



Newsletter August 2005

TI(UK) expresses its deepest sympathy to all those who suffered as a result of the terrorist attacks in London on 7 and 21 July 2005.

Message from Laurence Cockcroft (Chairman)

Is the global anti-corruption struggle making progress as 2005 unfolds? On the positive side we have the declarations by the G8 which are summarised elsewhere in this Newsletter, the legacy of a strong anti-corruption stance handed by Wolfensohn to Wolfowitz at the World Bank and the slow but positive impact of the UN and OECD Anti-Corruption Conventions. At the individual country level we have the remarkably strong and courageous stance taken by President Thabo Mbeki in relation to Vice President Zuma in South Africa, specifically arising from allegations of a probable bribe paid in relation to a defence contract. In India, Prime Minister Manmohan Singh has probably adopted a stronger anti-corruption stance than any of his predecessors in recent years. In Pakistan the same may be said of President Musharraf.

However, the sense of progress implied by these steps has to be set against the undoubted tarnishing of the reputations of Presidents Fox and Lula in Mexico and Brazil respectively. In the former case this has partly arisen from management of a Foundation controlled by the President's wife, and in the latter case, from a complex skein of 'incentive payments' paid to Parliamentarians. In Kenya, the Government's anti-corruption stance has lost all credibility as last week it closed down a 'chapter' of the African Peer Review Mechanism, an anti-corruption oversight committee established under NEPAD, whose members came from civil society. In Uganda, the murder of the lawyer Robinah Kiyingi, the Vice Chair of TI-Uganda, has shown how tragically dangerous an anti-corruption stance can be for courageous individuals.

This mixed picture suggests that the prospects for forward and backward movement are about in equal balance. The conclusion for TI must be that specific and measured steps remain as valuable as ever, because only their irrevocable implementation will move things forward. For the UK, this must mean effective prosecution of overseas bribers. In Nigeria, it must mean absolute consistency in the Government's willingness to tackle corruption by political friend and foe alike. In the US it must mean a commitment to bringing to account those individuals who recklessly disbursed tens of millions of dollars from the Development Fund for Iraq, with almost no input from Iraqi citizens. These are only a few examples. If action is taken in all those countries where it is sorely needed, 2005 could still be a year of real progress for the anti-corruption movement.



“G-8 Commitments and Corruption - Soft Politics or Tough Love?” by Pierre Landell-Mills

(Pierre, who served at the World Bank for 26 years, is currently Visiting Professor at the Institute for International Policy Analysis, Bath University, and President and Chief Executive of the Partnership for Transparency Fund. The views expressed here are his own and do not represent those of TI(UK.))

Tony Blair was right to make poverty in Africa a central concern of the recent G8 Meeting at Gleneagles. What a pity that the debate has been hijacked by political opportunism rather than a carefully considered effort to help Africa. The contrast between the hype of the “Make Poverty History” campaign and the realities on the ground – Niger most recently – could hardly be greater.

The media debate on Africa preceding and following the Summit was more balanced. Again and again commentators pointed out that Africa’s plight was not principally a shortage of resources, but rather a tragic failure to make good use of the resources that are available – in other words, a failure of governance.

While poor governance is a matter that only Africa and Africans can put right, it is

wrong for the rest of the world either to pretend that the problem can be put to one side (as many NGOs seem to imply by emphasising only the need for debt relief and enhanced aid transfers) or that it is so bad there is nothing outsiders can do. The truth is that for years donors have exacerbated the problem by their failure to confront bribery, extortion, and the misappropriation of state assets on a grand scale in aid recipients. Everyone with field experience of development knows that corruption is pervasive, massive and reaches the very highest levels of governments throughout the less developed world. And it is particularly damaging in Africa for a number of complex reasons. Pouring in more money without credible and determined new measures to tackle the problem is simply a recipe for more disaster.

