

Development Cooperation Transparency

INDEX FOR CSOs



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Abstract

Sustainable development is one of the main objectives that the global community is unified on tackling and advancing. Development cooperation is one of the projects that tackle sustainable development in developing countries.

The efficiency of development cooperations ensures that global efforts to advance sustainable development are not undermined, and therefore, development cooperations must be strengthened and safeguarded to ensure better results.

In this paper development cooperations are presented as such, a tool that helps in advancing sustainable development, while also presenting international best practices under the Busan Partnership Agreement to ensure the efficiency of development cooperations as well as focusing on the transparency of development cooperations, as a preventive measure to limit and prevent corrupt practices within these cooperations.

Table of Contents

Abstract	ii
Introduction	1
Busan Partnership for Effective Development Co-operation	2
Development Cooperation Transparency Tool	8
Index Structure and Scoring	8
Grading Scale	9
Limitations	9
Development Cooperation Transparency Index	10
Conclusions	12
Recommendations	13

Introduction

Development cooperation can be defined as an operation that meets the following criteria:

"1) Aims explicitly to support national or international development priorities, 2) Is not driven by profit, 3) Discriminates in favour of developing countries, 4) Is based on cooperative relationships that seek to enhance developing country ownership"¹.

There is no explicit definition as to what "development" refers to in development cooperation, however, the United Nations Sustainable Development Goals can act as a benchmark to be able to identify development cooperation. As for cooperation not being driven by profit, it means that the development aspect of a cooperation should be dominant even if it is generating profit, as long as the profit generated is lower than that available in the market. Development cooperation can act as an incentive initiating for profit activities. Cooperation can only be considered developmental when its objective is to provide opportunities for developing countries, taking into account the limitation on the development of poor countries imposed by their structural impediments. The cooperative relationships between countries must be horizontal and respecting the sovereignty of each country. Operations that meet the above-mentioned conditions are considered development cooperation.

As development cooperation is a major force towards the development of societies across different countries, being the main tool sometimes for governments of developing countries to move forward towards achieving prosperity for their societies, it is very important that such cooperation is subjected to the highest standards of transparency in order to enhance confidence in the state and its agencies - a prerequisite for political, security, economic, and social stability - as well as to limit and prevent all forms of corruption in the public sector, thus ensuring the efficiency of public services.

Transparency will allow the public to hold public officials accountable. Although there are constitutional mechanisms that grant jurisdiction to competent authorities to keep checks and balances between the branches of government depending on the type of the political regime - presidential, parliamentary, etc. - such mechanisms are nonetheless often subject to political tensions and bureaucratic procedures, which might undermine the checks and balances process. On the other hand, there are Civil Society Organizations (CSOs)², which are groups related to citizens or individuals that seek to achieve specific interests, provide services, or influence policies that concern the lives of citizens and individuals, and share with public bodies the same objective, that is achieving the common good of the society, which gives them the legitimacy to monitor the government's work including development cooperation with global community members³, to allow the public to stand on how their representatives are operating in the public domain, adding another layer that enhances accountability of public officials.

¹ Alonso, Jose Antonio, Glennie, Jonathan. What is development cooperation? 2016 Development Cooperation Forum Policy Briefs. February 2015, No. 1. Available at: https://www.un.org/en/ecosoc/newfunct/pdf15/2016_dcf_policy_brief_no.1.pdf

² CSOs can take the form of unions, religious associations, lobby groups, non-governmental organizations, entrepreneurs' groupings, charitable organizations, expert groups, and even individuals.

³ Global community means the community of states, international organizations and institutions, and all other persons of public international law, on the opposite to the term "international community" that is limited to the community of states.

Throughout this paper the “Busan Partnership for Effective Development Co-operation”⁴, that governs development cooperation, will be presented focusing on its transparency aspects that allow CSOs to monitor this cooperation in their countries to ensure its effectiveness and efficiency. After that, an Index will be established that allows CSOs in the MENA region to monitor the transparency of development cooperation in MENA countries, which will eventually allow CSOs and the public in general to stand on the effectiveness and efficiency of development cooperation operations conducted in their respective countries.

