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STUDY ON EVALUATING THE EFFECTIVENESS OF MEASURES TO PREVENT AND COMBAT CORRUPTION IN FRANCE

Symposium on How to Assess Measures for Promoting Integrity and Preventing Corruption in the Public Service

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This background document provides detailed information on the experience of France to support discussion at Session 2.

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STUDY ON EVALUATING THE EFFECTIVENESS OF MEASURES TO PREVENT AND COMBAT CORRUPTION IN FRANCE

INTRODUCTION

1. Context

Good governance involves the evaluation of government policy, including measures to prevent or combat corruption. Defining the right approaches, methods and conceptual frameworks to evaluate the impact of anti-corruption measures is a priority in OECD member countries, which seek to gain a better grasp of policy effectiveness in this sensitive field.

2. Aims

The general aims of the OECD project are:

- To enhance government insight into procedures and methods for evaluating systems that prevent and combat corruption (identifying experience of evaluation).

- To review current arrangements and shed light on the gap between the aims and intentions of anti-corruption policies and actual practice in the field.

The aim is to focus on objective evidence of good practice emerging from the evaluations.

The specific aims of the French case-study are:

- To take stock of evaluation practices in France with regard to anti-corruption measures: are there any, how is information passed up through the system, and is it effective? Should the term be evaluation, monitoring, or control (inspection, auditing)?

- To highlight novel practices but also weaknesses in the system used to prevent and combat corruption, basing the analysis on consultations with key players in the system.

3. Scope

3.1. Subject for evaluation

The complexity of the French system and the number of measures and institutions dealing with corruption in France make it quite hard to define the subject for evaluation. In the broadest sense, evaluation covers:

- A whole raft of measures (which relate to prevention or enforcement, and may be legislative, regulatory, managerial, informational or otherwise).

- The many institutions with some degree of responsibility for implementing, monitoring or evaluating those measures.

A cross-cutting view can also serve to evaluate the anti-corruption system by risk area, such as conflicts of interest and "*pantouflage*" (leaving public office to work for a private company), or public procurement.

This particular study is confined to *administrative corruption* and does not address efforts to combat corruption in the private sector, particularly in major enterprises or groups at the interface with administrative corruption. This will be the subject of future analysis as part of the programme of work undertaken by the Public Governance and Territorial Development Directorate.

3.2. Evaluation

Evaluation is a fairly recent concern in France, where specialist institutions distinguish it from control (legality checked against clear, pre-defined criteria) and monitoring (checks to ensure sound management in line with operational goals). Evaluation judges a programme in terms of its performance and impact on society[1].

The aim is therefore to describe experiments/approaches/attempts to evaluate or measure the effectiveness of a policy or policy component (to prevent or combat corruption), before going on to identify good practice and sound measures to prevent or combat corruption in France.

4. Methods

This case study is based on *self-evaluation* by France of its own system, via interviews with *multiple* players (see list in Annex 3). It draws on *objective analysis* but also on *subjective perceptions* to back up or supplement a purely quantitative approach.

5. Plan

The report sets out:

- Mechanisms to prevent and combat corruption in France[*].
- Methods and experiments relating to the evaluation of anti-corruption measures in France.
- Specific examples of good practice in corruption prevention and control brought to light through evaluation.

[*] For further details see the following two OECD reports on France:

Trust in Government: Ethics Measures in OECD Countries, 2000

Managing Conflict of Interest in the Public Service, 2002

CHAPTER 1

SUMMARY OF MAIN CONCLUSIONS

1. Presentation and description of the French system of preventing and combating corruption

The French system is broadly characterized:

- By dispersed and overlapping systems of prevention and control.

  The institutional system of prevention and control is complex and piecemeal. There are multiple players, many of whom have more than one role. There is no single independent specialist agency in France that takes full responsibility for everything from prevention to enforcement and co-ordinates all the relevant services. There are, however, specialist bodies with some degree of autonomy which advise, supervise, control and even impose sanctions in individual risk areas.

- By a *predominantly legal and administrative approach* to the handling of corruption.

  The French system is characterised by laws, regulations, rules and codes, contrasting with the "soft law" of professional codes of ethics.

- By a *novel system of preventive controls* -- dual or triple controls, numerous internal controls *a priori* (legality checks by Prefects, or accounting audits for officials with power to authorize expenditure) and controls relating to so-called "preventive" offences (*délits préventifs* or *délits-obstacles)* such as taking undue advantage, or by geographical mobility for vulnerable staff.

- By a *civil service system* that in itself guarantees the independence and probity of its staff. Recruited by competitive examination, trained in the *grandes écoles* (leading higher- education institutions) or by the major corps impregnated with the public service ethic, and in regular receipt of what society views as an acceptable level of pay, public servants enjoy prestigious social status.

2. Evaluation practices, methods and tools

Information on corruption comes in the form of an estimate, based on statistical tools and the feelings of those working in the field, without constituting a genuine system of evaluation. In France, no real *scientific study* has ever been carried out to assess the impact or effectiveness of the anti-corruption system or any of its constituent parts. *The emphasis is on another, non-scientific form of evaluation.* It reflects the characteristics of the only type of evaluation carried out in this field:

- Administrative self-evaluation that is ongoing and voluntary, without devising new scientific instruments.

- The unique contribution of practitioners, experts, and people with experience working in the field, all of whom give their impressions, intuitions, feelings and perceptions which are probably reliable but not very specific.

As a monitoring, information and advisory centre on corruption, the SCPC (*Service Central de Prévention de la Corruption*) could be particularly well placed to conduct evaluations of anti-corruption measures. The SCPC is an interministerial body that plays a key role. With regard to prevention, the

management would like to see it become an evaluation and auditing body for professional ethics programmes, and regrets their lack of information on how the system is implemented and run. The same applies to internal controls: SCPC training-courses already include the evaluation of internal control units in some government departments and enterprises. Because it stands back and takes a detached and overall view (it has no investigative or crime-prevention department), it would be particularly qualified to identify and review the impact of anti-corruption measures on the instances of corruption it detects.

Genuine efforts are being made to gain qualitative and quantitative insight into the phenomenon of corruption. The resulting picture is, however, piecemeal and incomplete.

2.1 Quantitative data on corruption

The French legal system has, like some administrations, a longstanding tradition of statistical reporting, one example being the information held in the *Casier Judiciaire National* (national criminal records). Macro-economic indicators are needed, but these are being drawn up.

2.2 Qualitative data

Risk analysis: The SCPC, an inter-ministerial service reporting to the Minister of Justice, has been pursuing an original, pioneering policy of risk analysis. It draws the attention of those working to combat corruption to high-risk areas, and provides them with the instruments they need to identify corruption mechanisms by describing the illegal practices specific to each sector.

Risk mapping: TRACFIN (Unit for Intelligence Processing and Action against Secret Financial Channels) has developed a geographical analysis and processing system that serves to identify the geographical or geo-economic factors behind corruption, and gear responses appropriately. This is conducive to comparative analysis, or geographical "benchmarking".

Surveys or targeted studies -- as developed by the NGO *Transparency International*, for instance -- are "perceptions" indicators seldom used by the French government.

2.3. Databases

Wide-ranging experiments with new databases are being conducted to combat and target corruption. One major obstacle identified by many of those interviewed is the legislation on the use of computerised data, in particular the 1978 Computer Information and Freedom Act and its rigorous enforcement by the computer information watchdog *Commission nationale de l'Informatique et des Libertés*, or CNIL.

3. Enhancing the French system of corruption prevention and control: good practice and challenges

A critical analysis, conducted through interviews, of the French system of corruption prevention and control highlights some examples of good practice:

3.1. Control bodies

The criteria that ensure the effectiveness of these *control bodies* in combating corruption are their independence, guaranteed by law, their membership, and the supervisory authority to which they report.

In this field, the trend is towards layers of institutions that vary in status:

- Traditional control bodies (conducting internal and external inspections, e.g. the financial jurisdictions).

- Independent regulatory authorities whose decisions are binding (e.g. the *Conseil de la Concurrence* on competition issues, or the *Commission Nationale d'Equipement Commercial* for commercial land-use planning).

- Independent advisory authorities that must be consulted but whose opinions are not binding (Ethics Commissions).

  These were all set up at different points in time in response to specific needs, and have seen their status evolve as corruption has become more complex. The large number of different bodies is a reflection of the many attempts to tailor controls to the changing face of corruption.

3.2 Control

With regard to control, the French model is built around three pillars:

1. periodic controls at regular, defined intervals;

2. rather formal legal and accounting controls;

3. *a posteriori* controls.

Apart from actual enforcement, the control process is increasingly part of a comprehensive approach covering the use of public resources and performance. Many interviewees from the monitoring bodies stressed the need *to supplement existing legal controls with a genuine approach based on prevention and risk management.*

3.3 Sanctions

The French system combines at least three types of sanctions: administrative, criminal and financial. This complex approach is not straightforward, in terms of enforcement, as it raises problems of co-ordination -- of processes or the scale of sanctions -- but the advantage is that it provides scope for a whole range of responses to the complex phenomenon of corruption.

3.4. Dialogue and co-ordination among institutional players

Sophisticated institutional arrangements do not make for dialogue or streamlining, and there is a need to introduce mechanisms that will foster co-ordination and concertation. One of the original solutions adopted by France to tackle corruption has been to set up *interministerial* structures. To promote closer co-ordination, *standing liaison committees* or *discussion forums* can bring players together.

This approach is strongly recommended. Shifting from bilateral relations between government departments to multilateral, targeted relations is an appropriate management response, given the host of players, institutions, information and procedures. Through commitment, involvement and more accountability, government departments can become fully fledged partners in tackling corruption, rather than "passive" opponents of it.

3.5 Opening up to civil society and outside players

Involving *unions* in the fight against corruption would be an excellent and necessary step. As social partners, they play a major role not only in informing, training and raising awareness among public servants, but also in modernising risk management (introduction of whistleblower schemes, for instance).

France is exploring two innovative avenues to make it easier for *enterprises* to report irregularities: the first relates to the plea-bargaining procedures set up by the *Conseil de la Concurrence* (Competition authority), and the second to the legal obligation to report suspicions to TRACFIN.

Calling in *outside experts*, particularly from the scientific and academic community, is also strongly recommended.

Another most necessary step would be greater involvement on the part of *Parliament* with regard to transparency and performance in the way government departments handle corruption.

As for mobilising the *public at large*, there is widespread evidence of distrust on the part of the authorities and French anti-corruption experts with regard to whistleblowing arrangements or survey-based consultation.

CHAPTER 2

AN EXPLANATORY INTRODUCTION TO THE FRENCH ANTI-CORRUPTION SYSTEM

The purpose of this chapter is to present the leading features of the French anti-corruption system.

1. Legislative and regulatory arsenal

The French system is characterised by laws, regulations, statutes and codes.

1.1. Prevention

The salient features of the French system of prevention are as follows:

- A set of legal rules, in some cases too abstract to be enforced directly by operational staff.
- Very little "soft law" in professional codes of ethics: only a few codes have been drafted (see below).
- Theoretical ethics training provided in civil-service training colleges (e.g. the *Ecole Nationale d'Administration*, or ENA, and the *Ecole des Douanes* for customs and excise staff), although this remains of secondary importance.

In fact the originality of the French system lies essentially in its public service rules and regulations (*Statut de la Fonction Publique*) adopted under the Fourth Republic in 1946, and in the way government operates. Obligations and duties under the rules, breaches of which are heavily sanctioned, can take the form of "preventive" prohibitions known as *dispositifs de prevention pénale* or *délits-obstacles*. The idea is to prevent and avoid any situation that could lay public servants open to a breach of the law or a conflict of interest.

The obligation of *exclusive* performance of duties prohibits public servants from working in the public and the private sectors at the same time. The obligation of *disinterestedness* prevents them from deriving undue advantage (*prise d'intérêt*). *Incompatibilities* seek to avoid any form of partiality in public decision-making. Administrative organisational resources also play a part in preventing corruption. Transparency and administrative accountability, like the "double-key" system, are used to separate roles (accounting officer/officials with power to authorize expenditure, for example) and to provide a substitution mechanism for cases of conflicts of interest, or collegial decision-making.

Risk areas also have their own specific regulations, such as the Public Procurement Code and the Regulations on secondment, leave of absence and "*pantouflage*" *(*Act No. 94-530 of 28 June 1994).

1.2 Sanctions

A list of disciplinary and administrative sanctions can be found under Section 66 of Act No. 84-16 of 11 January 1984. They fall into four categories: 1) warning and reprimand; 2) striking off the promotion lists, demotion, temporary suspension from duty, or transfer; 3) suspension; 4) early retirement or dismissal from public service.

The *Code Pénal* (CP) or Criminal Code, provides for four types of offence: extortion (Art. 432-10), passive corruption and influence-peddling (grouped under Art. 432-11), abuse of office (*délit d'ingérence*) and undue advantage (*prise illégale d'intérêt)* (Art. 432-12 and 13), and favouritism (Art. 432-14). The criminalization of corrupt practices is a particularly dissuasive feature of the French system, as the sanctions are so heavy. And under Article 40 (2) of the Code of Criminal Procedure, public servants who know of any crime or offence must report it the Public Prosecutor without delay and forward the relevant evidence.