Granted, if one reads the fine print, the G8 promises of more aid have been made conditional on recipient countries meeting various good governance criteria and on making debt relief subject to the Highly Indebted Poor Countries (HIPC) procedures administered by the IMF and World Bank. In reality, few African countries genuinely meet the prescribed standards and implementation of this ‘conditionality’ (‘contract’ would be a more adult term) has been progressively relaxed. For example, Uganda, which is one of the HIPCs most often cited as a good performer, has serious and

increasing problems of corruption, never mind Congo, Guinea, and Malawi to mention just a few of the approved HIPCs. The official pronouncements surrounding the G8 debate on aid to Africa were remarkable for the degree to which the crucial governance problems were swept under the carpet.

So what should be done? Below, inevitably in rather cryptic form, given the shortage of space, are six areas that need to be addressed before yet more resources are transferred to African governments, whether in the form of debt relief or genuine new aid.

First, the government should have in place a credible time-bound programme of action (with well-defined monitorable milestones) to establish a transparent and effective **public financial accountability system**. This requires clear budget procedures, timely accounts and audit, and prompt follow-up via a parliamentary public accounts committee or equivalent and subsequent effective sanctions applied to public officials guilty of malfeasance. It would include, *inter alia*: (a) the elimination of all secret ‘below-the-line’ accounts; (b) military expenditure brought within an effective system of public oversight; and (c) credible measures to discourage extortion and bribery with regard to the collection of taxes and customs and excise duties.

Second, an independent in-depth assessment of the **public procurement** system should have been undertaken and procedures put in place to meet internationally recognised procurement standards aimed at ensuring integrity and transparency or, at least the government should be committed to a credible time-bound monitorable action plan to meet such standards.

Third, regarding **financial transparency**, the government should be willing to (a) post the budgets, accounts and audits of the government and all public agencies on its website; and (b) with respect to large multinational corporations, the government should facilitate and ensure the public disclosure of all fiscal and royalty payments to the State or parastatal bodies and make such transparency a recognised condition for authorising new concessions or major investments.

Fourth, the government should have in place a time-bound monitorable programme to ensure the independence of the judiciary and implement a credible judicial reform programme aimed at ensuring the **rule of law** and the effective prosecution of cases of corruption.

Fifth, to maintain constant vigilance against corruption, the government should establish an effective **anti-corruption agency**, independent of the executive, which has investigatory and

prosecutorial powers sufficient to ensure the active and determined pursuit of corruption, including by high officials.

Sixth, the government should allow a **free media** to investigate and report on corruption and permit **civil society to campaign against corruption**.

The detailed design of these measures is entirely a matter for the country to decide. No specific way of meeting these standards should be imposed. But the donor community as a group, and without defectors, needs to assess the state of governance of a prospective aid recipient and agree together whether standards of integrity and good governance are being met. If not, no aid should be disbursed. Instead, their respective aid allocations should be held “in escrow” until the needed measures are taken or partly spent to strengthen the capacity of civil society organisations such as the bar council, professional institutes, chambers of industry and commerce, independent media and such like.

It is important to note that the expectation implied by the above is not that all of the above requirements must be met immediately, prior to the receipt of budget assistance or debt relief, but rather that the government in question has demonstrated its commitment to building an effective system of public integrity by putting in place a credible and time-

bound action plan that can be monitored to ensure that the needed governance reforms are being implemented in a serious and timely manner. While it should be the government’s responsibility to design the reforms, it is the donors’ responsibility to assess whether the reform programme is credible in meeting internationally agreed standards for public finance management, public procurement, transparency and accountability. The first step is to urgently agree on these standards and then for all donors all to agree on requiring them as a justification for disbursing aid.

IN THE NEWS

Serious Organised Crime and Police Act

The Serious Organised Crime and Police Act was enacted in May 2005 to, *inter alia*, establish the Serious Organised Crime Agency, which will absorb the National Criminal Intelligence Service, the National Crime Squad and parts of Customs and Excise. Although foreign bribery will not be within the remit of SOCA, in April 2005, the Government undertook to look at the inclusion of corruption and bribery in the list of those serious offences for which the Director of Public Prosecutions may use special investigative powers.

