



The Partnership for Transparency Fund
and
Transparencia Paraguay

FINAL REPORT

Asunción, June 2003



FOREWORD

As stated in previous reports, **Transparencia Paraguay (TP)**, the national chapter of Transparency International was invited by the President of the Republic, Mr. Luis Gonzalez Macchi, to monitor the reform process of various state companies, such as the telephone company ANTELCO, later named COPACO, the water works, ESSAP, and the CARLOS ANTONIO LOPEZ national railroad.

Privatization of the first two was urged upon the Government because of their extremely poor operations and the absolute impossibility of paying both national and international debts plus the need of unavoidable investments to provide good service to the population.

Involvement of an NGO such as ours in this kind of political decision immediately called the attention of the press and public because it was the first time in history that our Government decided to allow participation of society in public affairs through a reliable international organization such as our Transparencia Paraguay chapter.

Many people constantly told us of their skepticism about the real political willingness of the Executive Branch to relinquish control of a national enterprise, saying that it was only a comedy designed to provide a mantle of transparency to legitimize a process that would surely sustain a high degree of corruption, mainly in the final stage of selecting the winning bid.

IMPACT

1. TP monitored the transparency of the various stages of the process (compliance with the legal requirements) in observance of the current international practices and without interfering with the administrative work of the Secretaría de la Reforma (reform secretariat), or on the quality of the decisions of the Government, since they were the owner of the process.

2. Thanks to the first report from the Chilean consulting firm, Chadwick & Associates, retained with the financial help of PTF, we were able to advise The Reform Secretariat (SNRE) of the need to avoid providing possible privileged information to bidders in the investment bank selection stage. This warning caused the annoyance of the technical staff of the SNRE who firmly defended the communications policy adopted as from the start with the bidders.

However, they promised to regulate the information in order to avoid privileging certain bidders in the coming stages to be carried out in the privatization process of the telephone company, ANTELCO, and the water works, CORPOSANA.

3. In this stage we sustained a transitory interruption in the delivery of technical documentation by order of the Secretary of the Reform, alleging that first they must have the **no objection** clause approval from the World Bank technicians.

Our institution appealed the measure stating that it posed an obstacle in our independent monitoring work requested by the President of the Republic, who had declared the participation of Transparencia Paraguay (TP) in the process, by letter to the World Bank representative.



Consequently, the Secretary revised his resolution and we received the relevant documentation for the duration of the privatization process until its termination in the month of June 2003.

4. Transparencia Paraguay maintained direct contact with the director of the World Bank for the reform process, Mr. Ventura Bengoechea, on his frequent visits to Paraguay, in order to exchange information referring to the development of the ANTELCO (COPACO) privatization process. That direct contact continued after the suspension of the suspended process, in his capacity as official responsible for privatization of the water works, ESSAP.

5. In the different stages, priority was given to providing information to the public and the media, using Transparencia Paraguay web site. Additionally, we urged the Secretary of the Reform to do likewise through the government web site for publication of the terms and conditions documents referring to the process and, in certain circumstances, they did so.

6. TP timely received 100% of the documents referring to the different stages leading to the privatization of ANTELCO, in hard and soft copies, allowing our national and foreign experts to study them. The comments of TP were forwarded to the authorities of the National Secretariat for Government Reform.

7. No claims of corruption, regarding the privatization process, were made by the companies selected for the bidding process. One hundred percent of the information relating to the monitored process was available to the public on our web site.

8. Additionally we have made direct inquiries with the participating companies in order to determine the degree of conformity with the various stages of the process and haven't received any objection to the stages that were developed prior to the final suspension of the privatization.

9. During the months of growing deterioration of the privatization process, TRANSPARENCIA PARAGUAY maintained a professional neutrality attitude. We have stated to the media, as well as in reply to sector questions that our role was centered on the correct development of the steps concerning privatization and not on the administrative operation of the Secretariat of the Reform.

That event allowed us to maintain excellent professional relations with the new Secretary of the Reform who replaced the previous one who had resigned in March of 2002 as stated in this report.

10. The Secretariat of the Reform held an exclusive meeting form Transparencia Paraguay at the Convention Center on February 15 2002 with attendance of the Secretary of the Reform and the auditors of the two institutions to be privatized (Antelco and Corposana) who submitted reports on the development of the relevant processes.

