has prioritised a number of policy areas that are central to structural reform. A sound economic and legal framework and system of corporate governance are required to establish the rules for competition. Competition policy is required to ensure that there are no artificial barriers to competition, including anti-competitive business practices. Sound regulatory policies are required to ensure that when markets are regulated, this is done in an unobtrusive manner. Lastly, sound public sector management is required to hold governments accountable for all the ways in which they affect markets (including through their own procurement practices), manage performance to help ensure that sound decisions are made and implemented, deliver goods and services effectively and efficiently and encourage public participation in government .

Since the economic focus of structural reform is on behind-the-border measures, the political economy of structural reform is primarily domestic. But structural reform is not easy, because of the diversity of economic interests involved. These include incumbent producers, potential new entrants (both domestic and foreign), "upstream" industries that supply inputs to the reforming sector, "downstream" industries that buy inputs from the reforming sector, and final consumers. The ways in which these actors are affected by a particular structural reform will vary, depending on some quite complicated economy-wide interactions.

If institutions are to support the structural reform process, they need to support both the economics and the political economy of structural reform. Structural reforms may deliver a better set of rules governing the operations of markets, and these new rules will require institutions to implement and enforce them. These institutions that support the economics of reform include competition policy regulators, national audit offices, and so on. But if structural reforms are to happen, it can also be helpful to have institutions that can mediate among the diverse range of economic interests involved, and build a coalition for reform.

The purpose of this chapter is to outline the important characteristics of such institutions that can support the political economy of structural reform. The chapter first discusses the impediments to the adoption of structural reforms. It then examines the characteristics and functions of institutions that can help to overcome those impediments. Examples are given of actual institutions from around the Asia-Pacific region that have these characteristics and perform at least some of these functions. Finally, it discusses how regional processes such as the APEC process can help to strengthen the operations of such institutions.

2. Impediments to structural reform

There are at least three possible reasons why good structural reforms are not adopted. Each has different implications for the type of assistance that could help support the structural reform process.

- Sometimes it is difficult to know what is “best” policy or “better” practice, and the government may have limited capacity to implement the policy. This situation argues for external assistance to governments to provide the necessary expertise to undertake systematic reviews of existing policy arrangements, and to evaluate policy alternatives. It also argues for external assistance to build the capacity to implement better policies. Finally, it argues for an international exchange of policy experience to raise awareness of what constitutes better practice, and how to implement it. The APEC regional processes have been highly effective in providing a forum for such exchanges of policy experience to date.
- “Better” practice is known, but governments face political resistance from vested interests. This argues for government-sponsored policy reviews to analyse the gains and losses to all players, not just the vested interests, so as to help marshal countervailing interests in favour of reform. It also argues for an international exchange of experience about how to handle vested interests, and how to strengthen domestic institutions in favour of the public interest.
- “Better” policy is not wanted because current policies are too entrenched within the government. In these circumstances, there is a potential role for private (or otherwise independent) policy review institutions to carry out the necessary work of scrutiny, and to marshal countervailing interests in favour of reform.

In all three cases, there is a useful role for institutions that can undertake policy reviews. But the purpose of the reviews varies, depending on the nature of the problem. If the problem is one of identifying better policies, then the policy reviews provide a *technical* solution—they review current policy settings and identify better options. But if the problem is managing vested interests (which may include those within government), then the policy reviews are a *strategy* rather than a technical solution. The policy review institution can provide them as a tool with which to manage vested interests and build a coalition in favour of reform. There is no guarantee that the reviews will be decisive in any particular instance. Over time, however, they can help influence the terms of the debate. Each of these roles of policy review institutions is now discussed in turn.

Identifying better policy options

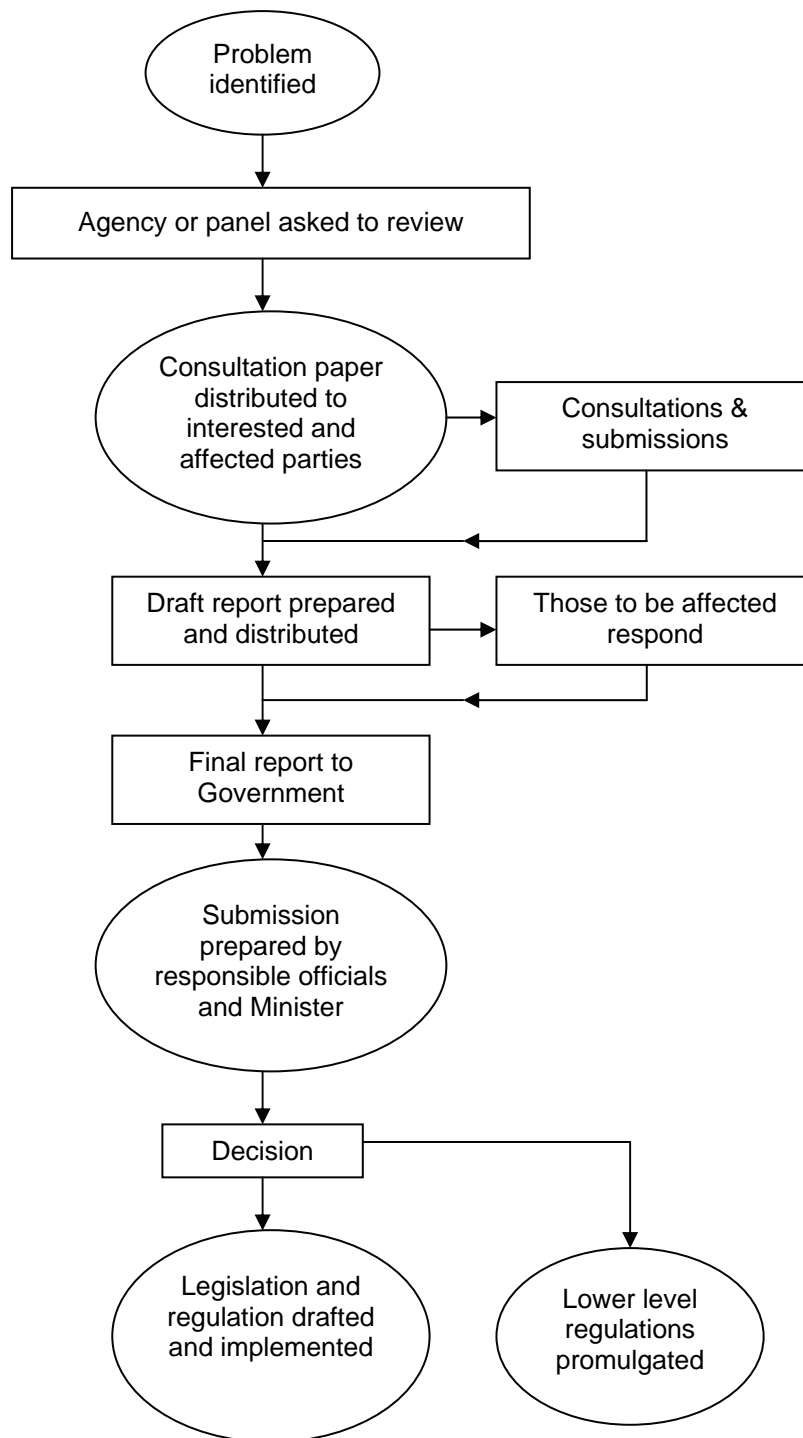
For a policy review process to make a useful contribution to identifying better policy options, there needs to be an orderly policy development process,⁶³ and the policy review needs to be done early enough to articulate viable options before positions become locked in. Quite often, policy making does not fit this model. Rather, policymaking often results from political imperatives calling for quick action. Further, experience has shown that often extensive structural reform can be a result of some form of economic crisis. In those circumstances, the reform process can be more opportunistic and there are significant sequencing challenges. Sometimes these approaches result on good policy outcomes, but the risk of failure is undoubtedly higher than in cases where a more open and orderly policy development process is adopted.

Figure 1 shows such an open and orderly policy development process. The figure presupposes having certain institutions, or at least institutional divisions. However, an orderly policy development process does not depend on having those exact institutions—other institutions could perform the same functions, depending on the system of government. What are important are the functions themselves.

⁶³ Parts of this section are taken from Coghlan (2000), PC (1998) and Banks (2003).

When the system works in an ideal fashion, a great deal of policy development work takes place before a proposal is put to government. This includes the policy review—a sequential process of articulating the problem and the desired objectives, assessing a range of options, evaluating the effects of each option on all stakeholders, recommending the best option, or else explaining why some other option is preferred, and outlining a strategy to implement the preferred option and then review its operation, thus providing an ex post check on policy performance.

Figure 1: An Orderly Policy Development Process



The ideal policy development process also involves a great deal of consultation. Ideally, there would be two rounds of consultation with all relevant stakeholders, one at the inception of the policy review as the review panel or agency is starting to develop its ideas, and again after the preparation of a draft report that outlines the full analysis and possible policy solutions (sometimes, but not always, including a preferred solution at the draft stage). This consultation process helps the review agency to identify all the costs and benefits to each stakeholder, and provides an opportunity for the review panel to explain its preferred solution to stakeholders.

At the very end of the ideal process, a policy proposal is put to government by the responsible officials and minister, and a decision is made as to the appropriate form of regulation or other policy action. In a parliamentary system, this decision is often made by cabinet, a grouping of all government ministers. When a minister makes a submission to cabinet, other ministers can scrutinise the proposal, although this Cabinet scrutiny is typically not made public. In a presidential system, the decision may be made by the executive branch, with scrutiny only from within the presidential office.

If the decision is to implement law, then legislation will be drafted and tabled in the legislature. This allows for public debate and scrutiny by members of both the ruling government and opposition parties. If the decision is to institute lower level regulations of any sort, these will typically not be tabled in the legislature.

As noted, sometimes the policy development process does not work in an orderly fashion, and a proposal is put to government without any prior policy review or consultation. In this case, there is very little scope for those other than the responsible minister to have input into the decision-making process. And there is no public scrutiny, if at all, until after the decision is made.

Many political systems in the Asia-Pacific region have at least some of the institutional elements that allow for prior policy review and consultation, as will be seen later. And the opportunity provided by policy reviews for transparent consultation is the key to their strategic role in managing vested interests.

Managing vested interests

An independent policy review process can help deal with vested interests in a number of ways.

First, policy reviews can help set the agenda—policy change will not happen if nobody talks about it. At this early stage, policy reviews do not need to provide policy recommendations. Indeed, to do so may be seen as pre-emptive of the subsequent policy development process. But they can carefully analyse the costs and benefits of current policy settings, and perhaps canvas some of the policy alternatives without taking a strong or preemptive stance on any particular one. The aim is to highlight who is losing from current policy settings, perhaps to quantify the size of those costs, and to show how the losers might be better off under policy alternatives. This can help alert the losers, who may be aware of the direct costs they face, but may be less aware of the indirect costs. Policy reviews can galvanise them to start pressuring for policy change, and provide the basis for such a campaign.

Second, reviews can also set the parameters of the debate. Vested interests typically highlight the effects of policy changes on themselves alone. Policy reviews can establish analytical frameworks within which to examine the costs and benefits of current policy settings to all stakeholders—incumbents, new entrants, upstream and downstream industries, consumers and governments. Such frameworks may attract criticism, and lead to sometimes frustrating debates about the assumptions underlying them, and the relative sizes of the costs and benefits. But such

frameworks make it much harder to ignore the interests of particular stakeholders altogether, particularly those, such as consumers, who may not be well-organised or are less able to represent themselves.

Third, a policy review process can help to depoliticise a debate. A highly politicised environment is not conducive to rational policy analysis. Most governments will therefore find it in their own interests on occasion to take the heat off an issue by referring it for independent, objective study. The results of such study can then be brought back to the public at a later stage, to educate public opinion about the range of stakeholder interests involved.

Fourth, policy reviews can provide mechanisms through which vested interests' special deals can be made transparent and public.

Fifth, a policy review process can marshal countervailing interests against vested interests, and help to build a coalition in favour of reform. It may not always be obvious to governments in advance who the champions of structural reform might be. A carefully laid out policy review process that invites the participation of all interested parties can help the champions to self-select. It also provides a forum for groups of champions to identify their common interests, and to agree to cooperate in pro-reform strategies.

Sixth, policy reviews with a sufficiently broad purview can help to identify policy *combinations* that lead to so-called Pareto improvements, where at least some stakeholders are better off and none is worse off. It is sometimes possible to identify such "virtuous cycles" of structural reforms. For example, manufacturing firms that are put under competitive pressure when their tariff protection is reduced may benefit in turn from transport reforms that reduce their input costs. Importantly, policy reviews can also identify options such as phased implementation or adjustment assistance, which can ease the burden on those that would otherwise lose from structural reform. Both the policy reviews and the review institutions can then achieve acceptance from particular vested interests, and the reviews can thus help to build a *grand* coalition in favour of reform.

Assisting policy coordination within government

A policy review process can help to build a pro-reform consensus outside of government. But ministers with an economic reform agenda also have to build consensus within government.

Although the structures of government vary widely across the Asia-Pacific region, there are some broad elements in common. Most bureaucracies have at least some government departments with economy-wide responsibilities. These typically include the ministry in charge of tax policy. Sometimes they include a central agency in charge of government spending, or a single agency charged with overall responsibility for structural reform. These ministries tend to take a broad, horizontal view of economic issues.

There are also government departments in charge of overseeing sectional policies. These might include ministries in charge of telecommunications policy, industry policy, health policy, and so on. These ministries are responsible for administering and enforcing current policies, and are staffed with highly skilled and qualified specialists capable of performing these tasks. The interests of such ministries are often closely aligned with the interests of the producers in their respective sectors. It is not necessarily that the ministries are "captured," just that they have a sectional rather than an economy-wide focus.

Thus ministers with an economic reform agenda need to be able to harness the economy-wide views of the central agencies in the policy development process, while using the specialist skills

and expertise of the sectoral agencies for both policy development and implementation. Coordination problems can arise when the sectoral perspective of the line agencies means that they are opposed to structural reform.

A policy review process can help with such coordination problems. An independent policy review agency can consult with various central and line government departments, just as it consults with all other potential stakeholders. This can alert the sectoral departments to broader economic considerations, just as it does to other stakeholders.

Some economies assign an active coordinating role to one of the central agencies with broad, horizontal portfolio responsibilities. If such agencies are able to conduct high-quality, independent policy reviews, this too can strengthen the public interest during the policy coordination process.

A final coordination problem is to ensure that sectoral departments abide by coordinated decisions, and implement the structural reforms as intended. *Ex post* policy reviews can be used as a way of exposing any non-performance by sectoral line agencies.

3. The characteristics of effective policy review institutions

Keeping in mind the various uses of policy reviews, it is now possible to canvas the characteristics of effective policy review institutions.⁶⁴ There are four key attributes.

- *Statutory independence* – The review agency should not be bound by current government policy. In conducting its reviews, it needs to be able to provide a full critique of current government policy settings, as a necessary first step in developing and promoting structural reforms. The review agency need not be independent of government funding. Secure tenure arrangements for the individuals responsible for the reviews may be as important as the funding arrangements. The critical point is that the review agency should be able to be fearless in its criticisms.

Further, the review agency should not have an implicit stake in the status quo, as regulatory agencies in charge of implementing current economic policy often do. At worst, such agencies may be captured by current vested interests. But even statutorily independent regulatory institutions can have a strong implicit stake in the regulatory status quo, as this is often required to implement current policy effectively. Ideally, therefore, a policy review agency should be independent of current regulatory agencies.

- *An economy-wide view* – the review agency needs to look beyond narrow sectional interests, and to consider *net* gains to the economy as a whole. Tracing through all the economic effects of a particular reform on all the various stakeholders can require considerable analytical capacity. Ensuring that the review agency has access to analytical resources, including skills in partial and general equilibrium modelling and cost benefit analysis, can help to provide such analysis and ensure its credibility.
- *Transparent processes* – the review agency needs to ensure the transparency of the arguments and analysis put to it. It could do this, for example, by holding its consultations in the form of public hearings, or by publishing summaries of its consultations shortly afterwards. The agency's reports to government should also be made public, ensuring the transparency of its own advice to government. Transparent processes bolster the ability of at least some countervailing interests to marshal against particular vested interests, so

⁶⁴ Parts of this section are taken from PC (1998) and Dee (2006).

helping to ensure that an economy-wide view will be taken by policy makers. This can also relieve the government from having to marshal those countervailing interests itself.

- *Technical capability* – the review agency needs to have appropriate resources and technical expertise in order to carry out its functions efficiently and effectively.

A requirement to take an economy-wide view is critical. A requirement to maintain transparent processes and to consult widely is not enough, for two reasons. Without a requirement to take all views into account, a review agency may simply ignore some views. More importantly, one key group of stakeholders—consumers—rarely participate in public consultation processes. In many economies, consumer interest groups are active on consumer safety issues, but rarely participate on matters of economic efficiency. Having a review agency required to take an economy-wide view ensures that consumer interests are taken into account, as well as the interests of producers and upstream and downstream industries.

Such an agency cannot possibly undertake the policy development for every single policy proposal. But it is particularly useful in those policy areas where there is major potential efficiency or other payoffs to the community from change, but where existing entitlements create resistance to reform. As noted, referring such issues to a statutorily independent body can help to de-politicise them, and allow breathing space for more careful analysis.

The government need not be bound by the recommendations of such a review agency. Indeed, the independence of the agency may be assisted by removing it from any responsibility for downstream policy implementation. Nevertheless, a review agency can still have influence, even if it can sometimes be ignored, for several reasons:

- transparent processes have influence, and such an agency can identify the winners and losers from current policy setting; and
- ideas have influence, and such an agency can formulate reform proposals with high-quality intellectual backing.

A policy review institution will be subject to inevitable attack from vested interests, and so needs to protect its credibility in the face of such attacks. Credibility is enhanced if the organisation has the resources to ensure that its analysis is of the highest quality. Credibility may also be enhanced if it can maintain the status of an “honest broker,” mediating among the special interests and making recommendations, but not becoming involved in the politics of the subsequent decision-making. If it is to remain “above the fray,” but if its ideas are to have influence, its ideas need to be championed, or at least debated, by others. Thus an educated and literate commentariat has an important role in adding credibility to an independent review institution. Alternatively, a review agency could credibly remain involved in the subsequent decision-making, so long as it had no clear conflict of interest. However, this involvement would divert resources from its review tasks. Finally, credibility can be built over time as each vested interest becomes the beneficiary of some reforms, even though it loses from others. Thus, even vested interests can come to recognise that they have a stake in the long-term survival of a policy review institution.

A statutorily independent review body is not the only type of organisation that could carry out the review and consultation phases of policy development. Government departments can develop their own consultation mechanisms, such as holding round-tables of relevant stakeholders or asking for written submissions from interested parties, as input to their own policy development processes. Such consultations are facilitated by e-government initiatives, and may be effective in eliciting countervailing producer interests.

Inter-departmental committee processes convened by a central agency (such as a finance ministry or presidential office) can also bring a number of stakeholder interests to bear by proxy, through the representative line departments. Inter-departmental processes can be important in themselves for ensuring policy coherence among the different departments. The process is assisted if a central coordinating agency has the authority to ensure that final committee decisions are honoured.

Another type of review mechanism is to convene a review panel of eminent persons on a once-off basis to consider a particular issue. Such panels often rely on the integrity of individual appointees for their independence and impartiality. For example, appointees who come from an independent judicial background may maintain that independence in a review context, while more overtly 'political' appointees may be neither independent nor impartial. Such panels also depend for their effectiveness on their terms of reference, which may direct them to take a broad or narrow focus on a particular issue. Resourcing such panels with a well-trained secretariat from the bureaucracy can provide the skills to carry out economy-wide analysis.

Finally, a bicameral system of government can sometimes provide one other important mechanism of policy review. Upper houses of government can sometimes instigate their own reviews of legislation before it is voted on in the upper house. The reviews may include public consultation, and may be a useful final screening mechanism.

4. Regional examples of institutions to support structural reform

To summarise, policy review institutions can support the political economy of structural reform in two distinct ways. They can provide a technical solution by helping to identify better policy options, and they can be part of a strategy to deal with vested interests. These dual roles suggest that there could be several key attributes of effective institutions—statutory independence, an economy-wide view, transparent processes and technical capability.

Regional examples of such institutions all bear at least some of the hallmarks of effective policy review institutions.

One clear example is the Council on Economic and Fiscal Policy in Japan. According to Hosen (2007), this was an institutional innovation of the Koizumi government in Japan designed primarily to deal with the predominance of vested interests in the previous policy-making process, and the lack of transparency in that process. It has been instrumental in achieving structural reforms of pensions and medical care, among others.

One key attribute of the council is its transparency—summary minutes of council meetings are published within three days of the meetings. This has helped to reveal, and therefore neutralise, the special pleading of business vested interests. Another key attribute is the representation on the council of government departments with broad portfolio responsibility, as well as two representatives each from academia and the business community. This has ensured an integrated approach to economic policy making and helps to neutralise vested interests within the bureaucracy.

Japan faces the challenge of ensuring that the council's role and influence survive beyond the Koizumi era. In July 2007, the cabinet endorsed the council's "Economic and Fiscal Reform 2007" which set out the first structural reform agenda under the Abe Cabinet. It presents the future direction of reforms aimed at realising growth amid declining population and departing from the post-war regimes. It presents a new national image (Cabinet of Japan, 2007).

Another example is the Australian Productivity Commission. Rattigan (1986) describes how it began life in the 1920s as the Australian Tariff Board, and was expected to implement the then government's policy of tailor-making assistance to industry. Instead, considerations of how to design a rational assistance policy led the organisation to consider the negative effects of tariffs on inputs, as well as the positive effects of tariffs on outputs. This in turn highlighted how assistance to manufacturing could act as a tax on efficient agricultural exporters—there was no such thing as “assistance all round,” contrary to government intentions. Thus, adopting an economy-wide approach led the organisation to a quiet revolution in its own thinking, which was in turn reflected in its policy recommendations to government.

The institution's role has evolved since. Wonder (2007) describes how, as the deadening effects of high protection became clear, the organisation was instrumental in arguing for reductions in industry assistance. In the 1990s, it turned its attention to the inadequate performance of Australia's government-owned enterprises in the infrastructure sector, arguing for reforms that would subject them to greater competition—either “benchmark” competition with each other, or real competition through the entry of private suppliers into at least some segments of the market. After several name changes, the organisation now advises on most areas of structural policy. It remains a purely advisory body. But the key characteristics of an effective policy review organisation are enshrined in its legislation. It was recently commended by the Australian Treasurer as a vital source of public information and advice to government on policy reforms needed to underpin Australia's long-term prosperity.

Llanto (2007) describes how the National Economic and Development Authority (NEDA) in the Philippines serves as the national and regional development plan and program coordinator among the various branches of government. It issues planning guidelines and conducts multisectoral and regional consultations for inputs to the Philippines Medium-Term Development Plan. NEDA is a cabinet-level board composed of the major government departments and is chaired by the president of the Philippines. The NEDA Secretariat provides technical and secretariat services to the various NEDA committees. It has comprehensive information on the implementation of government policies and has the capacity to comment on policies issued by government.

Another Philippine institution with a powerful coordinating and *ex post* review role is the Department of Budget and Management. Its public sector management framework has been developed with technical assistance from donors, who drew from the earlier experience of Australia in public expenditure management reform. The department requires various line agencies and corporations to adhere to performance-based or outcome-oriented budgeting, helping to ensure adherence to and implementation of government policies.

A third institution is the Philippines Institute of Development Studies, which has acted as an independent and impartial policy review institution and analyst for more than 25 years. It produces independent policy reviews, research and analysis, which are turned over to the public domain by way of publications, seminars, workshops, and testimony on hearings arranged by various congressional committees. The organisation is not resourced for conducting significant public consultations.

The Philippine examples described by Llanto (2007) illustrate how further useful work to support structural reform could take place within a medium-term economic planning framework. A medium-term planning process could provide a useful forum for detailed *ex ante* reviews of policy options, providing a lead in the policy development process. Such a medium-term focus can then bind successive governments and guard against excessive “short-termism” in policy development.

Mid-term reviews carried out during the planning cycle could also provide an opportunity for ex post policy reviews. Thus a traditional planning process could potentially be transformed into a system of continuous rolling ex ante and ex post policy reviews. Indonesia's BAPPENAS is a traditional planning agency with the technical expertise to undertake detailed policy reviews. Malaysia is another economy in which the planning process could potentially be transformed into a process of critical ex ante and ex post policy reviews.

Other economies besides the Philippines have think-tanks that conduct impartial policy reviews and analysis. Other regional examples are the Centre for Strategic and Independent Studies in Indonesia, the Thai Development Research Institute, the Fiscal Policy Research Institute in Thailand, the Malaysian Institute of Economic Research, the Central Institute for Economic Management in Vietnam and the Chinese Academy of Social Sciences. These organisations vary in the extent to which they sit inside or outside formal government structures and the extent to which their contributions are used in the policy development process. But all have at least some of the characteristics of independent policy review institutions, and perform at least some of those functions.

China and Viet Nam also face the problem of managing vested interests. Early in Viet Nam's transition to a market economy, many reforms were seen as clear Pareto improvements — with at least some clear winners, and with no clear losers. According to Vo and Nguyen (2007), the reform process is now more difficult, with some of the government's priority reforms potentially creating losers as well as winners. One strategy that Viet Nam has tried is a taskforce approach — putting together groups of experts from within and outside government to consider one particular area of reform. The approach has had mixed success. It has injected a much-needed economy-wide view, but has suffered problems of commitment from the taskforce participants. According to Fan (2007), China too is at the stage where reforms can potentially create losers as well as winners, and so it requires new strategies to deal with vested interests. China, along with Indonesia, has problems of coordinating reforms among different parts of government, not just at the economy level, but also regionally.

Structural reform is an ongoing process. Economic growth and technological change mean that there needs to be constant reassessments of whether and how markets can deliver efficient outcomes, whether the regulatory solutions to market failures are adequate, and whether the relative priorities given to economic and non-economic objectives are appropriate. In the best-managed economies, structural reform is never completed.

Governments in all political systems require a mandate of some sort to undertake structural reforms, but a key question is how that mandate is cultivated. At one extreme, a government could choose to implement an economic reform agenda in a “crash through or crash” style—simply implementing reforms until the cumulative opposition from vested interests and/or public opinion erodes their legitimacy. Alternatively, they could attempt to influence the terms of the debate.

A reform program that makes provision for an independent policy review process may be slower than a ‘crash through or crash’ program. But it is likely to be more sustainable in the longer term. This is because the reviews do not just identify reform options, they help ‘sell’ them in the face of opposition.

5. How regional processes can help

In the same way that no economy starts out with the best set of economic policies, no economy starts out with the best institutions to support the policy-making process. Instead, they inherit

institutions that reflect their own unique culture and history. But as the above examples illustrate, these institutions have sometimes evolved over time in response to perceived needs, just as the economic policies themselves have evolved through a process of structural reform. Sometimes the institutional evolution has been the result of political leadership. Sometimes the institutions have been responsible for their own evolution, inspired by the power of ideas to exploit an existing mandate for new purposes.

These national institutions can be further strengthened, with assistance from regional processes. But regional assistance needs to be tailored to the particular needs of each economy, which depend in turn on their particular impediments to structural reform.

If the key institutional gap is in identifying or implementing better policy options, then regional assistance needs to be tailored to helping provide the necessary technical solutions. As noted earlier, this may be as simple as providing a forum in which economies can share experiences about what constitutes “better” policy options, appropriate to their level of development. In this context, the diversity among APEC economies becomes a strength rather than a weakness. While organisations such as the World Bank and the OECD play a critical role in helping to identify world’s best practice, not all APEC economies can aspire to this immediately. The experiences over time of various APEC economies at different levels of development can help to lay out a structural reform “ladder,” allowing economies at lower levels of development to keep moving gradually in the right direction, while avoiding sequencing problems or inconsistencies. Sequencing problems may mean that adopting one reform blocks the implementation of others. Time inconsistency may mean that a reform that is judged beneficial *ex ante* may be seen as undesirable *ex post*.

Regional assistance to identify or implement better policy options may also have a strong capacity-building dimension. Assistance with identifying policy options could include drawing up terms of reference for independent policy reviews, and marshalling the collective expertise available in independent think tanks and elsewhere around the region for undertaking such reviews. Assistance with implementing policy options could include tapping into the expertise of regulatory bodies around the region. But to be effective, such assistance would also need to be tapped into domestic policy-making processes. In this context, the voluntarism of APEC processes is a clear strength. Interested ministers could self-select for such assistance, ensuring that outside guidance on policy options and implementation issues had a willing domestic sponsor, rather than being imposed from outside.

If the key institutional gap is instead managing vested interests, then regional assistance needs to be tailored to helping with strategies rather than with technical solutions. This may involve providing a forum in which economies can share experiences about managing vested interests outside government, while coordinating the policy development and implementation process within government. The diversity of the APEC region would be an asset in this process.

Regional assistance to strengthen domestic institutions in managing vested interests could also have a capacity-building dimension. This assistance may also take the form of helping to undertake independent policy reviews, but here a key consideration would be not just ensuring the analytical quality of the reviews, but also ensuring their independence, transparency, and credibility in the face of attack from vested interests. Key to this would be transparent processes. So not only would the regional assistance need to be tapped into domestic policy-making frameworks, it may need to provide for broad, public consultation. This would require ministerial support, again making the voluntary nature of APEC processes a strength rather than a weakness. However, where domestic bureaucracies are already stretched, ministers may need logistical assistance from regional processes in organising and undertaking the necessary consultation.

Regional assistance in these various forms would need a sanction, a delivery mechanism and a process of accountability. Within APEC, the sanction is already provided by the LAISR. This places priority on five broad reform streams, each of which requires a clear idea of policy options, appropriate to each economy's level of development, as well as the support of domestic reform champions. Initiatives to help identify those policy options and develop those champions are clearly within the ambit of the LAISR.

The challenge would be to design delivery mechanisms that could assist in the political economy of domestic reform without being overly intrusive, and to design processes of accountability for that assistance. Both issues require considerable development. However, a few key elements can be identified.

The delivery mechanisms would clearly require the involvement of Ministers responsible for structural reform. The obvious place within APEC to organise such involvement is through the Economic Committee, which is developing forward work programmes for each of the LAISR themes and developing awareness raising, information sharing and capacity building initiatives.

The delivery mechanisms need to encompass assistance in "selling" reforms domestically, and not just in identifying them. This requires developing broad domestic ownership of the reforms, something that is not assisted when technical solutions appear to be imposed from outside. Furthermore, when analytical capacities are required, these could be sourced from existing think tanks and regulatory agencies around the region. The delivery mechanisms need only be able to mobilise these capacities, as well as providing intellectual leadership and guidance for such reviews.

Whatever the details, such regional assistance to support the political economy of structural reform would need to put responsible ministers in the driving seat, ensuring their ownership and accountability from the outset. This is critical, since the prime purpose of such assistance is not just the identification of "better" practice, but selling it domestically.

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Annex 1:

Individual Economy Reports on Public Sector Governance

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Australia: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the Australian Public Sector

Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the national government (i.e., the Australian government), the six states (New South Wales, Victoria, Queensland, Western Australia, South Australia and Tasmania) and two internal self-governing territories (the Australian Capital Territory and the Northern Territory).

