

# **Measuring 'success' in five African Anti-Corruption Commissions**

**- the cases of Ghana, Malawi, Tanzania, Uganda & Zambia -**

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## Executive summary

This Report has been developed from the literature review and evaluation presented in the First Report (March, 2004). The findings here are based on the insights gained from five country visits to **Ghana, Malawi, Tanzania, Uganda and Zambia** (July – October, 2004).

The findings emerged from grouping previous explanations of ACC ‘success’, the ‘inhibitors and drivers’ as we term them, and matching them against the realities of the different countries. We grouped the explanations into the following elements:

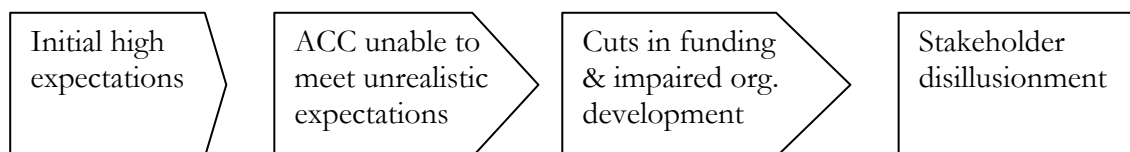
- governance context
- role of governments (both local and donor)
- performance of ACCs

...and, most crucially, what we discovered is the missing link in previous studies of ACCs:

- the **role of donors** in promoting the success or failure of ACCs.

Our study found a lack of synchronicity and compatibility between the needs, aims, motivations, capacities and expectations of governments, donors and ACCs. This leads to a lack of coordination, complementarity and confidence between the three parties, which, in turn, is connected to their differing ‘lifecycles’.

**The lifecycle of a new ACC** is characterized by initially high expectations from governments and donors but the ACC is an infant organization unable to meet the unrealistic expectations imposed upon it. This failure usually means that there is no sustained support for the ACC which limits its capacity to develop as an organization. This failure ‘to thrive’ encourages disillusionment in governments, donors and in ACCs themselves.



**The lifecycle of governments** involves the gradual displacement of anti-corruption as a high priority and indeed political commitment is **frequently confined to exposing the crimes of previous regimes**. Governments experience periods of instability and, where ACCs investigate corruption at the highest political levels, the response is not often supportive. Rather, ACC Directors are dismissed, authority to prosecute is withheld in sensitive cases and under-resourcing of the ACC becomes the norm, further undermining its capacity and reputation.

When discredited governments are toppled or new leaders emerge, donors become enthusiastic again and the neglected ACC is reborn or reconstituted. Where once donor support had been

difficult to obtain, or had even been withdrawn, suddenly there is a rush to support the ACC with a new set of expectations. The previous famine of resources is replaced by a feast but the ACC often lacks the infrastructure and capacity to make effective use of the sudden increase in funds. Donor neglect is, at worst, replaced by donor competition and, at best, by inadequate and irregular donor coordination.

The development cycle of ACCs is frequently assumed by governments and donors to be linear but, in reality, it is sporadic, erratic and vulnerable to disruption by the volatility of government support and by fluctuating donor enthusiasm and fatigue. **Building an effective, ‘successful’ ACC requires organizational maturity based on consistent, sustained organizational development.** It is precisely these characteristics which are missing from the lifecycle experience of ACCs in Africa.

A central problem is the measurement of ACC performance – in particular the **lack of appropriate measurement tools** and the widespread employment of inappropriate, unhelpful, unrealistic and even counter-productive measures of performance. This creates a further difficulty in differentiating between achievable and non-achievable organizational performance and compounds the problem of distinguishing between factors which are within the ACC’s control and those that are not. Donors do not actually know if their funding has any impact on corruption because they do not measure it. When they do measure, they often choose inappropriate measures for the wrong reasons – the Uganda Leadership Code is an extreme example of the adverse consequences for the ACC’s capacity of choosing the wrong measure of ACC performance.

We suggest that the widespread lack of ‘success’ of ACCs is intimately connected to **how they are funded by donors and governments** and what donors and governments expect of them. These expectations are not grounded in political or financial reality, nor are they approached through a clear management development strategy and nor are they informed by a clear understanding of the scale and complexity of corruption in the particular country.

In short, we argue that ACCs will never achieve ‘success’ until they are consistently funded at the right times, for the appropriately specified tasks, and at levels commensurate with a realistic level of performance.

In Part III, we specify what we looked for as characteristic of a ‘successful’ ACC in terms of organizational development, relationships with donors and governments and what roles it performs within the wider governance context.

Part IV of the Report describes what we found in practice and this helped specify the size of the gap between what ought to happen and what actually is the case. The realities include seriously deficient governance frameworks and hostile governmental contexts with weak accountability, scrutiny and monitoring arrangements. In short, the **anti-corruption architecture is generally *ad hoc*, poorly planned and inadequately executed.** All ACCs have an uncomfortable relationship with their governments.

Donors’ relations with ACCs are similarly difficult with ACCs often being donor led. ACCs will accept what donors are willing to make available and donors do so in terms of their own priorities and plans. One common consequence is that funding goes to front-line activities but the back-room organizational infrastructure is neglected.

ACCs remain organizationally immature and lacking in the key features of successful organizations – the use of business planning, functioning financial and management information systems, effective decision-making processes integrated with resource allocation and realistic performance indicators. Some features exist to an extent in some ACCs but the overall picture is one of under-development.

Part V of the Report focuses on how assessing the success of ACCs has been made more problematic by the choice and application of inappropriate and inaccurate performance measurement criteria. Overall, we argue that ‘failure’ is preordained by: the imposition of unrealistic objectives, limiting necessary resources, inadequate support for sustainable organizational development, inability to discriminate between intrinsic and extrinsic factors affecting performance and lack of appreciation of the strength and impact of political pressure on the ACC.

We identify a widespread failure to reconcile the scale and scope of the corruption problem with the resources and capabilities of the ACC and the specific political context of each country. Instead, the Hong Kong ICAC model has been ‘carpet-bombed’ on the entire continent. Attempts to replicate the Hong Kong success have been made regardless of prevailing political, social and economic conditions, and the resources available to an ACC. All African ACCs subsist in conditions far less propitious and with much scarcer resources and capabilities than the ACC prototype. In effect, African ACCs have been consigned to a form of existence that not only constrains, but almost **guarantees their inability to attain achievable levels of success.**

The emphasis here is on **‘achievable levels of success’** rather than the unachievable and unrealistic. Too often, governments and donors expect ACCs with inadequate resources, unsophisticated investigative capabilities and operating within an undeveloped institutional infrastructure to pursue high-level systematic corruption when, even in the most developed societies, such pursuits are normally ineffective and unsuccessful. Catching the ‘big fish’ always seems attractive but the negative impact on the ACC’s public credibility and capacity of successive **failed fishing expeditions cannot be under-estimated.**

Any assessment of an ACC’s success, we argue, is a comparative and relative process relating activities undertaken and achievements attained within the scale and scope of corruption and an evaluation of context. Essentially, evaluating performance achieved in relation to available resources, level of capability employed and degree of difficulty in the operating environment. The aim should be to seek an optimal level of performance based on **country specific realism** rather than attempt to replicate the success of the Hong Kong ICAC achieved in a very different environment.

‘Success’ has to be achievable and sufficient rather than complete.

Our specific findings and recommendations are:

1. Governments and donors must agree on what the best role of the ACC is – focusing on what they are good at and what they have the resources to achieve.
2. When ACCs lack competency and capacity to perform particular roles, these should be divested or transferred to more suitable agencies.
3. Donors must identify and apply appropriate performance indicators in order to measure ACC operational performance and organizational success.

4. ACCs require sustained, structured organizational development.
5. ACCs should have a single strategic plan that is suitable, politically acceptable and feasible with appropriate and realistic performance measurement. Governments and donors should fund the plan for a specified period but government funding must be core and guaranteed.
6. Governments and donors must assess the optimal level of organizational performance achievable in the ACC's operating environment.
7. Governments and ACCs should agree 'SMART' objectives and relevant KPIs that are annually reviewed by a third party (e.g. the legislature) and revised accordingly.

Part V concludes that none of the ACCs studied here have achieved 'success' in the broad sense of a discernible or measurable impact on levels of corruption although there is modest evidence of some 'activity' or 'output' success. There is therefore no continental role model of 'success' against which the other countries can be measured but this study has identified those environmental and contextual factors which are the least conducive to 'success'.

ACC success in Africa is likely to be comparative, relative, partial and perspective-dependent. In one sense, success is in the eye of the beholder.

Overall, there is a significant mismatch between the nature and scale of the corruption problem and the capacities and resources of ACCs. We conclude, in Part VI, by suggesting that:

1. **The roles of ACCs should be re-examined.** The justification for continuing to investigate low-level, petty corruption is not clear and the ability of any ACC to tackle contemporary, very high level political corruption is also in question. Similarly the role in community education on corruption needs greater justification.
2. A practitioner debate should begin on determining what should be the core function of an ACC and how that function might link to wider reform objectives. By way of illustration we give examples of ACCs working as **corruption prevention organizations and as local governance investigators**. We also note what we would expect from an ACC that chooses to focus only on high-level cases.

But whichever roles ACCs undertake, the need to measure their performance remains. Unless and until the issues discussed in this Report are addressed, we see no realistic expectation of 'success' for ACCs or, indeed, developing the means to measure it.

## PART I

### Overview

#### 1.1 The Approach and the issues

The overall aims of this research project are to examine and articulate:

1. what constitutes ‘success’ in terms of the operational performance and strategic management of an Anti-Corruption Commission (ACC),
2. what are the political, economic and social factors supporting or constraining the degree of success achieved by an ACC,
3. which particular configurations of the governance infrastructure are most likely to enhance an ACC’s capacity and capability to achieve success in reducing corruption.

The research project has been based upon in-depth examinations of the operation, operating context and strategies of ACCs in Uganda, Ghana, Tanzania, Malawi and Zambia (chosen both for their perceived state of organisational development and for the previous knowledge the team have of 3 of the ACCs). The in-country and desk researches undertaken by the research team suggest that the measurement of ‘success’ by African ACCs is problematic in both concept and assessment. We have taken an overview of the issues in the literature and come to a view on what were often stated as the main inhibitors or drivers for success, factors reflecting the general governance infrastructure. We have disaggregated the components of this infrastructure to provide a contextual frame for an analysis and evaluation of the ACCs, and which informed the fieldwork into the five ACCs. This examination of the literature is summarised in Part II and a full analysis can be found in the First Report of this project which is posted on the U4 website.

To facilitate the process of examining the ACCs in organisational terms, evaluating their operational performance and to prepare for this examination in terms of what we would expect to find, we have employed four perspectives:

- An understanding of ACCs as organisations: their status, role and responsibilities; the evolution to their present organisational structure, their resource base and core competencies; their current areas of activity, performance indicators and organisational development and maturity in terms of the organisation’s ability to devise and deliver strategies that would demonstrate ‘success’.
- An appreciation of the key dynamics in the ACC-donor relationship: the level and loci of donor support to the ACC; longevity and stability of donor support; conditionality of the support and ACC performance measures applied by the donor.
- A structural and cultural analysis of the nature of the relationship between each ACC and the country’s government in terms of the delivery of anticorruption activities that support



government's progress in terms of wider objectives, such as diminution of corruption in the delivery of government activities, in poverty alleviation or in democratisation.

- An analysis of each country's governance infrastructure, and an evaluation of current governance issues that support anti-corruption work, and the convergence of agencies with whole- or part-responsibility for addressing corruption.
- Relations between the ACC and its government.
- The overall governance framework.

The expectations – what we would expect to find under these four general headings – are discussed in Part III.

In Part IV we discuss what we found in practice.

In Part V we synthesise our findings in relation to the difficulties in measuring the performance of ACCs and the related difficulties faced by ACCs in achieving 'success'.

## 1.2 Our findings

Overall we believe that the work of ACCs and their fundamental relations with governments and donors are affected by gaps between appropriate and inappropriate measures of performance; resultant difficulties in differentiating between achievable and non-achievable organisational performance and the related failure to distinguish between the intrinsic (to the ACC) and extrinsic factors affecting any change in the scope, scale and frequency of corruption in an individual country.

As considered in Part V such gaps, difficulties and failures of expectation, measurement and focus of analysis are exacerbated over time by three individual but inextricably interconnected patterns or cycles of activity:

1. Government lifecycles
2. Donor lifecycles
3. ACC lifecycles

Governments, in setting up ACCs and in then supporting them, have variations in expectations and roles. Changes in governments often mean that that cycle is interrupted, renewed or diluted. Overall, there is no clear linear approach to how governments deal with ACCs.

Donors operate to their own cycle that is both dependent on staff and on what donors seek from government within wider democratisation and anti-poverty objectives. What they fund, how they fund and when they fund, and how they measure what that funding is for, is often donor-focussed but also sometimes linked to the government cycle (e.g., the incoming government in both recipient and donor countries)

ACCs are organisations with their own development cycle that is often assumed by donors (and governments) to be linear. This is often not the case, and how ACCs develop, and what they do, are often neither sequential, nor incremental. The question of organisational maturity is central to this. How ACCs are funded by donors and governments, and what governments and donors

expect of them, is often not grounded in reality, nor approached through a clear management development strategy.

Overall, what we have found is that the rhythm and interstices of the 3 cycles do not necessarily match, nor are they complementary, and nor are they coordinated. The consequence is that most of the ACCs do not deliver ‘success’, and that donors continue to promote assumptions about ACCs that, as with other issues, continue to compound the problems they face. We discuss these issues below, drawing particular attention to examples from the five country studies (see Part VII; the Annex lists the interviews undertaken in, and the sources of information for, the fieldwork).

### 1.3 Our recommendations

In summary, as outlined in Part VI, we recommend that:

- governments and donors must agree on what the role of an ACC is – focus now on what they are good at, and what they have the resources and capacity to achieve,
- ACCs should avoid seeking to fulfil a wide range of roles for which they do not possess the organisational competency and all such roles must either be divested entirely or delegated to other agencies,
- ACCs require continuing structured organisational development,
- all ACCs must have a single strategic plan that is suitable, acceptable and feasible, with appropriate and realistic performance measurement and is regularly reviewed and revised,
- donors and governments should only fund activities within strategic plans over a stated time-horizon and government funding must be core and assured,
- governments and ACCs should agree ‘SMART’ objectives and relevant Key Performance Indicators (KPI) that are annually reviewed by a third party (such as the legislature) and revised accordingly.

**In sum, we argue that the future purpose and roles of ACCs will not achieve ‘success’ until they are funded at the right time, for the right activity and at a level appropriate and commensurate with the scale of performance standards to be achieved.**

## PART II

### The main themes of the research framework

#### 2.1 Introduction

This part outlines the purpose of the research, the hypotheses from the literature and the resultant framework of analysis for the field research. The submitted First Report describes the purpose of the research, and the questions to be addressed. To establish the questions, a database search of the literature of ACCs was undertaken. From the analysis of the results, a number of hypotheses were established, from which a number of more detailed questions were developed for use in the fieldwork.

#### 2.2 The purpose of the research

The research is intended to:

1. analyse the generic assumptions behind the establishment, functions and benefits of ACCs,
2. analyse the assumptions and rationales for funding ACCs in Africa with reference to their contemporary context,
3. examine the benefits claimed by their advocates and sponsors,
4. examine the criticisms of ACC,
5. develop themes on performance and performance measurement to be assessed within the context of the case studies,
6. deliver a report intended to inform policy makers about the key factors they need to consider when deciding whether to help establish, expand, reform, restructure or dissolve anti-corruption commissions.

The areas to be explored through the fieldwork stage of the project are as follows:

1. an overview of the growth and development of anti-corruption commissions,
2. analysis of the key issues concerning their effectiveness,
3. observations on country context, donor funding and the performance of designated African anti-corruption commissions,
4. case studies of Ghana, Malawi, Tanzania, Uganda, Zambia which evaluate the issue of performance and performance measurement for African anti-corruption commissions,
5. factors affecting the effectiveness and performance of ACCs in terms of success and measurement criteria.

The overall aim of the research project is to specify:

1. what constitutes 'success' for an ACC,

2. which environments are most conducive to ACC success,
3. whether particular configurations of institutional architecture, legal jurisdiction, administrative infrastructure, agency mission and political culture are most likely to enhance the prospects for 'success' in reducing corruption.

## 2.3 Hypotheses from the literature

Reasons for the success or failure of ACCs in Africa and elsewhere vary and there is no unanimity on the relative importance of one reason against another. But it is possible to discern sets of reasons which appear frequently in the literature. These include:

### 2.3.1 The inhibitors of success

- Lack of political commitment
- Adverse economic context
- A failure of governance institutions generally
- Inadequate, ambiguous, ineffective and unenforceable laws on corruption
- Inappropriate structures, pressures, priorities, and focus
- ACCs are seen as failures when they are inefficient and ineffective organisations which consistently fall short of what is expected of them
- Low public confidence and trust in ACCs (excluding the Hong Kong ICAC model, which many ACCs have been set up to emulate)

### 2.3.2 The drivers of success

- Political will and broad political support
- Medium rather than very high levels of corruption. Where corruption is endemic and pervasive, ACCs function in form but not in substance<sup>1</sup>
- ACC is situated in a comprehensive anti-corruption strategy supported by effective and complementary public bodies
- Economic stability and a focus on reducing incentives and opportunities for corruption, for example, carefully managed privatisation programmes
- Adequate financial resources and skilled staff
- A clear and relevant mission focusing less on punishment and more on corruption prevention, supported by appropriate business planning, budgeting and performance measurement regimes
- Appropriate legal frameworks, including the rule of law, and sufficient legal powers for investigative and preventive work
- Operational independence and freedom from political interference
- High standards of integrity in ACC leaders and staff
- Public awareness of, and confidence in, the ACC's mission

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<sup>1</sup> Huther, Jeff and Shah, Anwar, 'Anti-Corruption Policies and Programs: A Framework for Evaluation', Washington D.C., World Bank, 2000, p.12.

## 2.4 Shaping the themes

In order to shape our fieldwork we identified a number of areas we wished to address and, in so doing, felt it useful to group the above themes to address the levels we were able to identify from our previous work with various ACCs as those at which ACCs work: organisational, government-related, and governance. These are:

### **Organisational development and maturity in terms of the organisation's ability to devise and deliver strategies that would demonstrate 'success' or 'failure'**

- Inappropriate structures, pressures, priorities, and focus contribute to ACC failure
- ACCs are seen as failures because they are inefficient and ineffective organisations which consistently fall short of what is expected of them
- Adequate financial resources and skilled staff
- A clear and relevant mission focusing less on punishment and more on corruption prevention, supported by appropriate business planning, budgeting and performance measurement regimes
- High standards of integrity in ACC leaders and staff

### **Relations between the ACC and its government in terms of the delivery of anticorruption activities that support government's progress in terms of wider objectives, such as diminution of corruption in the delivery of government activities, in poverty alleviation or in democratisation**

- Lack of political commitment
- Appropriate legal frameworks, including the rule of law, and sufficient legal powers for investigative and preventive work
- Operational independence and freedom from political interference

### **The overall governance framework that would provide popular and governmental support for anti-corruption work, and the convergence of agencies with whole- or part-responsibility for addressing corruption**

- Economic context
- A failure of governance institutions generally contributes to the failure of ACCs
- Inadequate, ambiguous, ineffective and unenforceable laws on corruption contribute to ACC failure
- Public confidence and trust in ACCs is low (excluding Hong Kong and Singapore) and they command little public support
- Public awareness of, and confidence in, the ACC's mission
- Political will and broad political support
- Medium rather than very high levels of corruption. Where corruption is endemic and pervasive, ACCs 'function in form but not in substance'

- ACC is situated in a comprehensive anti-corruption strategy supported by effective and complementary public bodies
- Economic stability and a focus on reducing incentives and opportunities for corruption, for example, carefully managed privatisation programmes

Additionally (and one area not developed in the literature) we were also aware of the importance of the ACC-donor relationship. Thus we also include a fourth and final area:

### **Relations between the ACC and donors that support and sustain those strategies**

It was evident in all of the countries studied that donors tried to balance the principle of encouraging an ACC to determine their scope and scale and direction (i.e. the ACC's strategies) with the need to achieve a strategic fit with elements of the wider donor agenda of poverty alleviation, good governance, public sector capacity-building, market-based reforms etc.

## **2.5 Hypotheses from the literature for the field research**

To assess these four areas, the reasons have to be interpreted from the perspective of an ACC. Thus, from the literature, we have developed a set of more detailed issues that would help us shape our questions for the fieldwork in Ghana, Malawi, Tanzania, Uganda and Zambia:

### **Were the ACCs created in those countries created to...**

- lead, or make some contribution to, anti-corruption strategies?
- add quasi legitimacy to kleptocratic regimes?
- create a sense of real or false security for foreign investors?
- appease donor and or public opinion?
- try an approach that had worked in another country?
- do something because doing nothing was not an option?

### **What is the operating environment of the ACC?**

- What is the overall scope, scale and loci of corruption extant in the country?
- Does the political economic and governance environment provide supportive conditions and factors?
- Which other agencies exist and what are their individual and inter-related roles, authority and responsibility?

### **What is the impact of the ACC?**

- What is its public profile and "political" impact?
- Is it perceived by the public as a positive or negative force?
- Does the ACC have areas of particular strength or weakness?
- Is its authority acknowledged by other agencies with areas of responsibility for anti-corruption?

**What is the mission of the ACC?**

- Does it address the symptoms or causes of corruption?
- Is it comprehensive or selective?
- Is it preventive or investigative?
- Is it appropriate to local conditions and corruption problems?
- Is it linked to government's wider development strategies.

**What is the organisational efficiency and effectiveness of the ACC?**

- Is the ACC judged by appropriate and reliable performance measures?
- How is the ACC performing against the measures applied?
- Are alternative performance frameworks available?

**Are the resources and tasks of the ACC appropriate?**

- Who sets and controls the budget?
- Do donors provide on or off budget funding?
- Can the tasks be changed to fit the resources or vice versa?
- What decision-making policies and mechanisms are in place for case acceptance and prioritisation

**What is the status and standing of the ACC?**

- What level of political support does the ACC have?
- Is it subject to political interference or control?
- Is it subordinate to other institutions?

Before undertaking the fieldwork, further background research was undertaken on what we would expect to find in the five countries. The findings are discussed in Part III.

## PART III

### What we were looking for and what we expected to find

This part outlines the approach followed to contextualise the field research. It was clear from the research for the First Report that the extent and depth of the context information we should access was much greater than originally envisaged. Accordingly we undertook substantial work into organisational development, strategic planning, corruption measurement and governance frameworks. Indeed, each of these topics would be worthy of a research report in its own right. We have sought to distil and synthesise our findings to provide a framework and context through which to assess ACCs. These are discussed below as series of questions.

#### 3.1 ACC stages of organisational development

**What is the relationship between an ACC's stage of organisational development and maturity in terms of its capacity and capability to devise and deliver strategies that would demonstrate 'success' or 'failure'?**

Any organisation should be able to provide evidence relating to:

- **life-cycle** – its development and growth, reflecting organisational stability and maturity in the delivery of its objectives,
- **strategy** – delivering its objectives in terms of competences and capacity (can it deliver?), acceptability (delivering what its customers and stakeholders expect), feasibility (are its objectives realistic and is it resourced accordingly?)
- **measurement** - demonstrating that, as an organisation, it is effective in delivering its objectives, both internally and from an external perspective, and it has the means to measure that effectiveness.

While one can clearly look both for the evidence of performance measurement and for the suitability of those measures, it is also important to look for the underpinning organisational, decision-making and budgetary processes, and management activity that provide the context. In other words, any performance measurement process should be the reflection of the organisation's delivery of what it has determined is its core business - performance indicators or measures exist to confirm how far an organisation delivers that core business. The setting of targets requires a strategy. Strategy lays down what the ACC intends to do, what resources it has, how it delivers its goals and how it is to be measured. Strategy is about 'the formulation, implementation and responsibility for plans and related activities vital for the central direction and functioning of the enterprise as a whole'.<sup>2</sup>

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<sup>2</sup> S. Booth.(1993). *Crisis Management Strategy*. London: Routledge. p63.



