



Stability Pact Anti-Corruption Initiative

Updated outline
17/10/2003

SPAI: 2003 AND BEYOND

This document outlines the future strategy of the SPAI. It has been drafted by the OECD SPAI Secretariat, reviewed at the 6th SPAI Steering Group meeting in Sarajevo on 23 September and adopted on 17 October 2003 after revisions incorporating the comments of the Steering Group.

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BACKGROUND

In February 2000, the Stability Pact Anti-Corruption Initiative (SPAI) was adopted in Sarajevo as a comprehensive framework, bringing together countries of South East Europe (SEE)¹, international organisations, and bilateral and multilateral donors committed to the fight against corruption. The mandate of the SPAI is to encourage the regional countries to take effective actions in order to fight all types of corruption on all levels.

The Initiative pursues an agenda of legal, regulatory, and institutional reforms aimed at building the capacity of SPAI countries to effectively combat corruption in line with existing international instruments. The Initiative is built upon commitments of participating countries and the international donor community to undertake and support the policy reforms.

From the beginning, the SPAI aimed to be an action-oriented Initiative, where the central role is played by national governments. The SPAI countries have the main responsibility to translate the reform commitments into concrete actions “on the ground”, while relying on expertise and support from the donor community.

PRINCIPAL OBJECTIVES OF THE SPAI

The overall objectives and principles for implementing the SPAI were settled in the original Compact and Action Plan, elaborated in Strasbourg and consequently adopted in Sarajevo in 2000. SPAI participants agreed on a multidisciplinary approach for preventing and fighting corruption, which suggests a set of actions to be undertaken in the priority areas identified under the five pillars of the SPAI:

- (i) Adoption and implementation of international instruments;
- (ii) Promotion of reliable public administration;
- (iii) Strengthening of national legislation and the rule of law;
- (iv) Promotion of integrity in business sector;
- (v) Active civil society.

The two following sections summarise the main outcomes and future challenges for the SPAI in line with the objectives laid out in the Compact (above mentioned five pillars) and in the Action Plan².

¹ At present, eight regional countries participate in the SPAI: Albania, Croatia, Bosnia and Herzegovina, Moldova, Montenegro, Romania, Serbia, and the Former Yugoslav Republic of Macedonia.

² The Action Plan is built upon four pillars, identifying main steps to be undertaken for implementing the Compact. These four pillars are: Institutional mechanisms, Assessments, Monitoring and Policy Dialogue, and Technical Assistance.

MAIN OUTCOMES

Achieving objectives set in the SPAI Compact

Relating to the objectives of the Compact, it has been commonly acknowledged that important progress has been achieved by the countries under Pillar I (adoption of international instruments) and Pillar III (strengthening of national legislation). Summarized hereunder are the outcomes of the SPAI, pillar by pillar.

Pillar I

Along with the commonly agreed objectives reached in 2000, the SPAI countries have in the last two years ratified **relevant conventions** and joined **international monitoring mechanisms**. With the accession of Serbia and Montenegro in April 2003, all SPAI countries are now members of the Group of States against Corruption (GRECO). All SPAI countries, except Moldova, have ratified the Council of Europe's Criminal Law Convention on Corruption. The majority of the participating countries are bound by the terms of the Conventions on Civil Law and on Laundering, Search, Seizure and Confiscation of Proceeds of Crime, both mentioned in the Compact.

Pillars II - III

The involvement in the SPAI process has encouraged the regional countries to develop and adopt **comprehensive national anti-corruption programmes** and to set up appropriate **institutional mechanisms** to implement these programmes, as well as to investigate and prosecute corruption. In some countries, the drafting of anti-corruption strategies or the implementation of relevant legal and institutional instruments is underway. The Initiative encourages establishment of a comprehensive legal and regulatory framework for combating corruption, which not only enables effective investigation and prosecution of corruption, but also addresses issues, such as integrity and transparency in the public and private sectors or access to information of civil society.