2. Institutions and services working to prevent or fight corruption

The institutional system of prevention and control is complex and dispersed. There are a host of players, many playing more than one role. The institutions and bodies can be broken down into categories according to their function.

2.1. Prevention

- Service Central de la Prévention de la Corruption (SCPC):

  The SCPC, set up in 1993, is an interministerial service reporting to the Minister of Justice which:

  1. Centralises the information required to detect and prevent offences involving active or passive corruption and the corruption of private-company managers or staff, undue advantage, extortion, favouritism and influence-peddling.

  2. Lends assistance, at their request, to the judicial authorities investigating such offences.

  3. Issues opinions on measures liable to prevent such offences for a defined list of various authorities at their request.

- Through the opinions they issue, the civil service Ethics Commission (established in 1994); the *Mission interministérielle d'enquête sur les marchés publics* (MIEM) (interministerial unit for procurement investigations) (set up in 1991); public service delegations; and the *Commissions Spécialisées des Marchés* (CSM), which also monitor procurement.

2.2. Controls

Some forms of control are exercised within ministries or government departments, e.g. ministerial inspectorates and in particular the IGF (General Finance Inspectorate), the IGA (General government inspectorate) and the DGCCRF (General directorate for competition, consumer affairs and trading standards).

Other forms of control are external but come under the authority of official government bodies:

- Administrative controls: prefects, administrative courts.
- Financial auditing by general financial jurisdictions such as the Court of Auditors (CC) and the Regional auditing chambers (CRCs).
- Interministerial monitoring units/services: MIEM, SCPC.
- Parliamentary controls: standing or *ad hoc* Parliamentary boards of enquiry.

2.3. Enforcement

- Criminal justice: the *Pôles économiques et financiers* (Economic and financial investigation units) reporting to the Courts of Appeal of the *Tribunaux de Grande Instance* (TGI) or higher regional courts.
- Jurisdictions whose main remit is not to impose sanctions for corruption-related offences but to refer to the criminal courts any offences they may detect.
- *Cour de Discipline Financière et Budgétaire* (CDBF).
- *Conseil de la Concurrence*, the competition authority, which tracks and punishes anti-competitive practices.

2.4 General remarks

The structure of controls may therefore be either the vertical silo type (by institution) or cross-cutting and horizontal, by programme or sector (e.g. public procurement).

Although France does not have an *independent, specialist agency* encompassing everything from prevention to enforcement and co-ordinating all the relevant departments, the SCPC does focus solely on corruption. With no coercive powers, it is confined to the role of a monitoring, information and advisory centre on corruption. However, there are specialist bodies with some degree of autonomy that advise, monitor, inspect and even impose sanctions in specific *risk areas*. Conflicts of interest and *pantouflage*, for instance, are handled specifically by the civil service Ethics Commission. By the same token, public procurement and public service delegations are supervised by the MIEM, the CSMs, the DGCCRF and the *Conseil de la Concurrence*.

The novelty as far as anti-corruption measures are concerned lies in the adoption of an *interministerial* approach, which takes into account the complexity of corruption phenomena and has led to the creation of such bodies as the SCPC and the MIEM.

3. Procedures used in prevention, control and the fight against corruption

To illustrate the complex nature of the process of control over the use of public funds, the table below outlines the work of some of the many bodies working in this field.

Table 1. Control procedures and mechanisms

	Financial jurisdictions		**Interministerial unit**	**Internal control corps**		**Independent regulatory authority**
Institutions	CC (Court of auditors)	CRC (Regional auditing chambers)	MIEM	DGCCRF	General Finance Inspectorate	*Conseil de la Concurrence* (competition authority)
Competence	Audits the accounts of: - accounting officers - statutory authorities - government enterprises - social security institutions - associations receiving government subsidies	Audits the accounts of local authorities and public corporations within their jurisdiction Reviews the management of: - local authorities and - their associated private undertakings (e.g. Sociétés *d´économie mixtes* locales, associations receiving local funding or public service delegations	- any government buyer - monitors cases of favouritism, undue advantage, misuse of public property, forgery	- in the field of competition, identifies illegal agreements, abuse of dominant position, favouritism	- inspects MINEFI departments, in particular the Treasury and the General Tax Directorate - investigates cases involving: officials with power to authorize expenditure . bodies subject to economic and financial monitoring . any body receiving public funds	Combats illegal agreements and abuse of dominant position
Referrals	Initiates own enquiries, draws up own auditing programme	Initiates own enquiries - Prefects - other players (e.g. accounting officers, local executive subject to justifiable audit requests)	- Does not initiate own enquiries - Prime Minister - Ministers - Court of Auditors - Prefects		Ministerial request	Government, Parliament, local authorities, trade organisations or unions, consumers, courts, but also initiates own enquiries
Frequency and volume of work	Target: each institution on average every 4 or 5 years. Produces an average of 700 reports a year	- Automatic review every four years - Audits selected quantitatively and qualitatively by field - 600 reports a year	- Number of cases dealt with in 2001: 29. Investigation requests: 11	Took part in 23 500 competitive bidding processes in 2001.		In 2000: 112 decisions, 31 opinions, 28 sanctions

Procedures	Operates on a collegial basis (rapporteurs and counter- rapporteur) by means of an adversarial process	Audit *in situ* based on documentary evidence - operates on a collegial basis, adversarial process	Adversarial Institutions have access to case files		Investigation *in situ* based on documentary evidence. Adversarial procedure. Authors' responsibility	Collegial, adversarial
Powers	Wide-ranging investigative powers, even over supervisory authorities	Wide-ranging investigative powers	Criminal investigation department (PJ) staff have wide-ranging powers	DGCCRF officials entitled to attend competitive bidding commissions		Investigative powers - may request assistance of DGCCRF inspectors
Effects	- judgments may implicate the personal and financial liability of accounting officers - judgments may be overturned by the Council of State - comments of an administrative nature may result in interlocutory procedures (letters to Ministers from First Presiding Judge), letters from the Presiding Judge or the Public Prosecutor, public reports - referral of cases to Ministry of Justice	- judgments may implicate the personal and financial liability of accounting officers - possible appeal against judgments before the Court of Auditors - review by the court and non-binding decision leading to acquittal or restitution order - comments of an administrative nature that result in observation reports and public reports	-referral to Public Prosecutor if evidence of favouritism	Written comments No voting rights		- protective measures - injunctions - pecuniary sanctions - referral to the courts - documents published and made available for consultation

Control	- Public Prosecutor, gives advice on work in progress, monitors performance - judgments may be overturned by Council of State	- appeals procedure: Court of Auditors, Council of State - judgments may be overturned by Court of Auditors	- procedure subject to authorisation and control by judicial authorities			- appeals heard before the Paris Court of Appeal and the Court of Cassation
Limits	- observation, no powers of injunction vis-à-vis government - a posteriori control		Unable to initiate own enquiries		- May make reports available for consultation subject to authorisation by the Minister for the Economy and Finance	

The French system is therefore characterized by:

- Dispersed and overlapping systems of prevention and control.

- A predominantly legal and administrative approach to dealing with corruption.

- An original system of preventive controls – dual or triple controls, numerous internal controls *a priori* (legality checks by the Prefect, or checks on officials with power to authorize expenditure) and on what are known as "preventive" offences (*délits préventifs* or *délits-obstacles)*, whereby officials must not even lay themselves open to suspicion (of undue advantage).

- By a civil service system that in itself guarantees the independence and probity of its staff.

CHAPTER 3

EVALUATION PRACTICES, METHODS AND TOOLS

Evaluation requires reliable measuring tools and instruments. Where incidents of corruption are concerned, a lack of information and clarity is a major barrier to:

- Raising awareness and *mobilizing* players.
- Setting *goals and targets* for anti-corruption programmes.
- Setting up *processing* and effective policies/initiatives.
- Measuring the effectiveness and *impact* of anticorruption policies.

1. Data on the corruption phenomenon

The SCPC is the only corruption monitoring centre that collects and processes information on corruption. It is more a *non-scientific, intuitive estimate* than a national mapping process indicating scale and specific sectors.

There are no indicators or methodologies *specifically* dedicated to measuring corruption (e.g. benchmarking at-risk institutions, conducting user surveys, or monitoring specific measures).

This brings us to the question of the purpose served by such indicators: are they there to provide information on the number of offences, amounts involved, indirect implications and economic impacts (dysfunctional, pointless, additional operating costs) or political consequences (public trust)?

Insight into corruption is presented as an estimate, based on specific statistical tools and the perceptions of those working on the ground.

1.1 Numerical data and problems involved in their use

1.1.1. Criminal law statistics

The legal system has a longstanding tradition of statistical reporting, particularly with the data in its national criminal records (*Casier Judiciaire National).* For corrupt practices in general, irrespective of type, statistics and trend analyses on convictions for corruption or assimilated offences set the number at some 300 criminal convictions a year.

Using the statistics for each type of offence (as identified by the articles of the CPP), it is possible to identify the type of corruption and monitor trends in offences.

The legal system has refined its statistics[**] on a set of offences that come under the heading "economic and financial crime" and cover corruption-related offences known as "breaches of the duty of probity" (see table in Annex 1: Table on "Convictions for infringement of the duty of probity"). The statistics also include figures on money laundering and "interference with market processes" (*atteinte au fonctionnement des marches*), together with information on misuse of public property (*abus de biens sociaux*). This degree of refinement provides information on types of conviction (sentence and fines) and on the socio-professional status of those convicted (see table in Annex 2: Convictions and sentences under Article 432-11).

There are, however, a few problems relating to clarity and interpretation. Corruption is hidden and invisible. The distinction is not between the number of crimes committed and cases resolved (thereby highlighting the number of cases that remain unresolved), but between "knowns" and "unknowns". Furthermore, the statistics and figures published by investigation departments or the courts are hard to interpret: if the number of cases increases, does it mean that corruption is on the rise or that enforcement is more efficient?

In terms of simple figures, this kind of information is confined to convictions, and does not count the number of new cases reported or forwarded to the Ministry of Justice, cases that are settled, discontinued proceedings or some other alternative. Nor does it include the financial/economic cases dealt with by the police or *gendarmerie* in their investigations. Furthermore, because of the limitation period, a number of cases are dealt with as offences relating to the misuse of public property, which excludes them from the corruption statistics.

Box 1. *Infocentre* and *Cassiopée:* new statistical tools at the Ministry of Justice

The setting up of a new criminal statistics software system, *Infocentre*, is an attempt to fill the gap by counting and analyzing in greater depth not just "output" or criminal convictions, but also "input", and not just in terms of volume but by type of offence. This provides a breakdown of the work of each Public Prosecutor's office by type of offence, the links between types of offence, and the outcome of each case (dismissal, prosecution, other).

In addition, it is now possible to monitor a cohort of cases through the various stages of the process. Currently *Infocentre* is confined to statistics on courts in Paris and the Paris region. This will be extended when *Cassiopée* comes on stream (new computer programme for courts in the provinces).

Source: Bilan des actions d'évaluation menées en 2002 et perspectives 2003, French Ministry of Justice, *DACG, Annexe 10 « La Lettre du Pôle études et évaluations », February 2003.*

Offences relating to corruption are numerous (from corruption in the strictest sense to the offence known as favouritism) and scattered through France's many codes (Criminal Code, Tax Code, Customs Code, Labour Code, Code of Commerce), making it hard to identify clearly what does or does not constitute corrupt practice. And the statistics do not distinguish between public, political, administrative or other forms of corruption.

The figures on referrals to the courts or on criminal convictions are only one of many categories, a final link in the chain dealing with corruption. As indicators, they are accordingly limited and less than perfect.

1.1.2. Figures on administrative sanctions in each service, administration or ministry

[**] *Infostat Justice*, Ministry of Justice, June 2002, No. 62.

Some government departments keep statistics on cases of corruption involving their own staff.

Box 2. Statistics on corruption cases involving DGDDI staff (General Directorate of Customs and Excise)

The DGDDI has a 'departmental inspectorate' whose main remit is to conduct periodical audits of how the customs services are organised and run, but it can be asked (by the General Directorate or heads of external services) to conduct one-off audits to reveal any corruption when such breaches of the rules are suspected.

Since 1990, the DGDDI has been keeping statistics on cases of corruption involving its officials and breaks them down by type, social factors and geographical area.

It has a set of specific indicators: type, number of cases, year, category of staff, directorate/location, administrative sanction, criminal sanction.

There are *6 broad categories of corruption-related offence:*

- Duty-free sales invoices: fraudulent stamp, with consideration;
- Duty-free sales invoices: fraudulent stamp, without consideration;

Corruption: extortion of funds from users;

Corruption as defined under Article 59 of the Customs Code (accepting gifts, gratification or reward with or without consideration);

Abdication of duty for money (gratification from a customs declarant);

Miscellaneous: corruption, and aiding and abetting smuggling.