This involves organisational design - ‘an understanding of the strategic roles of the divisions, departments or subsidiaries of the organisation, as well as the role of the corporate centre...there are different styles of managing the parenting role of the corporate centre, ranging from the centralised “masterplanner” approach through to a highly devolved approach...’ - and organisational configuration - ‘how this is made up of different building blocks and co-ordinating mechanisms...the issue is the extent to which a particular configuration best fits or supports different kinds of strategies’.<sup>3</sup>

Strategy in a less developing country context where resources are limited and unstable also requires either prioritisation or incremental development in terms of becoming effective in its core business and would require a process that would determine various questions.

- Should the focus be on raising public awareness of the costs of fraud and corruption and creating sufficient ground swell of opinion to start having an effect on influencing government to further efforts to address corruption?
- Should the ACC be investigating the systems and procedures within governmental and parastatal organisations and, where necessary, for example, developing, implementing and administering secure and corruption-proof tendering procedures?
- Should its efforts be directed towards the investigation of major fraud and corruption?
- Should the focus be on petty corruption as this is perhaps the area of greatest concern to ‘ordinary’ people?
- Is it a combination of these and others and, if so, what are the relative priorities?

In other words, any study into performance measurement would also be assessing how far the ACCs had: business planning and management processes, functioning financial management and management information systems; effective organisational and administrative support systems; effective decision-making procedures, integrated with those concerned with resource allocation; delineation of responsibilities; realistic performance indicators or measurement; and so on. In other words, are the ACCs functioning organisations in a stable operating environment with clear, consistent and realisable objectives, appropriately resourced over a realistic timescale?<sup>4</sup>

### 3.2 ACC and donor(s) relationship

**How does the relationship between an ACC and its donor(s) support and sustain an ACC’s capability to identify and achieve its strategic objectives?**

The liberal democratic model is integral to the mainstream of the current donor development agenda, which prioritises the interests of the poor and marginalised in the context of an enabling state. It is also why corruption should be seen as a core restraint to the achievement of that agenda. While conflict, gender discrimination (feminisation of poverty), trade and other structural barriers, are also key restraints, corruption is often used as shorthand for lack of progress because it reveals, somewhat crudely, where the real interests of the public officeholders lie. Its prevalence

<sup>3</sup> G. Johnson and K. Scholes. (1997) *Exploring Corporate Strategy*. Hemel Hempstead: Prentice Hall. p402. (Italics in original).

<sup>4</sup> For a more expanded discussion, see A. Doig, J. Moran and D. Watt. (2001) "Managing Anti-Corruption Agencies", *Forum on Crime and Society*. 1:1; A. Doig and J. Moran. (2002). “Anti-Corruption Agencies: The Importance of Independence for the Effectiveness of National Integrity Systems” in C. Fijnaut and L. Huberts. (ed). (2002). *Corruption, Integrity and Law Enforcement*. Kluwer Law International.

has been targeted by donors because of the current attitudes toward the delivery and impact of the aid agenda (of which the current situation in Kenya is a case in point).

In May 2000 the Utstein Four - the International Development Ministers of the Netherlands, Germany, Norway and the United Kingdom - announced that they intended to work together in reducing the damaging effects of corruption which ‘diverts scarce resources from development, deters investment and retards economic growth...undermines democratic political systems and is a barrier to the delivery of basic services and the provision of security to the poor.’<sup>5</sup>

On the ground, the focus on corruption should be seen as mainstream to donor activities and should be the subject of cooperative and coordinated actions. Specifically, and again drawing on a number of the concerns and issues expressed in previous work, this should include evidence of:

- consideration of the suitability or transferability of reforms,
- suitable pre-funding assessment to ensure ACC capacity to deliver,
- consistency and integration of donor support,
- funding properly focused on the ACC strategy, and in particular on serving the public,
- funding integrated with own-government expenditure,
- sequenced donor funding that reflects an ACC’s organisational capacity and maturity,
- business planning and effective measurement,
- funding that seeks complementarity or added-value with the work of agencies also engaged in anti-corruption work.

### 3.3 ACC and government relationships

**How does the relationship between the ACC and its government influence the delivery of anticorruption activities that support government’s progress in terms of wider objectives, such as diminution of corruption in the delivery of government activities, in poverty alleviation or in democratisation?**

Assessing the work of an ACC is only part of the task. An organisation may be highly effective in terms of internal planning, resource allocation and delivering its targets. But an ACC is established to fight corruption; its work, however ‘successful’, is of little use if the country is perceived to be becoming more corrupt or where the government does not understand or acknowledge the role in fighting corruption as part of a wider reform or developmental agenda. Put another way, the purpose of an ACC as part of the governmental structure is to move that structure away from corruption and toward whatever type of state the developmental agenda is promoting.

At present the development agenda prioritises a democratic state, promoting short- and long-terms goals toward what might be termed the core components of the liberal democratic model: political legitimacy for the state through universal suffrage and regular elections; the peaceful transfer of power; an effective political opposition and representative government; accountability

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<sup>5</sup> Maastricht. (2000). *Report of the Working Conference on Anti-Corruption*. Sponsored by the Netherlands Ministry for Foreign Affairs with the collaboration of the World Bank Institute (WBI).

through transparency of decision-making and the provision of information; separation of powers; effective scrutiny of financial expenditure and challenge to official decisions; effective standards of conduct in public office; official competencies such as impartially-recruited and well-trained public servants; realistic social and welfare policies and low defence expenditure; human and civil rights as indicated by freedom of religion, association, expression and movement, as well as rights of review, complaint and redress against decisions or actions of the state; impartial and accessible criminal justice systems; a free media; and the absence of arbitrary government power.<sup>6</sup>

These goals are aspirational, but they do reflect the purpose of the reform process. It would be expected that governments would determine the relationship between the existence of an ACC and the wider reform objectives. It would therefore also be expected that governments and the ACC would discuss and agree its strategy (in relation to its KPIs) and then provide the ACC the operational independence and resources to deliver that strategy. While we would look to measures of operational independence and accountability such as reporting to the legislature, we do not subscribe to theories of absolute independence. As public sector organisations, ACCs are dependent on and accountable to government for their funds and their performance. What we would look to find is:

- recognition that an ACC is part of wider government responsibilities, and governments should be in transparent dialogue with an ACC over its strategic role and its resourcing,
- measurement and assessment of an ACC's performance by the legislature or other non-Executive institution,
- recognition within wider government strategies of the role and purpose of the ACC.

### 3.4 A supportive governance framework

**What constitutes the overall governance framework that provides popular and governmental support for anti-corruption work, and the convergence of agencies with whole- or part-responsibility for addressing corruption?**

Good governance is concerned not just with the organisation and activity of government - its economy and efficiency - but also the ends to which they are put - its effectiveness and impact - in terms of achieving levels of economic, human and institutional development and of providing its citizens with protection from the vagaries of the market and with the basic infrastructures and services for their well-being. This in turn, embeds the democratic ideal whereby, in underwriting the well-being of its citizens, the developed state seals its contract with civil society whose interests are its primary purpose to serve. Democracy and good governance should, in encompassing a mix of participation, impartiality, public service, public interest, accountability, responsibility, inclusion, grievance and redress, preclude the need, incentive and opportunity for corruption.

It would be expected that governments with growing economies, widening democratisation (including decentralisation and state divestment policies) would ensure that ACC strategy and

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<sup>6</sup> Drawn from Doig, A. (1999). "In the State we Trust? Democratisation, Corruption and Development", *Journal of Commonwealth and Comparative Politics* Vol 37, No 3 and Doig, A. and Theobald, R. (1999). "Introduction: Why Corruption?", *Journal of Commonwealth and Comparative Politics* Vol 37, No 3, pp1-12.

resources would be developed in tandem, both to ensure the anti-corruption dimension that could be attached to such wider reforms was addressed and help deliver them through its own KPIs. At the same time governments' anti-corruption approaches would take cognisance of the value of the national integrity approach – where the added-value is the promotion of interdependence – horizontal integration - between agencies (sharing staff, training, cases, information; agreeing areas of responsibility to avoid overlap) so that state institutions with regulatory, audit and investigations functions, including ACCs, have complementary roles in promoting a national anti-corruption agenda.

## PART IV

### What we found

This part describes the findings from the field research. It begins the basic facts about the organisations at issues, then goes on with the context – governance and the general issue of corruption in the five countries – through donors to the activities of the ACCs. We consider that a full understanding of the ACC is best discussed once context is established. This has been achieved through a focus on governance, with a more detailed look at governmental activities, before addressing the activities of donors and, finally, those of ACCs.

#### 4.1 The ACCs in Comparative Perspective

The table below presents some comparative data on the ACCs. Four of the countries possess a stand-alone ACC but, in Ghana, corruption investigation is divided between two organisations.

The statistics were collected at the time of the country visits (July – October, 2004) and should be treated with caution. The data may be out of date and quantitative indicators are not always compiled on the same basis. It has not been possible to verify some of the statistics and it may be that some reflect optimistic assumptions. The lack of consistent, reliable and directly comparable data is a major obstacle to the comparative analysis of ACCs in Africa.

Five countries were visited. Apart from Ghana, each has a stand-alone Anti-Corruption Agency or Commission: in Ghana corruption is investigated by two agencies. The following table summarises data common to each of the agencies:

Country	Ghana		Malawi	Tanzania	Uganda	Zambia
Agency	SFO	CHRAJ	ACC	PCB	IG	ACC
Date established	1993	1993	1995	1991	1986	1982 reorganised 1996
Main Directorates/ Functions	Criminal Investigations	Maladministration; human rights	Investigation Prevention Education	Investigation Education Research, Control & Statistics	Investigation Prevention Education	Investigation Prevention Education
Own Prosecution Establishment	No	No	Yes	No	Yes	Yes
Number of Investigators	80 + 10	140	30	200	30	85
Number of cases annually	68	12,000	c.100	c.175	c.300	c.400
Main type of cases where known	Fraud; Misappropriation	Employment rights; Family rights issues	Bribery; Misappropriation	Bribery Maladministration	Fraud; Maladministration	Bribery; Misappropriation
Funding	Wholly own government	Wholly own government	Mixed	Mixed	Mainly own government	Mixed
Main donor involvement	GTZ	USAID; DANIDA	DFID	UNDP EU Comm.	UNDP	DFID
Reporting to	Ministry of Justice	Parliament	Ministry of Justice	Office of the President	Parliament	President

Nonetheless, there are some obvious points of similarity and contrast. The largest organisation – CHRAJ in Ghana – is untypical in size and its main activities are not concerned with corruption. Of the stereotypical ACCs the PCB in Tanzania is much the largest and is nine times the size of the ACB in Malawi though there is no evidence to suggest it is any more, let alone nine times more, effective.

In Ghana and Uganda, the organisations are principally funded by their own governments but in the others there is a large reliance on donor support.

Although anti-corruption organisations were funded in Zambia, Uganda and Tanzania a generation ago, the organisations under review are essentially products of the new interest in fighting corruption in the 1990s. Even the organisations funded earlier have been refocused, reorganised and relocated in recent years.

In most cases, ACCs are dependent on other parts of government, usually the Attorney-General or DPP's office, for permission to prosecute and this helps confirm that, whatever the 'independent' status of ACCs, they are often subject to political control of prosecution decisions. Equally, the funding dependency of ACCs on governments and donors suggests they are not in full control of their own strategies, staffing and activities.

The statistics show that, although investigation has long been seen as the primary purpose of African ACCs, the reality is that only a relatively small proportion of staff are involved in investigations, for example, in Uganda only about 10% of staff. In contrast, in the most specialised investigation agency, the SFO in Ghana, the proportion of investigators rises to about half of the staff total. Again, caution needs to be maintained in the precise classification of staff but the differences in proportions are quite striking.

There are areas where statistics are missing and patchy. In particular, it is hard to compare the relative monetary values of investigations and it is even more difficult to specify the status of those investigated or prosecuted. A large number of investigations can signify high investigative productivity but it might also indicate a strategy of targeting petty and politically uncontroversial corruption by low level officials. Large scale investigations of high level political figures are extremely costly in staff and other resources and a decision to prioritise these will have negative implications for the volume of investigations.

The data reveals nothing about the political will of host governments but it does indicate the spread of donor support. Nor does it reveal the extent of public confidence in the effectiveness of the ACC. In general, what evidence of public opinion that does exist suggests that none of the ACCs is regarded by African publics as a 'success'.

## 4.2 The general governance context

The NIS studies<sup>7</sup> provide concise assessments of the governance framework in 4 of the 5 countries. A summary of the of the NIS studies for Malawi, Uganda, Zambia and Ghana is

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<sup>7</sup> The extracts come from specific completed country reports, in the case of Ghana, this was as part of a project involving the National Integrity System (NIS) in 18 countries for the 2001 Global II conference and, for Malawi, Uganda, and Zambia, this was

provided below, drawn from research undertaken in 2003 but whose main themes remain pertinent now (the evaluation of Tanzania's governance framework and governmental context is based upon the research team's desk and field research).

#### **4.2.1 Ghana**

On the face of the institutional arrangements in place are enough to promote national integrity. But the reality is different. The actual ability of the constitutional, legal and political orders to promote national integrity and the control of corruption is undermined severely by a number of factors. They include: lack of operational and financial independence on the part of Parliament and the Judiciary; executive/presidential dominance over those institutions. In the case of Parliament, Executive dominance arises from the constitutional fusion of powers, especially the extensive powers of the President, including appointment of MPs as ministers; most of the existing integrity bodies such as CHRAJ and SFO depend on the Attorney General for prosecution. But AG is politically partisan position and operates with a keen eye on political profit; the government has tended to comply with the rules and procedures in a minimalist and lackadaisical manner; there is no comprehensive legislation on public ethics and anti-corruption. Instead, there are a multiplicity of laws and methods for tackling corruption which makes the terrain extremely murky, full of conflict, forum shopping and loopholes; the mandate boundaries between key anti-corruption bodies such as CHRAJ, SFO and Auditor General are not fully clear, especially in terms of who takes primary responsibility for public officers asset declaration; despite frequent and sometimes credible media allegations and occasionally proven allegations of corruption in high places, there has never been an instance of prosecution or punishment of a key regime insider in the last decade.

#### **4.2.2 Malawi**

[The NIS study was completed before the change of government in Malawi in 2004 but its conclusion, that the institutions of government are weak, remains valid]:

The institutions of governance are weak. Values of accountability and transparency are not yet a reality in the public and private sector. Democracy is still emerging in the country and the participation of people is rarely encouraged for fear that this may put leaders in the spotlight. Research has shown that institutions of governance in the country are weak. Political parties, the civil service, courts, non-governmental institutions and the police are facing difficulties making adjustments to ensure good governance. For example, the police are largely accused of performing biased acts against citizens. The state itself has failed to deliver on promises made during election campaigns has meant that the State can only survive by corruptly co-opting or annihilating its critics and opponents. The buying of opposition politicians, rampant political beatings and patronage in the country are seen as tools for bolstering the weak State and its regime in power. The economic base of the state is



weak and donors have since predicted that if they do nothing, the economy in Malawi may collapse.

### 4.2.3 Tanzania

It is evident from the sheer volume of institutional redesign and reform that Tanzania, under the Presidency of Mpaka, has indicated its commitment to the promotion of good governance. Significant initiatives during this period have included: the issuing of A National Framework on good governance, identifying priority areas for development within the country's system of governance; the establishment of the Parastatal Sector Reform Programme, Judiciary Reform Programme, Human Rights Commission and Civil Service Reform Programme.

Although Tanzania has established a comprehensive poverty monitoring system the activities of these reform programmes and tangible improvements to the lives of the vast majority of Tanzania's are to date less evident. The United States' '2005 Congressional Budget Justification for Tanzania' described Tanzania's democracy as "fragile" and cited continuing problems in poverty alleviation with 40% of Tanzanians being unable to meet their daily subsistence needs, 59% enrolment rates for compulsory primary education, life expectancy at 50 years and falling and infant mortality at 104 per 1000 and rising.

In 2004 the United States grouped Tanzania among 16 countries which failed to meet criteria on governance required for qualification for funding from the Millennium Challenge Account, available only to those countries that "govern justly, invest in their people and encourage economic freedom." Tanzania had failed because of its continuing corruption problems that affect its Executive, Legislature and Judiciary and local government at municipal, sub-municipal and district levels.

In essence the elements of an effective NIS for Tanzania's have yet to get past the design-and-build stage. The accountability mechanisms intended to monitor the activities of the members of all areas and tiers of government e.g. the Public Leadership Code of Ethics, the Human Rights and Good Governance Commission, the Ethics Inspectorate and the Good Governance all in existence. All, however focus their activities on the collection of information and then maintain a bureaucratic camouflage which ensured that access to resultant information is circumscribed and any application of the information collected is rendered useless.

Similarly the operational activities and effectiveness of the country's investigative and watchdog agencies are constrained by inadequate resources, politicised control and institutionalised low level of morale and high level of inertia.

Civil society though relatively free remains largely undeveloped. The principal media agencies are under direct or indirect political control via licensing and financing and the independent media less fully developed in terms of staff capability and scale and scope of publication and broadcast coverage. More positive signs of civil society are apparent in the activities of community based organisations and national NGOs working to seek improvements in environmental pollution, and public service delivery.



#### 4.2.4 Uganda

Research has shown that the official legal framework of the Uganda integrity system institutions is by and large satisfactory in terms of anticorruption measures, but the problem is with implementation in case of the IG, DPP and Police. Instances of the NIS not working are there. Civil society worships the rich regardless of the means and sources of the wealth. The Attorney General failed to institute charges against corrupt officials dismissed from the Electoral Commission and the Ministers censored from Parliament on behalf of government. The lack of a documented ceiling on the number of legislators and Ministers is further testimony of the serious deficiencies in the framework itself. The excessive number of legislators and ministers is encouraging “economic drinking” of a country listed among the HPIC. The undue interference in the work of the police by the Army regarding investigations has resulted in victimization and safe house operations which has made provision of justice problematic. The role of the DPP is sidelined when it comes to the Martial Courts.

Other important analyses include undue Executive involvement in the appointment of civil servants, failure of the Electoral Commission to aggressively implement laws prohibiting vote buying during elections, for which precedence was set by the Presidency itself, denial of access to “classified expenditure” by the Auditor General, poor facilitation and lack of manpower of the DPP and IG, and inaccurate reporting by the Media due to lack of investigative skills. The public procurement legal framework and practice are presently very problematic and need to be standardized for efficiency.

There is marked lack of horizontal coordination between the different pillars, and there is overlap or conflict of functions, thereby creating suspicion and separatism. Political accountability is there, but undermined by the individual merit principle of the monolithic Movement system of government. Because candidates have to fund their campaigns individually, politics today seems to be job driven rather than policy driven, hence generating a lot of anxiety and making vote buying a very common occurrence.

#### 4.2.5 Zambia

The study has revealed that Government institutions set up to fight corruption have inadequacies, which have seriously affected their operations. The inadequacies revolve around poor funding. This is linked to the lack of political will. The low level of funding reflected the low priority accorded to the fight against corruption by the Executive Branch, which controls the national purse. Owing to inadequate funding the anti-corruption institutions do not offer competitive conditions of service to attract qualified manpower and also have a high staff turnover. They often do not have the necessary facilities, equipment or operational funds for their work. All of them have serious manpower shortages. Furthermore, the existing staff in most cases lack specialized skills. The institutions are unable to train staff adequately or to send them for specialized training because of the perennial problem of poor funding. In many cases, government has been providing funds only for salaries and not for

operations, thereby incapacitating these institutions. It is imperative for the government to adequately fund these institutions if the fight against corruption is to be won. Moreover, there is little formal co-ordination among the different institutions fighting corruption. Although they do refer clients to each other there are no follow-ups and no systematic co-ordination of their responsibilities.

### **4.3 The general government context**

The governance context emphasises that all of the countries have weak accountability, scrutiny and monitoring arrangements. In short, the anti-corruption architecture is ad hoc, poorly planned and inadequately executed. For ACCs, this means that they may be adversely affected contextually. In Tanzania, the PCB's operating environment is characterised by different organisations with overlapping roles and responsibilities, ambiguities in inter-institutional relationships and a governmental infrastructure and culture is highly underdeveloped in terms of its policies and practices to prevent, detect or deter corrupt practices in all areas and at all levels of the public administration system. Uganda's Development Partners on Governance and Anti-Corruption Consultative Group Meeting noted in 2003 that 'our perception of the general pervasiveness of a culture of impunity with respect to corruption. Several senior politicians and officials who have been censured or sanctioned for corruption, for example, by Parliament, have not really been called to account or prosecuted. Instead they have been rewarded with lateral transfers to the Movement or elsewhere in Government. Administrative sanctions, dismissals and prosecutions appear to be rare and poorly publicized throughout the Executive'.

The poor governance arrangements are both cause and consequence of governments who, from the various interviews undertaken by the research team with donors, media and civil society on their general perceptions on levels and patterns of corruption, would appear not to have integrated the roles and work of the ACCs into any general anti-corruption strategy or wider poverty reduction, democratisation or administrative reform programmes.

#### **4.3.1 Ghana**

There is evidence of a potential for predatory behaviour by the government but it is constrained by the existence of watchdog agencies, civil and other agencies, and the role of media. Indeed, both CHRAJ and SFO provide a restraining presence although they are perceived by some to have lost some of their motivation and occasionally the public's attention in recent years. Donors have noted a growing openness and awareness with the expansion of newspapers (between 20 and 30, mostly tabloid), radio (FM radio does not require licences), phone-ins, civil society groups demanding accountability, and a greater sense of free speech, particularly in the capital. There are three anti-corruption civil society organisations: the Ghana Integrity Initiative (the TI chapter) which is expanding into districts with workshops, and targeting local activists to promote rights awareness; the Ghana Anti-Corruption Coalition (GACC, which includes the SFO, CDD, CHRAJ, IEA, GII, Ghana Journalists' Association, Forum of Religious Bodies, Private Enterprise Foundation) which is supported by GTZ funding to provide an independent

secretariat; Centre for Democracy and Development which has a well-resourced programme targeted on various aspects of party-state overlap, such as use of state resources during elections.

The media is significant in that it is not intimidated by government and also because there are too many media outlets to be dominated by owners with party connections. A number of outlets publish a range of corruption stories which have caused the government to act, albeit by removing the offending minister rather than by initiating investigations. The general lack of regard for the Office of Accountability, the government's response to donor pressure to address corruption, as an ineffectual body too closely associated with the government, by the two existing investigative agencies, the media and civil society is telling. This might suggest that the government, which came to power in part on an anti-corruption platform and subsequently promised a series of (as yet unimplemented) reforms – procurement legislation, freedom of information and whistleblowing legislation – can be persuaded not to interfere further in anti-corruption work.

Indeed, government departments may be prepared to deal with obvious abuse themselves. The government has wanted a corporate governance review and forensic review of a number of parastatals but it was the Ministry of Finance, in relation to the Ghana National Petroleum Corporation, which asked the Auditor-General to bring in the SFO who in turn hired PwC to review its finances. While not evidence of a systematic attempt by government to address corruption, the study suggests that monolithic indifference to allegations of corruption is not present in Ghana and that a potential for reform continues to exist in what might be described as a country on the developmental turn.