Pillar IV

The fourth pillar is related to **business operations**. Promotion of integrity and transparency in this area should become subject of more attention in the future. Regional business associations have, nonetheless, participated in the Cavtat Meeting and SPAI Small Grants Programme, both addressing the civil society. The business sector has been targeted through the Stability Pact Investment Compact, which developed a monitoring instrument that includes a benchmark on anti-corruption.

Pillar V

Since the Cavtat Conference in 2001, the role of **civil society** has been acknowledged, among others, in an overview of anti-corruption measures in the SEE³. The capacity of civil society to support anti-corruption measures has been strengthened through efforts, such as the SPAI Small Grants programme⁴. OECD has taken lead in implementation of Pillar V by having developed the *Implementation strategy for Civil Society Empowerment* in November 2001.

³ "Anti-Corruption Measures in the South Eastern Europe: Civil Society's Involvement", Paris, OECD, 2002.

⁴ SPAI Small Grants programme has been founded by the US government and the government of the Switzerland. The programme was implemented by the OECD in 2002/2003.

Implementing the SPAI Action Plan

In line with the original Action Plan, the first achievement of the Initiative was a **general assessment** of eight regional countries' capacity to prevent and fight corruption. This evaluation was carried out by external experts and completed in 2002⁵. In Tirana in April 2001, SPAI countries agreed on a comprehensive **set of recommendations for policy reforms** under the first four pillars of the SPAI Compact. The process of setting up a roadmap for reform was completed in September 2001 in Cavtat, where SPAI governments and civil society representatives jointly agreed upon a list of priority areas of action under Pillar five (civil society). This phase was followed by a more detailed discussion through 2002 on priority areas, complementary measures and assistance that would be needed to implement the reforms.

The **identification of technical assistance needs** has been the subject of discussion at various SPAI meetings and visits to the countries of the region since 2001. As a result, an overview of priority reform areas and project fiches was prepared by the countries in 2002. As a forum bringing together regional and donor countries, the SPAI has tried to serve as an incentive for streamlining donor assistance and increasing donors' influence over regional countries' anti-corruption strategies.

Delineating outcomes according to local, regional and international levels

Building national anti-corruption strategies

The adoption of the SPAI has required the participating regional governments to focus systematically on anti-corruption issues. The Initiative has primarily acted as a catalyst in encouraging policy reforms leading to the drafting and implementing of national anti-corruption programmes as well as to the adoption of relevant international instruments. Furthermore, awareness of corruption has risen as a result of the countries' commitment to public dissemination of the Anti-Corruption Initiative

Fostering regional cooperation

The SPAI has created a **platform for policy dialogue** amongst regional countries and a **regional forum of discussion of anti-corruption policies**. The process of reviewing SPAI countries' legal and institutional frameworks and the implementation of the resulting recommendations was an opportunity for these countries to measure themselves up to neighbouring countries. The ongoing policy reforms in the SPAI countries are increasingly drawn on shared lessons learned and the regional legal experience. The priority reform areas, which have been identified in the framework of the SPAI, serve as regional benchmarks and thereby facilitate the reform efforts at national level. The SPAI members have acknowledged the positive contribution of the Initiative towards encouraging regional cooperation in the South-Eastern Europe.

⁵ The assessments of Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Romania were carried out and adopted in 2001 and of Serbia and Moldova in 2002.

Facing international exposure

An important achievement of the SPAI was the assessment of the extent to which the existing legal and institutional mechanisms in the participating countries correspond to international standards and practices.⁶ These standards, which are reflected in the international anti-corruption instruments, have served as guides and often been incorporated while drafting the national regulations. The international cooperation has helped the SPAI countries to raise the credibility of their reform efforts at home.

MAJOR CHALLENGES

It has been increasingly acknowledged that the main challenge of the SPAI is to define the future role and added value of the Initiative in the **rapidly changing environment** for anti-corruption co-operation in the SEE region.