Source: Cas de corruption mettant en cause des agents des douanes depuis 1990, DGDDI

Some directorates, such as the tax administration, also disclose details of administrative sanctions in their in-house lists or publications.

These internal statistics do have their limits, however. Their status is ambivalent, as they are not compulsory, may be informal and may or may not be disclosed and published. There is no institution in charge of collecting the data available on corrupting practices from government departments, to gain an overview of risk areas and types of fraud.

1.1.3 Data held by advisory or control bodies

The specialist or control bodies all describe their work in annual reports. The SCPC and the MIEM, for instance, provide information on the number of cases brought and referrals to the criminal courts in their own fields. Similarly, TRACFIN (unit for intelligence processing and action against secret financial channels), in its annual report, provides information on "declarations of suspicion" received, and referrals to the courts.

Control bodies such as the Regional auditing chambers (CRCs) or the Court of Auditors provide the same information in their activity reports. For instance the 2002 Annual Report by the Court of Auditors, under the heading "Report on the work of the financial jurisdictions", takes stock of the number and type of referrals to the criminal courts by the CRCs since 1985, including infringements of the duty of probity.

Box 3. Financial jurisdictions and criminal courts: corruption statistics

From 1983 to 2003, the financial jurisdictions referred 530 cases to the Public Prosecutor, with a particularly sharp rise between 1993 and 1997.

Around two-thirds of the cases referred concerned infringement of the duty of probity (Articles 432-10 to 432-16 of the Criminal Code):

1. Undue advantage (33%);
2. Favouritism (15%)
3. Extortion, passive corruption, influence peddling (12%);
4. Corruption (2%).

There are also numerous cases of misuse of public property (12%), some of which mask cases of corruption.

While 69% of cases involve elected officials, others involve staff from audited bodies (18%, including 6% involving unelected officials with power to authorize expenditure and 12% involving other officials) and civil servants (3%).

Source : *2002 Activity Report of the Court of Auditors*

Advisory institutions such as the *Commissions Spécialisées de Marché*, the *Commission Nationale d'Equipement Commercial* (CNEC)[2] and Ethics Commissions[3] also provide statistics on unfavourable opinions and the grounds on which they are based.

Box 4. Ethics Commissions – statistics

The Ethics Commissions, established in 1993, have had to make good a complete lack of statistical data on practices prior to that date.

Once the Civil Service Ethics Commission had been set up, however, it developed a highly comprehensive and extremely detailed statistical tool that gives a good snapshot of the areas and social groups at risk from *undue advantage* and *"pantouflage".*

Data are available on:

Referrals to the courts

- Status (leave of absence, resignation, retirement, unpaid leave, termination of contract, dismissal);
- Origins of referrals: by administration, sector, category, corps, gender.

Opinions

- Type of opinion (lack of jurisdiction, inadmissible, justifiable, justifiable subject to conditions, unjustifiable, unjustifiable in the present state of the file)
- Breakdown of opinions by administration, category and corps.

Follow-up

- List of administrations that have failed to provide information on follow-up;
- List of administrations that have contravened opinions, and analysis of cases in which there has been divergence.

This detailed reporting provides some extremely refined data. For instance, it reveals the lack of follow-up and controls where retired civil servants are concerned, and appropriate steps have now been taken to make

administrations more aware of the problem.

The Ethics Commission also practises an indirect form of benchmarking by comparing the resourcefulness and efforts deployed by administrations in preparing their case-files (this can be traced by the number of opinions declared to be justified) or following up recommendations.

Just as the primary focus of the activities and mandates of the various advisory and control bodies is not on fighting corruption, the statistics are not sufficiently detailed or compiled in such a way as to provide insight into the nature of the problem concerned (i.e. irregularities or actual corruption).

1.2 Qualitative or economic data

As well as statistics and numerical data, other indicators can provide insight into the impact and scale of corruption.

1.2.1 Macroeconomicdata

Very few macroeconomic indicators have been put in place to identify irregularities. Yet submitting economic data to comparative analysis is an excellent way of detecting corruption. Indices have been developed for:

- Illegal agreements; the *Conseil de la Concurrence* looks at inexplicably stable prices, for instance, or stabilized sectors with low rates of productivity and technical innovation.

- Corrupting practices relating to land-use planning, pressure on land, and the links between supply and demand to be taken into account when calculating risk factors.

There is an urgent need, particularly in the field of procurement, for national databases and benchmark prices to assist public procurement officers and auditors alike.

1.2.2. Risk analysis

The SCPC is conducting some pioneering and original work on risk analysis. Much of the SCPC Annual Report is given over to studies on fraudulent and corrupting practices in individual risk areas. Not only does the SCPC draw the attention of anti-corruption players to vulnerable areas, but it provides them with the tools to identify the mechanisms behind corruption, by describing the irregular practices specific to each area.

Box 5. Inventory of risk areas selected by the SCPC[4]

1993-1994: Lobbying and influence peddling, sport and corruption, international trade and corruption, decentralisation, acts of corruption, and review of lawfulness.

1995: Extortion, undue advantage and favouritism in public procurement, the healthcare sector and international trade.

1996: Advertising agencies, commodity derivatives, fraud and corruption in public procurement, international business transactions, competition and corruption, economic rationality and international fraud.

1997: Sects, computer markets, domestic retail trade, crafts and tradeable services, high-risk situations, use of monies derived from corruption;

1998-99: Use of consultants and middlemen to mount fraudulent schemes, risks of abuse in the mass-marketing sector, risks of abuse in the vocational training sector.

2000: Publicity and internal controls, *pantouflage* and grey areas, poverty and corruption: the adoption issue.

2001: Corruption and exclusion, globalisation, corruption and the charity business, arrangements that circumvent the 1997 OECD Bribery Convention, private security: emergence of a virtuous circle, risks of abuse in the cleaning sector, fact-sheet on undue advantage.

2002: Ethics, abuse in the voluntary sector, anti-corruption services.

Source: 2002 SCPC Annual Report

However, there are some limits to what the SCPC can do:

- Its choice of sectors to target is *random*, although made in response to indicators or whistleblowing, or based on social or political demand;

- It can only study a limited *number* of sectors, owing to a lack of staff in the SCPC;

- Its coverage and analysis of a sector are *snapshots*, relevant at the time of writing and therefore soon out of date. To update its information, the SCPC is trying to provide follow-up by reworking themes from a different angle and launching a four-yearly publication in the form of a widely distributed "Letter".

Many administrations carry out implicit risk analysis by developing typologies (for instance at the DGDDI) or identifying vulnerable sectors and situations.

Box 6. Risk analysis by the General Government Inspectorate/Ministry of Foreign Affairs (IGA/MAE)

Areas at risk

- Visa and asylum applications
- Civil status and naturalisation applications, French community administration, dual nationals
- Adoption.

Posts at risk

- Posts in contact with the public, counter staff
- Civil servants in Categories B and C
- Local officials, without the status and pay of expatriates
- Staff in consulates and vice-consulates, more than embassies
- Posts with few staff and little scope for rotation
- Posts with a *low ratio of expatriate managers to local officials*.

Risk mapping

- *Countries with a high level of external corruption, putting the consulate or embassy staff under pressure*
- Countries with underperforming civil-status departments (applications for naturalisation)
- Developing countries.

1.2.3. Risk mapping

While mapping and tackling risks on a geographical basis would probably be worthwhile, implementation has been half-hearted to date. Yet this would enable comparative analysis or geographical benchmarking. Mapping highlights the geographical *factors* contributing to corruption (insularity, local practice, proximity to money-laundering areas). By the same token, mapping can help to find *solutions* or lead to better practice. As there are territorial disparities when it comes to corruption, solutions must be geared to the locality (e.g. heightened vigilance or more staff and resources in some areas), while some preventive practices such as moving staff around may be relaxed or stepped up as required.

Box 7. TRACFIN mapping

TRACFIN is the only institution that includes mapping among its activities. In its 2002 Activity Report, for instance, it maps out the areas in which declarations of suspicion have been filed and reveals fairly stable geographical patterns, linked to the concentration of banking and financial institutions. Similarly, it maps out the main courts receiving referrals, since territorial jurisdiction depends largely on where the perpetrator lives or where the offence was committed.

Mapping can shed light on what has or has not changed (provided it is comparative and chronological) and highlight features typical of certain offences (e.g. geographical concentration). While some forms of mapping may seem superfluous to information in table form, they do offer the advantage of instant visualization.

Source:: 2002 TRACFIN Annual Report

The fact that no mapping has been done for *public procurement* in general is regrettable. The MIEM statistics, for instance, are comprehensive when it comes to geographical patterns of referrals to the courts but soon become meaningless without the aid of maps. The same can be said for the *Commissions Specialisées des Marchés*, which publish reports with no geographical information whatsoever. On such a

sensitive subject as public procurement, where the geographical factor often reveals irregularities, there are no clear data for the country as a whole.

To a lesser degree – given the number of cases and the statistics which are purely for internal use – the General Directorate of Customs and Excise takes into account (but does not map) territorial data, particularly for its policy on staff mobility.

The Ministry of Foreign Affairs does not map out corruption patterns, even though geographical and geo-economic factors play an essential role in the potential occurrence of such offences. In future, it would be desirable to include mapping in the Annual Report by the MAE/General Government Inspectorate.

1.2.4. Surveys

It has never been the tradition for government departments and services to survey users among the general public about how they perceive or see corruption. To our knowledge, there have been no surveys among firms, users of government services or civil servants themselves on the topic of corruption.

Most government departments have a complaints book in which the public can set down their grievances in writing. However, they are often kept in the departments concerned, which does not make complaining particularly easy.

An NGO, Transparency International (TI), has developed a Corruption Perceptions Index and publishes its own country ranking. Most of our interviewees contested TI's methods and findings.

Box 8. Transparency International, its Corruption Perceptions Index (CPI) and the French authorities

Many institutions – be they international organisations (World Bank), consultancy firms or NGOs (like Transparency International) – have tried to measure "passive" corruption by focusing on the perceptions of the public or of target groups (business community).

With regard to France, Transparency International (TI) has developed a Corruption Perceptions Index which focuses on perceptions of France in international business circles.

"The TI Corruption Perceptions Index (CPI) in 2003 ranks 133 countries in terms of the degree to which corruption is perceived to exist among public officials and politicians. It is a composite index, drawing on 17 different polls and surveys from 13 independent institutions carried out among business people and country analysts, including surveys of residents, both local and expatriate".[5]

This Corruption Perceptions Index, which ranks France 23rd in the world, is contested by the French authorities and the people we interviewed, in particular in the SCPC[6]. By and large, the use of surveys to measure corruption raises a number of questions: can perceptions serve as the sole basis for talking about corruption in France? Should the emphasis be on perceptions in business circles or among the general public?

The CPI is an interesting and useful instrument as it helps to raise awareness of the scale of corruption that exists. However, it does not reflect the complexity of the phenomenon and should be set against other data. Aware of the CPI's limits, TI assesses its reliability in each country (number of sources available, converging information) and collects additional material (e.g. by identifying sectors most vulnerable to corruption).

Source: TI and the SCPC

While surveys are merely indicators of perceptions and feelings, there is a need for such instruments in France. Surveying the opinions of public officials as to the amount of corruption in their departments, of enterprises on risk areas or situations in their dealings with government services, and of the general public as public service users would provide more insight into how the French relate to corruption.

2. Databases

France lacks tools, in particular for data-processing, that could be shared among government departments to make them better informed, more responsive and better equipped to deal with corruption. The tools would provide scope:

- To access updated information on multiple data (benchmarks).
- To identify pockets of expertise within government departments or elsewhere.
- To take a more targeted and sensitive approach to risk identification and management.
- To co-ordinate and combine controls.

2.1 Experiments

Some experiments are worth noting. Some investigation services have their own databases, such as ANACRIM, used by the *gendarmerie*. The SCPC would like to gear them to specific types of crime (economic and financial crime in the case of corruption) and provide investigative/analytical templates to help inspectors working on the ground. An analytical list of some ten types of fraudulent financial arrangements (indicators and indices) has already been drawn up for training purposes but has not yet been brought into widespread use.

The MAE General Government Inspectorate, which has not developed its own databases, uses databases such as R*éseau Mondial Visa* to handle visa requests or applications for naturalization. This enables it to detect anomalies or irregularities, by comparing activity in certain postings.

When the special investigation units for economic and financial crime (*Pôles Economiques et Financiers*) were set up within the judicial system in 1999, a computer-assisted investigation system was also introduced to give a direct view of microphenomena and reveal connections between cases or highlight any upsurge in specific types of cases.