In each of these jurisdictions there is a Parliament elected by the people; an executive, responsible to that Parliament, formed by the majority party or parties in Parliament; and an independent judiciary.

The Australian government sector is made up of two groups: those included in what is deemed to be the core public service and employed under the *Public Service Act 1999* (Public Service Act), and usually referred to as the Australian Public Service (APS); and those working in other administrative or regulatory statutory authorities, government business enterprises and government-owned companies, which are administered and employed outside the Public Service Act, often under their own legislation.

The total public sector employs approximately 19% of all employees in the Australian economy. The Australian (or central) government accounts for around 3% of all employees while the state/territory and local government sectors account for approximately 16% of all employees. The latter's larger share reflects that sector's major responsibilities for service delivery in the areas of education, health, transport and public order and safety. The total public sector accounts for around 23% of nominal GDP, with the Australian government accounting for around 8%, and the state/territory and local government sectors accounting for around 14%.

Size of the Public Sector in Australia

	Australian Government	State, Territory and Local Governments	Total Government
Share of total Employment	3.0%	15.7%	18.7%
Share of Nominal GDP	8.4%	14.2%	22.6%

Source: ABS Cat No. 5206.0 & 6248.0

B. Developments Supporting the Principles of Good Governance

Consistent with the interest in governance in Australia and internationally, there is a growing focus in the APS on issues of governance. Effective governance processes are essential to the operation of the APS. At a direct level, they provide the framework within which organisations can operate effectively. They also have an effect on employee satisfaction and on the general public's confidence in the government's capability and integrity.

In 2001, the government announced a commitment to improving the structures and governance practices of statutory authorities and office holders across the Commonwealth public sector. As part of this commitment, the government instituted an independent review to identify issues surrounding existing governance arrangements, and to provide options for improving the performance of statutory authorities and office holders and their accountability frameworks.

The *Review of the Corporate Governance of Statutory Authorities and Office Holders* was released in mid 2003. It established governance principles and templates applicable to statutory authorities and office holders, and potentially beyond to a wider range of public sector bodies. The government's response to the review committed ministers to assess statutory authorities and similar bodies within their portfolios against the review's governance templates and principles and to implement any necessary improvements. The assessment process has recently concluded, with ministers having implemented numerous improvements to date.

The Review also recommended that the government clarify its expectations with respect to Commonwealth bodies by issuing written Statements of Expectations (SOE) and that the bodies respond by way of written Statements of Intent (SOI).

In the context of these reforms, the 2005 publication, *Governance Arrangements for Australian Government Bodies*, reflects current government policy. The government also released *Foundations of Governance in the Australian Public Service*, a publication and internet resource bringing together information about governance arrangements as they relate to APS agencies.

As discussed in the publication *Governance Arrangements for Australian Government Bodies*, there are some fundamental principles to consider when contemplating the creation of a new body or changes to existing arrangements.

- A new function activity or power should be conferred on an existing department (or another existing body) unless there is a persuasive case to form a new body.
- The interaction of any new body with existing Australian government bodies should also be considered. Synergies between bodies may suggest that similar governance structures would assist their interaction.
- Where the case for a new body is persuasive, a non-legislative structure within the Commonwealth should be considered as the first option.
- Identifying a clear and unambiguous purpose is fundamental in designing effective governance arrangements.

1. Support for the rule of law

Australia's system of government rests on a fundamental belief in the rule of law. The rule of law provides that individuals are not subject to any arbitrary or capricious exercise of power by government officials. Under the rule of law, government officials cannot act contrary to Acts or Regulations, nor can a government official exercise coercive powers against an individual without statutory authority.

The independence of the judiciary and its separation from the other two arms of government (i.e. the parliament and the executive government) is of great importance in Australia and judges are expected to act independently of the government in interpreting and applying the law.

Federal judges are appointed by the governor-general in Council, i.e. on the advice of the federal government, and are subject to removal only in exceptional circumstances, that is, by both Houses of Parliament on grounds of proved misbehaviour or incapacity.

The Constitution provides for the establishment of federal courts including the High Court of Australia. It is the final court of appeal in Australia on federal matters, and matters dealt with by state supreme courts. One of the court's principal functions, however, is to decide disputes about the meaning of the Constitution. In that context, it exercises ultimate authority in determining whether an Act of the Parliament is within the legislative powers of the Commonwealth. State constitutions and legislation provide for their own judicial systems, headed by the state supreme courts.

Government decisions can be reviewed in a variety of ways. A person whose interests are affected by a government (administrative) decision can challenge that decision in a range of fora including in a court (judicial review), an administrative tribunal (merits review), or through an investigative agency, such as the Commonwealth Ombudsman (see below).

2. Transparency

A suite of Commonwealth administrative law mechanisms supports public scrutiny of government decision-making and action. These mechanisms include the Ombudsman, external review by the Administrative Appeals Tribunal (AAT) and other specialist tribunals, review under the *Administrative Decisions (Judicial Review) Act 1977*, access to documents under the *Freedom of Information Act 1982* and information about public finances facilitated by the *Charter of Budget Honesty Act 1998*.

The ombudsman's core activity is to handle complaints and enquiries from members of the public about government administrative action. Citizens also have a right to make a complaint to the ombudsman if they suffer unjust treatment by a government body. The Office of the Ombudsman was established by the *Ombudsman Act 1976* and reports directly to Parliament.

The *Administrative Appeals Tribunal Act 1975* establishes the AAT that has the power to independently review, on the merits, a broad range of administrative decisions made by Australian government ministers, officials, authorities and other tribunals. There are also specialist tribunals dealing with particular topics.

The *Administrative Decisions (Judicial Review) Act 1977* provides for judicial review of the legality of administrative decisions made under Commonwealth enactments.

The *Freedom of Information Act 1982* gives members of the public an enforceable right to access documents held by most Australian government agencies, limited only by exceptions and exemptions necessary to protect essential public interests and the private and business affairs of persons in respect of whom agencies collect and hold information.

The *Charter of Budget Honesty Act 1998* provides a framework for the conduct of government fiscal policy. The charter is aimed at ensuring that the public is kept informed about public finances, and that there is transparency in fiscal policy. Under the charter, amongst other things, the government is required to release a pre-election economic and fiscal outlook report, the treasurer is required to publicly release a Final Budget Outcome report for each year, and the government is required to publish monthly financial statements.

3. Accountability, oversight and control

Accountability is central to ensuring that the Australian government performs its functions effectively, efficiently, ethically and in the best interests of the Australian community. Various

obligations apply to agency heads to ensure they are accountable to ministers, the Parliament and the public for the way in which public money and resources are used and government policies and services are delivered.

The Public Service Act provides a framework within which agency heads are accountable to ministers. The Public Service Act requires the APS to be openly accountable for its actions, within the framework of ministerial responsibility to the government, the Parliament and the Australian public.

Legislation effective from 1998 introduced a modernised financial management framework emphasising performance, propriety and accountability. It comprised the *Financial Management and Accountability Act 1997* (FMA Act), the *Commonwealth Authorities and Companies Act 1997* (CAC Act) and the *Auditor-General Act 1997* (Auditor-General Act). The legislation sharpens accountability and emphasises performance and propriety.

The FMA Act and CAC Act can both accommodate bodies with high degrees of independence. The FMA Act provides the financial and accountability framework for entities that are financially and legally part of the Commonwealth. The CAC Act provides the financial, governance and accountability framework for entities that are typically at arms' length from the Commonwealth, in that they are not financially or legally part of the Commonwealth.

All agencies under the FMA Act, and bodies under the CAC Act, are required to prepare an annual report on their operations which must include financial statements audited by the auditor-general. Annual reports must be tabled in Parliament and are available to the general public.

The standalone Auditor-General Act sets out the mandate, powers and responsibilities of the auditor-general and reflects the auditor-general's independent status from the executive government. The auditor-general provides an independent review of the performance and accountability of all entities within the Commonwealth public sector through the conduct of financial statement audits and performance audits, the results of which are tabled in Parliament and are publicly available.

The Parliament is an important mechanism of accountability in the Australian system of government by providing scrutiny of the policies and actions of the government of the day. Accountability to Parliament has a well-developed scrutiny process with an extensive range of committees, some specialising in the estimates, performance forecasts and achievements of particular portfolios, while others take an overall interest in the maintenance of an appropriate accountability regime.

4. Managing for performance

Successive Australian governments have implemented reforms in the financial, public service and workplace relations fields with the aim of achieving a performance culture within the public sector and of improving the responsiveness of the public sector to the needs of government and the community.

In the past decade, there has been an increasing emphasis on reframing the appropriate role of government. This has included the privatisation of a range of government bodies, the outsourcing of particular functions, and a reconsideration of the appropriate size and functions of the APS.

The APS employment framework has undergone significant reform since the early 1990s. The key emphasis of the reforms has been devolving responsibilities to agency heads, providing them with

greater responsibility and flexibility. At the same time the essential features that bind agencies together as a public service have been retained. Other key changes have included moving from APS-wide pay and conditions to agency level bargaining within parameters set by government, and pay increases based on productivity.

The introduction of the FMA Act, the CAC Act and the Auditor-General Act (see above), which all came into effect in 1998, have been accompanied by the implementation of an outcomes and outputs framework, the development of budget mechanisms for spending scrutiny (e.g. reporting on contracts), and the introduction of financial reporting on an accrual basis across the general government sector (first accrual budget in 1999).

The APS environment has been significantly changed by competitive tendering and outsourcing, initially with the outsourcing of information technology infrastructure to the private sector, and then with the market testing of corporate services. Some services have been outsourced. There has also been increasing contestability in a range of other areas, for example, in the provision of policy advice where there is growing competition from an increasing number of ministerial advisers, lobbyists, think tanks and interest groups.

Concern over efficient implementation of government policy has led to the establishment of the Cabinet Implementation Unit which plays an overarching role to encourage earlier and more effective planning for implementation of policy decisions, through government programs and services, and the introduction of assurance methodology to improve the delivery of major projects on time and on budget.

5. Responsiveness to stakeholders

Significant reforms to the delivery of services in the past decade have included:

- A strong focus in service delivery agencies on improving the access to, and quality of, service to citizens.
- The requirement for all agencies and business enterprises dealing with the public to develop customer service charters.
- Increased use of information and communications technology (ICT) to deliver services.
- Increased market research into customer satisfaction and service improvement.
- Closer working partnerships between policy departments and service delivery agencies.
- The establishment of Centerlink as a specialist government service provider, delivering social security and other payments and benefits, and related services on behalf of a range of agencies.
- Greater involvement with other non-government sector organisations, e.g. the contracting out of employment services.

The Australian government's approach to service charters is based on a common set of principles outlined in the *Client Service Charter Principles 2000*. These principles contain mandatory elements in relation to service standards, feedback options and reporting on performance.

Agencies have adopted a range of approaches to monitor public satisfaction. These include mechanisms to measure and report on agency performance and mechanisms used to obtain, and respond to, feedback from the public.

There is also an increasing expectation that members of the public, clients and industry members will be consulted in terms of both policy development and service delivery, thus improving their opportunity to influence the services they receive. This is resulting in agencies not only informing

citizens about policy initiatives and programs, but also involving them in helping to develop these. Agencies are using a range of techniques, including focus groups, consultative committees, open inquiries, ad hoc panels and negotiation processes.

In its 2001 guide, *Some Better Practice Principles for Developing Policy Advice*, the Australian National Audit Office emphasised the necessity for effective consultation in developing policy advice and provided a useful checklist to assist agencies improve their practice. In line with those principles, agencies have been developing more sophisticated and sensitive consultative mechanisms.

6. Ethics, probity, culture and values

Since their incorporation into the Public Service Act, the APS Values, together with the Code of Conduct, have provided an ethical framework for the APS that underpins its relationships with the government and Parliament, with the public, at work and personal behaviour. The APS Values and Code of Conduct define the standards of behaviour required by APS staff and cover issues related to governance such as recognising conflicts of interest, maintaining confidentiality, complying with the law and agency directions, and reporting unlawful and unethical behaviour through proper channels.

The values underpin the establishment of ethical governance processes within organisations. They influence both employees' satisfaction with the integrity and fairness of an organisation and the organisation's public reputation, which affects its capacity to recruit and retain employees and to achieve business goals.

The values are generic throughout the APS, and agency heads are required to uphold and promote them in their organisations. The Public Service Commissioner evaluates the extent to which agencies uphold the values, and the adequacy of their systems and procedures for ensuring compliance with the Code of Conduct.

C. Future Governance Challenges and Lessons Learned

The Australian government has long been committed to due process, i.e. ensuring that administrative decisions and actions are correct. This commitment, combined with the presence of a range of tight accountability structures and the implementation of the *Review of the Corporate Governance of Statutory Authorities and Office Holders* (see above), has led to improved governance structures and processes across a range of Australian government agencies, and improved lines of accountability between departments, ministers and statutory agencies. That said, a number of recent reports⁶⁵ have raised important issues for governance structures across the Australian government.

The lessons arising from these reports have emphasised the need for integrated systems and processes for finance, human resources and information technology aligned to business needs. Australian government agencies cannot afford to be complacent when it comes to ensuring a continuing focus on accountability and ensuring that responsibility for decision-making is clearly understood.

⁶⁵ M.J. Palmer, *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau: Report*, July 2005; Commonwealth Ombudsman, *Inquiry into the Circumstances of the Vivian Alvarez Matter*, report by the Commonwealth Ombudsman of an inquiry undertaken by Mr. Neil Comrie, September 2005.

Despite an already strong focus on improving governance, APS agencies need to encourage a process of continuous improvement.

Areas of focus include:

- Simplifying financial systems to reduce the burdens imposed by excessive amounts of internal regulation or red tape on agencies, and provide a greater focus on developing whole-of-government budgetary approaches across departmental outcome and output frameworks.
- Clarifying what governance models are appropriate to the challenges of the modern APS.
- Identifying the best mechanisms, at an agency or whole-of-government level, to detect early warning signs of agency underperformance.
- Improving performance management at the agency level—through streamlined processes and enhancement of management skills.
- Improving record-keeping governance, including through improved capability and awareness and more widespread adoption of electronic recordkeeping.
- Identifying governance arrangements that best support “devolved government,” and what arrangements best support more direct engagement with communities and balance the need for accountability and high levels of public trust with the need to encourage innovative approaches to performance improvement.
- Addressing the international dimension of governance, for example, the impact of international treaties and international obligations.

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Brunei Darussalam: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the Brunei Darussalam Public Sector

Brunei Darussalam is an independent sovereign sultanate. The head of state and head of government is His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah, Sultan and Yang Di-Pertuan of Brunei Darussalam. The conduct of state affairs rests primarily on the basis of the 1959 Constitution, law and legislation and an independent judiciary.

Under the Brunei Darussalam Constitution, the power to appoint, transfer, promote, dismiss or exercise disciplinary control over public officers is vested in His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam with the advice of the Public Service Commissioner. The Public Service Commission Act enacted in 1961 and its subsidiary legislation the Public Officers (Conduct and Discipline) Regulations 1961, more commonly known as the General Orders, govern appointments and promotions of civil servants as well as disciplinary procedures.

The civil service performs a variety of roles to assist the government in the formulation, articulation and implementation of government policies including foreign affairs, defence, monetary and fiscal, economic and other related policies. The civil service facilitates and provides essential services to the public.

The structure of the government

His Majesty is the head of state as well as the head of government. In running the government, His Majesty is assisted by 12 ministries and 101 government departments and agencies.

His Majesty is also advised by a number of councils, committees and task forces on issues related to economic, strategic and national development, religious, social and human resources.

Size of the public sector

The civil service is the single largest employer in the economy employing about 12% of the total population. The civil service is made up of more than 50,000 employees, 21,000 of which are women, with an average annual government consumption expenditure of B\$2.9 billion between 2001–05.

B. Developments Supporting the Principles of Good Governance

The government of Brunei Darussalam views good governance as essential to achieving prosperity, harmony and stability as well as sustainable progress and economic development. It aspires to continuously improve its governance in order to be at par with other countries and to remain competitive.

Brunei Darussalam has initiated several efforts to implement good public governance:

1. Support for the Rule of Law

Brunei Darussalam's legal system is founded on English Common Law and the independence of the judiciary. The Supreme Court, established in 1963, is responsible for the administration of justice through the Intermediate Court, High Court and Court of Appeal, and the Magistrates' Court.

Adherence to the Rule of Law is supported through an independent judiciary as well as impartial and ethical enforcement agencies. In addition to this, Brunei Darussalam has and will continue to appoint retired international judges to fill appointments in the Brunei Supreme Court such as the Chief Justice, President of the Court of Appeal and the judicial commissioner of supreme courts.

The government's main goal is to ensure Brunei Darussalam has a modern legal system, which is clear in its provisions and application, and a judiciary system that is independent, as well as fair and impartial. This includes introducing a regulatory framework that is in line with international best practices.

To further modernise its legal system and regulations, Brunei Darussalam has established a National Law Review Committee to oversee the review of its legal and regulatory framework.

2. Transparency

Brunei Darussalam aspires to improve the transparency of government policies and regulations and to improve public access to information. The implementation of e-government initiatives such as “EG21 Governance and Services Online” is expected to increase the overall transparency of the Brunei Civil Service.

Access to government information

Access to government information has been greatly improved through three main initiatives: firstly, the establishment of proper institutions responsible for public information dissemination and communication between the government and public; secondly, through expanding the use of mass media and info-communication technology to publish and disseminate information; and thirdly, through the establishment of regulations concerning the disclosure requirements of government services.

Institutional set up

The Information Department and the National Television network—Radio Television Brunei—disseminate information to the public and provide a medium for two-way communication. To improve public access to government information, the Information Department issued the official national bulletin and other publications, published the compilation of policy directives and the government gazette on new and amended legislations. Copies of laws and regulations are also obtainable from the Brunei Darussalam website (<http://www.agc.gov.bn>). In addition, relevant government ministries and departments also issue bulletins/publications on socio-economic developments and sectoral developments.

Expanding the use of mass media

The government uses the local media and info-communication technology to ensure widespread dissemination of information. Currently, there are four main local newspapers, one of which, *Pelita Brunei*, is issued by the government.

3. Accountability

The emphasis on greater accountability aims to promote good governance in the public service, to ensure public confidence and trust by emphasising on honesty and accountability. To enhance accountability in both the public and private sectors, the government plans to create a new institution, similar to that of an ombudsman.

In 1984, the government adopted a ministerial structure, facilitating the devolvement of accountability for performing the executive functions to ministries and government departments. Each ministry and department is charged with specific roles and responsibilities and is expected to show development and progress in its respective mandates or work scopes.

To further promote accountability in the government, it has introduced a mechanism of checks and balances within the civil service in the form of an Anti-Corruption Bureau and Audit Department. In 2003, the government amended the Companies Act and all relevant Statutory Bodies Acts to enable the Auditor General to audit government-owned companies and statutory bodies as a further measure to enhance accountability in these entities.

Although a formal ombudsman has not been established, some of its functions such as addressing public grievances and ensuring the implementation of the Client Charter are observed. In addition, the Management Services Department, established in 1982, has audited government departments to ensure their public services are efficient and effective.

4. Managing performance

Brunei Darussalam established the Public Service Review Committee chaired by the permanent secretary of the Prime Minister Office to initiate and monitor reforms. The committee initiated and implemented several reform programmes/projects, one of which was the Strategic Alignment Program in 2003. This program aims to streamline and align the government institutions' strategic planning and strategic business plans, and rationalised core businesses. This strategic alignment program shifts the management of the civil service to performance-based management with measurable targets and performance indicators.

In May 2004, another major reform was undertaken whereby the tenure of cabinet ministers was set at five years, with extensions based on performance. This change reflects the growing need for accountability and adoption of performance-based management systems.

5. Responsiveness to stakeholders

The views of relevant stakeholders in public, private and civil society are taken into account in the process of government decision making. Consultative processes are undertaken through the permanent or ad-hoc council/committees, task forces and consultative fora established at various levels of government.

Prominent committees at the national level are the Education Council, Economic Council, Defence Executive Committee, National Development Committee and the Human Resources Committee and other National Committees on social problems. At ministerial level, consultative committees involve the Chamber of Commerce and Industry and include representation from industrial sub-sectors as well as the public.

Government includes local authority in the form of districts offices and municipal boards and establishes the Village Consultative Committees, which comprise of village heads and leaders as a measure to ensure public administration is close and responsive to the needs of the people. The Village Consultative Committee is one of the effective avenues for the people to express their opinion, ideas and grievances.

Other measures to improve government responsiveness to stakeholders include the introduction of the Client Charters program in 1995 to streamline approval processes and to cut red tape, and the Client Charters Auditing program in October 2003 to measure the effectiveness of the Client Charters Program. These measures have been followed by the introduction of e-government and other ICT projects to encourage the widespread use of IT and convert paper-based procedural systems with electronic systems. The latter is the foundation to introducing online processing of government projects and approvals aimed at improving efficiency and enabling 24-hour service to the public.

6. Ethics and probity

Brunei Darussalam's public service is governed by the "Public Service Commission Act (Chapter 83)" and the Prime Minister's Office circulars. The Public Service Commission is an independent body which seek to minimise conflict of interest in the recruitment and promotion of civil servants but also requires compliance of members to stringent ethical standards and probity.

In the area of public expenditure, members are required to observe the Financial Regulations 1983, Audit Act and Treasury Circulars which prescribe the process and procedure for government procurement and other financial matters. Public officers can be accountable and liable to pay surcharges for unauthorised spending, carelessness and mistakes that result in losses to national revenue.

Furthermore to uphold the integrity of the public service, an independent Anti Corruption Bureau has been established to eradicate corruption.

These measures were further strengthened when Brunei Darussalam signed the UN Convention Against Corruption in 2003. Other initiatives undertaken include the expanded use of the media to create awareness and garner support from business and citizens in fighting corruption.

C. Future Governance Challenges and Lessons Learned

The challenges of the 21st century require a nation to have the institutional capacity to implement strategic planning, respond rapidly and focus on achieving results. Such capacity will help assist Brunei Darussalam transform its oil-and-gas-based economy into a more diversified and knowledge-based economy.

To carry out this task, it is imperative that Brunei Darussalam modernise the public service and make it more effective and efficient in carrying out its functions, roles and responsibilities in a way that will facilitate national development.

This requires a commitment to bring about a paradigm shift in civil service roles and responsibilities as well as the system of management and work culture to create a more transparent, dynamic, responsive, accountable, effective and efficient civil service.

To ensure this transformation, Brunei Darussalam recognises that strong and effective leadership is required to initiate and maintain the momentum of reform and steer the country toward sustainable economic development. The Prime Minister's Office will continue to play an important role in providing effective administrative leadership to all ministries and departments. Civil service reforms and the various initiatives to modernise the civil service will continue to be led by the permanent secretary in the Prime Minister's Office as chairman of the Public Service Committee and Civil Service Review Committee.

Maintaining commitment from stakeholders to continue with the reform process will be a major challenge. Consultation, dialogue process, coordination and facilitation with relevant stakeholders in the public, private and the community will need to be made more effective to ensure relevant inputs are made available for the government to make informed decisions and promote shared ownership in the reform process. The government also recognises the need to establish an appropriate body to ensure policies are well planned and properly implemented amongst the key government agencies.

The government has and will continue to give high priority to the development of its human resources with the aim of producing skilled, disciplined, well educated, motivated and versatile civil servants who can adapt quickly to a changing environment.

In conclusion, practicing good public governance in the civil service is not only important to ensure an effective management of the national resources, but is one of the main determinants of a economy's relevance and competitiveness the 21st century.

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CANADA: DEVELOPMENTS IN PUBLIC SECTOR GOVERNANCE

A. Introduction: The Nature and Structure of the Canadian Public Sector

Canada is a democratic federal state bringing together a number of different political parties at the federal, provincial and local levels. Unlike most countries, whose basic law derives from one document, Canada's basic law derives from a set of documents known as *Constitution Acts 1867-1882*; however the Supreme Court of Canada has held that this includes certain unwritten doctrines as well. According to the *Constitution Acts*, the federal parliament has power "to make laws for the peace, order and good government of Canada." The Supreme Court of Canada provides judicial interpretation of the written Constitution, defining the limits of federal and provincial powers.

Under the *Constitution Act* of 1867, the federal government is responsible for defence, criminal law, banking, the postal system and foreign relations. It is also involved in many other areas, including transportation, communications, immigration, health and environmental matters.

The 10 provincial governments are constitutionally responsible for civil justice, property and municipal institutions. They also share responsibility with the federal government on such matters as health services, agriculture, immigration, social assistance and transportation. The three territories' powers are delegated by parliament, so they function as subordinate bodies. The territories also have elected assemblies that follow many of the same practices as the provincial and federal governments, and hold many of the same responsibilities as provincial governments in areas such as health, transportation, social assistance and the environment.

Local governments have no constitutional powers, but undertake functions delegated to them by other levels of government. Local governments are responsible for services such as police and fire protection, water and sewage services, recreation services and local public transportation.

With respect to the federal public sector, the *Financial Administration Act* is the cornerstone of the legal framework for general financial management and accountability. The Act describes the manner in which government spending may be approved, expenditures made, revenues obtained and funds borrowed. It provides a procedure for the internal control of funds allocated to departments and agencies by parliament and for the preparation of the public accounts of Canada, which contain the government's annual statement of revenues and expenditures.

Federal government activities are delivered directly by over 200 federal organisations through more than 1,600 points of service across Canada and through diplomatic and consular offices in 180 foreign countries. Canadians are also served by hundreds of nonprofit agencies across Canada that receive financial support from the government. The federal public service is the largest enterprise in Canada, employing approximately 250,000 Canadians in 91 departments and agencies in the core federal public service. Beyond this are 220,000 members of the Canadian Forces, the Royal Canadian Mounted Police and Crown corporations that operate on a quasi-commercial basis. In 2006, 42% of federal employees worked in the National Capital Region, 57% were located across Canada and the remaining 1% were stationed outside of Canada.

**Size of the Public Sector in Canada in 2006 as a % of Nominal GDP and
Employees per 1,000 Population⁶⁶**

Federal Government	Provincial / Territorial Governments	Local Governments	Total Government
11.4% ⁶⁷	20.1% ⁶⁸	7.3% ⁶⁹	38.8% ⁷⁰
14.2 ⁷¹	10.6 ⁷²	11.7 ⁷³	36.5

Source: *Statistics Canada, 2006, Public Sector Statistics, Financial Management System, Cat. no. 68-213-XIE, 2005-2006, and Population Estimates and Projections, Cat. no. 91-520-X, population estimate for July 1, 2006.*

B. Developments Supporting the Principles of Good Governance

The Treasury Board Secretariat, the management agency of the government of Canada, has placed a renewed emphasis on good governance and management excellence. Its priorities include strengthening accountability and results-based expenditure management.

Over the past 10 years, Canada has undertaken a number of initiatives in support of the principles of good governance, including:

- Passage of the *Federal Accountability Act*, an omnibus piece of legislation that amends over 45 separate statutes, introduces two new Acts, and aims to strengthen accountability, improve transparency and uphold ethical practices when managing public resources.
- Development of the Program Activity Architecture (PAA), an inventory of all the activities undertaken by a department or agency. The activities are depicted in their logical relationship to each other and to the strategic outcome(s) to which they contribute. PAAs are the basis for the Management Resource and Results Structure (MRRS), which ensures a consistent foundation for collecting, managing and reporting financial and non-financial information to parliament.
- Development of the Management Accountability Framework (MAF), a set of expectations for modern public service management that contribute to high organisational performance. The MAF helps central agencies, departments and managers assess progress and strengthen accountability for results.

⁶⁶ Table was developed using the modified-cash-based Financial Management System. This is the statistical series that Canada produces that is the most consistent and compatible with statistical series of other governments and those used by the OECD and IMF. Data for employees are used as opposed to FTEs.

⁶⁷ As at March 31, 2006. Includes federal government expenditures, but excludes monies transferred to the provincial, territorial and local governments.

⁶⁸ As at March 31, 2006. Includes all provincial and territorial expenditures, including health care and education, but excludes monies transferred to local governments.

⁶⁹ As at December 31, 2005. Includes all local expenditures, including school boards.

⁷⁰ Does not include the Canada Pension Plan and Quebec Pension Plan.

⁷¹ As at December 31, 2005. Includes federal general government (372,356) and federal government business enterprises (88,607).

⁷² Includes only provincial and territorial general government. Excludes health and social service institutions; universities, colleges, vocational and trade institutions; and provincial and territorial government business enterprises.

⁷³ Includes only local general government. Excludes local school boards and local government business enterprises.

- An updated *Values and Ethics Code for the Public Service* in 2003 served to help maintain and enhance public confidence in the integrity of the public service. The code sets out public service values as well as conflict of interest and post-employment measures.

1. Support for the rule of law

The preamble (interpretative guide) of Part 1 of the *Constitution Act, 1982*—that is, the Canadian Charter of Rights and Freedoms—states that Canada is founded on the principle of the "rule of law," and the Supreme Court of Canada has upheld the principle of the rule of law in its decisions. Individuals are protected from arbitrary power, and all persons—including members of the government—are subject to the law, which is applied equally to all. The rule of law is supported in many ways:

- The *Constitution Acts 1867-1982* define executive, legislative and judicial powers, including the delineation of powers between the federal and provincial governments.
- The Constitution effectively provides for the independence of the judiciary. All courts (with the exception of the Supreme Court of Canada and the Federal Court) are created by provincial legislatures, but judges are appointed by the federal government and can only be removed on address to the governor general by both houses of parliament.
- The Canadian Charter of Rights and Freedoms establishes fundamental freedoms, as well as democratic, mobility, legal, equality and minority language rights.
- Canadian laws may be challenged and overturned if they are deemed to be constitutionally invalid or in violation of the Canadian Charter of Rights and Freedoms.
- Access to justice is promoted through services such as legal aid to the economically disadvantaged.
- Civilian oversight of the armed forces and the police forces.
- The promotion of values and ethics in the public service.
- Access to information documents held by public officials, and protection of personal information.
- An independent auditor general, appointed and responsible to the legislature, ensures that government bodies and enterprises comply with the rules, that government property is well-managed and that resources are used effectively.
- Strict laws govern the financing of political parties and candidates to reduce the possibility of exerting influence through large donations.

The new *Federal Accountability Act*, in force since December 2006, strengthened the rule of law in several ways, including by toughening laws around the financing of political parties and candidates; improving the fairness and openness of government appointments; strengthening the role of the Ethics Commissioner; toughening the *Lobbyist Registration Act*; improving fairness, openness and transparency in the procurement process; strengthening *Access to Information* legislation; strengthening the power of the auditor general; and creating a director of public prosecutions.

2. Transparency

Each year, the president of the Treasury Board must table before parliament six major reports on expenditures, including the government's overall expenditures, supplemental expenditures, departments' and agencies' reports on plans and priorities regarding their individual expenditures, departmental performance reports, Canada's overall performance report, and public accounts documents. The president also tables reports on official languages and on human resource management before parliament. All these documents are posted online for easy public access.