Busan Partnership for Effective Development Co-operation

The global community has been pushing towards more effective and efficient development cooperation, from the Millennium Development Goals to the Sustainable Development Goals, global cooperation went through several consultations and agreements to reach a framework that could govern development cooperation and ensure its effectiveness and efficiency. There was a need for effective action to ensure sustainable and transparent results for citizens across the world, while recognizing that development progress was uneven, slow, and low-reaching.

In 2011, the Busan Partnership Agreement for Effective Development Cooperation was adopted after one year of inclusive consultations, at the Fourth High Level Forum on Aid Effectiveness. The agreement provides a set of principles for development actors to abide by, and it was adopted by governments, multilateral organizations, civil society and the private sector⁵. The agreement aims to push towards sustainable development through effective cooperation between global actors, as development cooperation plays a major role in guaranteeing efficient sustainable development; specifically, in poverty eradication, social protection, and economic growth.

⁴ Busan Partnership for Effective Development Co-operation. Fourth High Level Forum on Aid Effectiveness, Busan, Republic of Korea. 29 November-1 November 2011. (Hereinafter: Busan Agreement) Available at: <https://www.oecd-ilibrary.org/docserver/54de7baa-en.pdf?expires=1636539401&id=id&accname=guest&checksum=E26142EE5EDDE84B56202541A500B5BF>

⁵ Idem.

The shared principles adopted within the Busan Agreement take international human rights, decent work, gender equality, and environmental sustainability as a benchmark, forming the foundation of development cooperation as follows:

- a) *“Ownership of development priorities by developing countries: Partnerships for development can only succeed if they are led by developing countries, implementing approaches that are tailored to country-specific situations and needs.*
- b) *Focus on results: Our investments and efforts must have a lasting impact on eradicating poverty and reducing inequality, on sustainable development, and on enhancing developing countries’ capacities, aligned with the priorities and policies set out by developing countries themselves.*
- c) *Inclusive development partnerships: Openness, trust, and mutual respect and learning lie at the core of effective partnerships in support of development goals, recognizing the different and complementary roles of all actors.*
- d) *Transparency and accountability to each other: Mutual accountability and accountability to the intended beneficiaries of our co-operation, as well as to our respective citizens, organizations, constituents and shareholders, is critical to delivering results. Transparent practices form the basis for enhanced accountability⁶.”*

These principles act as a) guidance to deepen, extend, and operationalize democratic ownership of development policies and process, b) strengthen efforts to achieve concrete and sustainable results, c) broaden support for South-South and triangular cooperation, and d) support developing countries in their efforts to facilitate, leverage, and strengthen the impact of diverse forms of development finance and activities.

For the purposes of this paper, only actions related to transparency as a principle of the Busan Agreement will be presented, knowing that some actions under the three other principles will also be presented as they also relate to the transparency of development cooperation.

Under the ownership principle, developing countries must put effort and plan the strengthening of core institutions and policies through approaches aiming at managing risks rather than avoiding it; this could happen through joint risk management frameworks with providers of development cooperation. In other words, countries must adopt a public consultations framework that is inclusive and available for the public whether through participation or accessing information related to it. To ensure the effectiveness and efficiency of such consultations, safeguards need to be put in place to ensure that recommendations coming from the different parties to the consultation are taken into consideration. This could happen by enforcing that public bodies justify both adoption and rejection of recommendations by the parties and make this justification publicly available.

⁶ Busan Agreement, para. 11, pg. 3.

Countries must also establish transparent tools that allow for monitoring the performance of a development cooperation, on an output and outcome basis, to be able to measure the progress of the cooperation. This tool must be publicly available and can take the form of an index with detailed indicators including targets and statistical numbers that allow the public to comprehensively understand the cooperation, its timeline, and progress.

The procurement of services and contractors of the development cooperation must also be publicly available. Usually Right to Access Information and Public Procurement Laws require the publication of such information.