In 1997, financial jurisdictions such as the CRCs set up a process planning commission, subsequently known as the *Mission Outils et Méthodes* (tools and planning unit), with a remit to enhance auditing practices and produce the necessary tools. The main tools developed by the financial jurisdictions are guides to investigative methodology. These use the information garnered from the many data-collection bodies (including INSEE, public accounts, the Interior, and clerks' offices) to enrich the financial jurisdictions' own databases and enhance their audits. As for the information held by the entities subject to audits, modes of access are defined by strict procedures and ethical principles applying to all control bodies, even if the financial jurisdictions do have a very substantial right of disclosure. Attention was drawn to the need for access to external databases, including hospital files or civil-service pay files. The pooling of data – e.g. inspection/auditing guidelines, handbooks, basic investigation templates, benchmarks, and warning procedures – makes it possible to take stock of competencies within the financial jurisdictions and elsewhere, and make them available on networks to create pockets of expertise.

2.2 Obstacles

Many of those interviewed saw the legislation on the use of computerized data as a major obstacle, in particular the 1978 Computer Information and Freedom Act (*Loi relative à l'informatique, aux fichiers et aux libertés*) and its rigorous enforcement by the CNIL. The obligation for files to remain anonymous prevents their shared use within a directorate and restricts the development of databases in general.

Box 9. The Computer Information and Freedom Act and the CNIL[7]

Faced with the almost infinite potential unleashed by information technologies, the Act of 6 January 1978, known as the Computer Information and Freedom Act, provides some strong safeguards to protect individuals against the proliferation of data files. Greater involvement and accountability is the key to this system of protection: those who create the processes should be made subject to obligations, and those whose details are held in databases should be given specific rights.

At the centre of the system is an independent authority, the CNIL (*Commission Nationale de l'Informatique et des Libertés)* which ensures that rights are respected and obligations fulfilled. Its main remit is to protect personal privacy and individual or public freedom. It is responsible for ensuring compliance with the Computer Information and Freedom Act.

The CNIL *issues opinions on new data-processing systems in the public sector* and is notified of any data-processing conducted in the private sector (Sections 15 and 16). Data-processing managers who fail to comply with these requirements are subject to criminal sanctions (Section 226-16). *Data processing in the public sector requires a decree adopted with the endorsement of the Council of State to overrule an unfavourable opinion from the CNIL* (Section 5, parag. 1).

The CNIL keeps a "file of files" available for public consultation, i.e. its inventory of the data files and their main characteristics (Section 22)."

Source: *A quoi sert la CNIL?,* December 2003, http://www.cnil.fr/index.htm

2.3 Advantages

Yet databases do have potentially significant advantages:

- Databases would improve the processing and monitoring of data files between institutions.

  Databases on corruption would allow the ongoing *monitoring* of risk areas, fraud and fraudulent arrangements, and irregularity indicators by centralizing the information provided by all those working to fight corruption.

  Specialised macroeconomic databases could act as a national price monitoring unit.

- They could serve as a tool to evaluate the work of various departments and how well they are co-ordinated (e.g. measuring the rates of referrals, investigations, discontinued proceedings, discharges and convictions).

3. Evaluation methodology

Policy evaluation has taken time to become established in France, both in theory and in practice. Yet evaluation is essential in many respects:

- It calls for detailed thought as to policy goals and how to achieve them.
- It enables the development of methodological tools (e.g. criteria, indicators and surveys) which can, in turn, develop insight into corruption, thereby helping to improve the anti-corruption system.
- It is a source of information.
- It is a means of identifying, with fairly objective criteria, best practice and the best institutions in the field of corruption prevention and control, and of identifying and remedying the shortcomings and limitations of the rest.

- Policy evaluation therefore has a beneficial impact on the management of the anti-corruption system and so in turn reduces corruption.

3.1. Where does evaluation stand with regard to the prevention and control of corruption?

There have been no strictly *scientific studies* to evaluate the impact and effectiveness of all or part of the anticorruption system. *The preference goes to another, non-scientific form of evaluation.* In 1993, for instance, the Bouchery Commission was asked to take stock of corruption "hot-spots" and the anti-corruption system in France, but did not develop specific tools to identify the problem more closely.

That approach reflected the only type of evaluation conducted in this field:

- *Ongoing and voluntary self-evaluation* by government, without creating new scientific instruments.
- The unique *practical experience* of experts and those working on the ground, who talk about their impressions, intuitions, feelings and sensations which are probably reliable but not very precise.

Yet there is a growing need for evaluation in France, particularly since the Finance Act which makes it mandatory. The challenge lies in institutionalizing evaluation and turning something that is still piecemeal into an integrated policy approach.

3.2 Who could undertake the evaluation of France's anti-corruption system?

Evaluation institutions and cultures fall into two broad categories. The main point here is that control bodies are becoming increasingly involved in evaluation.

3.2.1. Bodies with a specific mandate to undertake evaluation

- The *Office parlementaire d'évaluation de la legislation*, or OPEL (Parliamentary office for the evaluation of legislation) and the *Mission d'évaluation et de contrôle*, or MEC *(*Evaluation and inspection unit):

The OPEL, set up in 1996, made up of members of Parliament and the Senate, is responsible for gathering information and undertaking studies to assess whether the legislation is up to dealing with the situations it is meant to regulate. Another aspect of its remit is to simplify the legislation. The OPEL may be called upon to evaluate the impact of anti-corruption measures.

The MEC -- equivalent to the Committee of Public Accounts in the United Kingdom -- was set up in 1999 and focuses more on monitoring the effectiveness of public expenditure. It works to that end with the Court of Auditors.

There are also standing Parliamentary committees (on specific themes), and in particular select committees, that could be asked to evaluate the anti-corruption system. So Parliament could conceivably play a leading role, either in evaluating anti-corruption legislation in France, or in setting up a select committee along the lines of the Seguin Commission, the working party on "Politics and money", or the Bouchery Commission on "Preventing corruption".

- Independent bodies, set up to specialize in evaluation:

The *Conseil scientifique de l'évaluation*, set up in 1990, became the *Conseil national de l'évaluation* or CNE (National evaluation council) in 1998, reporting to the *Commissariat Général du Plan*

(government planning authority), but was wound down in 2002. Yet the CNE would probably have been the most appropriate body in terms of methodology and expertise to provide scientific tools for evaluation purposes.

3.2.2. Control bodies shifting to performance audits and evaluation[8]

The bodies that conduct external audits (Court of Auditors, Regional auditing chambers) and internal audits (General Government Inspectorate) are increasingly becoming involved in evaluation. A number of general inspectorates (e.g. finance, social affairs, education) have added evaluation to their remit. This trend towards evaluation in France reflects the broader trend found in Europe and North America.

The external control bodies with judicial status have the independence and breadth of scope to grasp the intricacies of multi-stakeholder policies.

The Court of Auditors and the CRCs undertake evaluations, either of areas at risk from corruption or of bodies with a mandate involving corruption prevention and enforcement, without actually evaluating anti-corruption programmes themselves.

3.2.3 Bodies which, by virtue of their mandate or scope, could address anti -corruption systems, programmes and measures

- Ministry of Justice:

The Ministry of Justice, by virtue of its overarching position, plays a co-ordinating role. It has also always processed criminal data and is thus used to handling information. Within the Ministry[9], the Directorate for Criminal Cases and Pardons (DACG) set up a *Pôle Etudes et Evaluation* (Research and Evaluation Unit) in 2001. Its mandate is to develop standardised monitoring tools, as well as quantitative and qualitative information on specific phenomena, monitor the performance of the penal policy drawn up by the Chancellery, and measure the impact of penal policy. It is responsible for evaluating not only penal policy implementation (resource allocation, goal-setting, known and measured impacts and outcomes) but also how the Ministry of Justice operates (delivery time, service quality). It is currently creating new monitoring systems and instruments (annual performance indicators for the Ministry, monthly ones for the Public Prosecutors' Offices, and a system to measure the work and performance of the Economic and financial investigation units), drawing up quality-related questionnaires and numerical surveys, and producing data and analyses on selected topics (e.g. court work, enforcement of specific articles of the Criminal Code, specific offences).

Apart from evaluations by the Economic and Financial Investigation Units – which are part of the anti-corruption system – the Ministry's Research and evaluation unit has not undertaken an evaluation of the anti-corruption system as a whole[10].

Box 10. Evaluation system to measure the work and achievements of the *Pôles économiques et financiers*

In 2001, an initial stock-taking exercise requested by the Minister of Justice found a patent lack of tools capable of measuring the work and performance of these *Pôles* against the goals to be met. The Research and Evaluation Unit has introduced a standardised framework in the form of a set of work and performance indicators, specific to the legal field and to the work of specialised assistants.

The exercise concerns three of the *Pôles* or Economic and Financial Investigation Units (Paris, Lyons and Marseilles). An outside consultancy (ATOS Odyssée) has been commissioned for the study, which will take place in three *stages*:

1. Diagnosis in each of the three Economic and Financial Investigation Units (first semester 2003);

2. Modelling and defining a set of performance indicators;

3. Supporting the introduction of the performance indicators at a lead site.

The *aims* of the exercise are:

- to identify measurement tools currently used in specialist jurisdictions and analyse their strengths and weaknesses;
- to highlight the salient features of major economic and financial cases, see how they are handled by the Economic and Financial Investigation Units compared with other non-specialist services, and indicate the targets to be met by a measurement goal;
- to draw up a definition of work and performance indicators, in particular by looking at other sectors facing similar challenges and constraints. Special emphasis is to be laid on the role and work of specialised assistants;
- to model a unique system of evaluation for the work of the Economic and Financial Investigation Units and assist with its implementation in the relevant jurisdictions.

The study will focus on the following *targets*:

- current Economic and Financial Investigation Units and the specialised jurisdictions;
- specialised assistants;
- complex economic/financial case-files.

The study will comprise:

- a qualitative phase, which will be based on typically complex case-files and an analysis of the salient features of the economic and financial field, and will help to determine what essential and relevant information is required;
- an operational phase aimed at producing a model framework with both quantitative and qualitative components, to be set up in the Economic and Financial Investigation Units and in other jurisdictions.

The performance *indicators* will include:

- management indicators (personnel, data-processing, ratio of resources/goals/costs);
- work indicators [number, deadlines, size and processing of case-files; case-file processing procedures (searches, questioning, expert assessment, confrontation); judgments].

Other indicators focus on the type of case-file (simple, complex, highly complex) and their nature (broken down by offence, type of decision, origin of referral). There are no external indicators on the effects and impacts of the work of the Economic and Financial Investigation Units or on economic and financial crime.

Source: *Rapport phase 3,* Ministry of Justice, DACG and *Atos Odyssée*, Management Consulting.

The Ministry of Justice also maintains links with university research centres. The *Centre de Recherches Sociologiques sur le Droit et les Institutions Pénales* (CESDIP) conducts research into the law and penal institutions and is working on the sociology of standards and regulations, and more specifically on the penal aspects of legal standards and regulations. No research has been done on corruption. The Ministry's Law and Justice research unit (GIP) has set up working parties and held a seminar on "The legal aspects of combating economic and financial crime in Europe", at which specialists and those working on the ground throughout Europe described and reviewed their experience. Yet players and decision-makers do not view or use university research centres as operational management tools (long surveys, comparatism).

- SCPC:

The SCPC, as a monitoring centre for corruption, could be particularly well placed to conduct evaluations of anti-corruption work. The SCPC is an interministerial body that plays a key role. As its focus is prevention, the management would like it to become an agency that evaluates and audits ethics programmes and regrets having so little information on how the system is set up and operates. The same applies to internal controls: SCPC training-courses already include the evaluation of internal control services in government departments or private companies. By virtue of its status – it is not an investigation or enforcement service – and because of its overarching view of corruption, the SCPC would be particularly qualified to observe and subsequently review the impact of the anti-corruption system.

3.3 What programmes, measures and institutions should be evaluated?

The fact that there is no evaluation of the anti-corruption system in France may be linked to the problems involved in comprehending the piecemeal and complex body of laws, measures, bodies and arrangements relating to the phenomenon of corruption. In that case, should evaluation focus on specific institutions (e.g. Ethics Commissions, Economic and Financial Investigation Units, the SCPC), specific measures (e.g. codes of ethics, training initiatives, the criminalisation of public procurement offences), specific legal provisions (e.g. Article 40), specific policies or the system as a whole? These avenues should of course be discussed and explored by the professionals dealing with corruption, so that evaluation can be geared to genuine needs.

CHAPTER 4

IMPROVING THE FRENCH SYSTEM OF FIGHTING CORRUPTION: GOOD PRACTICE AND CHALLENGES

Even without scientific evaluation, good practices can be identified by means of existing data and the opinions of those working in the field.

1. Institutions working to combat corruption

Status, composition and supervisory authority are all factors which determine the effectiveness of control bodies involved in the fight against corruption. These different elements must be combined.

Independence and *autonomy* are key factors for the effectiveness of control bodies responsible for fighting corruption. Financial jurisdictions or *ad hoc* independent authorities with the power to make binding decisions (e.g. *Commission Nationale d'Équipement Commercial* or *Conseil de la Concurrence*) can serve as a model. Thus, financial jurisdictions enjoy total autonomy and wide-ranging powers, both as to the appointment of their members (by means of a competition) and their status (security of tenure). This independence is reflected in their inspection programme and in their total freedom of action and approach. Independence goes hand-in-hand with accountability and control: the collegiate nature of decision-taking, the right of reply and of appeal on the part of those controlled, the publicity given to their activities and reports or again the obligation to report to higher authorities, all guarantee that this will be the case.