The *Federal Accountability Act* instituted a uniform approach to appointing agents of parliament, and expanded upon and strengthened a number of their mandates. The Act created the position of the parliamentary budget officer to provide independent analysis to parliament on the state of the economy's finances, the estimates of the government and trends in the domestic economy. As well, a Public Appointments Commission oversees, monitors and reports on the selection processes for appointments to government boards, commissions, agencies and Crown corporations. The position of procurement ombudsman was created with the mandate to review procurement practices in departments to ensure that bidding processes for government contracts are open, fair and transparent.

The measures in the *Federal Accountability Act* related to improving transparency in the contracting process complement the government's contracting policy. The policy's objective is to acquire goods and services and carry out construction in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to the Crown and the Canadian people.

Further, the *Federal Accountability Act* clarified rules around public opinion research and advertising to ensure fairness and value for money, and to preclude contracts from being awarded or used for partisan reasons or political benefit.

The *Access to Information Act* provides citizens the right of access to information in records under the control of federal government institutions. The Act includes a requirement that every reasonable effort must be made to assist requestors by responding to requests accurately and completely, and providing timely access to records in the format requested, all without regard to the requestor's identity.

The *Freedom of Information Acts* provide similar access at the provincial and territorial levels. These Acts are based on the principle that government information should be available to the public with some limited, but necessary, exceptions. Information and privacy commissioners are independent agents of parliament who mediate between dissatisfied applicants and government institutions, and report to parliament annually.

The *Lobbyists Registration Act* ensures that lobbying of the federal government—a legitimate part of a democratic system—is done in an ethical and transparent manner. To this end, a public registry reflecting communications between lobbyists and senior government officials is being created, and a new agent of parliament, the Commissioner of Lobbying, has been established with enhanced investigatory powers and a mandate to enforce compliance with the Act.

3. Accountability, oversight and control

Canada has the standard democratic accountability mechanisms such as regular elections, parliamentary approval for non-statutory spending, and judicial review of the government's use of statutory powers.

In Canada, parliament is the primary guarantor of the government's political accountability, with direct accountability of ministers to the House of Commons. Although parliament is sovereign, it is ministers who exercise executive authority, individually and collectively, for their statutory duties and for the stewardship and exercise of powers assigned to them. Ministers act principally through the public servants in their departments. A minister's accountability to parliament for his or her department means that all actions of the department—whether pertaining to policy or administration, whether taken by the minister personally or by unelected officials under the

minister's authority or under authorities vested in those officials directly by statute—are considered to be those of the minister responsible.

Oversight is a role shared by many institutions, including the Treasury Board,⁷⁴ the Public Service Commission,⁷⁵ the auditor general⁷⁶ and other agents of parliament, an array of review agencies, departments and agencies themselves,⁷⁷ and parliament and its committees, including the Public Accounts Committee.

The designation of deputy ministers and deputy heads as accounting officers is a key component of the *Federal Accountability Act*, aimed at strengthening accountability within departments and agencies. Accounting officers are accountable before the appropriate committee of parliament to answer questions related to specific areas of management within the framework of ministerial responsibility. In addition, deputy heads must ensure that an appropriate internal audit capacity is in place and that departmental audit committees are established.

The *Public Servant Disclosure Protection Act* (PSDPA) provides federal public sector employees with a mechanism for disclosing wrongdoing in the workplace and protects those who make disclosures from reprisal. The PSDPA creates a new agent of parliament, the public sector integrity commissioner, with a mandate to deal with reports of public sector wrongdoing from public servants and the public, and with reprisal complaints from public servants.

4. Managing for performance

Canada employs a number of tools and techniques to enable the federal government to manage for results and ensure that citizens receive value for money. There are four main types of ongoing performance management activities:

- Implementing government-wide management, resources and results structures (MRRS), which detail planned and actual results and financial information for all departmental programs and activities.
- Reviewing the relevance and effectiveness of all grant and contribution programs at least once every five years.
- Reporting to parliament through the Report on Plans and Priorities, Departmental Performance Report, and the government-wide *Canada's Performance* report.
- Employing the Management Accountability Framework (MAF) to promote a balance among all aspects of public sector management in the pursuit of results, and to allow central agencies, departments and managers to track progress over time.

Canada's commitment to undertaking these activities means that departments manage for results throughout the process of business planning as well as program development and implementation. The cyclical nature of performance planning, measuring and reporting activities allows departments to learn from past performance and adjust their planning and program implementation to ensure that they continue to be relevant, results-oriented and provide value for money.

⁷⁴ The Treasury Board sets management standards in areas such as human and financial resources management, procurement, real property and information technology; allocates resources through the Estimates, holds departments and agencies to account for how they allocate resources and grants authority to spend through the approval of Treasury Board submissions; oversees the performance of departments against established management policies; and acts as the principal employer of the Public Service.

⁷⁵ The Public Service Commission develops policies and guidance for managers and holds them accountable for their staffing decisions through audits and investigations.

⁷⁶ The auditor general audits federal government operations and provides independent information, advice and assurance to parliament.

⁷⁷ Departments and agencies develop individual plans and priorities, report back on funds spent and achievements, and conduct internal audits on a five-year cycle.

5. Responsiveness to stakeholders

The government of Canada has a number of mechanisms that work in concert with one another to ensure responsiveness to stakeholders. The Communications Policy defines responsibilities for communication aimed at raising public awareness of government policies, programs, services and initiatives, as well as ensuring public input into establishing priorities, developing policies, and planning programs and services.

The Federal Identity Program helps to project the government as a coherent, unified administration and enables Canadians to recognize at a glance their government at work for them.

The Chief Information Officer Branch at Treasury Board Secretariat is leading the transformation of service delivery by rethinking and integrating service offerings and using common business processes. All departments and agencies within government are expected to cooperate and coordinate their efforts in these areas. This will ensure Canadians are able to access services and information in the most efficient, effective and timely manner.

6. Ethics, probity, culture and values

The values of the Canadian public service are competence, non-partisanship and representativeness. Central agencies with a human resources mandate establish the human resources management framework, and provide guidance and support to departments and agencies that are responsible for staffing and managing employees. The objective of the human resources framework is to have a public service that is a centre of excellence. This means a workplace that is innovative, risk-tolerant, and respectful, and a workforce that has the necessary skills, competencies and values. To support the framework, formal and informal training is offered to public service employees to develop skills and competencies, and various evaluation tools ranging from public sector-wide surveys to departmental audits to 360-degree evaluations are used to monitor and assess performance.

Understanding and observing the ethical and political activity guidelines included in *Accountable Government: A Guide for Ministers and Secretaries of State* are conditions of appointment for ministers, secretaries of state and senior public appointees, including deputy ministers. These guidelines are intended to conserve and enhance public confidence and trust in the integrity, objectivity and impartiality of the government.

The *Conflict of Interest Act* requires public office holders to perform their official duties and arrange their private affairs in a manner that will avoid real or perceived conflicts of interest. The new Conflict of Interest and Ethics Commissioner will administer this Act with the power to initiate formal investigations and levy monetary penalties for administrative breaches. The *Public Servants Disclosure Protection Act* requires that an overarching Federal Public Sector Code of Conduct be developed and that each organization establish its own code of conduct consistent with the Public Sector Code.

As part of the implementation of the *Federal Accountability Act*, regulations are being developed to include deemed terms in all procurement contracts respecting anti-corruption and anti-collusion in the bidding process. Also, fraud involving public money is an indictable offence, and penalties for those convicted include a ban on contracting with the government or holding a government office.

C. Future Governance Challenges and Lessons Learned

The government of Canada is striving for management excellence—to have a government that is well managed and accountable, and that allocates resources to achieve results. Public servants, guided by public sector values, manage for results to deliver programs and services to Canadians effectively and efficiently while balancing the need to follow rules and exercise discretion.

One challenge in this regard is the need to strike an appropriate balance between rules and discretion, and between central oversight and departmental flexibility. The key factor in determining this balance is risk tolerance, which is influenced by both political events and public expectations. The implications of layering on more rules are the development of a culture of risk aversion; muddled accountabilities; stifled innovation and creativity; and an inability to act quickly, impeding needed changes in service delivery models. Instead, a more balanced approach is required where values play a foundational role and managers are empowered, allowing for greater flexibility, innovation and better service for citizens.

In its quest to achieve this balance, Canada has identified several key priorities for the coming years. These priorities encompass key public management areas: accountability and oversight, expenditure management, and service transformation.

For Canada, proceeding on the road to management excellence requires continued and steadfast adherence to values and ethics and sound stewardship of government resources.

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Chile: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of Chile's Public Sector

Chile is a representative democratic state and its system of government is that of a republic headed by a president elected every four years. It is organised as a unitary state and the administration of its 15 regions is territorially decentralised.

The state is organised in three branches, the executive, the legislative and the judiciary. The government and its administration are the responsibility of the president of the republic. The governmental powers of the president are political, international, military and financial in nature. The administrative powers of the president include the power to appoint and remove ministers, under-secretaries, superintendents, regional governors and diplomatic representatives. The president also has the power to issue regulations, decrees and directives as deemed advisable to enforce laws; and the power to exercise regulatory authority in all areas not belonging to the legal domain.

The congress is the legislative body, a task that it shares with the executive branch. The political constitution allows the congress to carry out the control of the executive branch's acts, authorising it, among other things, to request information from ministers regarding their actions and/or to establish commissions to investigate government activity. It is bicameral, comprised of both a senate and the chamber of deputies. Senators are elected for eight-year terms and deputies for four-year terms.

The judicial branch is composed by the Courts of Justice, which are exclusively empowered to rule in civil and criminal matters and to enforce rulings. The judicial branch is headed by the supreme court, a collegial body comprised of 21 judges. It is responsible for the management, correction and economic oversight of all the nation's courts.

Size of the Public Sector in Chile, 2005, as a % of Nominal GDP and Full-Time Employees (FTE) per 1,000 Population

Central Government	Local Government	Total Government
18%	3%	21%
17	11	28

Source: *World Economic Outlook Database, IMF, 2007, Government Finance Statistics, IMF, 2006.*
Budget Office

B. Developments Supporting the Principles of Good Governance

1. Support for the rule of law

The core set of rules of Chile's legal system is contained in its political constitution, which establishes the legal framework with which the rest of the legal system must comply. It establishes a clear and well respected separation of powers between the executive, legislative and judicial branches.

In recent years, Chile's legal system has undergone a meaningful process of reforms in specific areas, including that of the criminal legal system. The existing criminal legal system was transformed, enabling faster and more reliable criminal procedures aimed at guaranteeing rights. This has involved the creation of new legal institutions that have an important role in the new system.

2. Transparency

In 2006, Chile achieved a breakthrough in greater government transparency through the enhancement of public access to information managed by the government. In this reform of the constitution, a new article establishes an obligation for all acts and resolutions issued to be made public, with certain exceptions (e.g. acts and resolutions the publication of which might affect the actions of the authorities, civil rights or the national interest or security).

Among other legal reforms regarding transparency in the public sector was the enactment of Law No. 20.088, which obliges public authorities to declare their patrimony in order to protect public funds as well as Law No. 19.884 which regulates transparency and control in election spending.

In the area of public procurement, an important development toward transparency was the enactment of new procurement legislation (Law No. 19.886), which created Chilecompra, a website that provides information on all public bids. The whole procurement process can be accomplished online, providing greater transparency and efficiency. Through this website, any person, local or foreign, has access to the business of providing goods and services to the government.

Information related to government finances is provided by the Budget Office. The public has access to comprehensive and timely fiscal reports, which are published on the Budget Office's website (www.dipres.cl). The Budget Office also publishes audited annual balances and quarterly financial statements of state-owned enterprises.

Good Practices in Public Private Partnerships (PPP)

The institutional framework for the PPP program is provided by the Concessions Law, which requires competitive bidding for concession contracts and establishes the rights and obligations of each party, including dispute resolution procedures and cancellation of contracts. Evaluation methods, including cost-benefit analysis are mandatory to all public investment projects, whether they are undertaken by the public sector or contracted with the private sector. Projects must also be consistent with a broad infrastructure plan and acceptable from a fiscal sustainability perspective to ensure that PPPs are not a source of unsustainable liabilities.

Financial Information Management System

(Sistema de Información para la Gestión Financiera del Estado - SIGFE)

This program, managed by the Budget Office, aims to achieve greater transparency in the financial management of the public sector, implementing a financial information system. Its specific goals are:

- To make the financial information of the state easier to understand in order to satisfy citizens' demand.
- To simplify the determination of the financial projections.
- To provide the basic elements for the processes of inspection and evaluation of the financial management.

- To contribute to the simplification of the administrative procedures and to decrease of the bureaucratic costs.
- To provide indicators of management or financial performance and information of deviations, as well as costs for centers of responsibility, activity or products.
- To provide information for the national accounts, fiscal statistics or other macroeconomic indicators.

3. *Accountability, oversight and control*

Chile's constitution establishes the main principles of accountability of the public sector, including its enterprises and other specific public authorities. Their activity is subject to the constitution and to all legislation enacted in accordance to it (which includes, for example, the protection of certain rights granted by the constitution to individuals).

The breach by the public authority of any of its legal obligations authorises the affected person or entity to ask the National Courts of Justice for reparation from the state.

Regarding control and oversight of the authority, the "Contraloría General de la República," or audit authority, is the entity with the power to review the compliance of acts and resolutions issued by the public authority with the constitution and other laws and regulations.

4. *Responsiveness to stakeholders*

The main objective of the ongoing modernisation of the state is to achieve a more effective and transparent public administration with an emphasis on new information and communication technologies that will also help to bring the government closer to citizens.

The encouragement of citizen participation is one of the key elements of the current president's agenda.

5. *Ethics, probity, culture and values*

Chile has a series of provisions regarding standards of conduct and mechanisms to ensure the proper conservation and use of resources entrusted to government officials.

The principal rules governing ethical conduct are the Administrative Statute and the Law of Administrative Probity. The latter requires state authorities and officials (from executive, legislative and judicial branches) to have blameless official conduct, and to subordinate individual interest to the common good. It also requires the president, ministers, under-secretaries and regional authorities to submit a declaration of interests within 30 days of taking office. This declaration must cover their professional and economic activities. The Administrative Statute establishes principles of probity, confidentiality in legally restricted affairs, and the prompt reporting of knowledge of irregularities in one's area of responsibility. In the case of local governments, the Statute of Municipal Employees has similar principles.

With respect to standards of conduct that are intended to prevent conflicts of interest, there are practical mechanisms to prevent unqualified persons from entering the government service and to bar public service in situations where such conflicts may arise. These include a sworn statement on the absence of causes for disqualification from public service and the statement of interests.

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Hong Kong, China: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the Government of the Hong Kong Special Administrative Region

Hong Kong, China is a Special Administrative Region of the People's Republic of China (PRC). Hong Kong Special Administrative Region (HKSAR) was established by the National People's Congress (NPC) of the PRC under Article 31 of the PRC Constitution. In accordance with the PRC Constitution, the NPC has enacted the Basic Law, prescribing the systems to be instituted in the HKSAR.

According to the design of the Basic Law, the political structure in Hong Kong, China is an executive-led system headed by the chief executive (CE). According to the Basic Law, the CE shall be accountable to the Central People's Government (CPG)—the central government of the PRC—and the HKSAR. The CE is the head of the HKSAR and he also leads the government of the HKSAR (the government, hereafter). The CE is responsible for implementing the Basic Law, ensuring that the principle of "One Country, Two Systems" is fully implemented in Hong Kong, China.

The respective powers and responsibilities of the executive authorities and the legislature are clearly prescribed in the Basic Law. Under the spirit of the Basic Law, the relationship between the executive authorities and the legislature is one of mutual regulation and coordination. Bills and budgets involving public expenditures, political structure and government operation have to be put forth by the government and passed by the Legislative Council—the legislature of the HKSAR. In formulating and implementing policies, the executive authorities take account of public opinion to ensure the policy is moderate, reasonable and consistent with the policy objectives. On this basis, the executive authorities endeavour to support the work of the legislature so that the two can cooperate in a spirit of goodwill to serve the community.

The main administrative and executive bodies of the government comprise a number of policy bureaux and executive departments that deliver a wide range of government services. The network of advisory and statutory bodies is a distinctive feature of the system of the government. A number of government-owned statutory corporations and authorities are responsible for the delivery of specified services, e.g., public hospitals and the airport. Many services frequently provided by the public sector in other jurisdictions have long been provided by the private sector in Hong Kong, China, for example, power generation, telecommunications, public road transport, ports, etc.

Size of the Public Sector in Hong Kong, China in 2006

Total Public Expenditure ⁽¹⁾ as % of Nominal GDP	Total Full-Time Equivalent Employees ⁽²⁾ per 1,000 Population ⁽³⁾
16.7	22.46

Notes:

⁽¹⁾ Source of data: Section III of Appendix A to the 2007-08 Budget, Government of the Hong Kong Special Administrative Region

Public expenditure comprises government expenditure (i.e., all expenditure charged to the General Revenue Account and financed by the government's statutory funds excluding Capital Investment Fund), and expenditure by the Trading Funds and the Housing Authority.

⁽²⁾ Source of data: Civil Service Bureau, Government of the Hong Kong Special Administrative Region

The number includes civil servants, judges, judicial officers, the Independent Commission Against Corruption (ICAC) officers and locally engaged staff working in Overseas Economic Trade Offices.

⁽³⁾ Source of data: Census and Statistics Department, Government of the Hong Kong Special Administrative Region

Population is the provisional figure of total population by end-2006.

B. Developments Supporting the Principles of Good Governance

1. Support for the rule of law

The rule of law is the defining ideology of Hong Kong, China. The common law system, underpinned by an independent judiciary, is one of the bedrocks of Hong Kong, China's past and future success. Everyone is equal before the law and everyone has access to the legal system.

The Basic Law implemented on 1 July 1997 provided Hong Kong, China with a constitution for the first time. It defines the relationship between the CPG and Hong Kong, China, and spells out the fundamental rights and duties of people in the Special Administrative Region. Under the Basic Law, Hong Kong, China has a high degree of autonomy except in defence and foreign affairs. It also states that the capitalist system and way of life will remain unchanged for 50 years. The Basic Law covers a wide range of matters including the political structure, economy, fundamental rights, external affairs and the relationship with the Mainland.

In accordance with the Basic Law, the laws, which were in force before China resumed the exercise of sovereignty over Hong Kong, China, i.e. the common law, rules of equity, ordinances, subordinate legislation and customary law, have been maintained. The institutions and core values that underpin the legal system—such as trial by jury, presumption of innocence, and the right to a fair trial—have also been retained.

Judges continue their same common law traditions, but access to justice has been improved: the power of final adjudication is vested in Hong Kong, China's Court of Final Appeal (CFA), which replaced the former role of the Privy Council in London. The CFA is a collegiate court of five judges, comprising the chief justice, three permanent judges and one non-permanent judge. This arrangement enables retired judges in Hong Kong, China and judges from other overseas common law jurisdictions to be invited as one of the non-permanent judges. This allows Hong Kong, China to maintain close links with other common law jurisdictions.

Hong Kong, China has a deep pool of human capital in the legal sector, including 5,650 solicitors, about 980 barristers and more than 800 foreign lawyers. Local and international law firms compete keenly for business, which provides choice and healthy competition. As a result, a sophisticated

legal sector has been developed that deals with the full range of legal work from capital markets, corporate finance, securities and intellectual property, to information technology, maritime law as well as criminal, civil and international law.

No legal system can operate effectively without clean and respected law enforcement agencies. Hong Kong, China takes great pride in the professionalism of its police, customs, immigration and correctional officers and its anti-corruption agency, the Independent Commission Against Corruption (ICAC).

Hong Kong, China has been hailed as the anti-corruption capital and the ICAC has been described as the number-one anti-corruption agency. Its work in keeping the city graft-free is a major factor in ensuring a clean civil service and a level playing field for business.

2. Transparency

To ensure access to government information, an administrative Code on Access to Information (www.access.gov.hk) applies to all government bureaus and departments, which are committed to making information available to the public. The Code enshrines the policy that the government will make available information to the public that it holds unless there are valid reasons to withhold it. It sets out the types of government information to which the public has access, and lists of categories of exemptions to ensure appropriate protection of confidential and sensitive information held by the government and information involving personal privacy and commercial sensitivity.

Any person who believes that a government bureau or department has failed to comply with any provision of the Code may ask the bureau or department to review the situation. The Code is also underpinned by a complaints channel through the ombudsman who is entirely independent of the government.

Experience gained so far demonstrates that the Code provides an effective framework to provide members of the public with access to a wide range of information held by the government. Of the requests received in 2006 for information held by the government bureaus or departments, 97% were met either partially or in full.

In line with the policy to make available as much information as possible to the public, the government has mandated government bureaus and departments to develop homepages for dissemination of information. The public can now access the government websites at www.gov.hk for a comprehensive range of government information and services.

For statutory corporations and organisations, in general, the respective legislation would govern any disclosure requirements. For companies that are incorporated under the Companies Ordinance, they would follow the relevant laws that govern such entities.

Hong Kong, China maintains a high transparency in government procurement. Information of government procurement policies, practices and procedures, contact points, etc, are regularly updated on the government procurement homepages. All government tender notices and tender results are published in the Government Gazette and uploaded on the internet.

3. Accountability, oversight and control

The Audit Commission is established under the Basic Law, which provides that the Audit Commission shall function independently and be accountable to the CE of Hong Kong, China. The

Audit Commission is headed by the director of audit. The director of audit carries out two types of audit: regularity audits and value-for-money audits.

Regularity audits are intended to provide an overall assurance of the general accuracy and propriety of the financial and accounting transactions of the government and other audited bodies. The director of audit audits the accounts of the government, the accounts of the Exchange Fund, the Hong Kong Housing Authority, five trading funds and more than 60 statutory and non-statutory funds and other public bodies. The director of audit's report on the accounts of the government is tabled in the Legislative Council annually.

Value-for-money audits (called performance audits in some countries) are intended to provide independent information, advice and assurance about the economy, efficiency and effectiveness with which any bureau of the government, department, agency, other public body, public office or audited organisation has discharged its functions. The director of audit's report on value-for-money audits is tabled in the Legislative Council biannually.

In 2006, the director submitted three reports to the Legislative Council: one on the audit certification of the government's accounts for the preceding financial year, and two (containing a total of 20 subjects) on the results of value-for-money audits.

The value-for-money audit reports attracted considerable public interest and are available on the internet. The audit recommendations were largely accepted by the government and audited organisations.

4. *Managing for performance*

Managing for performance is one of the four core management principles in Hong Kong, China. The government has a mechanism for setting clear performance measures and targets at both the policy and departmental levels, which align efforts and allow the public managers to manage progress and results.

The government's overall vision, objectives and priorities are developed and published each year in the CE's Policy Address and the Policy Secretaries' Policy Agenda Booklets, which form part of the Policy Address documents. To align with the policy objectives and priorities, each department has to analyse its activities in terms of one or more programmes in the Controlling Officer's Report (COR) in the Annual Estimates. Against each programme in the CORs, Controlling Officers have to set program aims and performance measures. The COR, setting out the performance measures for the coming year and reporting on performance results for the past and current years, forms an important basis for the Legislative Council to approve the government's estimates of expenditure for the following financial year and for stakeholders to evaluate the bureaus' and departments' performances for the past and current years.

5. *Responsiveness to stakeholders*

In Hong Kong, China, the government's decision-making process was inherited from the colonial era. In the past, decision-making was driven by government officials. They first drafted policy before conducting step-by-step public consultations. Public opinion was then consolidated and appropriate amendments to the policy were made. In recent years, the community has become more active in seeking a greater role in policy formulation. In response, the CE announced "People-based Governance" as a key commitment of the government. This would involve a government that swiftly responds to people's needs and the establishment of an effective governance culture. Currently, the government administers almost 500 advisory, consultative and

statutory bodies with over 5,000 appointees. Many of these bodies have cross-sector representations and form a key part of the government consultation forums to coordinate views and to engage the community in the policy-making process.

A subtle evolution from public consultation to public engagement has taken place in recent years. An extensive and visible public engagement process has been adopted by the government. A number of successful pilot exercises have engendered a new pattern of policy consultation and interaction among the government, civil society groups and the community. Government officials have proactively solicited public views prior to the identification, formulation and introduction of new policies as well as designing and delivering important public services.

In addition, the government makes considerable use of the private sector to deliver public services, where it can help deliver better services and provide value for money. In July 2006, there were nearly 4,000 government outsourcing contracts, with a total value of HK\$208 billion and an annual expenditure of HK\$44 billion. The government also recognises the benefits of using public private partnerships (PPPs) to leverage the private sector's skill, innovation and finance to deliver large, complex projects. The PPP approach has been used mostly in the development of economic infrastructure such as tunnels and solid waste management facilities in Hong Kong, China. In recent years, the government also started to explore using the PPP approach for social infrastructure.

6. Ethics, probity, culture and values

A major pillar contributing to the stability and prosperity of Hong Kong, China is a clean, efficient and professional civil service. The core values guiding the conduct of civil servants—dedication, professionalism, diligence, integrity, honesty and impartiality—have endured the test of good governance and shaped the culture of the civil service in Hong Kong, China.

The Civil Service Bureau (CSB) of the government has asserted great efforts in upholding civil service probity and integrity. It works closely with the ICAC and other government bureaus and departments to promote a clean civil service and to instill a culture of integrity amongst staff. Significant efforts to enhance staff's understanding of the expected high standard of conduct include:

- In early 1999, CSB and the ICAC jointly launched a two-year "Civil Service Integrity Program." A review of existing central guidelines on civil service conduct was carried out in light of present-day circumstances and operational experience. The two parties also embarked on an outreach program comprising visits to departments and face-to-face dialogue with members of senior management. Through these outreach activities, assistance was rendered to departments in reviewing and developing departmental guidelines on conflict of interest and acceptance of advantages.
- CSB keeps under review service-wide guidelines on conduct matters, such as declaration of investments by civil servants, acceptance of advantages and entertainment, and conflict of interest, etc. to ensure that they remain clear and adequate. In this connection, CSB updated the circulars on conflict of interest and declaration of investments by civil servants in early 2004 and December 2006, respectively. It also updated the circulars on acceptance of advantages by civil servants in their private and official capacity respectively in February 2007.
- Departments are encouraged to develop their own departmental guidelines highlighting the more prevalent form of conflict of interest situations to which their staff may be exposed in their

operational settings. At present, almost all government departments have up-to-date codes or guidelines in place on staff conduct and discipline.

- CSB organises seminars and training sessions on particular conduct themes periodically, *inter alia*, on management of indebted staff and prudent management of personal finance for departmental managers and staff to enhance their awareness of this issue.
- A forum entitled “Leadership Forum 2002” was organised in December 2002 for over 800 business and government leaders to promote ethical management in Hong Kong, China. This was followed by the “Leadership Forum 2005” held in June 2005 attended by some 1,000 leaders in the public and private sectors to share experience in integrity management.
- In early 2004, CSB and the ICAC jointly launched a Civil Service Integrity Entrenchment Program through which outreach visits to departments are conducted to foster closer collaboration in promoting an ethical culture in the civil service. Under this program, an outreach team comprising directorate officers from CSB and ICAC visited 34 bureaus and departments (with a combined workforce of some 124,000 staff) to discuss practical issues in relation to integrity promotion.
- In April 2005, an updated “Civil Servants’ Guide to Good Practices” was issued to provide guidance on the good conduct required of all staff.
- An electronic “Resource Centre on Civil Service Integrity Management” (RCIM) was launched in 2001 and its content has been constantly updated and enhanced. RCIM puts in one place materials relating to integrity management to facilitate the work of departmental managers responsible for embedding a high probity culture within their organisations.
- An “Ethical Leadership Program” was launched in December 2006. The Programme aims to embed the culture of integrity through the leadership and commitment of the senior management in each bureau or department so that a sustaining ethical culture can flourish in the civil service. Under the Programme, bureaus and departments will develop integrity management plans that suit their individual needs or priorities through the coordination and leadership of their ethics officers. Ethics officers, who are senior directorate officers in bureaus or departments, will be the focal point and coordinators of integrity-related activities in the years to come and are responsible for mapping out strategies and work plans of their organisations.
- There are also detailed civil service rules for civil servants to declare their investments for the avoidance of having private investments that may cause real or potential conflict with their official duties. Civil servants filling designated posts, notably those at upper echelons of the service, are in addition required to declare, on a regular basis, their private investments in and outside Hong Kong, China. For officers filling permanent secretary posts or the equivalent, their declarations are available for public inspection upon request. Departments are encouraged to draw up additional departmental guidelines requiring staff to avoid or declare certain specified investment activities in the light of their specific operational circumstances. The last review of the list of designated posts at the highest level that are subject to the most stringent declaration requirements was made in 2006. A revised central guideline on declaration of investments by civil servants to give greater clarity and to bring its content up-to-date was issued in December 2006.

In broad terms, the overall management and development of the civil service is under the purview of secretary for the civil service of the government. Heads of grades or heads of departments are responsible for the recruitment, promotion and other appointment matters of the grades under their

purview. The Civil Service Regulations (CSRs) are the key instruments setting out the authority and framework for the management of the civil service.

A number of independent statutory and advisory bodies have been set up to advise the government on civil service-related matters. These include the Public Service Commission (PSC), which advises the government on such matters as civil service appointment that relate to the middle and senior ranks in the civil service to ensure impartiality and fairness and that such decisions are made upon fair, meticulous and thorough deliberations and in accordance with the prevailing policies and requirements.

The fundamental principle for appointment to the civil service is to select the best person for the job in an open, fair and competitive manner. Open recruitment exercises are usually conducted for appointment to entry ranks. In a recruitment exercise, a recruitment board comprising officers at various appropriate ranks is convened to select candidates on the basis of their merits. Candidates must go through a competitive selection process, which may feature written examinations or trade tests, and selection interviews.

To guard against conflict of interest, members of a recruitment board are required to declare if any of the officers under consideration are relatives or close personal friends. Depending on how close the relationship is, the board member should either be replaced or should abstain from putting questions to the candidate and making any assessment as appropriate. To ensure fairness in the selection procedures, representatives of the CSB and the PSC may also attend the recruitment board meeting as observers.

Rules have also been put in place to ensure that former civil servants will not take up outside work that may conflict with their former government duties or cause negative public perception embarrassing the government and undermining the image of the civil service.

Under the established arrangements, former directorate civil servants are required to seek prior permission before taking up any outside work, of which the principal part is carried on in Hong Kong, China, during their final leave period before formal departure from the government and/or within a specified period after such departure. The specified period ranges from one to three years.

On the anti-corruption front, the three-pronged approach of investigation, prevention and education of the ICAC, which has proven to be effective in bringing down corruption reports in the public sector in the past decade, will continue to be adopted. At the same time, the ICAC systematically reviews public sector systems and procedures to strengthen governance, makes recommendations that promote corruption prevention measures, transparency and accountability.

C. Future Governance Challenges and Lessons Learned

Over the past few decades, Hong Kong, China has built a sound foundation in nurturing a culture of probity in the civil service. Hong Kong, China's civil service is acclaimed internationally for its integrity.

Despite much improved service quality and efficiency, like governments around the world, the government is facing similar challenges in seeking to balance the interests of a multiplicity of stakeholders whilst coping with constant changes in the social, technological and economic environments. For example, various types of services for the public are organised on the basis of program areas. The delivery of these services is performed by different bureaus and departments with their own missions, operational approaches, processes and procedures. The government must

embrace joined-up services with collaboration among bureaus and departments in order to organise public services around customer needs, bring convenience to people in Hong Kong, China and bolster improvements toward better services.