Under the transparency and accountability to each other principle, members of the Busan Agreement commit to improving the **availability** and **public accessibility** of information related to development cooperation through working to:

- a) *“Make the full range of information on publicly funded development activities, their financing, terms and conditions, and contribution to development results, publicly available subject to legitimate concerns about commercially sensitive information.*
- b) *Focus, at the country level, on establishing transparent public financial management and aid information management systems, and strengthen the capacities of all relevant stakeholders to make better use of this information in decision-making and to promote accountability.*
- c) *Implement a common, open standard for electronic publication of timely, comprehensive and forward-looking information on resources provided through development cooperation⁷.”*

It is clear that the parties to the Busan Agreement have adopted the principle of absolute transparency when it comes to information related to development cooperation, while limiting this absolute transparency by commercial sensitive information otherwise known as “commercial secrets”. However, this limitation should not be understood as an absolute limitation. In fact, according to international standards governing the Right to Access Information, based on Article 19 of the Universal Declaration of Human Rights and Article 19 also of the International Covenant on Civil and Political Rights, the benchmark of the Busan Agreement principles as mentioned above, and as stipulated by the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression in his report to the UN Economic and Social Council in January 2000, there are nine principles governing the Right to Access Information: principle 4 “Limited scope of exceptions” provides that public authorities must justify the refusal to disclose information by applying the “Harm vs. Public Interest Test”.

⁷ Busan Agreement, para. 23, pg. 6.

This test requires the availability of three conditions for the public authorities to be able to withhold information⁸:

- a) The information must relate to a legitimate aim listed in the law.
- b) Disclosure must threaten to cause substantial harm to that aim.
- c) The harm to the aim must be greater than the public interest in having the information.

This means that if information related to commercial secrets needs to be withheld, there must be a law that protects this type of secrets, and that the disclosure of these secrets can lead to substantial harm to those owning the secrets, and that the substantial harm is greater than the public interest achieved by publishing the information; even though there might be substantial harm, if public interest requires the publication of the development cooperation relevant information, they must be disclosed.

The transparency principle also requires that countries adopt transparent public financial management and aid information management systems; this could happen through publishing a Citizen Budget providing user-friendly and understandable numbers and statistics for non-experts or the general public including information related to development cooperation. Governments can also dedicate a website for aid and/or development cooperation that provides all the relevant information to make it publicly available and accessible.

Under the same principle, making information publicly available is also subject to specific standards. Disclosure must be timely, comprehensive, and forward-looking. In other words, information must be updated in a reasonable duration, must cover all aspects of the development operation, and be disclosed in a way that is user friendly - in machine-readable format for example.

Development cooperation must serve the main objective of ensuring sustainable development especially in situations of conflict and fragility. Fragile states are behind on the development track, which is why the Busan Agreement requires that all its parties commit to enhancing transparency and manage risks through using country systems, while at the same time strengthening national capacities and improving the timeliness and predictability of cooperation. To ensure the effectiveness and efficiency of this mechanism, governments must abide by transparency principles that allow the public to monitor the development cooperation and keep it under checks leading to accountability, if relevant. Governments must publish the methodology they adopt in their systems and all the criteria that come with it, making every decision subject to specific standards in order to limit and prevent corrupt practices. This will enhance confidence by the public in the government and its agencies leading to more political, social, and economic stability in the society.

⁸ Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression. Mr. Abid Hussain. UN ECOSOC. Annex II, pg. 58. Available at: <https://undocs.org/en/E/CN.4/2000/63>

The Busan Agreement also provides for a transitional phase from effective aid to cooperation for effective development. The parties to the agreement acknowledge the fact that aid on its own is not enough, and that there is a need to move towards effective development within the limits of the below framework:

- a) *“Development is driven by strong, sustainable and inclusive growth.*
- b) *Governments’ own revenues play a greater role in financing their development needs. In turn, governments are more accountable to their citizens for the development results they achieve.*
- c) *Effective state and non-state institutions design and implement their own reforms and hold each other to account.*
- d) *Developing countries increasingly integrate, both regionally and globally, creating economies of scale that will help them better compete in the global economy”⁹.*

To achieve this framework, it should also be subject to the highest transparency standards, especially when it comes to using public finances and sustainability planning; as sustainable growth planning and policies must be as inclusive as possible, in terms of allowing the factions of society to be included in deciding on how their resources will be operationalized, and how their economy will be shaped.