As far as the *supervisory authorities* of control bodies are concerned, the best approach appears to be total independence (for example the Court of Auditors). Any supervision by a ministry could raise questions about dependency or pressures. Being directly answerable to the highest administrative or political authorities does, however, give an institution a certain authority and power, reflecting the interest of the highest State authorities with regard to the issue in question. This applies also to an inspection service within a given government department or ministry: the question arises of answerability to the minister's private office or human resource management. An interministerial approach has the advantage of avoiding too strong an attachment to a single ministry and thus enables relative emancipation.

The *composition* of control bodies is also an important factor, guaranteeing the independence of its members and public trust. The French model of recruiting senior civil servants on the basis of a competition -- no favouritism or nepotism -- and giving them secure conditions of employment – security of tenure and salary scales – goes part of the way to freeing them from political pressure. Together with the sense of public service fostered by the major training colleges, this explains why most control bodies comprising senior civil servants work well. Only pressure from the administrative hierarchy, often itself subject to political supervision, can affect to some degree the independence of civil servants working in a hierarchical structure.

There are two main types of inspection services: inspectorates, which are permanent bodies made up of professional inspectors, and also an original model of peer review, using staff temporarily assigned to inspection duties.

Box 11. An example of an internal inspection service: the General Government Inspectorate of the Ministry of Foreign Affairs (Ministère des Affaires Étrangères – MAE)

The MAE General Inspectorate is not a control body but a service comprising officials seconded from their diplomatic posts for fixed periods, who carry out inspection duties on a temporary basis.

The *strengths* of this peer review *system* are numerous. In particular, the inspectors have practical experience in the field and are therefore the best qualified to identify errors and shortcomings.

Improvements are being looked for. Thus, in order to promote exchanges and contact with all categories of staff and expatriate staff on the spot, it is planned to recruit inspectors from category B, and eventually category C, staff. The aim is to promote a relationship of trust and the improved dissemination of information when inspections are being carried out.

Shortcomings and *gaps* may, however, be noted. The MAE General Government Inspectorate, an internal inspection service, only has jurisdiction over MAE staff and sectors, while some 50% of staff and monies are from other ministries (Minefi, Interior, Defence, Education or Culture). It is therefore highly desirable to create an interministerial inspection service, both as regards its composition and jurisdiction, one that would include officials from the General Government Inspectorate.

The major question-mark relates to the *validity of the system used:* can an inspector be fully objective if he knows that he is inspecting a potential superior or a potential inspector? Can one be both, and in turn, judge and jury?

The composition of external control bodies must be beyond reproach so that such bodies are recognised as being perfectly objective and so that their verdicts or decisions are accepted.

Box 12. A difficult balance to attain: the example of the rules and composition of the Commission Nationale d'Équipement Commercial, or CNEC (National commission for commercial land-use planning)

The history of the CNEC, responsible as from 1969 for monitoring the balanced economic development of the retail network in France and ensuring that building and extension licences or permits are delivered in accordance with the law, is an example of trial and error, as well as multiple experimentation, in order to set up an institution which is respected and autonomous.

From 1973 to 1993, the presence of a significant number (20 members) of retail professionals and elected representatives within the Commission, as well as its dependency on the political authorities in the person of the Minister responsible for Trade, the only and last level of authority and arbiter, led to malfunctioning and created doubt about the decisions taken.

In 1993, the Sapin Act on the prevention of corruption entirely remodelled the rules and composition of this discredited institution, which became independent. The CNEC's decisions are subject to review by the *Conseil d'État* (top administrative court).

It is composed of 8 members. At national level, elected representatives are no longer members (their presence at *départemental* level remains a problem, in the opinion of the European Commission itself). The presence of 4 civil servants from the major services – members of the *Conseil d'État*, the Court of Auditors, the General Finance Inspectorate and the *Inspection Générale de l'Équipement* – reinforces the apolitical and objective character of decisions. The 4 other members include "qualified" persons of standing appointed by the Government, who often have close links with economic groups or consumers' representatives. The composition therefore reflects a compromise, which functions if everyone present plays the game of neutrality and is willing to stand aside in situations of conflict of interest. The length of the mandate (6 years) and the fact that it cannot be renewed, also help to prevent any pressure on the members of the Commission, or any expectations on their part (career).

The arrangements for making *referrals* to control bodies also play a role in the effectiveness of anti-corruption measures. The power of such bodies to initiate investigations themselves and the free establishment of control programmes are obviously good practices, which are often the prerogative of independent institutions. Mandatory referral – in the case of ethics commissions – is also an exhaustive means of examination. Limiting referrals to certain authorities is always perceived as a constraint, even if

the need for a filter and for processing requests having regard to the – often limited – resources of certain services is well understood (e.g. the repeated requests from MIEM and SCPC to obtain the right, respectively, to undertake own-initiative investigations and to be able to respond to the requests of citizens). While inter-ministeriality broadens the possibilities to make referrals, it does not, however, equal own-initiative rights.

As regards the different bodies involved, the trend is to superimpose institutions with different rules: traditional control bodies (internal and external inspection), regulatory authorities (such as the *Conseil de la Concurrence* or the *Commission Nationale d'Équipement Commercial*) and advisory authorities (ethics commissions). This institutional abundance is a reflection of the many attempts to adapt supervision as well as possible to the changing environment of corruption.

2. Prevention framework

It can be seen that effective prevention depends, on one hand, on the rules and precise codes promulgated for this purpose, and on measures to increase the awareness of the players involved, on the other.

So-called "soft" law (non-binding) and codes and charters of ethics or behaviour, have not really become part of French administrative life. The State and its administrative services often invoke the 1946 Civil Service Rules or different Codes (Tax, Customs, Commerce, Labour) to explain why it is unnecessary to draft codes of ethics.

Nevertheless, these texts, in particular the Civil Service Rules, remain extremely general and are limited to a list of principles: principles of public service (freedom, equality, continuity, impartiality, neutrality, respect for others' beliefs, decency, good morals, free service), principles of loyalty and obedience to the employer institution and the Nation, and a reminder of obligations of personal conduct (personal integrity, strict moral standards, etc.). It can therefore be said that the existing texts are often insufficient. They cannot therefore be considered to be a detailed set of rules regulating a profession or activity and indicating clearly what is prohibited.

As regards the introduction of codes of ethics, the SCPC should have a key supporting role in validating and monitoring the effectiveness of such codes in the French civil service.

Below, are two original examples of the many preventive measures taught in training colleges for civil servants or in the civil service.

Box 13. Codes of ethics and the French experience

Introducing codes of ethics involves a significant effort to educate and involve civil servants and their hierarchies, and can therefore be described as a preventive measure.

A number of codes of ethics have been introduced in the French civil service, for example in the police force and in certain high-risk departments (tax or customs). No precise count has been made of the exact number of codes of ethics in the civil service as a whole.

A number of those interviewed are of the opinion that there is a real need to introduce such codes, for French civil servants are often left to deal themselves with difficult situations: gifts, various invitations, seminars, travel, etc.

Training the staff involved is essential as regards prevention, and the SCPC, as a preventive service, proposes training modules for this purpose.

Box 14. SCPC training modules

The SCPC offers training modules to government services and private enterprises which ask for them.

There are two main types of module on offer:

1. *For control services*, in order to help them detect fraud or corruption, the SCPC has drawn up a diagram of risks and a list of the indicators of fraud making it possible to identify, demonstrate and prove fraudulent arrangements. To this end, the most common such arrangements are analysed and described, while "fraud cards" are prepared for each accounting heading (between 3 and 10 fraud possibilities per heading). Broadly speaking, the tools used are those of account auditing.

2. *For government services and enterprises*, emphasis is placed rather on the introduction of preventive and effective internal control procedures. Based on the theme "how to structure an effective internal control", the SCPC leads the officials concerned in an analysis of:

-- identifying a system of reference: existing corpus, legislation, regulations or codes, their gaps and limitations;

-- a typology of risks: What are the weak points? What type of corruption? At what level? What are the risk indicators?

-- improving internal controls following an inventory: propositions and approval or otherwise by the SCPC.

For the purposes of such training, the SCPC groups officials together by profession or by directorate (taking account of sectors and posts with different risks), involves them continuously with the critical examination of their organisation (self-assessment by the staff) and waits for them to make reform proposals which it validates (tailored amendments depending on the staff and risks involved). Once the programme of measures has been determined, the SCPC validates it and monitors implementation (by means of inspections).

Some leading examples of SCPC training:

-- mobilisation of the SCPC following the scandal of the construction of TGV Nord (high-speed train link);

-- the Ministry of Public Works: 3 years' monitoring of 3 000 senior managers, in particular those in charge of procurement contracts.

Source: La formation, SCPC, http://www.justice.gouv.fr/minister/formscpc.htm

3. Controls

The French control system is based on three pillars:

1. periodic controls at regular defined intervals;
2. rather formal legal and accounting controls;
3. *a posteriori* controls.

This model is perfectly illustrated both by the functioning of internal control bodies (e.g. the MAE General Government Inspectorate, which carries out controls every 4 or 5 years of posts abroad) as by that of external control bodies such as the Court of Auditors or the CRCs which, at intervals of roughly 4 years, check the accounts of public accountants, and budgets, and ensures the effective management of public monies. Beyond the strict monitoring of application of the rules, the control process is being increasingly incorporated into a comprehensive approach of the use of public resources and the goal of performance.

Many interviewees from control bodies spoke of the need to supplement the existing legal control by real measures to prevent and *manage risks*. Thus, in order to treat cases quickly and better, controls need to be directed towards strengthening the system for analysing and detecting risks, in particular by creating databases and benchmarking mechanisms.

Box 15. Risk management as addressed in control bodies: Court of Auditors and CRCs

Financial jurisdictions exercise controls based on risk management, and set up institutions and procedures for this purpose. The thinking behind risk analysis is perfectly illustrated by:

- major investigations, conducted jointly by the different chambers of the Court of Auditors and by the CRCs, into the application of regulations and the implementation of public policies;
- sectoral priorities chosen by the chambers in accordance with the issues specific to sectors which are systematically monitored.

In both cases, it can be seen from the topics chosen, that focus is given to high-risk sectors. The *procedures or instruments* adopted to carry out this risk analysis include:

- in addition to the permanent and informal information reaching the members of the chambers, which makes it possible to define grey areas of irregularities, each Chamber of the Court of Auditors has a Head of sector, with the task of leading and guiding the organisation of controls. He is responsible for monitoring sectors, reading the specialised literature, and keeping himself informed through contacts with members of this sector and senior staff from ministries, thus enabling a targeting of controls;
- the creation of a Tools and Methods Unit of the Court of Auditors in 1999 met the need to establish and support control practices. The Unit is responsible both for analysing methodology and for developing tools (databases).

Source : *2001 Annual Public Report of the Court of Auditors, Chapter II: La politique de contrôle*

There is thus a positive development in the practices and mentalities with regard to controls. Legal control is increasingly being incorporated into a wider approach of risk management and the quest for performance.

4. Sanctions

With regard to the sanctions that should be used to punish, and above all deter, corruption, there is a current debate and change in approach which here again result from an acknowledgement of the complexity of the problem. The French system includes at least these three types of sanction: administrative, criminal and financial. How should the choice be made between administrative, financial and criminal sanctions, or a combination of them? This is a difficult problem -- contradictory or non-co-ordinated decisions, questions of legitimacy -- but has the advantage of presenting multiple responses to the complex issue of corruption.

4.1. Administrative sanctions

The threat of recourse to the administrative courts is not a great deterrent. However, if they are mobilised and vigilant, the administrative authorities, i.e. the hierarchical chain, potentially have strong deterrent powers in the form of heavy administrative sanctions. There are three points to emphasise:

- the potential effect depends on the degree of tolerance or of severity of the authorities vis-à-vis corruption.
- co-ordinating administrative and criminal sanctions can be difficult.
- the thorny question remains of suspending pension entitlement, for this is the strongest sanction available. It is the only way of exerting pressure on retired civil servants who, for example, are

in breach of the rules about "*pantouflage*" (working subsequently in the private sector) and conflicts of interest.

4.2. Criminal sanctions

The fear of criminal courts and a sentence of imprisonment is without doubt the most effective deterrent as regards corruption.

Box 16. Penalties regarding public procurement: no freedom without accountability

Until the creation in 1993 of the *offence of favouritism -- undue advantage in public procurement and public service delegation agreements* -- the weakness of the rules protecting public procurement and the absence of sufficiently dissuasive criminal provisions had led to the institutionalisation of corrupt practices and the financing of political activities in the field of public procurement. Creating the offence of favouritism, with the resulting penalties applying to public procurement, has been extremely effective and has "cleaned up" this high-risk sector. This effectiveness is shown by:

-- the level of *MIEM referrals* -- a body set up at the same time with responsibility for tracking down this new offence – which shows both the scale of the problem of corruption in public procurement in the 1990s, and the current improvement;

-- the desire to avoid sanctions under the new Act and to remain within the law, which has been shown by a multitude of *institutional creations* (procurement services or offices), the recruitment of specialised staff (DESS, a training course in public procurement, specialised lawyers) and the appearance of specialised publications, etc.