### 4.3.2 Tanzania

Tanzania has introduced significant macroeconomic and structural reforms from the early 1990s onwards. The current Government of President Benjamin Mkapa, the Chama Cha Mapinduzi (CCM) party, was elected in 1995 and then re-elected in 2000 in multiparty elections with absolute majorities. Standing on an anti-corruption pledge and a declared commitment to improving fiscal performance and structural reforms designed to support economic growth and alleviate poverty. The Government has identified five core reform areas: Public Financial Management Reform Programme, Local Government Reform Programme, Public Service Reform Programme, Legal Sector Reform Programme and the National Anti-Corruption and Strategy. The reforms, with differing degrees of progress and success have focused on the development of administrative capacity at all levels of government, the maintenance of fiscal stability, the promotion of private sector via deregulation and the divestment of parastatals and building up of an infrastructure to support rural agricultural development.

The Government's anti-corruption pledge was initially implemented by the establishment of the Presidential Commission on Corruption under Justice Warioba, which investigated the extent of corruption in the delivery of four key public services: the police, the judiciary, revenue collection and lands services. The resulting Warioba Report published in December 1996 indicated that corruption at all levels was widespread and rampant and identified a number of causes including: lack of administrative transparency and accountability, lack of political will, the appointment of leaders without reference to established procedures and trade liberalization initiatives that have brought in their wake tax evasion, illicit trading and fraudulent land deals.

The anti-corruption efforts were continued by the introduction of a National Anti-Corruption Strategy and Action Plan in November 1999 with seven priority areas including improving the legal framework, public service capacity building whistle-blowing and witness protection legislation and public education. Donors, while endorsing the need for a national strategy, demanded clarity on how the strategy and the ministerial action plans could be implemented effectively when the relative responsibilities and authority of its two main elements, the Prevention of Corruption Bureau (PCB) and the Minister of State in charge of good governance were not explicit. In sum, Tanzania has done much to identify and highlight the problem of corruption but has been largely ineffective in its attempts to solve the problem of corruption at all levels. It has however received considerable support from the international donor community for its economic, institution-building and poverty alleviation programmes.

### 4.3.3 Uganda

The evidence of a solid refusal to address high-level corruption in a Uganda where the developmental trajectory appears much flatter than in Ghana, comes from donors themselves. In 2003, Uganda's Development Partners on Governance and Anti-Corruption Consultative Group Meeting issued a statement which, after the obligatory nod toward 'broad range of governance, public sector reform, economic and social achievements to its credit since it assumed power in 1986' promptly criticized the Museveni government openly for the persistence of corruption, particularly at senior levels: 'pervasive, institutionalised and on the increase'. It listed the areas of concern in detail and the current issue of the Leadership Code, over which the World Bank refused a loan until action was taken against a Presidential adviser who refused to submit his Leadership declaration of assets return (which in turn led to other donors trying to arrange a compromise that satisfied both parties), has only served to underline the frustration of donors.

Nevertheless, donors continue to draft numerous action plans relating to governance and anti-corruption work. Core funding for the IG's work<sup>8</sup> ended in the late 1990s once the UNDP had, unilaterally, taken over responsibility for supporting investigation work. Although the IG may have slipped back in public consciousness, it has also been involved in a number of clashes with the government, in 2001, over the activities of the Election Commission and in 2004 over compensation to a businessman that was alleged to have been used for party-political purposes and over a presidential adviser whose refusal to submit his Leadership declaration of asset return. The IG has also embarked on a programme of reviewing preventative procedures in state institutions.

The government itself appears immune to the concerns of donors and the IG, as well as civil society, which is weak in organisational terms (and hamstrung by the 'no party' rules). The media regularly raises corruption allegations, and there is evidence that corruption is rising as the issue of the presidential third term (currently not permitted by the constitution) is moving to the top of the political agenda; all point to further tensions between the government, the ACC and donors.

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<sup>8</sup> Prior to 1995, the Ugandan ACC was termed the Office of the Inspector-General of Government (OIGG). After the constitutional reform, it was renamed as the Inspectorate of Government (IG). IG refers to the institution; IGG refers to the head of the organisation – the Inspector-General of Government.

#### **4.3.4 Zambia**

The lack of political support for the ACC from the Chiluba government resulted not only in political obstruction of its investigations, but it 'had at one time wanted to abolish the ACC'. It was obvious that until the political climate changed, the ACC had no prospect of making any impact on levels of corruption in Zambia and ACC data suggests that the ACC was operationally unable to respond to an almost 40% increase in reported corruption in the 1990s. In 2001 President Mwanawasa took office and he declared his determination to 'stamp out corruption'. A special Task Force was established, with donor support, to investigate former President Chiluba and his associates after the National Assembly, at President Mwanawasa's urging, unanimously voted to lift Chiluba's immunity from prosecution in July 2002.

A broad institutional improvement process, Public Sector Capacity Building Project, is under way in Zambia and is gathering pace. It is as yet too soon to say what impact it will have but it will affect the ACC. New appointments have been made to the ACC at the highest levels and the government has increased budgetary provisions to the ACC but actual disbursements have sometimes been less than anticipated because of budgetary constraints.

### **4.4 Relations between the ACC and Government**

Like Tanzania, the other four countries have detailed poverty reduction and administrative reform programmes. In the case of Ghana, it opted for debt relief under the Heavily Indebted Poor Country (HIPC) program in 2002 with policy priorities that included tighter monetary and fiscal policies, accelerated privatisation, and improvement of social services. Uganda has chosen to promote economic liberalisation and decentralisation.

Generally donors pursue their anti-corruption activity through such poverty reduction programmes, making a direct link between fighting corruption, governance and poverty reduction. In Ghana, the DANIDA Good Governance and Human Rights Programme (GGHRP) started in 2003 as a 5-year thematic programme to systematise its earlier ad hoc work. It is rooted in the Ghana Poverty Reduction Strategy, in which governance is one of five main priorities, intended to promote participation, human rights, transparency, accountability, and so on. In Uganda, in its 2003 report, DANIDA argued that its funding to the IG reflected its policy on strengthening good governance, indirectly contributed to poverty alleviation through limiting the impact of corruption on economic growth and directly contributed to poverty alleviation by limiting funds directed through corruption away from social purposes. In relation to its support to the IG, the UNDP argued that it sought to complement and not to duplicate the efforts of other donors 'that are supporting Uganda's efforts to improve its governance as one of the measures to address the poverty problem.' The reality is somewhat different, as noted under the main issues identified by the research team.

#### **4.4.1 The link between government policy and ACC objectives?**

One revealing indicator of ACC profile and performance was the absence, in any of the countries analysed, of any direct and positive linkage between the activities of the ACC and wider governmental policy agenda. Nowhere, for example, were governments making the link between

the role of their ACC, governance and poverty reduction. On the contrary, all ACCs have uncomfortable relations with government in relation to funding, operational work, and pursuit of cases through the courts. Indeed, as the 2003 Uganda's Development Partners on Governance and Anti-Corruption Consultative Group Meeting report noted: 'according to Transparency International, Government currently allocates only 1.1 percent of its budget to accountability institutions. This amount is clearly inadequate to the tasks of the anticorruption agencies and might be interpreted as a lack of political support for the effective enforcement of anti-corruption measures in Uganda'.

This situation has a number of consequences. First, there is often little attempt to improve and clarify the legislation and agencies. In Tanzania, the Prevention of Corruption Act lacks internal consistency and provides ambiguities which provide suspects with opportunities to manipulate the system and allows the judiciary, if so inclined, to find in favour of defendants in dubious circumstances. The country's Public Leadership Code of Ethics enacted in 1995 is inherently convoluted in that the Ethics Commission cannot instigate an investigation without a complaint even if a declaration, or successive declarations, are obviously suspect. Until there is a complaint, the information held is secret. For a complaint to lead to an investigation, it has to pass three tests: the complainant must provide their name and address; the Commissioner has to be satisfied that the complaint is justified and relevant; and the complainant has to pay a fee of 1,000/- in order to access the Register of Interests. This creates the obvious problem of justifying a complaint prior to being able to access the evidence as whether the complaint is justified. Second, there is often a duplication of strategic and organisational effort, including the possibility of greater rather than less government involvement in operational matters as agencies jockey for funding and pole position. In Uganda, DFID's focus is on support to the Directorate of Ethics and Integrity (DEI) which has developed an anti-corruption plan. This does not appear synchronised with that of the IG and which places a government minister at the centre of an inter-agency forum (IAF) which seeks to coordinate agencies, share information and work on cases, bookings for schedules of inquiries and moving cases between agencies, while the DEI itself harbours ambitions to develop an investigative capacity and set up an intelligence function.

#### **4.4.2 Consistency and security of funding**

Only Ghana's agencies are fully-funded by government; in the other countries, the ACCs rely on core donor funding either directly or through donor basket funding arrangements. Budget stability is essential to any agency – or would be if they used business planning processes – but dependency on either government funds or on donor funding allows either to interfere in the activities of the ACCs (see Uganda Leadership Code example below) or militates against longer-term planning. In the case of Malawi, a NORAD/DFID 2003 report noted: 'with funds from Government being approved only on an annual basis, it is difficult for ACC to plan ahead with any great coherence or confidence. Donor support should, ideally, underpin Government support, helping to remove some of the uncertainties and smooth out unevenness in domestic support'. In Zambia, the 2000 ACC Strategy Review Final Report by PwC noted: 'currently the ACC does not have sufficient financial resources to achieve the task set for it by government. Hence investment by DFID swamps the ACC's budget three-fold in year one. By year 3 of the project, DFID resources could account for nearly two thirds of the ACC's annual recurrent funding'.



Significantly, the financial shortfall in necessary resources for the Zambian ACC was so large that by 2001, donor support was three times the ACC's budget. The current aspirations of the Zambian ACC are commendable but the Zambian economy continues to perform poorly and, unless that improves, the government's resource base will remain weak. In consequence, the ACC may experience some continuation of the inadequate and delayed funding it has experienced in the past. Similarly, while current political support levels appear encouraging, their sustainability is still open to question and, without it, the ACC may find itself marginalized again.

The issue of the level of government funding as a proportion of the overall operating budgets of the ACC also has the consequence of displacing funding and ACCs become subject to policy, strategy and operational shifts as a result of being "funding-led", rather than a strategically consistent and operationally effective agency; in such cases it is little surprise that governments lose interest or, as in Uganda or Zambia, try to close or weaken them.

As to operational work, governments' refusal to play their part only serves to diminish the perceived effectiveness of the ACC. In Uganda, the case of the IG's attempts to investigate the compensation paid to a businessman that was alleged to have been used for party-political purposes, and over which the Solicitor-General has refused to hand over the file only to be threatened with arrest by the IGG, illustrates the potential not only for damaging the ACC-government relationship but also for tarnishing the general anti-corruption stance of the government. The same issue applies to the need to secure Attorney-General approval for prosecutions, when the Attorney-General is usually a political appointment. All the country studies identify this issue. In Ghana, for example, there were significant delays in authorising prosecutions as well as allegations in turn from the Minister about the quality of the investigator file.

Overall, however, governments will not move against ACCs while donors continue to have influence. Indeed, in Uganda donors have forced the government to take a coordinated approach through the development of an inter-agency forum (IAF), a government-wide strategy and a department (the Department for Ethics and Integrity - DEI). While the first strategy plan from the DEI was a shopping list - very ambitious and poorly-funded, it did identify problems, led to the establishment of IAF, encouraged a political platform for anti-corruption work, led to ring fenced budget, suggested more donor funding coordination and identified gaps in the legislation. The problem with donor influence is that, if governments are not engaged in the work of an ACC, then the primacy of donors' involvement in ACCs through their disproportionate funding may also have an adverse impact on an ACC ranging from discontinuity of funding through competitive funding, to determining whose performance objectives take priority.

## **4.5 Relations between the ACC and Donors**

Only in Ghana would it appear that the 2 agencies are fully-funded by government, with donors adding support at the margin for activities that the agencies themselves have identified. At the least there is the question of continuity: in Malawi, DANIDA's decision in 2002 to withdraw its country funding (ostensibly because of deficiencies in the financial reporting of an NGO it funded but perhaps because of a change in the political complexion of the government in Copenhagen) impacted on funding for the ACC – and was a part-cause of discontinuities in the development and promulgation of community anti-corruption programmes.

In the other countries, the level of donor funding has led both to donor intervention and to donor-driven outputs that have not been fulfilled or have been diluted by other activities. It is clear that ACCs with significant pay costs, and the need for certain types of resources, will accept whatever donors are willing to make available – and donors do so on the basis of donor plans that often do not take account of the ACC’s capacity and own plans. This is particularly obvious when there are a number of donors working with a single ACC.

Generally, donors pursue anti-corruption activity through cooperative arrangements and basket funding. In Uganda, donor cooperation and coordination is through the Poverty Reduction Programme and the PEAP. Donors also agree among themselves how to develop their inter-donor framework in relation to corruption. DFID’s current role in Uganda is as chair of the corruption working group within the Technical Group of the Democracy and Governance Group [each donor takes the lead on specific areas, such as human rights (DANIDA), and democratic processes (USAID)]. The overall group comprises 12 donors, of whom the active anti-corruption donors are Netherlands, Ireland, UK, and Denmark. World Bank supports the work of the working group and, along with a representative of the Uganda Government, attends meetings. The Group Memorandum of Understanding whose provisions include, for bilaterally financed activities the following:

6.1 Donors who, for legal, administrative or other bilateral reasons, are unable to participate in the joint financing basket account arrangements, may choose to contribute to projects by direct bilateral funding of agreed activities. These activities should normally be from those agreed within the framework of the programme defined in Article 3.

6.2 In order to enhance co-operation and promote synergy between donor activities in the field of democracy and governance DDGG members will provide each other with copies of agreed project documents, reports and other material related to the implementation and impact of the activity. Where appropriate DDGG members will invite other members to take part in related programme design and evaluation missions.

In Ghana, donors operate collectively on key reform issues – procurement; public financial management reform. The World Bank leads the latter with other donors taking core components (e.g. EC on audit, CIDA on decentralisation, DFID on budget preparation). Donors insist on departmental reporting on use of donor funds and Parliament is encouraged to review progress.

While the inter-donor policy area often reflects similar aspirations for cooperation and coordination, the practice appears somewhat different. Despite the commitment by donors to cooperate and coordinate their activities, all insist on maintaining their own action plans which to varying degrees take account of each other’s plans, and those of the ACCs.

#### **4.5.1 Donors in practice**

The attempts by donors to cooperate and coordinate their activities are undertaken on a voluntary basis. There is evidence that this works best among bilateral donors but is subject to dilution by the actions of multilateral donors who tend to work to their own agenda and do not work with the bilateral donors. In Uganda and Ghana, this is especially obvious in the behaviour



of the UNDP. In Uganda, UNDP began to support for IG in 1998 through the UN Volunteer Programme (UNVP) which, using SIDA trust funds, provided \$570,000 over 2.5 years for 5 UNVP posts, with related transport investigation allowances and IT support. This made UNDP the largest donor at that time – although it had not ascertained or sought to complement existing donor support. Its own evaluation apparently persuaded it to continue UNVP from its own funds to 2005. In practice its acknowledged reasons for doing so were the political necessity of not being seen to withdraw support and the synergy with its wider governance agenda. It has subsequently (and unsuccessfully) sought funding for the IG from bilateral donors and accepts that its 1998 intervention created tensions with other donors and that it continues to have little or no dialogue with bilateral donors.

In Ghana, the National Governance Programme (NGP) was set up in 1997 by the UNDP in a UNDP-Government of Ghana agreement as part of the governance infrastructure programme. It was intended to focus on critical areas to ‘grow’ as alternative sources of power to the dominance of the Executive, to deliver checks and balances, the focus has been on capacity-building in ‘governance’ institutions (Parliament, Electoral Commission, Media Commission, CHRAJ, and National Commission on Civic Education). The NGP – whose 5 staff are funded primarily by UNDP – intends to engage the 16 ‘governance’ establishments and act as the bridge to the Executive which has control over policy and resources. It is intended to encourage donors to participate and put funding into the NGP or to the Government with the NCP guiding the allocations to the ‘governance’ establishments but other donors, who use basket funding for public sector reform, will decline to do so for the NGP because it is seen as a creature of the UNDP.

#### **4.5.2 A plethora of plans?**

Uganda continues to be the subject of a number of anti-corruption programmes and plans. Some are IG specific; others include the IG in a wider strategic approach or a governance approach. Not all reports share the same publication date, nor the same timeline and some have predecessor or successor editions.

The plans are:

- DFID East Africa Division Project Memorandum on a Support Programme for Ugandan Led Anti-Corruption Initiatives 1999-2003 (2003),
- IG Corporate and Development Plans 1999-2001 (1999) and Corporate and Development Plan 2004-2009 (2004),
- UNDP Second Country Cooperation Framework 2001-2005 Programme Support Document – Good Governance for Poverty Eradication (2001),
- DANIDA Programme Document – Anti-Corruption Programme in Uganda 2004-2007 (2003), and,
- Director of Ethics and Integrity National Strategy to Fight Corruption and Built Ethics and Integrity in Public Office 2004-2007 (2004).

In Ghana, there are, in theory, four plans. The first approach (and the only one termed a ‘plan’) developed from internal Integrity workshops and proposed for adoption by the new government which itself had made some clear statements on corruption and firm commitments to specific reforms. The second was written by UNDP as part of its Democratic Governance Programme

(DGP) and is linked to its funding of the National Governance Programme (NGP). The third is part of DANIDA's own funding programme. The fourth derives from GTZ's study – which is likely to be based on GTZ's support for the secretariat of the GACC which itself led it. None is in itself a strategy or plan, and nor is there a single focal point for the delivery of a plan or strategy.

### 4.5.3 Measuring performance?

The issue of too many plans is particularly important if there is to be any assessment of the progress of the ACC and to make any calculation of the cost of donor investment and the subsequent performance of the ACC. What was surprising from the interviews, although not initially part of the research framework, was the absence of institutional memory – the knowledge and awareness among current donor representatives of past initiatives and their acceptance of the absence of records to which they could refer. It was clear that many donor representatives do not have a long view of an ACC's organisational evolution and are not necessarily party to the various donor plans. At the same time, most donors do not have performance measures commensurate with the types of work they undertake. Indeed most will accept that political rather than business planning imperatives dominate what they fund, and why.

In Uganda, and apart from UNDP, much of the support for the IG comes from DANIDA and the Irish Embassy. DFID, for example, has no performance measures other than delivery of the strategy plan and formulation of the procedures and work of the IAF. For the IG, they consider a general role as proxies for the people, responding to complaints from the public against government. DANIDA's programme plans and reports judge the IG's performance as satisfactory even if their main indicator – high-profile cases – were almost entirely not achieved. DANIDA's Phase III funding is intended to encourage the IG to use the Leadership Code, analyse submissions and enforce sanctions. The indicators for this will be the backlog to be verified and the number loaded onto software. This however is a performance target that is donor-driven and from even a cursory assessment of the IG's organisational capability, undeliverable (see below).

In Ghana, DANIDA's anti-corruption work focuses on CHRAJ and has an annual review against objectives but these are often outputs with little thought about actual measurement. In relation to capacity to combat corruption, the programme expects evidence of coordination with other agencies (meetings and infrastructure exchange); case management system; educational training. The programme review looks at actual detail (such as number of teachers trained in, or attending meetings on civic education) because the programme document takes a broad approach. Most assessments are likely to be focussed on outputs; turnover of staff and length of programmes and are unlikely to allow for any assessment of the impact of programmes in the longer-term.

Further, GTZ in Ghana would appear to be the only donor to explicitly use appraisal and assessment of type and scope of project, to include measurable and verifiable measures of success. Its current Good Governance programme is a 12-year project delivered in phases, each one developing the next. The programme covers: legal pluralism, the SFO, the tax agency. Also involves ministries (e.g. finance) on policy and guidance. Phase I budget is EU8.5 million (3 years); EU 35 million for 12 years. For the SFO, the measures will include: improvements to procedures to international standards in relation to money laundering, organised crime, drugs, banking law crimes; and the value of cases must be 20% greater than the baseline. There should

also be, in relation to international and transit crimes, an increase of 10% of value of crimes. All involve a risk assessment and a project term likely to allow for any impact assessment.

## 4.6 Organisational development and maturity

### 4.6.1 The numbers

Length of existence is no guarantee that an organisation has developed through a standard life cycle/portfolio matrix. Indeed, most of the ACCs had a poor record in terms of the quantitative performance.

With a staff of 78 the Malawi ACC output, according to its most recent annual report available in October 2004,<sup>9</sup> is:

- 414 complaints were authorized for investigation as of 30/6/02,
- 1259 complaints brought forward from previous years (and together the Bureau had 1637 complaints to investigate),
- investigation and conclusion of 118 cases.

In Zambia, comparative statistics on reports received 1997-2001 suggest a similar problem in resolving cases:

	Reports	Investigations Authorised	Prosecutions	Convictions
<b>1997</b>	865	495	69	5
<b>1998</b>	1485	538	63	29
<b>1999</b>	1325	460	100	30
<b>2000</b>	1262	403	49	10
<b>2001</b>	903	392	53	17

In Tanzania, the PCB is a large organisation that currently has 714 employees nationally. The head office employs approximately 100 staff, there 21 Regional Offices each with its own Director and a structure that replicates that of head office. Each Regional Office employs 20-25 staff. In addition, the PCB has 110 District Bureau Offices, some of which are un-staffed and operated by visiting Regional Office staff by visiting while others each have a single employee. With about 200 active investigators, the progress of current cases at national and regional level for the 12 months up to April 2004 is as follows:

#### Progress of Cases under Investigation April 2003 to March 2004

	In court	New cases	With-drawn	Acquit-tals	Closed, not Pros.	Con-victions	With DPP	With DCI	At appeal board
<b>HQs</b>	16	1			14	1	16	8	2
<b>Regions</b>	120	62	7	25	1027	13	4	10	18

<sup>9</sup> (the Annual Report for 2001/02, submitted to the Minister of Justice on 23/12/03)

## 4.6.2 Paying for back-room capacity

Identification of functions, without an appropriate management framework, lead to the situation where activities related to front-line services are funded, but back-room infrastructure is not. In Malawi, the 2003 NORAD/DFID review noted: ‘in the case of the ACB, the evolution of donor support has tended to accentuate, rather than abate, ACB’s difficulties. Compartmentalized funding by donors division-by-division has, albeit unintentionally, held back the development of internal ownership of corporate strategic management, Bureau-wide priority setting and inter-divisional collaboration. It has cultivated (and exposed) divisions unequally. It has left some parts of the organisation – IT, human resource management – under-served and possibly undervalued. Effectively, ACB priorities remain determined by donors through their individual funding choices.’

This is not a unique finding, and has three consequences. The first is that the organisation’s infrastructure remains under-developed: in Zambia, NORAD have expressed dissatisfaction with the ACC’s continued inability to meet its reporting requirements. The ACC has had a chronically under-staffed and insufficiently qualified accounts department and such financial reporting difficulties are unsurprising. Donors actually do not know if their funding, and what they fund, is actually having any impact. Indeed, the donor-funded adviser in Malawi, a young ACC, has warned that the building blocks of effective organisations including establishing conditions of service, standing orders, operating procedures, financial control systems and enabling legislation are essential pre-requisites for an ACC and are sometimes neglected when there is political or donor impatience for ‘results’.

The second is that donors do not measure, or do not act on the basis of what they do measure, or they make claims that are not supported by evidence. DANIDA’s 2003 evaluation of its Phase II support for the IG in Uganda noted that ‘most of the targets were not reached in time and a few have been reached according to the original indicators’. Similarly the plan written by UNDP as part of its Democratic Governance Programme (DGP) in Ghana made sweeping claims about the performance of the governance institutions (which apparently had produced transformation and action plans, appointed internal change management teams and installed IT facilities) and government (which apparently had declared ‘zero-tolerance’ of corruption and acted to strengthen the police and SFO).

## 4.6.3 Paying for donor imperatives

The third is worse; donor imperatives can have significant (and adverse) consequences for an ACC if the wrong measure is chosen for the wrong reason, requiring absorption of the wrong resources and impacting on the ACC’s capacity. The Ugandan Leadership Code example is often an extreme but salutary warning:

The issue of the Leadership Code is a useful activity through which to view potential conflicts between donor and ACC activities and objectives. The Leadership Code has been a part of donor plans as well as an activity the IG admits difficulties in delivering.