As for the private sector’s role in development, the Busan Agreement recognizes the central role of the sector in advancing innovation, creating wealth, income and jobs, and mobilizing resources to contribute in poverty eradication. The agreement provides the below framework for the engagement of the private sector:

- a) *“Engage with representative business associations, trade unions and others to improve the legal, regulatory and administrative environment for the development of private investment; and also to ensure a sound policy and regulatory environment for private sector development, increased foreign direct investment, public-private partnerships, the strengthening of value chains in an equitable manner and giving particular consideration to national and regional dimensions, and the scaling up of efforts in support of development goals.*
- b) *Enable the participation of the private sector in the design and implementation of development policies and strategies to foster sustainable growth and poverty reduction.*
- c) *Further develop innovative financial mechanisms to mobilize private finance for shared development goals.*
- d) *Promote “aid for trade” as an engine of sustainable development, focusing on outcomes and impact, to build productive capacities, help address market failures, strengthen access to capital markets and to promote approaches that mitigate risk faced by private sector actors.*
- e) *Invite representatives of the public and private sectors and related organizations to play an active role in exploring how to advance both development and business outcomes so that they are mutually reinforcing”¹⁰.*

⁹ Busan Agreement, para. 28, pg. 9.

¹⁰ Busan Agreement, para. 32, pg. 10.

All of the above measures, within this framework, can highly be subject to corrupt practices, particularly conflict of interest and trading in influence. Although trade unions are mentioned as an example of parties to be involved in the improvement of the legal framework governing the development of private investment, they are not enough. More actors are needed to be involved in these processes to ensure that a minimum of checks and balances is established between the different stakeholders. While both private sectors and CSOs influence policies through their respective work, CSOs role is pivotal in this regard as their mandates generally represent common interests. Public consultations with private sector must include CSOs' representatives to maintain the common good as the main objective of a development cooperation.

Corruption can constitute a major obstacle facing development, especially in fragile states. The Busan Agreement sets out soft guidelines to combat corruption while taking the UN Convention Against Corruption as a benchmark for the commitment of the parties to the agreement.

The Agreement requires its parties to enforce their anti-corruption laws where applicable, and to promote the culture of zero-tolerance for corrupt practices, that is through improving fiscal transparency, strengthening independent enforcement mechanisms, and extending protection for whistleblowers. The agreement also focuses on anti-money laundering measures, such as combatting tax evasion, asset recovery, and international cooperation.

Considering the substantial growth in climate change finance, the Busan Agreement emphasizes on the need for the promotion of transparency and predictability across the different approaches for effective climate finance, while making sure that climate change measures are financed, delivered and monitored. Governments can apply this commitment by dedicating a platform for climate change in the country, used for ensuring transparency of climate change-related information, disclosing relevant national development plans, their financing streams, expenditures and disbursement modalities, as well as monitoring progress.

Considering what was presented from the Busan Agreement on transparency of development cooperation, three categories can be extracted to rely on in structuring an Index to measure the transparency of development cooperations, these categories are: Data Transparency, Public Consultations, and Anti-Corruption Measures. A number of indicators is designed under each category to measure the transparency of a specific development cooperation.

Development Cooperation Transparency Tool

After having presented what is related to transparency of development cooperations from the Busan Agreement, an index to measure transparency of development cooperation can be structured based on the three identified categories: Data Transparency, Public Consultations, and Anti-Corruption Measures. The Index can only be applied on a development cooperation on its own, by specifying which operation the Index is being applied to.

Index Structure and Scoring

The Index consists of the three identified categories, and under each category there are a number of indicators. An indicator represents a principle that needs to be fulfilled by the specific development cooperation. Depending on the status of the availability of information and/or fulfilling the indicators' requirements, a three-point scoring scale is applied. Scores will be assigned per indicator in accordance with model answers as follows:

NO. OF POINTS	MODEL ANSWER
2	The development cooperation is fully in line with the principle
1	The development cooperation is partially in line with the principle
0	The development cooperation is fully not in line with the principle

Next to each scoring, the source of information will be provided, in addition to notes when applicable.

Grading Scale

The overall score achieved by the concerned development cooperation is converted into percentage, based on which the specified development cooperation gets a grade between “Weak”, “Average” and “Strong” as follows:

PERCENTAGE RANGE	GRADE
Scores between 67% and 100%	Strong
Scores between 33.33% and 67%	Average
Scores between 0% and 33.33%	Weak

Limitations

The Index is limited to measuring the transparency of the specified development cooperation. Only in some parts does it measure governmental actions towards achieving more transparency in development cooperations.

The overall scoring is a general analysis on how a development cooperation is transparent across the categories, and it doesn't provide a position of whether a category is more important than the other.

To apply the Index, a user can search for all relevant information available on the specified development cooperation, as it is intended for professionals within CSOs and journalists who are interested in monitoring development cooperations.