The international consultants retained by the national Government also expressed their experiences wherein the inquiries of TP, that were given prominent cover in the media with direct participation of the television channels, referring to the public procedure to be utilized on the date of the opening of bids for the telephone company now known as COPACO, with the direct acceptance of the best bid by the previously selected institutions.

11. Permanent relationship with the **media** (newspaper, radio, television) that have resorted to TP in the more serious moments of the negotiations for the sale of COPACO. Furthermore, they normally looked to our web site www.transparencia.org.py for information



on the privatization of the telephone company and other matters of interest relating corruption.

ADDITIONAL IMPACTS

12. Thanks to the experience in the field obtained through work on the privatization process, Transparencia Paraguay became a co-sponsor with the Consejo Nacional de Integridad (CISNI) (national integrity board) of the first public hearing held on June 11 2002, in the Senate, on the Public Contracts Law project, an unprecedented occurrence in the history of politics of our country. The technical team retained by TP participated actively and made approximately 80 observations on the form and substance of the proposed law.

The majority of our observations were incorporated, particularly those referring to limiting the scope of the exceptions, confidential information, and selection criteria as well as the unilateral declaration of integrity of the proceedings. The importance of the objective of this law project constitutes the cornerstone of the fight against corruption related to public affairs (contracts and purchases).

13. Transparencia Paraguay (TP) participated actively in monitoring of the specifications of the terms and conditions of seven (7) contracts for good and services for the waterworks ESSAP (ex CORPOSANA), six of them corresponding to supplies normally used for the provision of water to the population and the other on the insurance service for the institution.

TP is the only NGO that was invited in all these years to monitor bidding procedures of this company that supplies running water in the country.

MAIN LESSONS LEARNED

- 1) Regulating Institution, CONATEL, could have established at the beginning of the year 2002, the Regulation opening the market of the company being privatized, since there is substantial international experience on the matter and it would have been very easy to establish adequate number of operators for the size of Paraguay.
- 2) The weak position of the Regulating Institution, CONATEL, in the face of companies offering cellular telephone service that substantially exceeds in number of telephones the number of telephone lines installed by ANTELCO (COPACO).
- 3) The Secretariat of the Reform and the Regulating Institution failed to coordinate their activities and there was a feeling of antagonism between them.
- 4) In the first stage of the Investment Bank selection process, Transparencia Paraguay acted more in the capacity of citizen comptroller than as the active monitor of the process.
- 5) TP detected the need for adequate handling of information that could be deemed reserved or confidential.
- 6) Transparencia Paraguay maintained direct contact with the Secretary of the Reform and the technical staff assigned to the project from December 2000 through June 2003, time when the privatization was cancelled due to various situations that escaped from the direct monitoring work of Transparencia Paraguay, such as:



- a) a) Resignation Secretary of the Reform in March of 2002 due to internal pressure from the Executive Branch because of administrative problems that are of public knowledge.
 - b) b) The delay in issuing the regulation project for opening the market by the Regulating Institution, CONATEL, until a few weeks before the bidding process programmed for the month of June 2002. This situation originated strong questioning in the public sessions to the Secretariat of the Reform and the Regulating Institution CONATEL by the members of Congress, members of the consulting Board constituted by enterprise representatives and members of the civil society.
 - c) c) Stealing of an important sum by a high administrative official of the Secretariat of the Reform who escaped and later judicially involved the previous Secretary of the Reform and other technical officials who took part in authorization operations for payment of project expenses. The suit continues to date.
 - d) d) Intervention by politicians of the House of Representatives who held that the process was plagued with corruption, alleging that an auditor firm for the process had not been selected as set forth in Law 1615.
- 7). Timely public broadcasting of all acts related to the Bid: use of the permanent TP web page (www.transparencia.org.py) in order to keep the media and the general public informed.
- 8) TP recommends that the World Bank must clarify to the public opinion the scope of responsibility of the Regulating Institution, CONATEL, to strengthen the integrity and efficiency of the privatization process.

José Antonio Bergues
Past Chairman TP
Asuncion, June 2003.