Governments are, by and large, insulated from the competition that fuels innovation in the private sector. But unlike the private sector where the economic bottom line is the key performance indicator, the government has to meet broad social objectives that can be challenging to measure. In response, Hong Kong, China is making changes, many of which have to do with attempts to simplify and reduce the complexity of day-to-day operations, comparing and benchmarking with equivalent private and public sector operations, all the better to manage performance and measure results.

Indonesia: Development in Public Sector Governance

A. Introduction: the Nature and Structure of the Indonesian Public Sector

Indonesia, an archipelagic economy, consists of more than 17,000 islands organised into 33 provinces and 440 regencies/municipalities. Indonesia is a unitary state in a form of a republic. Since 1998, Indonesia has been undertaking a major transformation from an authoritarian government into a full-fledge democracy with four amendment of the constitution in this period. The executive, judicial and legislative have been revamped, creating a newly democratic political system, while freedom of speech and supremacy of law are guaranteed.

Reform has expanded the economy's potential and created a sense of optimism about the future. Although political, legal, economic and social reforms, including reform in public services, are yet to yield a satisfactory outcome; nevertheless, the commitment to continue reform and implementation thereof remains strong.

Reform has brought increased awareness among the people to develop acceptability and accessibility in the development of public policies through democratic channels. The four amendments to the 1945 Constitution mandate checks and balances across all fields of power, upholding human rights protections and guarantees, and providing more security for the basic needs of the people.

The present reform agenda aims to reduce the role of the government in providing political guidance, abolishing the social and political functions of the Indonesian National Military/Police (TNI/Polri), enshrine freedom of expression and the right to establishing a union, guarantee freedom of the press, and promote greater regional autonomy.

Due to the implementation of "*reformasi*" (reforms) in 1998, significant authority and responsibility has been decentralised from the central to local government, the aim being to improve political accountability and accelerate social and economic development. All of Indonesia's public officials from the president down to all 480 governors and district heads/mayors are now directly elected. This is intended to improve the political and economic accountability of the local public officials to their constituents.

Local government is funded by Public Allocation Funds and Special Allocation Funds, which are allocated as part of the National Government Budget and Local Revenue. The budget for local government in 2006 increased significantly. Local government is responsible for the provision of all public goods and services, except for matters related to foreign affairs, defense, justice, religion, which are the responsibility of central government. Central government is responsible for implementing general policies and setting standards for public goods and service delivery of local government.

Size of Public Sector Budget in Indonesia, 2005 and 2006

Central Government ⁷⁸ (Rp billion)		Local Government (Rp billion)		Total (Rp billion)	
2005	2006	2005	2006	2005	2006
(1)	(2)	(3)	(4)	(5)	(6)
411,667.6	470,161.0	150,500	219,400	562,167.6	689,561

Source: State Budget 2006

B. Development Supporting the Principles of Good Governance

Tremendous political and institutional changes have marked Indonesia's transition to a more open and competitive society. Constitutional reforms securing direct election have created a new accountability framework at all levels of the political system.

The decentralisation process that started in 2001 is bringing control over resources closer to the clients/end users, providing new opportunities for participation and monitoring of service delivery. Regions have become key players in service delivery. As a result, users say that quality of services has improved sharply over the past two years. According to a survey, around 70% of users think that the quality of health and education service has improved. The quality of administrative matters and police is likewise improved.

Public demand for good governance has also been championed by a free media and more effective pressure from civil society organisations.

1. Support for the rule of law

Indonesia has undertaken major reforms of its legal and judicial systems in the last six years. The Supreme Court Blueprints, which provided a comprehensive assessment and strategy for reform formulated in 2001 and 2002, are still being implemented. Nine Blueprints have been produced, which include reforms of the Supreme Court, judicial career and personnel management system, court financial management system, training and capacity-building system, the establishment of new courts including Judicial Commission, the Commercial Court, the Anti-Corruption Court and the Human Rights Court. In 2004, the Supreme Court established a judicial reform team to coordinate the implementation of the Blueprints. However, implementation is still the key challenge to the success of this reform program.

Another reform is in the establishment of an independent oversight commission for the judiciary, attorney-general's office (AGO) and the police. In addition, the AGO has launched an ambitious Prosecution Service Reform Agenda.

2. Transparency

The Indonesian public sector has published or made available its laws, regulations, procedural rules and administrative rulings of general application through several media channels. Information on policies related to government agencies is published and available on the agencies' websites. Inquiries regarding laws, regulation, policies and other rules can be directed to the respective agencies, and information regarding the activities of state-owned companies is provided on their websites.

⁷⁸ Including wages and salaries for government employees and debt repayment services which in total accounted for 60% of the central government budget.

For government procurement, methods of delivering information include public advertising in local and national newspapers. Agency websites also provides procurement information.

To enhance transparency, accountability and efficiency in the procurement system, the government has introduced new procedures, including developing an Electronic Government Procurement System (E-GP) to foster competition in bidding for government contracts. In early 2008, the government will conduct an E-GP pilot project in several line ministries and selected provincial/local governments. In the future the E-GP will be progressively implemented in Indonesia.

3. Accountability

Indonesia has implemented a Performance-based Budget System that makes the public sector more accountable. Socialization through seminars and training was conducted to support the implementation of the new system.

In the planning stage, stakeholders are encouraged to provide inputs and comments through a series of Development Planning Meetings from the local level up to the national level, or directly to the National Planning and Development Board (BAPPENAS). A similar open and more participative process is also used by local government to issue its budget.

In addition of the Performance-based Budget System, all public sector agencies are required to have Strategic Plans (RENSTRA) and Work Plans (RENJA). As part of the system, government agencies are required to submit Performance Accountability Reports (LAKIP) to the president every year, through the Ministry of State Apparatus Reform (MENPAN). The report is one of the resources used by the National Development Planning Board and Ministry of Finance in analysing and approving the proposed funding of government agencies.

The main objective of LAKIP is to evaluate the capability of the agencies in executing their vision and mission in achieving the purpose for which they were established.

The Ministry of State Apparatus Reform has conducted seminars and training for the preparation of LAKIP, while BAPPENAS and the Ministry of Finance are responsible for providing information regarding the Performance-based Budget System.

Government agencies are audited by the Supreme Audit Agency (BPK) and the Financial and Development Supervision Body (BPKP). As stated in the Constitution, BPK is an independent agency authorized as the sole external audit authority empowered to investigate state financial management and accountability. The focus of audits is on compliance with financial regulations and procedures. The BPK submits its reports to the parliament. The BPKP, on the other hand, has wide-ranging responsibilities at the central government level: formulating and preparing control plans and programs, exercising general control of national government finances, and auditing the activities of line ministries and their project officers.

Non-governmental organisations (NGOs) serve as partners in supervising the government's activities including the preparation and implementation of rules and regulations. A large number of NGOs have flourished over the past 10 years. One estimate suggests that there are about 450 prominent NGOs in Indonesia, some are engaged in advocacy issues, while others work for the promotion of good governance and increasing public participation in public affairs. Many NGOs promote transparency and accountability and some directly address the issue of corruption.

4. *Managing for performance*

To manage the performance of public sector agencies, the Indonesian government uses several approaches:

- The president delineates the main tasks and functions of each agency.
- A government agency must consult BAPPENAS and the Ministry of Finance for its budget planning. The House of Representatives' must approve the plan.
- The performance of government agencies is monitored through internal and external mechanisms including the House of Representatives.
- Government agencies are required to submit their performance accountability reports to the president.

5. *Responsiveness*

As a democratic country, Indonesia's government agencies are open to inputs, criticism and comments from stakeholders and the general public. Most public sector agencies now have public relations units to respond to complaints and inquiries from the public. The media has also become an effective tool in communicating public opinion. Agencies usually are more sensitive and responsive to the opinions, complaints and inquiries raised through the media.

Presidential Decree 44/2000 established the National Ombudsman Commission (KON). The commission, which has 11 members, is authorized to monitor and examine public complaints about public offices and the provision of public goods and services.

6. *Ethics, probity, culture and values*

Civil servants in Indonesia are governed by Laws No.8/1974 and 43/1999 on the Basic Rules of Civil Servants.

The government is committed to eradicating corruption, collusion and nepotism from public sector activities. This is stated in the People's Deliberative Council's Decision No. XI/MPR/1998. A number of laws also provide the legal framework for addressing corruption, such as:

- Law 28/1999 on Clean Government Free from Corruption, Collusion and Nepotism,
- Law 31/1999, amended by Law 20/2001, on Eradication of Criminal Act of Corruption,
- Law 15/2002 (and 25/2003) on Money Laundering, which criminalizes money laundering and mandates the establishment of an Indonesian Financial Transaction Reports and Analysis Centre (PPATK).

The government strengthened the institutional framework for anti-corruption through the establishment of the Corruption Eradication Commission (KPK) and Special Corruption Court under Law 30/2002, the Inter-Agency Task Force (Timtas Tipikor), Judicial Commission and Anti-Corruption Court, the Police Commission and the Prosecutorial Commission. Existing institutions like the Supreme Audit Commission, the Financial Transaction and Analysis Center and Attorney General's Office have become more active.

The government has laid out an anti-corruption strategy in two strategic documents, namely Presidential Instruction Number 5 (Inpres 5/2004) and the National Action Plan for Eradication of Corruption (RAN-PK) 2005. In the area of corruption prevention, RAN-PK has the following priorities:

- Redesigning public services, especially in the sectors that have a significant impact on the daily lives of public.
- Strengthening transparency, supervision and sanctions on government activities related to the economy and human resources.
- Empowering people in the context of corruption prevention.

C. Future Governance Challenges and Lessons Learned

Challenges

Indonesia is still facing challenges in working toward the improvement of public sector governance. The challenges include:

1. Building trust among civil society and stakeholders. This is due to inadequate information dissemination. Leaders should build trust by raising awareness of the necessity of good public sector governance, by broadening their support among civil servants and by working through local organisations and processes.
2. Securing high-level political support to reform the public sector.
3. Fighting corruption in the public sector; corruption has proven to be a major contributor to the failure of public sector accountability.
4. Implementing laws and regulations to combat corruption.
5. Mismanagement in the public sector that has also bred corruption.
6. Transition of the civil services' culture to one which is meritocratic and rules-based.
7. Developing a new system for civil servants including standards, rules, recruitment and promotion, salaries and compensation packages. (Organisational structure, staff-allocations and right-sizing are also some challenges in civil service reform.)
8. Empowering the civil society to improve its accountability and transparency, subject to independent evaluation of its performance.

Lessons Learned

Since the implementation of *reformasi*, many lessons have been learned on public sector governance:

1. In some districts decentralization has led to innovations in public service provision, the result being a clear and positive improvement in both service provision and the number of people covered. Important factors for the success of this innovation are decentralization and good leadership.
2. Decentralisation of functions and budget to regional governments, particularly at the district level (*kabupaten* and *kota*) is bringing greater authority over local public services to regional officials.

3. The granting of greater authority to district levels has made local politicians and citizens more interested in good governance.
4. There has been increasing demand for public sector reform in the regions.
5. The fight against corruption has been progressing:
 - The legal framework to fight corruption has been strengthened.
 - New anti-corruption institutions have been created or are in the process of being created.
 - Stronger efforts are being made to pursue legal cases against corrupt individuals.
6. Indonesia's formal accountability framework is undergoing a remarkable transformation, which will fundamentally alter the rules of the game. However, the impact on accountability remains weak.
7. Public awareness is increasing. An expanding civil society and a newly free media are helping citizens monitor the performance of implementing agencies and service delivery, and citizens themselves are learning to speak out.

Japan: Development in Public Sector Governance

A. Introduction

In Japan, legislative power at the national level has been allocated to the Diet (the national assembly), executive power to the cabinet and judicial power to the courts. These act independently of each other in carrying out their work.

Japan's administration is uniformly carried out by the cabinet and the organisations under it. The cabinet, ministries, agencies and public corporations form one organisation, at the top of which is the cabinet. It is responsible for all the activities of state except legislative and judicial ones. Consequently it is natural that the agencies and corporations which take care of its administration should be systematically organised under the cabinet.

Japan's current public sector staff/population ratio (approximately 924,000 officials, for a ratio of 7.2 per 1,000 population), government expenditure and the national burden that this implies are low relative to other developed countries.

Size of the Public Sector in Japan as a % of Nominal GDP (FY2005) and Full-Time Equivalent (FTE) Employees (FY2007)

	Central Government	Local Government	Total Government
Size of the Public Sector [% of Nominal GDP]	2.8%	8.7%	18.0%
Full-Time Equivalent (FTE) Employees	924,000 (7.2 per 1,000 population)	2,998,000 (23.5 per 1,000 population)	3,922,000 (30.7 per 1,000 population)

Administrative reform should be a continuing process. In 2001, Japan reformed the central government and related agencies. The objective was a far-reaching reshaping of the administrative system, which had grown bloated and rigid and was suffering from institutional fatigue. A simple, efficient and transparent government, facilitating a free and equitable society, was the goal. The main points of reform were as follows:

- To clarify the prime minister's right to initiate new policies, establish a new cabinet office and take related actions to strengthen cabinet functions.
- To comprehensively reorganise ministries and agencies from one office and 22 ministries to one cabinet office and 12 ministries.
- To promote streamlining and increased efficiency by such means as reconstituting some organisations as independent administrative institutions, consolidating other organisations (e.g., by reducing the number of bureaus from 128 to 96), and reducing the authorised number of officials (by 25% over a 10-year period).
- To increase the transparency and accountability of government administration by such means as establishing systems for policy evaluation, establishing independent administrative institutions, disclosing information, and so on.

Additional measures were subsequently taken to further consolidate the results of reforms to the central government and related agencies. In 2006, the laws relating to administrative reform were established. The Administrative Reform Promotion Law of 2006 prescribes the basic principles for administrative reform for the purpose of realizing simple, efficient government. The Law Relating to Reform of Public Corporations is to promote the healthy development of the nonprofit private sector. The Public Service Reform Law aims to improve the quality of public services while reducing their cost through, for example, the introduction of public and private sector competitive bidding.

B. Developments Supporting the Principles of Good Governance

1. Support for the rule of law

All judicial power is vested in the Supreme Court, and in such inferior courts as High Courts, District Courts, Family Courts and Summary Courts. No extraordinary court can be established, nor can any organ of the executive branch have final judicial power. The justices of the Supreme Court are appointed by the cabinet. The judges of inferior courts are also appointed by the cabinet but only from a list of persons nominated by the Supreme Court.

Reforms of the legal system have been implemented with the basic aim of contributing to the formation of a society with greater freedom and fairness. To that end, since 1999, steps have been taken to build new legal systems that allow the public to make use of them more easily while also putting fair, appropriate procedures in place to enable legal systems to achieve their mission more promptly, appropriately and effectively; to develop and secure large numbers of legal professionals who are endowed with advanced professional legal knowledge, broad cultural accomplishments, and abundant humanistic qualities, as well as professional ethics; and to otherwise improve and strengthen systems that support the legal system. The aim of reform has also been to promote the public understanding of and trust in the law by expanding the involvement of members of the public in the legal system and other such means.

2. Transparency

Public disclosure of information

The disclosure of information should be promoted with a view to realizing fair and democratic administration and securing the people's confidence in government administration. Contact points for access to documents had previously been established in the ministries and agencies, and allowances had been made for the greater convenience of the public in using them. In May 1999, the Act on Access to Information Held by Administrative Organs was instituted in order to seek greater disclosure of such information. This has made it possible for anyone to request access to administrative documents held by the government offices concerned.

Government procurement

Government procurement in Japan is conducted on the basis of competitive tendering procedures with the participation of suppliers satisfying the conditions for participation. As a part of Japan's efforts to increase opportunities for foreign suppliers to access the Japanese market, the government has put in place, as a voluntary measure, non-discriminatory, fair and transparent procedures that go beyond the commitment under the World Trade Organisation Agreement on Government Procurement, to which Japan is a party. Information on tenders which is covered by

the Agreement on Government Procurement is, in principle, published in the official gazette (and in the case of local government bodies, the prefectural gazette and similar).

The Japanese government has established the Office for Government Procurement Challenge System to receive and process specific complaints regarding government procurement. This is done in order to further improve the transparency, fairness and competitiveness of the government procurement systems on the principle of non-discrimination regarding domestic and foreign participation.

3. *Accountability, oversight and control*

Policy evaluation

The work of administrative organisations has been subject to evaluation and monitoring from the perspectives of their conformity with regulations, their appropriateness and their efficiency, in order to work toward a more appropriate, improved administration. In 2001, a new policy evaluation system was introduced on a government-wide basis to serve as one of the key elements in reform of the central government and related agencies.

The system seeks: (1) to realise efficient, high-quality administration that is truly rooted in the interests of the people, (2) administration with an emphasis on results from the standpoint of the public, and (3) to institute thoroughgoing accountability in government administration with respect to the public.

The cabinet office and ministries conduct their own evaluations of the policies for which they are responsible so that the government as a whole can implement its policy evaluation functions precisely. In addition, the Ministry of Internal Affairs and Communications (MIC) acts as a specialized evaluation organisation to conduct evaluations intended to assure the coherence and comprehensiveness of policies. The resulting evaluation reports are made public.

Government auditing

For the sound management of fiscal administration, it is essential to audit whether the budget has been executed properly and effectively and to ensure that audit results be reflected in the budget formulation and execution in the following year. To achieve this purpose, the Constitution of Japan provides that the "final accounts of the expenditures and revenues of the state" shall be audited by the Board of Audit and submitted by the cabinet to the Diet together with the audit report. The statements of state properties, state credits, state liabilities and state real property are also audited by the Board of Audit. Furthermore, public corporations are subject to the Board's audit mainly from the viewpoints of their program performance. Private companies and local public bodies, which receive financial assistance from the state, are also subject to the Board's audit on their usage of state subsidies or loans on a selective basis. The Board of Audit is given independence from the Diet, the cabinet and the courts so that it can perform such important functions without any interference by other bodies.

4. *Managing for performance*

A reform-oriented process of policy determination is becoming established in the operation of economic and fiscal policy in Japan. First, the direction for reform is clarified in the "Basic Policies for Economic and Fiscal Management and Structural Reform (Basic Policies)," which brings the key

issues together. Then, the Council on Economic and Fiscal Policy⁷⁹ provides the principle for budget formulation to realize the Basic Policies as the "Budget Overview" and formulates the "Guidelines for Formulation of the Budget" in order to establish clearly defined priorities in setting the direction for the following year's budget.

At the same time, the principle for medium-term economic and fiscal management is provided for in the "Direction and Strategy for the Japanese Economy." Medium-term targets of economic and fiscal management, such as achieving a surplus in the primary balance and shaking free of deflation, are clarified and short-term economic and fiscal policies are administered with those targets in mind. Meanwhile, management by methods such as creation of timetables and application of the PDCA (Plan-Do-Check-Action) cycle is also becoming established practice in the ministries.

This process has promoted structural reforms, including the reduction of annual expenditures, tax system reform, social security reform, postal reform, financial reform and regulatory reform.

5. Responsiveness to stakeholders

Public comment

When the domestic administrative organisations seek to institute new orders/regulations, amend the substance of current orders/regulations, or repeal orders/regulations, they are required to publish their proposal and set up opportunity for the public to comment on the proposal. The administrative organisations must then take into consideration the views and information presented in reaching their final decisions. This is known as the Public Comment Procedure, and it was made mandatory by cabinet decision in 1999, and was legislated in 2006 under the Administrative Procedure Act.

6. Ethics, probity, culture and values

The National Personnel Authority is a neutral third-party organisation under the jurisdiction of the cabinet. It assures neutral and fair personnel management of officials and is in charge of recruitment examinations as well as many other areas of personnel management.

With regard to ethics, the National Public Service Ethics Law was enacted in 1999 for the purpose of assuring public faith in the civil service. The National Public Service Ethics Code was also instituted, according to the law. This prescribes rules that national civil servants must observe, such as how to behave in their dealings with "interest parties." The National Public Service Ethics Board established within the National Personnel Authority is responsible for maintenance of ethics.

C. Future Governance Challenges and Lessons Learned

Achievements

The administrative and financial reforms have made significant progress in trimming public finances and making government administration more efficient. For example:

⁷⁹ The Council on Economic and Fiscal Policy was established in the cabinet office as part of the reorganisation of central government ministries in 2001, with the purpose of fully demonstrating the leadership of the prime minister, while reflecting the opinions of private sector experts in policy formation with regard to economic and fiscal policy.

- General government expenditures as a percentage of GDP amounted to 38.0% in fiscal year 2002, but has gradually fallen to 36.1% in fiscal year 2005 and 35.6% in fiscal year 2006. The central government's general expenditures (the general account budget) were 47.5 trillion yen in fiscal year 2002, 47.3 trillion yen in fiscal year 2005, and 46.4 trillion yen in fiscal year 2006.
- The laws to privatise the postal system and spin off its operations were established in 2005. This will contribute to the realisation of "lean and efficient government" as approximately 260,000 post office officials will become private employees.
- 136 public corporations out of 163 were abolished, privatised, or converted to independent administrative institutions. As a result, the public expenditure for public corporations has been reduced by a substantial 1.8 trillion yen.
- The system of "special zones for structural reform" has introduced exceptional regulatory measures adjusted to distinctive local characteristics. These have made it possible to take advantage of the knowledge and ingenuity to be found in local public institutions and the private sector.

Future challenges

Considering the level of public debt and the likelihood that the progressively shrinking birthrate and aging population will cause increases both in government spending and its burden on the people, it is going to be necessary to continue enacting reforms to achieve lean and efficient government with a view to shifting "from public to private sector" and "from national to local."

Japan intends to comprehensively re-evaluate the administrative, budget and tax systems. The aim will be to build administrative and fiscal systems that are relevant to the 21st century. Japan aims to limit the size of the government, for example, keeping the rate of potential national burden to around 50%, and the rise will be limited as much as possible during the next five years. Long-term measures will also be taken to reduce the scale of national government assets as well as the total amount of civil service personnel costs. In specific terms, Japan is committed to realising a lean and efficient government on the basis of the Administrative Reform Promotion Law and related statutes enacted in 2006.

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The Republic of Korea: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the Korean Public Sector

The Korean government has a presidential system, wherein the president is the head of state elected by popular vote for a single five-year term. Under the present system, government power is shared principally by three branches: the legislative, the judicial and the executive. In addition, two other constitutionally-based institutions, the Constitutional Court and the National Election Commission, also perform governing functions.

The legislature consists of a single-house National Assembly, whose members serve four-year terms. The judiciary consists of three tiers of courts: the Supreme Court; the high courts or appellate courts; and the district courts. Currently, the judiciary is exclusively a central government function; no provincial or local government may establish its own court or prosecution system. The executive branch, headed by the president, consists of the prime minister, the state council, executive ministries and agencies, the Board of Inspection and Audit, and the National Intelligence Service. The prime minister, appointed by the president with the approval of the National Assembly, supervises the ministries and independent agencies.

Local governments currently consist of 16 provincial-level governments and 230 lower-level local governments such as municipal governments and autonomous districts. Local representatives are elected directly by the residents every four years. The functions of local governments include management of public properties and facilities, assessment and collection of local taxes and fees, provision of services and goods to residents, and management of other administrative affairs. Local councils are also elected by residents and authorized to inspect and audit local administrative affairs on behalf of the residents.

Size of the Public Sector in the Republic of Korea, 2005, as a % of Nominal GDP and Full Time Equivalent (FTE) Employees per 1000 population

Central Government	Local Governments	Governments in Total
15.8%	14.3%	30.1%
12.59	7.19	19.79

Source: Ministry of Finance and Economy, National Statistical Office, Republic of Korea (2007)

B. Developments Supporting the Principles of Good Governance

1. Support for the rule of law

In the Republic of Korea, constitutional power is divided into three branches: the executive, the legislature and the judiciary. The judiciary is composed of the Supreme Court, the high courts, the district courts, the family court and the branch courts. The courts are empowered to adjudicate civil, criminal and administrative cases as well as election cases and other judicial cases as stipulated by law. The Ministry of Justice belongs to the executive branch and is thus separate from the judiciary. The Ministry of Justice serves the people of Korea by guarding and enforcing the Constitution and laws of Korea. In addition to rendering legal advice to the president and other ministries, the Ministry of Justice supervises the prosecution.

The most important feature of Korea's rule of law is the promotion of fundamental human rights. Korea's rapid development in political democracy over the last 20 years has strongly influenced every aspect of Korean society. The rule of law, including the guarantee of fundamental human rights, has become the most important principle of government action. The Constitution is recognized as an enforceable law among the people. It is not a mere political proclamation anymore in Korea. After the people's successful movement for democracy in 1987, the Constitutional Court was established separately from the judiciary based on the constitutional revision with an aim to protect people's fundamental rights and effectively check government powers. The functions of the Constitutional Court include: deciding the constitutionality of laws, ruling on competence disputes between government entities; adjudicating constitutional complaints filed by individuals; giving final decisions on impeachment cases, and making judgments on the dissolution of political parties.

2. Transparency

The Korean government enacted the Public Information Disclosure Law in 1998 to ensure the people's rights to know, and to secure transparency and the people's participation in government affairs. Any person can make a request for disclosing information by submitting a written or an oral request for disclosure to any public institution that holds or manages the relevant information. All information held and managed by public institutions should be disclosed under the conditions prescribed by the Act. Public institutions have to create an information management system, through which information can be properly kept and speedily searched, by making full use of information technologies. The online information disclosure portal (www.open.go.kr) reinforces transparency by providing extensive information on major policies and projects to the public in real time.

At the same time, the government has made significant efforts to enhance transparency in public sector procurement and contracting procedures including signing international treaties, enacting related laws and computerizing the process. Korea is a member of the Government Procurement Agreement (GPA). A procurement covered by the agreement is made via international tendering. For international tendering, the Korea government complies with the principle of National Treatment and Non-Discrimination, and conducts tendering according to the procedures specified in the GPA. The Korean government makes efforts to execute transparent procurement using Korea ON-line E-Procurement System (KONEPS) for procurement whose amount is below the threshold. KONEPS is an electronic procurement system which aggregates whole procurement procedures from tendering to awarding online. In Korea's government procurement framework, the Act on Contracts to which the state is a party provides a legal basis for procurement in relation to central government organisations, while the Act on Contracts to which the local government is a party pertains to procurement for local governments, and lastly the Framework Act on the Management of Government-Invested Institutions was enacted in respect of public enterprises. In the first stage of tendering procedure, a procuring agency determines the type of tendering: open, selective or limited. Open tendering is the principal method, and according to the nature of the procuring object, agencies may choose the others depending on the relevant law. The Public Procurement Service (PPS) and local governments post a notice on KONEPS, daily newspapers and gazettes 10 days prior to a domestic tendering and 40 days prior to an international tendering. After the submission of tender by eligible participants, agencies assess the tender based on the qualification criteria notified in advance. A contract should be awarded through open competition, in principle. However, when agencies deem it necessary in view of the purpose, nature, size, etc., of a contract, agencies may limit qualifications of participants or nominating participants, or may negotiate with participants for a contract.

3. Accountability, oversight and control

Decentralisation and transformation to performance-oriented management have been two key government objectives over the last decade, necessitating a new approach to accountability, oversight and control. In response to this ever-increasing demand for enhanced accountability and oversight functions in the public sector, the Korean Independent Commission against Corruption (KICAC) and the National Assembly Budget Office (NABO) were established in January 2002 and in March 2004, respectively. Under the Anti-Corruption Act (ACA), KICAC protects whistleblowers against reprisal for their reporting of corruption so that the general public can come forward without fear. Upon receiving a report on alleged corrupt conduct, the Corruption Report Center checks whether the report is based on reasonable assumption. If there is a need for investigation, they refer the matter to investigative authorities. KICAC cooperates with relevant public authorities to keep informants' identity confidential, guarantees non-reprisal, economic and administrative warranties, and personal protection.

The Board of Audit and Inspection (BAI), the supreme audit and inspection institution in Korea, has also moved its focal point from the traditional compliance audit to performance audit or evaluation, and it has enhanced its audit and evaluation capacity. Another important change is that the accountability and oversight system itself has become more accountable and transparent. For example, the BAI has made its audit reports public through the internet since August 2003. In 2001, the BAI opened its doors to the public in deciding what to audit by introducing the Citizens' Request for Audit in which a group of over 300 citizens can make a request to the BAI to conduct an audit in a specific area for the sake of public interest. Furthermore, in accordance with the revised provisions of the National Assembly Act in February 2003, the National Assembly may ask the BAI to carry out specific audits with a decision at the plenary session. As of May 2007, the BAI has received 31 audit requests in various subjects from the National Assembly. This strengthened partnership with the public as well as its enhanced audit capacity will boost the public's confidence and participation in BAI's audit work.

As part of its efforts to secure the autonomy and accountability of public institutions such as government-owned companies and organisations, the Korean government enacted the Basic Act on the Management of Government Investment in 1984 and the Basic Act on the Management of Government Affiliated Institutions in 2002. The government recently integrated these two acts into the Law on the Management of Public Institutions, which took effect in April 2007, to expand the scope of public agencies in accordance with the government's ownership, and control and secure their transparency and accountability. The Law will protect state-owned public institutions from external political influence in their executive appointment and strengthen transparency standards, thereby ensuring responsible management of agencies. It will empower non-executive directors and auditors and reinforce the internal check system, for example by introducing performance evaluation. The law will also establish a merit-based compensation system in which heads of agencies will be remunerated based on their management contracts and performance.

4. Performance management

The Framework Act on Government Performance Evaluation sets out the principles for performance management. Each government office is required to make a strategic plan for performance management with mid- to long-term goals. Government offices are also required to put in place an annual performance management execution plan, including performance objectives and performance indicators. This performance management and execution plan must then be submitted to the Government Performance Evaluation Committee and the National Assembly.

5. Responsiveness to stakeholders

The Korean government has made continuous efforts to respond to the needs of its people and to encourage civil participation in the existing systems such as administrative service charters, administrative procedure act, online participation system, etc., with an aim to improve the quality of administrative services to the public. The administrative service charters were adopted in 1998 and are implemented in all agencies of central and local governments. The charters describe detailed standards for the key services of administrative organisations including: what the agency does; how to contact and communicate with the agency; clients' basic rights and responsibilities; and how to provide feedback or make a complaint. The Administrative Procedure Act was enacted to ensure the participation of citizens and civic organisations in the policy-making process, particularly through the process of preliminary announcement on legislation and government policies, and public hearings. Preliminary announcement on legislation aims to gather and reflect public opinions before enacting, revising or repealing laws, policies and plans with significant impact on people's lives. Public hearings provide the opportunity to listen to opinions from experts, stakeholders and the public with regards to certain issues. Citizens' participation is promoted with the introduction of the Online People Participatory Portal System at www.epeople.go.kr, which is an integrated system for citizens to report any inconveniences or problems and suggest any ideas for policy improvement and change. When a civil petition is posted on the portal, the system automatically verifies if it matches any keywords in each department's characteristic-classifying table and sends it to a relevant department. Due to this automated process and specific time management, people can receive fast and accurate services. In addition, the Policy Customer Relationship Management (PCRM) was introduced to proactively provide policy information to interested customers and experts on a regular basis, and Citizens' Satisfaction Surveys are regularly conducted to measure satisfaction of citizens and experts with the adequacy and performance of key government policies.