Creating the offence of favouritism is likely to change the balance of power between decision-maker and purchaser between elected representative and civil servant. This measure may be compared to the personal and financial responsibility of public accountants. While decision-makers could previously put pressure on purchasers to tolerate illegal practices, the personal and criminal liability of a civil service purchaser is today, on the contrary, a strong argument for saying no to his superiors or elected representative. The law is offering protection and making people more responsible.

This is an example of legislation designed to change a general practice, and the effectiveness of the principle "no liberty without accountability": the offence of favouritism is a preventive as well as a repressive offence, and the law plays its deterrent role.

Source : MIEM Annual Report, 2002

The main weaknesses of the criminal process are its lack of flexibility as regards:

- nature of the activity;
- the burden of proof and the problem of intention;
- the time needed for enquiries and investigations, and prescription.

The judicial system therefore often has difficulties in dealing with corruption cases and bringing them to a successful conclusion. More flexible procedures can offer an alternative to cumbersome judicial ones: administrative processes, or recourse to regulatory authorities such as the *Conseil de la Concurrence*, or to other types of sanction such as financial sanctions.

4.3. Financial sanctions

The criminal courts can impose financial sanctions and ask for part of the misappropriated funds to be returned, but practice has shown that financial penalties are often ridiculously low compared to the money misappropriated, and therefore ineffective.

Box 17. Financial sanctions and the *Conseil de la Concurrence* (Competition authority)

In the past, the *Conseil de la Concurrence*, which has since 2002 had available similar procedures to those in English-speaking countries (plea bargaining and settlement) essentially used pecuniary sanctions. The level of proof is in theory lower than in criminal proceedings, especially for unilateral practices, but in practice it is very similar, which explains why the *Conseil de la Concurrence* can impose severe sanctions, often much higher than the criminal fines used to punish economic and financial offences. The ceiling for pecuniary sanctions is very high (10% of total turnover since 2002, 5% before), even though in practice much lower fines are imposed (1.5% of total turnover on average). To sanction illegal commercial or economic practices affecting the market, it may therefore be thought that a fine remains the appropriate sanction.

However, this raises certain questions:

- there are cases in which the personal responsibility of senior management is involved, and recourse to the courts is necessary;

- financial sanctions can also be counterproductive economically (which would be the opposite of the objective sought), notably if they penalise shareholders or employees, or endanger an economic activity, which explains why the *Conseil de la Concurrence* has imposed moderate sanctions as compared to the maximum fines available.

It is by a flexible use of sanctions, adapted to practical situations, and by a combination of different ones, that corruption can be effectively addressed.

5. Co-ordinating French anti-corruption mechanisms

French anti-corruption mechanisms are scattered and diffuse, which means that information circulates poorly, legislation and regulations abound and there is a lack of co-ordination between the bodies responsible for fighting corruption. However, a number of initiatives have been introduced to reduce these problems.

5.1. The circulation of information

The circulation, bottom-up transmission and collection of information, within and between government services, between them and ministries, between institutions, between criminal/financial/administrative courts -- as well as the dissemination of information about anti-corruption measures in civil society, are one of the weak points of the French system for preventing and combating corruption.

The information network, as it functions today, could be described as being:

- administrative and hierarchical (the permanent and often effective bottom-up transmission of information);
- informal and spontaneous (based on feelings, impressions, personal experience and the practice of workers in the field); and therefore,

- fragmented, even limited.

Box 18. Description of the Directorate for Criminal Affairs and Pardons of the Ministry of Justice

The most formal procedures include:

The annual criminal policy report by the Prosecutors' Offices of the *Tribunaux des Grande Instance*, Economic and Financial Investigation Units, is a key instrument for monitoring the functioning of the criminal law with regard to economic and financial offences.

It includes a heading entitled "Measures to combat the corruption of public officials", including cases involving the equality and freedom of access of candidates for government procurement, and another heading entitled "Public Procurement-Competition".

Particular attention has been paid to the relationship between financial and criminal jurisdictions: circulars from the Ministry of Justice[11] (*Relations between judicial authorities and financial jurisdictions, June 1996, November 1997, June 2003*) have been published since 1996 with a view to improving co-ordination between the two types of jurisdiction. These circulars, addressed to the public prosecutors' offices, in fact institutionalise contacts, by giving them a legal basis.

Multiple sources of information

-- independent administrative authorities (*Conseil de la Concurrence*, COB, etc.);

-- internal administrative inspectorates (IGF, IGAS, etc.);

-- specialised units: MIEM, MILOS;

-- financial jurisdictions (Court of Auditors and CRCs);

-- TRACFIN;

-- denunciations by auditors;

-- complaints by victims (few cases).

All these sources send the Public Prosecutor's Office the cases which they consider illegal, either directly by alleging the offence or crime, or under Article 40 of the Code of Criminal Procedure, or by obligation the breach of which is a criminal offence (accountants). It is only when cases are submitted that information is circulated

5.2. Co-ordination of action plans

French anti-corruption measures are fragmented and diffuse, involving many texts (legislation, rules, regulations) and many institutions -- non-specialised (control bodies, internal inspectorates), specialised (economic regulation, legality of government purchases, management of conflicts of interest) – deal with or process, directly or indirectly, measures to prevent and combat corruption. This complicated framework helps neither the co-ordination nor the rationalisation of tasks. What is needed therefore is to set up mechanisms for co-ordination and concertation so as to turn the current arrangements into a veritable anti-corruption system.

One of France's original measures to combat corruption was the creation of *interministerial* structures. Many *interministerial* bodies (SCPC, MIEM, MILOS) were created in order to prevent and combat corruption, while others recruit staff from different government services (e.g. TRACFIN, Customs, Treasury, Justice, Police, Constabulary).

Box 19. Interministeriality

The strengths of interministerial systems

Such systems have two main assets:

- *skills*: different types of expertise and skills are pooled (multi-disciplinarity and a wealth of approaches to a common objective);
- *a network*: a tool for inter-service dialogue and co-operation is constituted (privileged links with government services, referrals, the circulation of information).

Examples of interministerial services

- The composition of the SCPC in 2002:
  - a judge, Head of service; a judge, Secretary-General; a counsellor from the regional auditors' chamber; an administrative Head of service of equipment; an officer from the national constabulary; a deputy-director from Customs; a tax inspector. Eight other posts (two judges, three civil administrators, one police officer, one Head of service from DGCCRF, and one central government official) have not been filled. Others should be created shortly to cope with the new and growing tasks of the service.
  - The idea is that these privileged links, as ensured by the founding rules of the Service, facilitate the circulation of information and the (theoretically efficient) decompartmentalisation of measures. The SCPC has moreover created an internal standing liaison committee comprising representatives from the various ministerial departments with which it collaborates, a committee which helps it with regard to the centralisation of information, research and planning.
- The composition of TRACFIN in 2002.

At 31 December 2003, TRACFIN was served by 48 central government civil servants (33 of whom were responsible for operational analysis, the core of the Unit's work), from various services, in particular financial ones (General Customs Directorate, decentralised services of the Treasury). In addition to a judge, the staff includes two officials, one seconded from the Ministry of Defence and the other from the Ministry of the Interior in 2002 and 2003, respectively.

Sources: SCPC Annual Report 2002 and http://www.finances.gouv.fr/pole ecofin/politique financière/tracfin/fiche presentation.htm

Conditions for effectiveness

However, for interministeriality to be really effective, the following is required:

1. the government services concerned must second staff or make them available on a full-time basis (hence the vacant posts);
2. inter-departmental co-operation links must be involved formally and officially (bottom-up circulation of information, co-operation, involvement in pilot schemes).

Mechanisms other than interministeriality -- doubtless less cumbersome to set up and more flexible -- should be used to combat corruption. To improve co-ordination, *standing liaison committees or co-ordination meetings* can also be used to bring together actors from various fields. However, this approach is only relevant to certain sectors and very special or sensitive cases, and has been adopted only recently. Thus, a liaison committee for combating money laundering, chaired jointly by TRACFIN and the Ministry of Justice, has recently been created by law (Act of 15 May 2001 on new economic regulations – Article L

562-10 of the Monetary and Financial Code). This body currently has 30 members from all the relevant occupations, control authorities and different government services (Ministry of the Economy, Finance and Industry, Ministries of Justice and the Interior). Its goal is to improve the mutual information of its members and to issue proposals about how to improve national anti-money laundering procedures.

Box 20. An effective and focussed network model: the FINATER Unit

Set up on 27 September 2001 by the Ministry of Economy, Finance and Industry, the FINATER Unit is a body for strategic ministerial co-operation in the fight against the financing of terrorism.

It gathers together a small number of key players around a common purpose (to detect networks financing terrorism). Chaired by the Director of the Treasury, with the Customs Directorate carrying out secretariat duties, it includes the Director-General of Customs, the Director-General of Tax, the Secretary-General of TRACFIN, the Director of Fiscal Legislation, the Director of Legal Affairs and that of external economic relations of MINEFI. It meets regularly, and its members are geared for action. It may be thought that current events and the political focus on this sensitive topic have contributed greatly to the success of this co-ordination tool.

Source : *TRACFIN 2002 Report*

There is no working party specifically bringing together the many partners involved in the fight against corruption. Such a method of working is highly desirable. Changing from bilateral relations between departments to multilateral and targeted relations would seem to be the best way to manage the multiplicity of actors, institutions, information and procedures.

5.3. Involving authorities and making them aware of their responsibilities

The decentralisation policy implemented since 1982, reflecting the political will to redistribute powers between the central government and local authorities, has to some extent reinforced the autonomy of the latter. However, the prevention and combating of corruption in France remains to a large extent the responsibility of ministries, and government departments and services.

Yet, thought should be given to the relationships – for long perceived as conflictual – between investigative, advisory and control institutions on the one hand, and the services being assessed on the other. If the authorities being assessed are involved, associated and made aware of their responsibilities, this turns them into full partners in the fight against corruption, and not potential adversaries. The discretionary power given in this way to the authorities being assessed makes them more aware of their responsibilities. Ministries therefore become active partners, responsible in part for ensuring execution of the contract (supervising their staff on secondment) and in the firing line should there be a scandal. If the services assessed are actively involved in the evaluation process, on a voluntary as opposed to mandatory basis, this would be an additional guarantee of success as regards control and monitoring procedures.

Should non-binding partnership relationships be transformed into ones of control and constraint, with the risk of destroying the partnership? Some members of the Ethics Commission were reluctant to see changes to the rules of the Commissions, for example changing advisory opinions into binding ones. This type of modification changes the philosophy of their task, based on prevention and increased awareness, and gives it a more repressive and authoritarian aspect. The risk is of introducing a power struggle with the services evaluated and rendering the prevention process more cumbersome by introducing a formal and binding procedure which, ultimately, makes the whole process more legalistic.

6. Involving outside players and increasing transparency

To combat corruption in its many forms -- economic, political or social -- requires a concerted effort by society as a whole, from politicians, public servants and administrators to company directors and

ordinary citizens. Without that effort and political determination, measures to prevent and control corruption will be piecemeal and disorderly. Without necessarily being ineffective, their performance will never be optimal.

6.1. Involvement of outside institutional players

In France, the fight against corruption has traditionally been the domain of:

- The legal community -- public prosecutors, judges and magistrates;
- The higher ranks of government -- the *Grands Corps* (Court of Auditors, CRCs, Council of State, Finance Inspectorate) – and departmental inspectorates.

The prevailing view on corruption was for a long time that of legal and government specialists, a fact reflected in the membership mix of the commissions set up to examine the issue in the 1990s. This tightly closed circle takes a narrow view of corruption, through the prism of the law and the distorting mirror of crime. And the hierarchical, disciplinary approach to the problem taken by government departments (where the emphasis is on public-service rules and sanctions) has not been an incentive for staff interaction on this issue.

To date, the *unions* have not backed the introduction of anti-corruption or evaluation instruments, which they perceive as unwarranted and casting doubt on the probity of public servants in general. Unions tend to underestimate the magnitude of the corruption phenomenon, reducing it to a few cases that are as exceptional as they are unfortunate. Yet the avenues being explored for whistleblowing include the involvement of the unions to act as intermediaries, thereby shielding the whistleblowers who would remain anonymous. The involvement of the unions in combating corruption would therefore appear to be necessary. As social partners, they have a major role to play not only in informing, training and raising awareness among public servants, but also in modernising risk management.

Enterprises would also appear to be crucial players in combating corruption, since they are:

- The leading source of corruption; but also;
- Victims of corrupt practice, be it active or passive (additional costs, exclusion from procurement, unfair competition, decline in productivity and competitiveness among actively corrupt firms);
- Whistleblowers or denunciators;
- Test-beds for new measures to prevent and combat corruption.