The Leadership Code is seen by donors as central to government willingness to deliver anti-corruption reform. All ‘leaders’ are required to complete the form every

2 years. There are now 17000 officials and politicians classified as 'leaders', including all armed forces officers. The form itself has been expanded by consultants from 2 pages to 19.

In 2004, a case arose of a presidential adviser who refused to complete the Code. The adviser was judged by the IG to have failed to satisfy the law relating to the Code and thus unable to hold public office. A constitutional Court ruling, however, indicated that the President had discretion over who he could hire and fire and was thus not bound by the law or the IG decision. The World Bank then made compliance with the Code a prior-action condition for a \$150 million loan and insisted the adviser be removed (which he was, although in receipt of a letter from the President confirming his later re-employment). Donors coalesced around the Code as a focal commitment to reform (DANIDA on the operational use of the Code as an analytical and investigative resource; DFID on the redrafting of the law and Constitution to give primacy to Code).

Given that the implementation of the Leadership Code had been problematic for the IG, it is surprising that the donors should coalesce around this issue. It is even more surprising that this decision appears to have been taken without consultation with the IG on resourcing and its impact on IG's work. Although willing to acquiesce to donor demands, the IG now has 23 operational staff dealing with 17000 forms. It had a 90% return to early 2004 on; the new (19-page) form is currently being sent out over summer/autumn to be completed October 2004-March 2005. These forms are often delivered to remote areas by courier, with follow-up letter if not returned. Verification of declared information is by category for accuracy (i.e. value of property and, if undervalued, source of funding); verification is by visit and records. The IG also makes use of intelligence, complaints and public information for non-declaration.

The relevant section within the IG is only capable of checking 140 forms annually. There are issues over access to various sources of records, availability of records and quality of records for verification. There are internal problems over facilities, training and computerisation. There are no costings for the use of visits to verify information. To date, 350 forms have been entered into a dedicated software package but it would appear that no one confirmed whether or not the software carries relationship capabilities. If it does not, none of the information may be cross-referenced, between entries or across the same entry over time, etc. To verify the totality of forms for the current cycle using the existing staffing levels will take 12 years, during which time another 6 cycles will have been completed..

Meanwhile, the donors are coalescing around the Code as a focal commitment to reform. DFID will secure revisions, to allow for confiscation and forfeiture for non-disclosure. The IG does not have expertise in these areas. The IG is also seeking agreement with the GoU on how to deliver Code within the PRSCS, including the ability to report non-declaration to the official's appointing authority and a specific Tribunal.

The point of discussing the emphasis on the Code is that, while it appears in donor plans, it does not appear in those of the IG itself as core business.

#### 4.6.4 Organisational planning

The expectations of an organisation that looks and functions as an organisation would be evidence of: the use of business planning and management processes, functioning financial management and management information systems; effective organisational and administrative support systems; effective decision-making procedures, integrated with those concerned with resource allocation; delineation of responsibilities; realistic performance indicators or measurement. There is evidence that such features exist in some form or other within a number of the ACCs but remain under-developed.

In Uganda and Ghana, the IG and CHRAJ do use the business planning model but full integration of the purpose and measurement of the model in practice is in their embryonic stages. In other words, and listening to donors, there may have been certain assumptions at the time of the establishment of the ACCs that they were functioning organisations from the outset. This in turn has led to assumptions about performance and developments which have not been verified or supported by donors in their funding of ACCs. Only in Ghana does the organisational planning process appear to link resources to functions to objectives although, in Uganda, the IG is moving in the right direction.

CHRAJ remains a large, relatively well-funded agency with 200 staff in Accra and over 550 in regions (10 in each of the 10 regions) and districts (4 staff in each of the districts where it has an office). Its budget is wholly covered by government and works on the basis of a 2/3 year business planning process. As part of that process, it has recognised that its broad mandate - all citizens have right to complain - does mean too much work. In its 2002 Annual Report, it noted that it received over 12000 complaints, the bulk of which relates to family-related matters (only 1053 related to government departments). It is introducing case allocation/jurisdiction criteria – sending cases to the Federal Organisation of Women Lawyers, the Women and Juvenile Unit of the Police and (once it is set up) the Labour Tribunal. CHRAJ intends to enforce the 12-month limit on complaints. It also intends to be proactive, using the volume of complaints to look at structural issues for reform purposes. It maintains its human rights/Ombudsman function in terms of investigations, training and citizen awareness (which range from spousal killings to the freedom to join political parties) as well as pursuing its inspection function (its 2001 Inspection of Prisons and Police Cells is a detailed Ombudsman and Inspection report). It is also drawing back from corruption investigations which it sees more properly as resting with the SFO, which acts entirely as a law enforcement agency dealing with investigations where it has had some success.

Elsewhere, the picture is less positive. The Zambia ACC reported in its 2001 Annual Report that, ‘the Finance Department had not yet been established due to lack of funds to put the structure in place’. In Malawi, the newest ACC, is still waiting for a purpose built headquarters building and, as of last year, it had still failed to recruit a company secretary. Most of the ACCs suffer from staff shortage and turnover. In Zambia, the ACC is currently experiencing high staff turnover partly due to unattractive condition of service. The other issue is that due to inadequate funding, operational activities cannot be fully carried out and staff end up being idle for long spells of time which is not good for their self-confidence or morale. In Uganda, the IG’s overall problems include: high staff turnover (20% a year); inexperienced staff; lack of cooperation between departments; failure by government to follow IG recommendations, lack of transport and fuel,



and the absence of technical expertise (for example, handwriting, property valuation, documentation, budgets).

Overall, ACCs do not generally appear to reflect the indicators of organisational maturity and neither they nor donors appear to utilise those measures by which their performance and the pay-back from the funding can be judged.

In the 2001 Project Memorandum for enhanced support from DFID to the Zambia ACC, it was clearly stated that the 'key to the overall success of ACCES and PEPC will be senior management's preparedness to successfully manage the increased resource allocations. In the past, ACC have blamed limited government funding for reduced ACC operations and capital investment. However, they have always not identified the key funding priorities to improve operational effectiveness. Valuable resources have been directed towards improving senior managers' terms and conditions rather than balancing rewards across the staff, boosting operations and improving physical infrastructure'. In Tanzania, the PCB was regarded as under-resourced, under-powered and without the capability to investigate administrative and political corruption efficiently and effectively and ultimately too close to the Government to investigate major political corruption with sufficient commitment. Questions were thus raised as to the PCB's capacity, capability and commitment to deal the corruption at both ends of the spectrum. Generally, there is a perception that it lacks the resources to investigate petty corruption at the local level and also is itself in need of more rigorous supervision in order to guarantee its own organisational integrity and, in turn, maintain its authority to challenge political corruption at the grand level.

Aside from Ghana's CHRAJ and SFO, the only ACC that did give an indication of its ability to review its own strengths and weaknesses was Uganda's IG. Its 1999 Plan noted its own (negative) assessment of its performance to date for both internal and external reasons while its 2004 plan identified new strategic objectives - capacity building to meet the IG's legislative mandate; monitoring public expenditure; public awareness; promoting strategic partnerships – which showed an awareness of its context. While the plan did not specify quantitative measures, it did identify the activity-output-indicator-verification-timeframe line and the resources required. As a measure of 'success', it did at least intimate that the organisation was moving to a position where it could begin to deliver its objectives in addressing the corruption.

On a continuum from failing to developing, however, the research team have concerns about the longer-term organisational capacity of at least three of the ACCs reviewed, which raises doubts about whether or not they have developed organisationally and thus are fit for their current purpose.

## PART V

### Failures in measuring success

This part will examine how the assessment of the organisational performance of ACCs has been ill-served by the selection and application of inappropriate and therefore inaccurate performance measurement criteria and indicators,

Processes of performance measurement based upon injudiciously-chosen performance indicators have not only resulted in the inaccurate assessment of ACC “success” but have led ACCs in the direction of “failure”, if failure is perceived as failing to reduce levels of corruption and support the delivery of wider reform objectives.

The research team consider that the routes to “failure” are mapped out and therefore pre-ordained by the imposition of unrealistic objectives, constraining available resources, not adequately supporting the development of sustainable organisational capability, not reconciling different contingent factors intrinsic and extrinsic to the ACC and not recognising the high level of political pressure and resistance extant in the ACC’s operating environment.

#### 5.1 A Failure of measurement rather than in performance

In terms of the presence and pervasiveness of corruption, the project has identified that all five countries suffer from corruption at all levels of government. Despite the intentions of donors and the longevity of a number of ACCs, there is no clear evidence of the diminution of corruption. Indeed, in the example of Uganda, long seen as a model of incremental development and the recipient of substantial donor anti-corruption support, it has been the donors themselves who have raised the issue of the lack of progress. In sum, it would appear that, while all five countries have ACCs, corruption is prevalent as well as politically and economically significant (although we do note a definable difference in the Ghana context).

In more specific governance terms, nearly all the countries also have agencies whose work in whole or in part addresses the prevention, detection, investigation and prosecution of corruption. In nearly all countries these agencies are under-staffed and under-funded. The obvious interdependence of their roles and the synergy and added-value that would come from complementary and integrated relations does not appear to have developed to any significant degree, with a silo approach often taken by governments, donors and ACCs alike. Many of the issues surrounding how ‘success’ is perceived and measured, and why corruption continues, relate to governance and the approaches adopted by governments, donors and ACCs.

In order to implement effective monitoring, measuring and evaluating the performance of ACCs, it is first necessary to acknowledge and remedy a number of areas of failure. Each failure is individually significant but when found in sequence they serve to confound accurate assessment of organisational performance and compound. There are four areas of failure:



**Failure 1: Unrealistic ambitions**

Failure to reconcile the scale and scope of the corruption problem and ambition of the ACC with the resources and capabilities of the ACC and country's political context

**Failure 2: Inappropriate performance indicators**

Failure of donors to identify and apply appropriate measurement of performance for the ACC

**Failure 3: Lifecycles**

Failure of ACCs, governments and donors to recognise and reconcile the different lifecycles that impact on a country's capacity to combat corruption

**Failure 4: Balancing popular and political support**

Failure of ACCs to achieve the optimal level of success required to maintain public credibility and authority without losing political support and co-operation

The following section examines each of the four failures in greater detail.

**5.1.1 Failure 1: Unrealistic ambitions****The Failure to Reconcile the Scale and Scope of the Corruption Problem and Ambition of the ACC with the Resources and Capabilities of the ACC and the Country's Political Context**

This failure has encompassed the “carpet-bombing” of the ICAC model across an entire continent, incoherent funding policies and insufficiently sustained funding, a dislocation between ACC activities and its country's wider governance reform agenda and a fundamental failure to appreciate the loci and strength of political resistance to anti-corruption. Each of these failures will now be examined in greater detail.

**The ICAC Model**

Despite the existence of a substantial body of literature that confirms the importance of the cultural and social context in understanding the character and causes of corruption, the ubiquity of corruption in both geographical and historical terms has created a seemingly unstoppable drive to find a universal solution. The search for this magic bullet has for the almost two decades focused upon the Independent Commission against Corruption (ICAC), whose activities encompassed investigation, prevention and public education. The Hong Kong “model” developed in a location and at a time when very specific contextual conditions pertained: an economic imperative to restore the confidence of foreign and inboard investors; political will to remove all obstacles to economic development; political expediency that enabled government and its agencies to exert draconian powers; a single locus, at the time of establishment, of corruption in the Hong Kong Police Force; access to expertise and senior appointments from outside Hong Kong to remove and replace corrupt officers and the availability of substantial resources.

Since the perceived success of Hong Kong's ICAC, attempts have been made to replicate the model (and its tripartite approach of investigation, prevention and education) almost regardless of prevailing external political, social and economic conditions and always regardless of the

existing and latent capacity and capability of the ACC in relation to available resources. All of the African ACCs whether independent of government or independent within government, are required to subsist in conditions less propitious and with resources and capabilities far less developed and sophisticated than the ICAC model. Consigning African ACCs, with a very few notable exceptions, to a form of existence that not only constrains but also actually guarantees their inability to attain achievable levels of success due to the lack of political commitment, entrenched political and administrative structures and cultures, insufficient resources within the organisation and an inadequately developed governance and corporate governance infrastructure.

### **Incoherent or Inconsistent Funding**

The above failure to reconcile what is needed to solve the problem of corruption with what was actually achievable in relation to the scale, scope and degree of embeddedness of corruption and the resources and capabilities and the wider governance infrastructures has been compounded by the failure to fund the ACCs coherently and consistently. This failure is shared between the country's government and the ACC's donors. It has resulted in organisations left for years under-establishment and unable to fulfil adequately their core functions. ACCs are typically then subjected to periodic periods of resource feasts involving ill-timed and inadequately followed-up pilot projects, resources being made available for specific areas of expansion, the “parachuting-in” of volunteer-advisers and external consultants before being returned to their normal resource-famine state. In terms of progression toward organisational stability and security, this has been a highly-disruptive approach with at least two ACCs – Tanzania and Zambia – barely passed the embryonic stage of organisational development.

In terms of ACC's partial or total dependency on governmental funding, this creates areas of vulnerability with Commissions at risk from political influence, donor objectives or simply constrained by fluctuations in general government revenues. Further, in terms of donor support, this failure has been repeated and further compounded by the issue of donor competition considered in Part IV.

### **The Dislocation between ACCs and Wider Governance Reforms**

The country reports confirm in Part VII that, although the ACCs examined maintain a level of operational activity in relation to their organisational purpose, it is difficult to find direct evidence of the positive relationship between the strategies and activities of each ACC and wider governance reform programmes of their country. The relationship exists in some countries at the level of inter-agency communication – for example in Uganda under the auspices of the Minister for Ethics and Integrity or in funding arrangements for initiatives linked to governance reform as in Tanzania - but not at the level of policy development, implementation or monitoring and evaluation. The rationale for this disconnection between the ACC and the wider governance reform agenda could reflect a desire to maintain the independence and integrity of the ACC but, in reality, seems to relate to an all too prevalent lack of commitment and the basic infrastructure for inter-agency co-operation and communication and the internecine conflicts that exist in its stead.

The inevitable outcome of this dislocation between the priorities and activities of the ACC and the development of mechanisms of government transparency and accountability is either the increasing marginalisation of the ACC and/or the increasing failure to incorporate corruption detection and prevention in the wider reforms.

### **The Political Resistance to Anti-Corruption**

As will be considered in the following section, a significant factor in the failure both to provide an adequate level of support provided to ACCs and to define and apply appropriate indicators of performance to the strategic and operational activities of the ACC is connected to two inter-related factors: the low level of political commitment to reduce corruption and more significantly the high level of political resistance to attempted anti-corruption initiatives

The African ACCs under consideration have all lacked political commitment in deed if not word and have all been subjected to a high level of political resistance that has resulted in the ring-fencing of areas of corrupt practices that include specific areas of public expenditure – such as defence procurement - or government revenues – such as privatisation of state enterprises - and corruption practitioners who include members of kinship groups or political alliances.

The African ACCs are required to operate without the support within their own countries of effective accountability mechanisms to identify and, more crucially, corroborate, politicians', and their families' sources and levels of personal wealth, business interests and relationships. In addition they are unable, in practice, to benefit from the international legislative and regulatory framework to support Mutual Legal Assistance in the repatriation of suspected corrupt politicians and officials and the retrieval of illicit assets.

## **5.1.2 Failure 2: Inappropriate performance indicators**

### **The Failure of Donors to Identify and Apply Appropriate Performance Indicators for the ACC**

This failure has involved the imposition by donors of unrealistic targets and ACCs following self-determined objectives that are strategically ineffective.

#### **The Imposition by Donors of Unrealistic Targets**

Whether due to the Hong Kong ICAC effect of raising the level of ambition thought to be achievable in combating corruption or due to the pledges of national leaders and the aspirations of the international institutions, ACCs have followed inappropriate objectives and been subjected to unrealistic performance targets.

ACCs with inadequate resources, unsophisticated investigative capabilities and operating within an undeveloped institutional infrastructure have been expected to pursue systemic political corruption at the highest levels by donors from countries whose own investigation agencies have proved ineffective in detecting, prosecuting and preventing corruption at similar levels. The same donors have failed to realise the negative effect such failed fishing expeditions have on the morale of the ACC and the public's perception of the Commission's incompetence or even impotence – thus turning an attempt at deterrence of high-level political corruption into the encouragement of corruption at all points of the scale.

#### **ACC Following Ineffective Strategies**

The corollary of the imposition upon ACCs or their self-determination of unrealistically high targets is the over-concentration of resources and capabilities on low levels of petty corruption. Such approaches to pursuing complaints of administrative corruption, including all aspects of

mal-administration usually fail to utilise the intelligence gained from individual cases in order to develop and disseminate systemic changes in administrative procedures and so achieve little in support of the ACC's strategic objectives.

Such operational activities are usually followed for reasons of expediency or pragmatism to enable an ACC to do something achievable well within its existing resources and capabilities and, perhaps more importantly, be seen to do something well. As displacement activity, it represents an opportunity cost to the ACC, diverting scarce resources from more strategically important activities and again contributes to the public perception that larger scale corrupt practices can and do operate with impunity.

### 5.1.3 Failure 3: Lifecycles

#### **The Failure of ACCs, Governments and Donors to Recognise and Reconcile the Different Lifecycles that Impact on a Country's Capacity to Combat Corruption**

This failure is shared between all parties involved in the establishment, operation and external funding of ACCs and represents a failure to identify, appreciate and reconcile the different lifecycles associated with the evolution of corruption in an individual country

ACCs were set up with the best of intentions, often to be the focus of, and vehicle for, all government anti-corruption work. Donors were enthusiastic for such agencies because they bypassed the national police force, provided a single agency for funding, and were a visible sign of commitment. In their early days, the governance context and resourcing were not seen as significant issues; the instability of governments, the dominance of the Executive and dwindling revenues changed that.

Poorly-resourced and staffed, lacking organisational capacity and often weakened by the need to deliver across all three areas of activity and the inability to tackle high-level corruption, most ACCs were perceived as weak, inadequate or subordinate to the demands of the Presidency or government. Indeed, the levels and visibility of corruption have ensured that they are often perceived as failing their core function – holding senior government figures to account through investigation and prosecution – and thus, in terms of performance measurement, failed as organisations.

Of course, it is easy to lay much of the blame on the ACC itself. Much of the failure in fact appears to lie outside the ACC itself and issues to do with capacity, performance and delivery would appear to lie equally in the governance context and the activities of donors. Indeed, the research points to a clear mismatch in relation to:

- Governments which, in setting up ACCs and in then supporting them, have variations in expectations and roles about what the ACC is supposed to do, and why. Changes in governments often mean that that cycle is interrupted, renewed, diluted, etc. At the same time, governments have not made the necessary connections between poverty reduction, administrative reform, democratisation and the role of an ACC. Overall, there is thus often no clear linear approach to how governments deal with ACCs. As a consequence ACCs often appear outside the state architecture (which should not be mistaken for independence) and

thus adrift from a clear and agreed role with government. As such they often become the creature of donors, who may have a clearer expectation of an ACC, and the funds to support it, but also suffer from the implications of their own cycles.

- Donors work to their own cycle that is both dependent on their own (often short-term) perceptions of the purposes of the ACC, and on what donors seek from government within wider democratisation and anti-poverty objectives. What they fund, how they fund and when they fund, and how they measure what that funding is for, is often donor-focussed but also sometimes linked to the government cycle (eg, the incoming government) which does not necessarily match with the ACC's cycle in terms of capacity and competences. Donors do not use standard management and business planning models, often suffer from institutional amnesia and misunderstand organisational development and maturity measures. As a consequence, there are issues to do with ACC funding and performance expectations. At the same time, although donors invariably support cooperation and coordination at policy levels, the implementation of both is neither uniform, nor complementary. Political imperatives rather than organisational performance and progress are often drivers for funding; there is also some evidence of continuing competitive advantage among donors.
- ACCs are organisations with their own development cycle that is often assumed by donors (and governments) to be linear. This is often not the case, and how ACCs develop, and what they do, are often not sequential, nor incremental. The question of organisational maturity is central to this. How they are funded by donors and governments, and what governments and donors expect of them, is often not grounded in reality, nor approached through a clear management development strategy.

Overall, what we have found is that the rhythm and interstices of the 3 cycles - government, donors, ACCs - do not necessarily match, nor are they complementary, and nor are they coordinated. The consequence is that most of the ACCs do not deliver 'success', and that donors continue to promote their assumptions about ACCs and, as with other issues, continue to compound the problems they face. We discuss these issues below.

#### **5.1.4 Failure 4: Balancing popular and political support**

##### **The Failure of ACCs to Achieve the Optimal Level of Success required to maintain Public Credibility and Authority without losing Political Commitment and Co-operation**

This failure is concerned with the non-reconciliation of the success actually achieved by the ACC with success potentially achievable within the extant political, economic and social context; the imperative of accepting strategic and operational limitations in targeting administrative and political tiers and the enhancement of organisational capability; and operational effectiveness in relation to established performance parameters.

##### **The Non-Reconciliation of the Success Actually Achieved by the ACC with Achievable Success**

The ACCs under examination have sought, with different levels of support and differing degrees of success, to define an organisational mission, identify strategic objectives and implement operational activities broadly in line with their established strategic framework. An ACC's potential to achieve success is, of course, dependent upon the achievement of a positive strategic fit between the demands of its operating environment and the organisation's own capacity to meet those demands. This means balancing what needs to be done with what the ACC is actually able to do. The operating environment itself also impacts on what can be done in terms of the key dimensions of prevailing corruption; the positive and negative forces supporting or constraining its activities; in terms of extant legislation and the related regulatory framework; the existence and relative pressures coming from the executive, legislature and/or civil society.

Thus, any assessment of an ACC's success is essentially a comparative process relating activities undertaken and achievements attained with the scale and scope of corruption and an evaluation of the factors that support or inhibit the activities and potential achievements of the ACC. Essentially, this means evaluating performance achieved in relation to available resources, level of capability employed and degree of difficulty in the operating environment. This requires a shift in ACC performance measurement and evaluation, from single factor criteria e.g. monies retrieved, cases completed, radio broadcasts or conviction obtained through performance against objectives, to evaluation of performance achieved within specific environmental conditions, i.e., judging or benchmarking performance achieved against performance potentially achievable within the prevailing political, economic and social context.

### **The Imperative of Accepting Strategic and Operational Limitations in Targeting Administrative and Political Tiers**

The inevitable consequence of the above approach to judging an ACC's operational performance is that it should also serve to direct operational activity toward achievable operational parameters and foci within the different levels of corruption - in essence eliminating those areas and levels of corruption that are not worth investigating or not accessible to investigation within the context of a realistic assessment of what the ACC is capable of achieving. This will mean that robust strategic and management decisions must be taken - at the lower end of the scale, because they either do not support strategic objectives or are not resourced effectively, and eliminating areas and levels of corruption at upper levels of political and even administrative corruption unless and until internal resources and capabilities are adequate and the operating environment is sufficiently propitious.

The objective of this approach – and one that would strike anyone using standard management planning approaches as commonsense – is to seek to achieve an optimal level of performance and, in turn, success based upon the concept of country specific realism rather than a culturally imported realism; not the good ACC but the good enough ACC.<sup>10</sup>

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<sup>10</sup> Bettelheim, B & Freedgood, A (1987) 'A Good Enough Parent: A Book on Child Rearing' Random House: New York



## 5.2 Effectiveness and parameters

### The Enhancement of Organisational Capability and Operational Effectiveness in Relation to Established Performance Parameters

Accordingly, all strategic and tactical efforts to develop the capacity, capability, performance and success of an ACC must take account of what is the nature and key dimensions of the corruption problem prevalent in the host country, what are the resultant organisational development needs of the ACC, how and over which period can these development needs be met and what are the projected costs?