On top of that, the Korean government has pushed ahead with outsourcing, privatisation and decentralisation of government services to better respond to the needs of stakeholders. For instance, the Korean government announced a plan in July 1998 to privatise 11 state-owned companies and has completed the privatization of eight companies including POSCO and Korea Telecommunication (KT). The remaining three are being restructured. Meanwhile, the recent Law on the Management of Public Institutions significantly reinforced rules pertaining to functional coordination and privatization of public agencies. Under the law, the government will review the relevance of each agency's functions and map out detailed plans for institutional integration, functional coordination and privatization of public agencies in close consultation with their steering committees.

6. Ethics, probity, culture and values

The recruitment policies of the Korean government are based on the "merit principle." The most common method of recruitment for civil services is open competitive recruitment examinations, which do not require any specific academic qualifications. When necessary, non-open competitive examinations are administered to fill positions that require candidates to meet certain prerequisite qualifications. In 1999, the Korean government introduced the "Open Competitive Position System" (OPS) to recruit outstanding talents and experts from both private and public sector through competition. Under the OPS, a ministry should set aside 20% of its positions for senior civil service as open competitive positions.

Among the Korean government's measures against conflicts of interest are the Public Service Ethics Act and the Code of Conduct for Public Officials. The objective of the Public Service Ethics Act is to prevent public officials from accumulating illegitimate gains and to encourage them to serve the public interest by requiring them (or candidates for public office) to register or publicly

disclose their incomes and assets; barring public officials from using their public position or authority to acquire pecuniary benefits; making it mandatory for public officials to disclose lavish gifts they have received; and placing employment restrictions on retired public officials. The Code of Conduct went into force in May 2003 to lay down behavioral guidelines for public officials in their private and public life, including Fair Performance of Duties and Prohibition against Giving and Receiving Unfair Profits. Based on the model code of conduct, about 320 central and local administrative agencies developed their own codes of conduct, depending on the circumstances.

To strengthen Korea's anti-corruption policies, the Interagency Meeting on Corruption (IMC) was formed in January 2004. Since its inception, nine interagency meetings on corruption have been held. The president of the Republic of Korea chairs the IMC, which consists of the heads of relevant government agencies, including the chairman of KICAC, minister of justice, and minister of government administration and home affairs, etc. The IMC has engaged in consultation about national anti-corruption actions and policies as well as government-wide measures concerning corruption issues. The most important topic discussed during the latest meeting was "how to enhance corporate transparency." The policy directions set forth by the IMC are to prevent fraudulent accounting and promote ethical management. For the former, the government plans to conduct thorough tax investigations and reinforce accounting supervision. For the latter, it plans to establish a series of policies, including grassroots monitoring and evaluation of corporate transparency.

C. Future Governance Challenges and Lessons Learned

The Korean government has embraced innovation as a top priority and has made great efforts over the past five years in raising efficiency and public satisfaction. No other administration in Korean history was more systematic and persistent in driving government innovation than the current Roh administration.

The Korean government set up its innovative vision, which is "an effective and responsible government" for "building a leading innovative country." In addition, the government has identified five goals—efficiency, customer satisfaction, transparency, decentralisation and participation—as key elements of the realisation of the vision. To be sure, the drive to innovate has resulted in excellent performance and best practices but several challenges remain to be overcome in the public sector. The Korean government will deal with these challenges in close cooperation and communication with the people.

- **Balancing flexibility and consistency:** increased decentralisation, devolution and autonomy have contributed to enhancing flexibility, accountability and freedom of management, but often undermined coherence and consistency of the whole government in the process of policy-making and implementation.
- **Balancing transparency, efficiency and privacy:** enhanced transparency has reduced corruption and improved the relationship between the government and the citizens, but often delayed the speed of policy-making process and implementation and has sometimes intruded on privacy.
- **Balancing better public service delivery and limited public resources:** citizens' expectations and demands for governments, such as openness and service delivery of higher quality, are growing but the government is subject to the limited increases in public resources. Therefore, the government is required to focus on delivering better services more efficiently.

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Blank pages are deliberate to allow correct pagination.

Malaysia: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the Malaysian Public Sector

Malaysia practices parliamentary democracy with a constitutional monarch, His Majesty, the Yang Di Pertuan Agong, as the paramount ruler. The federal Constitution was legislated to set up conditions for this system to exist, providing for the distribution of powers between the federal and state governments. One of the conditions of parliamentary democracy is the division of administrative powers into the executive, judicial and legislative authorities. Malaysia is a federation of 13 states and three federal territories. As stated in the Malaysian Constitution, each state has surrendered part of its power, including finance, commerce and industry, defence, internal security, education and foreign affairs, which are administered by the federal government. Each state administers the power over infrastructure development, land and the exploitation of natural resources excluding forestry.

Executive authority, or the authority to rule, is vested in the Yang Di Pertuan Agong, but is exercised by a cabinet of ministers headed by the prime minister. Judicial authority is vested in the superior courts, comprising the Federal Court, the Special Court, the Court of Appeal, the High Court of Malaya and the High Court of Sabah and Sarawak; and the Subordinate Courts, comprising the Sessions Court, the Magistrates' Court, the Syariah Court, the Juvenile Court, the Penghulu Court and Native Court, as provided for by the federal law. The head of judiciary is the chief justice of the Federal Court of Malaysia. The Federal Court has the jurisdiction to determine the validity of any law made by parliament or by a state legislature.

Parliament, comprising the Yang Di Pertuan Agong, the Senate and the House of Representatives, is the legislative authority for the federation, and in this capacity, it makes laws applicable to the federation as a whole. Parliament passes federal laws, makes amendments to existing federal laws, examines government policies, approves government expenditures and approves new taxes. Legislative power is divided between federal and state legislatures. The state governments are led by chief ministers selected by the state assemblies who advise their respective sultans or governors.

Size of the Public Sector in Malaysia as at 31 December 2006

No.	Components	Agencies		Positions		Full-Time Equivalent/1,000 Population
		Number	Percent	Number	Percent	
1	Federal	139	19%	1,092,979	78.4%	41.0
2	State	251	35%	114,639	8.2%	4.3
3	Federal Statutory Bodies	78	11%	114,541	8.2%	4.3
4	State Statutory Bodies	108	15%	18,225	1.3%	0.7
5	Local Authorities	144	20%	54,355	3.9%	2.0
	Total/Percent Share	720	100%	1,394,739	100.0%	52.4

Source: Public Service Department of Malaysia, *Information on Government Establishment, 2006*

B. Developments Supporting the Principles of Good Governance

Good governance is multi-faceted and has diverse social, political, legal and moral dimensions. Some general attributes of a mature, functioning and just system of government can be singled out. On the security front, the first task of a government is to ensure internal as well as external peace. Crime should be controlled and the rule of law enforced. On the economic front, tackling poverty, deprivation and destitution to bring about a better distribution of income and wealth and higher quality of life among the people, is another primary task of government. The quality of life is also intrinsically linked to fulfilling basic needs as well as to maintaining peace, security and harmony. On the administrative front, bureaucratic systems, procedures and policies should exist to serve the people. All government institutions should have proper administrative frameworks with transparent procedures and policies.

1. Ethics and values

Malaysia is at the mid-point of its journey toward becoming a developed economy by 2020. In 2006, alongside the Ninth Malaysia Plan, the government launched the National Mission, a policy and implementation framework that outlines the economy priorities for the next 15 years. The Ninth Malaysia Plan charts the economy's development agenda for the first five years of the National Mission. The development initiatives undertaken during the Ninth Malaysia Plan period will be guided by the universal principles of Islam Hadhari (Civilisational Islam).

In 2004, the government launched Islam Hadhari, a comprehensive and universal development framework. It emphasises development, consistent with the tenets of Islam with a focus on enhancing the quality of life through the mastery of knowledge and the development of the individual and the nation; the implementation of a dynamic economic, trading and financial system; and the promotion of integrated and balanced development that creates knowledgeable and pious people who hold to noble values and are honest, trustworthy and are prepared to take on global challenges. Islam Hadhari outlines 10 principles as follows:

- faith in and piety toward Allah;
- a just and trustworthy government;
- free and liberated people;
- a rigorous pursuit and mastery of knowledge;
- balanced and comprehensive economic development;
- a good quality of life for the people;
- protection of the rights of minority groups and women;
- cultural and moral integrity;
- safeguarding of the environment; and
- strong defence capabilities.

It is in accordance with these principles that policies and strategies are formulated and reviewed to represent the best interests of society. Observance of these principles will improve the governance for the people and ensure a high commitment to public accountability.

During the period 1991–2005, the concept of a more proactive and customer-focused public sector began to take root. The thrust of the changes was to improve the efficiency and effectiveness of the public sector to provide quality services. Various programmes were undertaken including quality management, implementation of the Client's Charter, efficient counter services, productivity and performance measurement, wider use of information and communications technology (ICT), responsive public complaints management and the inculcation of positive values and work ethics.

The focus on good governance in the public and private sectors increased in the period, to enhance transparency and efficiency and make Malaysia more competitive and attractive to investors. The National Integrity Plan (PIN) was launched in 2004 to mold a moral and ethical society with strong religious and spiritual values and high ethical standards. Review of laws, rules and regulations as well as stringent enforcement measures were also undertaken by various regulatory bodies to enhance governance.

2. Accountability, transparency and performance

Legislation and monitoring agencies, as well as training and awareness programs, are the traditional methods of maintaining accountability in the public service. The system of checks and balances can be seen through:

- the active vigilance of the Anti-Corruption Agency (ACA);
- monitoring by the cabinet committee on integrity in government management;
- scrutinising financial compliance by public sector agencies via the auditor-general's report, and
- enhancing discipline in the public service through the Public Service Officers (Conduct and Discipline) Regulations 1993.

In line with the government's policy of accountability, transparency and performance, the government implemented the establishment of key performance indicators (KPIs) in 2005. The implementation of this performance-based work culture in the public sector aims to upgrade the quality of delivery services at government agencies for the customers. This initiative extended prior efforts focusing on the same purpose, including individual and organisational performance assessments through the annual Work Objective, competency evaluations under the Malaysia Remuneration System, assessments of efficiency via the Quality Management System through MS ISO 9000 and Total Quality Management, resolving problems innovatively through the Quality Circle Group and benchmarking best practices through Quality Awards in Civil Service. The Client's Charter is also established at government agencies and it becomes a service quality standard that can be measured to assess the achievement and performance of an agency. Performance assessment must be implemented continuously to upgrade the service delivery of the government agencies to the customer.

C. Future Governance Challenges and Lessons Learned

Malaysia will intensify efforts to eliminate opportunities for corruption, malpractices and abuse of power, not only in the public sector but also in the private sector with the government taking steps to enhance the integrity, transparency and accountability of both the public and private sectors toward improving the level of good governance. In improving the public service delivery system, the government will continue to reduce bureaucratic red tape and improve the services of frontline agencies. This is a vital endeavor as public service excellence will deliver a conducive business environment and consequently, national prosperity.

Renewed efforts to improve the public service delivery system to enhance the quality of life of Malaysians, reduce the cost of doing business, encourage private investment and positively influence investor perceptions about Malaysia as a preferred destination for trade and investment will include improving district and local administration, providing seamless and efficient multi-channel government-customer interface, reviewing and streamlining regulatory and licensing requirements, leveraging effectively on ICT and promoting competency-based human resource management to support effective service delivery. The performance of the public sector delivery

system will continue to be monitored and assessed through KPIs, systemic inspections, management audits and compliance with the MS ISO 9001:2000 standard.

The government will ensure that public complaints are managed effectively to enhance service delivery. Customer complaints will continue to be used to rectify weaknesses and preventing recurrent service delivery shortfalls. In line with this, the management of complaints by customers in the public sector will be further enhanced through more responsive and proactive mechanisms, including implementing computerised public complaints management systems to receive, address and monitor all public complaints. The government plans to further enhance the level of consultation with the private sector on new policy initiatives and legislation that may impact their activities. The government will continue to listen to private sector feedback on impediments to service delivery so that any deficiencies may be addressed.

In this regard, all stakeholders—the public sector, the private sector, civil society and the people—must take ownership of the process of good governance and fulfill their respective duties. This is necessary in an increasingly competitive and open global system. To underscore the importance of this collaboration and collective effort, the theme of the Ninth Malaysia Plan is “Together toward Excellence, Glory and Distinction.”

Mexico: Developments in Public Sector Governance

A. Introduction: The Nature of the Mexican Public Sector

Mexico is a federal republic constituted by 31 states and one federal district. The central government is divided into three different branches. The executive is elected by popular vote for a six-year term. The president is both the chief of state and head of government. Since 2000, Mexico has been transitioning from a lengthy period of single-party rule (71 years) to a full-fledged democracy.

The legislative branch is comprised of a bicameral national congress, consisting of the Senate (128 seats; 96 are elected by popular vote to serve six-year terms, and 32 are allocated on the basis of each party's popular vote) and the Federal Chamber of Deputies (500 seats; three fifths are elected by popular vote to serve three-year terms; the remaining 200 seats are allocated on the basis of each party's popular vote, also for three-year terms).

Finally, the judicial branch is embodied in the Supreme Court of Justice. Justices are appointed by the president with consent of the Senate, the Electoral Tribunal, collegiate, unitary and district tribunals, and the Council of the Federal Judiciary.

Size of the Public Sector in Mexico, 2004 as a % of Nominal GDP and Full Time Equivalent (FTE) Employees per 1000 population

Central Government	Local Government	Total Government
4.6%*	6.0%*	10.6%*
13.8	15.1	29.0

Source: National Institute of Statistics and Informatic, National Accounts System of Mexico, Macroeconomics Indicators of the Public Sector 1999-2004; Sixth Government Inform, Presidency of the Republic, 2006; National Population Council; and Integral Information System, Ministry of Finance and Public Credit.

*Including Social Security with 1.5% of GDP participation

B. Developments Supporting the Principles of Good Governance

Mexico has shown a commitment toward achieving good governance, especially in relation to combating corruption, and the promotion of transparency and accountability. In terms of international commitments, Mexico has signed the three major anti-corruption conventions:

- The Inter-American Convention Against Corruption;
- The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and
- The United Nations Convention Against Corruption, in which Mexico assumed a leadership role in the elaboration and negotiation of the instrument, also known as the Mérida Convention, reflecting the Mexican city where it was signed in December 2003.

As a result of these and other anti-corruption initiatives, Mexico has made significant progress in working with the private and public sector, and involving civil society in the fight against corruption.

1. Support for the rule of law

Mexico has a federal congress called the "Congress of the Union" with federal legislative powers. Likewise, each state within the federation has its own congress, which enacts local legislation.

The federal system adopted by the constitution grants sovereign powers to the member states of the federation. In this manner, they can enact their own laws in matters not specifically reserved for the federation. They are even empowered to issue state constitutions (which may not contravene the provisions or limit the fundamental rights established in the Federal Constitution). Thus, the states may legislate on civil, criminal and administrative matters, among others.

As mentioned earlier, the power of the judiciary is constituted in the Supreme Court of Justice, comprised of 11 judges appointed by the president with senate approval. The Supreme Court of Justice of the Nation (*Suprema Corte de Justicia de la Nación, or SCJN*) is the highest federal court in Mexico. It consists of a president of the Supreme Court (chief justice) and 10 ministers (associate justices) who are appointed by the Senate from a list proposed by the president of the republic. Justices of the SCJN serve for 15 years and are not eligible to serve a second term. From among their number, the justices elect the president of the court to serve a four-year term; a given justice may serve more than one term as president, but not in consecutive periods.

Other institutions of the judiciary are the electoral tribunal, collegiate, unitary and district tribunals, and the Council of the Federal Judiciary.

2. Transparency

Transparency has been greatly expanded in line with Mexico's new democratic order. An historic milestone was the Federal Law on Transparency and Access to Public Government Information, passed by congress in June 2002, thanks to the collaborative efforts of civil society, political parties, the Union's Congress and the federal executive power.

This 2002 law, together with the creation of the Federal Institute of Access to Public Information (IFAI in its Spanish acronym), has elevated Mexico in terms of government transparency and public access to information. Since its creation, IFAI has received 199,450 requests for information (up until March 2007), of which 176,665 requests had been resolved (96.5%).

The Ministry of Public Administration developed and granted a license for IFAI to use the Integrated System of Information requests (SISI), through which a constant tracking and monitoring of citizen's information requests is possible.

3. Accountability, oversight and control

The Federal Superior Audit was established in 2001 to assist the chamber of deputies in the exercise of its constitutional duties regarding the revision of the budget, including as relates to financial management, ensuring that the chamber has adopted the appropriate guidelines, as well as to certify compliance with the objectives contained in government programs.

Additionally, the Ministry of Public Administration exercises internal control over governmental management, and is responsible for supervising federal expenditure and public policies and programs, as well as the performance of government offices.

As previously mentioned, the Federal Institute of Access to Public Information is a new institution at the service of society. It is the agency in charge of:

- (1) Guaranteeing the right to access public governmental information;
- (2) Protecting personal data in the hands of the federal government; and

- (3) Ruling on denials of access to information from the agencies and entities of the federal government.

Since the coming to effect of the Law of Transparency and Access to Public Government Information, more than 250 agencies and entities of the federal government have been required to attend to citizens' requests for information.

4. *Managing for performance*

For the last several years, Mexico has been working to establish a competent and effective civil service based on transparency, recognition of merit and efficiency. Thanks to the Law on Professional Civil Service Careers in the Federal Administration (approved in April 2003), the commitment to tie civil servants' job security and professional development to their performance has been met. The objective of this law is to recruit, retain, motivate the best men and women for the civil service.

The "Professional Service Career" system (SPC) is based on seven subsystems:

1. The Human Resources Planning subsystem determines the number and type of personnel each federal agency requires. Currently, 99% of SPC structures are already registered.
2. The Personnel Entry subsystem controls the processes for recruiting and selecting candidates, and the requirements for applicants to join the system.
To date 6,700 competitive exams have been used for external and internal civil service applicants, and more than 3,500 successful candidates have been recruited through this process.
3. The Professional Development subsystem establishes procedures for determining individual career plans for civil servants, charting possible courses of career development. At present, there are nearly 350 fully designed individual career plans for civil servants within SPC.
4. The Certified Training subsystem enables civil servants to receive the necessary training for their professional development. Since 2004, the @CampusMexico website has offered more than 150 different courses provided by leading national and international universities. More than 69,000 civil servants have been trained online and approximately 1,300 civil servants have been certified.
5. The Evaluation and Performance subsystem provides the means to measure and appraise the performance and productivity of permanent civil servants. During 2005, more than 34,000 civil servants were evaluated. In 2006, more than 36,000 civil servants participated in the evaluation process.
6. The Termination of Employment subsystem handles cases where a civil servant ceases to be part of the SPC system. Presently, 468 civil servants have voluntarily tendered their resignation.
7. The Control & Evaluation subsystem designs and institutes watchdog procedures. The first stage for automation and implementation of the SPC system has already been completed.

Additionally, the Integral Model of Performance of Surveillance and Control Organs (MIDO) is a management and evaluation mechanism of Surveillance and Control Organs' performance. It aims to create a new relationship between the Ministry of Public Administration and the rest of

government, where the former constitutes a fundamental support so that institutions can successfully attain their objectives with integrity, transparency and efficiency. In March 2004, the Ministry of Public Administration implemented MIDO with the aim of reducing corruption and other risks associated with a lack of transparency in public administration.

MIDO measures the following criteria: promotion of transparency and access to public information; reduction of the risk of corruption; contribution to the achievement of goals and objectives of the institutions; results in the improvement of quality and digitalisation of public services; internal regulation improvement and the professionalisation of public servants.

5. Responsiveness to stakeholders

The Mexican government has partnered with society in order to make citizens aware of the dangers of opacity and the costs of corruption. The Ministry of Public Administration has signed 50 agreements with major academic institutions, non-governmental organisations (NGOs), and business and professional organisations to promote the adoption of integrity programs, codes of conduct and best practices, including agreements to foster research and propose new solutions.

In order to promote citizens' participation, the Mexican government has also developed several awareness campaigns shown in movie theatres, on public television and cable and radio stations. Additionally, the Ministry of Public Administration has implemented drawing and essay-writing competitions directed at children, teenagers and adults.

Several courses (virtual and in person) have been created to cater to public and private institutions, as well as their constituents, encouraging the adoption of efficient and transparent practices, and to promote ethical and law-abiding behaviour.

The government also works closely with the business community, professional organisations, the Development Bank and other institutions involved in the promotion of competitiveness of businesses, in order to develop and promote integrity tools for enterprises.

Mexico has reinforced the integrity theme with commerce chambers with which the Ministry of Public Administration has signed collaboration agreements. These include the Confederation of National Chambers of Commerce, Services and Tourism, and the Chamber of Electronic, Telecommunications and Information Industry.

A problem as serious as corruption cannot be addressed without the participation and active involvement of all actors in society. Mexico is aware that the business community should play an important role in the development of a transparent and honest culture. Hence, the government has created and disseminated brochures and literature that present some ways that businesses may adapt to help them adhere to international norms of ethical behavior and integrity.

One of Mexico's most recent programs calls upon citizens to monitor government programs, starting with the freedom of information (covering the federal statute as well as state legislation). This initiative is known as the Citizen Monitor Program.

6. Ethics, probity, culture and values

As part of the strategy to promote public awareness of the cost of corruption, the Mexican government has undertaken extensive, ongoing dissemination of various materials for audiences involved in complying with the provisions and recommendations of the international treaties to which Mexico is a signatory.

Convinced that civic education involving young people is important to achieving cultural change, the Ministry of Public Administration in partnership with the Education Ministry and the National Association of Universities and Higher Education Institutions has developed a program called “Ethics, Social Responsibility and Transparency.” This program seeks to promote an ethical culture using case studies and critical analysis of related issues. This course is available for universities and higher education institutions (see www.eticapRACTICA.gob.mx).

The Ministry of Public Administration, through the Transparency Networking Unit, encourages the adoption of integrity programs as well as the creation of codes of conduct within the Federal Public Administration, local governments, enterprises, universities and all types of organizations. For this purpose, 38,000 copies of the brochure, “Building a Program of Integrity: the Role of Codes of Conduct,” were published, more than 30,000 of which have been distributed among numerous organizations and institutions with the purpose of highlighting the importance and the benefits of producing and implementing a program of integrity through a code of conduct. The brochure is also available on the ministry’s web page.

In order to encourage the adoption of integrity programs in higher education institutions, 10,000 copies of another brochure, “Codes of Honor: the Creation of a Culture of Transparency and Responsibilities in Universities and Institutions of Higher Education” were distributed among the authorities of the institutions and the presidents of alumni societies. This document explains the new role of higher education institutions in globalisation, especially the role of universities in the promotion of integrity.

In order to include the private sector in the fight against corruption, the Ministry of Public Administration has prepared a brochure for businesses that operate in Mexico. It suggests a series of steps to implement integrity and ethics programs at the corporate level (<http://www.funcionpublica.gob.mx/publicaciones/folletos/doctos/ebn.pdf>).

C. Future Governance Challenges and Lessons Learned

The recently published Development National Plan is structured around five important principles or axes:

1. The rule of law and security;
2. A competitive and employment generating economy;
3. Equal opportunity;
4. Environmental sustainability; and
5. Effective democracy and a responsible foreign policy

The fifth axis includes as key objectives the guarantee of transparency, access to information, and the protection of personal data in all government areas. Hence, Mexico is committed to honest, efficient and transparent government. The Ministry of Public Administration is tasked to make all government offices and institutions in the federal public administration work within the framework of the law.

The government's agenda for public sector governance, as implemented by the Ministry of Public Administration, comprises seven strategic objectives, with special emphasis placed on prevention, although not to the exclusion of punishing corrupt behavior. The strategic objectives that will form the foundation of good public sector government over the next six years are:

1. A law-abiding culture including greater accountability;
2. Expanded scope, impact and preventive effect of the fiscalization of public management;
3. Professional, efficient and effective government structures;
4. More efficient transparency policies including access to public information;
5. Improved regulation, management and functioning of the federal public administration;
6. Stronger efforts to combat and deter corrupt practices; and
7. Optimal use of and advantage from federal property.

New Zealand: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the New Zealand Public Sector

New Zealand is a constitutional monarchy and democratically elects its single House of Representatives for a three-year term using the mixed member proportional representation (MMP) voting system. Since the introduction of MMP, New Zealand has tended to have minority, coalition governments, buttressed by support agreements with other political parties.

Central government comprises a number of core government departments and Offices of Parliament, as well as a range of Crown entities, state-owned enterprises and other legally distinct entities that are ultimately owned or controlled by the Crown.

Local government consists of regional and local bodies whose members are also elected every three years. Local bodies are funded largely by rates on property, and are autonomous and accountable to the communities that they serve. Local government provides services such as waste and water management, and local amenities. Services such as hospitals, police and education are provided by central government.

Size of the Public Sector in New Zealand, 2005 as a % of Nominal GDP, Full-Time Equivalent (FTE) Employees, and per 1,000 Population

Central Government	Local Government	Total Government
33.3%	3.7%	37%
38,000	40,000	78,000
9.08	9.56	18.64

Source: Government Finance Statistics, IMF, 2006; International Financial Statistics, IMF, 2007

B. Developments Supporting the Principles of Good Governance

New Zealand enjoys relatively high standards of governance based on international benchmarks, such as Transparency International, especially in the areas of ethics and transparency. There are, however, aspects of our economy and society that make us unusually vulnerable to any shifts in perceptions of the integrity of governance. New Zealand is a small open economy with a high degree of foreign direct investment and a large current account deficit. These factors make New Zealand particularly reliant on financial market perceptions of the soundness and quality of the broader business environment and of public sector governance and performance, and have influenced our high investment in implementing sound governance practices.

1. Support for the rule of law

New Zealand's legal institutions are well established and have been for some time. The governor-general, the head of state's representative, appoints members of the judiciary on the recommendation of the attorney-general who acts independently of party political considerations. Judges are appointed according to their legal skills, legal acumen, personal integrity and other personal qualities, and can only be removed under exceptional circumstances. Judges must retire at age 70.

One recent initiative to further promote the rule of law was the establishment of a trans-Tasman working group in 2003 to review Australian and New Zealand cooperation in court proceedings and regulatory enforcement. The working group made its final recommendations to the Australian and New Zealand governments in December 2006. If adopted, the working group's recommendations will improve and extend the enforcement of civil court judgments and certain criminal regulatory fines between Australia and New Zealand, so that individuals and businesses will not be able to:

- escape the consequences of civil court judgments and certain criminal regulatory fines by moving themselves or their assets across the Tasman, or
- carry out activities in or from one jurisdiction to exploit gaps in the existing enforcement arrangements.

2. *Transparency*

New Zealand's central and local government arrangements are built on the premise of transparency. Central and local governments are subject to freedom of information statutes that operate on the "principle of availability"—that is, information held by public bodies shall be freely available unless there is a particularly strong public interest reason to withhold it. Decisions to withhold information are subject to investigation and review by an independent ombudsman. Further, the government must publish three-year economic and fiscal forecasts at least twice a year as well as an annual 10-year fiscal strategy report and whole-of-government audited financial statements. Each department, Crown entity and state-owned enterprise must also provide an annual statement of its intended performance over the next three years, and an annual report for the past year that includes independently audited financial statements.

One recent development has been a requirement for the Treasury, the government's economic advisor, to use its best professional judgment to prepare a statement of the government's long-term fiscal position looking at least 40 years ahead. The statement must be produced at least every four years, and is intended to enhance understanding of the long-term fiscal consequences of policy settings and demographic changes.

Another significant recent enhancement is the Local Government Act 2002, which seeks to improve transparency, public accountability and community consultation in local government. The Local Government Act requires, for example, the development of a Long-term Council Community Plan (LTCCP) and certain decisions, including those relating to strategic assets, can only be made if they are provided for in a LTCCP. Draft LTCCPs must be audited before being released for public consultation and again after the consultation process is complete and the final plan adopted. LTCCP, and the requirement for them to be audited, is to ensure a high degree of transparency, improve the quality and accuracy of information and reduce the need for review mechanisms.

3. *Accountability, oversight and control*

New Zealand has the usual democratic accountability mechanisms (e.g. regular elections, a free press, judicial review of the government's use of statutory powers, and a need for an Act of Parliament to levy taxes, raise loans or spend public money). In addition, New Zealand's public sector governance framework has put a lot of emphasis on clarifying roles, responsibilities and relationships, and also on specifying levels of expected performance in exchange for increased managerial autonomy (though the inherent nature of some public services makes the latter an ongoing challenge).

A significant recent enhancement to accountability in the New Zealand public sector is the Crown Entities Act 2004. This Act introduced a consistent framework for the classification and governance

of a range of entities owned or controlled by the government. In particular, it clarified accountability relationships between Crown entities, their board members, their responsible ministers and the House of Representatives, and explicitly set out the fiduciary duties owed by board members, and the basis on which the government could direct a Crown entity. The changes were designed to increase governance consistency, promote better alignment between Crown entity and government objectives, and strengthen the integration of Crown entities with the rest of the state sector. Prior to the Act coming into force, governance and operational requirements for Crown entities were found in a range of Acts.

4. *Managing for performance*

New Zealand's public sector management system aims to support better decision-making and to align the expectations of ministers and public sector agencies through:

- Ministers determining the objectives and priorities that the government wishes to achieve.
- Ministers identifying the mix of goods and services they wish to see provided to most effectively achieve the government's objectives.
- Ministers agreeing expected performance in advance and holding agencies accountable for delivering goods and services.
- Departmental chief executives managing resources (inputs such as capital, personnel and equipment) used in producing the goods and services required.
- Ministers seeking parliamentary authority through appropriations for incurring expenses and using public money.
- Parliament holding ministers accountable for their performance.
- Outcome goals that provide the rationale for allocating funding.

Each department, Office of Parliament and statutory Crown entity is required to provide and publish an annual statement of intent (SOI) that describes and explains the entity's medium-term operating and performance intentions. Changes have been made over the last few years to the expected contents of SOIs to encourage a more strategic and outcome-focused approach to planning, managing and reporting. In particular, the SOI must set out:

- The key impacts, outcomes or objectives that the entity seeks to achieve or contribute to during the period.
- How the entity intends to operate in order to achieve those impacts.
- The main measures and standards (both financial and non-financial) that the entity will use to judge its future performance in these areas.

5. *Ethics, probity, culture and values*

Governance arrangements in New Zealand are strongly influenced by a history and ongoing expectation of high standards of ethical conduct in the public sector. This has been underpinned by a professional, non-partisan public service, with merit-based appointment and promotion, which is loyal to whatever government is in power at the time.

The most significant achievements over the past 10 years to strengthen ethics and probity in the New Zealand public service were through the State Sector Amendment Act 2004 and the Crown Entities Act 2004. These amendments extend the state services commissioner's mandate to provide advice and guidance on integrity and conduct to employees across the state services (apart from Crown Research Institutes and their subsidiaries), and to set minimum standards of integrity and conduct for a defined range of agencies in the state services (predominantly most Crown entities). This includes the power to issue a code of conduct that can be varied to reflect an

agency's circumstances and monitor how entities covered by the Crown Entities Act fulfill their obligations to promote integrity with any reports on this issue being made available to the public. Prior to this, the state services commissioner's ability to provide advice on management systems, structures and organisations was previously limited to the public service.