On the one hand, a growing number of anti-corruption co-operation mechanisms have become available to the countries of the SEE since the launching of the Initiative⁷. These are now replacing a number of functions initially foreseen to be fulfilled by the SPAI. For example, the compliance of all the SPAI countries, except Serbia and Montenegro, has been evaluated by GRECO against a similar set of European and international standards to which the SPAI Compact refers. The anti-corruption measures are reviewed also within the EU Stabilisation and Association Process.

On the other hand, the SPAI countries have achieved important progress in the field of legal and institutional reforms. Comprehensive anti-corruption programmes have been developed over the last two years and some countries are taking on their implementation. In this regard, SPAI countries have reiterated their desire to develop national anti-corruption plans in November 2002, by signing the London Statement⁸.

However, the legal system and newly founded institutions are not fully operational in the majority of these countries. Support to the **“operationalisation” of the newly established legal and institutional mechanisms** in the countries of the region remains a mid- and long-term objective, which lies ahead of the SPAI participants.

⁶ Public dissemination of the Anti-Corruption Initiative is one of the SPAI “seven immediate actions”, listed in the Compact and Action Plan. Progress achieved by each country in implementing these actions was reviewed in Washington, in April 2002.

⁷ A variety of complementary legal instruments, monitoring and technical assistance tools are progressively made available to the South East European countries by the Council of Europe (i.e., Conventions, GRECO, OCTOPUS, PACO programmes), the European Union (i.e., EU Stabilisation and Association Process, CARDS programme), and others.

⁸ The Statement of the London Conference on Organised Crime in November 2002 is available at: <http://www.wiltonpark.org.uk/web/see/pdfs/london.pdf>

RESHAPING THE SPAI CONCEPT

Introduction

As it is already defined in the original Action Plan, the implementation of the Compact remains open to all constructive ideas and partners, and it should be up-dated regularly in order to reflect the progress achieved. In this light, the SPAI approach was first revised in November 2001 and resulted in the *Action Plan for 2002 and Beyond*.⁹

The discussion about the future role of the SPAI started in Washington and was developed at a later meeting of Sub-Table II on Justice and Home Affairs on June 2002. With the formal conclusion of the assessment phase during the SG Meeting in Rome in September 2002, the future role of the Initiative and its “regional ownership” are the two major issues on the SPAI agenda. At the Brussels SG Meeting in April 2003, the decision on establishment of a Regional Secretariat Liaison Office was finally adopted. Its proposed functions are further developed below.

Future role and structure of the SPAI

I Overall objectives

- **SPAI as a regionally-driven anti-corruption initiative**

With the establishment of the Regional Secretariat Office (RSLO), the countries have been given a mechanism to jointly develop a new vision of the SPAI. The Initiative enters a stage at which the participating countries should be in the driving seat for its implementation. The international members of the SPAI stand ready to facilitate and support this process.

- **SPAI as initiator, driving force depository of policy commitments in the anti-corruption field**

SPAI should act as a forum that gives strong incentives to combat corruption and supports policy reforms on a regional level. Without duplicating ongoing efforts emanating from the SPAI countries’ involvement in the Council of Europe’s GRECO and EU programs and the Stabilization and Association Process (SAP), SPAI role should be that of regional depository for annual or multi-annual policy commitments by the countries involved.

- **SPAI as internationally acknowledged forum for anti-corruption policy dialogue in the region**

SPAI should remain and strengthen its role as a recognizable international forum for dialogue and exposure to peer review of progress achieved in the anti-corruption field.

⁹ “The SPAI Strategy and Action Plan for 2002 and beyond” was prepared by the SPAI Managing Committee from October to December 2001.

- **SPAI as a mechanism for regional and international transfer of knowledge**

SPAI should remain and strengthen its role as forum for transfer of knowledge on anti-corruption issues, through experts' meetings that regularly and systematically review anti-corruption policies and practices, facilitate the sharing of best practices and lessons learned.