Very few firms denounce bribery or other illegal agreements that come to their knowledge. Out of interest or fear of reprisals, firms seldom report corruption or act as whistleblowers.

France is exploring two original avenues to facilitate the involvement of enterprises in reporting irregularities: the first is the introduction of leniency or settlement procedures by the competition authority (*Conseil de la Concurrence*), while the second concerns the legal obligation to report suspicions to TRACFIN.

Box 21. The NRE Act and settlement/leniency procedures

The 2001 Act on New Economic Regulations provides an alternative to direct financial sanctions by introducing a *leniency procedure* under which, along the lines of the *plea bargaining* system in English-speaking countries or the European Commission, firms that are first to denounce illegal agreements or abuse of dominant position are granted impunity. This incentive for firms themselves to denounce or break a cartel is too recent for the practice to have been evaluated in France, although a few proceedings are under way.

According to France's *Conseil de la Concurrence,* cartels are often reported to the authorities when special circumstances arise that create divisions among the members. Two situations appear to be particularly critical to the survival of a cartel. The first, a change in the capital structure of one of the members, is a threat to the cartel as the new management may wish to break with old habits. The second is when a cartel knows itself to be under threat or coming to an end because of internal conflict, each partner may be tempted to leave it as promptly as possible before being denounced by the others. In any event, particular caution is needed to ward off the risk of the procedure being manipulated or exploited (e.g. competitors denounced by cartel organisers).

Box 22. Tracfin and "declarations of suspicion"

Only as part of the fight against money-laundering have significant results been achieved and economic players become closely involved.

The banks, which are legally obliged to "declare suspicions", have become key players in the reporting of irregularities. They have set up intelligence cells and expertise units to process this kind of information. After a period of adjustment and staff training, the figures show an increase in reporting (6 896 "declarations of suspicion" in 2002).

This mandatory reporting system, introduced in 1991, places an obligation on members of the banking profession to report any financial operations, conducted by private individuals or corporate entities, which the bank finds suspicious. The principle behind "declarations of suspicion" is subjective, since members of the banking profession make a personal analysis of the facts, environment and characteristics of a banking operation, based on their own experience and vigilance. Such declarations are not based on standards, or on a specific framework, nor are there even any drafting specifications. They can be extremely varied in form and often lack detail, so it is then up to Tracfin, the investigation service, to process and supplement them with additional information. Where appropriate, Tracfin refers them to the courts.

Broadening this practice, and the ensuing obligation, to other professions may be a good way of raising awareness in other branches of the economy (currency exchange, real estate, insurance, mutual insurance, casinos, auctioneers and property agents) about the problems of money laundering but also more generally about irregularities and corruption.

Calling in *outside expertise*, particularly from the scientific and academic community, is also highly advisable. It is somewhat surprising that the French government does not take a multidisciplinary approach to such a complex, changeable issue as corruption. Only administrative and legal experts have been mobilised to tackle the subject.

Unfortunately, government departments do not feel as accountable to the legislature as they do to the executive. There appears to be a need for *Parliament* to be more involved in demanding transparency and results in terms of how government departments tackle corruption.

6.2. Opening up to civil society

Corruption concerns everyone. There are many facets to *citizen involvement* in the fight against corruption:

- Ordinary citizens are the main victims of corruption, in terms of misappropriated funds and dysfunctional services;

- Members of the public are in the front line when it comes to fighting corruption – as users they can report irregularities and, as citizens and voters, they can express their moral indignation and refuse to tolerate corruption. Yet the lack of public mobilization is striking.

There is little recourse to reporting or whistleblowing in France. Apart from public servants (Article 40 of the Code of Criminal Procedure) and members of specific professions (e.g. Court of Auditors, or banks) who are obliged to report irregularities to TRACFIN or the judicial authorities, there is no public guidance on how ordinary citizens are to deal with situations involving corruption.

Box 23. Reporting, whistleblowing and Article 40 in France

Reporting or denunciating irregular or criminal acts is a sensitive subject in France. Historical references, relating in particular to the Vichy regime and incentives to act as informants, and French culture are just two of the factors behind this reluctance.

Article 40

Content
Only Article 40 of the Code of Criminal Procedure requires public servants to report criminal behaviour or acts to the Public Prosecutor and forward any relevant clues or proof. There are no statistics on recourse to Article 40 by French public servants. Interviewees did point out that Article 40 was becoming better known and more widely used, although they were unable to provide evidence of this.

Enforcement
There are two problems here, one being the lack of concerted efforts on the part of the authorities (mainly the Ministry of Justice) to promote the use of this tool because of hostility on the part of government departments which jealously guard their independence, and the other being the administrative hierarchy's "filter" and their discretionary powers which come between public servants and the Public Prosecutor. Many government departments are content to deal with cases of corruption internally and sometimes opaquely, using administrative sanctions or transfers, and are reluctant to refer cases to the courts and thus bring out into the open conduct that might sully the reputation of government as a whole.

Future
Avenues are opening up regarding the more widespread use of Article 40. Those interviewed would prefer to see more information, as well as changes to government culture and traditions, rather than the threat of criminal sanctions or legal constraints.

Whistleblowing
As for more widespread whistleblowing by ordinary citizens who become aware of acts of corruption, there is no protocol -- other than a purely judicial one -- for encouraging and helping the general public on this. For the ordinary citizen, there is little room for manoeuvre between administrative reporting and actually going to court. Government departments have simply made complaints books or registers available to members of the public who wish to lodge a complaint, often under the eyes of the very officials who have given cause for criticism. The growing size and complexity of the complaints system (e.g. customer relations, mediators, ombudsmen), compounded by cumbersome and opaque procedures, does nothing to promote concerted efforts. Introducing a *"whistleblowing"* procedure is proving especially complicated. There are major problems, primarily legal protection for witnesses (anonymity) and the strong risk of manipulation, exploiting the system, and wrongful denunciation.

There are numerous ways of encouraging the reporting of corruption, from financial incentives for denunciation (rewards) to the simple creation of a freephone number or Internet sites. One excellent idea would be to provide public servants, and users, with a single interlocutor within government (an ombudsman, mediator or ethics counsellor). Then it would merely be a question of deciding what importance and status to give these people, who would be centralising complaints and reports. Should they work "in-house", as it were, and if so should they be part of the hierarchy or an independent entity? Should outside "corps" be called in? Should the unions be involved? Should whistleblowers remain anonymous or not? The French legal system distinguishes public testimony from anonymous informants. In both cases, reports are subject to investigation.

Given the many questions raised by whistleblowing, some of the interviewees in this study were sceptical about the need for it. Introducing such a practice would raise as many problems as not having one at all.

There is general evidence that French anti-corruption authorities and experts are very distrustful of whistleblowing. They all underlined the inherent risk of seeing the procedure manipulated, exploited or used to settle scores, while on the other hand emphasizing the extreme methodological caution required in

processing denunciations. Many of the interviewees evoked the cultural and historical factors behind half-hearted French experiments in this field.

Corruption is too complex and changeable a phenomenon to be confined to a single category of experts. Corruption concerns everyone, since anyone can be both briber and bribed, in some cases simultaneously. There is a need to open up both the debate and this policy arena.

6.3. Prospects

Flexibility is now being introduced in many different forms (plans to reform Public Procurement Code as well as the rules governing conflicts of interest). Citing the past successes of anticorruption measures and the current improvement in risk areas, some are advocating liberalization and recommending that players be made more accountable.

Questions about the future remain: how can judgments be formed about a system with no means of evaluating or measuring either the corruption it targets or its own performance? Not only are there no scientific or objective data to provide clear evidence that corruption is declining in France in specific areas, instruments for a clear evaluation of what impact such liberalization might have in the future are needed.

Corruption was central to public debate and government policy in France from 1993 to 1995. At the time, heightened awareness among politicians, inspection bodies and the judiciary, compounded by the public's refusal to tolerate corruption, led to unprecedented and concerted efforts to combat corruption. It is crucial to continue those efforts.

ENDNOTES

[1] Conseil National de l'Evaluation, *1999 Annual Report, L'évaluation au service de l'avenir* – Key concepts for defining an evaluation project, by Eric Monnier.

[2] For details of the CNEC's work see: http://www.pme.gouv.fr/chantiers/equip/equip02.htm

[3] See annual reports published by the *Commission Nationale de Déontologie* (National Ethics Commission)

[4] SCPC, *2002 Annual Report.*

[5] Transparency International website, http://www.transparency.org/cpi/2003/cpi2003_faq.fr.html, December 2003

[6] SCPC, *2002 Annual Report,* ERRATUM on page 17 of the 2001 Annual Report on relations between TI and the SCPC.

[7] CNIL website, http://www.cnil.fr/index.htm, December 2003

[8] *CNE Rapport Une évaluation à l'épreuve de son utilité sociale,* « Contrôle et évaluation: l'évaluation dans les institutions de contrôle », D. Lamarque, Activity Report 2000-2002.

[9] *CNE Rapport Une évaluation à l'épreuve de son utilité sociale, « L'évaluation en développement : l'exemple du Ministère de la Justice : la Direction des affaires criminelles et des grâces (DACG) », V. Chanut, Activity Report 2000-2002.*

[10] Ministry of Justice, DACG, *Bilan des actions d'évaluations menées en 2002 et perspectives 2003,* March 2003.

[11] DACG, *Relations entre l'autorité judiciaire et les jurisdictions financiers,* June 1996, November 1997, June 2003, Ministry of Justice.

ANNEX 1

CONVICTIONS FOR BREACHES OF THE DUTY OF PROBITY
Source: *Casier judiciaire national* (National criminal records)

		1997	1998	1999	2000	2001	2002 P*
	TOTAL	114	134	153	187	141	141
ARTICLE 432-10: Extortion		**0**	**6**	**2**	**1**	**3**	**4**
12219	EXTORTION BY A PUBLIC SERVANT UNDUE LEVYING OF FEE, TAX OR DUTY	0	1	1	1	0	0
12220	EXTORTION BY AN OFFICIAL REPRESENTING THE PUBLIC SERVICE: UNDUE LEVYING OF FEE, TAX OR DUTY	0	5	0	0	3	4
12221	EXTORTION BY A PUBLIC SERVANT: UNDUE EXEMPTION FROM A FEE, TAX OR DUTY	0	0	1	0	0	0
12222	EXTORTION BY AN OFFICIAL REPRESENTING THE PUBLIC SERVICE: UNDUE EXEMPTION FROM A FEE, TAX OR DUTY	0	0	0	0	0	0
ARTICLE 432-11: Passive corruption and influence-peddling by public servants		**39**	**36**	**49**	**33**	**25**	**35**
11707	PASSIVE CORRUPTION: ACCEPTANCE OR SOLICITING OF A BRIBE BY A PUBLIC SERVANT	19	23	22	5	7	12
11708	PASSIVE CORRUPTION: ACCEPTANCE OR SOLICITING OF A BRIBE BY AN OFFICIAL REPRESENTING THE PUBLIC SERVICE	12	9	16	12	14	16
11709	PASSIVE CORRUPTION: ACCEPTANCE OR SOLICITING OF A BRIBE BY AN ELECTED OFFICIAL	3	1	3	3	2	3
11710	PASSIVE INFLUENCE-PEDDLING: ACCEPTANCE OR SOLICITING OF A BRIBE BY A PUBLIC SERVANT	1	2	0	5	0	1
11711	PASSIVE INFLUENCE-PEDDLING: ACCEPTANCE OR SOLICITING OF A BRIBE BY AN OFFICIAL REPRESENTING THE PUBLIC SERVICE	4	1	6	5	2	2
11712	PASSIVE INFLUENCE-PEDDLING: ACCEPTANCE OR SOLICITING OF A BRIBE BY AN ELECTED OFFICIAL	0	0	2	3	0	1

P* Provisional data

ARTICLES 432-12 and 432-13: Undue advantage		**25**	**39**	**35**	**51**	**27**	**32**
10709	HOLDING BY A CIVIL SERVANT OF AN INTEREST IN AN ENTERPRISE SUBJECT TO HIS SUPERVISION OR CONTROL	0	0	1	3	0	1
10710	HOLDING BY A CIVIL SERVANT OF AN INTEREST IN AN ENTERPRISE WITH WHICH HE HAS SIGNED CONTRACTS ON BEHALF OF THE STATE	0	0	1	1	1	0
12282	ILLEGAL HOLDING BY A PUBLIC SERVANT OF AN INTEREST IN A BUSINESS OPERATION FOR WHICH HE ENSURES PAYMENT/SETTLEMENT	1	0	2	1	0	0
12283	ILLEGAL HOLDING, BY AN OFFICIAL REPRESENTING THE PUBLIC SERVICE, OF AN INTEREST IN A BUSINESS OPERATION FOR WHICH HE ENSURES PAYMENT/SETTLEMENT	0	2	1	0	1	1
12284	ILLEGAL HOLDING BY AN ELECTED OFFFICIAL OF AN INTEREST IN A BUSINESS OPERATION FOR WHICH HE ENSURES PAYMENT/SETTLEMENT	8	4	5	3	4	1
12285	ILLEGAL HOLDING BY A PUBLIC SERVANT OF AN INTEREST IN A BUSINESS OPERATION THAT HE ADMINISTERS OR SUPERVISES	4	3	1	4	1	3
12286	ILLEGAL HOLDING, BY AN OFFICIAL REPRESENTING THE PUBLIC SERVICE, OF INTERESTS IN A BUSINESS OPERATION THAT HE ADMINISTERS OR SUPERVISES	1	3	5	9	5	9
12287	ILLEGAL HOLDING BY AN ELECTED OFFFICIAL OF AN INTEREST IN A BUSINESS OPERATION THAT HE ADMINISTERS OR SUPERVISES	`11	27	19	30	15	17