The state services commissioner recently released a new draft code of conduct for the state sector entitled *Strengthening Trust, Making a Difference* that sets out minimum standards of integrity and conduct for agencies of the state services. The draft code is based on four key principles of state sector employees being fair, impartial, responsible and trustworthy, and will be finalised in 2007 once consultation is complete.

C. Future Governance Challenges and Lessons Learned

While New Zealand is considered to have fairly advanced public sector governance arrangements there continues to be a number of challenges. Some challenges reflect fundamental tensions arising from the nature and type of services and functions that the government performs. Other challenges reflect the choice of balance between different governance components, as a change in one area to improve the system's integrity can create challenges in another, such as:

- Balancing enhancing the performance of the public sector through adopting a strategic and outcome-focused approach to planning, management and reporting while continuing to focus on delivering outputs in an effective and efficient manner.
- Balancing the benefits that clear vertical accountabilities and the freedom to manage brings with the potential risk to undermining collective government interests.
- Balancing a reliance on ethical principles rather than a more prescriptive and defined rules and codes of conduct for state sector employees.

Other challenges relating to strengthening public sector management are more technical or managerial in nature, such as:

- Being able to define and demonstrate the achievement of outcomes goals in a way that improves the allocation of funding and effort.
- Developing benchmarks of public sector performance given the challenge of government delivery monopolies and the large number of unique government organisations
- Putting in place incentive structures to ensure clarity about rewards, processes and objectives, both across the public sector and within organisations.

Peru: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of Peru Public Sector

Peru is a democratic, social, independent and sovereign republic. Its government is unitary, representative and decentralised. It is organised under the principle of separation of powers; executive, legislative and judicial branches.

The president, elected for a five-year period, is head of the executive branch. The president designates the president of the Council of Ministers and, with his advice, the rest of the cabinet. The legislative branch is a unicameral congress with 120 members. The judiciary is headed by the Supreme Court, with 18 members who elect from among themselves its president for a two-year period. There is also a seven-member Constitutional Tribunal elected by congress.

The central government is comprised of ministries and autonomous public institutions. The regional governments have inherited functions and functions transferred by the central government. The local governments include provincial and district municipalities. Local governments have political, economic and administrative autonomy in matters of their competence like the organisation of urban/rural development of their circumscriptions, urbanism, local infrastructure, activities related to education, health, culture, environment, natural resources, transport, etc.

Size of the Public Sector in Peru, 2006, as a % of Nominal GDP and Full-Time Equivalent (FTE) Employees per 1,000 Population

Indicator	Central Government	Local Government	Total Government
% of nominal GDP	14.1%	2.6%	16.7%
FTE per 1000 population	15	20	35

Source: Central Bank of Peru, Ministry of Economy and Finance of Peru, Survey of Public Employees

B. Developments Supporting the Principles of Good Governance

During the 1990s Peru carried out a severe stabilisation program, in conjunction with a series of market-oriented structural reforms, which restored macroeconomic stability and helped return Peru to the path of economic growth. Nevertheless, in order to combat poverty and socio-economic inequality, Peru needs to improve its capacity to provide public services to the population in general and the poor in particular, in an efficient and sustainable manner.

In this respect, Peru has initiated a process of government reform, with the objective of becoming an efficient, flexible, inclusive and articulated state that provides adequate services to its citizens. This reform is focused in three main areas:

- (1) The simplification of administrative procedures, which aims to improve the quality of services to citizens as well as reduce transaction costs.
- (2) The reorientation of the functioning of the state to improve “the rules of the game.”

- (3) The improvement of the structure of the state to create modern and efficient entities with clear rules on organisation and responsibilities. This includes the decentralisation and reorganisation of public entities and social programs.

1. Support for the rule of law

The Peruvian government is committed to adopt policies that guarantee the respect to the fundamental rights established by the Constitution and relevant international agreements, ensuring that proper punishment is applied to those who violate them.

For this purpose, the government is working to strengthen the rule of law and to provide universal access to justice, especially for people with scarce resources.

Additionally, Peru is continuously seeking to promote transparency in the designation of the judicial authorities, as well as to continually evaluate and train these authorities. Finally, the Peruvian government, in coordination with the civil society, is striving to eradicate corruption and to establish surveillance mechanisms to ensure the proper administration of justice.

2. Transparency

The Peruvian government aims to become a transparent state, one which provides public access to information on its activities and decision-making processes. Success in this regard will help improve the performance of public affairs, promote citizen surveillance of its administration and strengthen the National System of Control.

In this respect, in 2002 Peru enacted the Transparency and Access to Information Law. This law has the purpose of making available more state information through Transparency Portals of each public institution on the internet. Moreover, this law provides citizens free access to information through a simple application.

Regarding transparency measures related to public finances, since 2001 the Ministry of Economy and Finance has published the Fiscal Transparency Bulletin. This monthly document contains information on the evolution of public finances, and other economic indicators (with special attention to the performance of the central government). Additionally, this ministry elaborates the Multi-annual Macroeconomic Framework, which contains basic information on projections of several macroeconomic variables for a three-year period.

The Multi-Annual Macroeconomic Framework also contains recommendations on policy measures related to macroeconomic stability, institutional consolidation, transparency of public actions, as well as measures related to the promotion of private investment and rationalisation of public spending, that would be needed to meet the annual growth target. Consequently, this publication serves as a guide for economic agents in order to be able to make decisions on consumption, investments and savings in an informed manner.

In order to promote transparency and reduce transaction costs with respect to government procurement, the Peruvian government has established that all public entities at all levels of government, including public enterprises, must use the Electronic Government Procurement System (SEACE - www.seace.gob.pe). Through this system, public institutions publish the entire tendering information (including notices of intended procurement and invitations to tender), tender documentation (including technical specifications and evaluation criteria), awarding of contracts, annual procurement plans, business opportunities and statistic information. This database is

publicly accessible and provides information about prices and conditions for participation in a tendering procedure, which can be used as a reference for future contracts.

3. Accountability, oversight and control

Peru has a democratic system of accountability which includes elections, an independent judiciary, and a legislative body that supervises the use of power of the government. In addition, actions directed to the enforcement of a transparency policy will help improve accountability and oversight systems.

Peru is beginning to develop and implement a system that allows the central government to supervise the performance of public institutions in conjunction with public spending, called “budget for performance.” Under this system, increases in the allocation of economic resources to a specific sector or institution will be conditional on a prior evaluation of the accomplishment of its objectives, measured in terms of performance indicators. This will promote accountability in the public sector and will help establish a system of performance incentives.

4. Managing for performance

The Peruvian government is beginning to implement a system of results-oriented management in the whole public administration. The system will improve the quality of public spending by developing a surveillance system for public spending that provides timely and adequate information for decision making on allocation of resources. This will strengthen accountability, provide performance incentives and prevent inefficient utilisation of public resources.

In this regard, the Peruvian government has begun developing new initiatives such as the previously mentioned “budget for performance” system, as well as strategic budget programming, and decentralisation of the National System for Public Investment.

As part of the decentralisation process, the powers and attributions of each public institution should be well defined, avoiding the duplicity of functions. However, in the last 20 years, the number of Decentralised Public Bodies (OPDs) has been rising. Because of this, Peru plans to rationalise its OPDs, thereby more precisely defining the functions of each, increasing their efficiency, eliminating duplications and lowering administrative costs.

5. Responsiveness to stakeholders

The main objective of the Peruvian economic policy is the achievement of sustainable economic growth in conjunction with social inclusion. This implies the extension of the benefits of economic growth to the least favored social sectors.

Therefore, in addition to the goal of attaining macroeconomic stability, the Peruvian government should meet specific social targets that will reduce poverty and improve human capital.

One way to attend to the social requirements of all citizens is through decentralization. This process provides for the progressive transfer of resources and responsibilities from the central government to regional and local ones; and will help increase the participation of the citizens and reduce inequalities outside the capital.

Moreover, the Peruvian government has implemented the “Participative Budget.” This is both a policy and management instrument. It allows regional and local authorities and civil organisations

to jointly define how and where to allocate resources. For this, they have to take into account the goals set out in their respective Strategic Development Plan or Institutional Plan.

This process seeks to strengthen governance through the enhanced participation of the public in the management process, the fulfillment of citizens' tax obligations, respect for the local legal framework; and a coordinated approach that incorporates the public's opinions and proposals in the decision making of public policies oriented to build democratic institutions and a co-responsible and proactive citizenship.

Finally, Peru has enacted a National System of Public Investment (SNIP). The system should enhance the proper and efficient prioritisation of investment projects in consideration of their social return, and also reflect the commitments assumed by the government and civil society.

6. Ethics, probity, culture and values

In accordance to the Peruvian Constitution, public functionaries are to serve the economy. In this sense, the Peruvian public sector began a modernisation process, which aims to attain higher levels of efficiency in order to give a better service to citizens while optimising public resources.

As part of this process, in 2002 Peru enacted the Code of Ethics for the Public Function, which clearly states the ethics, principles, duties and prohibitions of civil servants.

Thus, all civil servants should act according to the principles of respect, probity, efficiency, justice and equality. Additionally, in the performance of their functions, civil servants should act with impartiality, transparency, discretion and responsibility.

The senior management of each public institution is responsible for carrying out measures that promote the culture of probity, transparency, justice and service to the public. This is achieved through the implementation of appropriate incentive schemes to guide the performance of civil servants.

7. Administrative simplification

The Peruvian state is engaged in the task of simplifying procedures in order to benefit citizens and enterprises by reducing transaction costs, and to create a business climate that promotes investment and the creation of small and medium enterprises. In this process, the Peruvian government is promoting the use of technology by implementing the e-government.

Up to now, there have been some advances in the simplification of municipal procedures, and in matters regarding procedures to obtain licenses for starting a business. This will help to reduce bureaucratic barriers that the state imposes on business and therefore, will contribute to increase formalization of enterprises. There has also been some progress in the implementation of Single Window Systems⁸⁰ and the establishment of citizen attention modules.

⁸⁰ The Single Window System was enacted through Supreme Decree No. 165-2006-PCM.

The Philippines: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the Philippine Public Sector

The Philippine government is composed of three branches: executive, legislative and judicial. The country observes a presidential-unitary form of government where the president functions as head of state, head of government and commander-in-chief of the armed forces. The president and vice president are elected to a six-year term through a direct vote of the people and may only be removed by impeachment. Local government powers are vested in officials elected directly by their specific geographic constituency to a three-year term. Local government officials may only serve three consecutive terms. Local government units (LGUs) enjoy local autonomy, with the president exercising general supervision over them.

The legislature or the Philippine Congress is composed of a Senate and a House of Representatives. The Senate serves as the upper house and its members are elected nationally to a six-year term. A senator may only be elected to two consecutive terms. The House of Representatives serves as the lower house whose members are elected from legislative districts or through sectoral representation to a three-year term. A representative may only serve three consecutive terms. Aside from its power to legislate laws and statutes, the legislature has the power of taxation (what to tax, how to tax and how much tax). It also has the power to impeach government officials, as determined in law. The legislature may declare the existence of a state of war. Any treaty or international agreement entered into by the president on behalf of the government is only valid and effective upon concurrence of the senate.

Judicial power is vested in the Supreme Court and in lower courts established by the law. All members of the judiciary are appointed by the president from at least three nominees proposed by the Judicial and Bar Council (JBC) and will serve until they reach 70 years of age. The Constitution requires that only those of proven competence, integrity, probity and independence be appointed as members of the judiciary. The Supreme Court exercises administrative supervision over all courts and its personnel. It also promulgates rules on pleading, practice and procedure in all courts and admission to the practice of law.

Size of the Public Sector in the Philippines, 2004, as a % of Nominal GDP and Full-Time Equivalent (FTE) Employees per 1,000 Population

Central Government	Local Government	Total Government
15.4%	3.0%	18.4%
13.2*	4.4	17.6

Source: Civil Service Commission, Department of Budget and Management

*Includes workers employed by national government agencies and government owned or government-controlled corporations.

B. Developments Supporting the Principles of Good Governance

There has always been policy support for good governance in the Philippines as embodied in various constitutional provisions, statutes, executive orders (EOs), and administrative rules and regulations. There are specific sections of the Medium-Term Philippine Development Plan (MTPDP), the latest version of which is for the period 2004–10, devoted to good governance. However, the prevalent organisational structures and mechanisms, administrative systems and

processes, and general institutional arrangements have revealed governance weaknesses, as manifested by the ineffective implementation of laws, inefficient delivery of public services and persistence of graft and corruption. These weaknesses have led the government to initiate and implement reforms for good governance rooted under the principles of accountability, efficiency and transparency.

1. Support for the rule of law

The judiciary has implemented reforms to restore its judicial competence and integrity, improve the administration of justice and expand the delivery of judicial services. To improve and ensure judicial competence, the Philippine Judicial Academy (PJA) was established under Republic Act (RA) No. 8557 to serve as a training school for justices, judges, court personnel, lawyers and aspirants to judicial posts. Fulfillment of the prescribed courses from PJA is required by the JBC for applicants to vacancies in judicial posts. To maintain ethics in the profession and enhance standards in the practice of law, the Supreme Court has issued a resolution to require members of the Integrated Bar of the Philippines to pursue continuing legal education.

To simplify and systemise court proceedings, the Supreme Court promulgated the 1997 Rules of Civil Procedure, which covered the rules governing the issuance of temporary restraining orders and preliminary injunctions, and specific guidelines in the archiving of cases. In response to the increasing complexity of certain legal issues and the need for specialisation, special courts were designated by the Supreme Court to handle violations of intellectual property rights, commercial and corporate laws, and environmental and forestry laws. Another development is the passage of RA 9282 where the Court of Tax Appeals was elevated to an appellate court and its jurisdiction was expanded over criminal, revenue collection and real estate cases.

2. Transparency

Philippine policies have always provided for transparency in governance. The Constitution recognises the right of the people to information on matters of public concern, subject to limitations provided by law. A law, rule or regulation may only take effect after complete publication in the Official Gazette, or in certain cases in two newspapers of general circulation. This rule on publication also applies to presidential decrees and EOs promulgated by the president in the exercise of legislative powers delegated by the legislature or directly conferred by the Constitution, e.g., modifications on rates of import duties. Under the implementing rules and regulations of RA 6713 (the Code of Conduct and Ethical Standards of Public Officials and Employees), government offices and agencies are mandated to establish and utilise information systems that will inform the public of its: (a) policies, rules and procedures; (b) work programs, projects and performance targets; (c) performance reports; and (d) all other documents as may be classified as public information.

A significant development in the realm of transparency was the signing of the Government Procurement Reform Act in 2003, which redefined the procedures in public procurement of goods, supplies, materials, services and infrastructure contracts. This law consolidated and rationalised various laws on procurement, as well as repealed its outdated provisions. It required the use of the Government Electronic Procurement System (G-EPS), which enabled the government agencies and the suppliers to conduct business online, making procurement transactions efficient and transparent. To ensure the widest possible dissemination, invitations to apply for eligibility and bids are required to be posted in the client-agency's website and to the G-EPS. As of 31 December 2006, 84.0% of national government agencies; 92.3% of state colleges and universities; 51.1% of government-owned and controlled corporations (GOCC); and 5.5% of local government units participated in the G-EPS.

3. Accountability, oversight and control

In line with the principle that public office is a public trust, several Philippine laws have provided for the accountability of the government, specifically of its officers and employees. Each year, government officials and state employees are obliged to submit a declaration under oath of his or her assets, liabilities, net worth, disclosure of business interests and financial connections. To expand the enforcement of current anti-graft and anti-corruption laws, the conduct of Lifestyle Checks was institutionalised, leading to the legal sanctions of government officials and employees with unexplained wealth. In 2005, 14 high-ranking officials were suspended, seven were dismissed and forfeiture cases against three were filed.

Further, initiatives by the executive branch of government have created institutions to strengthen the fight against graft and corruption within its ranks. An example is the issuance of EO 12 in 2001, which established the Presidential Anti-Graft Commission and tasked the same to investigate and hear administrative cases and complaints against officials and employees under the executive branch. Also, the Revenue Integrity Protection Service was instituted under EO 259, issued in 2003, to detect, investigate and prevent corruption in the revenue-generating agencies under the Department of Finance. Recognising the crucial role of informers and witnesses in the campaign against corruption, there are now bills pending in both houses of Congress that would provide a legal framework to protect and reward whistleblowers and enhance RA 6981 (the Witness Protection, Security and Benefit Act).

The Commission on Audit reports annually on the financial condition and operation of government entities and their subsidiaries. A recent development to strengthen financial accountability was the implementation of the New Government Accounting System in 2002 to address the undue complexity of the old system, which inhibited full compliance with reporting requirements and reflected inaccurately the full cost of agency operations. Through Administrative Order 70, all government agencies, LGUs, GOCCs and financial institutions were directed to establish an internal audit system to ensure effective discharge of responsibilities and curtail illegal activities.

4. Managing for performance

In 2000, the Philippine government began introducing the Public Expenditure Management Improvement Program (PEMIP), a multi-year reform program that seeks to orient government resources and operations toward desired socioeconomic outcomes. The PEMIP contains the following components:

- Medium-Term Expenditure Framework (MTEF) – a three-year forecast of government agencies' baseline and proposed new projects linked to the annual budget exercise. Under the MTEF, society's priorities are embodied in the Medium-Term Philippine Development Plan (MTPDP) and the projects that would enable the fulfillment of MTPDP targets are contained in the Medium-Term Public Investment Program. Explicit fiscal targets are also incorporated through the Medium-Term Fiscal Plan (MTFP). The MTEF seeks to provide a more predictable resource environment for program planning and implementation by generating awareness of the cumulative expenditure commitments arising from past years' decisions and ensuring that new expenditures approved for a budget year could be funded over the medium-term.
- Organisational Performance Indicator Framework (OPIF) – a framework that measures agency performance in terms of their delivery of programs, activities and projects (PAPs) contributing toward the achievement of the MTPDP targets. An OPIF-based budget and performance management system is currently being rolled out to government agencies. The

OPIF seeks to focus government efforts on delivering long-term development benefits instead of immediate outputs, and implement a clear reporting mechanism for better public accountability.

- Efficiency and Effectiveness Review (EER) – a system of establishing and updating strategic priorities over the medium-term through the periodic assessment of ongoing PAPs and identification of new ones. The EER enhances the link between the planning and budgeting processes by generating PAP-level information to serve as input in the budgeting activities of Congress and the Department of Budget and Management (DBM).

In addition to the PEMIP, the government enacted RA 9335 (the Attrition Act of 2005) creating a Rewards and Incentives Fund and a Revenue Performance Evaluation Board in the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC) to encourage employees of these agencies to exceed their revenue collection targets.

5. Responsiveness to stakeholders

One of the ways through which the Philippine government sought to become more responsive to its stakeholders was through the devolution of the delivery of basic services and exercise of certain regulatory powers to LGUs under RA 7160 (the Local Government Code of 1991). In addition to making government services at the community level more responsive and sustainable, the law also makes local governance more participative by providing for private sector and civil society membership in the Local Development Councils tasked to direct socio-economic development and coordinate development efforts in their respective areas, as well as cooperation between the private sector and LGUs in improving the quality of life in the community. National government agencies have likewise entered into partnerships with the private sector and civil society to monitor air quality, create sustained awareness of health and environmental hazards and promote solid waste management, among others. Community participation has been included as one of the pillars in promoting peace and order. Law enforcement agencies implement school- and community-based crime prevention and citizen assistance programs in cooperation with partner civil society organisations, who receive training on matters such as values formation, drug abuse prevention and control, intelligence gathering and reporting, and through Barangay Anti-Drug and Peace and Order Committees that have been established in almost all barangays nationwide. These participative efforts have enabled stakeholders to identify their specific needs under a certain policy area and the resulting program or project is tailored to address those needs.

In addition to engaging in partnerships with the private sector and civil society, national government agencies have sought to increase responsiveness to stakeholders by establishing a greater presence at the regional and community levels. Aside from serving the public through their regional offices, other initiatives have been launched in order to reach out to more people. One such initiative is “Justice on Wheels,” a project launched by the Supreme Court in 2004 to extend first-level court services to towns and villages through the use of mobile courts. As of 2006, the mobile courts had heard 369 cases.

The Philippine government has also sought to increase responsiveness to stakeholders through privatisation. Management by the private sector helps ensure that the services provided are efficient and reasonably priced, as well as attuned to the needs of the public. Over the period 1996-2006, a total of P30.97 billion in privatisation proceeds were remitted to the Bureau of Treasury. The government far exceeded its annual target of P500 million in privatisation proceeds in 2005 and 2006, realising P2.40 billion and P5.80 billion, respectively, during those years. Due to favorable market conditions, the government has already been able to meet its 2007 target of P25

billion through the sales of shares in the Philippine Telecommunications Investment Corporation in March 2007.

Finally, the Philippine government has tapped information and communications technology (ICT) to enable greater contact with the public. Agencies with important frontline services like the Department of Foreign Affairs and Philippine National Police have made use of call centers to enhance their telephone services. Short message service (SMS) lines and online complaint desks have been established to allow the public to contact government agencies through SMS and the internet. Other agencies have also sought to make their websites into single portals that would service the varied needs of their constituents. One such portal is www.business.gov.ph set up by the Department of Trade and Industry, which provides all pertinent information to traders, investors, consumers and small and medium enterprises about doing business in the Philippines.

6. Ethics, probity, culture and values

Long mindful of the debilitating effects of graft and corruption on national growth and development, the Philippine government has enacted many laws to safeguard public trust and ensure responsibility, integrity, competence and loyalty in public service. One such law is RA 3019, the Anti-Graft and Corrupt Practices Act, which was enacted in 1960 and is still in effect today. This law defines activities prohibited to public officials and employees, their relatives and close friends and members of Congress, and sets the penalties corresponding to these activities. Public officials and employees are also subject to the provisions of RA 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees prescribing the standards of personal conduct in the discharge of official duties, acts and transactions prohibited to public officials and employees, and requirements relating to statements and disclosure, among others. As the agency responsible for the building and maintenance of a competent, professional and truly responsive government workforce, the Civil Service Commission (CSC) seeks to recruit Filipinos with appropriate values, as well as competence for civil service. The CSC is currently working to integrate competency-based examinations that measure integrity, service/value orientation and work standards into its examination system.

In addition to continuously monitoring the quality of its workforce, the Philippine government has implemented many mechanisms to actively fight graft and corruption in the public sector. *Punitive measures* against corruption include the reform of government procurement and conduct of lifestyle checks in cooperation with civil society. In 2003, a formal partnership between government and civil society was born in the form of the “Lifestyle Check Coalition” that would investigate the morality and lifestyle of government officials. Furthermore, anti-graft units have been established in government agencies and the capacity in the Office of the Ombudsman (OMB) increased to sanction corrupt practices. The Solana Covenant, signed in 2004 by the COA, OMB and CSC, lists concrete initiatives to be undertaken by these agencies within the next five years, including the strict implementation of the rules regarding the liquidation of cash advances and establishment of an Inter-Agency Liaison Network for corruption cases. The three agencies signified their commitment to new and continuing anti-corruption efforts under the Solana Covenant II, which was signed in 2005. The Philippine government also sought to align its anti-corruption policies with internationally accepted ones through the 2005 ratification of the UN Convention Against Corruption, a comprehensive set of standards and rules to strengthen international efforts in fighting corruption. The Senate concurred with this ratification in 2006.

As of the end of 2005, a total of 2,475 criminal cases for prosecution were filed or were pending with the Sandiganbayan, the Philippine anti-graft court. Of this total, 141 went to trial, resulting in 47 convictions; 123 were either dismissed without trial, withdrawn or archived, 2,211 criminal cases remained pending at the end of the year.

Preventive measures against corruption include the development of a National Integrity Development Action Plan for the executive branch of government, which prescribes 22 anti-corruption measures for prevention, education, investigation and strategic partnership, and the conduct of Integrity Development Reviews, which would identify corruption-prone areas and formulate corresponding preventive measures. Furthermore, all government agencies and GOCCs have been urged to install a resident ombudsman in their respective offices. A resident ombudsman is mandated to review existing procedures and systems in a certain government office and recommend improvements to the same in order to prevent the incidence of graft and corruption, as well as report and assist the OMB in the investigation of any anomalies, irregular acts, unethical conduct or illegal activities committed by the officials and employees of that office.

Finally, the government is seeking to develop a culture of *zero tolerance for corruption*. Initiatives under this area include seminars on public service ethics and accountability and values orientation workshops for public officials and employees pursuant to RA 6713. The government is also seeking to promote zero tolerance by advocating anti-corruption on television and over the radio and educating the private sector, especially the youth, and civil society on their roles in safeguarding against corruption.

C. Future Governance Challenges and Lessons Learned

There have been many welcome developments in the realm of governance in the Philippines, but many outstanding issues remain. Addressing these issues could provide opportunities for technical assistance or cooperation with other countries.

1. Support for the rule of law

Over the last several years, the government has sought to restore public trust in the judicial system by implementing reforms to enhance the system. Concrete steps have been taken toward this end, but additional efforts are required to further improve the efficiency and effectiveness of operations, promote continuing human resource development, strengthen integrity infrastructure, and improve access to quality, speedy, impartial and affordable judicial services particularly by the poor and marginalised. This entails pursuing new projects and following through on existing ones on case management and adjudication, legal research facilities, infrastructure development, coordination among the five pillars of justice and alternative dispute resolution mechanisms, and others.

Judicial independence should also be enhanced in order to achieve the efficient and effective administration of justice. The judiciary remains vulnerable to vested interests from the executive and legislative branches of government, as the president has the power to appoint justices and judges from the lowest court to the highest tribunal, and the judiciary's available financial resources are determined by the DBM and are subject to congressional approval. In order to address the latter, at least, the judiciary must pursue activities to realise the fiscal autonomy to which it is entitled under the Constitution.

There is also the issue of the judiciary involving itself in economic matters. Not only do these interventions hamper the implementation of key economic reforms, they create an unstable policy environment that discourages investments in the country. In addition to reforming the Constitution to make Philippine policies more investor-friendly, there is the need for the judiciary to develop a clearer understanding of its role in improving the economy for the sake of the citizenry.

2. Transparency

Significant strides have been made to enhance public access to government information, particularly on government procurement. However, some institutional arrangements, systems and processes still limit the access to timely, complete and clear information on government programs and policies. In addition, lack of knowledge and understanding on procedures contribute to the public's inability to access such information.

Proactive efforts to provide public information by government agencies must be intended to enable the people a more meaningful participation in government activities and processes. Further, the information systems utilised by the government agencies must consider the people's current concern in its programs and policies and anticipate its growing public interest.

3. Accountability, oversight and control

Domestic and international concerns about governance in the Philippines have led the government to implement a wide range of measures to fight unethical/unlawful conduct and enhance public accountability. However, the reporting and prosecution of offenders remain weak due to agency inefficiencies stemming from meager resources, incompetence, and troublesome rules and procedures.

Further, despite the introduction of ICT into government processes, a new form of computer-based corruption might emerge. The ICT employed to help fight graft and corruption in government must be secure to avoid circumvention or abuse of the new system.

4. Managing for performance

The introduction of the PEMIP is a welcome development toward ensuring that public resources are devoted to activities that would address socioeconomic concerns prioritised by the government. However, the implementation of the PEMIP could be improved if certain adjustments were made.

The PEMIP would be greatly enhanced if government agencies improved their data collection and reporting mechanisms. This would result in a more detailed and accurate EER, which would in turn provide better inputs to the subsequent planning and budgeting exercises.

In addition, the technical design of the PEMIP could be streamlined or otherwise improved to make it easier to understand and implement. This could be done alongside the further training and education of the relevant parties in the use of the PEMIP. The DBM and the National Economic and Development Authority, in particular, need to improve their technical skills in relation to their function as the coordinating agencies of the PEMIP. These agencies would benefit from improving their political skills as well, in order to build acceptance and support of the PEMIP at the legislative level.

5. Responsiveness to stakeholders

The innovation and development of good and best practices arising from the implementation of the Local Government Code has made the Philippines into a model for decentralisation. However, despite these positive experiences, certain things must be done in order to effectively implement the devolution of powers. LGUs' financial capabilities must be enhanced, e.g., through amendment of the Local Government Code or exploration of alternative financing options, so that they can better afford to cover the costs of devolution. LGUs and national government agencies alike would

benefit from capacity building so that they can fulfill their respective roles in the decentralisation exercise and effectively engage in partnerships with each other and with civil society organisations.

Active civil society participation in governance must also be encouraged. In addition to supporting existing efforts to bring about governance reforms or improve the quality of life at the community level, successful methods could be replicated when similar situations arise, and new areas for collaboration identified.

Further, although ICT has enabled the Philippine government to have greater contact with the public, there is still much to be done before government information and services are fully accessible, particularly through the internet. Some government agencies still do not have websites, while the frontline features of some are unreliable or still under construction. The development of the e-government and LGU information portals, which would serve as single gateways to all national and local government information, respectively, must also be pursued.

Efforts must be exerted to enable the public to access government services. In addition to the ongoing establishment of Community e-Centers in Philippines, all other means of bringing ICT capability to the communities should be explored.

6. *Ethics, probity, culture and values*

Despite the large number of anti-graft and corruption laws and mechanisms currently in place in the Philippines, the government needs to address a number of outstanding issues in order to strengthen its fight against graft and corruption. The government needs to address the weakness in the implementation and enforcement of these mechanisms and laws. Better coordination and cooperation among government agencies, especially those mandated specifically to fight graft and corruption, would pave the way for a concerted effort against these ills. Further enhancing the human and financial resources of the OMB would strengthen its capability to deal with graft and corruption cases and effectively prosecute major offenders.

There is also a need to promote measures to prevent graft and corruption, which are more cost effective than the punitive measures. Many prevention programs have yet to progress past the conceptualisation stage. Technical assistance or partnership with civil society may be useful in concretising these as well as improving the content, delivery and regularity of the measures that are already being implemented.

Finally, the most effective programs should be institutionalised and sustained so that the gains arising from these would endure beyond political terms of office. This way, a track record of success could be established, raising the public's trust in the government and confidence in its own capability to fight graft and corruption.

The Russian Federation: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the Russia Public Sector

The Russian Federation has made significant progress over the past 17 years, implementing market reforms and a sound legal framework. Russia's ongoing economic success has been a result of consistent and sound economic strategies, focused on modernising the economy's financial system, mitigating economic risks, improving the investment climate and developing a market infrastructure. A number of important reforms have been implemented in the areas of tax, banking, labour and land codes. The decision to accelerate the elimination of the economy's remaining foreign exchange controls in mid-2006 helped to strengthen business confidence and facilitate investment flows. The economy authorities have maintained macroeconomic and fiscal discipline while the monetary authorities constrained inflation and managed exchange-rate appreciation.