All the above should be directed at creating an ACC that is fit for purpose in organisational and contextual terms, an ACC that can achieve an appropriate level of success. This optimal level of performance has been articulated in business terms with the conceptual framework of ‘The Icarus Paradox’.<sup>11</sup> The framework applies the Greek myth of Icarus who was so successful in creating wings based upon feathers held together with wax that he flew too close to the sun and the wax melted, causing his wings to disintegrate. In essence the basis for the wings’ success provided the basis for their failure. When applied to business it relates to companies which achieve initial success but whose ambition encourages them – or they are encouraged by others – to grow beyond their existing capabilities or to take on roles and responsibilities that are not supported by the organisation’s current infrastructure or competences.

For ACCs, the Icarus Paradox provides a lesson in identifying a level of performance which provides sufficient success to satisfy and support the evolution of an operating environment that gradually becomes less corruption-tolerant, without producing a level of political hostility that increases the degree of prevailing political resistance to combating corruption. In essence the former level of performance also serves to support the incremental development of the ACC itself, whereas the latter level guarantees the ACC political constraints on its operation and ultimately organisational impotence.

## 5.3 Our Recommendations

In summary, we would recommend that:

- governments and donors must agree on what the role of ACCs is – focus now on what they are good at, and what they have the resources to achieve,
- ACCs should avoid seeking to fulfil a wide range of roles for which they do not possess the organisational competency and all such roles must either be divested entirely or delegated to other agencies,
- donors must identify and apply appropriate performance indicators in order to measure ACC operational performance and organisational success,
- ACCs require continuing structured organisational development,

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<sup>11</sup> Miller, D (1992) ‘The Icarus Paradox’ Harper Collins:New York



- all ACCs have a single strategic plan that is suitable, acceptable and feasible, with appropriate and realistic performance measurement, and that donors and governments only fund the plan over a stated time-horizon (government funding must be core and fixed),
- governments and donors must consider the optimal level of organisational performance achievable in the ACC's operating environment,
- governments and ACCs should agree 'SMART' objectives<sup>12</sup> and relevant Key Performance Indicators (KPI) that are annually reviewed by a third party (such as the legislature) and revised accordingly.

In sum, we argue that the future purpose and roles of ACCs will not achieve 'success' until they are funded at the right time, for the right activity, in the right way. We recognise that the ACCs in four of the countries (Ghana's CHRAJ and the SFO are not donor-funded to any significant degree and act as agencies displaying evidence of organisational maturity) exist and any recommendations that seek to take forward any of the above issues have themselves to be realistic. These we discuss in the next section.

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<sup>12</sup> SMART (Specific, Measurable, Achievable, Result-oriented and Timetabled). Another used by the UK National Audit Office is FABRIC (Focused; Appropriate; Balanced; Robust; Integrated; Cost-effective).

## **PART VI - Conclusion**

### **Improving performance measurement; improving performance**

The research into ACCs in four of the five countries – Malawi, Tanzania, Uganda, Zambia - allow the research team to answer the three questions it established at the outset of the research project:

- what constitutes 'success' for an ACC,
- which environments are most conducive to ACC success, and,
- whether particular configurations of institutional architecture, legal jurisdiction, administrative infrastructure, agency mission and political culture are most likely to enhance the prospects for 'success' in reducing corruption.

We would argue that, given donors have made strong connections between addressing corruption, reducing poverty, encouraging wider administrative reform and promoting the democratisation agenda, none of the ACCs have achieved 'success' in the wider sense. In terms of the current work of the ACCs, 'activity success' and 'output success' are patchy - only the Ugandan IG has made and is making progress – as a consequence of under-funding, donor expectations, and uneven (and sometimes inappropriate) organisational development.

In the absence of established 'success', it is not possible to assert firmly which environments may be most conducive to ACC success elsewhere but we have amply demonstrated which environments are the least conducive to ACC success. Only the Ghana example offers indications as to context and general development issues – and these seem linked to a much more broader aggregation of changes that are too extensive to discuss in this report. Indeed, this provides as we noted above, 'a lesson in identifying a level of performance that provides sufficient success to satisfy and support the evolution of an operating environment that gradually becomes less corruption-tolerant, without producing a level of political hostility that increases the degree of prevailing political resistance to combating corruption'.

We have argued that, in the four countries, the governance and government contexts offer significant reasons as to why these countries provide the wrong sort of environment for ACCs to be 'successful' and, at the same time, why reform of ACCs as proposed in the previous section is both necessary but not likely to be easy. Our preferred recommendation involves recognising that environment and using the recognition to:

- seek to achieve an optimal level of performance and, in turn, success based upon the concept of country-specific realism,
- creating an ACC that is fit for purpose in organisational and contextual terms and thus an ACC that can achieve an appropriate level of success that gives it a level of confidence, allows the organisations to consolidate its development and gives the public some evidence of an ability to deliver.

## 6.1 Improving performance

The First Report argued that ACC success in Africa was likely to be comparative, relative and partial and here we add that it is perspective-dependent. In an important sense, success is in the eye of the beholder. Different stakeholders may have different priorities and concerns; some will, for example, have a short-term focus and others a longer-range perspective.

What characterizes African ACCs is a significant mismatch between the nature and scale of the corruption problem and the capacities and resources of ACCs. With multiple roles, it is difficult to generate the efficiencies of specialization of function which raises the questions of why ACCs have the roles they have and whether those roles should be evaluated, re-ordered and, if appropriate, given to other state or community organisations. Different circumstances call for differing answers but some questions are generally applicable and need to be addressed.

- Should ACCs investigate low-level, petty corruption? Simple, street level corruption requires no special skills or resources and would be more readily dealt with through police reform.
- Should ACCs investigate high-level grand corruption? Such inquiries may merit specialized attention because of their scale and complexity but do ACCs possess the technical resources and expertise to deal with them? The Zambia Task Force has been in existence for two years and, on most estimates, has examined only 20% of the allegations, with no convictions to date. This body is a construct of the best and brightest from all the law enforcement bodies including the ACC and supplemented by forensic accountants and other assistance. What chance would the Zambian ACC on its own have of successfully concluding such a large and complex inquiry? There are no ACCs anywhere in the world that can accomplish such a task.
- Should ACCs engage in community education on corruption in large, rural societies? ACCs are usually very small organisations, whose main skill sets are not those of teachers and educators. All states have education departments – should they assume responsibility for community education on corruption? Moreover, the measures for assessing the impact of community education are soft and in some cases meaningless. Just because a certain number of talks, seminars and dramas have taken place tells us little about how it has raised awareness, changed attitudes and, more especially, how it has impacted on behaviour. (If the object here is to reduce corruption by changing behaviour, we need to ask what is the record of community education in changing behaviour in relation to HIV/Aids?) Further, what are the implications of raising awareness, and thus a potential increase in allegations of petty corruption, on the ACC's previously agreed core functions?

Corruption remains a matter of opportunities, incentives and risks. In poor countries, the incentives are huge and the risks are usually worth taking even when most of the ACCs we studied have investigations as a core function.

### **6.1.1 Example 1: The ACC as corruption prevention**

Corruption prevention could be the first priority of ACCs. There will always be cases to prosecute and there is always a need for education but the ACC may not be the best delivery vehicle. The danger is that corruption prevention lacks the drama and public relations value of high profile prosecutions and lacks the appeal to donors of community education which engages with NGOs and communities rather than apparently corrupt and inefficient state institutions.

Corruption prevention does not receive the priority it deserves but, properly resourced and focused, it can close loopholes and tighten processes and make a significant impact on reducing corruption, particularly in relation to wider reform objectives.

### **6.1.2 Example 2: The ACC as local governance investigator**

The key to an engaged and inclusive citizenry, and a wish to be involved in the democratisation process, is often best pursued at local level where the availability and quality of front-line services – health, education, etc – is most likely to have an impact. The effectiveness of both the provision of information and the ability to operate successfully with local officialdom and local parties would underpin local initiatives through organisations responsible for monitoring the conduct of government. If the focus of both governments and donors is on democratisation and decentralisation, then, if the people are unable to act directly – or until they are able to act collectively and with confidence against state agencies, especially at local level - they need surrogates or proxies to do it for them. An ACC could act as ‘proxy for the people’ whose role is to ensure that public officials have behaved properly, working alongside other agencies such as Ombudsmen or state audit to act as a deterrent to corruption.

This would offer both an educative and investigative role as part of measures that ‘design out’ corruption at local level through promoting the rights of the citizen; simplifying administrative procedures and oversight controls; quick and effective complaints and redress; community awareness and education; the training of public officials in service delivery; the integration of agencies which have oversight or investigative powers. The proxy approach seeks to exploit existing resources and agencies, with wider benefits, that takes a low-level but public-focused approach and seeks wider goals than simply minimising the opportunity or incentive for corruption by moving toward public service cultures.

Even if an ACC chose to focus on high level corruption, its structure and competences would require significant revision.

### **6.1.3 Example 3: The ACC as serious and complex financial crime investigators**

To be effective in contemporary investigations of serious and complex financial crime, an ACC would require a substantive law that covered: corruption/bribery; misuse of public office by public officials; conflict of interest by public officials where undue influence is identified; failure to pay to the state revenue; misappropriation of state assets.

While the law would be open to a range of agencies, the ACC would require specific contemporary powers on: disclosure and explanations of documents; attendance at interviews; financial reporting; restraint of assets; confiscation. To fulfil the role, an ACC would require sections dealing with financial intelligence, criminal intelligence, criminal investigation, criminal prosecution and civil asset recovery. Each section would have to be appropriately resourced and trained.

Reform of the law and the ACC to be effective in tackling corruption and other financial crimes against the state would need, as far as practicable, to be planned as part of a comprehensive criminal justice strategy. Piecemeal reform directed to one specific type of offence can easily lead to a waste of scarce resources, as specific problem areas – such as corruption or money laundering – are dealt with separately and in an uncoordinated way. These proposals, in particular the ones that provide a range of new investigative powers, would be intended to enhance the ability of the ACC. It is anticipated that such reforms would form part of a longer term programme of revising and updating the substantive criminal law, the procedural and evidential law, and the other institutions with a role in the investigation and prosecution of crime. The need for such a programme in all jurisdictions is now given greater force and urgency by the growth of international obligations derived from such instruments as United Nations and African Union Conventions and the Recommendations of the Financial Action Task Force on money laundering and terrorist financing.

## 6.2 Improving performance measurement

More generally, such a debate must provide an appropriate policy framework within which ‘success’ could be measured. The research has suggested that the development of such a framework must follow certain steps:

First, every country is different and there is a need to locate the specific and most serious problem areas, to identify the principal institutions and resources available to deal with them and to determine which are likely to prove the most effective entry points for an anti-corruption strategy within the overall approach suggested above. That is, government must draw up a single, evidenced and realistic country strategy, allocating responsibilities and a timeline for delivery with specific and measurable outputs.

Second, the strategy must be inclusive and devolve responsibility for anti-corruption work to the right public sector institution. State audits may be more appropriate for undertaking agency reviews and inspections; public sector institutions should take responsibility for corruption prevention, pursued through internal audit offices in conjunction with state audit. There must be clear and agreed links with investigative agencies but the strategy must determine what should be the core business of the ACC. The strategy must clarify the anti-corruption architecture or configuration.

Third, once agreed, governments must signal commitment through core funding, with project co-ordination and co-operation between donors, to support the single strategy and that strategy should also include corruption impact assessments from the range of reforms and initiatives. Much of the dysfunctionality in addressing corruption results directly or indirectly from macro-

level policies – such as decentralisation and privatisation – where the resultant (and inevitable) corruption has placed significant resource and delivery demands on the ACC.

Fourth, the strategic approach would also include addressing a number of core procedural and planning issues for the ACC:

Prioritising: where is the greatest public dissatisfaction? Where is the greatest loss of revenue? Reform has to start somewhere and the purpose of the strategy must reflect the competing needs of restoring public trust and confidence in key institutions and staunching the haemorrhage of public resources needed for development purposes. With limited resources, robust choices must be made.

- **Timing/Timetabling:** what does the strategy require the ACC to do? When are the resources to be made available to deliver the strategy, and to what timetable to ensure that the ACC can deliver. It is noteworthy that the advisor to the Malawi ACC is arguing that the building blocks of effective organisation need to be put in place before giving any consideration to ACC impact. This includes not only training but also establishing conditions of service, standing orders, operating procedures, financial control systems and enabling legislation
- **Co-operation:** promoting donor or government agreements to plan, co-ordinate and abide by any agreement on donor support in a transparent and enforceable manner for an ACC with all agreements posted on a register or web-site.
- **Sequencing:** drawing out an appropriate funding regime that provides the ACC with the infrastructural and management capacity to deliver the ACC's core business.
- **Measuring:** establishing clear and quantifiable indicators agreed between the government and the ACC, supported by donors and assessed by, for example, the legislature.
- **Scrutiny:** ensuring that donors, governments and legislatures monitor or verify the delivery of the overall strategy and that is within the terms of reference of the ACC.

Fifth, we have noted elsewhere the failure to make greater use of direct partnerships with developed country public sector institutions<sup>13</sup> in delivering organisation procedure-based training that encourages institutional capacity building longer-term and organisation-wide projects to: focus on realigning the organisation's staff and resources to core business (rather than training in specific activities); to allow for professionalisation to develop; to allow for more detailed understanding by interaction between staff from both organisations; to allow for evaluation and thus for consolidating satisfactory performance or resolving poor performance.

Sixth, much greater emphasis should be given to annual monitoring of institutional capacity-building through the availability of independent reports reflecting the themes of results-based management. These should provide the basis of an annual evaluation audit, giving information on goals and objectives, function-focused budgeting, organic organisational structures and realisable

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<sup>13</sup> Doig, A. and Marquette, H. (2005). "The UK, the Commonwealth and Corruption: Assessing the Potential for Joined-Up Development Assistance", *Comparative and Commonwealth Politics*.

performance measurement. The strategy must be based on sound lifecycle/portfolio matrix principles.

## **6.3 Conclusion**

There are obvious limitations in the transference of the ICAC model – the all-inclusive approach - to the African context and these contextual issues need to be considered in developing ACCs for the future. What ACCs do in the future must be realistic or fit for purpose, must be agreed by all stakeholders working to and providing funding for a single strategy, and must be underpinned by standard management and business planning models that are appropriately resourced and recognise the capability issues involved in any ACC development, as well as the quality of the extant governance infrastructure. Any future ACC performance measurement model must incorporate the political/economic context, the organisational maturity, the quality of strategic framework, the scale/continuity of donor support, over a suitable time scale within the defined lifecycles of governments, donors and the ACCs themselves. Until this is undertaken, we see no realistic expectation of ‘success’ of ACCs or, indeed, developing the means to measure it.



## **PART VII**

### **Country reports**

Five countries were visited between July-October, 2004.  
The selection of the countries was agreed between U4 and the researchers.

## 7.1 Ghana

- **Commission for Human Rights and Administrative Justice (CHRAJ)**
- **Serious Fraud Office (SFO)**

### 7.1.1 Background: Establishment and purpose of agencies

Formed in 1993 under the new constitution, CHRAJ operated as a human rights and ombudsman agency whose goal was to protect and promote human rights, police the code on the declaration of interests, and maladministration. The ombudsman agency (set up in 1981) was abolished in the 1992 constitution and its function and cases transferred to CHRAJ, in part as a consequence of financial constraints and in part to provide a single organisation to clarify where the public might direct their complaints. CHRAJ expanded as a consequence of public demand for, and judicial delay and cost in delivering, low-level justice or conflict resolution. Its powers and procedures are defined by legislation as follows:

- investigating complaints of violations of ‘fundamental, rights and freedoms’, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties,
- investigating the public services ‘in so far as the complaints refer to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services’,
- investigating complaints against the conduct of any person or organisation in the public or private sector that violates ‘fundamental rights and freedoms under the Constitution’.

It was mandated to remedy, correct or reverse any substantiated allegation in any of these areas through ‘such means as are fair, proper and effective’, including: negotiation; reporting cases to the offender’s superior; taking cases to the appropriate court; investigations; public education.

CHRAJ reported to Parliament which approved its budget although the Ministry of Finance’s financial constraints meant that budgets were funded quarterly, and not always guaranteed. CHRAJ appointed its own staff but salaries and conditions of service were low resulting in a high turnover. During the 1990s the budget increased three-fold as a consequence of the good governance programme which also included other agencies such as the Election Commission, Commission for Civic Education, judiciary, supported by UNDP.

The constitution required an office in each region (10) and district (110); there were 10 regional offices and 64 district offices currently established. There was an HQ in Accra with 10 investigators while district offices had 4 or 5 staff (with a graduate as head, one investigator plus clerical and secretarial staff); regional offices had 15 staff (headed by a lawyer, supported 2 legal officers, 2 investigators, and support staff). The organisational structure comprised a legal, operations, finance, and administration departments (the latter also included personnel and public relations).

Its workload included: human rights; employment issues, (sacking, victimisation, etc., as a consequence of the government’s introduction of employment legislation without establishing

Employment Tribunals); benefits and wages payments or delay (which make up some 40-50% of its workload); maladministration and justice, including ill-treatment by the police and trial delays; the inheritance rights of widows and children (particularly in relation to practice rather than the law); domestic abuse and gender abuse: religious practices, including slavery; inspection of prisons and police cells.

The SFO was established by 1993 legislation intended to protect public funds through the investigation and prosecution of offenders. The SFO developed from the activities of three agencies - the Office of Revenue Commissioners (tax, revenue section), the National Investigation Committee (economic crime) and the Confiscation Committee, co-ordinated by a co-ordinator with ministerial status - in response to the perceived shift in the focus in type and volume of cases involving serious economic crime, as well as the need for legislation to access unexplained wealth and freezing of assets for the protection of public funds. The enabling legislation specifically noted the need for a specialised agency to investigate what appears to the Director on reasonable grounds to involve serious financial or economic loss to the State or to any state organisation or other institution in which the State has financial interest...'. It also required the SFO to 'monitor such economic activities...with a view to detecting crimes likely to cause financial or economic loss to the State' and to take 'such other reasonable measures...to prevent the commission of crimes which may cause financial or economic loss to the State'.

The legislation gave SFO officers police powers, the right of access to and seizure of documents, freezing of accounts, the right of prosecution (with approval of Attorney-General), the power to pay rewards, and the expectation of co-operation of, or powers of, other bodies as required in pursuit of its investigations. The SFO did not start work until 1997 and, by the end of the 1990s had a staff of 183 (and an establishment of 255). SFO did not deal with individuals suspected of corruption but investigates criminal activities involving tenders, procurement, etc., because its remit was primarily concerned with the protection of public funds. Corruption should therefore relate to loss to state (and can also relate to private sector if relating to a national asset, such as gold).

### 7.1.2 Impact of CHRAJ and SFO

CHRAJ and SFO have developed a restraining presence on abuse by government but there is a lack of inter-institutional coordination and clear focus of objectives that the new government has not hurried to address (for example, what goes in the asset declarations, who holds and verifies them, and so on, still requires action). Similarly, what is still by African standards a strong civil society structure – with the Centre for Democratic Development, the Ghana Anti Corruption Coalition and the Ghana Integrity Initiative – which remains vocal but under-funded and often in (discreet) competition with each other. These, and media leaders, consider that CHRAJ remains good on HR and Ombudsman roles but weak on corruption cases and that the SFO goes for softer targets below national government level. All, including donors, recognise the growing openness and awareness with expansion of newspapers, radio, phone-ins, civil society groups demanding accountability, and a greater sense of free speech. Government appears to want to avoid restricting the greater openness and space for civil society organisations to work.

There is evidence that patronage and contracts remain major areas of corruption and that the government does seek to restrain both CHRAJ and the SFO from being too effective and independent. In particular, the government has ignored SFO, although CHRAJ's budget has gone

up and, although its mandate may be too great, its geographic spread has led to awareness of administrative justice. On the other hand, CHRAJ lost the opportunity to strengthen its authority and anti-corruption work by turning down, on a technicality, allegations concerning the renovation of a presidential residence while the SFO is still treated with suspicion for the jailing of a minister from a previous regime and continues to clash with the Attorney General over the prosecution of cases.

CHRAJ continues to be a large, relatively well-funded agency with 200 staff in Accra and over double that number around the country (approximately 10 in each of the 10 regions and approximately 4 staff in each of the districts where it has an office). Its budget is wholly covered by government and works on the basis of a 2/3 year business planning process. As part of that process it has recognised that its broad mandate - all citizens have right to complain - does mean too much work. In its 2002 Annual Report, it noted that it received over 12000 complaints, the bulk of which concern family-related matters (only 1053 related to government departments).

It is introducing case allocation/jurisdiction criteria – sending cases to the Federal Organisation of Women Lawyers, the Women and Juvenile Unit of the Police and (once it is set up) the Labour Tribunal. CHRAJ intends to enforce the 12-month limit on complaints. It also intends to be proactive, using the volume of complaints to look at structural issues for reform purposes. It maintains its human rights/Ombudsman function in terms of investigations, training and citizen awareness (which range from spousal killings to the freedom to join political parties) as well as pursuing its inspection function (its 2001 Inspection of Prisons and Police Cells is a detailed Ombudsman and Inspection report).

As a consequence of its involvement in corruption cases, it does maintain a small anti-corruption unit which looks at initial complaints – it uses retired police officers for investigations and its enabling legislation gives it sufficient powers – seize, search, subpoena – to undertake such work. On initial findings, it will either set up a panel for a hearing or send to police (who don't always work cooperatively). Its reports are always recommendations; it is up to the Attorney General to decide to prosecute. In recent years, it has dealt with 2 cases involving senior officials and has just issued a report on the Parliament Loans Scheme (by which MPs were given loans to buy cars during the life of each parliament, with preferential rates and with the possibility of securing a new loan at the start of the next parliament).

The SFO has a staff of 182 with 80 investigators and has 10 seconded CID officers. It considers it has adequate powers (including the power to freeze accounts, which is sometimes used by police on request to the SFO). Again its budget is entirely funded by the government and it maintains operational independence. Like CHRAJ, its work is constrained by the Attorney-General and delays in prosecutions (17 cases are proceeding the courts). It is prepared to act on allegations involving government ministers (even if the government's response is to reshuffle rather than call for an investigation) and demonstrated in another case involving a former minister its ability to deal successfully with investigations that have an international dimension. In its latest report (2003) it has 58 live cases (34 new cases, 24 on-going cases) and completed 10 cases. The cases it does handle range up to Cedi446 million – its annual report lists all live cases, amounts and the nature of the offence – and range from tax evasion by private sector companies to failure to follow tender procedures, with the main emphasis on restitution or recovery. The major cases are outlined in detail even though the investigations have not been completed. The cases indicate those involved and the issues that the investigation is intended to address.

Both deal with donors on an individual basis, for funding for specific projects or requirements. For CHRAJ, for example, USAID pays for IT; DANIDA pays for case management and teacher training to get Human Rights on school curricula). Donors in turn prefer to deal directly with CHRAJ (which also prefers direct contact).

### 7.1.3 The Office of Accountability

The only new agency is the Office of Accountability. Elected in 2004, the NPP government continues to evince the potentially predatory behaviour of its predecessor but is constrained by existence of watchdog agencies – such as the Centre for Democratic Development which has had some success in publicising the use of state resources for party purposes - and the role of media, with some 20-30 regular and irregular news-sheets appearing in Accra alone. Under both donor and public pressure, the Government has proposed a series of reforms – procurement legislation, freedom of information and whistleblowing legislation but most are not yet implemented. The Office was an attempt to show commitment but the small office, headed by the wife of a senior party figure, comprises a 3-member committee with terms of reference relating to Cabinet Ministers and political figures to:

- develop a code of ethics/conduct,
- look at political aides and advisers, and appointments (such as DCs),
- discuss behaviours that might harm government,
- receive complaints and investigate them.