ARTICLE 432-14: Undermining equality for bidders in public procurement		**12**	**7**	**19**	**48**	**39**	**37**
12370	UNDERMINING FREEDOM OF ACCESS OR EQUALITY FOR BIDDERS IN PUBLIC PROCUREMENT	12	7	19	48	39	37

ARTICLES 432-15 and 432-16: Purloining/misappropriation of property by a public servant		**38**	**46**	**48**	**54**	**47**	**33**
1435	NEGLIGENCE BY A PUBLIC SERVANT LEADING TO THE PURLOINING, MISAPPROPRIATION OR DESTRUCTION OF PUBLIC PROPERTY	1	1	1	0	0	0
12289	PURLOINING, MISAPPROPRIATION OR DESTRUCTION OF PUBLIC PROPERTY BY A PUBLIC SERVANT OR SUBORDINATE	37	45	47	54	47	33

ANNEX 2

Convictions and sanctions under Article 432-11
Passive corruption and influence-peddling by public servants, from 1997 to 2002
(Source: *Casier Judiciaire National*)

11707 PASSIVE CORRUPTION: ACCEPTANCE OR SOLICITATION OF A BRIBE BY A PUBLIC SERVANT

Year	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**
Convictions	19	23	22	5	7	12
No sanction	5	0	2	0	0	0
Prison sentence(suspended or otherwise)	13	22	13	5	4	12
- imprisonment (without suspension)	7	11	5	4	1	5
- in which case, number of months' imprisonment	14.4	27.8	17.4	31.0	30.0	12.2
- suspended sentence	6	11	8	1	3	7
Fines	1	1	7	0	3	0
Average amount of fine	8 000 FF	5 000 FF	10900 FF	0	2 500 FF	0 €
Alternative penalty	0	0	0	0	0	0
Educational measure	0	0	0	0	0	0

11708 PASSIVE CORRUPTION: ACCEPTANCE OR SOLICITATION OF A BRIBE BY AN OFFICIAL REPRESENTING THE PUBLIC SERVICE

Year	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**
Convictions	12	9	16	12	14	16
No sanction	0	0	0	0	0	0
Prison sentence(suspended or otherwise)	9	9	15	11	11	16
- imprisonment (without suspension)	4	3	7	5	4	4
- in which case, number of months' imprisonment	7.8	9.3	7.7	16.8	12.5	18.0
- suspended sentence	5	6	8	6	7	12
Fines	3	0	0	0	3	0
Average amount of fine	4 667 FF	0 FF	0 FF	0 FF	3 333 FF	0 €
Alternative penalty	0	0	0	0	0	0
Educational measure	0	0	0	0	0	0

11709 PASSIVE CORRUPTION: ACCEPTANCE OR SOLICITATION OF A BRIBE BY AN ELECTED OFFICIAL

Year	1997	1998	1999	2000	2001	2002
Convictions	3	1	3	3	2	3
No sanction	0	0	1	0	0	0
Prison sentence(suspended or otherwise)	1	0	2	2	2	3
- imprisonment (without suspension)	0	0	0	0	1	2
- in which case, number of months' imprisonment	0.0	0.0	0.0	0.0	10.0	10.0
- suspended sentence	1	0	2	2	1	1
Fines	2	1	0	1	0	0
Average amount of fine	8 000 FF	50 000 FF	0 FF	20 000 FF	0 FF	0 €
Alternative penalty	0	0	0	0	0	0
Educational measure	0	0	0	0	0	0

11710 PASSIVE INFLUENCE-PEDDLING: ACCEPTANCE OR SOLICITATION OF A BRIBE BY A PUBLIC SERVANT

Year	1997	1998	2000	2002
Convictions	1	2	5	1
No sanction	0	0	0	0
Prison sentence(suspended or otherwise)	1	2	5	1
- imprisonment (without suspension)	1	1	2	0
- in which case, number of months' imprisonment	24.0	18.0	12.0	0.0
- suspended sentence	0	1	3	1
Fines	0	0	0	0
Average amount of fine	0 FF	0FF	0FF	0 €
Alternative penalty	0	0	0	0
Educational measure	0	0	0	0

11711 PASSIVE INFLUENCE-PEDDLING: ACCEPTANCE OR SOLICITATION OF A BRIBE BY AN OFFICIAL REPRESENTING THE PUBLIC SERVICE

Year	1997	1998	1999	2000	2001	2002
Convictions	4	1	6	5	2	2
No sanction	0	0	0	0	1	0
Prison sentence(suspended or otherwise)	4	1	6	2	1	2
- imprisonment (without suspension)	0	0	1	1	0	1
- in which case, number of months' imprisonment	0.0	0.0	36.0	1.0	0.0	12.0
- suspended sentence	4	1	5	1	1	1
Fines	0	0	0	3	0	0
Average amount of fine	0 FF	0 FF	0 FF	8 666 FF	0 FF	0 €
Alternative penalty	0	0	0	0	0	0
Educational measure	0	0	0	0	0	0

11712 PASSIVE INFLUENCE-PEDDLING: ACCEPTANCE OR SOLICITATION OF A BRIBE BY AN ELECTED OFFICIAL

Year	1999	2000	2002
Convictions	2	3	1
No sanction	0	0	0
Prison sentence(suspended or otherwise)	2	3	1
- imprisonment (without suspension)	0	0	0
- in which case, number of months' imprisonment	0.0	0.0	0.0
- suspended sentence	2	3	1
Fines	0	0	0
Average amount of fine	0 FF	0 FF	0 €
Alternative penalty	0	0	0
Educational measure	0	0	0

ANNEX 3

LIST OF INTERVIEWEES AND THEIR DEPARTMENTS

SCPC

Mr. **MATHON**, Judge, Head of SCPC

Mr. **BOUCHEZ**, *Conseiller*, CRC; Mr. **BUEB**, *Attaché principal*, Central Administration; Mr. **PONS**, Tax Inspector; Mr. **LORIOT,** Deputy Director, Customs; Mr. **LEPLONGEON**, Officer, *Gendarmerie*

Authorities and institutions

Mr. **DAHAN**, Rapporteur-general, *Conseil de la Concurrence*

Mrs. **LEROY**, Rapporteur, *Conseil d´État* and Chair of the *Commission Nationale d´Équipement Commercial*

Mrs. **PRADA-BORDENAVE**, *Conseiller d´État*, member of the Ethics Commission

CRCs and Cour des Comptes (Court of Auditors)

Mr. **BERTUCCI**, *Premier Avocat général, Parquet Général* (Public prosecutor's office)

Mrs. **GISSEROT**, *Procureur général, Cour des Comptes*,

Mrs. **LAMARQUE**, Chair, CRC - Upper Normandy

Mr. **PICHON**, former Rapporteur-general for the Bouchery Commission and President of the CRC - PACA region (Provence-Alpes-Côte d'Azur)

Ministry of Justice

Mrs. **LABROUSSE**, Judge, *Direction des Affaires Criminelles et des Grâces* (Criminal affairs and pardons)

Mr. **LAGAUCHE**, Judge, Deputy Director, *Justice Pénale Spécialisée (*Special criminal justice department)

Mr. **MARIN**, Director, *Direction des Affaires Criminelles et des Grâces.*

Ministry of the Economy, Finance and Industry

Mr. **LE BONHOMME**, Rapporteur-General, *Commissions Spécialisées des Marchés*

Mrs. **HOURT-SCHNEIDER:** Deputy Director, *Direction des Affaires Juridiques* (Legal directorate)

Mr. **MAURY**, Deputy Secretary-General, TRACFIN

Mr. **MONGIN,** Secretary-General, TRACFIN, and Director-General, Customs and Excise

Mr. **PANCRAZI:** Head, *Mission Interministérielle d´Enquête sur les Marchés*

Mr. **QUESNOT:** Deputy Head, General regulations office, *Direction des Affaires Juridiques*

Ministry of Foreign Affairs

Mr. **ROHOU,** Deputy Inspector-General

NGO: Transparency International

Mr. **DOMMEL**, former Inspector of Finance and President of Transparency International – French branch

Mr. **TERRAY**, Vice-President

ANNEX 4

ABBREVIATIONS

CC : *Cour des Comptes* (Court of Auditors)

CDBF : *Cour de Discipline Budgétaire et Financière* (Court of budgetary and financial discipline)

CESDIP : *Centre de Recherches Sociologiques sur le Droit et les Institutions Pénales* (Court of sociological research into law and penal institutions)

CFDT : *Confédération Française Démocratique du Travail* (trade union)

CGT : *Confédération Générale du Travail* (trade union)

CN/DEC : *Commission Nationale/Départementale d´Équipement Commercial* (National/departmental commission for commercial land-use planning)

CNE : *Conseil National d´Évaluation* (National evaluation council)

CNIL : *Commission Nationale de l'Informatique et des Libertés* (national data protection authority)

COB : *Commission des Opérations de Bourse* (Commission for stock exchange transactions)

CP : *Code Pénal* (Criminal Code)

CPP : *Code de Procédure Pénal* (Code of Criminal Procedure)

CRC : *Chambre Régionale des Comptes* (Regional auditing chambers)

CSM : *Commissions spécialisées des Marchés* (Specialised public-procurement boards)

DACG : *Direction des Affaires Criminelles et des Grâces* (Ministry of Justice - Directorate for Criminal Affairs and pardons)

DESS : *Diplôme d´Études Supérieures Spécialisées* (specialised higher education diploma)

DGCCRF : *Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes* (General directorate for competition, consumer affairs and trading standards)

DGDDI : *Direction Générale des Douanes et Droits Indirects* (General directorate for customs and excise)

ENA : *École Nationale d´Administration* (senior civil service training college)

GIP : *Groupement d´Intérêt Public* (public-interest association)

IGA : *Inspection Générale de l´Administration* (General government inspectorate)

IGA/MAE *: Inspection Générale de l´Administration du Ministère des Affaires étrangères* (General government inspectorate/Ministry of Foreign Affairs)

IGAS : *Inspection Générale des Affaires Sociales* (General inspectorate for social affairs)

IGF : *Inspection Générale des Finances* (General finance inspectorate)

MAE : Ministry of Foreign Affairs

MEC : *Mission d´Évaluation et de Contrôle* (Evaluation and inspection unit)

MIEM : *Mission Interministérielle d´Enquête sur les Marchés* (Interministerial unit for procurement investigations)

MILOS : *Mission Interministérielle du Logement Social* (Interministerial unit for social housing)

MINEFI : Ministry of the Economy, Finance and Industry

NRE : Act on New Economic Regulations

SCPC : *Service Central de la Prévention de la corruption* (Central service for the prevention of corruption)

TGI : *Tribunaux de Grande Instance* (higher regional courts)

TI : Transparency International

TRACFIN : Unit for intelligence processing and action against secret financial channels

ANNEX 5

REFERENCE WORKS AND BIBLIOGRAPHY

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OTHER SOURCES

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- *Conseil de la concurrence* : http://www.finances.gouv.fr/minefi/ministere/directions_services/index.htm
- *Mission interministérielle d'enquête sur les marchés et les conventions de délégation de service public*: http://www.finances.gouv.fr/minefi/ministere/directions_services/index.htm
- *Commissions spécialisées des Marchés* : http://www.finances.gouv.fr/minefi/ministere/directions_services/index.htm
- *Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes*: http://www.finances.gouv.fr/minefi/ministere/directions_services/index.htm
- *Inspection Générale des Finances* : http://www.finances.gouv.fr/minefi/ministere/directions_services/index.htm

- Ministry of Justice : http://www.justice.gouv.fr/

- SCPC: http://www.justice.gouv.fr/minister/minscpc.htm

- Ministry of Public Service, Reform of the State and Regional Planning: http://www.fonction-publique.gouv.fr

- DGFP: http://www.fonction-publique.gouv.fr/default1.htm
- Commission*s de déontologie* (Ethics Commissions)

- Institutions, jurisdictions and independent authorities:

- *Cour des Comptes, Chambres Régionales des Comptes, Cour de discipline budgétaire et financière* : http://www.ccomptes.fr/

- *Médiateur de la République* (ombudsman): http://www.mediateur-de-la-republique.fr/

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