Group of 8 (G8) Targets Corruption

TI(UK) contributed to a submission made by TI-Secretariat to the meeting of G-8 ‘Sherpas’ on 25-26 May. At their summit in Scotland (6-8 July), the G8 made several commitments to fight corruption. Those requiring action by the G8 included the following: (i) increased support to the Extractive Industries Transparency Initiative (EITI) and countries implementing EITI, and support for the development of appropriate criteria for validating EITI implementation; (ii) early ratification of the UN Convention Against Corruption (UNCAC) and establishment of mechanisms for the recovery of assets, including those stolen through corruption, and return of these assets to their legitimate owners; (iii) enhanced due diligence for financial transactions involving politically exposed persons; (iv) rigorous enforcement of laws against the bribery of foreign public officials, including prosecuting those engaged in bribery; (v) strengthening of anti-bribery requirements for those applying for export credits and credit guarantees; (vi) encouraging companies to adopt anti-bribery compliance programmes and report solicitations of bribery; (vii) co-operation with African governments to ensure the prosecution of those engaged in bribery and bribe solicitation; and (viii) pressing

all financial centres to obtain and implement the highest international standards of transparency and exchange of information.

Africa All Party Parliamentary Group (AAPPG)

The AAPPG is holding an inquiry into Corruption and Money laundering in Africa with a particular focus on the role of UK nationals and companies. It proposes to invite written evidence by early October, hold two or three oral evidence sessions and submit its report in January 2006. Its recommendations will be directed at the UK Government and UK-based organizations. TI(UK)’s Chairman will be a member of a steering group the AAPPG is setting up to guide this project.

TI(UK) Seminar on Aid and Corruption

TI(UK)’s Seminar on Increased Aid Flows and the Control of Corruption (23 May, Commonwealth Club) attracted over 60 participants. The Seminar was chaired by Sir Tim Lankester (former Permanent Secretary of the Overseas Development Administration) and the guest speakers were: Martin Wolf (Associate editor and Chief Economics Commentator, Financial Times); Hester Le Roux (policy analyst for the Commission for Africa); Albert Tucker (Managing Director of Twin & Twin

Trading Ltd); and Roger Riddell (former International Director of Christian Aid). In the discussion, a range of views was expressed on several issues, including the recommendations of the Commission for Africa (CFA), capture of state policies by entrenched corrupt elites, the role of the West in contributing to the problem of corruption in Africa, mutual legal assistance, aid effectiveness and the importance of strengthening public financial management and parliamentary oversight. The Seminar revealed a good degree of agreement on what the main problems were but there were different views on how to address them. Some seemed more optimistic about progress in increasing aid flows and reducing corruption, but the scepticism of others suggested that the Commission for Africa faced a challenge in promoting the implementation of its recommendations. (A summary report on the Seminar can be accessed on TI(UK)’s website.)

Land’s End to John O’Groats Sponsored Cycle Ride

The May 2005 Newsletter reported that John Marjoribanks was cycling from Land’s End to John O’Groats in aid of three causes – the Rotary Foundation PolioPlus Appeal, TI (UK) and the Rotary Club of Duns Charities Account. John reports that he had a very interesting journey during

which he visited as many as ten Rotary Clubs. He was successful in raising £3,431, of which he has contributed £1,047 to TI(UK). We are grateful to John for undertaking this courageous project and his generous support for TI(UK).

TI(UK) Code of Conduct

TI(UK)'s Board has approved a Code of Conduct and Conflict of Interest Policy that applies to every person associated with TI(UK) as a Board member or a staff member (the latter defined as Directors, Project Managers and Company Secretary). In a Register of Interests that is open to the public, Board members have declared their financial and non-financial interests which could potentially lead to or could be perceived as a conflict of interest. All TI National Chapters are required to adopt codes/conflict of interest policies.