The Office's terms of reference have not been published. No reports are issued. It has no links with NGP. It is not a member of the CAGG. It has never met SFO and CHRAJ. It has never received any complaints about ministers. It, however, claims that it has rewritten the Code of Conduct for political appointees (such as District Commissioners) and ministers. This will recommend disclosure of assets to be held by Auditor-General. Watchdog agencies and the media are dismissive of the Office and its work.

### 7.1.4 The donors

Donors are operating collectively on key reform issues – procurement; public financial management reform – rather than specific anti-corruption activity. The World Bank leads the work on the key reform issues, with other donors taking the lead on core components (e.g. the EC on audit, CIDA on decentralisation, DFID on budget preparation). The donors insist on departmental reporting on use of donor funds and Parliament is encouraged to review progress. On corruption, the donors' grouping is dormant, which leads to donors pursuing own projects, of which UNDP, DANIDA and GTZ are the most active – see below for the various action plans and programmes.

UNDP's involvement in anti-corruption work is delivered through the National Governance Programme (NGP). This was set up in 1997 by UNDP in a UNDP-Government of Ghana agreement as part of the governance infrastructure (see UNDP National Plan discussed below). It was intended to focus on critical areas to 'grow' them as alternative sources of power to the dominance of the Executive, to deliver checks and balances. Since 1997, the UNDP focus has been on capacity-building in 'governance' institutions (Parliament, Electoral Commission, Media

Commission, CHRAJ, National Commission on Civic Education. All these receive UNDP funding. The NGP has 5 staff funded primarily by UNDP which intends to engage the now 16 ‘governance’ establishments and claims to act as the bridge to the Executive which has control over policy and resources. The NGP in practice is essentially a secretariat in the Office of the President and seeks to encourage donors to participate and put funding into the NGP or to the Government with the NGP guiding allocations. Donors have used basket funding for public sector reform but have not done so for the NGP because it is seen as ‘owned’ by UNDP.

DANIDA’s anti-corruption work focuses on CHRAJ and has an annual review against objectives but these are often outputs with little thought about actual measurement. In relation to capacity to combat corruption, the Programme expects evidence of coordination with other agencies (meetings and infrastructure exchange); case management system; educational training. The programme review looks at actual detail (such as number of teachers trained or meetings) because the programme document takes a broad approach. Most assessments are likely to be focussed on outputs; turnover of staff and length of programmes unlikely to allow for resources for impact of programme.

GTZ is the only donor involved with the SFO. It uses appraisal and assessment of type and scope of project, to include measurable and verifiable measures of success. Its current Good Governance programme is a 12-year project delivered in phases, each one developing the next. The programme covers: legal pluralism, SFO, tax agency. Also involves ministries (e.g. finance) on policy and guidance. Phase I budget is EU8.5 million (3 years); EU 35 million for 12 years. For the SFO, the measures will include: improvements to procedures to international standards in relation to moneylaundering, organised crime, drugs, banking law crimes; and the value of cases must be 20% greater than the baseline. There should also be, in relation to international and transit crimes an increase of 10% of value of crimes. All involve a risk assessment.

There are in existence 4 anti-corruption plans. The first (and the only one termed a ‘plan’) developed from internal Integrity workshops and proposed for adoption by the new government which made some clear statements on corruption and firm commitments to specific reforms. The second was written by UNDP as part of its Democratic Governance Programme (DGP) and is linked to its funding of the National Governance Programme (NGP). The third is part of DANIDA’s own funding programme. The fourth derives from GTZ’s study – which is likely to be based on GTZ’s support for the secretariat of the GACC (Ghana Anti-Corruption Coalition) which itself led it. None is in itself a strategy or plan, and nor is there a single focal point for the delivery of a plan or strategy.

## 7.2 Malawi

- **The Anti Corruption Bureau**

### 7.2.1 Background

The Anti-Corruption Bureau was established under the Corrupt Practices Act, No. 18 of 1995 as an ‘independent and autonomous government body comprising a Director, Deputy Director and such other officers as are deemed necessary to discharge its functions’ (Annual Report, 2001/2002, p.4).

The Act mandates the ACB to perform three main functions:

- prevent corruption,
- educate people away from corruption,
- investigate and prosecute offenders.

The Mission Statement focuses on ‘the efficient and effective prevention and control of corruption at all levels in order to facilitate a corruption free society and to enhance and contribute to Good Governance and Democracy in Malawi.’ But it should be noted that, on all matters of policy, the Director of the ACB is subject to the control or direction of the Minister.

Although the Corruption Practices Act was passed in 1995, there was a significant delay before it was implemented and the ACB has been constructed in a piecemeal fashion, for example, DFID reports to 12/3/1998 show the ACB as having a total of only 14 staff.

The explanation for the late passage of legislation and the gradual creation of the ACB is to be found in Malawi’s political history. Malawi became independent in 1966 and its first leader, Dr Hastings Banda, dominated the country and its politics for almost three decades until his death in 1994. During the Banda years, government was characterised by arbitrary autocracy with brutal features and many abuses of human rights.

After Banda’s death, multiparty democracy was introduced and the new Constitution of 1995 limited presidential tenure to two five-year terms. President Bahili Muluzi served from 1994-2004 and the efforts of his supporters to change the constitution to allow Muluzi to serve a third term caused much political controversy. This resulted in the election on a minority vote of Dr Bingu wa Muntharika as President with the declared intention of serving only one term in office.

The Malawian political system is a mixture of the presidential and parliamentary but, with an executive president and a party system largely based on regional lines, there are major opportunities and incentives for patronage politics. Party loyalties are fragile and material inducements facilitate party realignments.

Malawi scores 2.8 and is ranked 90 on the latest Transparency International Corruption Perception Index (December, 2004). Countries below a score of 3 are classified as experiencing rampant corruption. Although the CPI is not designed to provide comparisons over time, there is



no evidence to contradict the view that corruption levels are high and have not been reducing in recent years.

The TI Country Study Report (2003) paints a dismal picture of corruption in Malawi. Although it was written about the previous regime and before the recent change of political leadership, it found that there was ‘no strong political will to fight corruption’. On the contrary, it found that a culture of corruption was condoned and that anti-corruption efforts were affected by fear and were poorly coordinated. Corruption pervaded all the institutions of the state including the law enforcement agencies and the court system. This made for a most hostile environment in which the ACB fought against corruption.

The anti-corruption institutions worked within an inadequate legal framework and lacked resources, strategy and commitment. The police force was politicised and did not enjoy public confidence. Senior appointments during the Muluzi years were filled on political patronage lines and merit was a poor second to loyalty in the appointment criteria.

The economic situation in Malawi has been very difficult for many years. The UNDP has reported that Malawi was poorer in 2002 than it was in 1992. Foreign investment declined in the Muluzi years, unemployment remains very high and there is low productivity in the public and private sectors. The economic situation has been aggravated by donor intolerance of bad governance. Donors in recent years have been withholding aid and DANIDA pulled out when the Malawi government was unable to account for K10million in aid. The European Union even demanded a refund of K650 million because of mismanagement – ‘the first time in 40 years a donor has demanded a refund’ (p.15 TI Country Study Report). The change in political leadership in 2004 encourages donors to believe that Malawi now merits enhanced support but the weakness of the economy means the government’s resource base is small and fragile.

## **7.2.2 The ACB**

While it is premature to evaluate the performance of the ACB under the Muntharika government, ACB staff report that the government is more supportive than its predecessor and the new Director of Public Prosecutions is more willing to give consent for prosecutions than his predecessors.

The organisation chart shows a Director, Deputy Director and five third tier senior officers, three in investigations and one each in corruption prevention and public education. The ACB has experienced several changes of Director and the unexpected sacking of Gilton Chiwaula in 2002 suggests there is some insecurity in the tenure of this office. This is unsurprising because the ACB has hitherto operated in an unfriendly and hostile political environment. With the apparent current political will, it is operating in uncharted waters.

The ACB has reported two major constraints; weaknesses in the Corrupt Practices Act which narrows the definition of corruption to bribery, provides no protection for whistleblowers and imposes minimum prison sentences of five years which encourages magistrates to acquit in cases where the sums of money involved are small. The other major constraint is finance and the limited resources provided by the government of Malawi. To fulfil its legislative mandate, the ACB may also, under Section 10(C1)(2) of the Act, investigate any conduct of any Public Officer,

which in the opinion of the Bureau, may be connected with or conducive to corrupt practices and to report thereon to the Minister.

The ACB has created three divisions within the Operations Department of the ACB comprising the Investigations and Legal Division, the Corruption Prevention Division and the Civic Education Division. In October 2004, the ACB employed 78 staff with most of the operational staff focused on investigations. Corruption prevention and education appeared particularly hampered by a lack of funding in that while salaries can be paid there is no money for programmes and activities.

### **7.2.3 Impact of the ACB**

The DFID Adviser to the Director believes that expectations of the ACB are too high. Not only has Malawi been a democracy for only 10 years but the initial problems of building organisational capacity in one of Africa's poorest countries are formidable. The ACB has invested a lot in training because the adviser argues that the building blocks of effective organisation need to be put in place before giving any consideration to ACC impact. This includes not only training but establishing conditions of service, standing orders, operating procedures, financial control systems and enabling legislation are essential pre-requisites for an ACB.

In building an organisation from scratch, as in the ACB's case, there is a danger that these organisational essentials are neglected if there is donor or political impatience for 'results' and 'success'. Staff are, of course, the key resource and the ACB has undertaken its own recruitment and all officer level recruits are graduates. It has preferred to train its own staff rather than seek any transfers of police officers precisely because it wants people who are committed and trained to the task and not staff who are superfluous to other organisations. The exception to this principle has been the outsourcing of some prosecution work. This is undertaken because it enhances the in-house prosecution capacity and, in one sense, the external prosecutors are more efficient because they are effectively paid by results.

### **7.2.4 The donors**

Prior to the recent change of government, donors expressed some concerns about the ACB and their own role, for example, a DFID/NORAD review in 2003 found that:

'With funds from Government being approved only on an annual basis, it is difficult for ACB to plan ahead with any great coherence or confidence. Donor support should, ideally, underpin Government support, helping to remove some of the uncertainties and smooth out unevenness in domestic support.

In the case of the ACB, the evolution of donor support has tended to accentuate, rather than abate, ACB's difficulties. Compartmentalized funding by donors division-by-division has, albeit unintentionally, held back the development of internal ownership of corporate strategic management, Bureau-wide priority setting and inter-divisional collaboration. It has cultivated (and exposed) divisions unequally. It has left some parts of the organization – IT, human resource management – under-

served and possibly under-valued. Effectively, ACB priorities remain determined by donors through their individual funding choices.’

The major donor to the ACB is DFID who support a range of measures including: providing a technical adviser with substantial practical experience of running anti-corruption commissions in Africa, funding prosecutions and staff training.

In 2002 DANIDA withdrew its funding and, whatever the motives, the result has been discontinuities in the development and promulgation of community anti-corruption programmes.

NORAD/SIDA began giving support in 2001 but DFID remains the principal supporter of the ACB. A meeting in March, 2004, with DFID and NORAD confirmed that ‘all audit requirements were completed on time and this enhances ACB’s accountability and internal control’. Donor intervention can make a crucial difference, for example, in 2003 it was reported that ‘ACB now only has one in-house Prosecutor and with financial constraints...there was little corresponding prosecutor activity in this quarter’ but with donor help in outsourcing prosecutions and DFID funding for a Chief Prosecution Officer, the situation has improved.

### **7.2.5 Civil society**

Civil society is relatively underdeveloped in Malawi. The fact that most of the population lives in rural areas makes it more difficult to establish enduring and viable community organisations. The consequence is that NGOs are very much concentrated in the urban areas which are themselves not large by African standards. One consequence is that the views expressed by NGOs are not necessarily representative of the wider, predominantly rural, society.

Western observers have commented on the ‘compliant’ aspect of Malawian culture. Whatever the merits of this judgement, Malawi has not had the experiences of large scale protests and other expressions of public pressure that have been a common feature of many other African states.

The only identifiable NGO in anti-corruption work is TI Malawi which is more a collection of individuals than an organisation. It lacks the presence, access and resources that its Zambian equivalent possesses. In organisational terms, it is, in effect, defunct.

### **7.2.6 ACB problems and prospects**

Given that the ACB is a relatively small organization, (78 in October, 2004) it has to fulfil multiple roles in an atmosphere of heightened public and donor expectation following the recent change of government. Yet it is still waiting for a purpose built headquarters building and, as of last year, it had still failed to recruit a company secretary. The discontinuities in donor funding have had a marked impact on the education section. There are plans for expanding the staff but, as of October, 2004, there was an establishment of five staff in the education section but, of these, the senior officer was away doing an MA and another two posts were vacant. Both officers actually in post were young, able and committed graduates but clearly the shortage of staff combined with a lack of funds to purchase suitable educational materials means that some promising initiatives, for example, the 30 anti-corruption clubs, are likely to wither. Once public

expectations have been raised and then been dashed, it is doubly difficult to re-activate the former networks and contacts.

The corruption prevention section is similarly hard pressed with five staff but, again, only two were present with two away on training and one on maternity leave.

The investigation section is much more substantial and some ACB staff believe that the change of government presents the ACB with a rare opportunity to impress the public, the donors and the government by successfully investigating and prosecuting some of the ‘big fish’ of the Muluzi regime implicated in the Maize scandal and other high level corruption cases. But such cases are fraught with difficulty. This is vividly demonstrated by the recent suicide of a senior official at the Agricultural Development and Marketing Corporation who was scheduled to be a star prosecution witness in cases involving a former minister and a presidential aide.

While public perceptions might justify the ACB trying to gain credibility by catching some of the ‘big fish’, it is difficult to assess the prospects of success of such a strategy and it goes against the trend in ACCs more generally which is towards prevention and education. It is also unclear how the ACB would subsequently focus its energies if some high level prosecutions are instigated. The Zambian experience of the Task Force investigating former President Chiluba is not encouraging and seems very time consuming and resource intensive.

The new Director, Mr Kaliwo, is able and committed and is determined to secure the resources from the Government and other sources to equip the ACB for the challenges it faces in Malawi. But, as in Zambia, a strong and continuing commitment from DFID and other donors and increased political and financial support from the Government of Malawi is a necessary precondition of success while the fragile political situation and very weak economy pose great obstacles to a sustained improvement in the performance of the ACB.

## **7.3 Tanzania**

- **The Prevention of Corruption Bureau**

### **7.3.1 Background**

The introduction to the Government of Tanzania’s current National Anti-Corruption Strategy (NACS) published in November 1999 describes the Government’s stance on corruption as one of “zero tolerance.” As evidence of this position, the Government provides a brief history of its initiatives to combat corruption including the establishment of a police Anti-Corruption Squad in 1975 via the enactment of Act No. 16 of 1971, the Prevention of Corruption Act. In 1991 responsibility for the Anti-Corruption Squad was transferred from the Ministry of the Home Affairs to the President’s Office and renamed the Prevention of Corruption Bureau (PCB). The Prevention of Corruption Act has been amended a number of times but continues to be the legislation under which the PCB operates. For most of its existence, the Act has remained

unchanged apart from relatively minor amendments and the withdrawal and subsequent restoration of powers to the PCB.

The Act defined the role of the PCB, what constitutes corruption, and the evidence necessary for successful prosecutions. The Act provides for various terms of imprisonment and for fines to a maximum of 500,000/-. Corruption has now been designated as an economic offence so that sentencing of those found guilty is generally under the Economic and Organised Crimes Act. Again, there is provision for terms of imprisonment but none for financial penalty, other than the recovery of goods and/or monies gained corruptly.

The Prevention of Corruption Act lacks internal consistency and provides ambiguities which provide suspects with opportunities to manipulate the system and allow the judiciary, if so inclined, to find in favour of defendants in dubious circumstances. Similarly the lack of meaningful deterrent through the option of the imposition of substantial and proportionate fines is a major weakness.

The Public Leadership Code of Ethics enacted in 1995 suffers from similar problems in its implementation by the Ethics Commission. The process by which the Commission initiates investigations is inherently convoluted. It cannot instigate an investigation without a complaint, even if a declaration, or successive declarations, are obviously suspect. Until there is a complaint, the information held is secret. For a complaint to lead to an investigation it has to pass three tests:

- the complainant must provide their name and address,
- the Commissioner has to be satisfied that the complaint is justified and relevant, and,
- the complainant has to pay a fee of 1,000/- in order to access the Register of Interests.

This creates the obvious problem of justifying a complaint prior to being able to access the evidence as whether the complaint is justified.

### **7.3.2 The PCB**

The PCB has 4 areas of responsibility, the first two of which are reactive and the second two proactive:

- investigate all allegations of corruption received directly by the organisation or via intermediate agencies,
- prosecute directly or via the Director of Public Prosecutions (See following paragraph on PCB powers) all substantive cases of alleged corruption,
- educate the Tanzanian Public on the problem of corruption in support of its future prevention,
- advise national and local Government, its Ministries/Departments and parastatals on effective corruption detection and prevention.

The Prevention of Corruption Act assigns the powers of arrest, seizure and prosecution to the PCB in relation to petty corruption (section 3) and the powers of arrest and seizure with prosecution requiring the consent of the Director of Public Prosecutions in the following cases:

- use of documents intended to deceive the principal (section 5),
- abuse of public office (section 6),
- being in possession of property beyond declared sources of income.

The Police's direct involvement in investigating cases of corruption and also their working relationship with the PCB can be variable. It is not unusual for police officers to be seconded to the PCB for particular exercises and the PCB regularly refers cases to the Police that are outside their area of responsibility. However, they report that cases referred from the Police to the PCB are very limited.

This is not surprising when one explores the different perceptions of areas of responsibility. The PCB is of the view that all cases of corruption, wherever they might be identified, should be referred to them. They recognise that the Police do action some cases, e.g. those that emerge as part of another ongoing investigation, but this is comparatively rare. The reality is rather different. The Police investigate and prosecute, where appropriate, large numbers of minor corruption cases without any reference to the PCB; they deal with a smaller, but still significant number, of more serious cases, again without reference. In fact, the only time the Police tend to involve the PCB is where a letter requiring a declaration of assets needs to be issued (something only the PCB can do).

The PCB is headed by a Director General, Deputy Director General and its head office has an organisational structure based around 4 Directorates:

- **Administration and Personnel**, responsible for the administrative functions of purchasing, budgeting and financial control, management information and personnel functions of recruitment, selection and appointments, disciplinary and grievance procedures and staff appraisal, training and development.
- **Investigation**, which comprises the Information Centre, where all complaints are initially lodged and reviewed; Public Sector Corruption; Private Sector Corruption; Legal Affairs and Prosecution; and Technical and Communications.
- **Research, Control and Statistics**, divided in 3 sections with Research undertaking studies into sector-related corruption problems and solutions; Control, responsible for the dissemination and implementation of research findings in support of systemic changes; and Statistics, responsible for collecting and analysing information on the PCB's operational activities.
- **Public Education**, divided into 4 sections Co-ordination; Community Education, responsible for broadcast activities, printed materials and public events; Library, for PCB's internal use; and Planning and Logistics, responsible for budgeting and forward planning of the Directorates activities and materials.

Of the four Directorates, the Investigation Directorate and the Research, Control and Statistics Directorate is studied in detail below.



The head office employs approximately 100 staff and the PCB considers itself to be below establishment but it is currently seeking to recruit and appoint additional investigators. The PCB maintains 21 Regional Offices each with its own Director and a structure that replicates that of head office. Each Regional Office employs 20-25 staff. In addition the PCB has 110 District Bureau Offices, some of which are un-staffed and operated by visiting Regional Office staff by visiting while others each have a single employee.

In total PCB currently has 714 employees nationally and is below establishment at HO and at Regional and District levels. The Directorate of Administration and Personnel stated that their average annual staff turnover was around 1% - which seems unusually low.

### 7.3.3 Investigation Directorate

The Investigation Directorate, headed by the PCB's Deputy Director-General has 5 groups each with 4 investigators and 1 lawyer, 3 groups in its Public Sector Corruption section and 2 groups in its Private Sector Corruption. Investigations are handling a group basis with each group expected to undertake a minimum of 4 cases per year. Each Regional Office has 15 – 20 staff, comprising 7/8 investigators and the remaining support workers and drivers are graded as Assistant Investigators in acknowledgement of their involvement in the investigation process.

The total number cases investigated nationally and regionally for each year from 1996 – 2004 are as follows:

#### Number of Cases under Investigation 1996 – 2004

	1996	1997	1998	1999	2000	2001	2002	2003	2004
<b>HQs</b>	17	41	12	59	36	30	26	124	10
<b>Regions</b>	8	9	31	126	293	329	384	789	357 (partial)

The progress of current cases at national and regional level for the 12 months up to April 2004 is as follows:

#### Progress of Cases under Investigation April 2003 to March 2004

	In court	New cases	With-drawn	Acquit-tals	Closed, not Pros.	Con-victions	With DPP	With DCI	At appeal board
<b>HQs</b>	16	1			14	1	16	8	2
<b>Regions</b>	120	62	7	25	1027	13	4	10	18

The Investigation Directorate considers that its activities are supported by the following factors:

- the range of professional skills covered within each of the investigation groups;
- the range of powers assigned to the PCB by the Prevention of Corruption Act including the PCB's uniquely held power to investigate bank account records;



- liaison with the Research, Control and Statistics Directorate in the exchange of intelligence and the extension of investigations to research studies and the introduction of preventative measures, e.g. National Housing Corporation.

The Directorate considers that its activities are constrained by the following factors:

- insufficient number of investigators
- insufficient number of vehicles

The Directorate considers that its own key Performance Indicators relate to:

- the number of completed investigations resulting in administrative/ disciplinary measures;
- the number of completed investigations reaching court.

### **7.3.4 Research, Control and Statistics Directorate**

The Directorate has 13 staff members. It undertakes specific research studies on behalf of PCB, at the request of external bodies and jointly with other organisations. Choice of PCB initiated Research studies results from the analysis of complaints to identify corruption prone areas received or from specific major complaints received by the Director General. Research studies vary in scope, scale and duration but e.g. the research into the National Housing Corporation (NHC) undertaken in 2002 at the request of the NHC was carried out by the Directorate supported by an internal Auditor from PCB and involved 3 months of data collection and analysis, report-writing, consultation with the NHC on the findings, agreement on required systemic changes. This process was completed by a follow-up meeting to confirm implementation. A similar study has been undertaken into the supervision and implementation of the Primary Education Development Programme (PEDEP) and into 'Ethics in the Public Health Service in Tanzania'.

### **7.3.5 Impact of the PCB**

The opinions expressed by the various elements of Tanzania's civil society are remarkably consistent in their criticisms of the limited effectiveness of the PCB citing the following constraining factors:

- its status as governmental organisation and its direct relationship to the President's Office;
- its inability to prosecute major cases of corruption without recourse to the Director of Public Prosecutions;
- its financial dependence upon government for its operational budget.

Overall the PCB was regarded as under-resourced, under-powered and without the capability to investigate administrative and political corruption efficiently and effectively and ultimately too close to the Government to investigate major political corruption with sufficient commitment.

Questions were thus raised as to the PCB's capacity, capability and commitment to deal with corruption at both ends of the spectrum. A perception that it lacks the resources to investigate

petty corruption at the local level and also is itself in need of more rigorous supervision in order to guarantee its own organisational integrity and in turn maintain its authority to challenge political corruption at the grand level.

### **7.3.6 The donors**

There is a multi-donor programme with UNDP as lead donor with the purpose of strengthening the capacity of the Good Governance Coordinating Unit, PCB and selected NGOs. The Programme was scheduled to run from 2000 to end 2003 but a 12 month extension was granted. With a budget of approximately \$2,000,000, support provided to PCB for training, publicity materials, conference attendance and improvement to working environment. Specific project objectives for PCB support included:

- capacity development,
- capability to carry out their mandate,
- raising profile of anti-corruption activities.