Development Cooperation Transparency Index

CATEGORY	PRINCIPLE	SOURCE	NOTES	SCORE
Data Transparency	1. Availability of a public tool to monitor the performance of the development cooperation (An index)			0/2
	2. Availability of a dedicated website to the specified development cooperation.			0/2
	3. Availability of procurement documents related to the specified development cooperation.			0/2
	4. Possibility to apply the “Harm vs. Public Interest Test” by the public body when requesting information that is subject to exceptions on the Right to Access Information.			0/2
	5. Availability of financial information on the development cooperation in a Citizen Budget form.			0/2
	6. Disclosure is timely, comprehensive, and forward looking.			0/2
	7. Availability of methodologies used, and criteria adopted in the specified development cooperation.			0/2
Public Consultations	8. Availability of a public consultation’s framework for development cooperation.			0/2
	9. Anyone can participate in the public consultation.			0/2

CATEGORY	PRINCIPLE	SOURCE	NOTES	SCORE
Public Consultations	10. Availability and accessibility of the information related to the public consultation			0/2
	11. A requirement to justify the adoption and rejection of recommendations in a public consultation			0/2
	12. Public consultations with the private sector require the presence and engagement of civil society organizations			0/2
Anti-Corruption Measures	13. Availability of measures improving fiscal transparency related to the specified development cooperation			0/2
	14. Availability of measures to strengthen the independent enforcement mechanisms			0/2
	15. Availability of measures for whistleblowers' protection			0/2
	16. Availability of measures combatting tax evasion			0/2
	17. Availability of measures for asset recovery			0/2
			Total score	00/34
			Percentage	%
			Grade	

Conclusions

There is no doubt that development cooperations are an essential tool to ensure the sustainable development of societies. To ensure the efficiency of these cooperations, it is also essential that they are subject to strict safeguards to limit and prevent corrupt practices that could undermine the purpose of the cooperation and therefore its efficiency, which in turn would negatively impact the targeted population.

Transparency is one of the main safeguards that should be applied as a preventive measure to limit and prevent corrupt practices from individuals within development cooperations. As seen in both case studies from Lebanon and Morocco, there are efforts to ensure the transparency of the identified development cooperations in both countries. However, the transparency measures identified are not enough.

Whether how much information is being published, or how information is being published, more safeguards are required to ensure the maximum transparency of these development cooperations to enhance the impact transparency can have in terms of limiting and preventing corrupt practices within such development cooperations.

The “Development Cooperation Transparency Index” presented in this paper can act as a tool to enhance the transparency of development cooperations. Its objective is not to give a high/low score for the targeted cooperations, but rather to identify where more transparency is needed. Results create opportunities to work with stakeholders on enhancing the transparency of these cooperations.

Recommendations

Below are the recommendations to enhance transparency of development cooperations based on the transparency needs identified in the Index and in both, Lebanon and Morocco, to stakeholders that may vary per country:

1. Dedicate a website to development cooperations that includes detailed information in addition to information in a Citizen Budget form when it comes to financial information.
2. Establish a tool to monitor the performance of the development cooperation in all its stages.
3. Make available procurement documents of all procurement procedures within the development cooperation, in addition to their summaries in understandable formats for the general public and not just for expert professionals and specialists.
4. Ensure that Right to Access Information (Freedom of Information) Regulations allow for the application of the “Harm vs. Public Interest Test”.
5. Make available all financial information related to the development cooperation in a Citizen Budget form.
6. Publish information in a timely, comprehensive, and forward-looking fashion.
7. Make available all the methodologies and criteria used in the development cooperation, especially those related to procurement, even when the latter is subject to general regulations in a specific country.
8. Establish a transparent and inclusive public consultations framework for every development cooperation with safeguards to ensure its efficiency.
9. Ensure the fiscal transparency of development cooperations, especially those that go over the span of several years.
10. Strengthen independent enforcement mechanisms, whether public or private, and ensuring a conducive environment for civil society to play a monitoring role.
11. Ensure whistleblowers’ protection.
12. Adopt measures to combat tax evasion related to the specified development cooperation, especially by contractors, subcontractors, and their beneficial owners.
13. Ensure that there is an asset recovery regime in place that allows for the recovery of assets embezzled from the specified development cooperation.