In 2006, the economy's competition legislation was revamped under Federal Law No. 135-FZ, "On Protection of Competition." The new law delineates the legal basis for protection of competition in financial markets as well commodities markets. The authorities have also amended the Code of Administrative Offenses in order to strengthen the sanctions imposed for violations of anti-monopoly legislation and to make enforcement of competition law more effective.⁸¹

Russia is a federal republic as established by the 1993 Federal Constitution. Administratively, the Russian Federation consists of 86 federal regions including 21 republic, seven *krais* (federal territories), two federal cities, 49 *oblasts* (regions), including one autonomous *oblast*, and seven autonomous *okrugs* (areas). In order to centralise internal and external state policy, all federal regions are united into seven *federal districts*. As subjects of a federal state, each unit possesses its own foundation laws, political institutions and local legislation. Approximately one half of the units have signed bilateral treaties that regulate the relationship between federal and municipal governments.

The state has three branches: legislative, executive and judicial.

The president is elected on the basis of universal suffrage. He nominates members of the government. Constitutionally, the president is elected for a four-year term (limited to two terms) and is vested with extensive powers; serving as the head of state, the commander-in-chief and the highest executive authority. The president is primarily responsible for domestic and foreign policy and represents Russia in international relations. The president also heads the armed forces and the security council.⁸² The president has extensive veto powers over legislation introduced by parliament, as well as an enhanced ability to generate legislation through executive channels. Furthermore, since 2004 the president has had the authority to directly appoint Russia's 86 regional leaders, subject to regional legislative confirmation. Russia's next presidential election is scheduled for 2008.

⁸¹These involve a very substantial increase in the hitherto very low fines that can be levied on firms for violations. The amendments will also introduce "whistleblower" provisions, allowing leniency or even full immunity for those who expose violations, and sanctions against individuals responsible for violations, including civil servants, board directors and company executives.

⁸²There is also a presidential administration that provides staff and policy support to the president, drafts presidential decrees and coordinates policy among government agencies.

The prime minister oversees the activities of the government and serves as acting president if the president is incapacitated.

Size of the Public Sector in Russia, 2005, as a % of nominal GDP and Full-Time Equivalent (FTE) Employees per 1,000 Population

Central Government	Local and Municipal Government	Total Government
n/a		16.7%
2.82	3.13	5.95 (1.2% [*])
Women		
3.73	4.27	8.00 (72.1% ^{**})
Men		
1.78	1.81	3.59 (27.9% ^{**})

Source: Russia's Federal Statistics Service (Rosstat of Russia), 2006

^{*} % of total economically active population of Russia

^{**} % of total government

Legislative power is represented by the bicameral Federal Assembly (or *Federalnoye Sobraniye*) consisting of the Federation Council (or *Sovet Federatsii*, upper house) and the State Duma (or *Gosudarstvennaya Duma*, the lower house). Since 2002, the Federation Council has been comprised of two representatives from each federal subject, one from the executive (appointed by the regional governor), and one from the legislature (nominated by the speaker of the regional assembly). In December 2004, 225 single mandate seats in the State Duma (out of a total of 500) were abolished, confirming that in the next election (March 2008) all seats will be decided by proportional representation through national party lists. In addition, new rules were introduced governing national political parties, increasing both the minimum number of party members required for registration and the threshold by which to secure Duma seats (7% of the national vote). Both chambers are involved, *inter alia*, in the adoption of the federal laws on federal budget, federal taxes and dues, financial, currency, credit, customs regulation and monetary issues, ratification and denunciation of international treaties and agreements of the Russian Federation.

B. Developments Supporting the Principles of Good Governance

Corporate governance in Russia has progressed greatly, and the Russian economy is fully integrated with the global economy. Roughly three-quarters of the Russian economy has been privatised, although many privatised enterprises continue to have significant state ownership. Privatisation of some of the remaining state holdings is scheduled to continue as part of overall government policy, at the local, regional and federal levels.

Since 2004, the Russian government has undertaken a number of initiatives aimed at defining a more active direct role for the state in the economic life of the economy and for creating new mechanisms of interaction between business and the state. At the same time a de-bureaucratisation program is to reduce state intervention in economic activity by shifting the role of government away from direct control over assets and markets and toward greater reliance on law and regulation. Three major initiatives stand out:

- the "priority national projects" in healthcare, education, housing and agriculture;
- the creation of the Investment Fund, and
- the implementation of the 2005 Law "On Special Economic Zones."

The priority national projects were outlined in 2005 and scheduled for implementation during 2006–07. These projects provide substantial new resources to address chronic weaknesses in parts of the public sector that have long suffered from under-funding and neglect by policy-makers. Four priority national projects in health, education, housing and agriculture have become the primary focus of economic policy in Russia as they directly target living standards.

About US\$14 billion have been allocated from the federal budget to finance about 70 *Federal Target Programs*. These programs are key government policies aimed at tackling important social and economic issues in a coherent and systemic manner.

The second major government initiative is the creation of an Investment Fund within the federal budget. The aim of the fund is to finance infrastructure investment and innovation-related projects in joint public-private partnerships (PPPs). The investment involved is relatively small, around 0.3% of GDP in 2007, yet the framework created for the Investment Fund aims to facilitate large-scale public investment projects that take place in a transparent and efficient manner. Another US\$4 billion are allocated for the Federal Investment Program, which will support construction projects and projects for federal and government needs. Projects financed by the fund and in the frame of federal investment programs are to be selected via a multi-stage transparent process, and must involve some private investment. Adoption of the Law “On Concession Agreements” in 2005 has also provided new legal structures for the organisation of PPPs.⁸³

The third initiative, the creation of special economic zones (SEZs), is a key element of the government’s strategy to foster economic diversification and innovation. The structure of these SEZs is built on public-private partnerships: the government creates organisational structures leaving business to take advantage of the unique opportunities offered by SEZs.

1. Support for the rule of law

Most Russian laws and regulations in the area of corporate governance have been substantially improved during the last few years. Russia’s legislation system is based upon statutory laws (the continental system) in contrast to common law (the Anglo-Saxon system). A substantial part of Russian legislation regulating relations connected with business activities is codified, i.e., consists of codes of laws (civil code, tax code, arbitral code, etc.).

Other legislations include laws, presidential decrees and governmental resolutions. Thus, Russian legislation is structured by subject of regulation (civil, administrative, taxation, etc.), juridical power (the Constitution, constitutive laws, federal laws, presidential decrees, governmental resolutions and departmental legislative acts) and is divided into federal legislation and regional legislation.

The federal legal system consists of the Constitution; federal constitutional laws; federal laws; decrees and resolutions of the president of the Russian Federation; resolutions and orders of the government of the Russian Federation; and acts of federal executive authorities. Acts of federal executive authorities (i.e., acts whose binding effect extend to all of the territory of the Russian Federation) include resolutions, orders, rules, instructions, regulations and decisions.

At the top of the Russian judicial system are three high courts: the Constitutional Court, the Supreme Court and the Supreme Arbitration (Commercial) Court (or Supreme Arbitrazh Court). The Constitutional Court reviews all constitutional disputes. The Supreme Court reviews civil, criminal, and administrative disputes, while the Supreme Arbitrazh Court reviews commercial

⁸³This mechanism will allow Russia to attract resources into the spheres where privatization is impossible—such as the infrastructure projects or basic services to households, healthcare, education, etc.

disputes. Judges for all courts are appointed by the Federation Council on the president's recommendations.

Since early 2005, the authorities have been working to reassure business and attract the return of flight capital, both by addressing the specific problems highlighted by the events of 2004—particularly the scope for arbitrary action by tax officials—and also by seeking to improve the investment environment in other ways. Thus, the government has prepared legislation to facilitate the legalisation of previously unreported income. The statute of limitations applied to privatisation deals has been lowered from 10 years to three, and the government is working on measures to reduce the scope for arbitrary or abusive action by the tax authorities.

Judicial power is exclusively exercised by courts manned by judges, juries and arbitrators duly appointed under constitutional, civil, administrative and criminal court proceedings. Justice is equal for all. Courts do not favor any agency, person or other complainant based on nationality, sex, race, language, political convictions or any other grounds unless established by federal laws. Failure to comply with a court judgment, or any other act of contempt of court, deems a breach of federal law.

2. Transparency

Russia's central and local government arrangements are built on the premise of transparency. Beginning in 2007 the government will publish three-year economic and fiscal forecasts. Each governmental body (federal ministries, services and agencies), and state-owned enterprises must also provide an annual statement of its intended performance over the next year, and an annual report for the past year. The Ministry of Economic Development and Trade (the Mineconomdevelopment of Russia) publishes and discloses (including on <http://www.economy.gov.ru>) monthly reports on the socio-economic development of Russia.

One recent development has been a requirement for Mineconomdevelopment of Russia together with the Ministry of Finance and other state bodies, to prepare a statement of the government's long-term economic strategy looking at least 20 years ahead. The statement is intended to enhance understanding of the long-term consequences of policy settings and demographic change.

In accordance with Article 5.3 of Russia's Constitution, laws and other regulatory acts are subject to official publication. This provision was developed in Federal Law No. 5-FZ of 1994 "On the Procedures for Publishing and Entering into Force of Federal Constitutional Laws, Federal Laws and Acts passed by the Chambers of the Federal Assembly;" and Presidential Decree No. 763 of 1996 "On the Procedures for Publication and Entering into Force of the Acts of the President of the Russian Federation, the Government of the Russian Federation and the Normative Legal Acts of the Federal Executive Bodies." According to Federal Law No. 5-FZ, the date of publication of a federal constitutional law, federal law or act passed by the Chambers of the Federal Assembly should be the date of the first publication of their full text. Federal constitutional laws, federal laws and acts of the Chambers are also published in other press sources and brought to public attention, disseminated to state authorities, officials, enterprises, establishments and organisations and transmitted via communication channels. Draft legislation is made available on various governmental and parliamentary websites.

In accordance with Presidential Decree No. 763, acts of the president of the Russian Federation and of the government are subject to official publication in the *Rossiyskaya Gazeta* and in the digest *Sobraniye Zakonodatelstva Rossijskoj Federatsii* within 10 days of their signing. Distribution

of the acts of the president and the government in a machine-readable form by the scientific and technical center of legal information *Systema* is also deemed to constitute an official publication.

Moreover, in accordance with paragraph eight of Presidential Decree No. 763, regulatory legal acts of federal executive bodies related to human rights, freedom and duties or establishing the legal status of organisations or acts of inter-departmental nature are subject to official publication.

The Russian government intends to continue and expand the practice of disseminating government decrees, orders and other information (also in English), on the presidential internet site (<http://www.kremlin.ru>). Indeed, the acts of the government are subject to official publication before they come into effect. Regulatory legal acts of all federal bodies are subject to state registration with the Ministry of Justice and become enforceable only after they have been registered and officially published.

The present Law on Procurement for State Needs demands that tender information and conditions of procurement to be published on official government websites. According to the law, regional and municipal executive bodies have to create their own e-procurement websites. The use of the internet is designed to increase transparency across the country. Its use can also help combat corruption by raising transparency in competitive bidding

Federal Act No. 149-FZ of July 2006, "On Information, Information Technologies and Protection of Information" has been adopted. The draft of Federal Law "Providing of Access to Information on Activity of State Executive Bodies and Local Executive Bodies" is under review by the Duma.

The Federal Commission for the Securities Market (FCSM) has started using new technologies to enhance the fairness and efficiency of the disclosure process, including the submission and access of financial and non-financial information by electronic means. The charters of publicly traded companies are in the process of being made available on the FCSM server. The development by the National Association of Professional Participants of the Securities Market (NAUFOR) of an information disclosure tool, "SKRIN Issuer," is another example of the potential for using electronic methods for disclosure.

3. Accountability, oversight and control

Russia employs the usual mechanisms of democratic accountability (e.g., regular elections, a free press, judicial review of the government's use of statutory powers, raise loans or spend public money by the state bodies). In addition, Russia's public sector governance framework has put a lot of emphasis on clarifying roles, responsibilities and relationships, and also on specifying levels of expected performance in exchange for increased managerial autonomy. This includes monitoring issuers of corporate securities, stock exchanges, brokers/dealers, registrars, depositories and self-regulatory organisations, etc.

The quality of information is only as good as the standards under which it is compiled and disclosed. The 1998 Russian Accounting Reform Program envisaged an evolving Russian Accounting Standards (RAS) system, which would gradually move closer to International Financial Reporting Standards (IFRS). Russia's Ministry of Finance has already adopted and implemented a 10-year plan for transition to IFRS.

The "Law on Protection of Legal Persons and Individual Entrepreneurs in the Process of Exercising State Control (Supervision)" was enacted in 2001, with the purpose of reducing the number of inspections to which businesses are subjected. It defines procedures for government inspections and assigns responsibility to government agencies carrying out the inspections. The law stipulates

the procedures for unplanned inspections but does not limit their frequency. It also prescribes the duration of an inspection, which should not exceed one month, or, in special cases, two months.

4. *Managing for performance*

The most impressive achievements have occurred with respect to the effort to reduce bureaucratic interference and to create a more favorable climate for business, including small and medium businesses.

Russia's Government Decision No. 1789-r of 2005, has adopted the Concept of the Administrative Reform in the Russian Federation for 2006–2008 and The Action Plan (Roadmap) of the Administrative Reform's Execution for 2006–2008 ensuring the following measures:

- Introduction of the principles and procedures for management based on the results of the state executive bodies' and agencies' activities.
- Elaboration and introduction of public service standards, rendered by the state executive authorities, as well as the standing administrative orders in the public executive bodies.
- Introduction of independent anti-corruption expertise in bills and other drafted statutory acts.
- Enhancement of the efficiency of state-public cooperation.

The Action Plan deals with issues of results-based management, standardisation and regulation, optimisation of executive authority functions, prevention of corruption, more effective interaction of executive authorities and society, modernisation of information support of executive authorities and administrative reform.

Successive federal laws adopted since 2001 have reduced the range of activities subject to licensing requirements, streamlined procedures for registering new businesses and reduced officials' power to conduct arbitrary inspections of enterprises. The police and other officials (such as fire and sanitation inspectors) have also been deprived of their power to close down businesses on their own authority; they must now apply to the courts if they wish to close businesses for regulatory violations.

This should significantly reduce small businesses' vulnerability to bureaucratic rent-seeking. Small business surveys present a picture of sustained improvement over the 2001–2006 period as inspections have become less frequent, registration simpler and the imposition of illegitimate licensing regimes less common.

5. *Ethics, probity, culture and values*

The most significant achievements over the past 10 years to strengthen ethics and probity in Russia's public service were made after the July 2003 presidential decree.

The aims set out in the decree still form the basis for the economy reform agenda:

- restructuring federal executive bodies so as to separate policy-making, regulation and service provision, rationalising their functions so as to eliminate unnecessary functions and avoid duplication;
- reducing bureaucratic interference in commercial activity;
- developing a system of self-regulating organisations capable of assuming some regulatory functions in specific economic sectors; and

- completing the process of clarifying the division of powers, responsibilities and revenue sources between various levels of government.

A complex reorganisation of all federal executive bodies was undertaken in March 2004. In an effort to streamline the structures, the federal executive bodies were reorganised into three types of institutions, with a specific role assigned to each:

- Federal ministries are policy-making institutions. They engage in policy analysis, development and evaluation in their respective domains and are responsible for drafting new legislation. They coordinate and monitor the activities of federal services and agencies within their jurisdictions.
- Federal services are supervisory and regulatory bodies. Funded from the state budget, they can issue individual regulations but not normative legal acts.
- Federal agencies are direct providers of public services to the state and/or private sectors.

These organisations have the power to issue a code of conduct that can be varied to reflect each federal ministry, service and/or agency's circumstances and monitor how these entities fulfill their obligations to promote integrity, with any reports being made available to the public.

A major step forward came in April 2002 with the development of a new Code of Corporate Governance based on the OECD principles of such governance. Although compliance with the code is not a legal requirement, it provides a clear set of benchmarks for Russian business to follow.

C. Future Governance Challenges and Lessons Learned

In late 2005, the cabinet approved an ambitious “Concept” for administrative reform for 2006-08, along with a detailed timetable for the preparation and implementation of specific measures. To achieve these ends, the Concept envisages a wide-ranging move toward performance management, in conjunction with a shift to performance-based budgeting. The Concept also envisages the development of formal standards for the quality of public services, as well as administrative standing orders (*regalements*⁸⁴), outlining in some detail how services are to be provided, including the rights and obligations of citizens and officials. By the end of 2006, such standards were applied to 19 federal agencies and their counterparts in 26 regions.

The Concept pays considerable attention to the question of ensuring that reform is supported by adequate financial, human and technical resources. Russia’s government has already begun conducting competitions for the award of federal funds to support administrative reform projects undertaken by regional authorities and federal executive bodies.

Finally, the Concept promises steps to increase the transparency of state bodies and otherwise improve mechanisms for interaction between citizens and the state bureaucracy.

⁸⁴The *Concept* attaches considerable significance to the process of adopting explicit standards for the quality of government services, supported by administrative *regalements* that detail how services are to be provided. This parallels a trend in many developed countries toward the adoption of “citizens’ charters” and other service declarations: these can perform a useful function in clarifying organizational and individual objectives, which is particularly important in conjunction with steps to increase managerial autonomy and responsibility. Work on the first *reglamenty* is now under way, and a few have been prepared. The Ministry of Economic Development and Trade determined the first 39 *regalements* to cover priority areas concerned with citizens’ daily lives and their constitutional rights and freedoms. A further 352 are to be adopted by the end of 2008.

The optimisation of the functions of executive bodies will require additional steps to eliminate unnecessary or duplicative activities and to introduce new standing orders for federal and regional executive bodies, as well as to improve the efficiency and transparency of public procurement, to develop special rules and methods of management for spheres of activity particularly prone to corruption, like tax and customs administration.

Realising Russia's long-term growth potential will require more than just disciplined macroeconomic management. Russia still faces daunting challenges with respect to a wide range of structural reforms aimed at improving framework conditions for business and enhancing productivity growth. The ambitious and wide-ranging medium-term program adopted by the government in late 2005 is evidence of its renewed commitment to reform and its awareness of the need to press ahead with a broad structural reform agenda aimed at strengthening the financial system, reforming infrastructure monopolies, enhancing competition and strengthening property rights.

The government has undertaken a number of initiatives aimed at defining a more active and direct role for the state in economic development, investing and intervening on its own and in partnership with business. Many of these initiatives entail greater state activism in spheres like health, education and infrastructure, where the case for public intervention is clear. However, there has also been expanding state ownership and direct intervention in oil and gas, aviation, power-generation equipment, automobiles and finance which represent "strategic sectors."

Supporting consolidation of key sectors in order to restore their competitiveness, financing projects of public interest and creating favorable conditions for reemergence of domestic industry, Russia is drawing on the best experience of all true democracies including the APEC member economies. The measures undertaken by the Russian government to ensure effective enforcement of the law, strengthen state discipline and fight corruption are transparent and enjoy wide support within Russian society.

While Russia is considered to have fairly advanced public sector governance arrangements, challenges remain. More needs to be done to strengthen the corporate governance of those companies under state ownership, especially as regards transparency, and to provide for a clearer separation between the state's roles as owner and regulator in those sectors where it fulfills both roles.

Over the coming decades, a growing influence on the development of the economy and society will be exerted by the following factors: the quality of institutional systems, the investment climate, infrastructural development, the completeness and speed of distribution of communications in the information environment, and the ability to adapt quickly to the rapidly changing restrictions and opportunities of global business.

Greater transparency combined with more effective non-judicial redress for citizens should help reduce corruption, particularly in connection with public procurement and fire, sanitation and other inspections.

Considering the gap between the letter of the law and actual practice, priority should be given to improving implementation and enforcement of existing rules and regulations. This requires significant empowerment of the judicial system and reform is continuing, aiming at higher efficiency of court procedures and independence of juridical bodies.

It also calls for capacity building, better professionalism among state employees and the expeditious introduction of voluntary best practices in state governance in cooperation with state-run and private corporations, to promote the role of SMEs and women in business.

Anti-corruption efforts would be facilitated by increasing the use of information and communication technologies (ICT) in interactions between officials and businesses or private citizens, especially in fields such as licensing or public procurement (purchases for governmental needs).

The quality of public administration will impinge directly on the success of recent initiatives aimed at fostering innovation. Russia's innovation potential is greater than that of most countries at comparable levels of per capita GDP, given its large science base and human capital endowments. The Russian president and Russia's government have specified that restructuring the economy requires an emphasis on innovation as a precondition for transition to a new level of economic growth. It is important to create the necessary supporting infrastructure: zones for technology implementation, technology parks, venture funds, investment funds, all of which are underway. It is also necessary to form favorable tax conditions for financing innovation. There is considerable scope for innovation, in view of the need to modernise Russian industry and to make it cleaner and more energy efficient.

There is not a single industry in Russia that is not subject to reforms aiming at the creation of a qualitatively new economy. Reforms have not been limited to the economy; equally important changes are simultaneously being made in the regulatory and judicial systems and local (regional and municipal) administrations. These reforms will ultimately enable the creation of an administrative and legal basis for an investor-friendly environment for Russian and foreign businesses alike.

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Singapore: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the Singapore Public Sector

Singapore is a republic with a parliamentary system of government. Working with the elected government is the civil service, which consists of some 60,000 public officers in 15 ministries and nine organs of state. This makes up about 2.7% of the total labour force. As a share of GDP, total expenditure by the public sector dropped steadily from 18% in 2000 to 14% in 2006.

Size of the Public Sector in Singapore as a % of GDP and Full-Time Equivalent Employees

	Total Government Expenditure as % of Nominal GDP	Government Employees	As % of Total Employment
	%	Thousands	%
2000	17.5	63.3	2.9
2005	14.8	62.8	2.7
2006	14.2	n.a.	n.a.

Source: Department of Statistics, Public Service Division and Ministry of Finance

B. Developments Supporting the Principles of Good Governance

1. *Managing for performance*

The civil service uses a whole-of-government balanced scorecard, based on strategic and operating outcomes. Key performance indicators have been developed for each of the outcomes, and assigned to owner ministries. This is to be submitted to cabinet each year together with the ministry report cards. In addition, a whole-of-government strategic planning cycle is being put in place to align the government's strategic planning with the budget cycle.

Integrated Government

The government aims to be an integrated government (iGov) that works as one, across organisational boundaries, to reap synergies and exploit new opportunities in all aspects, whether in providing information that engages citizens, or being intelligent and interactive in fully understanding customers' needs to deliver quality services. The initiatives and projects undertaken to achieve an integrated government cover three broad areas: Framework and architecture for integration; cross-agency collaboration projects; and supporting structures, policies and information and communications technology (ICT).

Some of the main achievements include the Integrated Government Maturity Framework that articulates what it means to be an integrated government in service delivery and how to achieve this. A systematic methodology called the Singapore Government Enterprise Architecture (SGEA) was designed to help identify common business functions and processes where opportunities for cross-agency collaboration exist. The SGEA will facilitate the analysis of central ICT investments and their alignment to business functions, and create greater opportunities for collaboration among agencies, leading to the adoption of shared ICT systems and services.

Centre for Shared Services

In 2006, a government department under the Ministry of Finance was set up to consolidate and deliver corporate shared services to ministries, organs of state and statutory boards of the Singapore government. Named “Vital.org – the Center for Shared Services” (CSS), the center brought together the finance and HR administrative support functions of public agencies, and is expected to help the public service save about S\$4 million annually.

The Enterprise Challenge

The Enterprise Challenge (TEC) is an initiative by the Prime Minister's Office that looks into the funding of innovative and risky proposals that have the potential to create new value or significant improvements to the delivery of public services. Started in 2000, TEC provides funding and test beds for innovations that need to be trial tested so that their feasibility and practicality can be proven. TEC aims to encourage creativity, innovation and enterprise, to spark, develop and fund initiatives that can create new value for the public service and fundamentally improve the delivery of public services. Besides providing trial funds, TEC also identifies and nurtures promising innovative ideas by providing facilitation resources for experimentation or trial testing.

2. Responsiveness to stakeholders

In 2000, the Cut Red Tape movement was launched to remove regulations that are no longer needed, so as to reduce the burden on the customer, while making public services more convenient and effective. The movement does its work through the Pro-Enterprise Panel (PEP), Zero-In-Process (ZIP), Public Officers Working to Eliminate Red-tape (POWER), and the Rules Review Process.

Pro-Enterprise Panel

To be more responsive to the needs of businesses, the Pro-Enterprise Panel (PEP) was formed to review suggestions raised by stakeholders regarding rules and regulations governing businesses, in order to foster a pro-enterprise environment in Singapore. Since the establishment of the panel in August 2000, more than 1,600 enterprise-related suggestions have been received. More than half of the suggestions received have resulted in changes to facilitate enterprise.

Zero-In-Process

The Zero-In-Process (ZIP) Panel looks into issues raised that cut across multiple agencies, or where there is no clear ownership. A lead agency would be appointed to drive the matter to its resolution. Since 2000, the panel has identified more than 110 cases, with 22 inter-agency teams formed to tackle the more complex cases.

POWER

The Public Officers Working on Eliminating Red-tape (POWER) initiative was launched in 2000 as part of the Cut Red Tape Movement. A POWER feedback channel provides an avenue for public officers to submit suggestions on changes to, or elimination of, cumbersome and obsolete rules, while POWER sessions bring together interested public sector officers to discuss how specific sections of the Government Instruction Manual (IM) can be improved. At the end of the session, the respective IM owners will have to decide on the spot whether to accept or reject the suggestions. If further study is required, the respective agencies are given 90 days to respond.

Rules Review Process

A rules review process was established to ensure that all agencies review regulations on a five-yearly cycle. A Rules Review Panel was set up to oversee this process. The panel will question not only why particular rules have to be retained, but also the approach and thinking behind the rules. Some tools were developed to help agencies embark on their rules review process.

- A Smart Regulation Checklist provides a guide when agencies undergo their regulatory review. This checklist was extracted from learning points acquired from hundreds of case studies.
- The Smart Regulation Self-Assessment Scorecard for Regulatory Excellence (SASRE) was also developed to help agencies gauge their individual standing in terms of regulatory rigour and depth.
- To foster a sense of learning and mindset change, a Smart Regulation repository was created to build up a body of knowledge in this area. A Smart Regulation training curriculum is being developed.
- Agencies also preempt red tape by setting “sunset clauses” under which rules would automatically lapse after a certain date, or by spelling out a list of don’ts rather than only allowing a small list of do’s.

No Wrong Door

In 2004, to address the issue of citizens being passed from one government department or agency to another, the No Wrong Door policy was implemented. Under this directive, should an agency or department receive feedback on an issue which is not under its charge, it must ensure that the feedback giver is linked up with the right party. If the feedback involves a few agencies, the receiving agency should coordinate and provide an integrated reply.

Public Private Partnerships

In the past few years, the Singapore government has actively embraced Public Private Partnerships (PPP), particularly in the education sector, with a view to increasing our international competitiveness. In 2003, the Best Sourcing policy for new services was introduced. Best Sourcing requires public sector agencies to market test their services and to engage private sector providers to deliver those services where it is more efficient and effective to do so. PPP is part of the Best Sourcing framework. It brings together the expertise of the government and the private sector to meet the needs of the public efficiently and effectively.

3. Engaging citizens

Feedback Unit

A Feedback Unit was set up in the Ministry of Community Development, Youth and Sports (MCYS) in 1985 to gather feedback from the public on government policy and services. Toward the late 1990s the increasing activity and sophistication of public feedback, combined with increased interest in government policy, became the subject of public discourse. In 2006, the Feedback Unit was renamed Reaching Everyone for Active Citizenry @Home (REACH) to reflect its strategic shift from gathering feedback to engaging citizens, and renewed its commitment to listen to the people, as well as to promote active citizenry, and work with community and grassroots organisations to reach out to and engage citizens.

Government Online

Under the government ICT master plan, iGov 2010, we envision a government that leverages on infocomm technology to: address customers’ needs and deliver quality services; engage citizens in policy formulation and provide information that is interesting, relevant and useful; and be innovative in creating new value within the public sector as well as for the economic sectors.

The internet enables the civil service to reach out to customers any time, anywhere, allowing information to reach a wider group of customers, thus allowing greater accessibility of public information. The civil service also uses the internet to provide government services online, so that the public and business users can perform transactions—such as filing their income tax or applying for permits and licences anytime, anywhere, without having to make a trip to a government office during working hours. To date, over 1,600 government services are offered online.

4. *Clean government*

Singapore has an anti-corruption framework, with strong emphasis on the investigation and prosecution of corruption cases. These are carried out independently through the workings of the Corrupt Practices Investigation Bureau (CPIB), Attorney General's Chambers and courts. The key institution in the anti-corruption sector is the CPIB, an independent body under the Prime Minister's Office that investigates and prevents corruption. The CPIB covers a wide variety of types of corruption affecting all aspects of society and people from all walks of life, and also undertakes programmes for public education.

Apart from key legislations that create a system of law that readily examines questions of corruption and holds the guilty accountable, there are codes of conduct that apply to public sector employees and politicians, such as the Government Instructional Manual (IM). Under these codes and guidelines, public servants may be found guilty by administrative review. Where warranted, the information from such administrative review is shared with the CPIB, which may consider further investigation for criminal prosecution.

C. Future Governance Challenges

Ensuring a high degree of social integration in a globalised world will be increasingly challenging. Going forward, the Singapore public service will need to strengthen the following capacities:

- Whole-of-Government orientation and instincts. The whole-of-government orientation has to be more pervasive across the entire public service. Beyond mindsets, we also need to look into structures which facilitate whole-of-government approaches in planning and execution.
- Dealing with complexity and chaos. The ability to thrive in an environment of greater complexity requires the public service to be able to make decisions and act with flexibility and speed, and to experiment and manage risks.

CHINESE TAIPEI: DEVELOPMENTS IN PUBLIC SECTOR GOVERNANCE

A. Introduction: The Nature and Structure of the Chinese Taipei Public Sector

Chinese Taipei is an emerging democratised economy. Since 1996, the leader of Chinese Taipei has been directly elected by the people for a term of four years and may be re-elected for one more term.

There are five branches of government in Chinese Taipei: the executive, legislative, judicial, examination and the control branches. The executive branch is the highest administrative institution, with its head appointed by the leader of Chinese Taipei. It currently consists of 39 ministries and commissions, and is answerable to the legislative branch.

Local government consists of three tiers, including two special municipalities, 23 county and city governments, and 319 urban and rural townships. All local government administrative leaders are directly elected by the people, and are answerable to local councils.

Size of the Public Sector in Chinese Taipei, 2006, as a % of Nominal GDP and Full-Time Equivalent (FTE) Employees per 1,000 Population

Central Government	Local Government	Total Government
13.5%	20.2%	33.7%
12.6	9.1	21.7

Sources: Chinese Taipei's general budget 2006; Ministry of Civil Service Statistical Report 2006.

Note: The number of civil servants does not include teachers or members of the military.

B. Developments Supporting the Principles of Good Governance

In response to public calls to make government administration more democratic and efficient, and in an effort to enhance government performance and raise the level of public trust, Chinese Taipei has been promoting various well-developed governance principles and initiatives.

1. Support for the rule of law

Chinese Taipei has long since had systems in place to ensure strict adherence to the rule of law. The establishment of the Administrative Procedure Act⁸⁵ in 1999 further enhanced the due process and principle of participation by stakeholders.