Programme evaluation was recently undertaken. Although the final report is not yet available, initial findings include:

- PCB's relationship to President's Office serves to constrain its authority and overall operational effectiveness,
- PCB is further constrained by its level of commitment and resources to implement Tanzania's anti-corruption legislation,
- further development is required to support an effective civil society.

The programme is set to continue but the scale of future support and key objectives are yet to be determined.

Donor relations in the Good Governance programme were considered by UNDP to be positive with communication and co-operation achieved via a Good Governance Working Group (including, among others, UNDP, Irish Aid, NORAD, DFID and the World Bank). The Group's discussions are directed at information-sharing, harmonisation of activities and its standing items include; the NACS, frustrations at limited progress and ways of improving governance dialogue.

### **7.3.7 Government initiatives**

The Governments of the United Republic of Tanzania, from its establishment in 1962 to the present day can be divided in 3 phases starting with the transition from colonial rule, the creation of a centrally planned state and the transition to a market economy. The fight against corruption has continued, as has the problem of corruption, throughout all of the three phases.

The Phase One Government under Nyrere in 1961 focused its efforts on the consolidation of the independent nation and its principal activities included the establishment in 1966 of the office of Permanent Commission of Inquiry (Ombudsman), stated to be the first of its kind in Africa. Phase 2 Government under Mywinyi is characterised by economic reforms led by the

privatisation of state enterprises and institutions. Phase 3 Government immediately signalled its anti-corruption position by establishing the 1995 Presidential Commission of Inquiry Against Corruption (PCIC) known as the Warioba Commission, which analysed the extent and causes of corruption in Tanzania and concluded it was endemic, existed at the petty level to enable public servants to supplement inadequate incomes and at the grand level because of a widespread use of high public office or senior position of employment for personal gain: need and greed.

The Government has introduced a range of measures and established a number of bodies in the wake of the Warioba Report, published in December 1996, and in support of the National Anti-Corruption Strategy and Action Plan (NACSAP), launched in November 1999. The measures taken have included:

- The establishment of:
  - the **Office of a Minister of State** in the President's Office with responsibility for good governance and the oversight and co-ordination of all anti-corruption activities,
  - the **Good Governance Co-ordination Unit**, in 2001, under the Secretary of State, to administer the following organisations with anti-corruption related responsibilities,
  - the **PCB**, the Police, the Ethics Commission, the Commission for Human Rights and Good Governance, the National Audit Office,
  - the **Ethics Inspectorate Department**, located within the Public Service Management Department, Office of the President and responsible for the enforcement of the Leadership Code of Ethics.
- conversion of the Permanent Commission of Enquiry to the Commission of Human Rights and Good Governance via the enactment of the Act of 2001. Its responsibilities include dealing with abuse of office.
- strengthening of the Office of the Controller and Auditor General (CAG) via the enactment of the Public Finance Act 2001, which gave the CAG more independence in the recruitment and disciplining of staff.
- signing of the South African Development Commission Protocol Against Corruption and the United Nations Convention Against Corruption.

The Ethics Commission has as its principal responsibility the administration of the Leadership Code of Ethics. Its procedures for receiving complaints have already been considered. It is not considered to be effective in this role. The Commission for Human Rights and Good Governance has responsibility for handling complaints of abuse of human rights or mal-administration. Its performance in this role is subject to public criticism.

### 7.3.8 Civil society

Overall, all components of Tanzania's civil society are considered to be under-developed and largely ineffective in their contribution to the country's anti-corruption efforts. The Tanzanian Chapter of Transparency International under its current and first full-time Chief Executive Wilbert Kitima, appointed 6 months ago is seeking to reverse a four year decline in the scope and scale of its activities. Mr Kitima acknowledged the role that Edward Hoseah, Deputy Director of the Prevention of Corruption Bureau had played in holding TI – Tanzania together during this period.

The press sector has an anti-corruption strategy, drafted by the Chief Executive of TI-Tanzania in his previous role as a journalist. The strategy has, to date, not been implemented. The print media is insufficiently resourced to train staff fully so standards of investigative journalism are low. Within the profession journalists are poorly paid and mainly employed on a free-lance basis. A survey carried out by the Media Institute of South Africa confirmed the low status and level of remuneration extant throughout Tanzania's media. Tanzania has a free press but government exerts its influence via its own newspapers, radio and TV stations, which dominate the market for advertising revenue.

The Media Council of Tanzania (MCT) established in June 1995, is an independent, voluntary, non-statutory body whose stated mission is, "To create an environment that enables a strong and ethical media that contributes to a more democratic and just society."

Tanzanian non-governmental organisations were characterised by one interviewee as "Guided and unguided missiles." The former well-established and politically controlled or at least heavily politically influenced. The latter comprising less well established organisations that are either genuinely committed and well intentioned or groups representing the worst aspects of volunteerism by exploiting the unemployed or other desperate groups.

The Confederation of Tanzanian Industries (CTI) is an independent, self-financing and legally constituted organisation whose principal aim, "is to ensure that there is a conducive legal, financial and economic environment within which industry can operate effectively, prosper and contribute to national wealth and development." Its membership reflects all sectors of Tanzania's industries and includes the largest scale companies and recent business start-ups.

The CTI lobbies Government on business issues, conducts and disseminates research and provides a range of information and advisory services to members. With financial support from DANIDA, it has held a number of workshops on corruption and its relationship to the activities of business and the operation of the economy. The CTI acknowledges the existence of corruption in Tanzania's and is clearly concerned at its constraining effect on business development in general and foreign direct investment in particular. It is however emphatic in its concern that international perception of Tanzania's scope and scale of corruption are exaggerated. The CTI avers that the report of the Warioba Commission signalled the Government's commitment to fight corruption extant in Tanzania but holds the view that the subsequent implementation of the report's findings has been disappointing. The CTI was keen to confirm the two way nature of corruption and acknowledged fault of business, nationally and internationally, on the supply side of the corruption economy.

Overall it seeks to support improvements in the systems of, and transparency in, the collection of business taxes and is consulted by Government as part of the annual budgeting process. It also considers that the problem of corruption continues in customs, the judiciary and the police and regards the development of a code of conduct on business sector and public sector relationships as playing a crucial role in combating corruption in Tanzania

### **7.3.9 PCB problems and prospects**

The PCB clearly faces a range of intrinsic and extrinsic problems. Internally it is inadequately resourced in terms of vehicles, telecommunications and computer equipment, qualified

investigators. Its operating environment is characterised by different organisations with overlapping roles and responsibilities, ambiguities in inter-institutional relationships and a governmental infrastructure and culture that is highly underdeveloped in terms of its policies and practices to prevent, detect or deter corrupt practices in all areas and at all levels of the public administration system.

## **7.4 Uganda**

- **The Inspectorate of Government (IG)**

### **7.5.1 Background**

The Inspectorate of Government is the key institution concerned with corruption in Uganda. It was originally established in 1986 as the Office of the Inspector General of Government (OIGG) and its functions were laid out in Statute No. 2 of 1988. At this time, it had responsibility for protecting and promoting human rights, eliminating corruption and abuse of public office, and promoting and ensuring adherence to the rule of law and justice in administration. The new Constitution of 1995, however, transferred responsibility for the promotion and protection of human rights to the Uganda Human Rights Commission (UHRC) while the renamed Inspectorate of Government (IG) was given wider powers of investigation, arrest and prosecution, plus the additional responsibility of enforcing the Leadership Code of Conduct. Prior to 1995, the OIGG reported directly to the President, but Article 227 of the Constitution increased the Inspectorate's autonomy by making it responsible to Parliament. The Inspectorate was given an independent budget (provided for by Article 229 of the Constitution) which provided some protection from funding fluctuations created by government operating its finances on a cash budget.

The Inspectorate's work was seriously impeded by a lack of resources, funding and manpower. Budget allocations were received on a monthly basis and subject to fluctuations. This impeded efforts to engage in long-term planning. Although there were annual increases in the IG's budget since 1992/3, these increases were not significant enough to increase capacity and wages, or to allow the IG to plan effectively and follow an efficient development plan. Because of inadequate funding, wages were relatively poor and the IG was under its establishment level. At the end of the 1990s, the IG was almost 50% below its agreed establishment.

### **7.5.2 Donor perceptions of corruption**

Most donor countries have had agencies working in Uganda. At the end of the 1990s, donor agency representatives attached high priority to reducing corruption and improving overall standards of governance. Indeed, in 1998, the World Bank Mission warned that 'corruption was still widespread', that high level corruption was 'clearly present', that the public were 'frustrated with the petty corruption which touches their daily lives', and that the regulatory institutions were

‘weak, underfunded and lacking in human and material resources’. It concluded that, ‘Uganda is experiencing significant corruption which imposes a heavy burden on economic growth and poverty alleviation’.<sup>14</sup> Within the various funding programmes, the areas of organisational change, institutional capacity and infrastructural development were being pursued at the end of the 1990s, including: supporting the establishment of a network of regional offices for the IG; encouraging the IG to concentrate on larger corruption cases; financing inter-agency co-operation; and assisting the Ministry of Ethics and Integrity to produce a 5-year strategy to combat corruption. Overall, donors believed that their collective pressure on Uganda was increasing and included concerns over the government’s lack of rigour in seeking the prosecution of politicians and senior officials found to be corrupt and its lack of pace in implementing further democratisation. To achieve progress, donors included proposals for: the need for a single body to be given the mandate to oversee the development of the country’s anti-corruption infrastructure and the strengthening of the Leadership Code statute and improving its efficiency in its operation.

In 2003, Uganda’s Development Partners on Governance and Anti-Corruption Consultative Group Meeting issued a statement which, after the obligatory nod toward ‘broad range of governance, public sector reform, economic and social achievements to its credit since it assumed power in 1986’, promptly criticized it openly for the entrenchment and pervasiveness of corruption, particularly at senior levels: ‘pervasive, institutionalised and on the increase’. The statement then listed the specifics:

According to the Auditor General’s annual reports to Parliament around Ush200 billion is not accounted for, lost, or misused each year. This represents 7.5% of the GOU budget, which is lost through poor financial management or corruption each year. It is becoming increasingly difficult for us, as donors, to explain this to our taxpayers at home who currently provide just under half of the Government of Uganda budget.

According to Transparency International, Government currently allocates only 1.1 percent of its budget to accountability institutions. This amount is clearly inadequate to the tasks of the anticorruption agencies and might be interpreted as a lack of political support for the effective enforcement of anti-corruption measures in Uganda... Specifically, we are speaking of the Porter Commission into the plundering of resources in the DRC and the Ssebutinde inquiry into malpractice at the URA. We welcome the Minister for Ethics and Integrity’s recent pledge that action would be taken soon with regard to the Ssebutinde junk helicopter report. Nevertheless, we would ask you to be diligent and expeditious in following through on the findings and recommendations of each of these three Commissions, making their reports available to the public and initiating administrative sanctions, dismissals and legal proceedings where appropriate. Select reports of commissions of inquiry should be published within six months of work completion in tandem with a GoU White Paper on proposed action.

The (fifth) key action area we would flag, is our perception of the general pervasiveness of a culture of impunity with respect to corruption. Several senior politicians and officials who have been censured or sanctioned for corruption, for

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<sup>14</sup> See World Bank. (1998). Report of a World Bank Mission to Support the Program of the Republic of Uganda to Improve Economic Governance and to Combat Corruption. World Bank. See also CIET International. (1998). Uganda National Integrity Survey. Inspectorate of Government.



example, by Parliament, have not really been called to account or prosecuted. Instead they have been rewarded with lateral transfers to the Movement or elsewhere in Government. Administrative sanctions, dismissals and prosecutions appear to be rare and poorly publicized throughout the Executive, except in the police force, where they have been welcomed by the public.

At the last CG in 2001 you undertook to implement under the Directorate of Ethics and Integrity an approach to report on, monitor and control the core functions of government that must work well to curb corruption. Eight areas that were seen to be key in anti-corruption were identified....After two years this reporting, which will make an important contribution to the accountability regime, has not commenced.

### 7.5.3 The IG

Core donor funding for the IG's work ended in the late 1990s once the UNDP had taken over unilateral responsibility for supporting investigation work. The IG slipped back in public consciousness – civil society and anti-corruption coalitions are generally weak in terms of material, accountability, skills and focus, overly Kampala –based, and too dependent on donor funds. The IG itself has increasingly clashed with the government. In 2001, it complained about the activities of Election Commission and election material in 2001. This led to an attempt in 2003 by the Minister of Justice to curtail their investigations into government decision-making and prosecutions and focus on ombudsman-type inquiries. This got as far as proposals to Cabinet but which were then abandoned. In 2004, further cases have led to clashes with the government, including the compensation paid to a businessman that was alleged to have been used for party-political purposes (and for which the Solicitor-General refuses to hand over the file to the IGG) and the case of a presidential adviser whose refusal to submit his Leadership declaration of assets return became a focal point of donor discontent.

Where the IG does good work is in districts where it has visibility and trust but where it acts more as an Ombudsman than as an ACC. Internally it has taken on many of the lessons learned during 1990s donor support, including the use of a business planning process for its annual planning process, an operations manual to which all investigators work, and an internal training programme. It would appear that none of the donors, including the donor agency that supplied the funds for this work, were aware of the progress of the IG as an organisation or its internal development processes.

Currently, the IG has achieved its establishment – now expanding to some 280 staff; 110 in admin services, 30 each in Investigations, Prosecutions, Prevention and Education; Leadership Code and Regional Offices (Follow Up). There are also units on: recruitment and internal inspections and IT (which now includes the case management system, the computerization of the Leadership Code, and the networking of the regional offices). Within Education, there is a unit covering systems and policy which essentially generates corruption-prone profile on the basis of complaints and undertakes preventative surveys. The number of regional offices is increasing.

Apart from the Leadership Code, its original core function has been investigations where the Director of Operations has an establishment of 34 but actually has 9 senior officials. It lost 15 investigations staff to regional offices (at least 5 an office) as a consequence of the constitutional change. Its work includes: reducing its backlog from 900 cases to 500 cases. In 2003, it received



610 cases from Auditor General and referred 364 to the Auditor General. Of its 319 new cases that year, 110 were referred elsewhere, 61 completed with report and 136 completed without a report.

Its current performance figures include: 50 cases a year to court (these tend to be junior officials – easier to prosecute – although it has taken 2 Permanent Secretaries to court). It measures this by weekly prosecutions lists.

The organisation's overall problems include: high staff turnover (20% a year); inexperienced staff; lack of cooperation between departments; failure to follow IG recommendations, lack of transport and fuel, expertise (handwriting, property valuation, salaries, poor documentation, budgets).

#### **7.5.4 The donors**

There has been an increasing emphasis on coordination and cooperation. There is a Donor Democracy and Governance Group (DDGG) whose Memorandum of Understanding covers the governments of Austria, Belgium, Denmark, France, Germany, Ireland, Italy, Japan, Netherlands, Norway, Sweden, United Kingdom of Great Britain and Northern Ireland and the United States of America, as well as the European Commission and the United Nations Development Programme represented by their official representatives accredited to Uganda. Its provisions include, for bilaterally financed activities the following:

6.1 Donors who, for legal, administrative or other bilateral reasons, are unable to participate in the joint financing basket account arrangements, may choose to contribute to projects by direct bilateral funding of agreed activities. These activities should normally be from those agreed within the framework of the programme defined in Article 3.

6.2 In order to enhance co-operation and promote synergy between donor activities in the field of democracy and governance DDGG members will provide each other with copies of agreed project documents, reports and other material related to the implementation and impact of the activity. Where appropriate DDGG members will invite other members to take part in related programme design and evaluation missions.

Generally, donors pursue anti-corruption activity through the Poverty Reduction Programme and the PEAP. For example, the Ministry of Finance and the other IAF agencies have prepared a paper on issues and priorities within the accountability sector that led to the strategy plan. Other work involves working with the DEI to draft new anti-corruption legislation. DFID's current role is as chair of the corruption working group within the Technical Group of the Democracy and Governance Group [each donor takes the lead on specific areas, such as human rights (DANIDA), and democratic processes (USAID)]. The overall group comprises 12 donors, of whom the active anti-corruption donors are Netherlands, Ireland, UK, Denmark. World Bank support the work of the working group and, along with a representative of the Uganda Government, attend meetings. UNDP does not attend meetings.

Government funding now covers the bulk of the IG expenditure; the donor funding comes from:

- basket funding for the Leadership Code (DANIDA-led),
- Integrity Survey – UNDP, DFID, Ireland,
- UNVP – UNDP,
- *ad hoc* – Ireland for part-funding of visits.

Of these, the UNDP Volunteer scheme continues outside the donor Group arrangements. UNDP operates unilaterally through their IG-based Coordinator for the Volunteer scheme. Under the governance aspect of the UNDP country plan, funding goes to the Minister of Finance to fund posts in specific areas/agencies. UoG in return must fund and appoint a project coordinator. In IG, the coordinator supervises project implementation and submits 3-monthly reports. These are prepared by the Directors and supplemented with comment from the coordinator on basis of overview of work plans, reports, quality of work, budgets, etc.

UNDP's support is driven by its dialogue with government and overall national strategy. It has little or no dialogue with bilateral donors and indicates a concern over the latter's failure to produce programme documents and financing details. From the donor perspectives, the UNDP funding does not appear in their plans (and the UNDP does not turn up to donor group meetings) although they indicate that a greater issue comes from the work of other multilateral agencies: the African Development Bank has introduced a big governance programme without consultation with other donors.

DFID's focus is on support to the Directorate of Ethics and Integrity (DEI) and the Inter-agency forum (IAF), which is a monthly coordinating meeting of the DEI, DPP, Auditor General, IG and the CID. The DEI accepts that the first strategy plan was a shopping list. It was considered very ambitious and poorly-funded. However, it did identify problems, led to establishment of IAF, encouraged a political platform for anti-corruption work, led to ring fenced budgets, suggested more donor funding coordination and identified gaps in the legislation. The second plan is a strategy drawn up by IAF agencies and who have to develop strategies accordingly. DFID support the work of the DEI through an external consultant working on the anti-corruption strategy plan and through support of the IAF. DEI has 10 staff and 4 resource persons (also funded by DFID), out of an agreed establishment of 29. The Minister chairs the IAF which seeks to coordinate agencies, share information and work on cases, bookings for schedules of inquiries and moving cases between agencies. While the DEI provides guidance, the Minister would welcome investigative capacity and setting up an intelligence function.

Apart from UNDP, much of the support for the IG comes from DANIDA and the Irish Embassy as noted above but generally performance is measured in terms of input and output. DFID, for example, has no performance measures other than delivery of the strategy plan and formulation of the procedures and work of the IAF. For the IG, they consider a general role as proxies for the people, responding to complaint from the public against government. DANIDA's programme plans and reports judge the IG's performance as satisfactory even if their main indicator – high-profile cases – were not achieved (almost entirely). DANIDA's Phase III funding is intended to encourage IG to use the Code, analyse submissions and enforce sanctions. The indicators for this will be the backlog to be verified and the number loaded onto software.

Despite the increasing coordination and cooperation between donors, there are a number of anti-corruption programmes and plans. These include:

- DFID East Africa Division Project Memorandum on a Support Programme for Ugandan Led Anti-Corruption Initiatives 1999-2003 (2003)
- IG Corporate and Development Plans 1999-2001 (1999) and Corporate and Development Plan 2004-2009 (2004)
- UNDP Second Country Cooperation Framework 2001-2005 Programme Support Document – Good Governance for Poverty Eradication (2001)
- DANIDA Programme Document – Anti-Corruption Programme in Uganda 2004-2007 (2003)
- the Director of Ethics and Integrity National Strategy to Fight Corruption and Built Ethics and Integrity in Public Office 2004-2007 (2004).

Some plans are IG-specific; others include the IG in a wider strategic approach or a governance approach. Not all reports share the same publication date, nor the same timeline and some have predecessor or successor editions. Overall there has been no attempt to synthesise or rationalise the plans.

### **7.5.5 IG problems and prospects – the case of the Leadership Code**

The issue of the Leadership Code is a useful way to view potential conflicts between donor and ACC activities and objectives. The Leadership Code has been a part of donor plans as well as an activity the IG admits difficulties in delivering.

The Leadership Code is seen by donors as a critical test of government willingness to deliver anti-corruption reform. All ‘leaders’ are required to complete the form every 2 years. There are now 17000 officials and politicians classified as ‘leaders’, including all armed forces officers. The form itself has been expanded by consultants from 2 pages to 19.

In 2004, a case arose of a presidential adviser who refused to complete the Code. The adviser was judged by the IGG to have failed to satisfy the law relating to the Code and thus unable to hold public office. A constitutional Court ruling, however, indicated that the President had discretion over who he could hire and fire and thus not bound by the law or the IG decision. The World Bank then made compliance with the Code a prior-action condition for a \$150 million loan and insisted the adviser be removed (which he was, although in receipt of a letter from the President confirming his later re-employment). Donors coalesced around Code as a focal commitment to reform (DANIDA on the operational use of the Code as an analytical and investigative resource; DFID on the redrafting of the law and Constitution to give primacy to Code).

Given that the implementation of the Leadership Code had been problematic for the IG, it is surprising that the donors should coalesce around this issue. It is even more surprising that this decision appears to have been taken without consultation with the IG on resourcing and its impact on IG’s work. Willing to acquiesce to donor demands, however, the IG itself now has 23 operational staff dealing with 17000 forms. It had a 90% return to early 2004 on; the new form (19-page) currently being sent out over summer/autumn to be completed October 2004-March 2005. These forms are often delivered to remote areas by courier, with follow-up letter if not

returned. Verification of declared information is by category for accuracy (i.e. value of property and, if undervalued, source of funding); verification is by visit and records. The IGG also makes use of intelligence, complaints and public information for non-declaration.

The section within the IG is only capable of checking 140 forms annually. There are issues over various sources of records, availability of records and quality of records for verification. There are internal problems over facilities, training and computerisation. There are no costings for the use of visits to verify information. To date 350 forms entered into a dedicated software package but it would appear that no one confirmed whether or not the software carries relationship capabilities. If it does not then none of the information may be cross-referenced, between entries or across the same entry over time, etc. To verify the totality of forms for the current cycle using the existing staffing levels will take 12 years, during which time another 6 cycles will have been completed.

As noted above, the donors are coalescing around the Code as a focal commitment to reform (DANIDA on the operational use of the Code as an analytical and investigative resource; DFID on the redrafting of the law and Constitution to give primacy to Code). The latter will secure revisions, to allow for confiscation and forfeiture for non-disclosure. The IG does not have expertise in these areas. The IGG is also seeking agreement with the GoU on how to deliver Code within the PRSCS, including the ability to report non-declaration to the official's appointing authority and a specific Tribunal.

The point of discussing the emphasis on the Code is that, while it appears in donor plans, it does not appear in those of the IG itself as core business.

## 7.5 Zambia

- **The Anti Corruption Commission**

### **Background**

The ACC has been operational since 1982 deriving its authority from the Corrupt Practices Act No. 14 of 1980. The ACC was originally a government department headed by a commissioner who received his directions from the President. In November, 1996, the government repealed the Corrupt Practices Act, No. 14 and replaced it with the Anti-Corruption commission Act, No. 42 of 1996. The Anti-Corruption Act created an autonomous institution that was not to be 'subject to the direction or control of any person or authority' and it became operational in 1997. The Act changed the structure of the organization by creating a Commission comprising a Chair and 4 part-time Commissioners together with a Directorate. The Commission is charged with directing the policy of the ACC. The Directorate, headed by the Director-General, is responsible for the day-to-day operation of the ACC.