TI(UK) PROJECTS

Preventing Corruption in the Official Arms Trade (PCOAT)

The UK Defence Export Services Organisation (DESO) and TI(UK) jointly hosted a discussion with representatives of major UK and other defence exporters in London on 7 July. The theme was "Strengthening International Defence Contracting Against Corruption". Fourteen defence companies and two

defence industry bodies attended the meeting. TI(UK) briefed the meeting about its PCOAT initiatives and heard industry's views on how to promote high standards of transparency in international defence procurement. The PCOAT team is working towards the convening of a meeting of international defence companies in Paris in November to 'brainstorm' issues related to transparency and anti-corruption. Work has continued on piloting a Defence Integrity Pact (DIP) in Latvia. The PCOAT team will be visiting Pakistan towards the end of August for discussions with the country's defence officials and National Accountability Bureau on the feasibility of implementing DIPs in defence procurement.

Anti-Corruption Forum in Infrastructure, Construction and Engineering (IC&E)

The Anti-Corruption Forum's sponsors are the Association for Consultancy and Engineering, the British Consultants and Construction Bureau (BCCB), the Institution of Civil Engineers, the Institution of Structural Engineers and TI(UK). On 27 June, representatives of the Forum (including TI(UK)) met representatives of the Foreign and Commonwealth Office, Department for International Development (DFID) and UK Trade and Investment. The UK Government encouraged the Forum to issue its planned Action Statement that outlines anti-corruption actions that

could be implemented by the various parties to projects in the IC&E sectors. The meeting agreed priority issues for initial discussion between the Forum and the Government (e.g. the impact of the EU public procurement directive which becomes effective in the UK on 1 January 2006). On 20 July, Forum representatives gave a presentation on the Forum's activities to DFID's infrastructure advisors at their annual retreat. At its meeting on 27 July the Forum discussed a business and finance plan to carry forward its activities on a more sustainable basis. The Anti-Corruption Code for Individuals in the Construction and Engineering Industry, developed by TI(UK) in collaboration with the Society for Construction Law, has now been distributed as a guidance document to more than 20 professional organisations representing more than a million members.

Extractive Industries Transparency Initiative (EITI)

TI(UK) has been heavily involved from the beginning of both the UK Government-led EITI and its civil society precursor, the "Publish What You Pay" coalition. After five years we have now come to a point of change. Following the high-level international EITI conference in London in March, an International Advisory Group (IAG) has been set up to guide EITI's

further development. It will focus especially on:

(i) its future governance,
(ii) ways of encouraging more national governments to implement the scheme, and
(iii) processes by which to ascertain whether signatory countries actually are implementing transparency according to the agreed criteria. The 16-member IAG, whose members are drawn from governments, companies and civil society, has invited Peter Eigen (TI Chairman) to chair the Group, serving in an independent and personal capacity. A small Secretariat within the UK Government will service the IAG. David Murray, Deputy-Chairman of TI(UK) has been asked to join this on a part-time basis as Senior Adviser to the Chairman. Consequently, so as to avoid possible conflict of interest, David has relinquished his UK and global role as TI Special Representative for Extractive Industries, although he is available for advice during a transitional period while Chandu Krishnan, Executive Director, TI(UK), takes on responsibility for UK-based relationships with EITI and PWYP. David will be free to continue working with TI on issues other than extractive industries.

TI(UK) MEETINGS

TI(UK)'s Annual General Meeting and Speaker's Meeting have been deferred to 25 October 2005.

The formal AGM will be followed by a talk by John Githongo, formerly Permanent Secretary for Governance and Ethics in the office of the President of Kenya.

Time and place: 6pm at the Commonwealth Club, Northumberland Avenue, London WC2

We are drawing up a programme to have more frequent speakers meetings and will notify you about them in due course.

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