Actions taken to align Chinese Taipei with international practice, strengthen economic performance, promote legal reform, simplify procedures and deregulate to meet the expectations of the public or investors include:

- The Golden Axe Awards, started in 2000, an incentive mechanism for legal reform. From 2000–06, administrative cost savings have amounted to US\$5.27 billion, with savings to

⁸⁵ For the text of the Act, please refer to:
<http://law.moj.gov.tw/Eng/Fnews/FnewsContent.asp?msgid=2096&msgType=en>

the public of US\$3.57 billion.

- The implementation of Regulatory Impact Analysis (RIA), and the undertaking and reporting of a self-assessment on the APEC-OECD Integrated Checklist of Regulatory Reform in 2006.

2. Transparency

Legislation that promotes greater transparency and openness includes the Government Procurement Act 1998,⁸⁶ the Archives Act 1999,⁸⁷ and the Freedom of Government Information Law 2005.⁸⁸ Chinese Taipei has long since adopted the merit system of government human resource (HR) management, which also provides a sound basis for transparency.

Furthermore, Chinese Taipei employs information and communication technologies (ICTs) to raise the level of government transparency, examples include:

- The setting up of a website for government procurement information, requiring that such information must be publicly posted, and actively promoting e-tendering and e-negotiation. As of 2006, the average monthly number of inquiries had reached 700,000 with e-bids totaling more than 2.05 million cases.
- Besides establishing an online database of Chinese Taipei's laws and regulations,⁸⁹ in 2005 the government launched an online gazette to consolidate 20 bulletins previously issued by different departments. As of 2006, around one million visits had browsed the online gazette.⁹⁰

3. Accountability, oversight and control

Chinese Taipei has already established mechanisms of democratic accountability, including: the holding of regular elections for the leader of Chinese Taipei, heads of local government, and members of representative assemblies at all levels of government; the answerability of the executive to the legislative branch; an autonomous and independent judicial system; and fully safeguarded freedom of speech. In addition, the accountability, monitoring and control of the performance of government agencies are achieved via three mechanisms:

- Open disclosure of information on government performance. Relevant information of performance reports, budgets, final accounts and audits of all government agencies and programs are posted and openly accessible on the internet.
- The establishment of an independent government auditing system. A Ministry of Audit has been established, headed by an auditor-general who is nominated and appointed by the leader of Chinese Taipei, subject to the approval of the legislature. Each year, the Ministry of Audit compiles a Government Audit Annual Report and presents its contents to the legislature.

⁸⁶ For the text of the Act, please refer to:

<http://law.moj.gov.tw/Eng/Fnews/FnewsContent.asp?msgid=335&msgType=en>

⁸⁷ For the text of the Act, please refer to:

<http://law.moj.gov.tw/Eng/Fnews/FnewsContent.asp?msgid=748&msgType=en>

⁸⁸ For the text of the Act, please refer to:

<http://law.moj.gov.tw/Eng/Fnews/FnewsContent.asp?msgid=2636&msgType=en>

⁸⁹ Laws and Regulations Database of the Chinese Taipei: <http://law.moj.gov.tw/eng/>

⁹⁰ Online Gazette: <http://gazette.nat.gov.tw/egFront/eng/EngIndex.jsp>

- Each government agency at every level has set up Civil Service Ethics, Accounting, and Personnel Administration offices, which are responsible for preventing and investigating corruption, financial auditing and ensuring government human resource management is in accordance with the merit principle.
- The administrative litigation system was reformed in 2000 with expansion to a “two-level and two-instance system” in order to strengthen the protection of citizens’ rights and to reinforce judicial oversight of administrative institutions.

4. Managing for performance

Since 1951, Chinese Taipei has implemented performance evaluation of government agencies. In 2001, it established an improved framework for government performance evaluation, divided into individual-level project performance management and overall-level agency performance management.⁹¹ The former concerns the performance management and evaluation of major programs and projects carried out by the responsible agency. The latter concerns the overall performance of each agency, emphasising the application of strategic management, requiring each agency to set strategic performance goals for business, manpower and expenditure to align with its vision and policy implementation plans and, in accordance with the strategic goals, setting performance measurement indicators focusing on outcome-orientation, cost effectiveness and customer satisfaction. At the end of each year, the performance evaluation results of each agency are made public. Practices related to performance management include:

- The establishment in 2003 of the Government Performance Management Net (GPMnet), to actively employ ICTs for agency and project performance management, an innovative initiative seen in few other economies around the world. GPMnet is a knowledge management platform that combines the functions of project management, public information disclosure and decision-making support. The Chinese Taipei government has managed nearly 2,000 programs and projects through GPMnet, and is currently taking gradual steps to extend it to local government.
- The implementation of risk management in agencies since 2005, with the establishment of a risk-management knowledge web, and the organisation of various training programs. In 2006, government agencies presented 246 major risk items together with policy proposals for responding to them, effectively shaping an open-discussion organisation culture.

5. Responsiveness to stakeholders

The 2000 Act for Promotion of Private Participation in Infrastructure Projects regulates private participation in public works projects. In addition, the government has taken a number of initiatives, including:

- The launch in 2002 of an e-government portal⁹² to achieve one-stop shop service through the establishment of an inter-agency service window.
- The implementation of the E-Government Service Plan 2003-07 for the creation of new online public services and the launch of 15 e-services in such areas as tax affairs, driver/motor administration and registration of real estate transactions, as well as news notification services.

⁹¹ For information on government performance management see: <http://www.rdec.gov.tw/dp.asp?mp=4>

⁹² For information on e-government, see: <http://www.rdec.gov.tw/dp.asp?mp=4>

- The setting up in 2005 of a trade facilitation website, to support the continuing simplification of trade regulations, procedures and documentation, and achieve the goals of paperless, real-time transaction application and processing, with more than 133 procedures having been put online as of 2006.
- Regular conduct and announcement of the results of various public opinion surveys, the establishment of e-mail boxes to effectively gather and respond to public opinion, and the setting up in 2006 of the Chinese Taipei Policy Think Tank Online to serve as an online citizens' forum.
- The government has been actively pursuing outsourcing, public-private partnership and privatisation, as exemplified by the recently completed BOT construction of the high-speed rail (HSR) project. From 2002 to 2006, there were 65 cases of outsourcing of public facilities and services. Moreover, the number of state-owned enterprises in government hands was reduced from 37 to 26 between 2000 and 2006.

6. Ethics, probity, culture and values

Key legislations to ensure the establishment of clean, corruption-free government include: the 1993 enactment of the Act on Financial Disclosure by Public Servants; the 1996 amendment of the Civil Servant Ethics Act, adding a “revolving-door” article that strictly limits the acceptance of employment by public servants after leaving the civil service; the 2000 Act on Recusal of Public Servants Due to Conflicts of Interest; the 2004 Political Donations Act; and the 2007 amendment of the Regulations on Rewarding and Protecting Anti-Corruption Informants. All of this legislation has the aim of laying down rules to prevent improper conduct by civil servants, and to monitor and check the occurrence of corrupt practices through transparent and open mechanisms for the registration of political donations and assets. Furthermore, since 2006, all political appointees are required to place their assets in compulsory trust during their term of office.

Besides legislation to eliminate corruption, plans were drawn up in 2005 for the establishment of an “Anti Corruption Bureau,” the bill for which is still under deliberation. In 2006, an anti-corruption action plan was launched, including public opinion surveys on clean government, the public announcement of the survey results, the compilation of a clean government index, and active efforts to integrate anti-corruption promotional and educational activities organised by non-governmental groups.

Furthermore, Chinese Taipei has long had in place a merit and career-based government HR management system, as governed primarily by the Civil Service Examinations Act and the Civil Service Promotion Act.

C. Future Governance Challenges and Lessons Learned

In the face of globalisation, the objective of government reform is to provide a more favorable basic environment for Chinese Taipei's competitiveness. In common with many OECD members, Chinese Taipei also faces the problems of controlling the scale of government, reducing the fiscal deficit and enhancing public trust. The solution of these problems partly involves the reform of political systems and government institutions, and other political and systematic factors. Chinese Taipei is an emerging democratised economy, and still has room for continuing efforts in improving social cohesion and political stability. Through an array of administrative reforms, the performance and competitiveness of the public sector have been improved.

Over the past decade, Chinese Taipei has deepened its program of government reforms, actively employing new public management (NPM) concepts advocated by OECD members. Based on the experiences and results of its reforms, in striving to enhance governmental governance capabilities and upgrade and add value to public service quality, Chinese Taipei will continue to address two key issues:

- Strengthening and improving government performance management systems, and the linkage of budget, audit and government HR management. These rationalised tools for government management will also embrace democratic accountability within the political culture, so as to deepen performance accountability, better respond to public demands, and heighten government transparency.
- During 2008–11, Chinese Taipei will utilise e-government as an effective tool for enhancing public value and establishing trust and social cohesion. All these efforts and investments will make the government an integrative, innovative, instant, interactive and individual, namely a “5I Government.”

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Thailand: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the Thai Public Sector

The State Administrative Act 1932 and the State Administrative Act (No. 5) 2002 provide the foundation for modern Thailand's bureaucratic organisation and administration. The Thai public administrative system is categorised into three tiers:

- Central administration comprises 20 Bangkok-based ministries under the supervision of respective permanent secretaries and performs centralised functions.
- Provincial administration is based on the concept of decentralisation, in which certain decision-making responsibilities and authority are delegated from the central administration to the kingdom's 75 provinces. Each province is headed by an appointed provincial governor.
- Local administration extends the principle of decentralisation by allowing local people to participate in local affairs under relevant laws and regulations. There are two types of self-governing bodies: a) the generally applied system, i.e. municipalities, provincial and tambol (district) councils and administrations, and b) the special system, which is applied in specific areas (Bangkok Metropolitan and Pattaya City).

The public sector employs 1.98 million persons, of which 1,221,262 are government officials, 258,600 permanent employees, 440,933 temporary employees, and 59,481 government employees. The public sector workforce represents 3.1% of the economy's population of 64.9 million and 5.4% of the total labour force of the economy (36.8 million persons).

Thailand is a free market economy in which the private sector generates most of the economic activity and development. The public sector's involvement is largely limited to providing the framework for the economy's regulation and creating a conducive business environment.

B. Developments Supporting the Principles of Good Governance

Thailand has developed its public administration in accordance with good governance standards, which encompass honesty, transparency, accountability and justice. The key goals of the public management system are to address problems and weaknesses within the Thai public sector; boost the level of competence and effectiveness of the Thai economy; enable the economy to cope with rapid global changes and develop mechanisms for development; and advance economy competitive advantage.

1. *The principles of good governance*

According to internationally accepted good governance principles and the guidance provided in the Constitution of the Kingdom of Thailand 1997, the concept of public management and good governance principles have been developed to strengthen the Thai public sector. Good governance principles have been emphasised and specified in the State Administrative Act (No. 5) 2002. Subsequently, the Royal Decree on Good Governance 2003 was introduced to further reinforce good governance principles within the Thai public sector. It consists of nine sections: the concept of good governance, management for the citizens' benefit, result-based management, efficient and

cost-effective management, reduction of work processes, improvement of the public sector's missions, facilitation and responsiveness to the citizens' needs, performance evaluation, and a miscellaneous section.

2. Transparency

The *Official Information Act* (OIA) of 1997 guarantees the people's rights to have access to government information. According to the Act, most official data and information should be disclosed for public perusal, with exceptions relating to information that the state deems confidential. If any state agency declines to disclose some data, the people have the right to appeal to the Official Information Commission (OIC).

The OIA states that state agencies, i.e. central administration, provincial administration, local administration, state enterprise, government agency attached to the National Assembly, courts (only in respect of the affairs unassociated with the trial and adjudication of cases), professional supervisory organisations, independent agencies of the state, and such other agencies as prescribed in the Ministerial Regulation (OIA, section 4), must disclose information in three ways, namely publication in the Government Gazette, the provision of information in designated places for public inspection, and the disclosure upon individual request.

A person who believes that any state agency has failed to make appropriate disclosure or has failed to comply with this act by delaying in performing its duties is entitled to lodge a complaint with the commission.

3. Performance management

Thailand's path toward sustainable development implies an emphasis on equitable distribution of benefits among different social groups. Since different social groups have different expectations and needs, the public sector must take care to provide equitable services. Such a delicate, sensitive and complicated task requires a highly competent public sector. Therefore, one key direction of public sector development is performance management through strategic, results-oriented and citizen-centered management. Strategic management includes three key components: formulation, implementation and control.

In order to ensure effective performance management, each department must determine its direction and its development policies in an appropriate and responsive manner, based on public needs and the wider environment. The Four-Year Government Administrative Plan has therefore been developed to guide proactive administration. The government agencies then translate the Four-Year Government Administrative Plan approved by the cabinet into their respective Four-Year Operation Plans.

In the strategy implementation process, the government agencies formulate their respective annual action plans according to their Four-Year Operation Plans. The action plans cover expected deliverables, activities to be accomplished and resources required. The action plan is used for budget planning and the formulation of a Performance Agreement. It consists of four key perspectives in the balanced score card: (1) effectiveness of mission performed, (2) quality of service delivery, (3) efficiency of work processes, and (4) organisational development. At the end of the year, the government agencies must complete Self-Assessment Reports (SAR) so that their performance can be reviewed by the general public. In order to encourage the government agencies to perform effectively according to their Performance Agreements, a reward scheme was developed in 2004. In addition, the performance evaluation of government agencies will be analysed and used for further improvement of the government agencies' plan in coming years.

4. Open system for public participation

Participation of the general public in public decision making is a means to ensure transparency and justice. At present, a number of government agencies have set up mail boxes, hotlines and suggestion boxes. There are also surveys and public hearings on policies and important statutes. Some government agencies have set up committees with representatives from the general public. This principle has also been satisfactorily applied at the provincial level. Additionally, the government agencies have disclosed information through electronic means such as electronic public hearings, release of data and e-services.

5. Accountability, oversight and control

In order to ensure good governance as stipulated in Section 3/1 of the State Administrative Act (No. 5) 2002, accountability, monitoring and auditing as well as performance evaluation are needed.

According to the Act, performance agreement is a tool for promoting accountability. The head of department has to sign a performance agreement with the minister in charge. Performance agreements help ensure clear directions for the agencies concerned, resulting in better goal setting and internal monitoring in all levels of the agency. Different tasks have been reassigned to officials at different levels in order to attain a higher level of effectiveness and efficiency in delivering their missions and fulfilling their responsibilities.

To strengthen the monitoring and evaluation system so as to ensure good governance and to instill public confidence in the public sector, the cabinet set up the Public Sector Audit and Evaluation Committee in 2004 by virtue of the Office of the Prime Minister's Regulation on Public Sector Audit and Evaluation 2004.

This committee, in operation since 2005, is headed by the minister appointed by the cabinet, and comprises professionals and heads of some government agencies. The committee's roles are to set up policies and guidelines for auditing and evaluating government agencies in ministerial, departmental and provincial levels. The above-mentioned regulation specifies that subcommittees for ministerial clusters and provincial clusters be established in order to support the committee. In addition, each ministry can set up a committee to oversee relevant activities in its workplace and report back to the Public Sector Audit and Evaluation Committee.

6. Ethics, governance and anti-corruption

The Thai government has placed strong emphasis on ethics and governance. As a result, on 3 November 2006, the Prime Minister has announced the National Agenda on "Ethics, governance and anti-corruption for the Thai Public Sector," with which the government officials are strongly encouraged to comply on the basis of three key success factors, namely "Understanding, Approaching and Developing." The agenda comprises of the following strategies:

- Strategy 1: Designation of role models to push forward organisational integrity
- Strategy 2: Shift of paradigm, cultural norms and values of government officials and their development
- Strategy 3: Advice and knowledge management for promoting morals, ethics and good governance
- Strategy 4: Improvement of human resource management system favourable to the promotion of morals and ethics

- Strategy 5: Development of management system in terms of morals, ethics and good governance
- Strategy 6: Measurement and inspection of ethics
- Strategy 7: Establishment of supporting system and basic factors in terms of ethics and good governance

The National Agenda has energised the awareness of ethics and ethical issues among public agencies. For example, performance indicators with regard to anti-corruption have been developed in different government agencies.

In addition, the Thai government announced eight new ethical values for government officials.

A core set of values has been grouped under the acronym "I AM READY." These new values have been promoted across Thailand to create a new working environment that facilitates a new work culture, focusing on transforming government agencies to be learning organisations and adaptive to change.



C. Lessons Learned and Next Steps of the Public Sector Development

The Thai public sector has made significant progress in good governance, by shifting the focus of its management from procedural aspects to the benefits and well-being of citizens. In order to further promote public sector governance, the Thai government needs to pay attention to the following issues:

1. Ethics and morality in the public sector needs to be emphasised in accordance with the National Agenda on Ethics, Governance and Anti-corruption. The Good Governance Promotion Act concerning morals and prevention of conflict of interest is currently being drafted.
2. Result-based management with contracts, evaluation and reward schemes should continue with clear targets to ensure performance management and accountability.
3. The promotion of public and private sector, including media, partnership to deliver public service is encouraged. Citizens as well as independent parties are to be involved to ensure transparency in public sector performance.
4. Laws and regulations that pose obstacles to public sector development need to be reviewed.
5. The government mechanism and management system in the provincial and local administration should be revised and improved to be able to efficiently respond to public needs.

United States: Developments in Public Sector Governance

A. Introduction: The Nature and Structure of the Public Sector in the United States

The United States is a constitution-based federal republic with a strong democratic tradition. There are several layers of government, including the federal government, state governments, county governments and municipal governments.

The federal government comprises three branches: the executive, legislative and judicial. The chief of state and head of government is the president. The president and vice president are elected on the same ticket by a college of representatives who are elected directly from each state. The president and vice president serve four-year terms and are eligible for a second term. The cabinet is appointed by the president with Senate approval.

The legislature is a bicameral Congress consisting of the Senate and the House of Representatives. The Senate contains 100 seats and one-third of its members are elected every two years. Two members are elected from each state by popular vote to serve six-year terms. The House of Representatives contains 435 seats and members are directly elected by popular vote to serve two-year terms.

The judicial branch contains several different levels of courts, with the highest court being the Supreme Court. Nine justices serve life terms on the Supreme Court and they are nominated by the president and confirmed with the advice and consent of the Senate. Other levels of courts include the United States Courts of Appeal, the United States District Courts, as well as State and County Courts.

The federal court system is based on English common law with judicial review of legislative acts. Each state has its own unique legal system, of which all but one (Louisiana's) is based on English common law.

Administrative divisions include 50 states and the District of Columbia. Additionally, there are more than one dozen dependent areas.

Size of the Public Sector in the United States, 2002, Full-Time Equivalent (FTE) Employees

	Federal Government (civilian)	State and Local Government	Total Government
FTE employees ⁹³	2,557,000	15,602,000	18,159,000
FTE employees per 1,000 population	8.9	54.1	63

⁹³ Source: *2002 Census of Governments, Volume 3, Number 2 Compendium of Public Employment: 2002*. US Department of Commerce, Economics and Statistics Administration, US Census Bureau. Released September 2004. <<http://www.census.gov/prod/2004pubs/gc023x2.pdf>>

B. Developments Supporting the Principles of Good Governance

Under the President's Management Agenda, the US has been striving to improve public sector governance. Federal agencies have become more disciplined and results-oriented about managing their programs, people, costs and investments through a framework of five government-wide initiatives including management of human capital, competitive sourcing, improved financial performance, expanding electronic government, and budget and performance integration designed to ensure programs achieve expected results. An agency earns "green" status when it has successfully adopted all the desired disciplines in the initiative, as determined by the Office of Management and Budget, which oversees the initiative; "yellow" for mixed results, and "red" for unsatisfactory results.

Today, all federal agencies are showing steady improvement in achieving the important goals of the President's Management Agenda. While 85% of the status scores were red in the first year of the scorecard, today 75% of status scores are green or yellow.

Further improvements will lead to greater government savings. For example, eliminating improper payments alone will save roughly US\$40 billion annually.

1. Accountability, oversight and control

The three branches of government in the US are well known for containing checks and balances over each other. Several other institutions ensure accountability, oversight and control. One such institution is the US Government Accountability Office (GAO).

The GAO is an independent, non-partisan agency that works for Congress. GAO is often called the "congressional watchdog" because it investigates how the executive branch spends taxpayer dollars.

GAO gathers information to help Congress determine how well executive branch agencies are doing their jobs. GAO's work routinely answers such basic questions as whether government programs are meeting their objectives or providing good service to the public. Ultimately, GAO ensures that government is accountable to the American people. To that end, GAO provides Senators and Representatives with the best information available to help them arrive at informed policy decisions information that is accurate, timely and balanced. GAO supports congressional oversight by:

- evaluating how well government policies and programs are working;
- auditing agency operations to determine whether federal funds are being spent efficiently, effectively and appropriately;
- investigating allegations of illegal and improper activities, and
- issuing legal decisions and opinions.

With virtually the entire federal government subject to its review, GAO issues a steady stream of products—more than 1,000 reports and hundreds of testimonies by GAO officials each year. GAO's familiar "blue book" reports meet short-term immediate needs for information on a wide range of government operations. These reports also help Congress better understand issues that are newly emerging, long-term in nature, and with more far-reaching impacts. GAO's work translates into a wide variety of legislative actions, improvements in government operations and billions of dollars in financial benefits for the American people. GAO reports are published online at <http://www.gao.gov>. Headquartered in Washington, D.C., GAO has offices in several major cities across the country. The agency is headed by the Comptroller General, who is appointed to a 15-year term. The long

tenure of the Comptroller General gives GAO a continuity of leadership that is rare within government. GAO's independence is further safeguarded by the fact that its workforce is comprised almost exclusively of career employees who have been hired on the basis of skill and experience. Its 3,300 employees include experts in program evaluation, accounting, law, economics and other fields.

Outside of government, a free press and the active participation of the public serve as watchdogs and help to maintain accountability in government. Regular democratic elections, a free press, non-governmental organizations (NGOs), and a strong civil society are key features of American society and public sector governance.

2. *Managing for performance*

Within the Executive Office of the President, the Office of Management and Budget (OMB) assists the president in overseeing the preparation of the federal budget and supervising the administration of the budget in executive branch agencies. Additionally, OMB helps improve administrative management and develop better performance measures and coordinating mechanisms.

One performance measure is the Program Assessment Rating Tool (PART). PART is a questionnaire designed to help assess the management and performance of programs. It is used to evaluate a program's purpose, design, planning, management, results and accountability to determine its overall effectiveness. Based on the evaluation, recommendations are made to improve program results.

To reflect that federal programs deliver goods and services using different mechanisms, PART also has customised questions depending on the type of program. The seven PART categories are: direct federal, competitive grant, block/formula grant, regulatory, capital assets and service acquisition, credit, and research and development.

Each PART questionnaire includes 25 questions that are divided into four sections:

- The first section of questions asks whether a program's purpose is clear and whether it is well designed to achieve its objectives.
- The second section involves strategic planning, and weighs whether the agency establishes valid annual and long-term goals for its programs.
- The third section rates the management of an agency's program, including financial oversight and program improvement efforts.
- The fourth section of questions focuses on results that programs can report with accuracy and consistency.

The answers result in a numerical score for each section from 0 to 100 (100 being the best score). Because reporting a single weighted numerical rating could suggest false precision, or draw attention away from the very areas most in need of improvement, numerical scores are translated into qualitative ratings. The bands and associated ratings are as follows: effective (85-100), moderately effective (70-84), adequate (50-69), and ineffective (0-49).

Regardless of overall score, a rating of "Results Not Demonstrated" is given when programs do not have agreed-upon performance measures or lack baselines and performance data. Ratings and detailed reports on government agencies are published online on the website ExpectMore.gov

ExpectMore.gov provides the public with information on how federal programs perform. The website was launched in February 2006 and includes information about every federal program

assessed to date—what its purpose is, how it performs and what it is doing to perform better. There are nearly 1,000 assessment summaries and detailed assessments available on ExpectMore.gov. By making candid assessments of programs more accessible to the public, ExpectMore.gov raises awareness of what federal programs are doing to improve.

3. *Ethics, probity, culture and values*

Each branch of the federal government administers its own ethics program through an established supervising ethics office. In the legislative branch, each House has its own supervising ethics committee—the Senate the Select Committee on Ethics and the House Committee on Standards of Official Conduct. The Judicial Conference Committee on Codes of Conduct serves as the supervising ethics office for the judicial branch and the US Office of Government Ethics serves as the supervising ethics office in the executive branch. All three branches of the US Federal Government have established administrative standards of conduct or codes of conduct. In addition, there are criminal and civil ethics statutes that address such areas as conflicts of interest, post-government employment and financial disclosure.

The Congressional Ethics Committees address the conduct of the Senators and Representatives as well as their staff, administer the public financial disclosure systems and provide advisory services and education on the statutory standards and the code of conduct to which the members and staff are expected to adhere.

The Judicial Conference Committee on Codes of Conduct provides advice, training and other information on the application of the Code of Conduct for United States judges, judicial employees and federal public defender employees. In addition, the Committee recommends policies concerning matters of judicial ethics and other judicial branch codes of conduct. Public financial disclosure requirements for the judicial branch are established by law but administered by the Judicial Committee on Financial Disclosure.

The Office of Government Ethics' (OGE) mission is to provide leadership for the purpose of promoting an ethical workforce, preventing conflicts of interest and supporting good governance initiatives. OGE develops and promulgates administrative regulations governing codes of conduct, financial disclosure and conflicts of interest for executive branch employees. OGE is responsible for providing advice, guidance and training to ethics offices within each executive branch department and agency on government ethics matters including financial disclosure, standards of ethical conduct, outside employment, financial interests, ethics training and post-government employment restrictions. In addition, OGE provides policy direction and program oversight of the executive branch public and confidential financial disclosure systems. OGE also performs the financial conflict of interest review for individuals whom the president is considering nominating to positions requiring Senate confirmation.

Annex 2:

Abbreviations and Acronyms

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Abbreviations and Acronyms

ABA	Asian Bankers Association
ABAC	APEC Business Advisory Council
APEC	Asia-Pacific Economic Cooperation
EABER	East Asia Bureau of Economic Research
FTE	Full Time Equivalent
ICT	Information and Communications Technology
LAISR 2010	Leaders' Agenda to Implement Structural Reform towards 2010
NEDA	National Economic and Development Authority
NGOs	Non-Governmental Organisations
PECC	Pacific Economic Cooperation Council
SFOM	Senior Finance Officials' Meeting

Australia

AAT	Administrative Appeals Tribunal
APS	Australian Public Service
CAC Act	Commonwealth Authorities and Companies Act 1997
FMA	Financial Management and Accountability Act 1997
SISI	Integrated System Of Information Requests
SOE	Statements of Expectations
SOI	Statements of Intent

Canada

MAF	Management Accountability Framework
MRRS	Management Resource and Results Structure
PAA	Program Activity Architecture
PSDPA	Public Servant Disclosure Protection Act

Chile

PPP	Public Private Partnerships
SIGFE	<i>Sistema de Información para la Gestión Financiera del Estado</i> (Financial Information Management System)

Hong Kong, China

CE	Chief Executive
CFA	Court of Final Appeal
COR	Controlling Officer's Report
CPG	Central People's Government
CSB	Civil Service Bureau
CSRs	Civil Service Regulations
HKSAR	Hong Kong Special Administrative Region
ICAC	Independent Commission Against Corruption
NPC	National People's Congress
PRC	People's Republic of China
PPP	Public Private Partnerships
PSC	Public Service Commission
RCIM	Resource Centre on Civil Service Integrity Management

Indonesia

AGO	Attorney-General's Office
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BAPPENAS	National Planning and Development Board
BPK	Supreme Audit Agency
E-GP	Electronic Government Procurement System
KPK	Corruption Eradication Commission
LAKIP	Performance Accountability Reports
MENPAN	Ministry of State Apparatus Reform
PPATK	Indonesian Financial Transaction Reports and Analysis Centre
RAN-PK	National Action Plan for Eradication of Corruption
RENJA	Work Plans
RENSTRA	Strategic Plans
Japan	
MIC	Ministry of Internal Affairs and Communications
PDCA	Plan-Do-Check-Action
Korea	
ACA	Anti-Corruption Act
BAI	Board of Audit and Inspection
GPA	Government Procurement Agreement
IMC	Interagency Meeting on Corruption
KICAC	Korean Independent Commission against Corruption
KONEPS	Korea ON-line E-Procurement System
KT	Korea Telecommunication
NABO	National Assembly Budget Office
OPS	Open Competitive Position System
PCRM	Policy Customer Relationship Management
PPS	Public Procurement Service
Malaysia	
ACA	Anti-Corruption Agency
KPIs	Key Performance Indicators
PIN	National Integrity Plan
Mexico	
IFAI	Federal Institute of Access to Public Information
MIDO	Integral Model of Performance of Surveillance and Control Organs
SCJN	<i>Suprema Corte de Justicia de la Nación</i>
SPC	Professional Service Career
New Zealand	
LTCCP	Long-term Council Community Plan
MMP	Member Proportional Representation
SOI	Statement of Intent
Peru	
OPDs	Decentralised Public Bodies
SNIP	National System of Public Investment
Philippines	
BIR	Bureau of Internal Revenue
BOC	Bureau of Customs
CSC	Civil Service Commission
DBM	Department of Budget and Management
EER	Efficiency and Effectiveness Review
EOs	Executive Orders
G-EPS	Government Electronic Procurement System

GOCC	Government-Owned and Controlled Corporations
JBC	Judicial and Bar Council
LGUs	Local Government Units
MTEF	Medium-Term Expenditure Framework
MTFP	Medium-Term Fiscal Plan
MTPDP	Medium-Term Philippine Development Plan
OPIF	Organisational Performance Indicator Framework
PEMIP	Public Expenditure Management Improvement Program
PJA	Philippine Judicial Academy
RA	Republic Act
SMS	Short Message Service
	<i>The Russia Federation</i>
FCSM	Federal Commission for the Securities Market
IFRS	International Financial Reporting Standards
NAUFOR	National Association of Professional Participants of the Securities Market
PPPs	Public-Private Partnerships
RAS	Russian Accounting Standards
SEZs	Special Economic Zones
	<i>Singapore</i>
CPIB	Corrupt Practices Investigation Bureau
CSS	Center for Shared Services
iGov	Integrated Government
IM	Instruction Manual
MCYS	Ministry of Community Development, Youth and Sports
PEP	Pro-Enterprise Panel
POWER	Public Officers Working to Eliminate Red-tape
REACH	Reaching Everyone for Active Citizenry @Home
SASRE	Smart Regulation Self-Assessment Scorecard for Regulatory Excellence
SGEA	Singapore Government Enterprise Architecture
TEC	The Enterprise Challenge
ZIP	Zero-In-Process
	<i>Chinese Taipei</i>
GPMnet	Government Performance Management Net
HR	Human Resource
HSR	High-Speed Rail
NPM	New Public Management
RIA	Regulatory Impact Analysis
	<i>Thailand</i>
OIA	Official Information Act
OIC	Official Information Commission
SAR	Self-Assessment Reports
	<i>United States</i>
GAO	Government Accountability Office
OGE	Office of Government Ethics
OMB	Office of Management and Budget
PART	Program Assessment Rating Tool

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