The ACC is responsible for the following portfolio functions to:

- prevent and take necessary and effective measures for the prevention of corruption in public and private bodies,
- receive and investigate complaints of alleged or suspected corrupt practices,
- prosecute offences under the Act and any other offences under any other written law that may come to the notice of the ACC during an investigation under the Act,
- investigate any conduct of any public officer, which in the opinion of the ACC may be connected to corrupt practices, and
- disseminate information on the evil and dangerous effects of corrupt practices on society, and
- enlist and foster public support against corrupt practices.

President Chiluba (1991-2001) was first elected to power because of economic difficulties and because of concerns that corruption was increasing under Zambia's long serving first president, Kenneth Kaunda. But, as President Chiluba's commitment to democracy was gradually called into question, allegations of corruption by Chiluba and his associates escalated. The Zambian political system continued to be characterized as having a major accountability deficit. The presidency was over-dominant and parliament was an ineffective check because of the control exercised by the MMD, the largest political party.

In such circumstances, it is unsurprising that the government of Zambia showed little support for the ACC. On the contrary, it actively obstructed its investigations of senior figures and, at one time, the Chiluba Government actually wanted to abolish the ACC. But ACCs can be undermined by neglect as well as by direct attack. The 2001 Annual Report of the ACC records that 'For the second year running, the institution functioned without a commission in place following the expiry of the former Commission's term in March 2000. Despite recommendations being made to the President and numerous reminders to State House and the Secretary to the Cabinet, no new Commissioners had been appointed by the end of the year.' (p.3)

In consequence, there was a negative impact on the operations of the ACC as the policy matters which could only be considered and decided by the Commission remained unattended.

Neglect and other omissions caused further problems for the ACC. Budgetary allocations were inadequate and released in an erratic manner. Shortages of vehicles and other equipment impeded operations and pay and conditions issues were unresolved with a detrimental impact on recruitment and retention of staff. ACC data suggest that the ACC was operationally unable to respond to an almost 40% increase in reported corruption in the 1990s.

Until 2001, it is fair to say that the ACC operated in a deeply hostile political environment exacerbated by acute resource constraints.

## **The ACC**

The Director-General (DG), currently Mr Banda, is appointed by the President but the appointment is ratified by parliament to whom the Director-General is answerable. The current

DG was a police officer who then trained as a lawyer and was working in the banking sector before his appointment. The legislation requires that the DG and the Deputy DG be qualified lawyers of standing (incidentally, the post of Deputy DG has never been filled).

The ACC's Strategic Plan, 2004-08, describes the weaknesses of the ACC to date under four headings; lack of comprehensive governance and management systems, inadequate support services, unclear strategic direction and a lack of information on corruption.

The governance and management failures are exemplified by:

- Poor internal communications
- Lack of delegation
- Lack of performance management system, staff appraisal system and staff incentives
- Unclear processes and procedures
- Inconsistent management training
- Lack of an orientation process for support staff

The Plan concluded that the consequences of such weaknesses in management are; staff not adhering to policies and plans, delays in the implementation of policies, duplication of work and incorrect information being given to the public. The lack of effective delegation and the absence of performance management systems mean that responsibility for even minor matters is vested in senior managers.

The weakness of the support services has affected accounts, procurement, transport and equipment. Accounts staff has, on occasions, been incompetent and the ACC 'support staff were not geared to manage increased resource levels that have subsequently become available' (p.11). The consequence is that operational staff spends a significant amount of time grappling with administrative issues.

Strategically, the ACC has focused the majority of its resources on the investigation and prosecution of complaints. They have an immediacy that other parts of the legislative mandate seem to lack but senior management in the ACC have long been aware that this deterrence strategy has not proven effective anywhere in the world. The strategic question arises as to how to shift from responding to the most immediate customer demands to developing effective corruption prevention mechanisms. A key tool in such a strategic shift is information about corruption in Zambia. The ACC lacks a library or dedicated research facility and hence is often forced to 'reinvent the wheel'. A baseline survey of public attitudes toward corruption was expected in 2001 but was long delayed and was eventually completed in 2004.

The ACC has its headquarters in Lusaka and has offices in the 8 provinces. A restructuring report prepared by the ACC in consultation with the Cabinet Office in March, 2004, left the core functions unchanged but operating through 4 departments; corruption prevention and community education, investigations, legal and prosecutions, and the administration and finance department. It also reduced the number of grades within the organization while recommending a significant increase in the staffing establishment from 255 to 320. The Review informed the Strategic Plan for the ACC, 2004-2008, and confirmed that the focus of the ACC was to move from investigation and prosecutions to corruption prevention.



## The donors

A variety of donors, including DFID, NORAD, AUSAID, have contributed to different aspects of anti-corruption work in Zambia. Historically, DFID and NORAD have been key funders but the US Treasury has been involved in money laundering issues and discussions are ongoing with DANIDA. DFID takes the lead on funding the ACC and a £5 million programme of Enhanced Support for the ACC over 5 years was agreed in 2001 following a visit by Clare Short, the Secretary for International Development. It is anticipated that DANIDA will take a lead on civil society anti-corruption work and there is a joint financing arrangement for TI Zambia involving Norway, Sweden, Netherlands, Denmark, Ireland and Finland covering a 3 year period. Given the problems ACCs often report concerning the different reporting requirements of different donors, it is worth noting that the TI Zambia funding agreement involves only one report using a standard form for all the funding partners.

Generally though, the relationship between donors has been, as a NORAD economist put it, 'lagging'. There is a donor co-ordinating group on governance and there used to be a NORAD led anti-corruption group but it stopped for reasons the economist was not aware of. This may be another example of where the turnover of incountry staff leads to a loss of institutional knowledge and memory.

DFID is the largest and most enduring donor and, given the political culture in 2001 in Zambia, it is unsurprising that its support for the ACC was judged to be 'high risk'. A DFID memorandum in 2001 recorded that previous DFID assistance to the ACC has 'not resulted in improvements to ACC's resource allocation, nor to their effective management of resources or had a significant impact on improvements in operational performance' (Project Memorandum, August, 2001). The underlying resource problem was judged to be that 'the ACC does not have sufficient financial resources to achieve the task set for it by government. Hence investment by DFID swamps the ACC's budget three-fold in year one' (of the Project). And even by 2003-04, DFID resources 'could account for nearly two thirds of the ACC's annual recurrent funding'. The expectation is that the government of Zambia will take over this level of funding in the future.

Despite past ineffectiveness and the 'high risk', the funding went forward and was no doubt prompted by the change in political leadership and President Mwanawasa's declaration of his determination to stamp out corruption. Donors were quick to lend support to the new president when he suggested that a special Task Force be created to investigate former President Chiluba and his associates. This came into being in 2002 after the National Assembly, at President Mwanawasa's urging, unanimously voted to lift Chiluba's immunity from prosecution in July, 2002. The Task Force drew on staff from the ACC, the police and other bodies including financial specialists.

The Task Force has now been in existence for over 2 years without any convictions to date. One informed observer commented that it had, in October 2004, only completed about 20% of its work. The creation of the Task Force supported by donor funding has raised public expectations without, thus far, being able to meet them. Its existence – apparently for some years to come – alongside the ACC creates the possibility, even probability, of public confusion about the ACC's and the Task Force's roles. In supporting the Task Force, there is a chance that the donors are, inadvertently, helping to erode confidence in the ACC, thereby increasing the 'high risk' associated with their longstanding support of the institution.



## Civil Society

The two main Civil Society organisations fighting corruption are TI Zambia and the Integrity Foundation. The latter is led by Dr Stephen Moyo who was the founder of TI Zambia but left in 1999 because of issues of control from the Berlin HQ. Dr Moyo is a former academic and head of Zambia Broadcasting and, during the Chiluba years, he was detained for a time without charge or trial. The Integrity Foundation is involved in ethics training for ACC staff and the Zambian National Assembly. It has received funding from Denmark, Sweden and the Netherlands. It also engages in education programmes for politicians and business people as well as taking a role in raising public awareness of corruption through its role in the National Movement Against Corruption.

TI Zambia is very much the ‘donors darling’ and is quite critical of the ACC. Its Executive Director, Mr Goodwill Lungu, is himself a former ACC employee and he pointed to problems in the ACC’s strategy and communications. He saw the ACC as a bureaucratic organization though he appeared to have a high regard for Mrs Mutti, the Chair of the ACC. Reference has already been made to the joint funding agreement for TI Zambia and, in discussion with a DANIDA representative, she observed that they ‘work with TI because there is no one else’.

## ACC: Problems and Prospects

Organizationally, the ACC is at a cross-roads. Its failures in the past have caused friction with donors, for example, NORAD’s dissatisfaction with the ACC’s continuing inability to meet its financial reporting requirements. It has a Restructuring Plan and, after extensive consultation, it developed a new Strategic Plan in 2004. The Chair of the ACC, the DG and other ACC staff all confirm that, since the change of political leadership, they have experienced none of the interference characteristic of the previous president as well as public expressions of presidential support.

As the same time, a broad institutional improvement process, the Public Sector Capacity Building Project, is under way in Zambia and is gathering pace. Its impact is difficult to evaluate at this stage but it is likely to have some positive benefits for the ACC. New appointments, including a new Chair and Commissioners, have been made and the former is a person of ability and political standing which bodes well for the ACC’s relations with government. The government of Zambia has increased the budgetary provisions to the ACC but actual disbursements have been less than anticipated because of other budgetary pressures on the government.

The ACC has some strengths, notably its well-qualified staff. In the past few years, the ACC has prioritised training to bring added value to its most precious resource. The ACC works under a relatively clear legislative mandate and now benefits from the active participation of its Chair and Commissioners in formulating strategies and policies. This has helped change the ACC from being a somewhat inward looking, beleaguered organisation to one that is more externally oriented and engaged with stakeholders.

Although legally established a quarter of a century ago, there are grounds for arguing that the ACC is, effectively, a relatively new organisation. Only in the past few years has it benefited from

political support and increased financial support from development partners. It has the potential, through its own activities and the general institutional strengthening programmes of the government, to make corruption prevention a realistic alternative to the notably unsuccessful investigation and prosecution strategy of the past.

The new mission statement of the ACC is ‘to effectively spearhead the prevention and combating of corruption’, thus giving a new emphasis on, and priority to, corruption prevention which had previously been starved of resources. The new Strategic Plan has been carefully constructed but it is predicated on a number of conditions; these include improved and sustained flows of funding, sustained political support and improved cooperation from other institutions and the public. The aspirations and intentions are admirable but the Zambian economy continues to perform poorly and, unless it improves, the government’s resource base will remain weak. In consequence, the ACC may experience a continuation of the inadequate and delayed government funding it suffered in the past. Similarly, while current political support levels appear encouraging, their sustainability is still open to question and, without it, the ACC may find itself marginalized again.

The Chair of the ACC is clear its future lies in corruption prevention. The DFID adviser to the ACC, a forensic accountant, sees its future role as becoming that of a ‘catalyst and coordinator’ of the anti-corruption struggle by transferring accountability to departments and agencies that actually manage public funds. Innovative plans are in development to realise this shift of strategy by establishing a network of integrity focal point persons in government departments but these remain to be implemented.

Overall, there is little doubt that the ACC in Zambia is significantly improving its strategic planning and institutional performance but it is premature to say whether it is ‘successful’ in reducing levels of corruption. Improvement has to be sustained and, to date, the ACC has tried to perform a variety of roles to meet multiple targets from different funders with inadequate human and other resources in the context of fragile political stability and a weak and vulnerable economy.

Without continuing government and DFID commitment and significant support from other donors, it seems that the prospects for a refocused, organizationally effective and self-sustaining ACC which has the ability to make a real impact on levels of corruption in Zambia are not high.

## Annex

### Interviews

#### Ghana [researcher: Doig]

E Gyimah-Boadi	Executive Director, Centre for Democratic Development
B Balfour Agheman-Dinah	Assoc. Executive Director, Centre for Democratic Development
T Codjoe	Acting Executive Director, Serious Fraud Office
A Bossman	Acting Commissioner, Commission on Human Rights and Administrative Justice
Y Asamoah	Programme Officer, Democratic Governance, National Governance Programme
Simile Kwawenkume	Public Sector Management, World Bank
Daniel Batidam	Executive Secretary, Ghana Integrity Initiative
Raymond Archer	News Editor, The Chronicle
Florence Sai	Head, Government Office of Accountability
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Lotte Mindedal	Counsellor, DANIDA
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## Documentation

### Ghana

CDD	2002 Annual Report Making the Policy of 'Zero-Tolerance' for Corruption a Reality in Ghana: A Focus on the Serious Fraud Office. 2003.
Ghana Anti-Corruption Coalition	2000. The Ghana Governance and Corruption Survey 2001. Report on 5th National Governance Workshops 2000. Action Plan.
Serious Fraud Office	2001. Annual Report 2002. Annual Report 2003. Annual Report
UNDP	1999. Consolidating Democratic Governance Programme 2003. Summary of Key Issues and Recommendations for Strengthening the Role of the National Governance Programme in the Coordination of Governance Partnerships
National Governance Programme Commission on Human Rights and Administrative Justice	2003. Status Report 2000. Annual Report 2001. Annual Report 2002. Annual Report
GTZ	2004. Report on Parliament Car Loan Scheme Draft Ghana Anti-Corruption Diagnostic. 2004

### Malawi

DFID, Project Support to the ACB	2nd Progress Report, 8/5/97-20/8/97 3rd Progress Report, 20/8/97-12/12/97 4th Progress Report, 13/12/97-12/3/98
DFID	Logical Framework to Quarterly Report, 1/10/03-31/12/03 Logical Framework to Quarterly Report, 1/1/04-31/3/04 Logical Framework to Quarterly Report, 1/4/04-30/6/04
ACB	Annual Report, 2001-2002, 23/12/03 Anti-Corruption Bureau News, Issue No 1, January-

March, 2004

Annual Review of the ACB (DFID, DANIDA, NORAD), February, 2002

Output to Purpose Review of the ACB (NORAD, DFID), February, 2003

## Tanzania

Confederation of Tanzanian Industries Economic and Social Research Council/Front Against Corrupt Elements in Tanzania	Response on Corruption, Harassment and Corporate Responsibility The State of Corruption in Tanzania. (2002)
Media Council of Tanzania/ Frederick Ebert Stiftung	Codes of Ethics for Media Professionals. (2001)
Media Council of Tanzania	Mission Statement Media in Tanzania Media Watch, No. 54 June 2004 Media Watch, No. 55 July 2004
PCB	Good Governance [Sic] And The Fight Against Corruption In Tanzania: 1995-2004, (2004) Ethics In The Public Health Service In Tanzania, Isbn: 0856-8332, Publication Number 2, (2004)
President's Office	Tanzania's Third Phase Government Fight Against Corruption: A Brief On Achievements And Challenges 1995-1999, (1999) The National Anti-Corruption Strategy And Action Plan For Tanzania, (1999) Tanzania's Third Phase Government Fight Against Corruption: A Brief On The Progress Of Good Governance Programme 1999 – 2001, (2001) The National Anti-Corruption Strategy And Sector Specific Action Plans For All Ministries And Independent Government Departments (2003 – 2005) Revised Version
Good Governance Coordination Unit	National Anticorruption Strategy And Action Plans 2001-2005. 1st Quarterly Monitoring Report January – March 2002, (2002) National Anticorruption Strategy And Action Plans 2001-2005. 2nd Quarterly Monitoring Report April – June 2002, (2002) National Anti-Corruption Strategy And Action Plans 2001-2005. 3rd Quarterly Monitoring Report July – September 2002, (2002) National Anti-Corruption Strategy And Action Plans 2001-2005. 3rd Quarterly Monitoring Report July – September 2003, (2003) National Anti-Corruption Strategy And Action Plans 2001-2005. 4th Quarterly Monitoring Report October – December 2003, (2002)

## Uganda

IG	Corporate and Development Plans, 1999 – 2001 Corporate and Development Plans 2004 – 2009 Report to Parliament, July – December 2002 Report to Parliament, January – June 2003 Second National Integrity Survey: Final Report 2003
DANIDA	Anti-Corruption Programme in Uganda 2004-2007 Project Completion Report: Support to IG 1999 – 2002 Review Report: Danish Support to IG, 2002
DEI	Final Report: National Strategy to Fight Corruption and Build Ethics and Integrity in Public Life 2004 – 2007
UNDP	Second Country Cooperation Framework 2001 – 2005: Programme Support Document – Good Governance for Poverty Eradication 2004. Bi Annual Report, January – June 2004
Anti Corruption Coalition Uganda	
TI	2004 National Integrity Study
Watt, D	1999 Uganda Country Study

## Zambia

ACC	Annual Report of the Anti-Corruption Commission, 2001, 17September, 2002 Strategic Plan for the Anti-Corruption Commission, 2004-2008, 2004 GRZ Funding Expenditure Report (Draft), 30 June 2004 Restructuring Report for Anti-Corruption Commission, 2004 Concept Note: National Corruption Prevention Strategy, 2004
DFID	Project Memorandum: Anti-Corruption Commission Enhanced Support (ACCESS), August, 2001
Gov of Zambia Korajian, Moyo	National Governance Baseline Survey: Report, July 2004 Ethics Workshop and Developing a Code of Ethics for the Anti-Corruption Commission of Zambia: A Training Manual, October-November, 2004
National Movement against Corruption NORAD	Lusaka Provincial Management Committee: Past Activities, 2004 Strategy for the Norwegian Development Cooperation with Zambia, 2001-2005, January 2001
Pricewaterhouse Coopers	Anti-Corruption Commission: Strategy Review, Final Report, December, 2000
TI TI Zambia	National Integrity Systems: Country Study Report for Zambia, 2003 Report on Baseline Survey on Public's Perception and Knowledge of Corruption in Mongu and Surrounding Areas, October, 2004 (Prepared by Zambian Opinion Research Organisation)



## Select bibliography

Camerer, Lala (1999), Tackling the Multi-Headed Dragon: Evaluating Prospects for a single anti-corruption agency in South Africa?. Paper presented at the 9<sup>th</sup> International Anti-Corruption Conference, Durban, South Africa.

Development Assistance Committee (2003), Synthesis of Lessons Learned of Donor Practices in Fighting Corruption, Paris, OECD.

Doig, Alan (1995), 'Good Government and Sustainable Anti-Corruption Strategies: A Role for Independent Anti-Corruption Agencies?' *Public Administration and Development*, 15, 2, pp. 151-165.

Doig, Alan and Riley, Stephen, eds (1998), *Corruption and Integrity Improvement Initiatives in Developing Countries*, New York, UNDP.

Doig, Alan and Theobald, Robin, eds (2000), *Corruption and Democratization*, London, Frank Cass.

Fijnaut, Cyrille and Huberts, Leo, eds (2002), *Corruption, Integrity and Law Enforcement*, The Hague, Kluwer Law International.

Huther, Jeff and Shah, Anwar (2000). 'Anti-corruption Policies and Programs: A Framework for Evaluation', Washington D.C., World Bank.

Johnston, Michael (1999), 'A Brief History of Anti-Corruption Agencies', in *The Self-Restraining State: Power and Accountability in New Democracies*, eds Andreas Schedler, Larry Diamond and Marc Plattner, Boulder: Lynne Rienner Publishers Inc.

Meagher, Patrick (2002), 'Anti- Corruption Agencies: A Review of Experience', Washington, World Bank.

Meagher, Patrick (2005), 'Anti-Corruption agencies: Rhetoric Versus Reality', *The Journal of Policy Reform*, 8,1. pp. 69-103.

Michele, Robert De (2001), 'The Role of the Anti-Corruption Office in Argentina', *The Journal of Public Inquiry*.

Moran, Jon (1999), 'The Changing Context of Corruption Control, The Hong Kong Special Administrative Region 1997-99', *Journal of Commonwealth and Comparative Politics*, 37, pp. 98-117.

Moran, Jon, Doig, Alan and Watt, David (2001), 'Managing Anti-Corruption Agencies', *Forum on Crime and Society*, 1,1, pp. 69-87.

Olowu, Bamidele (1999), 'Combating Corruption and Economic Crime in Africa: An Evaluation of the Botswana Directorate of Corruption and Economic Crime', Presented at the 9<sup>th</sup> International Anti-Corruption Conference, Durban, South Africa.

Quah, Jon S,T, (1995), ‘Controlling corruption in city states: a comparative study of Hong Kong and Singapore’, *Crime, Law and Social Change*.

Stapenhurst, Rick and Kpundeh, Sahr eds (1999), *Curbing Corruption: Towards a Model for Building National Integrity*, Washington, World Bank.

Theobald, Robin and Williams, Robert (1999), ‘ Combating Corruption in Botswana: Regional Role Model or Deviant Case?’, *Journal of Commonwealth and Comparative Politics*, 37, 3,, pp. 117-134.

Transparency International (2000), ‘Chapter 11: Independent Anti-Corruption Agencies’, in TI Source Book.

Williams, Robert and Doig, Alan eds (2000), *Controlling Corruption*, Cheltenham, Edward Elgar Publishing Co.

Williams, Robert (2004), ‘African Anti-Corruption Commissions, First Report: Overview and Issues’, Bergen, Chr. Michelsen Institute.

## Abbreviations/Acronyms

ACA	Administrative Control Authority (Egypt)
ACB	Anti-Corruption Bureau (Malawi)
ACC	Anti-Corruption Commission
ACCES	Anti-Corruption Commission Enhanced Support (DFID, Zambia)
AG	Attorney General
CAG	Controller and Auditor General (Tanzania)
CCM	Chana Cha Mapinduzi political party (Tanzania)
CDD	Centre for Democracy and Development (Ghana)
CG	Consultative Group (Uganda)
CHRAJ	Commission for Human Rights and Administrative Justice (Ghana)
CID	Criminal Investigation Department
CPI	Corruption Perception Index (Transparency International)
CTI	Confederation of Tanzanian Industries
DC	District Commissioner
DCI	Director of Criminal Investigation (Tanzania)
DDGG	Donor Democracy and Governance Group (Uganda)
DEI	Directorate of Ethics and Integrity (Uganda)
DG	Director General
DGP	Democratic Governance Programme
DPP	Director of Public Prosecutions
DRC	Democratic Republic of Congo
FABRIC	Focused, Appropriate, Balanced, Robust, Integrated, Cost-Effective
GACC	Ghana Anti-Corruption Coalition
GGHRP	Good Governance and Human Rights Programme (DANIDA)

GII	Ghana Integrity Initiative
GoU	Government of Uganda
GPRS	Ghana Poverty Reduction Strategy
HIPC	Heavily Indebted Poor Country
IAF	Inter-agency forum (Uganda)
ICAC	Independent Commission Against Corruption (Hong Kong)
IG	Inspectorate of Government
IGG	Inspector-General of Government (Uganda)
KPI	Key Performance Indicator
MCT	Media Council of Tanzania
MDBSG	Multi-Donor Budget Support Group (Ghana)
MMD	Movement for Multi-Party Democracy, political party (Zambia)
NACS	National Anti-corruption Strategy
NACSAP	National Anti-Corruption Strategy and Action Plan (Tanzania)
NGP	National Governance Programme (Ghana)
NHC	National Housing Corporation (Tanzania)
NIS	National Integrity System (Transparency International)
NPP	New Patriotic Party
OIGG	Office of the Inspector-General of Government (Uganda until 1995)
PAC	Public Accounts Committee
PCB	Prevention of Corruption Bureau (Tanzania)
PCIC	Presidential Commission of Inquiry Against Corruption (Warioba Commission, Tanzania)
PEAP	Poverty Eradication Action Plan (Uganda)
PEDEP	Primary Education Development Programme (Tanzania)
PEPC	Programme for the Education on and Prevention of Corruption (Zambia)
PRSC	Poverty Reduction Support Credit (Uganda)
PSD	Programme Support Document (Uganda)
PwC	Pricewaterhouse Cooper
SFO	Serious Fraud Office (Ghana)
SMART	Specific, Measurable, Achievable, Result-oriented and Timetabled
SSINT	Social Security and National Insurance Trust
TI	Transparency International
UNVP	United Nations Volunteer Programme
URA	Uganda Revenue Authority