II Specific objectives

To achieve its overall objectives, the SPAI should focus on the following short, medium and long term priorities:

- **Transfer the leadership of the SPAI to the region**

The responsibility for the overall organisation and administrative support of the Initiative in the future should be increasingly assumed by the **SPAI Regional Secretariat Liaison Office (RSLO)**. Its establishment represents the first step in a process of conveying leadership of the SPAI to the countries of the region¹⁰. The RSLO will be hosted by Bosnia and Herzegovina and is expected to be operational in winter 2003. It is significant that other SPAI countries take active part in the establishment and implementation of the RSLO in order to fully contribute to the objective of "regional ownership".

RSLO would proceed in three phases in the course of which it would transit into the Regional Anticorruption Initiative Secretariat. The RSLO could take, through time the full responsibility over the following functions:

- Provide general administrative support;
- Serve as the venue for the conduct of anticorruption training, SPAI meetings and regional information exchange;
- Coordinate training and operational proposals;
- Cooperate with other anticorruption programs in the region;
- Develop targeted project proposals;
- Function as forum for conduct of public awareness campaigns against corruption;
- Serve as a regional resource and information centre;
- Serve as primary point of contact within the region for interaction with SPAI partners;
- Maintain and refine on a continuing basis the Action Plan for the SPAI.¹¹

The mandate of the RSLO should be further developed in its terms of reference, and its action plan should be developed in line with the overall objectives of the SPAI.

It is obvious that this process requires a phase of transition, which should be concluded by end 2004. The OECD (and Council of Europe) secretariat stands ready to assist in managing this transition and to provide assistance in the process.

¹⁰ Draft Terms of Reference of the Regional Secretariat Office.

¹¹ Idem.

- **Develop dialogue at political and technical level**

The experience of the SPAI proves that the objective of creating a forum for reviewing anti-corruption policies and practices and sharing information and lessons learned can be achieved efficiently by developing activities at two different levels:

- High-level **policy meetings** (e.g. Steering Group meetings, high-level forums);
- Workshops within a **technical expert network** (i.e. specialised anti-corruption and law enforcement agencies, other specialist groups).¹²

At both levels, SPAI would periodically organise meetings with aim to review countries' anti-corruption policies and practices, self- and external evaluations and existing bilateral and multilateral anti-corruption programmes. This purpose includes also the identification of specific technical assistance needs in form of demand-driven requests.

The progress in policy reforms will be thus evaluated during the high-level meetings and lessons learned on putting these policies into practice will be shared by practitioners at technical expert level meetings.

- **Foster policy reforms**

The South Eastern European countries are undergoing reform processes, which sometimes lack the necessary political support. A collective commitment taken in the framework of the SPAI and the support by major international players can add weight to the reforms undertaken by national governments.

The undergoing reform processes in the SPAI countries remains the focus of the SPAI activities. The political and technical initiatives carried out under the SPAI should therefore seek to contribute to strengthen these efforts.

The SPAI members should continue setting common priorities and targets and reflecting them in commitments for new policy reforms taken at political level meetings and forums. The Steering Group will remain one of such instruments. It will continue to fulfil its mandate, which gives the group the power to make recommendations on policy reforms. In practice, the SPAI SG can periodically agree on common policy objectives, and express its support in form of a common declaration adopted by the eight regional countries, SPAI-supporting countries and participating international organisations.

- **Dialogue on technical assistance**

The Steering Group Meetings and regular bilateral contacts have a key role in exchanging information and feedback on the assistance needs and donor programmes. A session on technical assistance needs and offers could become a regular feature of the Steering Group meetings. This is, however, not intended to be a 'clearing house' function for technical assistance.

¹² This form of organisation of the SPAI has been suggested by the Council of Europe during the Brussels SG Meeting in April 2003.